

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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September 25, 2017

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HELD AT: Committee Room - City Hall

B E F O R E: COSTA G. CONSTANTINIDES  
Chairperson

COUNCIL MEMBERS:

STEPHEN T. LEVIN

RORY I. LANCMAN

ERIC A. ULRICH

DONOVAN J. RICHARDS

DANIEL R. GARODNICK

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

Patrick Wehle  
Assistant Commissioner for External Affairs,  
Department of Buildings, DOB

Angela Licata  
Deputy Commissioner of Sustainability at the New  
York City Department of Environmental Protections

Gerry Kelpin  
Director of the Air and Noise Enforcement and  
Policy Unit

Warren Schreiber  
Co-Chair of the New York Community Aviation Round  
Table

Susan Carroll  
Representative of Queens Borough President  
Melinda Katz on the LaGuardia Airport Committee  
Of the New York Community Aviation Round Table

Arline Bronzaft  
Professor of the City University of New York and  
A Board Member of Grow NYC, Researcher

Alan Fierstein  
Acoustic Consultant, President of Acoustilog  
Incorporated

Michael Gilsenan  
Assistant Commissioner for the Bureau of  
Environmental Compliance

[gavel]

CHAIRPERSON CONSTANTINIDES: Good

afternoon everyone. I am Costa Constantinides, Chair of the Committee on Environmental Protection and today committee will hold a hearing on Intro 1300, a local law to amend the administrative code of the City of the New York in relation to public access to noise mitigation plans. Intro 1653, a local law to amend the administrative code of the City of New York in relation to responses to noise complaints and Resolution 17... 13... 1173, calling on the United States Congress to pass and the President to sign legislation that require the Federal Aviation Administration to reduce the threshold for what constitutes a significant noise impact under the Federal Aviation Regulation Part 150 from 65 day, night decibels to 55 day, night decibels. Noise continues to be the number one quality of life issue in New York City as evidenced by the number of 3-1-1 noise complaints. According to the Mayor's Management report for Fiscal 2017, the Department of Environmental Protection received 58,892 noise complaints in FY '17. The number of noise complaints has been on the rise over each of the past previous

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2 six years with FY '17 having the second most noise  
3 complaints in recent years. Noise pollution causes a  
4 variety of adverse human health impacts many of which  
5 are related to noise and produce stress including  
6 hearing loss, hypertension, increased cortisol  
7 release, sleep disruption and cognitive impairment.  
8 Recent studies have also found that neighborhoods  
9 with populations of lower social economic status and  
10 a higher ratio in ethnic minority groups had  
11 increased exposure to noise pollution. In 2005, Mayor  
12 Bloomberg enacted Local Law 13... 113 of 2005  
13 overhauling the city's noise code for the first time  
14 in over 30 years in order to update the code and make  
15 it a reflective of modern acoustic technologies and  
16 standards. The main goals of 2005 noise code update  
17 would reduce sound from construction, reduce sound  
18 from commercial music sources, regulate noise from  
19 air conditioning devices more effectively, make  
20 enforcement of noise code simpler and to  
21 legislatively establish limit's sources of noise. The  
22 noise code is, is designed to reduce the making,  
23 creating and maintenance of excessive, unreasonable,  
24 and prohibited noises. DEP and the city's police  
25 department, NYPD share responsibility for enforcing

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2 the noise code depending on the nature of the noise  
3 complaint that is received. Under the existing noise  
4 code, the statutorily set noise limits include sound  
5 that are seven decibels or more above ambient sound  
6 level between ten p.m. and seven a.m. and sound that  
7 is ten decibels or more... or, or more above the  
8 ambient sound level between seven a.m. and ten p.m.  
9 and then pulsate sound that is 15 decibels or more  
10 above the ambient sound level. The noise code  
11 contains a section specifically addressing  
12 construction noise management, to limit construction  
13 noise the noise code generally permitted construction  
14 between seven a.m. and six p.m. on weekdays any  
15 construction outside of these hours is considered to  
16 be in violation of the noise code unless the New York  
17 City Department of Buildings issues an after-hour  
18 variance. In August of 2017, the New York State  
19 Comptroller released a report on the ineffectiveness  
20 of DEP and DOB and enforcing the noise code in  
21 relation to construction projects. The report states  
22 that between the audit period of January 1<sup>st</sup>, 2014 to  
23 June 30<sup>th</sup>, of 2016 there were 90,861 construction  
24 related noise complaints addressed through the city's  
25 3-1-1 system. Of these 67,282 or 74 percent were

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2 outside of the noise code's permitted hours of seven  
3 a.m. to six p.m. on weekdays, during this period the  
4 DOB issued 138,302 AHV's. The state Comptroller  
5 report found that, that despite the rising number of  
6 construction noise complaints through 3-1-1 neither  
7 DEB... DEP or DOB used the system to locate... identify  
8 locations and major sources of noise complaints. In  
9 addition, DOB issued multiple H... AHV's or extensions  
10 of existing AHV's for construction sites without  
11 taking a thorough review including whether the  
12 construction site had received any 3-1-1 noise  
13 complaints or whether DEP had issued construction  
14 noise citations. The Comptroller made a number of  
15 recommendations including improving communications  
16 and coordination with DOB such that pertinent AHV and  
17 pertinent data is made more readily available to DEP  
18 inspectors. Both introductions have enacted with  
19 improved enforcement, efficiency and transparency as  
20 New York City grapples with measures that can make it  
21 more quiet enough to sleep in a city that never  
22 sleeps. Airplane noise also interrupts the sleep of  
23 many New York City residents, as someone who  
24 represents the district adjacent to LaGuardia Airport  
25 I know all too well. For more than a decade airplane

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2 noise has steadily increased much over the borough of  
3 Queens. In Northeast Queens airplane departures from  
4 LaGuardia increased from 50,000 in 2002 to some  
5 100,000 in 2016. In addition, recent decisions by the  
6 Federal Aviation Administration to re-route several  
7 flight patterns in and out of LaGuardia Airport have  
8 led to significant noise pollution from morning to  
9 night for many residents of Queens. Resolution 1177  
10 calls on the United State Congress to pass and the  
11 President to sign legislation that will require the  
12 Federal Aviation Administration to reduce the  
13 threshold for what constitutes as significant noise  
14 impact under the Federal Aviation Regulation Part 150  
15 Airport Noise Compatibility Planning Program from 65  
16 day per... day, night decibels to 55 day, night  
17 decibels. This resolution has the strong support of  
18 our esteemed Congress Person Grace Meng and... both  
19 Congress Member Meng and Congress Member Crowley have  
20 been strong advocates in helping to make Queens  
21 quieter. Protecting the environmental quality of New  
22 York City from noise pollution in urban areas is an  
23 important part of the work of this committee. These  
24 pieces of legislation are intended to reduce the  
25 impacts of noise pollution and improve the quality of

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2 life for New York City residents. Now we will hear  
3 from Council Member's both Dan Garodnick and Ben  
4 Kallos on their bills. I also want to recognize that  
5 we have both Council Member's Eric Ulrich and Donovan  
6 Richards of the committee here today. So, with that  
7 I'll turn it over to both... first Council Member  
8 Garodnick and then Council Member Kallos.

9 COUNCIL MEMBER GARODNICK: Well thank you  
10 very much Chair Constantinides for holding a hearing  
11 today on Intro 1300 which as you noted is a bill that  
12 would require noise mitigation plans to be filed with  
13 the Department of Environmental Protection and made  
14 publicly available on their website and to be posted  
15 conspicuously at construction sites. All construction  
16 sites today must have a noise mitigation plan  
17 associated with their work. These plans contain  
18 information such as location, scope of work, timing  
19 of the project, construction devices to be used at  
20 the site and what if any mitigating materials are  
21 required for the use of those devices. However, these  
22 plans are not currently publicly available to  
23 neighbors of construction sites who wish to stay  
24 informed of what kind of noise they can expect. On  
25 top of that the plans aren't even required to be

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2 filed with DEP meaning that any DEP official looking  
3 to inspect the plan for compliance must go to the  
4 site in person and even then, they may be directed to  
5 a construction officer if the plan is not kept at the  
6 site. This clunky system is countered to the way most  
7 departments throughout the city have been modernizing  
8 making significant amounts of documentation and  
9 records available online for public perusal.  
10 Publishing noise mitigation plans online and  
11 requiring them to be filed with DEP would accomplish  
12 several goals in one fail swoop, it would bring noise  
13 mitigation into line with the rest of the process of  
14 filing documents and publishing information for  
15 construction projects, it would add transparency and  
16 accountability for people effected by construction  
17 noise and it would allow DEP to be a more efficient  
18 enforcer when there are questions about the level of  
19 noise produced by a site. New Yorkers are looking for  
20 a relief here and this is one way that we can give it  
21 to them and I look forward to hearing today's  
22 testimony and Mr. Chairman again I thank you and I  
23 encourage my colleagues to join me in support of this  
24 common-sense bill, so thank you.

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2 CHAIRPERSON CONSTANTINIDES: Alright,  
3 Council Member Garodnick, Council Member Kallos?

4 COUNCIL MEMBER KALLOS: Good afternoon.  
5 New York City may be the city that never sleeps but  
6 it doesn't have to be, noise is the number one  
7 complaint in New York City but it doesn't have to be  
8 a fact of life in the Big Apple. With construction  
9 booming all over the city I can literally walk from  
10 one block... from a construction site on one block in  
11 my district to the next construction site across the  
12 street to the next construction site across the  
13 street to the next construction site across the  
14 street to the next construction site across the  
15 street and I could go on with the amount of  
16 construction that we're seeing in the city and it is  
17 no wonder that along with that comes more noise  
18 complaints around construction than anywhere else in  
19 the city located on East End Avenue in my district  
20 recently covered numerous media outlets and along  
21 those lines I think a lot of residents get concerned  
22 when we use 3-1-1 and if 3-1-1 worked all of us  
23 elected officials might be out of job but what can  
24 sometimes tend to happen at least from the user  
25 aspect is you'll put in a 3-1-1 complaint, seems like

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2 no one's there to check on that noise right now when  
3 I want it fixed in the middle of the night, according  
4 to 3-1-1 folks may come as late as four days later  
5 and then they won't actually issue the violation  
6 seeing as the noise may not be actually occurring  
7 four days later and so we introduced this legislation  
8 in hopes of setting some sort of timeline. We have  
9 since... and, and we introduced it with our  
10 Environmental Committee Chair Costa Constantinides  
11 who he and his team have been instrumental in working  
12 on this and since then we've had a chance to amend it  
13 so that we can work with the DEP Commissioner to set  
14 standards for responses along with reporting on how  
15 that response works along with the... upon introduction  
16 we have hundreds of hundreds of comments in the New  
17 York Times and people were saying things about what  
18 was actually happening on the construction sites and  
19 that when there's an afterhours variance they can  
20 actually exceed a lot of the noise limits that  
21 normally would occur in a normal construction site so  
22 we've used the feedback we've gotten from the entire  
23 city as a whole, we are grateful to have such a  
24 strong and intelligent constituency and we look  
25 forward to coming together with the best legislation

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possible that... make sure that we respond properly.  
One other item we got from the community is it turns out that some neighborhoods are different than one another and so what may be appropriate in a commercial and manufacturing neighborhood where no one lives or sleeps might be very different than in a residential neighborhood where folks would like to get some rest after seven a.m. or might want to get to bed before a... after hours variance expires at ten or might want to go to synagogue on a Saturday and observe the Shabbat in peace and quiet and so a bunch of us are lawyers and in law school we learned about quiet enjoyment, it's this thing we have a right to with our law and so we hope that our law working with DEP and Department of Buildings could actually make sure that every New Yorker could enjoy some peace and quiet in this very busy and loud city. I do want to take a moment to thank Jan Wilcox of the Infrastructure Division and Samara Swanson, Environmental Protection Committee Council for working so closely with us on this legislation. We look forward to working with the administration to hopefully move swiftly on this and thank you.

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2 CHAIRPERSON CONSTANTINIDES: So, with  
3 that we'll turn it over to the Department of  
4 Buildings so, Patrick Wehle good to see you as always  
5 and Angela Licata, I do need, need the cards, I know  
6 you guys so, great to see you both. Oh yes.

7 COMMITTEE CLERK SWANSON: Do... can you  
8 please raise your right hand, do you swear or affirm  
9 to tell the truth, the whole truth and nothing but  
10 the truth today?

11 ANGELA LICATA: I do.

12 PATRICK WEHLE: I do.

13 COMMITTEE CLERK SWANSON: Okay.

14 ANGELA LICATA: Good afternoon Chairman  
15 Constantinides and members of the Committee on the  
16 council. I am Angela Licata, Deputy Commissioner of  
17 Sustainability at the New York City Department of  
18 Environmental Protections. I am joined by Patrick  
19 Wehle, Assistance Commissioner for External Affairs  
20 at the Department of Buildings. Thank you for the  
21 opportunity to testify in support of Introductions  
22 1300 and 1653A. DEP's mission is to protect public  
23 health and the environment by supplying clean  
24 drinking water, collecting and treating wastewater,  
25 and reducing air noise and hazardous materials,

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2 pollution. These bills propose to address noise from  
3 construction sites which result in large number of  
4 complaints to 3-1-1 and we welcome the opportunity to  
5 work with the council to better reduce the effects of  
6 construction noise on our neighborhoods. DEP supports  
7 passage of Intro 1300 which would require DEP to make  
8 all noise mitigation plans from construction sites  
9 publicly available by posting on DEP's website and  
10 require the posting of noise mitigation plans on the  
11 exterior of construction sites. DEP also supports the  
12 passage of Intro 1653A which would require DEP to  
13 promulgate rules prescribing specific inspection time  
14 frames so that noise inspections occur at times when  
15 alleged noise occurs or is repeated and to require  
16 annual reports on response to noise complaints. The  
17 features of the bills that we believe will enhance  
18 DEP's response and most effectively result in  
19 reduction in construction noise include the  
20 following; allowing the Commissioner to set these  
21 time frames for inspection in order to ensure that  
22 the responses to complaints occur when the violations  
23 are most likely to occur, requiring that noise  
24 mitigation plans and alternative noise mitigation  
25 plans be posted on the city's website and authorizing

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2 DEP to issue verbal and written stop work orders for  
3 specific activities or equipment that require noise  
4 exceeding the standard set... or that create rather  
5 noise exceeding the standards set forth by the bill.  
6 Now some of these cases will involve after hour  
7 variances or AHV's, which are required in order to  
8 perform construction work outside of the hours  
9 between seven a.m. and six p.m. Monday through  
10 Friday. AHV's are issued by DOB for reasons that  
11 include emergency work, public safety, city managed  
12 construction projects, construction activities with  
13 minimal noise impact, and undue hardship. The most  
14 important and common reason for the issuance of an  
15 AHV is public safety when typically, the work can be  
16 performed more safely when there is less pedestrian  
17 and vehicular traffic. As stated before we agree with  
18 the goals of the bill but we do have some  
19 recommendations on how this legislation might be  
20 improved such as the bill should authorize DEP to  
21 take readings from street level in front of the  
22 sensitive receptor when there is an HA... AHV in  
23 effect. Currently readings may only be taken from  
24 inside complainants dwelling thereby slowing our  
25 response time. We also suggest that the bill reflect

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2 the language that the readings may be taken from the  
3 public right of way as described in Section 24-228.  
4 For AHV's when a specific mitigation in the noise  
5 mitigation plan is not implemented the current bill  
6 requires DOB to rescind to refuse to renew the AHV  
7 until the condition is corrected. Given that the bill  
8 authorizes DEP to stop work for specific activities  
9 or equipment that create noise exceeding the standard  
10 there is no reason to stop all work associated with  
11 the AHV particularly for an AHV with a broad scope of  
12 work where much of it does not exceed the noise level  
13 standard. We are still reviewing the impacts of  
14 several of the bill's amendments including provisions  
15 related to stop work orders, revocations of AHV's,  
16 specific decibel level thresholds and the impact of  
17 those thresholds on certain construction projects  
18 including a most... and specifically street projects  
19 and other provisions that would benefit from  
20 technical changes. We look forward to further  
21 conversations with the council in order to ensure  
22 that the proposed legislation accomplishes the goals  
23 of more timely inspections at construction sites and  
24 of establishing effective mechanisms to achieve  
25 reasonable noise levels. Thank you again for the

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2 opportunity to testify today and we would be happy to  
3 address any questions that you may have and let me  
4 just take this opportunity to also acknowledge the  
5 attendance and support of some of my key staff  
6 members here; Michael Gilsenan, Assistant  
7 Commissioner for the Bureau of Environmental  
8 Compliance; Gerry Kelpin, the Director of the Air and  
9 Noise Enforcement Unit and her first Deputy Director  
10 Alyssa Preston.

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CHAIRPERSON CONSTANTINIDES: Thank you.

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13 So, I'm going to ask a few questions and then I'm  
14 going to turn it over to the sponsors of the bills to  
15 ask the majority of the questions but I guess my  
16 question I have on 1300, does DEP currently collect  
17 all noise mitigation plans from construction sites?

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19 ANGELA LICATA: No, currently we do not  
20 collect the plans. When we go to a site the plans  
21 should be available on the construction site. Over  
22 the period of time since the code has required noise  
23 mitigation plans we have found the industry has  
24 improved to a great extent by generally having these  
25 noise mitigation plans available for our inspection.

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CHAIRPERSON CONSTANTINIDES: And how

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often do we inspect to make sure that they are there?

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2 ANGELA LICATA: We inspect when we  
3 receive complaints, we will go to the site and that's  
4 the first piece of evidence that we want to see, we  
5 want to see a record of the noise mitigation plan on  
6 site.

7 CHAIRPERSON CONSTANTINIDES: Okay and  
8 then on 1653 I'll talk a little bit more about noise  
9 generally, again I'm going to leave the majority of  
10 the questions for the sponsors. How do you... how do  
11 you coordinate with the Department of Buildings in  
12 responding to 3-1-1 construction complaints and where  
13 DOB has issued these afterhours variances?

14 ANGELA LICATA: Well we feel that we have  
15 greatly improved our level of coordination between  
16 the two agencies over the last several years, we've  
17 been making it a habit to inform buildings when we  
18 have repeat complaints for a particular site and we  
19 may ask them if we find violations or if we find that  
20 the noise levels associated with the activity is very  
21 problematic for the Buildings Department to consider  
22 not reissuing the AHV but I'll let Patrick also weigh  
23 in on this.

24 PATRICK WEHLE: Good afternoon Mr. Chair.  
25 Patrick Wehle, Assistant Commissioner with the

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2 Buildings Department. So, just to piggyback on what  
3 Angela said so we now have process in place where if  
4 DEP receives a complaint, performs an inspection and  
5 upon that inspection they see a violation of the  
6 noise mitigation plan or maybe they see other work  
7 being performed on the site at that point in time  
8 that's not in scope with the after hour variance that  
9 the Department issued, we have a process in place by  
10 which DEP notifies the Department and we use that  
11 information to perform our own inspections and we  
12 also use complaint information and so forth from DEP  
13 to determine whether or not that variance should be  
14 renewed or rescinded or altered in some way.

15 CHAIRPERSON CONSTANTINIDES: And what  
16 sort of time line... yeah, so, how, how do we  
17 streamline that process to make sure that if DEP  
18 finds something wrong that you're taking action  
19 within a, a good time frame, what's usually the time  
20 frame from the time that they let you know that the  
21 noise mitigation plan or the, the scope of work is  
22 not being done correctly, how soon are you out there  
23 to issue a violation and, and so on?

24 PATRICK WEHLE: Well once we're informed  
25 by DEP we pretty much start to get to work

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2 immediately, we review the actual variance that we  
3 issued, we speak with the contractor whoever the  
4 applicant is to get a better understanding of the  
5 work that they're doing, we perform site visits as  
6 well and with all that information we make a  
7 determination as to whether or not the variance that  
8 was issued was issued appropriately.

9 CHAIRPERSON CONSTANTINIDES: How long  
10 does that all take?

11 PATRICK WEHLE: As a general matter our  
12 service level for after hour variance complaints last  
13 time I checked is 17 days. If we... [cross-talk]

14 CHAIRPERSON CONSTANTINIDES: Okay..  
15 [cross-talk]

16 PATRICK WEHLE: ...receive a complaint  
17 directly from DEP we'll of course respond sooner than  
18 that.

19 CHAIRPERSON CONSTANTINIDES: Can we get  
20 a... I mean 17 days seems a bit long, right, I mean  
21 we're... you know if, if I... if I'm living in a building  
22 next... with a sleeping baby or a sick family member,  
23 17 days is awful long time to wait, how do we  
24 streamline that?

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2           PATRICK WEHLE:  It's, it's really a  
3 function of resources largely, you know the Buildings  
4 Department has a, a wide breadth of what we are  
5 responsible for enforcing, we perform well over  
6 100,000 inspections every year... [cross-talk]

7           CHAIRPERSON CONSTANTINIDES:  Uh-huh...  
8 [cross-talk]

9           PATRICK WEHLE:  ...and based on the volume  
10 of the inspection requests we receive we're in a  
11 position where we need to triage those inspections.  
12 So, those inspections that are more of an emergency  
13 nature we... [cross-talk]

14          CHAIRPERSON CONSTANTINIDES:  Uh-huh...  
15 [cross-talk]

16          PATRICK WEHLE:  ...treat as a category A  
17 compliant, we get out there far sooner and other  
18 types of complaints like in this case an after-hour  
19 variance complaint we treat as a type... category B  
20 complaint and currently for our B complaints we're  
21 getting out there within 17 days. And in certain  
22 instances, we'll prioritize those complaints... [cross-  
23 talk]

24          CHAIRPERSON CONSTANTINIDES:  Well this is  
25 something we're going to have to work on in the next

1  
2 city budget to try to get you some more folks so we,  
3 we can reduce that number, right, I mean 17 days just  
4 seems a little bit long to.. if I'm filing a complaint  
5 today when... I mean the way I see it when someone  
6 calls 3-1-1 they're looking for help and when they  
7 don't see that help come in a timely way they get  
8 frustrated, they think government doesn't work,  
9 right, I mean if, if, if I called the pothole in my..  
10 in front of my house doesn't get filled in a.. in a  
11 meaningful amount of time then I'm thinking why did I  
12 bother to call 3-1-1.

13 PATRICK WEHLE: I, I, I certainly  
14 understand your concern Council Member.

15 CHAIRPERSON CONSTANTINIDES: Okay and as  
16 far as noise complaints how are we doing when... you  
17 know if someone calls there's a loud party or there's  
18 a restaurant or it's something that is a.. not working  
19 the right way when it comes to noise there's a myriad  
20 of things I could name but how soon do we get someone  
21 out there?

22 ANGELA LICATA: Largely our response time  
23 has been decreasing as noise complaints in the city  
24 have increased. Let's say if you're looking back over  
25 a seven-year period.. [cross-talk]

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CHAIRPERSON CONSTANTINIDES: Uh-huh...

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[cross-talk]

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ANGELA LICATA: ...it's an average now of 5.6 days to respond. Often times that time period reflects the time in which we have to identify the complainant, contact the complainant and perhaps make an appointment with the complainant to visit their premise and to take noise measurements from within a residential structure so... or an apartment.

CHAIRPERSON CONSTANTINIDES: And what standard are we using, are we using the unreasonable noise standard or are we using sort of the objective sort of with the devices measurement of noise?

ANGELA LICATA: Well that, that's a variety of approaches that we use that are spelled out and expressed in the noise code and that all depends on what section of the noise code you're referring to. So, we are using a combination of unreasonable noise and absolute measurements and associated with absolute thresholds, there's a combination of techniques that we are using within our noise code.

CHAIRPERSON CONSTANTINIDES: Alright, so at this time I'll, I'll turn it over to... I might come

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2 back but I'm going to turn it over to the two  
3 sponsors of the bills so, I'll begin with Council  
4 Member Garodnick and then Council Member Kallos.

5 COUNCIL MEMBER GARODNICK: Thank you. One  
6 of the things that I've learned over the past 12  
7 years is that when the administration comes in and  
8 says that they support your bill you should say thank  
9 you and move on so that is what I will do, I have no  
10 questions and we appreciate your support.

11 CHAIRPERSON CONSTANTINIDES: Well said.

12 COUNCIL MEMBER KALLOS: I, I, I hope to  
13 get where Dan is when I get to year 12 except I don't  
14 think I will ever get there because of... so, so I, I  
15 try to keep the hearings as an opportunity for folks  
16 watching at home or online, hi to everybody you can  
17 tweet me at Ben Kallos and use this as a chance to  
18 just learn for folks who haven't had a chance to  
19 learn from the agencies themselves. So, when DEP  
20 responds to a 3-1-1 noise complaint on a construction  
21 site can you issue a violation if there is no after-  
22 hours permit but they're doing after hours work?

23 ANGELA LICATA: Yes.

24 COUNCIL MEMBER KALLOS: Okay, so if DEP  
25 responds to a 3-1-1 noise complaint on a construction

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2 site let's say it's the loudest sound you can  
3 imagine, it's multiple gun shots at 200 decibels like  
4 that's really loud and so that's how loud it is can  
5 you issue a violation if they have an after-hours  
6 variance and the work that they're doing on the site  
7 is within scope?

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ANGELA LICATA: No.

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COUNCIL MEMBER KALLOS: Okay, so, so, so  
10 to be clear the, the issue in the law right now is  
11 just that you can't issue noise related violations no  
12 matter how loud it is once they have the after-hours...  
13 [cross-talk]

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ANGELA LICATA: If, if there is a noise  
15 mitigation plan on site... [cross-talk]

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COUNCIL MEMBER KALLOS: Yeah... [cross-  
17 talk]

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ANGELA LICATA: ...then they have to be in  
19 compliance with that noise mitigation plan for their  
20 after-hour variance activities. So, it's not as  
21 though they can just at that point because they have  
22 the AHV up their game if you will or just exceed  
23 whatever threshold they want. So, at that point they  
24 are still beholding to the noise mitigation plan.

25

1  
2 COUNCIL MEMBER KALLOS: Okay, but the  
3 noise mitigation plan is, is silent as decibel  
4 levels?

5 ANGELA LICATA: It... the enforcement that  
6 we're required to do would mean that we need to find  
7 a street level exceedance during normal construction  
8 hours or we would have to be if it's after-hours and  
9 a complainant's apartment so that's the way it's  
10 currently set up now is a... sort of a bifurcated  
11 approach either they're working during normal hours,  
12 Monday through Friday and we would take the street  
13 level measurement, we have a threshold for that or  
14 they're working after-hours we would have to be in a  
15 complainant's apartment and there would have to be a  
16 noise threshold that is exceeded at that level.

17 COUNCIL MEMBER KALLOS: And so gaining  
18 access to a complainant's apartment after-hours is  
19 one of your challenges which is... I, I, I will just  
20 for our committee council I will accept their  
21 recommendation for a B-version to include that they  
22 should be able to take the measurement after-hours  
23 and so quick question because I think this, this came  
24 up in some of the, the media coverage how many noise  
25

1  
2 inspectors does DEP currently have to deal with  
3 hundreds of thousands of complaints?

4 ANGELA LICATA: We have currently 57  
5 inspectors and we have an additional five approved  
6 for FY '17.

7 COUNCIL MEMBER KALLOS: Okay, so there's  
8 five jobs for everyone watching if anyone wants to do  
9 it, where can they apply?

10 ANGELA LICATA: They can apply to, to New  
11 York City DEP but... and these are... just to be clear  
12 these are inspectors for both air and noise  
13 enforcement.

14 COUNCIL MEMBER KALLOS: Great and so  
15 question for DOB is how many after variance... after-  
16 hours variances did DOB grant this last Saturday, how  
17 many of those were out there in the city as we tried  
18 to relax this weekend?

19 PATRICK WEHLE: So, I can't tell you how  
20 many after-hour variances were issued last weekend  
21 but I'm happy to provide you with statistics from say  
22 last year.

23 COUNCIL MEMBER KALLOS: Good enough.

24 PATRICK WEHLE: 2016 the Department  
25 issued a total of 61,199 after-hour variances that

1  
2 includes just over 18,000 initial variances and just  
3 about 43,000 renewals. One thing that we've noticed  
4 over time if you go back to the year 2011 up until  
5 2016, the number of initial after-hour variances that  
6 we've issued has reduced over time whereas the number  
7 of renewals have increased over time. So, this is  
8 telling us that the number of sites, locations, jobs  
9 that are getting these after-hour variances has  
10 reduced from about 25,000 in 2011 to again 18,000  
11 this past year, 2016 but the number of renewals have  
12 increased so that's where the increase is coming  
13 from. So, as a department we've seen about a doubling  
14 of the number of after-hour variances that have been  
15 issued by the department but I think when we think  
16 about that and look at those numbers I think we need  
17 to bear in mind that we've also seen about a tripling  
18 in the amount of new construction throughout the city  
19 during those years as well.

20 COUNCIL MEMBER KALLOS: So, 61,900  
21 divided by about 365 comes out to like so 169 after-  
22 hours permits at any given time?

23 PATRICK WEHLE: If that's what the math  
24 tells us, yes and, and I think what we're seeing over  
25 time is that these sites are receiving renewals over

1  
2 a longer period of time so fewer sites are getting  
3 the variances, those that are getting them are  
4 renewing them over a longer period of time and that's  
5 largely because these jobs are generally much more  
6 complex and much more difficult to, to, to perform so  
7 it requires the renewal of these variances.

8 COUNCIL MEMBER KALLOS: I have a  
9 different line of questions but I'm going to follow  
10 this. So, if you can follow... if you can help me with  
11 this, what has changed in construction between before  
12 where you're granting more AHVs to more sites but  
13 less frequently to now where there's so much more  
14 public safety risk that you're granting these public  
15 safety AHV variances more often to more sites what,  
16 what has changed that has made our construction sites  
17 so much more different because I, I know that most...  
18 so, so you can get an AHV for minimal noise impact  
19 but if that happens there's no 3-1-1 complaints so  
20 you stopped granting those in my district and thank  
21 you for not doing that most of the time, the other  
22 one is hardship, I don't think anyone's ever... our...  
23 how many do you... are you still getting the hardship  
24 applications?  
25

1  
2 PATRICK WEHLE: The overwhelming majority  
3 is for public safety, I think that's... [cross-talk]

4 COUNCIL MEMBER KALLOS: So, so what is...  
5 what is the public safety issue at the...

6 PATRICK WEHLE: So, just to... [cross-talk]

7 COUNCIL MEMBER KALLOS: ...sites... [cross-  
8 talk]

9 PATRICK WEHLE: ...to clarify something the  
10 Buildings Department is not issuing more variances  
11 for more locations, we're issuing more variances for  
12 fewer locations and those variances are being renewed  
13 in large measure because the scope of the work is  
14 increasing and that more... larger more complex jobs  
15 are being built over time which is leading to their  
16 request for additional variances. Now specific to the  
17 last point of your question about the public safety  
18 reason for which probably something close to 80  
19 percent of the variances that we issue are under the  
20 guise of public safety that's because doing the work  
21 off hours presents less of a public safety risk  
22 particularly as it relates to vehicular and  
23 pedestrian traffic. So, the types of after-hour  
24 variances that we issue under the reason for public  
25 safety including a few things like jumping of a

1  
2 crane, of a hoist, carrying large mechanical  
3 equipment onto a hoist many of which deal with the  
4 carting of debris, having trucks coming in and out of  
5 the site routinely either carrying debris or large  
6 heavy equip, equipment these are the kinds of reasons  
7 for which we would issue the after-hour variance.

8 COUNCIL MEMBER KALLOS: So, in, in terms  
9 of public safety if the work needs to happen  
10 afterhours for public safety reasons it stands to  
11 reason that that same work shouldn't be happening  
12 during normal hours?

13 PATRICK WEHLE: As a general matter  
14 that's correct and when we... when applicants file the  
15 after-hour variance with them one of the questions  
16 they're asked, they're, they're... they have to certify  
17 that the work being performed afterhours not just the  
18 type of work but also the scale of that work is not  
19 happening during normal business hours because you're  
20 correct the work happening afterhours should not... in,  
21 in terms of the type of work and also the scale of  
22 that work should not be happening during normal  
23 business hours as well.

24 COUNCIL MEMBER KALLOS: So, if I can  
25 prove to you that the construction sites in my

1  
2 district are doing the... that the trucks are carting  
3 away debris on a Friday at five o'clock and then  
4 they're carting away debris at... Friday at seven  
5 o'clock and they're doing the same work whether it's  
6 afterhours or during hours you won't keep granting  
7 those after-hours variances?

8 PATRICK WEHLE: And if the work in terms  
9 of not just the type of work but the scale of the  
10 work is identical they should not be receiving the  
11 after-hour variance. If you want to bring specific  
12 examples to my attention I'm... we're happy to give it  
13 a look.

14 COUNCIL MEMBER KALLOS: You know I will.  
15 Along the same lines you... you're making... I guess a  
16 question to whoever wants to answer it, have you  
17 found, have you had occasion to observe that there  
18 are different concentrations of people on pedestrian  
19 traffic and commercial heavily in, in areas as zoned  
20 commercial versus areas zoned for residential?

21 PATRICK WEHLE: Speaking for DOB that's  
22 not something we've taken a look at to make that kind  
23 of... to distinguish between, you know one, one zoning  
24 area and another but it's something I think we can  
25 take a look at for you if you'd like.

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COUNCIL MEMBER KALLOS: Would, would you consider and I'm not sure if we could... if... add this but like if they're saying public safety we should ask them to do pedestrian counts because I, I can tell you right now, you can walk around my district right now and, and you will not find residents in my district because it's a residential neighborhood but if you're doing... but if you show up after five o'clock in my district you, you will see thousands and thousands and thousands of people on the street going grocery shopping, picking up their kid, taking their kids out, walking their dogs and I, I, I assume this is something that you've seen before in residential neighborhoods that they're actually busier after five o'clock than between the hours of nine and five, have you made that observation?

PATRICK WEHLE: We have made that observation, I understand your point and where you're going, I mean the only thing I'd add is that certainly the Buildings Department, you know we're not traffic engineers and we don't have the expertise to sort of take a look at what it is you're suggesting but I understand your concern.

1  
2 COUNCIL MEMBER KALLOS: If somebody is  
3 making an argument that something is a public safety  
4 concern do you think that since they can employ  
5 traffic engineers that they should be able to  
6 demonstrate that it is safer to do the work  
7 afterhours in a residential neighborhood then during  
8 the day when no one's actually there?

9 PATRICK WEHLE: As, as a general matter  
10 now it's certainly something we take a look at but in  
11 terms of traffic analysis there's no requirement that  
12 the applicant provide us with something in the level  
13 of detail that you're suggesting.

14 COUNCIL MEMBER KALLOS: Sure and just to  
15 follow... just, just to go back to DEP so under the  
16 current language of the bill if somebody called about  
17 3-1-1 if we amend it to say that you can take the  
18 noise... you can do the measurement from a public right  
19 of way would you be able to go to the site and say  
20 you're over your noise limit, you're not following  
21 the mitigation plan and then make onsite changes to  
22 reduce the volume and improve quality of life for  
23 folks in the immediate vicinity?

24 ANGELA LICATA: Yep, that would certainly  
25 be the idea, I think the very first step would be you

1  
2 look at the noise mitigation plan, you see whether or  
3 not they have reasonably addressed that issue, if, if  
4 the issue has not been addressed you ask for the  
5 change in the noise mitigation plan. So, we're  
6 always... I guess what I'm trying to emphasize is we  
7 aim to seek compliance, we don't aim to enforce as a  
8 first... you know exchange through a summons or a  
9 violation, I mean our goal is always to seek  
10 compliance as quickly as possible.

11 COUNCIL MEMBER KALLOS: Okay and so back  
12 to DOB, I'm just following along with the questions,  
13 so it's 61,900 AHVs in 2016... in FY 2016 so our, our  
14 brothers and sisters at DEP have 60... soon to be 60...  
15 62 inspectors how many inspectors does DOB have  
16 available on a Saturday to respond to afterhours  
17 related noise complaints and DEP findings that there  
18 is noise at a construction site?

19 PATRICK WEHLE: The department has an  
20 emergency response unit that's largely responsible  
21 for addressing these types of complaints, I don't  
22 have the exact number of staff within the unit, I  
23 want to say it's around a dozen perhaps a little more  
24 but I'm happy to, to get a firm number and share it  
25 with the committee.

1  
2 COUNCIL MEMBER KALLOS: Both... to, to both  
3 agencies do you believe that you have the current  
4 staffing that you need in order to respond to these  
5 items in a... in a timely manner?

6 ANGELA LICATA: I want to be audible, yes  
7 we do, I mean we were very fortunate to be granted  
8 the five additional staff members for FY '17, we look  
9 forward to bringing them on board as quickly as  
10 possible and we feel like we're fully staffed at this  
11 point.

12 COUNCIL MEMBER KALLOS: I, I, I for one  
13 will be advocating with our Environmental Committee  
14 Chair for, for perhaps doubling that staff if, if  
15 you'll... and I, I hear consensus from my colleague  
16 representing Far Rockaway and to, to DOB is a dozen  
17 people enough to respond to 61,900... that's, that's  
18 roughly 6,190 per person?

19 PATRICK WEHLE: Again we, we respond  
20 based on complaints so the number I think you should  
21 look at is not how many variances are issued but how  
22 many complaints are there associated with...

23 COUNCIL MEMBER KALLOS: Last year it was  
24 63,000.

1  
2           PATRICK WEHLE: No, no that's not correct  
3 as a... as it relates to after-hour variances we  
4 receive close to 4,000 complaints every year, you  
5 know not every construction noise complaint is a  
6 building construction noise complaint, there's ton  
7 of... tons of construction that happens on roadways, on  
8 the city street that is not under the department's  
9 jurisdiction so in terms of the complaints we do  
10 receive related to after-hour variances and work  
11 performed outside the hours or outside the scope we  
12 have a staff of inspectors who perform those  
13 inspections, our service level right now is about 17  
14 days while not ideal, it's certainly a far cry better  
15 than it was just a couple of years ago but with the  
16 resources that are allotted to the department that's  
17 the service level we're at right now.

18           COUNCIL MEMBER KALLOS: How many more...  
19 how, how much more would we need to allot to your  
20 department in order for you to respond to complaints  
21 within 24 hours or even two hours?

22           PATRICK WEHLE: Certainly would require a  
23 significant increase in resources, an exact number I,  
24 I couldn't... [cross-talk]

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COUNCIL MEMBER KALLOS: So, I want to just wrap up my first round with a final question to DEP for first round, so if constituents, a community board or a council member has ongoing complaints with regards to an establishment that plays music or engages... or, or set... or, or... a commercial establishment that serves alcohol or plays music after hours, after nine o'clock what types of tools does DEP have at disposal and what types of multiagency responses can community boards, council members and community members ask for?

ANGELA LICATA: I'm going to call Gerry Kelpin to come up and give you a very good sense of how we coordinate with the other departments to create the most effective response possible.

GERRY KELPIN: I do. So, for music complaints there's a process where initially the complaint goes to the police department for loud music from a commercial establishment after... and on the basis that they can respond more quickly than we can. Our... the tools that we have are actually to be able to take a reading from a person's apartment based on decibel levels or we could take it from the street and that's basically an unreasonable noise

1  
2 standard that we use, the, the same one that was  
3 quoted earlier. Our ability to respond to those  
4 complaints is usually, you know the, the next week  
5 most commercial establishments that play music play  
6 it every week or they play it Thursday, Friday and  
7 Saturday which are generally the loudest nights for  
8 the music and so we set that up with a complainant  
9 and we ask them whether they want us to come to the  
10 apartment or whether they just want us to try from  
11 the street based on their response we, we set it up  
12 and do an individual inspection of that property. We  
13 also have another avenue that can be used, we  
14 participate in what's called the multiagency response  
15 to community hotspot complaints, the last C is not  
16 there, it's called... we abbreviate it as a MRCH  
17 Initiative, those locations are generally developed,  
18 the list that we will inspect from the precinct, they  
19 get complaints from their constituents and we, we do  
20 these MRCH's on, on Friday and Saturday nights  
21 usually, Friday night's usually two, two precincts,  
22 Saturday night might be just one, it depends on, on  
23 what the police department wants to set up with us,  
24 it includes Building Department Inspectors, Health  
25 Department, SLA, DEP, PD and probably somebody else

1  
2 that I'm missing, sorry. Those are the two avenues  
3 that we use for responding to those types of  
4 complaints.

5 COUNCIL MEMBER KALLOS: Will you... will  
6 you take a march with me down 2<sup>nd</sup> Avenue in my  
7 district?

8 GERRY KELPIN: If your precinct wants to  
9 absolutely, there are... I'm not sure if you are also  
10 just talking about nighttime, we also have commercial  
11 places that use speakers or, or broadcasting during  
12 the day, that's kind of like one of favorites to do  
13 as well but we do have to get the information for us  
14 to, to generate that type of response.

15 COUNCIL MEMBER KALLOS: Thank you, that's  
16 the end of my first round.

17 CHAIRPERSON CONSTANTINIDES: Thank you,  
18 Council Member Richards?

19 COUNCIL MEMBER RICHARDS: Thank you Mr.  
20 Chairman, thank you for the bill sponsors. Can you  
21 just speak to how do all of your agencies coordinate  
22 so DEP, NYPD, DOB do you guys often meet to discuss  
23 this issue being that it is become so problematic, so  
24 is there some sort of task force, how do you  
25

1  
2 communicate, how's interagency communication when it  
3 comes to noise?

4 ANGELA LICATA: Right, well I, I won't...

5 COUNCIL MEMBER RICHARDS: Patrick don't...  
6 [cross-talk]

7 ANGELA LICATA: ...repeat... [cross-talk]

8 COUNCIL MEMBER RICHARDS: ...get shy...

9 ANGELA LICATA: I won't repeat what Gerry  
10 just said in terms of the established initiatives  
11 that we have to do a multiagency response with  
12 respect to... [cross-talk]

13 COUNCIL MEMBER RICHARDS: Those things...  
14 those, those things exist now?

15 ANGELA LICATA: That exists now. With  
16 respect to this coordination on AHVs and buildings we  
17 have met with the Buildings Department several times  
18 over the last four years... [cross-talk]

19 COUNCIL MEMBER RICHARDS: Several times?

20 ANGELA LICATA: We have met Commissioner  
21 to Commissioner, I have been involved in a... in,  
22 including myself and the first Deputy Commissioner we  
23 have had multiple staff meetings where buildings was  
24 kind enough to bring at least 12 to 15 people that  
25 are currently working on their new... [cross-talk]

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COUNCIL MEMBER RICHARDS: So, this is not an ongoing... [cross-talk]

ANGELA LICATA: ...building... [cross-talk]

COUNCIL MEMBER RICHARDS: ...monthly type thing going... [cross-talk]

ANGELA LICATA: It's not an ongoing monthly, no... [cross-talk]

COUNCIL MEMBER RICHARDS: Okay... [cross-talk]

ANGELA LICATA: ...it has... it has been... [cross-talk]

COUNCIL MEMBER RICHARDS: Do you think that would be helpful in sort of addressing this issue?

ANGELA LICATA: Well I think the most helpful practice that we have currently is we have a designated staff person at DEP and a designated staff person at the Buildings Department that are coordinating on the most complicated or difficult cases that we have so that seems to be... [cross-talk]

COUNCIL MEMBER RICHARDS: So, one staff from DOB?

1  
2 ANGELA LICATA: Yes, we... one contact  
3 within each department to communicate on these tough  
4 cases has been a really effective... [cross-talk]

5 COUNCIL MEMBER RICHARDS: Do you think...  
6 [cross-talk]

7 ANGELA LICATA: ...practice... [cross-talk]

8 COUNCIL MEMBER RICHARDS: ...that's a  
9 sufficient amount of people to actually deal with  
10 this issue?

11 PATRICK WEHLE: So, if I can just add  
12 it's, it's not limited to one person, it's, it's one  
13 point of contact within each agency as it should be  
14 and once that connection is made we sort of  
15 prioritize the handling of that complaint and that in  
16 our end can involve inspectors, it can involve plan  
17 examiners, I think the relationship that we've only  
18 recently started I think is really helpful and that  
19 when something particularly comes to DEP's attention  
20 they alert us right away and we prioritize that...

21 COUNCIL MEMBER RICHARDS: But you don't  
22 think that's a big undertaking for two staff members  
23 to this issue?

24 PATRICK WEHLE: So, speaking for the  
25 Buildings Department... [cross-talk]

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COUNCIL MEMBER RICHARDS: ...sounds like it should be a unit not necessarily two... [cross-talk]

PATRICK WEHLE: It, it kind of is... [cross-talk]

COUNCIL MEMBER RICHARDS: ...people... [cross-talk]

PATRICK WEHLE: ...handled by a unit depending on where... [cross-talk]

COUNCIL MEMBER RICHARDS: ...a unit is more than one person...

PATRICK WEHLE: Correct so depending... [cross-talk]

COUNCIL MEMBER RICHARDS: Alright, okay... [cross-talk]

PATRICK WEHLE: ...on where the complaint is... [cross-talk]

COUNCIL MEMBER RICHARDS: Uh-huh... [cross-talk]

PATRICK WEHLE: ...it'll get assigned to the appropriate people who handle complaints in that area but it all starts with one person who receives the information from DEP and at that point it gets shared... [cross-talk]

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COUNCIL MEMBER RICHARDS: So, that one person... [cross-talk]

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PATRICK WEHLE: ...appropriately... [cross-talk]

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COUNCIL MEMBER RICHARDS: ...fields how many complaints, I'm interested in knowing how much... how many complaints that person receives?

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PATRICK WEHLE: I, I don't have an exact number... [cross-talk]

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11

COUNCIL MEMBER RICHARDS: But how many complaints were there in New York City... [cross-talk]

12

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PATRICK WEHLE: So, in terms of complaints received through 3-1-1 for our after-hour variances work, outside of scope, outside of hours it's pretty consistent each year there's a little under 4,000 complaints that the Building... [cross-talk]

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COUNCIL MEMBER RICHARDS: Okay, alright... [cross-talk]

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PATRICK WEHLE: ...Department sees... [cross-talk]

22

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COUNCIL MEMBER RICHARDS: ...so 4,000... a little under 4,000, how much is that individual's

24

25

1  
2 case... what does that person's case load look like,  
3 that's... [cross-talk]

4 PATRICK WEHLE: So... [cross-talk]

5 COUNCIL MEMBER RICHARDS: ...what I'm  
6 interested in... [cross-talk]

7 PATRICK WEHLE: ...it... as it relates to  
8 those 4,000 or so complaints... [cross-talk]

9 COUNCIL MEMBER RICHARDS: Uh-huh... [cross-  
10 talk]

11 PATRICK WEHLE: ...it gets routed to our  
12 emergency response unit and inspectors within that...  
13 those units perform, perform inspections.

14 COUNCIL MEMBER RICHARDS: And, and that's  
15 the 61 people that's now going... [cross-talk]

16 PATRICK WEHLE: That's at DEP, we have... I  
17 think it's a dozen maybe a couple of dozen  
18 inspectors, inspectors in ERT who, who perform these  
19 inspector... inspections... [cross-talk]

20 COUNCIL MEMBER RICHARDS: So, every year  
21 we have this discussion, I'm happy you're adding five  
22 more again this year but it, it... to me it does not  
23 show that we are serious about addressing noise  
24 pollution in New York City, 61 people in this city  
25 with as much construction is going on and then

1  
2 they're not dedicated specifically just for noise,  
3 they do air and they do other things so I, I find it  
4 insignificant to a great degree.. I mean.. let me not  
5 say that, we appreciate the 61 but if we're saying we  
6 want to really address this issue 61 is not enough,  
7 do you agree?

8 ANGELA LICATA: Well not exactly but just  
9 to be clear.. [cross-talk]

10 COUNCIL MEMBER RICHARDS: Do you think 61  
11 people can handle.. [cross-talk]

12 ANGELA LICATA: During, during this..  
13 [cross-talk]

14 COUNCIL MEMBER RICHARDS: ...the volume of  
15 4,000 complaints?

16 ANGELA LICATA: During this  
17 administration.. [cross-talk]

18 COUNCIL MEMBER RICHARDS: Eric you, you  
19 could divide, right, what's 61 into 4,000?

20 [off-mic dialogue]

21 COUNCIL MEMBER RICHARDS: And, and I find  
22 it hard to believe.. [cross-talk]

23 CHAIRPERSON CONSTANTINIDES: 65.. [cross-  
24 talk]

1  
2 COUNCIL MEMBER RICHARDS: ...that Eric and  
3 I represent the end of the earth and I find it hard  
4 to believe that DOB is getting inspectors out in 17  
5 days because we could rarely get a response in a  
6 month when we'd have complaints with DOB... [cross-  
7 talk]

8 PATRICK WEHLE: Our... [cross-talk]

9 COUNCIL MEMBER RICHARDS: I'm just  
10 saying...

11 PATRICK WEHLE: I think it depends on the  
12 type of... [cross-talk]

13 COUNCIL MEMBER RICHARDS: ...no offense..  
14 [cross-talk]

15 PATRICK WEHLE: ...complaint... [cross-talk]

16 COUNCIL MEMBER RICHARDS: ...to DOB..  
17 [cross-talk]

18 PATRICK WEHLE: Right... so... [cross-talk]

19 COUNCIL MEMBER RICHARDS: ...but there's..  
20 [cross-talk]

21 PATRICK WEHLE: ...priority B complaints  
22 are inspected within 17... within 17 days, currently  
23 priority A complaints are there within hours.

24 COUNCIL MEMBER RICHARDS: That's your 17  
25 days you're saying?

1  
2 RICHARD: That's the Buildings Department  
3 before inspections, yes.

4 COUNCIL MEMBER RICHARDS: So, you're sure  
5 your people get out within 17 days?

6 PATRICK WEHLE: That's our service level  
7 for B complaints, absolutely.

8 COUNCIL MEMBER RICHARDS: And that's  
9 across the board in DOB, is that... [cross-talk]

10 PATRICK WEHLE: All, all category B  
11 complaints receive an inspection no later than 17  
12 days.

13 COUNCIL MEMBER RICHARDS: Alright. And  
14 how do you address hot spots?

15 ANGELA LICATA: Well just for the record  
16 I, I want to just go back for one moment during this  
17 De Blasio Administration we at first added seven  
18 additional noise... [cross-talk]

19 COUNCIL MEMBER RICHARDS: I'm aware he's  
20 the Chair of the Committee... [cross-talk]

21 ANGELA LICATA: ...air inspectors... [cross-  
22 talk]

23 COUNCIL MEMBER RICHARDS: ...and Costa was  
24 helpful with that but that's still... [cross-talk]

25 ANGELA LICATA: Uh-huh... [cross-talk]

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COUNCIL MEMBER RICHARDS: ...not enough...

[cross-talk]

ANGELA LICATA: That's... and, and we're grateful for your support for that and your acknowledgement and recognition and I have a tremendous amount of respect for what these inspectors can accomplish and it's a really wonderful entry level job market as well because we bring people on, most of the first level air noise inspectors are high school degree, we end up recruiting a really tremendous and very talented pool... [cross-talk]

COUNCIL MEMBER RICHARDS: I get that...

[cross-talk]

ANGELA LICATA: So, this is... [cross-talk]

COUNCIL MEMBER RICHARDS: ...but what I'm saying is... [cross-talk]

ANGELA LICATA: ...this has really... [cross-talk]

COUNCIL MEMBER RICHARDS: ...we need more than... [cross-talk]

ANGELA LICATA: ...been... [cross-talk]

COUNCIL MEMBER RICHARDS: 61 more talented people.

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ANGELA LICATA: 62 with... [cross-talk]

COUNCIL MEMBER RICHARDS: 62, I'm sorry...

[cross-talk]

ANGELA LICATA: ...with the five that...

[cross-talk]

COUNCIL MEMBER RICHARDS: ...I didn't mean

to under... [cross-talk]

ANGELA LICATA: ...we added for '17...

[cross-talk]

COUNCIL MEMBER RICHARDS: ...undercount

there. And can you just go into how we address

hotspots and how... you know how do the agencies

coordinate when you know about... [cross-talk]

ANGELA LICATA: Right... [cross-talk]

COUNCIL MEMBER RICHARDS: ...hot spots...

[cross-talk]

ANGELA LICATA: So, when, when the

inspectors... and what... this is with the communication

that we've been having really very fluidly over the

last several years when they are seeing repeat

offenders or when they are seeing complaints that are

consistently occurring at certain addresses they're

bubbling it up to their management and then we are

discussing as senior management and those are the

1  
2 cases that we are then bringing to the attention of  
3 the Buildings Department.

4 COUNCIL MEMBER RICHARDS: And what is the  
5 penalty, repeat offenders?

6 PATRICK WEHLE: So, as it relates to  
7 performing work contrary to the variance or not  
8 having a variance the penalties start at 1,600  
9 dollars and could depending on a number of conditions  
10 including repeat offenders could go as high as 25,000  
11 dollars. Additionally, if there's repeat occurrences  
12 obviously work would be stopped on the job, job...

13 [cross-talk]

14 COUNCIL MEMBER RICHARDS: And how many of  
15 these summonses were given out last year?

16 PATRICK WEHLE: We issued... bear with me a  
17 second...

18 COUNCIL MEMBER RICHARDS: That's not... I'm  
19 concluding my questioning because I think... [cross-  
20 talk]

21 PATRICK WEHLE: There... last... so calendar  
22 year 2016 there were 3,823 complaints...

23 COUNCIL MEMBER RICHARDS: 3,800  
24 complaints...

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2 PATRICK WEHLE: Yeah, for work outside of  
3 the variance... [cross-talk]

4 COUNCIL MEMBER RICHARDS: Summonses?

5 PATRICK WEHLE: Those are complaints.

6 COUNCIL MEMBER RICHARDS: Those are  
7 complaints... [cross-talk]

8 PATRICK WEHLE: ...the number of violations  
9 we issued totaled 121.

10 COUNCIL MEMBER RICHARDS: So, 121 out of  
11 3,800?

12 PATRICK WEHLE: Correct. Often times we  
13 perform inspections, we learned that they're already  
14 is a variance in place so it's... it was issued  
15 appropriately there's no reason... [cross-talk]

16 COUNCIL MEMBER RICHARDS: So, 121 out of  
17 3,800 and do you think that has to do with you  
18 getting out there in 17 days?

19 PATRICK WEHLE: Perhaps in part but again  
20 many of the times when we perform our inspections a  
21 violation is not issued not because of how long it  
22 took for us to get there it's because they're already  
23 was a variance in place or the work is actually  
24 happening during normal business hours and also what  
25 I was alluding to earlier these variances more, more

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2 frequently are being issued for sustained periods of  
3 time so even if we got out there in 17 days for many  
4 of these jobs they still have the variance so it's  
5 not like the work is... in most instances it's not like  
6 the work is concluded, we're showing up and the  
7 violation wasn't issued because the works over, they  
8 don't have the variance anymore, that's generally not  
9 the case, they have variances for long period of time  
10 and when these violations are not issued it's because  
11 they have a variance that was issued appropriately or  
12 they're doing work at 7:30 in the morning which is  
13 not outside of normal construction hours.

14 COUNCIL MEMBER RICHARDS: I'm going to  
15 assume the truth is in the middle here and I just  
16 don't think we have enough inspectors and you getting  
17 out there in 17 days the issue is probably rectified  
18 or people have given up calling 3-1-1 probably after  
19 that so... you know I think I've been beating a dead  
20 horse for the past few years if we're serious we'll  
21 have inspectors or we'll just keep adding five more  
22 every year maybe we'll get to 100 one day, 200 and  
23 we'll continue to be the city that doesn't sleep in  
24 many ways. Thank you.

25

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CHAIRPERSON CONSTANTINIDES: Thank you  
Council Member Richards, Council Member Ulrich?

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COUNCIL MEMBER ULRICH: Thank you Mr.  
Chairman. Let's see... first... well I have two sets of  
questions I'll try to be brief, I know that the  
sponsors of the bills want to speak again. First of  
all, thank you for your testimony. A couple of years  
back I, I... my office used to work with a gentleman  
who was heading up the noise complaint division, I  
think it was Joe Singleton or... what... Joe...

5

ANGELA LICATA: Joe Scafidi

6

COUNCIL MEMBER ULRICH: Scafidi, I'm  
sorry, Joe... [cross-talk]

7

ANGELA LICATA: Yeah, Joe Scafidi...

8

[cross-talk]

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COUNCIL MEMBER ULRICH: ...Scafidi, he was  
very, very helpful and I know he's... [cross-talk]

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ANGELA LICATA: With us... [cross-talk]

11

COUNCIL MEMBER ULRICH: ...he's retired I  
think from...

12

ANGELA LICATA: Still with us.

13

COUNCIL MEMBER ULRICH: Oh he's still  
with you... [cross-talk]

14

ANGELA LICATA: ...still... [cross-talk]

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2 COUNCIL MEMBER ULRICH: ...well he was...  
3 well then I just retired him early I guess but he was  
4 very helpful with my office working with my office I  
5 should say and the local precinct to identify the  
6 chronic noise complaints in the 102 precinct and the  
7 106 precinct in particular and I think they took the,  
8 the, the worst offenders that they received via the  
9 3-1-1 complaints and also the precinct council and  
10 then they went on a Saturday or a Friday night, this  
11 was about four or five years ago I think and they  
12 would respond to those chronic noise offenders and lo  
13 and behold like six out of ten were, were doing it  
14 again so they would issue... they would issue  
15 substantial fines and fees and, and help get a handle  
16 on those, those particular locations and they weren't  
17 always commercial sometimes they were residential,  
18 they were people that were just having these wild  
19 parties every weekend. Anyway, so I'm glad he's not  
20 retired, I'm sure he's doing good work in the agency  
21 someplace else but you know we, we do receive still a  
22 good number of complaints. One of the areas that I'm  
23 curious about is how the city sort of polices itself.  
24 In my district we have several... well a few very large  
25 scale capital projects that are being supervised by

1  
2 DDC and or DOT, one in particular is the Albert Road  
3 reconstruction Project, HQ411B that was going on  
4 simultaneously with the School Construction  
5 Authority, we just build a, a beautiful public school  
6 that just opened on Albert Road coincidentally, I think  
7 it's PS377 so you had a school construction and  
8 streets, sewer, sidewalks, major infrastructure  
9 project going on simultaneously, my office, 3-1-1  
10 absolutely flooded with construction related  
11 complaints and noise complaints that were emanating  
12 from, you know trucks, machinery, cranes, workers,  
13 you name it. I think one of the great challenges that  
14 we had was that because it was a quote, unquote city  
15 project that there was an enormous amount of leniency  
16 given to the contractors that were hired by SCA or  
17 DDC to perform this work and I'm just wondering how  
18 the city goes about enforcing quality of life and  
19 noise controls when the city is actually the one  
20 supervising or governing the project if you will. So,  
21 can you... can you walk me through that or, or speak to  
22 that particular concern?

23 ANGELA LICATA: Right, so we, we are..  
24 definitely appreciate those concerns and those do  
25 create some challenging circumstances when we don't

1  
2 rely on the enforcement through violations and we  
3 have to rely on cooperation and communication with  
4 these other city agencies and that is the tool that  
5 we go to. We have found the agencies to be  
6 cooperative, if they're not cooperative with us at  
7 the staff level we would usually call it out to our  
8 Commissioner who will contact another commissioner as  
9 well but these do definitely create additional  
10 challenges for us when can't necessarily rely on a  
11 violation to the contractor... [cross-talk]

12 COUNCIL MEMBER ULRICH: So, in, in... I'm,  
13 I'm sorry to interrupt you but in those instances  
14 when the SCA has hired a contractor to build the  
15 school and the contractors not cooperative with the  
16 SCA, you know communicating complaints that me and  
17 the other elected officials and the community board  
18 has received DEP and or buildings can issue  
19 violations, is that... is that correct or, or, or do  
20 they choose not to, is here a rule that says that  
21 they cannot, I mean it's still a private contractor,  
22 they still have to follow the rules, what is the  
23 process there?

24 ANGELA LICATA: Well you know I'm  
25 speaking as an agency who does a lot of capital work,

1  
2 we certainly appreciate that but we rely on the city  
3 agency that over, over sees the contractor to bring  
4 about compliance and cooperation that is certainly I  
5 think expressed in the noise code as well... [cross-  
6 talk]

7 COUNCIL MEMBER ULRICH: So, I mean this,  
8 this is very interesting for the committee to  
9 consider is that the city doesn't necessarily always  
10 hold itself accountable because we go out and hire  
11 these private contractors to do public works projects  
12 but then they're not following the same rules that  
13 private developers and other people are having to  
14 follow and we're not able to... you know we only use  
15 the carrot necessarily we're not able to use or we're  
16 not willing to use the stick and I find that that's  
17 been the case forever, I mean I'm not blaming the  
18 administration or the commissioners that happened to  
19 run the agencies now, it seems that when SCA's  
20 building a school or DDC and DO... or, or DOT or, or...  
21 you know the, the library system is working with DDC  
22 to renovate a library or build a library and they're  
23 making a lot of noise or they're... you know they're  
24 going past the legal time that they're allowed to do  
25 the work or they're not being considerate of the

1  
2 community that... you know how many violations are we  
3 issuing to those contractors, I don't know if we have  
4 data on that or if we even know what the answer is,  
5 I, I don't... [cross-talk]

6 ANGELA LICATA: I don't... [cross-talk]

7 COUNCIL MEMBER ULRICH: ...know... [cross-  
8 talk]

9 ANGELA LICATA: ...have data on that  
10 certainly not with me here but I would... I would put  
11 the... I would define the problem a little bit  
12 differently. I think they are held to the same level  
13 of accountability, what we don't have is again and  
14 I'm emphasizing because we don't have the ability to  
15 issue the violations or summonses and have that  
16 violation upheld at an... at the ECB so... [cross-talk]

17 COUNCIL MEMBER ULRICH: Now why, why..  
18 [cross-talk]

19 ANGELA LICATA: ...it's... but we are still  
20 relying on the noise mitigation plans and the  
21 compliance with those noise mitigation plans and best  
22 techniques or best available strategies for bringing  
23 about noise mitigation, I don't know if Gerry you  
24 want to add anything to that with you experience?

25 COUNCIL MEMBER ULRICH: Please ma'am.

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2           GERRY KELPIN:  If you don't mind, one of  
3 the reasons that this bill is being put forward is  
4 that the current structure of noise code for  
5 construction laid out a mechanism where we work with  
6 the contractors to do mitigations sort of up front  
7 and we gave it a lot of latitude with going back and  
8 forth and revising the, the plans and things like  
9 that and that there's actually very few sections that  
10 are hard core language to... allowing us to issue and,  
11 and one of the things that the code says is that if  
12 you have an noise mitigation plan and you are  
13 complying with it and if we ask you to do more you do  
14 we can't... there's no mechanism for us to issue the  
15 violation.  If... and, and that's what some of this  
16 language that your proposing will give us an  
17 opportunity to now go in and say yes you do have a  
18 plan, it's doing a lot... a lot of things but we still  
19 have issues and we need you to reduce your noise by  
20 doing a number of different things and if you don't  
21 then a violation will be issued.  So, so that's the  
22 basic thing, the city construction sites often  
23 they're more difficult but we... if they... if they don't  
24 have authorization from DDC or, or DOT that it's not  
25 written into their contract we, we have issued to the

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2 contractor for not complying. We also if we run into  
3 a problem we do go back to the agency who's  
4 coordinating the program to say we're having real  
5 issues we need you to take a harder look, it's not  
6 perfect, it's not a perfect system, it doesn't work  
7 all of the time but those are sort of the, the  
8 constraints that we're facing with both city projects  
9 and the general, you know construction industry so I  
10 hope that sort of helps... [cross-talk]

11 COUNCIL MEMBER ULRICH: Yes... [cross-talk]

12 GERRY KELPIN: ...put it in perspective...  
13 [cross-talk]

14 COUNCIL MEMBER ULRICH: ...Alright, that's  
15 very interesting, thank you Gerry as always. Let me  
16 transition very quickly to the second part of my  
17 questions regarding Resolution 1177 related to noise  
18 complaints. Now you probably know that I represent a  
19 district that's adjacent to Jamaica Bay and John F.  
20 Kennedy Airport as does Council Member Richards, we  
21 receive many, many noise related complaints that are  
22 coming from the fact that there are planes literally  
23 landing over people's houses, right and in, in the  
24 direct flight paths of, of what the FAA has allowed  
25 these airlines to use. The city I think has taken

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2 sort of a back seat approach to saying well this is  
3 federal issue, this is the FAA, they determine the  
4 flight patterns we really can't enforce any noise  
5 codes when it comes to noise that comes from planes  
6 and you should take this up with the FAA and the Port  
7 Authority in particular and we have for a good number  
8 of years and I think that most of those complaints  
9 have fallen on deaf ears and I know that this is a  
10 capital of the world, there are.. you know tens of  
11 thousands of people and cargo coming in every day, I  
12 don't want to interrupt international commerce or  
13 travel or inconvenience a lot of that in any way but  
14 it's really not fair to a lot of people that live in  
15 communities close to the airports that they have to  
16 suffer through this, you know just night after night  
17 and day after day and that their city government is  
18 not being proactive in any way so I guess my question  
19 is a very broad one, how do you engage FAA or when do  
20 you engage the FAA or the Port Authority on noise  
21 mitigation that comes from airplane noise and the  
22 communities adjacent to, can, can be specific about  
23 meetings that you have or conversations or ways that  
24 the city is working together with our federal  
25 partners but how are we as a city mitigating airplane

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2 noise in places in Queens and, and places close to  
3 the airport?

4 ANGELA LICATA: We, we certainly  
5 understand that this is really a quality of life  
6 issue and, and potentially even a health issue  
7 associated with the flight paths and the intensity on  
8 those... some of those flight paths. We do lend  
9 expertise, we try to have and encouraged FAA to have  
10 and listen to some of the expertise that our staff  
11 brings to their task force, we have helped them  
12 develop the LDN reports that they did, they're,  
13 they're day, night noise equivalency for those  
14 airplanes. With that said I suppose a coordination,  
15 you know could, could improve, I'm not sure that they  
16 are necessarily driven by the same concerns that we  
17 are with respect to protecting the health and well-  
18 being of the... of the citizens here so I'm... I, I know  
19 and I can appreciate that you certainly seem like  
20 you've reached out as well and you know that it's a  
21 very difficult situation to balance.

22 COUNCIL MEMBER ULRICH: Have there any...  
23 have there been any conversations that the  
24 administration or the commissioners have had with  
25 some of the federal legislators, Senator Schumer

1  
2 Congresswoman Meng or Crowley or anybody regarding  
3 potential legislation that the city could support or...  
4 I mean this resolution speaks to one in particular  
5 but you know are there any changes or anything that  
6 the, the city can do proactively to engage the  
7 federal government on the issue of, of, of noise  
8 complaints that come from, from airplanes, I mean  
9 they, they, they are significant and substantial  
10 enough that I think that it warrants our, our  
11 attention or at least our, our focus in some way?

12 ANGELA LICATA: I mean we, we really are  
13 supportive of the studies and the concerns and I  
14 think bringing that information to the decision  
15 makers is an important step but we are quite  
16 cognizant of the limitations on our authority when it  
17 comes to those federal regulations.

18 COUNCIL MEMBER ULRICH: Okay, let me  
19 propose lastly an idea that I had, sanitation several  
20 years ago, Department of Sanitation came out with a  
21 affidavit complaint program that, you know residents  
22 who live nearby a cemetery or, or an old factory that  
23 at nighttime where there was all this illegal dumping  
24 taking place that someone could, you know take  
25 photographs or video and actually sign a sworn

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2 affidavit that the department provides a form for  
3 online, they get it notarized, they send it in and  
4 that would result in the issuance of some form of  
5 violation, right, okay yeah we, we have the bill,  
6 right, okay so did.. is there a bill that would allow  
7 DEP that, that residents could make the same.. you  
8 know obviously your inspectors can't be at somebody  
9 house at three o'clock in the morning every Wednesday  
10 night when this one particular, you know serious  
11 chronic noise condition happens, right but if someone  
12 was able to substantiate, you know with empirical  
13 evidence, you know they had a, a sound measuring app  
14 on their phone or video or a sworn affidavit that  
15 they're willing to go to ECB court and say this  
16 really took place, here is the proof how come DEP is  
17 not able to do whet, what sanitation is already  
18 allowing regular citizens to do which is to help you  
19 enforce the noise code and, and maintain a good  
20 quality of life, can, can we do that, can we start a  
21 pilot program, would.. you know I.. Donovan Richards  
22 just mentioned there's a bill, I didn't even know  
23 there was a bill but maybe that's something that you  
24 want to take up independently. This is... this sounds  
25 like a really good idea and it's not to say that

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2 you're going to get flooded... by the way if somebody  
3 lies on a sworn affidavit it's tossed out and that  
4 person could be charged with false... filing a false  
5 instrument so it's not as if you're going to get all  
6 these people that anonymously just want to get back  
7 at their neighbors if people can substantiate real  
8 and chronic noise conditions that affect their  
9 quality of life and sign a sworn notarized affidavit  
10 and we're... and the city is already allowing people to  
11 do this with illegal dumping through sanitation why  
12 can't we do it with noise complaints and DEP?

13           ANGELA LICATA: We find that a very  
14 interesting idea, I would very much like to go back  
15 and take a hard look at this and really study what it  
16 is that sanitation is doing and we'll explore that  
17 idea more fully and, and, and get back to you.

18           COUNCIL MEMBER ULRICH: It's, it's just a  
19 recommendation. I want to thank you for your  
20 testimony and I have to say that DEP especially Mario  
21 Bruno and several others from your office have been  
22 very, very helpful to my constituents especially  
23 since hurricane Sandy, Emily Lloyd was a... was and is  
24 a phenomenal person and public servant, I was a big  
25 fan of hers, I know that she's no longer there but

1  
2 Vincent Sapienza I think is doing also an excellent,  
3 excellent job running the agency, I have nothing but  
4 compliments, we just look forward to working more  
5 closely together on some of these quality of life  
6 complaints and issues but thank you very much again.  
7 Mr. Chairman thank you.

8 CHAIRPERSON CONSTANTINIDES: Thank you  
9 and I, I agree with you on this whole idea of an  
10 affidavit it sounds like a very interesting idea, I  
11 think there's legislation so we'll take a look at it.  
12 I have a few more questions and then I'll turn it  
13 back over to Council Member Richards as well. Just  
14 going back to noise meters, how many noise meters do  
15 we have total at DEP's disposal?

16 ANGELA LICATA: Do you know how many  
17 Gerry off the top of your head, how many noise meters  
18 we have?

19 MICHAEL GILSENAN: There's at least 67...

20 ANGELA LICATA: At least... [cross-talk]

21 [off-mic dialogue]

22 ANGELA LICATA: Yeah, we, we, we believe  
23 we have more than 60 but we'd have to get a specific  
24 number for you, this... I will say... suggest though to  
25

1  
2 you that this is not an issue we have enough meters  
3 to do the, the tasks that we have... [cross-talk]

4 CHAIRPERSON CONSTANTINIDES: We have  
5 enough meters... [cross-talk]

6 ANGELA LICATA: That is not... yes, that  
7 has not been an issue... [cross-talk]

8 CHAIRPERSON CONSTANTINIDES: So, when  
9 someone, someone goes out for a noise complaint is it  
10 standard practice to take the meter with them?

11 ANGELA LICATA: They normally would have  
12 a meter with them especially under the circumstance  
13 where they know this section of the code requires an  
14 absolute measurement. If let's say a team is going to  
15 look at noise mitigation plan they may not have a  
16 meter in the car at... for, for their use at that time  
17 but there... this issue with respect to the instruments  
18 not being available is truly a falsehood, we, we  
19 have... [cross-talk]

20 CHAIRPERSON CONSTANTINIDES: Okay...  
21 [cross-talk]

22 ANGELA LICATA: ...plenty of meters and not  
23 only... [cross-talk]

24 CHAIRPERSON CONSTANTINIDES: ...so, plenty  
25 of meters... [cross-talk]

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2 ANGELA LICATA: ...not only do we have them  
3 available but they're very well calibrated and that  
4 is a very... you know tricky business they have to be  
5 constantly tuned and well calibrated and that has  
6 never been an issue that has held us back.

7 CHAIRPERSON CONSTANTINIDES: Okay and as  
8 far as when someone takes those out with them  
9 everyone is... every one of the 62 inspectors, right  
10 they're all trained... [cross-talk]

11 ANGELA LICATA: Soon to be 62... [cross-  
12 talk]

13  
14 CHAIRPERSON CONSTANTINIDES: Soon to be  
15 62 so 61 and a... and a third then... whoever that, that  
16 person becomes there, they're well trained on knowing  
17 how to use the meter, that's... it's not a challenge  
18 for them, no?

19 ANGELA LICATA: No, they're, they're well  
20 trained and the meters... the meters are actually  
21 fairly easy to use again we suggest that the trickier  
22 part is to make sure that they are well calibrated...  
23 [cross-talk]

24 CHAIRPERSON CONSTANTINIDES: Uh-huh...  
25 [cross-talk]

1  
2 ANGELA LICATA: ...but I myself have been  
3 out there in the field with the inspectors and their  
4 work is extremely impressive.

5 CHAIRPERSON CONSTANTINIDES: I... yeah, I  
6 don't doubt that, I just... I just know I continue to  
7 get complaints from both sides, right from those that  
8 are making the complaints and those that are having  
9 the complaints levied against them that the  
10 unreasonable noise standard is a challenge, right,  
11 that... my unreasonable noise in my mind may be your...  
12 music to your ears and to continue to allow that to  
13 be somehow in our code is a complication for everyone  
14 involved, there should be an objective standard that  
15 we use and so when we're responding to a complaint  
16 that meter should be used at all times, right?

17 ANGELA LICATA: Well we need to use it  
18 especially when the code requires that the absolute  
19 measurement be the threshold to decide upon whether  
20 or not they're in compliance or not sometimes some  
21 discretion is helpful to our unit and they are, you  
22 know well trained and well-tuned to be dealing with  
23 some of these issues sometimes the narrative standard  
24 can be helpful but I would tend to agree that with  
25 respect to absolute standards it certainly makes it

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easier for us to justify and to document the issues at hand.

CHAIRPERSON CONSTANTINIDES: And what are the barriers to us adding that, that reading, the noise meter readings to our inspection reports?

ANGELA LICATA: For the most... for the most part on most of the reports that I see they usually are taking a measurement... [cross-talk]

CHAIRPERSON CONSTANTINIDES: Uh-huh... [cross-talk]

ANGELA LICATA: ...you know these, these measurements can be complicated by the fact that you have background noise conditions and what you would need to do in order to discern a specific noise emanating from a source is you would need to turn that source off... [cross-talk]

CHAIRPERSON CONSTANTINIDES: Uh-huh... [cross-talk]

ANGELA LICATA: ...take a background measurement then turn that source back on so these can be time consuming efforts and it, it, it can... it does require a lot of cooperation on the part of that noise maker.

1  
2           CHAIRPERSON CONSTANTINIDES: Okay and the  
3 last question I have relating to airplane noise, I  
4 know it's, it's complicated but how often do you meet  
5 with FAA or how often...

6           ANGELA LICATA: Well as I said earlier we  
7 have a staff person who sits on their task force  
8 having said that I am not certain how often that task  
9 force meets so we... I myself have not met with the FAA  
10 and we certainly will look... [cross-talk]

11           CHAIRPERSON CONSTANTINIDES: So, it's not  
12 for... [cross-talk]

13           ANGELA LICATA: ...into that issue... [cross-  
14 talk]

15           CHAIRPERSON CONSTANTINIDES: ...lack of  
16 trying on our part it's really them just tuning us  
17 out is what... you know is what you're saying?

18           ANGELA LICATA: I mean we, we try to make  
19 recommendations to them, we again try to provide  
20 experience that we have in the city, we try to  
21 highlight the sensitivities that we have that we hear  
22 from our constituency as well but be that as it may  
23 the city does... has certain restrictions on its  
24 authority when it comes to the federal authorities.

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CHAIRPERSON CONSTANTINIDES: I know for me, I mean sitting in the... in, in the Jackson Heights portion of my district right by LaGuardia Airport I could be sitting as close as I am to Samara right now and her not hear a word I'm saying and I'm, I'm a little bit of a loud guy and it's, it's impossible to hear and imagine that in your home so we have to do better and if, if they won't listen to us then we'll have to like find a way to amplify our noise to make sure that, that they hear us down there. So, with that I'll, I'll, I'll turn it over to Council Member Richards.

COUNCIL MEMBER RICHARDS: Thank you Chairman and I live in the flight path so I certainly know, I live Rosedale right outside the airport. Just one quick question, so I know other cities have sued the FAA, has the city ever given any thought to this; so, Culvert City, Newport Beach and would the city ever consider any action like that, rhetorical... I mean I don't know if you have the answer...

ANGELA LICATA: I think that... [cross-talk]

COUNCIL MEMBER RICHARDS: But, but let's imagine... [cross-talk]

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ANGELA LICATA: ...I think this... I think that is something... [cross-talk]

COUNCIL MEMBER RICHARDS: You know... [cross-talk]

ANGELA LICATA: ...that we really would have to investigate with the corporation council and really understand whether or not the city has either authority or those are the law... litigations... [cross-talk]

COUNCIL MEMBER RICHARDS: Well other cities have... [cross-talk]

ANGELA LICATA: ...efforts have... [cross-talk]

COUNCIL MEMBER RICHARDS: ...done it so... [cross-talk]

ANGELA LICATA: ...been... [cross-talk]

COUNCIL MEMBER RICHARDS: Right... [cross-talk]

ANGELA LICATA: ...successful so I, I myself just... [cross-talk]

COUNCIL MEMBER RICHARDS: ...be a good question... [cross-talk]

ANGELA LICATA: ...I don't have the background, I'd have to look into it.

1  
2 COUNCIL MEMBER RICHARDS: Okay, thank  
3 you.

4 CHAIRPERSON CONSTANTINIDES: Thank you  
5 Council Member Richards and with that I thank you for  
6 your testimony, I look forward to working with you on  
7 these two pieces of legislation and noise in general,  
8 thank you.

9 PATRICK WEHLE: Thank you.

10 CHAIRPERSON CONSTANTINIDES: Next up if  
11 you can come forward and be sworn... oh wait, go ahead.

12 COUNCIL MEMBER RICHARDS: I just want to  
13 thank the wonderful staff at DEP, I know I was hard  
14 today, DOB... DEP Mario and company are great, Patrick  
15 and I go back a long time so it's a love, hate  
16 relationship, thank you DOB too.

17 CHAIRPERSON CONSTANTINIDES: Alright, if  
18 you can step forward and be sworn. Warren Schreiber,  
19 Susan Carroll, Roberto Gautier, and Arline Bronzaft  
20 if you can all please step forward please. And if  
21 there anyone else in the room who wants to testify  
22 you have to fill out one of these slips because  
23 there's only one more panel after this one, so speak  
24 up or you cannot speak up. Samara if you can swear  
25 the panel in please.

1  
2 COMMITTEE CLERK SWANSON: Can you please  
3 raise your right hands?

4 WARREN SCHREIBER: Okay...

5 COMMITTEE CLERK SWANSON: Do you swear or  
6 affirm to tell the truth, the whole truth and nothing  
7 but the truth today?

8 [off-mic affirmatives]

9 WARREN SCHREIBER: Okay, ready, great...

10 CHAIRPERSON CONSTANTINIDES: Warren  
11 always ready for you sir.

12 WARREN SCHREIBER: Thank you. I want to  
13 thank the Chairman and members of the Environmental  
14 Protection Committee for allowing me to offer  
15 testimony in favor of Resolution 1177. On March 24<sup>th</sup>,  
16 2014 Governor Andrew Cuomo directed the Port  
17 Authority to establish aviation community round  
18 tables. Governor Cuomo further directed the Port  
19 Authority to conduct a federal airport noise  
20 compatibility planning part 150 study to better  
21 evaluate noise impacts to the communities surrounding  
22 JFK and LaGuardia Airports. I currently serve as Co-  
23 Chair of the New York Community Aviation Round Table.  
24 Elected officials, community boards, governmental  
25 agencies, airlines, airport industry groups, business

1  
2 organizations, and community stakeholders are round  
3 table members. NYCAR which we now call ourselves  
4 represents more than four million residents of New  
5 York City and Nassau County who are negatively  
6 affected by operations at JFK and LaGuardia Airport,  
7 I'm also a member of the LaGuardia Airport part 150  
8 Technical Advisory Committee. Governor Cuomo's  
9 directive stated the part 150 study helps to identify  
10 residences, schools, libraries, hospitals, nursing  
11 homes, and places of worship adversely impacted by  
12 air craft noise. Mitigation after it's taken at other  
13 airports that have done part 150 studies include  
14 revamping of flight ramps and approach procedures  
15 encouraging airlines to use quieter aircraft and  
16 installing soundproofing to eligible properties.  
17 Noise is defined as unwanted or objectionable sound.  
18 The FAA has formally adopted DNL as its primary  
19 metric to evaluate cumulative noise effects on people  
20 due to aviation activities. DNL is the 24-hour sound  
21 level in decibels as derived from all aircraft  
22 operations during a 24-hour period. DNL adds a ten DB  
23 noise penalty to each aircraft operation occurring  
24 during nighttime hours which is ten p.m. to seven  
25 a.m. The FAA currently uses 65 DBA DNL to determine

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2 the onset of substantial impact. The United States  
3 Environmental Protection Agency, the world Health  
4 Organization and others have recommended 55 DNL as a  
5 more appropriate noise level threshold. Attached to  
6 my testimony is appendix J for both JFK and LaGuardia  
7 Airport, Appendix J details the noise contours as  
8 identified by the part 150 noise exposure maps. The  
9 study included 55 DNL for information purposes only  
10 but the noise contours estimate the population and  
11 area impacted by both 65 and 55 DNL. When 55 DNL is  
12 applied to the part 150 noise exposure maps the  
13 population impacted by aircraft noise increases more  
14 than threefold. The New York Community Aviation Round  
15 Table supports Resolution 1177 however while  
16 Resolution 1177 is viewed as an important first step  
17 there is still... there is more that still needs to be  
18 done. NYCAR looks forward to partnering with the city  
19 council in an effort to provide the residents of New  
20 York City and Nassau County with quite skies. Thank  
21 you.

22 CHAIRPERSON CONSTANTINIDES: Thank you  
23 Warren, Susan?

24 SUSAN CARROLL: Okay. Thank you to  
25 Council Member Consta Constantinides and the

1  
2 Committee on Environmental Protection for giving me  
3 the opportunity to speak today. My name is Susan  
4 Carroll and I'm one of Queens Borough President  
5 Melinda Katz's Representatives on the LaGuardia  
6 Airport Committee of the New York Community Aviation  
7 Round Table however the opinions expressed here are  
8 solely my own. From the day, I was born till this  
9 past May I resided in the high-rise apartment  
10 building in the downtown section of Flushing Queens.  
11 Given its proximity to LaGuardia Airport airplanes  
12 were always part of the din of this thriving  
13 community. Over the past five years though due to the  
14 introduction of more concentrated satellite based  
15 flight paths along with changes made to how older  
16 flight paths are flown and an increase in use of  
17 previously rarely used noise intensive routes life in  
18 Flushing became unbearable for me. Take offs and  
19 landings that formally flew over Flushing meadows  
20 Corona Park were redirected over downtown Flushing  
21 which has seen an explosion in population growth in  
22 recent years. In the summer of 2014 the Port  
23 Authority of New York and New Jersey installed a  
24 portable noise monitor on the roof of my building as  
25 part of Governor Andrew Cuomo's directive that year

1  
2 to the port to double the number of noise monitors in  
3 neighborhoods around LaGuardia and John F. Kennedy  
4 International Airports. According to the readings on  
5 this monitor the noise levels of planes over flying  
6 my building routinely exceed 80 decibels. On many  
7 days, the roar continues every minute for up to 18  
8 hours at a time however due to a determination made  
9 by the Federal Aviation Administration in the 1970's  
10 my former residence is not considered to be  
11 significantly impacted by LaGuardia operations. Since  
12 the disco era the FAA has used the 65-day night level  
13 or DNL threshold to determine whether or not a  
14 particular area is significantly impacted by aircraft  
15 noise and thus eligible for sound mitigation and  
16 noise abatement measures. My former home in Flushing  
17 is just outside what is called the 65 DNL contour  
18 therefor it will not be included as a candidate for  
19 soundproofing at the conclusion of the Port  
20 Authority's ongoing part 150 noise study which  
21 adheres to strict federal guidelines and therefor  
22 only examines homes, schools, businesses, places of  
23 worship and historic sites within the 65 DNL contour.  
24 Why is it that the Environmental Protection Agency,  
25 the worlds Health Organization and most of the

1  
2 developed world use the 55 DNL threshold while the  
3 FAA continues to use 65. The world has advanced  
4 greatly since the 1970's. studies have shown that  
5 noise is not simply an annoyance, exposure to high  
6 levels of... high levels of noise can have serious  
7 health consequences. In 2013 the Harvard School of  
8 Public Health published results from a study  
9 determining that elderly individuals living near  
10 airports under heavily used flight paths have a  
11 higher risk of being admitted to the hospital for  
12 cardiovascular disease. My former residents in  
13 Flushing has a large number of senior citizens as  
14 does much of downtown Flushing all of who are being  
15 exposed to noise levels greater than what is  
16 recommended by most federal agencies for a healthy  
17 life. Currently there is a debate on whether DNL  
18 which represents an average is even the best way to  
19 measure the true impact of repetitive aircraft noise.  
20 The FAA itself is conducting an ongoing multiyear  
21 study on noise exposure and annoyance. In the  
22 meantime, though they can at the very least join  
23 their colleagues and the federal government and  
24 reduce the noise threshold to 55 DNL doing so would  
25 perhaps lead to a change in how the FAA determines a

1  
2 significant impact. It would lead to an increase in  
3 properties eligible for sound proofing. Other  
4 alternatives that might occur as a result of  
5 reduction to 55 DNL include a speed up in retirement  
6 of older louder aircrafts and a more equitable  
7 distribution of flight paths so no single  
8 neighborhood bears the brunt of aircraft noise. New  
9 York City is a progressive leader, as the landlord of  
10 the airports it has an obligation to protect its  
11 residents including and especially its most  
12 vulnerable ones. Yes, the airports are economic  
13 engines but that fact should not override the ability  
14 of neighbor... of neighborhoods to be livable therefore  
15 the New York City council needs to take a proactive  
16 stance and pass Resolution Number 1177, it must join  
17 the course of elective officials across the nation  
18 and what congress and the president know that it is  
19 time for the FAA to catch up with the rest of the  
20 world and adopt the 55 DNL threshold. Thank you.

21 CHAIRPERSON CONSTANTINIDES: Thank you,  
22 next.

23 [off-mic dialogue]

24 ROBERTO GAUTIER: Okay, the last time I  
25 was here was the 28<sup>th</sup> of 2000... of February 2014, I

1  
2 was testifying about the noise in our neighborhood  
3 from construction on the Brooklyn Bridge that's  
4 connected with the Brooklyn Bridge Rehabilitation  
5 Project that started in the summer of 2010 and  
6 basically just mostly finished up recently, there's  
7 still a few more things to be done so it's not quite  
8 totally finished, it's gone over several deadlines  
9 but what was happening is that the work was being  
10 done starting at 11 p.m. going till six a.m. so most  
11 people would like to be able to sleep in that period  
12 of time however echoing the previous testimony of  
13 this... the agencies, the agencies of DOB and the DEP  
14 apparently people were left out, people were left out  
15 then not protected by the noise code. One of the  
16 reasons is that there's a provision that a... the  
17 protections are not really there if the work is  
18 classified under the category of rehabilitation so if  
19 it... if the Brooklyn Bridge were totally being  
20 reconstructed, a new bridge was being put up then we  
21 would be protected. So, as a token member of the DOT  
22 working group I brought these points up and I sat  
23 with engineers and people who were elected officials  
24 and DEP people... DEP people like Mike Gilsenan and  
25 Gerry Kelpin from the DEP as well as other people in

1  
2 the neighborhood and we were told... I asked when you  
3 started the project did you do any studies to look at  
4 the impact of people... on people's lives of this work  
5 and I was told oh yes we did tons of studies, these  
6 were... and what did you study, traffic flow, now  
7 traffic flow is very important, it's the economic  
8 element to it just like it was recommended that the...  
9 you know mentioned that the airports are part of this  
10 economic engine, people are left out there and people  
11 were left out where I live so I live 23 stories above  
12 the exit ramp at Cadman Plaza West and we were just  
13 massacred and there, there is obviously a need by the  
14 way going back to the previous test... testimony. I was  
15 shocked that the DEP did not ask for more inspectors,  
16 how would 61 inspectors for the entire city of New  
17 York millions of people be served by those numbers of  
18 inspectors and if... you know and in terms of the DOB  
19 as well 12 people or two dozen people, we are not  
20 being protected. Now I'm not putting all the blame on  
21 those agencies because those agencies were left out  
22 of the mix, they were not... the DEP seemingly was not  
23 able to step up and protect people because it was an  
24 interagency fight so it... it's just... and just... I'm not  
25 going to leave the city council out either because in

1  
2 2014 there were... there, there was lip service done in  
3 terms of the helicopter noise. Now many of the  
4 council people were feeling the pain of residents of  
5 New York whose lives were being impacted badly by  
6 helicopters, nothing was done, it's, it's... you know  
7 really, it's... and let me just, you know give a vote  
8 for having the city of New York sue the FAA, this is,  
9 you know Councilman Donovan mentioned other cities  
10 have sued, Arizona and, and other, other... you know  
11 places have used that method. The De Blasio  
12 Administration leaves the people out, we're not  
13 protected, I just really cannot understand it and  
14 then to go back and say we need more studies, we have  
15 had enough studies, studies... I mean how many people  
16 need a study to told... be told that you need to have  
17 your, your, your health is being impacted if there's  
18 work being done from 11 p.m. to six a.m. every day,  
19 it's, it's ridiculous. Just let me put in another  
20 word for looking at another source of noise at the  
21 construction sites which is one of the ones that  
22 really got us which is the backup alarm or motion  
23 alarm on the vehicles, that shouldn't happen. I  
24 contacted OSHA and I said what do you think of the  
25 backup alarms and I was told we hate them because

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2 they can be disconnected if there's a flagger or  
3 spotter there at the site but once again it's money  
4 to protect people, the... you know these construction  
5 companies Skanska in particular was involved in our  
6 project, they didn't... they didn't want to pay so I'm  
7 just... I'm not sure if I'm happy with what was  
8 testified today because it's... this... the agencies that  
9 are... the agency that is supposed to protect us in  
10 terms of the environment is the DEP but they only  
11 have a handful of people working and they are not  
12 only working on air noise complaints they probably  
13 are also working on flooding so I'm not sure about  
14 that but you know maybe... but are there... so there are  
15 special groups of inspectors for flooding?

16 [off-mic dialogue]

17 ROBERTO GAUTIER: Okay...

18 CHAIRPERSON CONSTANTINIDES: Can, can we  
19 keep the questions and answers here at this table,  
20 thank you.

21 ROBERTO GAUTIER: Yeah, okay. So, at any  
22 rate I'm hoping that you could go beyond lip service  
23 though and really do something because when an agency  
24 that's obviously not serving the people does not ask  
25 for assistance it, it just doesn't make sense and

1  
2 I'll, I'll hand it over to Arline because she, she  
3 has done years of research on this.

4 ARLINE BRONZAFT: Thank you. Arline  
5 Bronzaft, Professor of the City University of New  
6 York and a Board Member of Grow NYC where I have  
7 served for five mayors, non-paid volunteer position  
8 in which I Chair its Noise Committee and respond to  
9 noise complaints of citizens throughout the city. Now  
10 its... I am a researcher and in fact it is my research  
11 that's the landmark research on the effects of noise  
12 on children's learning and it was done here in New  
13 York City because a student of mine at Lehman College  
14 had a child who went to a school that was adjacent to  
15 an elevated train track and what she wanted to know  
16 was could I help her, I teach environmental psych and  
17 the effects of noise on people's well-being, she said  
18 can you help the children, they cannot learn in that  
19 school, the train comes by every four and a half...

20 [cross-talk]

21 CHAIRPERSON CONSTANTINIDES: That  
22 wouldn't... [cross-talk]

23 ARLINE BRONZAFT: ...and a half minutes...

24 [cross-talk]

25

1  
2 CHAIRPERSON CONSTANTINIDES: ...happen to  
3 be PS85 would it be in Astoria Queens, would it?

4 ARLINE BRONZAFT: Pardon, Upper  
5 Manhattan...

6 CHAIRPERSON CONSTANTINIDES: Okay..  
7 [cross-talk]

8 ARLINE BRONZAFT: I did work at PS85 in  
9 Queens, I did work with the Assemblywoman... [cross-  
10 talk]

11 CHAIRPERSON CONSTANTINIDES: Okay..  
12 [cross-talk]

13 ARLINE BRONZAFT: ...but this study  
14 emanated many years ago and she said could you help  
15 the children, she tried everyone, she tried the city  
16 council, she tried her public officials and what they  
17 were going to do was they were going to sue the city  
18 of New York. Well as a researcher I know you have to  
19 prove that you have an adverse impact, I'm also... I  
20 also was the wife of an attorney so I know you have  
21 to prove your case but I did go to the school and the  
22 principal allowed me to look at the reading scores of  
23 children adjacent to the trains and those on the  
24 quiet side of the building and I found that by the  
25 sixth grade the children were nearly a year behind in

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2 reading, that was a pretty dramatic finding not only  
3 was that published in an academic journal and not  
4 only has it been cited worldwide and not only did it  
5 serve as one of the studies that the FAA used to  
6 quite schools near airports, the press, the media,  
7 the public shouted out that children were being  
8 adversely effected by train noise and this was the  
9 70's and you know the trans authority wasn't popular  
10 then, it's not popular now but here is the surprising  
11 thing, it was the city of New York DEP that did the  
12 noise measurements for me and so no one could  
13 question about this academic psychologist measuring  
14 decibel levels. After the paper was published in the  
15 academic journal I knew I had not helped the children  
16 in that school I just got a brownie point as a  
17 professor and so I went to the trans authority  
18 learned they were coming up with a method to quite  
19 the tracks by putting rubber resilient pads on, urged  
20 them to choose PS98 to do their study and then went  
21 to the Board of Ed and asked for acoustical ceilings.  
22 Now you're going to ask how did I get these two  
23 agencies to say yes to me, do you believe in  
24 miracles, I do and after they abated the noise I was  
25 asked by the President of the City Council actually

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2 because money was spent to abate the noise to go back  
3 and see if it helped the children and I did another  
4 study and now with the classes on the side adjacent  
5 to the elevated trains and those on the quite side  
6 the children now were reading at the same level. Now  
7 these studies done nearly 40 years ago, my daughter  
8 was eight years old at the time, she couldn't  
9 understand why her mother had to do a study to figure  
10 out whether children could learn in a noisy classroom  
11 and now here I am all these years later and I still  
12 address the issue of noise and the impact on  
13 learning, I just served on a committee from the  
14 National Academy of Sciences which was looking to see  
15 if aircraft noise affect children's learning. Now let  
16 me look at two other studies done in New York City  
17 that you should be interested in, they dealt with  
18 aircraft noise, one was done on Staten Island and one  
19 was done in Queens. One study in Queens was supported  
20 by Congressman Crowley who needed data to support the  
21 fact that noise impacts on people's health, the other  
22 was done... was supported by Council... by the Borough  
23 President Molinaro. Both these studies looked in New  
24 York City on the adverse effects of noise on people's  
25 well-being, you don't need me to give you the answer;

1  
2 it disrupted their sleep, it diminished their quality  
3 of life, they could not use their back yards, they  
4 cannot watch TV another word noise is harmful to  
5 health. So, here we are, I have spent 40 years  
6 researching, writing, and speaking worldwide, I do  
7 not just speak in the United States and this includes  
8 Wyoming, Montana, Texas, Louisiana but Cromwell, New  
9 Zealand and Canada and Sweden and I've been  
10 interviewed by the media in every... from every  
11 continent except the Antarctica so I'm assuming it's  
12 quite there. We know that noise is detrimental to  
13 health, I thank Miss Swanson for asking me to speak  
14 to it in fact I know you also have my book, "Why  
15 Noise Matters" which I've co-authored with four  
16 Brits. The, the literature is overwhelming, we heard  
17 about the study from Harvard, that was done on  
18 several million people, we know the study done by  
19 Hansel in the UK on several million-people living  
20 near airports. I am an academic, I'm here to tell you  
21 enough with the research we have enough data, we need  
22 policy. I would urge you to read the latest paper I  
23 published in the Journal of Social Science which is  
24 online, I believe I sent it to you, it speaks to the  
25 divide between policy and research. The research is

1  
2 overwhelming but where is the policy. It is ironic to  
3 look back and see that we passed the noise control  
4 act in 1972 under Richard Nixon, we were fortunate  
5 enough to have not only the act but EPA setting up  
6 the Office of Noise Abatement and Control which was  
7 headed by two outstanding people Mr. Ruckelshaus and  
8 Russell Train whose obituary appeared in the New York  
9 Times several years ago because he was so active in  
10 trying to get this country to lessen its noise. It is  
11 interesting we're talking about the FAA and I will  
12 address FAA but Russell Train when he was the  
13 administrative of the EPA said to the FAA look we  
14 know that noise is harmful, we know what to do get it  
15 done and I'm going back to the 70's. now when my  
16 daughter at eight could not understand why her mother  
17 was studying this my daughter now is 50 and she's  
18 somewhat embarrassed because she thinks her mother  
19 hasn't made enough progress in this area because  
20 she's still talking about the same thing, look at the  
21 two part 150 studies, I thank you for urging those  
22 studies but how can you trust an agency when it still  
23 defines noise please look at the glossary of those  
24 two studies it defines it as an annoyance, it says  
25 that loud sounds affect hearing. When an agency still

1  
2 calls something an annoyance then how are you going  
3 to expect that agency to respond affirmatively to  
4 your demands. If you look further into that document  
5 and I urge you to read it carefully, it is  
6 accompanied by several other documents which says we  
7 still need more research to move ahead, do you know  
8 that the federal government actually funded a study  
9 in the United States that stipulated that since most  
10 of the research on the effects of noise on health are  
11 done in Europe. Now we in the United States have to  
12 do our studies because how do we know that we can  
13 generalize from the Europeans to the Americans  
14 apparently their hearts, their ears, their souls,  
15 their feelings are different, I think that study was  
16 an absolute embarrassment, I do cite it and refer to  
17 it in my writing. So, now we're going to look at the  
18 FAA, I applaud you, I'm glad that you have suggested  
19 that they move to 55 D... DBA on the DNL but you know  
20 that the single plane that awakens my 11-year-old  
21 grandson in Bayside is not going to be part of an  
22 analysis as to whether it impacts. In fact, he should  
23 have been testifying today because I think out of the  
24 mouth of a child we might take greater... pay greater  
25 attention just as my studies on children garnered all

1  
2 this support I'm recommending him for your next  
3 hearing rather than myself. When we talk about  
4 construction noise I too was stunned to see that not  
5 enough people... or that the Commissioner said there  
6 were sufficient numbers of people, there are not but  
7 let me tell you what else is wrong with the noise  
8 code that was not brought up today. In the noise code  
9 DEP lists quieter equipment that could be used by the  
10 way in terms of a backup beep, the broadband backup  
11 beep is quieter, it is only suggested, it is not  
12 demanded, you want to make a change go to the noise  
13 code and say you have to use quieter tools, you have  
14 to use cushioning around a site not we suggest that  
15 you look at the quieter. I do believe we need more  
16 people, I work closely with DEP and I know they try  
17 very hard but we have to do that and that's what I  
18 would like to see. In terms of the city council I do  
19 think you as individuals can take a more active role,  
20 your voices do count. Russell Train while he was the  
21 head of the EPA could not dictate to the FAA what the  
22 noise level should be but the pressure he put on the  
23 FAA was commendable, he really tried hard and we had  
24 an effective ONAC at that time. Your voices will  
25 count, you have to look on... I will work with you on...

1  
2 with... and... as you move forward. I think the  
3 experience I bring is not just my research, my  
4 writings but it's my knowledge of, of the law. I  
5 don't have to read about ONAC, I don't have to read  
6 about the noise code, I don't have to read about  
7 Reagan essentially defunding the office, I lived it,  
8 I had a grant before ONAC which was going to look at  
9 the effects of noise on children who lived in poor  
10 communities many of them African Americans and I was  
11 working with the... that grant could not be moved  
12 forward, the office was essentially shut down. Do you  
13 know what's happening in EPA now, do you know what's  
14 happening with the noise department so I could bring  
15 this information, I am probably the one person in  
16 this room that is in contact with the only individual  
17 at EPA that has any knowledge of noise, she and I  
18 have a very strong friendship which we have forged  
19 over the past 12, 15 years. So, as we move forward I  
20 would like to work with you and maybe we could... oh  
21 let me just say one thing, I have a children's book,  
22 "Listen to the Raindrops", yes it singles out the  
23 noises but it focuses on the good sounds but let me  
24 tell you airplane noise and construction noise are  
25 here, DEP has now put a noise curriculum on site.

1  
2 I've worked closely with them on it, they asked for  
3 this... the children's book and we're going to teach  
4 children about the beauty of sound, the harshness of  
5 noise and if can quote from a 1968, 1968 Star Trek...  
6 Star Trek episode it was entitled and the children  
7 shall lead, maybe when we educate these young people  
8 to protect the sound they will bring the message home  
9 to the older people, their parents and maybe we will  
10 move forward. So, I thank you very much and will  
11 support you in any way possible.

12 CHAIRPERSON CONSTANTINIDES: Thank you  
13 Professor and as a parent of someone, my son goes to  
14 PS85 in Queens that is... that was... [cross-talk]

15 ARLINE BRONZAFT: Your son goes to 85?

16 CHAIRPERSON CONSTANTINIDES: He does.

17 ARLINE BRONZAFT: Oh so you know I was  
18 there.

19 CHAIRPERSON CONSTANTINIDES: I, I know  
20 you were there and I, I know... [cross-talk]

21 ARLINE BRONZAFT: And I thank your  
22 Assemblyperson Samara, she was wonderful...

23 CHAIRPERSON CONSTANTINIDES: And I, I  
24 fund the program through the CUNY Law Center that,  
25 you know works on the Comic Book that deals with

1  
2 noise issues and tries to educate about the  
3 environment so... I, I... you know I've... I know this,  
4 this all too well and this is not peace this is...  
5 everyone has to be quite... [cross-talk]

6 ARLINE BRONZAFT: I know oh I... did we...  
7 did I see you there, I, I... [cross-talk]

8 CHAIRPERSON CONSTANTINIDES: You probably  
9 did...

10 ARLINE BRONZAFT: I... [cross-talk]

11 CHAIRPERSON CONSTANTINIDES: I maybe  
12 wasn't dressed like this, I go to... when I go to PS85  
13 I, I try to dress down a little bit...

14 ARLINE BRONZAFT: But look how long it  
15 took, my study was done 40 years ago and only last  
16 year did we get the air conditioning even though the  
17 rubber resilient pads were in effect they weren't  
18 strong enough, did it take that many years... [cross-  
19 talk]

20 CHAIRPERSON CONSTANTINIDES: They just  
21 did a big construction project, MTA throughout the  
22 entire month of August so I am looking to hear the  
23 measurement and see, they, they have postulated that  
24 this has solved the problem, I am not of the mind yet  
25 that it has..

1  
2           ARLINE BRONZAFT: You need my help, I've  
3 been a consultant to the MTA... to the TA on noise.

4           CHAIRPERSON CONSTANTINIDES: I, I look  
5 forward to sitting down with you then... [cross-talk]

6           ARLINE BRONZAFT: Okay, thank you.

7           CHAIRPERSON CONSTANTINIDES: Thank you  
8 and, and, and of course Warren and Susan and, and...  
9 thank you for your testimony then... I know we need to  
10 do better, right, I mean our, our... we've taken some  
11 steps, this resolution is a step forward, we want to  
12 make sure we get it passed but really, it's about  
13 making the, the federal administration is dismantling  
14 the EPA every day, they're there... they're... appointed  
15 someone to run the EPA who does not believe the EPA  
16 should exist...

17           ARLINE BRONZAFT: Shoot... don't even ask...  
18 [cross-talk]

19           CHAIRPERSON CONSTANTINIDES: They are  
20 going to continue to sort of take away our ability to  
21 work with the EPA on these issues so unless we  
22 amplify our, our cries to Washington we have good  
23 representatives but we need to work with them and  
24 help them get there, their... our noise heard in other  
25 parts of the country where, you know right now they

1  
2 need to hear us as well so I, I know we have a good  
3 partnership together, we've worked together and I  
4 know that our communities are under siege when it  
5 comes to noise especially airplane noise and I'm  
6 looking forward to working with you guys, I'm seeing  
7 what else we can do because this is our second  
8 hearing on airplane related noise that we've had,  
9 last time was on helicopters and you know too often I  
10 know in a story as well the Uber helicopter, you know  
11 my... yeah, they, they, they charter these air... these  
12 helicopters to go from the airport to the Hamptons so  
13 they don't have to drive, they don't have to... you  
14 know they don't have to drive out there, they can  
15 just fly straight over so I, I recognize the noise  
16 from helicopters as well so I know that's something  
17 we have to do, I mean I'm... I could ask questions, I  
18 mean I know that... has the FAA even sort of engaged  
19 with you in a meaningful way during the round tables  
20 or is it really just the Port that is, is sort of  
21 being responsive?

22 WARREN SCHREIBER: The, the, the FAA  
23 they're, they're advisory members of the round table,  
24 they have told us that they can't actually be members

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per se. They would usually attend our meetings..

[cross-talk]

CHAIRPERSON CONSTANTINIDES: Uh-huh...

[cross-talk]

WARREN SCHREIBER: ...they would sometimes make presentations, tell us why certain flight paths are in place, what, what happens though very often and, and I... and I, I guess a lot of agencies are like this and for the FAA it's particularly easy they'll use a lot of technical jargon that nobody understands and they'll talk about flight paths and different procedures that are in place and sometimes I think they do that intentionally so that we won't know what they're talking about and it's... it's sort of a... it's sort... it's sort of a smoke screen but the, the important thing is though is that we do have a dialogue with them... [cross-talk]

CHAIRPERSON CONSTANTINIDES: Uh-huh...

[cross-talk]

WARREN SCHREIBER: ...they do come to our meetings... [cross-talk]

CHAIRPERSON CONSTANTINIDES: Uh-huh...

[cross-talk]

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WARREN SCHREIBER: ...they, they are of course at the part 150 studies will anything come of it, nobody, nobody knows. One of the things that has bothered about the, the part 150 study and I'm a member of the Technical Advisory Committee and also Marilyn Chapito is with us, she's a member of the Technical Advisory Committee, where part 150 studies have been done in other locations throughout the United States some of them going back as far as 20 years ago and the noise exposure maps were created the mitigations has still not been completed. So, to me that's, that's unacceptable if you're going to go through all this expense you're going to spend eight million dollars for the study and then 20 years later people are still waiting for the mitigation and for some relief and that's something that the, the city council might want to get involved in and you know work with the, the FAA and the Port Authority to see if they can speed up that process once the study is completed.

ARLINE BRONZAFT: May I just add, as far as the schools are concerned the FAA spent several hundred million dollars to abate the noise at the schools and two years... well I think it's about a year

1  
2 and a half ago the study in which we looked at the  
3 impact after the schools were abated and you could  
4 guess the results but any how what the FAA needed to  
5 do was conduct a study to see if they abated the  
6 noise at the schools the children would benefit. I  
7 would have said save the money just go with the  
8 abatement but the Academy of Sciences did look at  
9 that study and I served on that committee at the  
10 Academy of Sciences so I could speak to the fact that  
11 the FAA did spend several hundred million dollars  
12 including a number of schools in the New York area, I  
13 do have the list at home if you were interested in  
14 which they did move more quickly to abate the noise  
15 at schools so that I know they did do and we looked  
16 at the impact on the children after the abatement.

17 CHAIRPERSON CONSTANTINIDES: Uh-huh,  
18 Susan... [cross-talk]

19 SUSAN CARROLL: Can I add something..  
20 [cross-talk]

21 CHAIRPERSON CONSTANTINIDES: Sure...

22 SUSAN CARROLL: Sorry, getting back to  
23 the part 150 another way for the city council to be  
24 proactive now the study of course is still ongoing  
25 but a number of suggestions for noise abatement were

1  
2 already put forth both by the public and by the  
3 Aviation Department of the Port Authority and based  
4 on the documents from the last tack meeting the FAA  
5 has already rejected the great majority of them  
6 citing complex air space. Now it's my understanding  
7 that as the process goes forward they're supposed to  
8 be more specific about why they rejected proposals  
9 but this is another problem that we're encountering  
10 is they don't want to change and they, they need to  
11 come up with better excuses than I'm sorry the air  
12 space is complex, you know they're basically saying  
13 we designed the air space in 1965 and that's the way  
14 it's going to stay so that, that is not acceptable to  
15 me and to anybody else here so I think if the city  
16 council gets in touch, you know with the congress  
17 people... [cross-talk]

18 CHAIRPERSON CONSTANTINIDES: I want to  
19 find the... I want to find the definition of the word  
20 complicated air space.

21 SUSAN CARROLL: Yeah, the... it's, it's a  
22 catch all phrase and if you go on the Port  
23 Authority's website they have a section on the part  
24 150 and where you could actually look at the  
25 documents from the Technical Advisory Committee

1  
2 meetings and you'll see what I'm referring to but... I  
3 mean if the Aviation Department of the Port Authority  
4 which has extensive knowledge of the air space if  
5 they're putting forth these proposals I would think  
6 that they have merit but obviously the FAA disagrees  
7 and so it, it makes me very angry.

8 CHAIRPERSON CONSTANTINIDES: No, I hear  
9 you... I hear you and I share your anger and as... I'll  
10 let you have the last word..

11 ROBERTO GAUTIER: Others would be  
12 tethered to speak the last word but I just wanted to  
13 give you a slice of my experience at... as a member of  
14 the DOT working group for the Brooklyn Bridge  
15 Rehabilitation Project. I was in meetings with  
16 engineers and others and I asked about the, the, the  
17 impact of this, this work on people who lived right  
18 around this project and I was told there were volumes  
19 of studies done and they were traffic flow and I... my  
20 response is the same as what's been mentioned here,  
21 that people are needing to be considered so I said  
22 how many people... who is an expert on the impact of  
23 this project on people and there was silence because  
24 really as I said before this was... a project that  
25

1  
2 didn't require an, an environmental impact statement  
3 because it was rehabilitation... [cross-talk]

4 CHAIRPERSON CONSTANTINIDES: Uh-huh...  
5 [cross-talk]

6 ROBERTO GAUTIER: ...and the New York City  
7 noise code couldn't protect us either because there  
8 was a variance for years of after-hours study... after-  
9 hours work anyway... thanks for the opportunity and  
10 here's... [cross-talk]

11 ARLINE BRONZAFT: One comment... [cross-  
12 talk]

13 ROBERTO GAUTIER: ...the last word... [cross-  
14 talk]

15 ARLINE BRONZAFT: The FAA stands for the  
16 Friends of Airlines and Airports let's know... and, and  
17 one thing in terms of dollars, the TA would never  
18 have asked me to be a consultant if I didn't save  
19 them dollars while making the system quieter. The one  
20 thing that we have to remember when we talk about  
21 dollars it may be that the airlines are so  
22 influential because they want to make money but the  
23 money that we are spending on the health care of  
24 people exposed to aircraft noise and the money that  
25 we spend on remediating children who are exposed to

1  
2 noise from trains, from highways, from aircraft those  
3 are dollars and those are American dollars that are  
4 being used for health and for learning and those  
5 readily offset the dollars that the airports are  
6 making by, by creating this noise, thank you.

7 CHAIRPERSON CONSTANTINIDES: Thank you, I  
8 mean and last year when we wrote our geothermal  
9 legislation for the first time in city history we  
10 wrote in that... in the cost benefit analysis is done  
11 relating to whether installed geothermal or  
12 traditional technology that the social cost of  
13 carbon... [cross-talk]

14 ARLINE BRONZAFT: Right... [cross-talk]

15 CHAIRPERSON CONSTANTINIDES: ...be  
16 considered as part of that cost benefit analysis. I  
17 think when looking at, at these types of issues  
18 taking in the social costs of these types... of what  
19 we're... what we're... as you talked about what we're  
20 spending on health care and, and... {cross-talk}

21 ARLINE BRONZAFT: Right... [cross-talk]

22 CHAIRPERSON CONSTANTINIDES: ...pollution  
23 mitigation and noise mitigation in relation to just  
24 the bare cost of having to change our ways, I think  
25 it's going to again demonstrate that we have to do

1  
2 the right thing. So, I, I appreciate all of your  
3 time.

4 ARLINE BRONZAFT: Thank you very much...  
5 [cross-talk]

6 CHAIRPERSON CONSTANTINIDES: And, and  
7 thank you for your testimony Warren as always and  
8 good to see you and thank you for your time and, and  
9 look forward to working with you all, thank you.  
10 Alright, so our last panel we have Alan Fierstein,  
11 from Acoustilog and we have M. Capital from NYCar  
12 Alan Fierstein?

13 ALAN FIERSTEIN: Coming...

14 CHAIRPERSON CONSTANTINIDES: Okay, yes  
15 sir, great. If you can sit and be sworn sir.

16 COMMITTEE CLERK SWANSON: Do you swear  
17 affirm to tell the truth, the whole truth and nothing  
18 but the truth today?

19 ALAN FIERSTEIN: I'll tell the truth  
20 nothing but the truth and I don't think you have time  
21 for the whole truth. Is that good enough?

22 CHAIRPERSON CONSTANTINIDES: Alright,  
23 sir.

24 ALAN FIERSTEIN: I'm really disappointed  
25 that this councilman and the sponsor have left, I

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told you on the phone this happened last time, I feel like I'm talking to half, half of the people that I need to speak to, hopefully... [cross-talk]

COUNCIL MEMBER KALLOS: Still here...

[cross-talk]

ALAN FIERSTEIN: ...you'll relay this...

[cross-talk]

COUNCIL MEMBER KALLOS: I'm still here...

still here.

ALAN FIERSTEIN: Okay...

CHAIRPERSON CONSTANTINIDES: And you've

got a great audience at home so...

ALAN FIERSTEIN: I'm not saying you guys

are nothing but he was the sponsor and you know my...

well relay the information. My name is... [cross-talk]

COUNCIL MEMBER KALLOS: I'll, I'll... one

of the... the other sponsor's bill all it does is put

it online so... the part that does all the stuff that

you comment at in the New York Times, I'm here, I'm

listening.

ALAN FIERSTEIN: Alright, my name is

Allen Fierstein, I'm an acoustic consultant, I'm the

President of Acoustilog Incorporated, I do all the

consultations at Acoustilog, I've done it since I've

1  
2 founded it 41 years ago. I've been designing  
3 electronic equipment for 58 years, 58, I know about  
4 electronics, I know about sound, I know about sound  
5 measurements and I know about the noise code. I was  
6 involved with it the... with a lot of parts of it from  
7 Local Law 92 back in 90... in... back in the 90's from  
8 2005 when you guys asked me to help with the noise so  
9 I have comments on all three, I presented 20 copies  
10 for you. So, first I'm going to talk about 1300,  
11 noise mitigation plans, I support it, I've had to  
12 have an attorney and myself call DEP for weeks and  
13 weeks and weeks to get someone to come to see if a  
14 job had a noise mitigation plan on file, they didn't,  
15 they got a violation, it cost my clients thousands of  
16 dollars between the lawyer's time and my time plus  
17 they were staggered with the amount of the noise that  
18 they had that could have been eliminated if this  
19 stuff was online. The plan has to be effective, it  
20 can't just be a plan where they put down some crap  
21 that oh you're going to use this, we're going to  
22 check off these boxes, have you seen this form, it's  
23 like a two-page form where you check off pile  
24 drivers, construction... it's, it's not... it's not  
25 reviewed to be effectively. It doesn't require when

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2 you fill these forms that you show readings or  
3 photographs proving that the noise mitigation is  
4 going to be effect... I didn't say is effective, I said  
5 is going to be effective, you don't get a building  
6 permit, permit 30 days after you start construction,  
7 you guys want to be flooded with calls because of  
8 construction... and then you send someone out and then  
9 you have to wait the 17 days which they  
10 euphemistically told you is what it takes, it's  
11 months, months. The plan should be approved and  
12 reviewed before construction is allowed, that's  
13 obvious and I did a case where a doctor's office, the  
14 jackhammering was so loud because the plan was not  
15 effective and went to court, the doctor's... it was a  
16 OBGYN office, it was incredible, you couldn't talk in  
17 the examining rooms but it went to court and the  
18 defendants, the people making the noise, it was in  
19 Manhattan said if you have a plan on file all other  
20 sections of the noise code don't matter, that's  
21 ridiculous. Under the current system there's no teeth  
22 to the plan requirement and it's especially true  
23 indoors because the whole idea of the noise  
24 mitigation plan is sort of... implies that we're only  
25 talking about outdoor noise coming in through

1  
2 people's windows but that's not just the case. A lot  
3 of times the noise is occurring in construction,  
4 renovation inside apartments which is going, going on  
5 in thousands and thousands of apartments all over the  
6 city, not just outside construction projects that you  
7 see from the street. Even where they have noise  
8 mitigation plans there's... I'm at the top of page two,  
9 there is tremendous noncompliance with the basic  
10 requirements of simple, simple stupidly simple things  
11 like having a blanket around the jackhammer when you  
12 jack... jack hammering up the street that includes  
13 whether you're a private contractor or you work for  
14 the city or ConEd the blankets are a really good  
15 idea, they're very effective especially for passersby  
16 who get so close that it is ear damaging. The list of  
17 equipment that they have that apparently is the only  
18 list of equipment that they're concerned with should  
19 be amended so that it includes things like and I'd  
20 list all these different items; drills not just auger  
21 drills but like a hand-held Skil or Machida power  
22 drill, it can make a lot of noise, you're cutting  
23 with a metal saw, you're cutting with a grinder,  
24 they're incredibly loud but they're not on the list,  
25 ordinary hammering not just jack hammering, ordinary

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2 electric saws not just concrete saws. Have you seen  
3 these people doing work on the storefront on a... on  
4 the street, they bring the plywood out onto the  
5 street, they set up a couple of saw horses and they  
6 start sawing away and making all this noise using the  
7 sidewalk as their workshop. Do you want to know what  
8 makes the city noisy that's an example? Pickup trucks  
9 not just the other trucks that they mentioned,  
10 garbage trucks not just the other trucks that they  
11 mentioned, dumpsters and containers, they're  
12 mentioned in the noise code but they're not on the  
13 noise mitigation plan list. The, the mitigation plan  
14 should be reviewed by people with on hand experience  
15 not just bureaucrats. The contact number that they  
16 have on the form doesn't say anything about 24 hours  
17 but it could be a late-night construction project, I  
18 don't think it say anything about afterhours  
19 emergency contacts. I'm going to go onto proposed  
20 1653, responses to noise complaints, I support it  
21 however DEP makes almost no visits late at night or  
22 on weekends. I get 10, 15 calls from people a week  
23 and I have for the last 41 years from people who have  
24 problems and usually the problems from nightclubs,  
25 you guys were asking about nightclubs and music, is

1  
2 that usually happening during the day, no, is that  
3 usually most disturbing to people during the day, no,  
4 most people are not trying to sleep during the day  
5 although they have that right. I get a lot of calls  
6 about this, a person called me I'm going to read it  
7 to you so it's on the video record here, I live next  
8 to a music... on September 13<sup>th</sup> of this year, two weeks  
9 ago, I live next to a music hall which plays loud  
10 music at night, I have called 3-1-1 and DEP to  
11 complain but to no avail I'd like to know what other  
12 steps I could take, they talked to them on the phone  
13 they said they had to wait six months to get a late  
14 night appointment not 17 days so... you're asking the  
15 Commissioner to adopt rules let me tell you it said  
16 to adopt rules in the noise code in 2005 which went  
17 into effect in 2007, a lot of the right, right rules  
18 have not been adopted. You asked them to report the  
19 number of violations which were dismissed but you  
20 didn't discuss why they were dismissed that's  
21 important, you'll see why in a second. It's not  
22 necessary for a one-year DEP information gathering  
23 period because like you guys were inferring correctly  
24 you know a lot of this stuff already, you don't need  
25 the number of 4,000 people complained, yeah 4,000

1  
2 people one of those people may have been calling for  
3 15 people in that building or have given up, it's  
4 like people who've dropped out of the workforce it  
5 doesn't necessarily be... get reflected in the  
6 employment numbers. The main problem is a lack of  
7 qualified inspectors so in a sense I'm actually I'm  
8 glad that Gerry and everyone left because they get  
9 upset when I talk like this, there are not enough  
10 inspectors obviously, they need a couple of hundred  
11 inspectors not 30, 40, 50 or 60. They're not well  
12 trained, people call me all the time and I go in and  
13 I testify at the ECB, the Environmental Control Board  
14 where you would judicator violations that... you don't  
15 just give up and say okay I'm going to play... I'm  
16 going to play along and pay my fine and these  
17 inspectors by and large do not know how to properly  
18 take the measurements, someone sat here and said they  
19 do, they don't, they really don't, you're invited to  
20 come and sit as an interested observer next time I go  
21 in... in front of... tomorrow at the ECB in front of the  
22 judge and the inspector's going to be there and we're  
23 going to talk about what they did and I like these  
24 guys, they're great guys but they're not trained  
25 properly, they're giving tickets also on unimportant

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2 stuff. I was here last year and I was testifying  
3 about 186 which says if sound accidentally leaks out  
4 through the storefront of a restaurant not because  
5 they're opening the door, not because they have the  
6 speaker like scholastic does on Broadway deliberately  
7 blasting music and sound out onto the sidewalk, if  
8 sound accidentally leaks out onto the sidewalk they  
9 give them a ticket, that's ridiculous, that's a waste  
10 of the inspector's time, it's a waste of businesses  
11 money, I object to that and that's a waste of time  
12 and if someone goes in to fight it and the inspector  
13 has to be there those... inspector can't be out giving  
14 out other violations. The citizen's complaint, you  
15 know how they say if you see something say something,  
16 there's lots of people out there who could do  
17 citizens' complaints but not with an app like someone  
18 suggested about an hour ago, you can't use an app on  
19 a phone, they're inaccurate, they're easily fooled,  
20 you're not going to start prosecuting people that's  
21 too much of a waste of time, you don't have the time  
22 for that, you have to have people who know how to  
23 measure properly but citizen's complaints can be done  
24 but the DEP has this NIH syndrome, Not Invented Here,  
25 if we didn't give the ticket we don't want to do it

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2 maybe because they have to give some of the fine to  
3 the person who makes the citizen's complaint. You  
4 asked them to report in section 15 non-violation  
5 resolutions to complaints, now this is a problem. Now  
6 I realize back in the past it might have been scary  
7 to somebody to say don't tell the restaurant that I  
8 was the one who complained about their kitchen  
9 exhaust fan I don't want them to come up and break my  
10 legs but that doesn't really happen I don't think in,  
11 in the majority of cases and when I get called by a  
12 restaurant and they say yeah someone complained and I  
13 go see this exhaust fan and the sound could be going  
14 east, west, north, or south and I don't know which  
15 way to tell them to put the barrier and they can't  
16 put it on all sides because it's illegal there's no  
17 way to really fix the problem. So, they should really  
18 at least give some defendant an idea of where the  
19 noise generally emanated from even if they're not  
20 giving the complainants exact name, address and  
21 social security number. In section I8 they say.. you  
22 say five DBA above the ambient sound level as  
23 measured in any residential receiving property  
24 dwelling unit with the windows and doors that may  
25 affect the measurement closed, that should be changed

1  
2 to with the windows and doors being opened or closed  
3 as appropriate and that's important because if the  
4 sound is coming from inside and you're trying to  
5 measure inside noise you open the window that there  
6 may be so much background noise coming in through  
7 that open window that has nothing to do with the  
8 actual problem from the jack hammering going on in  
9 the apartment upstairs that you can't get a violation  
10 reading because if the jackhammering stops and this  
11 noise is still coming in through the window you may  
12 not hear a difference in sound level. The amendment  
13 does not differentiate between impulsive and non-  
14 impulsive noise in the five DBA requirement and the  
15 five DBA requirement is too low anyway, if it's a  
16 serious problem its going to be more than five DBA  
17 differences over the background noise if you measure  
18 the background noise properly and you also have to  
19 say the sound level attributable to the construction.  
20 The people who are making the noise construction  
21 makes noise let's face so you can't just say okay I'm  
22 going to measure this noise oh it went up to 65 yeah  
23 but some of that was from outside noise some of it  
24 was from the ambient noise you have to be fair about  
25 that or you're going to be endlessly argue it. You

1  
2 say residential receiving property dwelling unit,  
3 what about offices, you want to work in an office the  
4 code already protects people in 24-232 as... has a  
5 column for commercial receiving sources including  
6 offices and residential so while the requirements are  
7 not as strict for offices they're still there and in  
8 the definition section of the code which is 24-203  
9 receiving property dwelling... receiving property is  
10 defined and it includes offices, it also includes  
11 grounds by the way. Now... oh yeah, and finally the  
12 ambient noise and this is really not finally, I sent  
13 lots of lists... lists of problems with the code but  
14 the ambient noise has never been clearly and properly  
15 defined in the noise code, I can go into that but  
16 it's very technical. Resolution 1177... [cross-talk]

17 CHAIRPERSON CONSTANTINIDES: Sorry, I was  
18 just... [cross-talk]

19 ARLINE BRONZAFT: Oh you're still here  
20 Arline, don't get mad at me...

21 ARLINE BRONZAFT: That's okay...

22 ALAN FIERSTEIN: Okay, I'm, I'm not in  
23 favor of this and I'm going to tell you why... [cross-  
24 talk]

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CHAIRPERSON CONSTANTINIDES: I think my, my colleague Council Member Kallos wants to quickly sort of talk to you about his legislation before we go onto the next... [cross-talk]

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ALAN FIERSTEIN: Yes... so, go right ahead, no worries.

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COUNCIL MEMBER KALLOS: So, I just wanted to touch base with you on my legislation before I have to step out for a 4:30 so first thank you for your testimony, thank you for the work you do, thank you for your comments in the New York Times, it was... it made the front page of the New York Times with all of us in it so it was a great story, it actually got more comments than they're used to. So, I guess you've given a lot of great feedback on the legislation, if you want to give us a specific text... bill text markup and if you can, can you get it to us by the end of the week?

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ALAN FIERSTEIN: I don't know, I'll try.

COUNCIL MEMBER KALLOS: No, no worries, I, I like the idea about distinguishing between residential locations and office locations, I think as you heard from DEP do you support allowing them to measure from the street?

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ALAN FIERSTEIN: That's a problem, if you're in a high-rise building that's being constructed 37 stories up and you're in a high-rise residence across the street... [cross-talk]

COUNCIL MEMBER KALLOS: Uh-huh... [cross-talk]

ALAN FIERSTEIN: ...down on the street where there's a sidewalk bridge you're going to measure hardly any noise except the noise from the traffic going by...

COUNCIL MEMBER KALLOS: But they, they would still be able to take it from an apartment if they were able to arrange that but they'd be able to do so... I guess the other questions is perhaps whether or not... I imagine we could add language to say they could take it from the rooftop of an... of, of a close building so that if you're on the 27<sup>th</sup> story of another 27<sup>th</sup> story building across the street you can measure it that way, would that be...

ALAN FIERSTEIN: It would depend on the situation, I mean some of this is simple some of it is complicated.

1  
2 COUNCIL MEMBER KALLOS: Okay, we, we can  
3 put it as, as such other locations as the  
4 Commissioner may determine, is... [cross-talk]

5 ALAN FIERSTEIN: Reasonable.

6 COUNCIL MEMBER KALLOS: Sure, so if, if  
7 you have specific locations because with legislation  
8 I, I know you're a little critical of leaving it to  
9 the Commissioner but we try to be as specific as we  
10 can but when you start getting into specific fact  
11 patterns of if the noise is occurring from the 27<sup>th</sup>  
12 story of a building then they shouldn't measure it  
13 from the street they should measure it from another..  
14 or, or they, they need to fly a drone up or whatever  
15 it is we, we... that's when it starts to get into... far..  
16 very far into the details so if you have specific  
17 questions on that, I think in terms of your concern  
18 about the number of inspectors I think that's part of  
19 the budget negotiation and in all due fairness I  
20 think that we have great Commissioners but at the end  
21 of the day they still work for the Mayor, the Mayor  
22 sets the executive budget so amounts to going in and  
23 asking for a raise but I think that everyone at this  
24 table from Committee Chair to every member of this  
25 committee and myself will make sure that in the city

1  
2 council's budget response next year we are asking for  
3 additional inspectors because this is a big issue.

4 One question I had.. so, so we, we changed it from  
5 eight to five DBA do you think that's the right  
6 number or do you think that's too high or too low?

7 ALAN FIERSTEIN: Five is too low.

8 COUNCIL MEMBER KALLOS: So, you, you like  
9 eight?

10 ALAN FIERSTEIN: I like seven and I like  
11 ten, that's what's in the noise code right now it's  
12 in between... [cross-talk]

13 COUNCIL MEMBER KALLOS: Well right, right  
14 now it's eight.

15 ALAN FIERSTEIN: For what?

16 COUNCIL MEMBER KALLOS: Above the ambient  
17 sound level is measured in any residential receiving  
18 property dwelling unit.

19 ALAN FIERSTEIN: You mean in your intro?

20 COUNCIL MEMBER KALLOS: Yes.

21 ALAN FIERSTEIN: Yeah but I'm talking  
22 about what's already in the code.

23 COUNCIL MEMBER KALLOS: What's in the  
24 code is eight.

1  
2 ALAN FIERSTEIN: You mean for, for  
3 unreasonable noise?

4 COUNCIL MEMBER KALLOS: Yeah, for, for  
5 this section in which you're, you're speaking to.

6 ALAN FIERSTEIN: Well I deal most often  
7 with unreasonable noise which is seven and ten and I  
8 believe in most places in the code it talks about  
9 seven, ten and 15, 15 from pulsate noise.

10 COUNCIL MEMBER KALLOS: Okay and so you...  
11 [cross-talk]

12 ALAN FIERSTEIN: There's not much  
13 difference between seven and eight so it's not worth...  
14 [cross-talk]

15 COUNCIL MEMBER KALLOS: I, I believe  
16 that's it's, it's a logarithmic value so it... [cross-  
17 talk]

18 ALAN FIERSTEIN: Very tiny difference  
19 between seven and eight.

20 COUNCIL MEMBER KALLOS: So, so, there's  
21 no... so, there's a tiny difference between like 87 DBA  
22 and 88 DBA?

23 ALAN FIERSTEIN: There's a rule of thumb  
24 if a sound level is three decibels different the  
25 average person can just barely detect that

1  
2 difference, three decibel differences, one is one  
3 third of three so it's very hard to hear a one  
4 decibel change.

5 COUNCIL MEMBER KALLOS: Would you believe  
6 me if I told you I'm one of those people who can hear  
7 the in between?

8 ALAN FIERSTEIN: Well fortunately you're  
9 not like everybody or you... you know every... we'd have  
10 the whole city going crazy.

11 COUNCIL MEMBER KALLOS: My wife asked me  
12 to get my hearing tested because I wasn't listening  
13 to her enough and when I did it turned out that I  
14 was... I could hear everything, it was a problem. Okay,  
15 are there any other... any other things specifically to  
16 1653 that you... I think... that you think we may have  
17 missed or that you want me to hear while I'm here?

18 ALAN FIERSTEIN: I want some... I want you  
19 to see something.

20 COUNCIL MEMBER KALLOS: Sure...

21 ALAN FIERSTEIN: ...before you leave, I  
22 know you got to rush out...

23 COUNCIL MEMBER KALLOS: Yeah...

24 ALAN FIERSTEIN: ...so I'm going to change  
25 the order of what I talk about and I'm just going to

1  
2 show you one quick demonstration, it won't last more  
3 than one and a half minutes...

4 COUNCIL MEMBER KALLOS: It's up to the  
5 Chair.

6 CHAIRPERSON CONSTANTINIDES: Go ahead.

7 ALAN FIERSTEIN: Alright, I made this  
8 yesterday just for you.

9 [off-mic dialogue]

10 COUNCIL MEMBER KALLOS: No, it's, it's  
11 okay I, I, I do something called brainstorming with  
12 Ben, I had a constituent I... and it... basically any,  
13 any of my constituents could come meet with me sadly  
14 my district does not take as much advantage of it as  
15 people from all over the city, I had a constituent  
16 from I think Jumaane Williams district come and share  
17 some technology with me in the same way as we  
18 currently have red light cameras which are sadly  
19 regulated by the state and I would be in favor of  
20 putting one on every block in my district as my  
21 constituents continue to ask me every day. Is there  
22 currently technology that we could mount on  
23 intersections that can use multidirectional mics and  
24 a battery of mics to identify vehicles that have  
25

1  
2 excessive noise and attach the speaker to it and  
3 identify where it's coming from?

4 ALAN FIERSTEIN: No.

5 COUNCIL MEMBER KALLOS: Okay... [cross-  
6 talk]

7 ALAN FIERSTEIN: There's too many  
8 reflections from other cars, from buildings, it would  
9 make it difficult to identify the source, you'd have  
10 too much fighting going on with lawyers.

11 COUNCIL MEMBER KALLOS: I want to thank  
12 the chair for his indulgence and if I may be excused,  
13 thank you sir.

14 CHAIRPERSON CONSTANTINIDES: Thank you  
15 Council Member Kallos. Do you have anything left...  
16 [cross-talk]

17 ALAN FIERSTEIN: Alright, so can I go  
18 with 1177 now?

19 CHAIRPERSON CONSTANTINIDES: Absolutely.

20 ALAN FIERSTEIN: Okay. So, I'm not in  
21 favor of 1177 because I'm a private pilot and I know  
22 something about aviation and I know something about  
23 aviation safety. Planes make most noise when they're  
24 taking off. So, I wrote down that we want the city to  
25 be quieter but we want it to be safe too. If you've

1  
2 seen the movie Sulley you'd know that altitude can be  
3 a lifesaving, time saving help, you need full power,  
4 you need to take off into the wind in order for a  
5 plane to be safe and that's important, I know planes  
6 make noise while they're landing but they make more  
7 noise when they're taking off. I do know that the FAA  
8 takes noise very seriously because their goal is to  
9 promote aviation, they don't want to have complaints,  
10 they don't want complaints. I am under strict rules  
11 about noise mitigation when I fly my plane and  
12 they're in the FAR's, the Federal Aviation  
13 Regulations. So, it's easy to say just lower the  
14 noise level but the runways are aligned in a certain  
15 direction, the longest runway at JFK is runway 422,  
16 four means you're taking off or landing into the  
17 Northeast, 22 means you're landing or taking off to  
18 the Southwest, 22 means 220 degrees you drop the last  
19 zero, 220 is Southwest. You can't change the angle of  
20 the runways, you have to come in on final approach at  
21 a straight line if you don't you're doing a very  
22 dangerous maneuver which planes are not able to do  
23 especially large jets. And then I go into a  
24 discussion in here about the problems with trying to  
25 enforce a DNL of 40.. of 55 which means basically 45

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2       decibels on average at night. In many areas of New  
3       York City that's not appropriate because there's so  
4       much other noise going on and I would like the planes  
5       to be quieter and the planes have gotten 20 decibels  
6       quieter over the last number of years according to  
7       the FAA because there's so many other sources of  
8       noise and people here mentioned trains and cars and  
9       we also talked about music and loud nightclubs and  
10      construction, if you reduce those that will reduce  
11      the noise overall, it won't of course reduce the  
12      noise attributable to airplanes but it will reduce  
13      that noise. So, I have some suggestions very quickly  
14      for reducing noise that could otherwise be construed  
15      as part of the contribution that planes are  
16      contributing to making people not be able to get  
17      their sleep or their quiet. First of all, in the 2014  
18      building code amazingly the sound proofing  
19      requirements were reduced, I wonder whose idea that  
20      was specifically the STC and the IIC these are  
21      requirements for sound proofing for airborne noise  
22      and for impact noise like people walking on the floor  
23      above you, was reduced. The promise for new  
24      technology promised by the Mayor in 2005 was never  
25      fully adopted and the inspectors were certainly not

1  
2 trained properly how to use it, I had to do a job  
3 where the inspectors came with a meter like this,  
4 this is a very expensive meter, they had some, he  
5 didn't know how to use it, there were two inspectors  
6 and I said you've got this set wrong and they allowed  
7 me to reset it for them, the way it was set it would  
8 not have picked up base, it would not have picked up  
9 base. When I showed this to the inspectors one of  
10 them said to me well no this can't be right because  
11 if this was the case every nightclub in New York City  
12 would be illegal and I said you got that right, he  
13 was exaggerating I was too but not much. I already  
14 talked about loud sounds in... from cars but also home  
15 theaters and nightclubs, people screaming and  
16 laughing late at night in areas like for instance  
17 Spring Street, you go there at one o'clock, two  
18 o'clock in the morning... and there's many areas like  
19 this where people come out of huge collection of bars  
20 next to each other the sound blasting out of the bars  
21 is loud, the people screaming and yelling as they  
22 come out of the bars there could be a policy officer  
23 quieting them down just by their presence, it could  
24 happen, there's a way to do it. They have... everyone  
25 has a sign, all my clients who are nightclubs have

1  
2 signs that say please respect your neighbors but a  
3 sign is not good enough. A large number of cars and  
4 road rage and honking, I think I... I've always  
5 supported Mayor Bloomberg's idea for congestion  
6 pricing, I drive into the city sometimes I'd be glad  
7 to pay 10 or 15 dollars extra for driving in knowing  
8 that there would be less cars and maybe possibly able  
9 to move. Motorcycles and muscle cars showing off with  
10 their revved engines, straight pipes, improper  
11 mufflers and finally people who combine apartments so  
12 often I'm hearing them saying look I bought these two  
13 apartments, I'm putting them together, the only place  
14 to put this hallway... well I'm sorry it happens to be  
15 this hallway connecting my two apartments is above  
16 your bedroom but I paid two million dollars for this  
17 apartment one and a half million dollars ten years  
18 ago for that apartment I can do whatever the hell I  
19 want, my kids can run around up there because it's my  
20 apartment so that's basic inconsideration that's  
21 causing a problem, I think it needs some public  
22 service announcements. And let's see... I'm on page  
23 six... and the loud base music of course which is  
24 becoming more and more pervasive and then I discussed  
25 the demonstration which I just showed you. I do want

1  
2 to say though that I was taking some notes during the  
3 testimony here and you have a limited number of  
4 inspectors I don't want to see them wasting time  
5 giving out unimportant violations, there don't always  
6 have to be two inspectors, you heard them talk about  
7 how they drive to their appointments, it's much more  
8 efficient to take the subway sometimes until we get  
9 this congestion pricing going on. One of the major  
10 problems is that like I said it says at the end of  
11 the construction noise section of the noise code if  
12 there is a construction noise mitigation plan all  
13 other sections of the noise code don't count, the  
14 sections with specific decibel limits for garbage  
15 trucks, refuse, compressors, exhaust, containers,  
16 jack hammers, motor vehicles, sound signal devices,  
17 everything is superseded by that which is nuts, it's  
18 nuts that that's the case because the plans  
19 themselves are not effected enough so... and the  
20 numbers of those sections are sections 24 dash... and  
21 I'll read the suffix numbers; 225, 226, 228, 229,  
22 230, 236, 237 and all those sections superseded  
23 because they put that paragraph in there all you have  
24 to do is file this piece of paper, no one really  
25

1  
2 checks it properly and you're exempt from the noise  
3 code for construction. I'm done.

4           CHAIRPERSON CONSTANTINIDES: Thank you  
5 very much for your testimony, I appreciate your time.  
6 Alright, so with that I want to make sure I thank the  
7 DEP and DOB for their testimony today and everyone  
8 who testified including.. I also want to thank my  
9 colleagues both Council Member Garodnick and Ben  
10 Kallos for their legislation, I want to thank of  
11 course our, our legislative council Samara Swanson,  
12 our Policy Analyst Nadia Johnson, John Seltzer our  
13 Finance Analyst and of course my Legislative Council  
14 Nick Widzowski and with that we will gavel this  
15 meeting of the Environmental Protection Committee  
16 closed.

17                   [gavel]

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C E R T I F I C A T E

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



Date

October 5, 2017