

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FIRE AND EMERGENCY
MANAGEMENT

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March 28, 2022
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HELD AT: REMOTE HEARING - VIRTUAL ROOM 1

B E F O R E: Joann Ariola, Chairperson

COUNCIL MEMBERS:

David M. Carr
Carmen N. De La Rosa
Oswald Feliz
James F. Gennaro
Robert F. Holden
Kevin C. Riley
Lynn C. Schulman
Kalman Yeger
Keith Powers

A P P E A R A N C E S

John Hodgens, Chief of Department FDNY
Joseph Jardin, Chief of Fire Prevention,
FDNY
Kelly Carr, Deputy Code Development
Counsel, FDNY
Max Bookman
Kathleen Reilly
Valerie De La Rosa
James Mallios
Robert Eli
Pauline Augustine
Leslie Clark
Derek Kaye
Stuart Waldman
Leif Arntzen
Diem Boyd
Alida Camp
Cheri Leon

1 COMMITTEE ON FIRE AND EMERGENCY MANAGEMENT 3

2 SERGEANT BIONDO: Thank you. Recording to
3 PC underway.

4 SERGEANT HOPE: Thank you. Recording in
5 the cloud is also underway.

6 Good morning, and welcome to today's New
7 York City Council remote hearing on the Committee on
8 Fire and Emergency Management.

9 At this time, would all panelists please
10 turn on your videos. I repeat, all panelists please
11 turn on your videos. Thank you.

12 To minimize disruption, please place all
13 electronic devices to vibrate or silent mode. Thank
14 you.

15 If you wish to submit testimony, you may
16 do so at testimony@council.nyc.gov. I repeat,
17 testimony@council.nyc.gov.

18 Thank you for your kind cooperation.

19 Chair Ariola, we are ready to begin.

20 CHAIRPERSON ARIOLA: Thank you. Good
21 morning. I'm Council Member Joann Ariola, and I am
22 the Chair of the Committee on Fire and Emergency
23 Management. I am joined today by Committee Members
24 Riley, Yeger, Feliz, and Holden.

25

Today, this Committee will consider Introduction 29 of 2022 sponsored by Council Member Keith Powers. A thriving hospitality industry, restaurants, bars, cafes is central to our city's economic prosperity. During the COVID pandemic, facing the reality of indoor dining restrictions and other health precautions, restaurants experienced severe loss of revenue. To survive, the city adapted. Many hospitality establishments shifted operations outdoors, providing patrons with a semblance of normalcy in uncertain times. An Open Restaurants program enacted by this Council in 2020 expanded the opportunities for restaurants to serve patrons on the streets using sidewalks and closed streets, a program that became a lifeblood to many who struggled with restaurants. Facing the prospect of colder weather during the winter months, the prior administration authorized the limited use of gas-fueled propane heaters to enable restaurants to continue to serve patrons outdoors. However, citing fire safety concerns last fall, temporary authorization was lifted and propane heaters again became illegal forcing restaurants to invest in more expensive

2 alternatives or suspend outdoor operations on colder
3 days. That brings us to today's hearing.

4 Introduction 29 would amend the New York
5 City Fire Code to authorize the outdoor use of
6 portable gas-fueled heating devices. Currently, the
7 Fire Code limits such portable devices to those
8 fueled by piped natural gas. This bill would expand
9 the scope of authorized equipment to include portable
10 heating devices fueled by liquified petroleum gas,
11 also known as propane. Additionally, the bill would
12 require safety precautions related to the operation
13 and handling of such devices. I understand that
14 safety concerns exist regarding the proper storage
15 and transportation of propane canisters. These
16 concerns could be addressed and potentially mitigated
17 through proper regulations. Since the city benefited
18 from thriving outdoor dining options, the propane
19 heaters were an essential piece of that success, and
20 I'm interested in discussing whether there is a safe
21 way to keep this option ongoing for the city's
22 restaurants. The Committee looks forward to hearing
23 from the Fire Department on this legislation and
24 hopes to work collaboratively to find an appropriate
25 balance to allow safe operations of propane heaters

2 to resume. I will now invite Council Member Powers to
3 speak on this bill.

4 COUNCIL MEMBER POWERS: Thank you. Thank
5 you, Chair Ariola, and thank you for giving me the
6 opportunity today to speak to say a few words about
7 my bill and, of course, for holding this hearing
8 today, and it's nice to see everyone, and thank you
9 to Members of the Committee as well.

10 Earlier this year, I introduced a bill,
11 Intro 29, which would amend the New York City Fire
12 Code to authorize the outdoor use of portable gas-
13 fueled heating devices, aka propane heaters. This was
14 at a moment when we were talking still a lot, and we
15 are, about permanency and the necessity of outdoor
16 dining which was a godsend to restaurants in our city
17 during the pandemic. All stakeholders in our city
18 worked hard and quick to get the Temporary Outdoor
19 Dining program up and running, and it's been
20 extremely successful, and I have to give every agency
21 a lot of credit for their work to get this program up
22 and running and to help save our restaurants, and
23 propane heaters became a big part of that as it got
24 cold out in the city to give people an opportunity to
25 continue to do outdoor dining, to continue to

2 socialize and see each other, and continue to find
3 ways to support our restaurants. While this was
4 previously prohibited under the Fire Code, then Mayor
5 de Blasio allowed their usage by emergency order in
6 October 2020, which coincided with the creation of
7 the Temporary Outdoor Dining program. Then in October
8 2021, with little warning to restaurants as it was
9 starting to get cold out again, the Mayor announced
10 he would no longer allow propane heaters. Instead, he
11 asked restaurants to convert to natural gas or
12 electric heating options and created a grant program
13 to reimburse businesses with less than 1 million
14 dollars to reimburse them for buying the new types of
15 heaters. At the time, then Brooklyn borough President
16 Eric Adams and myself wrote a letter asking the Mayor
17 to reconsider the ban and permit the continued usage
18 of propane heaters under the safety guidelines and I
19 also sponsored this legislation at the final months
20 of last term.

21 Now as we're talking here in the City
22 Council and the City about the future of the Outdoor
23 Dining program and creating a program that's safe and
24 workable for everyone, it is a good time to reexamine
25 the reasons in favor and against the ban on propane

2 heaters, and it's my understanding that there were no
3 fires or injuries during their year of usage so I'm
4 eager to hear more from the Fire Department about
5 their experience with it during the year that we had
6 it in place. I'm also eager to hear more information
7 about who received those grants and the effectiveness
8 of the heating alternatives, but I've heard from many
9 restaurants who believe propane heaters were a
10 lifeline to them during the pandemic. They already
11 had them. They didn't need to go out and buy new
12 ones, and they believe that we have to be doing
13 everything we can right now to be supporting like I
14 do our local restaurants and businesses and providing
15 them with the resources they can to survive. That's
16 the goal of the bill. We introduced it last year and
17 of course now here as well.

18 I want to thank Chair Ariola for putting
19 this hearing together and hearing this bill today. Of
20 course, looking forward to hearing from the
21 Administration and I want to thank my Colleagues who
22 have signed off this bill so far including Council
23 Member Velazquez who joined me at the introduction of
24 this bill. Thanks so much.

2 CHAIRPERSON ARIOLA: Thank you, Council
3 Member Powers. I will now turn it over to our
4 Moderator, Counsel Josh Kingsley, to go over some
5 procedural items.

6 JOSH KINGSLEY, COUNSEL: Thank you so
7 much, Chair.

8 Good morning, everyone. I'm Josh
9 Kingsley, Counsel to the Fire and Emergency
10 Management Committee.

11 Before we begin, I will remind everyone
12 that you will be on mute until you are called on to
13 testify, after which you will be unmuted by the host,
14 and I will be calling on panelists to testify. Please
15 listen for your name to be called, and I will
16 periodically be announcing who the next panelists
17 will be.

18 During the hearing, if Council Members
19 would like to ask a question, please use the Zoom
20 raise hand function, and I will call on you in order.

21 All hearing participants should submit
22 written testimony to testimony@council.nyc.gov.

23 The first panelists to give testimony
24 today will be representatives from the New York City
25 Fire Department. For FDNY, testimony will be provided

2 by John Hodgens who is the Acting Chief of Department
3 for FDNY, Joseph Jardin who is the Chief of Fire
4 Prevention for the FNDY, and Kelly Carr who is the
5 Deputy Code Development Counsel at FDNY.

6 I will call on you when it's your turn to
7 speak. Before we begin, I will administer the oath
8 for the Members of the Administration. I will call on
9 each of you individually for a response so please
10 raise your right hand and affirm the following. Do
11 you affirm to tell the truth, the whole truth, and
12 nothing but the truth before these Committees and to
13 respond honestly to Council Member questions? We'll
14 start with Chief of Department Hodgens.

15 JOHN HODGENS: I do.

16 JOSH KINGSLEY, COUNSEL: Chief Jardin.

17 JOSEPH JARDIN: I do.

18 JOSH KINGSLEY, COUNSEL: And now Miss

19 Carr.

20 KELLY CARR: I do.

21 JOSH KINGSLEY, COUNSEL: You may begin.

22 Thank you so much.

23 JOHN HODGENS: Good morning, Chair Ariola
24 and all Council Members present. My name is John
25 Hodgens, and I am the Acting Chief of Department at

2 the New York City Fire Department. I am joined today
3 by Joseph Jardin, Chief of the Bureau of Fire
4 Prevention, and by Kelly Carr, Deputy Fire Code
5 Development Counsel. Thank you for the opportunity to
6 weigh in on the proposed legislation, Introduction
7 29.

8 When I appeared in front of this
9 Committee last month, one of the statistics that we
10 reported was that in 2021 New York City had fewer
11 than 100 fire deaths. We pointed out that this was
12 the 16th consecutive year in which fire deaths
13 remained under that threshold. This is significant
14 given that it was not long ago that New York City
15 experienced hundreds of fire deaths a year. One of
16 the key factors in the City's success over the last 2
17 decades has been a strong New York City Fire Code. We
18 urge the Council to be especially deliberative when
19 considering measures that would weaken the code,
20 particularly in the area of hazardous materials such
21 as propane. As the Council Members are aware, during
22 the early stages of COVID-19 pandemic, then-Mayor de
23 Blasio issued an executive order temporarily
24 prohibiting restaurants from admitting patrons inside
25 their establishment. He also issued an executive

1 order temporarily suspending certain requirements in
2 order to help the restaurant industry utilize outdoor
3 dining structures instead. When the Fire Department
4 was asked to consider suspending the prohibition on
5 using propane as comfort heating, we had several
6 significant concerns. Propane is combustible at a
7 wide range of concentrations. Liquid propane is
8 colorless and odorless, and it becomes up to 270
9 times more expansive when it is converted to gas. It
10 can be used safely with proper precautions. We can
11 all picture a standard 20-pound propane tank used
12 with a grill outside in a yard or a park for
13 instance, and this sort of use can be fairly low
14 risk. However, widespread use of propane in a dense
15 urban environment transforms the level of risk into a
16 far more hazardous scenario. Propane gas is heavier
17 than air, which means that it can accumulate in
18 confined spaces. If a propane canister has a leak,
19 the gas can collect in enclosures, subways, cellars,
20 and basements. In 2009, the contents of a single 20-
21 pound propane container ignited and destroyed a
22 building in Flushing causing the front wall of a 2-
23 story brick rowhouse to crumble, blowing out the back
24 wall, and projecting debris across the yard,
25

1 driveway, and street and damaging a neighboring
2 house. Restaurants using propane for comfort heating
3 creates a situation in which multiple propane tanks
4 are being used with open flames in a relatively small
5 area, often with diners sitting in close proximity
6 and wait staff and patrons moving around nearby. The
7 use of comfort heating in a typical outdoor dining
8 setting produces a variety of serious challenges.
9 Beyond the dangers of propane use, the Department is
10 also very concerned about the transport and storage
11 of propane. The volume of propane necessary to
12 support the New York City restaurant industry
13 requires the delivery and storage of thousands of
14 propane tanks on a daily basis. We don't need to rely
15 on conjecture about how it would work if this
16 legislation were to become law because we saw how it
17 played out in 2020, and the results were troubling.
18 The period 2 winters ago when the restriction was
19 lifted led to a significant number of hazards across
20 the city. We saw widespread noncompliance with the
21 basic rules for operating propane-fueled heaters.
22 Many restaurants attempted to circumvent safe storage
23 requirements. Firefighters and fire prevention
24 inspectors routinely encountered unlawful storage of
25

2 propane associated with outdoor dining areas. In some
3 of the most egregious incidents, canisters of propane
4 were found on roadways, below fire escapes, concealed
5 by planters, and even inside the barriers designed to
6 provide vehicle impact protection. The Fire
7 Department at that time issued 70 summons and 1,300
8 violation orders during this period for a variety of
9 issues, including flagrant violations of unsafe
10 storage of propane and failure to maintain safe
11 distance requirements. We have some photos to help
12 illustrate a few of the hazardous conditions that we
13 encountered that I will show at the conclusion of
14 this testimony.

15 As dangerous as many of the storage
16 situations at restaurants were, even greater hazards
17 occurred among the industries necessary to supply the
18 increased demand for propane. The most serious
19 incident occurred in December 2020 when a truck
20 making propane deliveries flipped on its side and
21 burst into flames in the westbound lane of the Long
22 Island Expressway in Queens directly in front of
23 LeFrak City. The truck was carrying approximately 300
24 20-pound propane cylinders. It exploded into a large
25 fireball which was followed by a series of numerous

explosions. This was a very dangerous situation.

There was a large volume of fire with a plume of flames at times reaching the heights of nearby 18-story buildings. While the explosions and ensuing fire occurred on an expressway, the heat was so great that firefighters on scene became concerned that a shift in the wind might cause windows in nearby dwellings to fail and lead to apartment fires.

Propane canisters continued to explode with many becoming projectiles flying through the air for 100 feet or more striking nearby buildings and vehicles.

The name that we use for this type of explosion is a BLEVE, which is a firefighting term that describes boiling liquid expanding vapor explosions. This incident led to upwards of 100 BLEVEs. With propane containers exploding in every direction, it was a minor miracle that none of the struck any first responders or civilians on the Expressway or the surrounding areas. We are very lucky that tragedy was avoided. The string of multiple explosions and propane containers becoming missiles initially made it impossible to respond as we normally would to fight a vehicle fire. One fire officer later described feeling unsettled as he could see, hear,

2 and feel the explosions 300 feet away. Initially
3 unsure how to approach, firefighters ended up
4 crawling, being blocked by a Jersey barrier of the
5 Expressway to shield themselves from the explosions.
6 They crept to within about 150 feet of the truck
7 where they used hose lines to begin fighting the
8 fire. The Battalion Chief on scene described the
9 situation as extremely dangerous, noting that the
10 members really put themselves at risk, particularly
11 given the number of BLEVE explosions. The Bureau of
12 Operations found the incident so concerning that we
13 created a training video to show other firefighters
14 what they would be dealing with if a situation like
15 it occurred again. I know words may not do it justice
16 so we brought a video of this event just to give you
17 a good idea of what we're talking about. We'll place
18 the video at the conclusion of this testimony.

19 You can see why the Fire Department has
20 been so reluctant to change the rules again to invite
21 businesses to move thousands of additional propane
22 containers in and out of the city every night. We
23 know from experience that many would be stored and
24 concealed in unsafe ways. At the height of the
25 pandemic, the city took a lot of unusual measures

2 with no intention or expectation that they would
3 become a permanent part of life. This brief
4 experiment used to help prop up restaurants when they
5 were unable to seat patrons indoors gave us a winter
6 with numerous problems. We are extremely fortunate
7 that nobody was killed. Since that time, we have
8 successfully completed a winter season in which
9 restaurants were not permitted to use propane for
10 comfort heating. Through their own talent,
11 resilience, and creativity, the restaurant industry
12 has learned to provide comfort heating without the
13 use of dangerous combustibles like propane.

14 In my view as Acting Chief of Department,
15 this legislation, while well-intentioned, serious
16 underestimates the significant and potentially deadly
17 hazard to firefighters and the people of New York. At
18 this time, I'll show some of the photos and the video
19 that I mentioned and then I will be happy to answer
20 any questions.

21 JOSH KINGSLEY, COUNSEL: Thank you so
22 much, Chief. We'll share the screen with the proper
23 kind of stuff. Please be sure to describe the
24 pictures as we go along to comply with accessibility
25 requirements. Thank you so much.

2 JOHN HODGENS: On the left of your screen,
3 you'll see propane tanks stored. This is inside the
4 boxed out areas that the restaurant owners built
5 where they could seat patrons inside on the street.
6 Just one car that lost control that would maybe slam
7 into these propane canisters could create an
8 explosion that could potentially take down the
9 building that's in front of the outdoor dining
10 structure and also injure as many people that are
11 within a 200 to 300 foot radius of that explosion.

12 In the center, that's the roadway that
13 the tanks are stored in. That's the structure that
14 the tanks are stored in without the cover off and
15 that's basically what this slide depicts is storing
16 them on the street where they could be hit by a truck
17 or a car very easily that lost control.

18 This next slide shows storage of propane
19 tanks very haphazardly within structures. Now storage
20 of propane indoors is prohibited, and here we have
21 many tanks stacked right on top of each other. It
22 looks like they're stuffed into a bathroom. We had
23 them in storage areas, underneath stairways, and also
24 looks like the basement of potentially a multiple
25 dwelling. We have a line-up of maybe 10 propane

2 cylinders within a multiple dwelling. Now, if a fire
3 were to occur in any of these scenarios inside this
4 building, there would be a devastating explosion that
5 would level the building and injure or kill anybody
6 that's in any proximity to that and we never know
7 when we're going to have a fire, and these are the
8 situations that we saw on a daily basis when we were
9 out canvassing restaurants. By the way, when we went
10 to the restaurants, we went with an education mindset
11 to try to help them to do this safely, and these are
12 just some of the things that we found. Go to the next
13 one.

14 We also had the heaters which were a
15 hazard which were placed, there were specific
16 guidelines that they could not be placed with any
17 type of covering, and a large of restaurant owners
18 improvised and just not being aware of all of the
19 safety hazards or not willing to comply with them. I
20 understand it was a difficult time, but you see
21 there's many situations that created a very dangerous
22 situation where the heaters are placed right up
23 against the wall, underneath a roofed structure, we
24 have a cylinder that is hidden within shrubbery, and
25 we have a propane heater within it looks like a tent

2 enclosure which is a dangerous situation because it
3 should never be in a setting that is covered, let
4 alone inside a structure.

5 We came across more than 1 time, now
6 because of the amount of restaurants in New York City
7 and what it would take to transport these cylinders,
8 if they were complying which we saw earlier many of
9 them were improvising and not complying and creating
10 a very dangerous situation, but to do this correctly
11 they would have to transport the cylinders in and out
12 of the city every morning and ever night, when the
13 restaurant opens and when the restaurant closes. A
14 restaurant uses a multitude of cylinders per day to
15 heat the numerous heaters that they are using at
16 their outdoor structure. You see what we started to
17 come across with these largescale ad hoc storage
18 facilities that were housing up to 900, 1,000
19 cylinders in a large distribution center, and it was
20 for the outdoor dining industry. Somebody thought
21 that this would be a solution to have the cylinders
22 close by in areas where there were many restaurants,
23 but in fact if we were to have a fire, which I said
24 we never know where we're going to have a fire, it
25 happens any day, any time, holiday, middle of the

2 night, morning, if this building was to go on fire it
3 would be a devastating warzone of explosions and
4 destruction.

5 This is another facility we came across
6 that was just storing propane tanks. This was a
7 warehouse in Willets Point, Queens, and we found over
8 1,000 illegally stored propane tanks at this
9 warehouse. These are enclosed structures. Sometimes
10 they could be on a residential block or just any
11 opportunity could come, if somebody could make money
12 in storing these cylinders, we just have a large
13 potential for illegal and extremely dangerous storage
14 of these cylinders due to the volume necessary in a
15 city like New York if all restaurants required using
16 these cylinders.

17 This is the video I described in the
18 testimony of the accident that occurred on the Long
19 Island Expressway. We'll play the video.

20 The truck flipped on its side after
21 sliding on ice. As you can see, there's a large
22 fireball, and this is a relatively open area with no
23 buildings or structures surrounding (INAUDIBLE) As
24 you just saw, that explosion, that propane cylinder
25 flew a couple of hundred feet and there were

2 buildings in close proximity to that. There were
3 multiple explosions like that and one of them hit a
4 building, more than one of them hit buildings and
5 vehicles in the area. This like I said (INAUDIBLE)
6 There's another explosion. This is a pretty wide open
7 area. If this were to happen in Little Italy of
8 Manhattan, this would be a catastrophe beyond
9 anything we've seen.

10 There was another vide of what we were
11 dealing with on the Long Island Expressway. Just the
12 fact of the amount of cylinders needed in the city to
13 implement this program, we would have these vehicles
14 on the road throughout the day and going into
15 neighborhoods that are densely populated and all the
16 buildings are in close proximity to each other. As
17 you can see, these propane cylinders turned into
18 missiles and are projecting hundreds of feet in the
19 air. This is uncontained. If that happens in a
20 building, it causes structural damage and collapse.
21 This is an example of just the powerful explosions
22 that portable propane cylinders can create.

23 Thank you, and at this time I'm available
24 and Chief Jardin and Kelly Carr for any questions you
25 may have or comments.

2 CHAIRPERSON ARIOLA: Thank you, Chief
3 Hodgens, for your testimony. It certainly was
4 compelling, the visuals had great impact. Just a
5 couple of questions on the Power Point that you
6 showed and your testimony. You referred to the fire
7 in 2009. That does not apply to outdoor use, but was
8 there any instance during outdoor use of propane gas
9 tanks that had any leaks and/or gas collecting in
10 enclosed spaces during the time they were used during
11 the pandemic?

12 JOHN HODGENS: Luckily, we did not have
13 any serious incidents with the use of propane, but
14 it's just like anything else with fire safety. There
15 really is no timing of it or it can happen at any
16 time, and that's why we have the fire safety
17 regulations because we understand it really is an
18 issue and a safety issue not only for the public
19 outside but even the restaurant employees and the
20 restaurant owners and the staff that work at the
21 restaurant. Having these cylinders stored in areas
22 and, like as you saw on the roadway, in a situation
23 where just one out of control car can create an
24 explosion and a fireball is just something that I'm
25 not comfortable with.

2 CHAIRPERSON ARIOLA: The answer to the
3 question was there were none. I just want to take a
4 moment to note that Council Members Carr and Schulman
5 have joined.

6 Additionally, the videos that you showed
7 certainly were eye-opening, but were those tractor
8 trailers, were they transporting under the guidelines
9 necessary for the transportation of propane gas
10 tanks?

11 JOHN HODGENS: Yes. Any transportation of
12 propane requires adherence to a lot of safety laws.
13 The vendors are licensed and trained in the transport
14 of propane, and, yes, all of those protocols were
15 being followed in that instance.

16 CHAIRPERSON ARIOLA: Okay. Were the
17 pictures that you showed, was that the general
18 findings when you went to restaurants or were these
19 just like really bad actors and was that the worst of
20 what you found? What was the ratio of people doing
21 the right thing in storage, in transportation, and in
22 usage to what you've shown us on your Power Point?

23 JOHN HODGENS: These were some of the more
24 egregious instances, but there were multiple. As I
25 stated, we gave out 70 criminal court summons and

1 1,000 violation orders. In many cases, we had to call
2 for our hazmat component of the Fire Department to
3 come and confiscate these cylinders. We don't just
4 leave them there. We clear the area of the cylinders.
5 That was becoming an everyday occurrence which occurs
6 rarely now, but it was an everyday occurrence for us
7 to send out a hazmat team and truck to a restaurant
8 to confiscate the cylinders. In fact, we had to put 2
9 more trucks into service that we don't normally use,
10 that we're not using today, but the need, the demand
11 for confiscation of cylinders grew exponentially
12 during that period.

14 CHAIRPERSON ARIOLA: Would there be any
15 circumstance where the Fire Department envisions
16 creating a safe storage requirement that would be
17 approved storage for facilities with safety
18 provisions?

19 JOHN HODGENS: The Fire Department is of
20 course willing to work with partners towards any type
21 of legislation, but with this issue, the density of
22 the city and the lack of available property and just
23 the amount of restaurants in Manhattan and other
24 areas of the city in a small geographical area and
25 the amount of cylinders would make it very difficult,

2 I believe, to store safely. As you saw, some of those
3 pictures of the warehouses, that was the solution
4 that some in the industry had come up with, and they
5 may not be well-versed in the extreme danger of this
6 gas. I'm not placing blame, but I'm aware of it, and
7 I know that it is extremely dangerous and it can
8 cause explosions and building collapses and death if
9 not stored outdoors in a safe environment, which I'm
10 in downtown Brooklyn right now. I cannot imagine for
11 miles that type of scenario in this area.

12 CHAIRPERSON ARIOLA: Chief, what uses for
13 propane are currently authorized under the New York
14 City Fire Code?

15 JOHN HODGENS: The New York City Fire Code
16 allows private dwellings, R3 occupancies to have a
17 20-pound propane cylinder for barbecue use. They're
18 also allowed to have one additional spare cylinder
19 per household. It is used potentially for fire pits
20 where you would have one cylinder similar to the
21 barbecue. It is used in construction sites for
22 certain types of construction procedures, and also it
23 is used for food vending trucks. That is the legal
24 application of propane.

2 CHAIRPERSON ARIOLA: So on-street food
3 vendors and carts? Sidewalk food vendors or on-street
4 food vendors and carts?

5 JOHN HODGENS: Yes.

6 CHAIRPERSON ARIOLA: Okay. How do you
7 distinguish currently what is authorized use from the
8 use of propane-fueled heating devices then?

9 JOHN HODGENS: The 4 instances I just gave
10 you. Those are the only authorized use, and
11 distinguish between them is that when we started to
12 talk about legalizing the use in food vending trucks
13 there were also many concerns with that, and we were
14 able to work that given the fact that the volume is
15 manageable, the volume of cylinders, and also that
16 the food truck is not on the sidewalk or usually,
17 typically embedded into a densely populated
18 residential area.

19 CHAIRPERSON ARIOLA: I disagree with the
20 fact that they're not on sidewalks. I've seen them
21 plenty of times on sidewalks.

22 Let's switch to storage. What are the
23 current storage requirements for propane canisters?

24 JOHN HODGENS: They have to be stored in a
25 Fire Department-approved facility. These facilities

2 are outdoors, and they are in areas where they're not
3 exposing residential or any other type of
4 occupancies.

5 CHAIRPERSON ARIOLA: They require
6 permitting from the Fire Department?

7 JOHN HODGENS: Yes.

8 CHAIRPERSON ARIOLA: As does the
9 naturally piped gas, does that require a permit?

10 JOHN HODGENS: The naturally piped gas,
11 yes, it's a process within the construction field
12 where a licensed architect would draw the plans and
13 it goes through the Department of Buildings is the
14 primary approval agency and the Fire Department also
15 is involved in that process.

16 CHAIRPERSON ARIOLA: Okay. Thank you. I'm
17 going to now switch back to Josh as I see some of my
18 Colleagues have their hands up.

19 JOSH KINGSLEY, COUNSEL: Thank you, Chair.
20 We're going to now recognize Council Member Powers
21 followed by Council Member Holden.

22 SERGEANT BIONDO: Starting time.

23 COUNCIL MEMBER POWERS: Thank you. Thank
24 you, Chair Ariola. I'm just going to go quick so
25 just yes or no questions just to kick it off. Did the

2 FDNY and yourself support the initial plan to use
3 propane in 2020?

4 JOHN HODGENS: We had serious reservations
5 but being that understanding we were in a
6 unprecedented time in the city and with a global
7 pandemic and the fact that restaurants could not seat
8 patrons inside we worked with all of our entities and
9 sister agencies and within the Fire Department Code
10 Counsel to come with some guidelines that we were not
11 100 percent comfortable with but we knew that it was
12 temporary and we knew that to keep the city and the
13 restaurant owners alive during that, like I said,
14 unprecedented time we cooperated and what happened,
15 the results of it from our standpoint were not good
16 with the compliance of the regulations we set forth.
17 We only had 38 restaurants that were approved within
18 New York City that could actually follow the
19 guidelines that we set forth.

20 COUNCIL MEMBER POWERS: Okay. Were there
21 any serious deaths or injuries that have occurred at
22 a restaurant because of the use of propane?

23 JOHN HODGENS: No. Luckily, during this
24 short period, we did not have any serious death or
25 injury, but the potential is there and that is really

2 what fire safety is all about. It is about the
3 potential of taking in all the facts and the dangers
4 and weighing the risks and that is how we come up
5 with fire safety procedures, not necessarily in
6 reaction to.

7 COUNCIL MEMBER POWERS: Is it fair to say
8 you had concerns and potentially didn't support the
9 program when it was initially implemented but because
10 of the state of the restaurant industry at that point
11 the agency was willing to create some guidelines and
12 guidance for that even though you weren't comfortable
13 with that?

14 JOHN HODGENS: I don't think anybody who's
15 aware of the dangers of propane would be 100 percent
16 comfortable, but we did our best to help out and we
17 came up with guidelines, which if they were followed
18 may have created a safer environment but they were
19 not followed and that was our experience and that's
20 what's so troubling.

21 COUNCIL MEMBER POWERS: Got it. Is there a
22 program that you could set up or support where you
23 would approve restaurants with a safety plan to use
24 them if they had safety measures in place and did
25 inspections and did a number of guidelines? You had

2 38 restaurants you said complied. What would stop you
3 from creating a program to allow some restaurants to
4 do that with inspections and safety protocols?

5 JOHN HODGENS: We had 1,000 applications,
6 and 38 were approved. I don't think it's any
7 unwillingness for the restaurant owners to comply in
8 some cases. It's just to keep the area safe requires
9 certain things to be done that just the geographical
10 situation where the restaurant is and the size of the
11 sidewalk and proximity to other buildings. They were
12 not able to comply. They just didn't have the space
13 or the configuration just did not support a legal
14 application.

15 COUNCIL MEMBER POWERS: Got it. You
16 mentioned some uses that are still allowed for food
17 trucks being one. Those are restaurants on wheels.
18 Many of them operate in my district adjacent to
19 restaurants and next to sidewalks and very high
20 volume places. Can you explain the difference to me
21 between what a food truck and a restaurant when it
22 comes to why they could use them? My second followup
23 question to that is when you look at street vendors,
24 R3 homes which are basically single family, double
25 family homes, the truck that was delivering them in

2 Queens could've easily been bringing propane to any
3 of those businesses as well. Isn't that fair to say?

4 JOHN HODGENS: Yes, but the point of that
5 is that they'll be many more trucks on the road doing
6 that than there were would be during the time when
7 it's just being used the way it is now so if we add
8 restaurants it would exponentially increase the
9 amount of transportation that's going on in the city,
10 which would naturally increase the risk.

11 COUNCIL MEMBER POWERS: Okay. My last
12 question, and then I just have one last statement.
13 Mayor Adams last year cosigned a letter with me in
14 support of this and extending it in the winter
15 months. The administration seems to be testifying
16 counter to that today saying that you guys are
17 opposed to it so just wanted to get a clarity just on
18 the sort of change in position here. Can you give us
19 some context for, or is the FDNY and the Mayor's
20 office have a difference of opinion?

21 SERGEANT BIONDO: Time expired.

22 JOHN HODGENS: I think that we are on the
23 same page. My job is to worry about fire safety and
24 safety of the public, and that is what this
25 presentation and testimony is all about. I can't

2 really speak for if there was some type of difference
3 between then and now, but there's been more
4 information brought forth between then and now as
5 well.

6 COUNCIL MEMBER POWERS: Okay. I'll end my
7 questions there. I will say I think some of the
8 information presented today, whether I understand
9 that there was the accident that happened and there
10 was a fire in Queens and we are here to protect fire
11 safety, but I do think I was looking for maybe some
12 guidance on a program or a plan that maybe would work
13 for restaurants that really maybe wanted or needed
14 guidelines we could have versus showing us videos of
15 a fire that happened not at a restaurant or
16 recognizing that the Outdoor Dining program that was
17 set up was set up very hastily and even the sheds
18 themselves, a lot of them have issues, and we're
19 looking for a permanent program so I would've hoped
20 to maybe add some guidance on a way we could've
21 worked together on this and instead we got a
22 presentation on how dangerous this is with some
23 examples that I think were not at restaurants, but
24 I'll leave it there. I know other Colleagues have
25 questions, and I do hope the Mayor's office will

2 clarify their position to me and then also perhaps
3 come forward with some ideas about how maybe this
4 could work. Thanks.

5 CHAIRPERSON ARIOLA: Before we go to
6 Council Member Holden, I have to echo what Council
7 Member Powers is saying. Chief Hodgens, I understand
8 your position, but this hearing and what we believe
9 the purpose was to constructively cite examples where
10 we can have safe storage and a framework can be built
11 for regulations on safe storage and use.

12 JOHN HODGENS: I understand that.

13 CHAIRPERSON ARIOLA: (INAUDIBLE)
14 restaurants that received permits. What were the
15 guideline requirements for the restaurants who
16 struggled with meeting the compliance and how do
17 those guidelines compare to the requirements in the
18 International Fire Code?

19 JOHN HODGENS: Like I expressed before,
20 the configuration of how many buildings there, the
21 size of the sidewalk, all of those factors come into
22 play when it comes to having an improved site where
23 this could be done safely. Just the nature of the
24 city and the density did not really allow for it in
25 most cases, and so that's why it's a dangerous

2 situation or more dangerous than even, you know,
3 there's always a risk when you use propane but having
4 a street where there's maybe 10 to 12 restaurants
5 doing this just increases the risk to a level that is
6 probably very difficult to be acceptable.

7 JOSH KINGSLEY, COUNSEL: Thank you, Chair.
8 Do you have another question or should we pass it to
9 Council Member Holden?

10 CHAIRPERSON ARIOLA: We can pass to
11 Council Member Holden for now.

12 JOSH KINGSLEY, COUNSEL: Okay. Thank you.
13 Council Member Holden, you may begin.

14 SERGEANT BIONDO: Starting time.

15 COUNCIL MEMBER HOLDEN: Thank you, Chair,
16 and thank you, Chief, for the testimony. By the way,
17 I don't see 90 percent of the businesses in New York
18 City, the restaurants, being able to legally store
19 these outdoors because of, like you said, the close
20 proximity, and everyone knew that if you have these
21 propane tanks and you can't store them indoors that
22 they would store them in those sheds, those outdoor
23 sheds, which I can see, like you said, Chief, a
24 catastrophe happening if a vehicle struck it. I think
25 the risks outweigh the benefits definitely on this.

2 To me, it's a no-brainer. If we had one of these,
3 let's say a truck did slam into an outdoor shed with
4 15 of these propane tanks, a lot of people could die,
5 a lot of buildings would be taken out. If you had one
6 of those things happening in years, the risk would
7 certainly outweigh the benefit. I don't believe in
8 taking a risk like this for a benefit. Chief, can you
9 recommend a better heating system like my Colleague
10 Keith Powers said, if not the propane, what else
11 would you recommend as an alternative but a safe
12 alternative?

13 JOHN HODGENS: There are 2 safe
14 alternatives, and they are legal today without any
15 more approvals necessary, and that is electric, would
16 be done by a licensed electrician providing electric
17 to any type of outdoor area, and also piped natural
18 gas which is what we use in our stoves and to heat in
19 boilers for heating can be through a licensed process
20 approvals safely installed to provide heat in an
21 outdoor structure.

22 COUNCIL MEMBER HOLDEN: By the way, my
23 district's very close to that accident on the Long
24 Island Expressway, and that was frightening, and this
25 is what could happen. This should be a fair warning

1 to everyone who wants to promote the propane tanks. I
2 would even go as far as to say even homeowners should
3 be aware that you can't store this in the garage and
4 I bet a lot of people do store propane tanks, extra
5 tanks, in their garages that could be attached to
6 their residence or just inside so I think we need to
7 educate the public. I don't think this is a viable
8 alternative. Like you mentioned, let's go with either
9 the electric or the natural gas. I don't think we
10 should take the risk. I think New York City is the
11 wrong place by far to do this. I think we should know
12 better. Chair, I just don't see why this is even
13 being heard to tell you the truth given the risks. I
14 respect the Fire Department and their opinions. They
15 know best. We have to listen. Again, look how those
16 tanks were stored out in the structures and in the
17 basements. You have hundreds of these things. They
18 could take out the block. Again, the risks far
19 outweigh the benefits. Thank you, Chair.

21 CHAIRPERSON ARIOLA: Thank you, Council
22 Member. Just a followup for Chief Hodgens. Outdoor
23 storage of propane, it's currently for sale, right?
24 We see it at gas stations, Home Depot, how is that
25 permitted?

2 JOHN HODGENS: They have the storage
3 facility that they're operating out of is inspected
4 and regulated and it's approved. It goes through a
5 whole approval process. It's not just an open space.
6 It has all of the safety components that are
7 necessary to safely store the gasses.

8 CHAIRPERSON ARIOLA: Okay. Thank you.
9 Josh.

10 JOSH KINGSLEY, COUNSEL: Yes, Council
11 Member Yeger. You may go ahead.

12 SERGEANT BIONDO: Starting time.

13 COUNCIL MEMBER YEGER: Thank you very
14 much. Good morning, Chair. Good morning, Chief. I
15 just want to start very briefly with following up a
16 little bit on Council Member Holden's questions
17 regarding the safe storage. The draft bill that we're
18 hearing today has a prohibition for storing inside
19 buildings and given the real fact that if a
20 restaurant can't store these tanks inside the
21 building and we don't want them storing it outside
22 against the building and we also don't want them
23 storing them inside these wooden sheds, these
24 shantytown shacks as I've described them here on the

2 Council, Chief, do you see any way that a restaurant
3 can actually store these safely?

4 JOHN HODGENS: On-site I do not see any
5 safe way of storing these, and that's one of the
6 biggest issues. Storage is probably the biggest
7 problem with this whole bill. Outdoor dining with
8 propane use. We support outdoor dining, but just the
9 propane that we're not supporting.

10 COUNCIL MEMBER YEGER: I support anybody
11 eating wherever they feel like it as long as they're
12 not building a wood shack in the middle of a street
13 and setting fire to it through their own
14 carelessness, but let me ask you a different
15 question, Chief. Do you know how many of these
16 shantytown structures were struck by vehicles over
17 the last 2 years, a rough guesstimate?

18 JOHN HODGENS: I don't have a number, but
19 I know that it happened quite a few times where we
20 had accidents.

21 COUNCIL MEMBER YEGER: Okay. Let me ask
22 you another question. Given that the number of
23 authorized street vendors is a known quantity, in
24 other words, somebody can't just decide tomorrow to
25 take a wagon and put a propane tank on it, stand on

2 the street corner and pitch hot dogs. They have to
3 have a license and the city knows how many there are.
4 Do you have a rough estimate or some sort of
5 knowledge of how many propane tanks are currently in
6 use on the streets of New York by street vendors
7 right now?

8 JOHN HODGENS: I don't have any particular
9 data on that. I'm not sure if Chief Jardin or Kelly
10 Carr has any information about that, but we can
11 always get that for you and provide that to you.

12 COUNCIL MEMBER YEGER: Without knowing the
13 actual number, my rough guess is there's only
14 relatively a few whereas you see restaurants at every
15 single block and some neighborhoods that have 1, 2,
16 3, 4, 10 of these street shacks you don't have that
17 with the corner vendors pitching hot dogs. You see it
18 on one corner then you see it 6 corners later, 12
19 corners after that. There's probably a few hundred in
20 the city I would say, but I'm sure that the number is
21 known to some agency because they are licensed. The
22 draft bill that the Council's considering today, let
23 me get it back up, from my reading of it does not
24 provide for the maximum number of canisters that may
25 be stored. You testified, Chief, that an R3 residence

2 may purchase one for usage and then store a second
3 one as a backup. They can't have 3, though, right?

4 JOHN HODGENS: Right. They can have 1 and
5 an additional.

6 COUNCIL MEMBER YEGER: Okay, so then the
7 restaurant that wants to heat its outdoor shack, is
8 there a way they can just do that with having 2 and
9 that's it and no backup if they were going to stay in
10 business for more than a day?

11 JOHN HODGENS: No, they would need more
12 than that if they were going to be open.

13 COUNCIL MEMBER YEGER: So they would have
14 to get a delivery, in essence, every single day, like
15 the milk man comes in the morning and brings the milk
16 to the restaurant, they would have to get a delivery
17 of propane tanks every single day in order to operate
18 the street shack.

19 JOHN HODGENS: Yes.

20 COUNCIL MEMBER YEGER: Okay. Let me ask
21 you this because my time is running out. Chief, I
22 noticed your 4 stars on your collar. How many years
23 are you with the Department?

24 JOHN HODGENS: 36.

2 COUNCIL MEMBER YEGER: Chief Jardin, I
3 notice your 3. How many years are you with the
4 Department?

5 JOSEPH JARDIN: 36 as well.

6 COUNCIL MEMBER YEGER: That's a nice 72
7 years in 2 people so let me ask you this question, is
8 there any safe way, any safe way that we can increase
9 the number of propane tanks flowing around through
10 the city of New York on our street, on our roads, on
11 our highways, Chief Hodges?

12 SERGEANT BIONDO: Time expired.

13 JOHN HODGENS: The more cylinders that you
14 introduce into an area, it increases the risk. It's
15 just propane is an inherently dangerous substance and
16 the more that you have, just like anything else, it's
17 going to exponentially increase the risk, and that is
18 our main concern, is the volume that would be
19 necessary and the constant transportation of propane.
20 I don't see for New York City and how densely
21 populated and the configuration of our buildings and
22 restaurants into small areas how that could be done
23 safely with propane.

24 COUNCIL MEMBER YEGER: Chief, my time
25 expired, but like you and like Chief Jardin I'm also

2 in the risk-adverse business when it comes to
3 creating hazardous conditions on the streets of New
4 York. Thank you very much for your testimony today.
5 Thank you, Madam Chair.

6 CHAIRPERSON ARIOLA: Thank you, Council
7 Member Yeger. We've also been joined by Council
8 Member De La Rosa and Council Member Gennaro.

9 Just a couple of followup questions.
10 During the period in which the use of propane-fueled
11 heaters was authorized, did the Fire Department
12 respond to any reported occurrences of faulty
13 propane-fueled heating devices? Were there any leaks
14 that were reported to the FDNY and, if so, how many
15 violations were issued for the unlawful use, storage,
16 or transportation of propane-fueled heating devices
17 and what types of violations were they?

18 JOHN HODGENS: We had numerous violations
19 as I stated. We had over 1,000 violation orders
20 issued for illegal use of propane. As far fire
21 emergency response to incidents, I would have to comb
22 through the data. It would be classified as a gas,
23 and I would have to see if I could comb out which
24 ones were propane related. I don't have that
25 available right now, but there were numerous

2 enforcement calls due to illegally storing and using
3 the heaters. That we dealt with on a large scale.

4 CHAIRPERSON ARIOLA: What are the costs
5 of the violations when they're given?

6 JOHN HODGENS: Most of the violations can
7 be cured on the spot, and we did allow that. That's
8 what a violation order is. There is no cost if they
9 can clear up the condition within, we call it
10 forthwith, if you can remove these cylinders, have a
11 licensed vendor come and pick up these cylinders then
12 there'll be no fine or summons or anything like that.

13 CHAIRPERSON ARIOLA: Do you know how many
14 restaurants applied for the electric or piped natural
15 gas heaters?

16 JOHN HODGENS: No, I do not have that
17 information.

18 CHAIRPERSON ARIOLA: You don't? If I
19 could further ask, has the City put in a mechanism to
20 fund restaurants or were they offered city funding to
21 replace the propane heaters with natural gas or with
22 electric?

23 JOHN HODGENS: There is a program from the
24 city. It's outside the Fire Department's purview. I'm
25

2 not well-versed in it, but I believe there was
3 something put in place for that.

4 CHAIRPERSON ARIOLA: Do you know who, if
5 any, received that funding?

6 JOHN HODGENS: No. I'm not aware.

7 CHAIRPERSON ARIOLA: All right.

8 JOSH KINGSLEY, COUNSEL: Thank you, Chair.
9 If any other Council Members have any questions,
10 please use the Zoom raise hand function.

11 Seeing none, Chair Ariola, you could
12 close this up and then we could head on to public
13 testimony.

14 CHAIRPERSON ARIOLA: I want to thank
15 everybody for your testimony. I think it was honest,
16 I think it was enlightening, and I think it really
17 gives us what we need to do to make a framework so
18 that this particular program can work because we do
19 want to see our restaurants succeed and we want to
20 see those who are eligible be able to have outdoor
21 dining and do that and have our patrons be
22 comfortable while they're eating but we also do not
23 want to have a risk for their lives and as Council
24 Members Holden and Yeger have mentioned, the risk
25 always has to be taken into consideration when

2 putting any type of legislation forward, but it think
3 the purpose of this hearing and Council Member
4 Powers' legislation is to find the safe way to do
5 this so I'm looking forward to public testimony.
6 Thank you so very much.

7 JOSH KINGSLEY, COUNSEL: Thank you, Chair.
8 We'll now move on to the public testimony section of
9 this hearing. We will begin with Max Bookman followed
10 Kathleen Reilly followed by Valerie De La Rosa.

11 Unlike normal Council hearings, we're
12 going to call on each of you individually so just be
13 prepared when the Sergeant says time to begin so we
14 can begin with Mr. Bookman.

15 SERGEANT BIONDO: Starting time.

16 MAX BOOKMAN: Thank you. Good morning. My
17 name is Max Bookman. I am an attorney and partner
18 with the law firm Pesetsky and Bookman. Our firm is
19 General and Legislative Counsel to New York City
20 Hospitality Alliance, which the Members know is our
21 industry trade association here in the city. I want
22 to thank Chair Ariola for holding this hearing, and
23 I want to thank Council Member Powers for your
24 leadership in sponsoring this bill as well as Council
25 Member Velazquez for signing onto it.

2 I too would like to echo some of the
3 comments made by Chair Ariola and Council Member
4 Powers that we were hoping to hear from the Fire
5 Department at this meeting a constructive framework
6 by which we could have a program in place that
7 supports our still ailing New York City restaurants,
8 allows people to eat outdoors in all times of the
9 year, which is something that's accomplished all
10 throughout the country and the state while, of
11 course, maintaining public safety, which is
12 paramount. Anyone who has traveled outside of the
13 city of New York, elsewhere in the state and
14 elsewhere in the country, has all eaten somewhere
15 where you've sat under propane heaters and so there
16 has to be a way that it could be done safely, and
17 it's done in densely populated areas as well. This
18 was something that then Brooklyn borough President
19 Eric Adams, who is now our Mayor, supported at one
20 period of time. Not exactly what we heard today. We
21 hope that there can be a compromise that's reached
22 because the existing requirements for piped in
23 natural gas are unsustainable for restaurants. It was
24 too expensive. No one did it before the pandemic, and
25 that was back when restaurants had money. Now, the

2 restaurants are still ailing from the economic
3 effects of COVID-19. No one has money to do it
4 through natural gas and so there really needs to be a
5 way to do this safely and effectively, and we hope
6 that the administration can continue to work with the
7 Council to come up with a way to get it done safely.
8 Thank you.

9 JOSH KINGSLEY, COUNSEL: Thank you so
10 much. Next, we'll hear from Kathleen Reilly followed
11 by Valerie De La Rosa followed by James Mallios.
12 Kathleen Reilly, you may begin.

13 SERGEANT BIONDO: Starting time.

14 KATHLEEN REILLY: Thank you, everyone.
15 Good morning. My name is Kathleen Reilly. I'm with
16 the New York State Restaurant Association, and I have
17 to agree with a lot of what Max said just now. As you
18 all know, the restaurant industry is continuing to
19 struggle in the city. Our operators are in debt, they
20 owe back rent, they're experiencing lower sales, and
21 it will take a long time for them to dig out of that
22 situation. Propane is the most energy and cost-
23 efficient way for people to heat their outdoor spaces
24 based on the feedback that we've gotten from our
25 members who have tried it all. It's less burdensome

2 to install than the natural gas and has a stronger
3 heat put than the electric, and it doesn't put an
4 electrical strain on the older buildings that might
5 not be able to have the capacity to add all of those
6 extra electrical setups for the outdoor areas. Many
7 of our restaurant operators also already invested in
8 propane when it was allowed, and the time it's not
9 that they thought it would be permanent, but I think
10 they at least as we're dealing with the pandemic as a
11 city and as long as we had Open Restaurants going
12 that propane heaters could be part of that solution
13 and, of course, that's not the way it ended up
14 happening. The pandemic has been unpredictable, and
15 we don't know when another wave is coming. In the
16 context of pandemic response, keeping outdoor dining
17 viable in an extended season makes sense. Today, my
18 weather said it feels like 11 degrees outside and
19 it's March but it's bright and sunny. For the spring
20 season, the colder fall season being able to seat
21 outside even when it's a little on the chillier side
22 does make sense. Also, in fact this past winter, we
23 thought we were in the clear and then the Omicron
24 wave basically shut down dining inside during the
25 holiday season. It's also worth noting that people's

2 tastes have changed during the pandemic and many
3 people are at this people preferring and seeking out
4 outdoor dining options. We expect that to continue.
5 While there were no safety incidents from the propane
6 heaters, we agree that safety is important and we
7 encourage the Fire Department to create a
8 comprehensive training video module, what have you,
9 that we are glad to disseminate. We would also
10 suggest that if FDNY...

11 SERGEANT BIONDO: Time expired.

12 KATHLEEN REILLY: is able to vet and
13 approve and suggest (INAUDIBLE) that they feel are
14 especially safety conscious because I obviously, I
15 mean sure the crash on the highway is tragic, if
16 there are ones that the FDNY feels are especially
17 upstanding and they're able to restaurants, that's
18 also something that we would be happy to disseminate
19 to members. Thank you.

20 SERGEANT BIONDO: Thank you so much for
21 your testimony. Council Member Holden, you have a
22 question? You may go ahead.

23 COUNCIL MEMBER HOLDEN: I'd like to ask
24 the panelist that just spoke if they have a
25 suggestion on the storage or they can point us to

1 their clients that have stored it properly outdoors,
2 a number of them, let's say these propane tanks,
3 because what we heard is the nightmare stories. Do we
4 have any examples of proper storage from your clients
5 that you could show us, especially if they're storing
6 20, 30 of these propane tanks, which must be stored
7 outdoors? We saw the nightmare scenarios from the
8 Fire Department. Do we have any great examples of
9 somewhere storing it properly? Can you show us?

11 KATHLEEN REILLY: I think the majority of
12 people were using some sort of service or in a
13 scenario where they were, let's say they have a
14 personal home that's somewhere that's significantly
15 more sparse, like they live out on Long Island
16 somewhere, I think some people were bringing them
17 back to a like a big yard and storing them away from
18 people's homes, but I think the majority of people
19 were using service providers to pick up their tanks
20 and bring them to a safe permanent storage facility
21 at the end of the night.

22 COUNCIL MEMBER HOLDEN: If you could send
23 the Committee photographs of proper storage, we could
24 look at that as an example, but I just don't see how
25 it's possible given the Chief saying you would have

2 to get daily service deliveries because if you're
3 storing 20 or 30 of these outdoors in a tight space,
4 that seems to be a recipe for disaster at this point.
5 I don't see how, again, point us to some great
6 examples in a tight space that these are stored
7 properly because according to the Chief it can't be
8 done.

9 KATHLEEN REILLY: Well, I think the Chief
10 did say that storage providers are permitted by the
11 Fire Department so I don't have pictures of what they
12 look like on the inside because..

13 COUNCIL MEMBER HOLDEN: That's what I'm
14 asking for photographs of the storage that the
15 Committee can look at and say all right, this might
16 be the model, but if you can send us, rather than
17 saying, you did hear the testimony from the Chief,
18 you did see that it's dangerous, you did see the
19 nightmare scenarios that probably a lot of
20 restaurants were storing these indoors because they
21 can't store them outdoors, the amount that they need,
22 so if you're saying electric is not even an option,
23 first of all, I don't even know why we would even try
24 to jeopardize anyone with these propane because the
25 restaurants are open now. We're back to..

2 SERGEANT BIONDO: Time expired.

3 COUNCIL MEMBER HOLDEN: We're back to, I
4 think, normal almost but thank you, Chair.

5 KATHLEEN REILLY: Can I reply or is time
6 is expired?

7 COUNCIL MEMBER HOLDEN: It's up to the
8 Chair.

9 CHAIRPERSON ARIOLA: I think we will look
10 to the Fire Department to give us examples of the
11 restaurants that worked. I know that we did, and
12 that's why I asked the question, were these just the
13 really bad actors, where were some of the scenarios
14 where they were stored properly, and the Chief did
15 not have that information so we'll circle back with
16 the Chief for those videos, those pictures, and those
17 statistics so that he provide it to us because those
18 are very important.

19 JOSH KINGSLEY, COUNSEL: Thank you so
20 much, Chair. Council Member Yeger has a question.

21 SERGEANT BIONDO: Starting time.

22 COUNCIL MEMBER YEGER: Thank you. I just
23 want to point out, Chair, and to the panel that at
24 end of the day if a restaurant is going to be open
25 and successful it's going to have to access to more

2 than the 2 that the fire code currently allows, that
3 the Fire Department currently allows, and no matter
4 what the storage ultimately is, and clearly we don't
5 want people storing them indoors, we don't people
6 storing in the shacks, we don't people storing them
7 outdoors against their facades, we don't want people
8 storing them in a place where they can be stolen or
9 accessed for nefarious purposes then we're ultimately
10 creating a situation, there's no way around it, where
11 there is going to be delivery of these. It just has
12 to take place so that would require these to be
13 trucked around the city, all over the city, at a time
14 when we keep talking about reducing truck traffic,
15 reducing vehicular traffic into Manhattan and into
16 the business districts, and it just doesn't seem to
17 be that propane is the way to go. Now, it doesn't
18 mean that there's no way for these to be heated, but
19 some of the testimony that we heard was that if COVID
20 comes back we're going to have to have these outdoor
21 structures. I must simply state the obvious. I think
22 that if COVID comes back to the point where
23 restaurants have to be closed and people therefore
24 have to eat outdoors, putting them in an enclosed
25 structure is not outdoors. That's not outdoors.

2 That's still indoors. Sealing up a wood shack just
3 because it happens to be on the street doesn't make
4 for outdoor dining. That's just sitting indoors in a
5 new shack outside. Using that as a reason for why we
6 must get this done, I don't think makes sense. I
7 think if we say, the reason that we have to do it is
8 because we want restaurants to be able to double the
9 size, okay, then let's just say that, but please
10 let's not use the this must be outdoor dining, it
11 must take place. It's not outdoor dining because if
12 it was outdoors, it wouldn't need to be heated.
13 People want to sit outdoors. They don't need to be
14 heated. Thank you very much, Madam Chair.

15 JOSH KINGSLEY, COUNSEL: Thank you,
16 Council Member. Moving on to the next panelist. We'll
17 hear from Valerie De La Rosa followed by James
18 Mallios followed by Robert Eli.

19 SERGEANT BIONDO: Starting time.

20 VALERIE DE LA ROSA: Good morning, Chair
21 Ariola and Members of the Committee. I am Valerie
22 De La Rosa, Chair of Manhattan Community Board 2's
23 Reopening Working Group. Thank you for the
24 opportunity to testify on this legislation. Manhattan
25 Community Board 2 speaks with authority on this

2 matter before you because our community district has
3 over 10 percent of all open restaurants across all 5
4 boroughs and 20 percent of all open restaurants in
5 Manhattan. We've seen a 500 percent increase in the
6 number of eating and drinking establishments in
7 outdoor dining putting our numbers at over 1,000.
8 This proposed legislation before you has 3 glaring
9 blind spots that compromise public safety and
10 integrity of outdoor dining. You've already heard
11 from Chief Hodgens giving you the overall public
12 safety message so I'm going to go into very specifics
13 that are concerning.

14 Every single one of the 3 points I'm
15 about to make were identified as minimum public
16 safety standards by FDNY at a December 2020 CB2
17 Reopening Working Group Meeting. At a minimum,
18 portable heating device filled by liquefied petroleum
19 gas should be a minimum of 10 feet from any building
20 entrance, window, or ventilation. However, the
21 legislation as proposed only calls for a 5 foot
22 clearance from buildings and exits. There is no
23 mention of clearances for windows or ventilation.

24 Second, at a minimum, chairs and tables
25 made of combustible material should have a 5 foot

2 clearance between the portable heating devices that's
3 filled with liquefied petroleum gas and any sort of
4 chairs or tables made of combustible materials.

5 However, the proposed legislation only calls out
6 combustible decorations, overhangs, awnings, some
7 control devices, and that is a huge, huge oversight.

8 Three, at a minimum, there should be a 5
9 foot clearance between 2 propane heaters. However,
10 the language in the legislation has no language
11 addressing that. All 3 of these safety minimums were
12 outlined in December 2020, merely 14 months ago. The
13 fact that the legislation today (INAUDIBLE) mitigate
14 that is a loss and the Manhattan Community Board 2
15 strongly urges you not to move..

16 SERGEANT BIONDO: Time expired.

17 VALERIE DE LA ROSA: Forward with this
18 legislation. Thanks.

19 JOSH KINGSLEY, COUNSEL: Thank you so much
20 for your testimony. As a reminder, everyone wanting
21 to written testimony to testimony@council.nyc.gov.
22 Thank you, everyone. Moving on next, we will hear
23 from James Mallios followed by Robert Eli followed by
24 Pauline Augustine.

25 SERGEANT BIONDO: Starting time.

2 JAMES MALLIOS: Hi. Thank you for letting
3 me testify. My name is James Mallios. I own
4 restaurants in New York City, Nassau, Suffolk, and
5 Queens. The last 2 restaurants we opened were outside
6 the City even though I grew up in New York City. It's
7 not because I like driving, but after hearing this
8 testimony today it certainly makes me feel like the
9 next one's going to be in Nassau or Suffolk if, God
10 willing, that happens. Council Member Holden, we are
11 not back to normal. I am sitting on a million dollars
12 worth of debt that I took on to keep our restaurants
13 open. With regards to propane, let's not focus on,
14 frankly, respectively incendiary prejudicial videos.
15 I'm not going to show videos of people firing guns at
16 propane tanks and nothing happening, which you can
17 easily access on Mythbusters. I'll tell you how we
18 stored propane, because you asked, Councilman Holden.
19 We stored propane, the first time we got inspected
20 what I was told actually was to store in a car which
21 I find just to be absolutely, godsmackingly weird
22 that you'd put it in a car on the street or a car in
23 a garage, much less, with hundreds of other cars
24 which doesn't make any sense to me whatsoever, but
25 instead what we did was we paid a service, probably

2 around 200 dollars a day, to bring in propane tanks
3 every day and take them out every night because that
4 was vital to our survival as a business and we employ
5 50 New Yorkers. Look, I get it. Safety's important. I
6 don't want to minimize it, but at the end of the day
7 we all know it's not the only concern, right? Alcohol
8 killed more people than COVID last year, but I don't
9 see us going back to prohibition anytime soon. The
10 question is not legally storage tank facilities, but
11 the question is is there a way that New York City,
12 like Chicago, like Paris, I'm not talking about
13 rinky-dink cities that are like half a million
14 people, can figure out a way to deliver and pick up
15 propane just like I do in Suffolk, just like I do in
16 Nassau, and just like they do in major metropolitan
17 areas across this world because that's what we need
18 to start, not to get ourselves out of the debt...

19 SERGEANT BIONDO: Time expired.

20 JAMES MALLIOS: Looks like we're "normal."

21 JOSH KINGSLEY, COUNSEL: Thank you so much
22 for your testimony. Moving on, we'll hear from Robert
23 Eli followed by Pauline Augustine followed by Leslie
24 Clark.

25 SERGEANT BIONDO: Starting time.

2 ROBERT ELI: Thank you very much for
3 allowing me to speak. My name is Robert Eli. I'm a
4 resident in the West Side of Greenwich Village, and I
5 would like to point out to everybody that the
6 restaurant around the corner from me has a backyard
7 where they used and they stored between 15 and 18 of
8 these propane tanks. The backyard is completely
9 surrounded by residential apartments including the
10 bedroom windows of our apartment, maybe 35, 40 feet
11 away, and so the storage on the exterior sounds great
12 but when it's in a backyard surrounded by buildings
13 that are all residential it's about as dangerous as
14 can come. I heard the concern about the dangers
15 involving those who attend restaurants or go to
16 restaurants, but I'm here to say there are residents
17 that live right near the restaurant that will be
18 tremendously affected from the concerns of safety
19 with regards to propane tanks. I also hear about all
20 these other cities and all these other areas, suburbs
21 or wherever, where these propane tanks are being
22 used. Guess what, they're not Greenwich Village,
23 they're not New York City. Our particular area along
24 with many other particular areas of New York City
25 just were never properly zones the way that other

2 cities and the way other communities operate. What I
3 mean by that is we have residents living over
4 business. We have mixed use areas. You call them
5 commercial. They're not commercial. They're
6 residential. When everybody's compacted, everybody's
7 put together, when there is just one incident, people
8 are going to die. We talk about risk. We talk about
9 safety, but it's just crazy to even think that we can
10 do that in downtown Manhattan or other areas like
11 that.

12 SERGEANT BIONDO: Time expired.

13 ROBERT ELI: I have a picture which I will
14 send in that shows the 16 tanks being delivered to
15 the backyard so please think about that when we go
16 forward. Thank you.

17 JOSH KINGSLEY, COUNSEL: Thank you so much
18 for your testimony, sir. Next, we'll hear from
19 Pauline Augustine followed by Leslie Clark followed
20 by Derek Kaye.

21 SERGEANT BIONDO: Starting time.

22 PAULINE AUGUSTINE: I live on a tiny
23 street with 25 feet street beds, 11 restaurants,
24 unbelievably crowded with people day and night,
25 residential buildings, 11 restaurants, and 425 street

1 lights. There have been so many misuses of propane in
2 my tiny area when they were allowed. I'm surround by
3 danger. It's just as simple as that. We're talking
4 about people, employees and owners, who are not
5 really trained to handle everything that can go
6 wrong. We're talking about people who will be asked
7 to handle them who actually, let's face it, have
8 communications problems because they don't even speak
9 English, and they're going to be in really more
10 danger. We're human beings. We make mistakes.
11 Mistakes are going to happen, and this is lethal.
12 Talking about eating out with propane anywhere in the
13 world, no, not in Paris, not allowed. I used to live
14 there. I've been back and forth. Never saw a propane
15 heater. Not allowed. Why? They know the dangers.
16 Anyway, why are we even talking about this program,
17 heat in cold weather, when the program that's going
18 forward supposedly doesn't include the winter months
19 so I really don't even know what we're doing here,
20 but everybody who's presented the dangers and the
21 experiences of fire department, if we can't listen to
22 them, and you can't protect me, my family, or anybody
23 around me. It's very, very concerning. Thank you for
24

2 letting me testify, and please vote against this. It
3 just does not make any sense whatsoever. Thank you.

4 JOSH KINGSLEY, COUNSEL: Thank you so much
5 for your testimony. Next, we'll hear from Leslie
6 Clark followed by Derek Kaye followed Stuart Waldman.

7 SERGEANT BIONDO: Starting time.

8 LESLIE CLARK: Thank you, Council Members,
9 for listening to my testimony today, and I also would
10 like to particularly thank City Council Member Holden
11 for defining this as a question of the benefit versus
12 the danger. When you have a danger as great as was
13 described to us this morning by the Fire Department
14 personnel, I don't see what benefit can possibly
15 outweigh that. It just takes one explosive incident.
16 By the way, I used to live in a country that used
17 this, the Dominican Republic, and there were
18 explosions all the time from this very dangerous,
19 heavier-than-air gas. What I find particularly
20 troublesome here is talking about ways that people in
21 restaurants are going to follow a set of guidelines,
22 and I'm also hearing today something I hear a lot
23 which is there are a few bad actors, everybody else
24 is doing it right. Well, we had a survey done of our
25 neighborhood in the summer of 2021 by City Council

2 President Corey Johnson's office that showed that 93
3 percent of restaurants in our city council district
4 did not follow the rules of outdoor dining. Now,
5 that's one thing if you're putting chairs on the
6 curbside, which is annoying, but you're talking about
7 only 7 percent of restaurants following the rules in
8 our city council district. This is a serious problem.
9 I would just like to get rid of this notion that
10 there are a few bad actors. In fact, there are very
11 few who have actually followed the rules in a program
12 that is notorious for non-enforcement by the DOT. I
13 think all of you can look to your own districts and
14 see it around you all the time, the DOT does not
15 enforce this program. I strongly urge you to go with
16 the danger here and vote against...

17 SERGEANT BIONDO: Time expired.

18 LESLIE CLARK: Dangerous bill. Thank you.

19 JOSH KINGSLEY, COUNSEL: Thank you for
20 your testimony. Next, we'll hear from Derek Kaye
21 followed by Stuart Waldman followed by Leif Arntzen.
22 Derek, you may begin.

23 SERGEANT BIONDO: Staring time.

24 DEREK KAYE: Hi, everybody. My name is
25 Derek Kaye. I'm the owner of Takumi Taco, which has

1 several food businesses in New York City and several
2 trucks, and I'm also the owner of NYC Propane
3 Delivery. Last year, I also during the pandemic had
4 one of those 38 permits that legally allowed by food
5 business to have a propane heater on site. I founded
6 NYC Propane Delivery when my food businesses were
7 closed during the pandemic. NYC Propane Delivery
8 offers a drop off and pick up service for restaurants
9 so we drop the propane tanks in the morning and then
10 we pick them up at the end of the night so this is a
11 safe solution for storage for restaurants so they do
12 not have to store any propane tanks on site. Contrary
13 to popular belief, propane tanks are a safe and
14 efficient resource to restaurants with outdoor
15 heaters. They're used throughout the country and much
16 of the world, and they're used in cities like
17 Philadelphia, Chicago, Washington DC, Las Vegas, Los
18 Angeles, and San Francisco, all with very limited
19 rules and regulations, not that I'm saying that there
20 shouldn't be. I believe that the City and the Fire
21 Department can come to an amicable agreement on the
22 conditions that would alleviate their concerns. Of
23 course, the top one being that no propane is ever
24 stored on site, that it is always dropped and picked
25

2 by companies like my own, and that companies like
3 myself work with larger regional suppliers such as
4 Paraco Gas or Blue Rhino to ensure that the tanks are
5 always inspected every single time they are refilled,
6 and they are refilled to the maximum limit and not
7 overfilled any more than that. There are thousands of
8 propane tanks on the streets already being delivered
9 daily. There are a few thousand food trucks and food
10 carts in New York City, which means there are 6,000
11 or 7,000 tanks already out on the streets. To the
12 best of my knowledge, there is talk of lifting the
13 cap of permits for food trucks and carts meaning that
14 another, I believe, 1,000 permits will be given out
15 for more food trucks and carts who will also have
16 more propane tanks to be on the streets as well.

17 SERGEANT BIONDO: Time expired.

18 DEREK KAYE: I just want to reiterate that
19 there are safe ways for drop off and pick up to be
20 done and that if 1,000 restaurants each used 4
21 propane tanks, that would be 4,000 tanks which would
22 require about 12 propane delivery trucks to carry so
23 I know that we're talking about large numbers and
24 macro ideas but with 10 or 15 trucks in New York City
25 you can service close to 1,000 restaurants on a daily

2 basis working with a propane supplier outside of New
3 York City like Paraco Gas. I'm happy to answer
4 questions and would love to be able to work with the
5 City Council and the Fire Department on this as both
6 a restauranter who used propane and somebody that
7 owns a propane delivery company.

8 JOSH KINGSLEY, COUNSEL: Thank you so much
9 for your testimony. Moving on, we'll hear from Stuart
10 Waldman followed by Leif Arntzen followed by Diem
11 Boyd.

12 SERGEANT BIONDO: Starting time.

13 STUART WALDMAN: I'm going to actually put
14 away my testimony because the Chief said it a lot
15 better than I could say it. To those Council Members
16 who are trying to figure out a way to make this
17 unsafe and dangerous proposal legal, I'd like to
18 remind you that we're 3 days removed from the
19 anniversary of the Triangle Shirtwaist factory fire.
20 Triangle factory opened in 1901. It operated safely
21 for 10 years. There were no problems, but in 1911,
22 146 people died in a fire. Fire prevention isn't
23 about we tried this and it was a little dangerous but
24 look, it's worked. It's about judging. It's about
25 judgement. The Fire Chief has better judgement than

2 you and me. We live in a densely populated city. Any
3 small accident could take hundreds of lives, and I'd
4 like you to consider that when you're voting on this
5 because this is human life. We're not talking about
6 dollars and cents. We're talking about human life,
7 and that always should come first. Thank you for
8 listening.

9 ALEX PAULENOFF, COUNSEL: Thank you, Mr.
10 Waldman. My name is Alex Paulenoff, and I'll be
11 filling in as Moderator for the remainder of the
12 hearing. Next up we will hear from Leif Arntzen
13 followed by Diem Boyd and then Alida Camp. Mr.
14 Arntzen, you may begin when the Sergeant announces
15 the time.

16 SERGEANT BIONDO: Starting time.

17 LEIF ARNTZEN: Thank you. I'm speaking on
18 behalf of Central Village Block Association as well
19 as for Kathryn Arntzen. We're together here, but
20 speaking for our neighborhood. I would just say we
21 can't get our streets swept. We can't get access a
22 ride into the street to pick up elderly yet now we're
23 contemplating Mr. Kaye's idea and new startup
24 business to start making room for more trucks to try
25 to enter a street that's already congested to do

1 what? To deliver propane tanks and pick up tanks. I'm
2 certainly not interested in your service for that. I
3 just want to say residents in this neighborhood are
4 adamantly opposed to restaurants being allowed to use
5 propane outdoors. In this area, there's 115 active
6 liquor licenses within a 750 foot radius of Cornelius
7 Street. There are 11 operations on this 1 single
8 narrow block. This is a residential zone with mixed
9 use space with ground levels used throughout the
10 area. There's cellar hatches, grates, below ground
11 stairwells, Con Ed hatches and grates and manholes
12 directly outside the restaurants and they're directly
13 outside our doors and windows of our home. This is
14 where residents live. Restaurants and bars are
15 notoriously challenged to control conditions inside
16 those spaces, let alone outside on the sidewalk and
17 streets that are outside our homes. Entrusting safe
18 handling of this dangerous gas to the hands of
19 restaurant owners and workers is totally
20 unacceptable, and we urge this Council to respect our
21 safety concerns. As Stu said, the Fire Department
22 spoke volumes...

24 SERGEANT BIONDO: Time expired.

2 LEIF ARNTZEN: And we're very concerned.
3 Thank you.

4 ALEX PAULENOFF, COUNSEL: Thank you, Mr.
5 Arntzen. Next up we will hear from Diem Boyd followed
6 by Alida Camp and then Cheri Leon. Diem Boyd, you may
7 begin when the Sergeant announces the time.

8 SERGEANT BIONDO: Starting time.

9 DIEM BOYD: Thank you. First of all, thank
10 you, Council Members, for holding this hearing, but
11 most of all thank you for the FDNY Chief for
12 explaining the dangers of the situation. No one can
13 else explain it better, and no one else should not be
14 heard more than the Fire Department. I'm going to
15 send you examples. I live on the Lower East Side. We
16 have hundreds and hundreds of shanty town sheds
17 surrounding our homes. They are just waiting to catch
18 on fire. We have photographs of propane gas kept
19 outside, and we have photographs and the following
20 days where they were vandalized. This is just an
21 unwise program, and for the Council Members that are
22 trying to fit a square peg into a round hole to
23 justify a program that will put lives at risk is
24 absolutely insane to me. Just so you know, Paris has
25 banned these heaters, these gas propane heaters. One

1 of the other reasons that no one's discussing is
2 because of the environmental impact these propane gas
3 heaters cause from CO2 emission. That's another
4 factor. The fact that we're going to ask restaurants
5 now to have delivery trucks to bring propane gas as a
6 resolution is insane. The traffic is insurmountable
7 and a lot of it is caused by these sheds that are
8 causing back. Again, I just want to end on a note
9 about the Fire Department. They've done so much
10 through this emergency program. I've seen fire trucks
11 backed up into streets because of the sheds. I've
12 seen them like barely fit in, and I just want to
13 really, really give applause and a shout out to the
14 Fire Department for working extra hard, and we should
15 not be putting their lives at risk because of propane
16 gas for the restaurant industry. Thank you.

18 ALEX PAULENOFF, COUNSEL: Thank you, miss
19 Boyd. Next, we will hear from Alida Camp followed by
20 Cheri Leon. As a reminder, if anybody would like to
21 testify who has not already done so, please use the
22 Zoom raise hand function or email your testimony to
23 testimony@council.nyc.gov. Alida Camp, you may begin
24 when the Sergeant announces the time.

25 SERGEANT BIONDO: Starting time.

2 ALIDA CAMP: Thank you for hearing my
3 testimony. My name is Alida Camp. I'm a member of
4 Community Board 8 Manhattan, but I'm testifying
5 individually. The Fire Department powerfully
6 demonstrated the dangers of using, storing, and
7 moving propane heaters and tanks. The Department are
8 experts in fire safety and prevention. Enforcement of
9 many outdoor dining rules failed. Who will enforce
10 the propane heater rules? That there were no deaths
11 when they were used does not mean that there will not
12 be any in the future. The dangers are clear. New York
13 is densely populated. Restaurants now have indoor
14 dining. There is simply no reason to allow propane
15 tanks. Would you eat at a restaurant with a D or F
16 health rating? Would you go to the airport in a cab
17 without seatbelts? Would you get in a for-hire
18 vehicle if the driver didn't match the information
19 you were texted? Would you do any of these if you
20 could save a few dollars? Why would you allow heaters
21 that are a fire safety hazard when there are
22 alternatives? Why would you allow public health and
23 safety to be at risk when there alternatives? New
24 York is congested. Fires have resulted in deaths. Why
25 would you take the chance? I don't want to live near

1 or above propane tank usage or storage for
2 restaurants. I don't even want to walk down the
3 street next to restaurants with propane heaters and
4 tanks. Do you? Do your constituents? Is the risk
5 worth the savings when there are alternatives? What
6 if a pedestrian walks by with a flammable coat? What
7 if someone gets caught on a sidewalk and trips
8 against the propane heater? Listen to the expert, the
9 Fire Department. There is simply no reason to put the
10 lives of New Yorkers at risk when there are
11 alternatives. As Council Member Holden stated, it
12 only takes one. Cars have hit restaurant sheds, and
13 the danger from that makes it even worse. You must
14 look out for all New Yorkers. There is no safe way
15 for restaurants to use and store propane heaters
16 safely in the city. If there is a tragedy, do you
17 want it on your heads? Thank you.

19 ALEX PAULENOFF, COUNSEL: Thank you, Miss
20 Camp. Next panelist is Cheri Leon. One more time as a
21 reminder, please email your written testimony to
22 testimony@council.nyc.gov. Cheri Leon, you may begin
23 when the Sergeant announces the time.

24 SERGEANT BIONDO: Starting time.
25

2 CHERI LEON: Hi. Thank you, Council
3 Members, for holding this hearing, and thank you for
4 allowing public testimony at it. I have many prepared
5 remarks that really have already been delivered to
6 you by other members of the community and residents
7 in the community. I'm just going to say one thing
8 that as of today, actually, I'm going to say more
9 than one thing but the first thing I'm going to say
10 is as of today there are 12,241 Open Restaurant sites
11 that are registered to participate in the program. If
12 you took a very, very minimum estimate of the number
13 of propane heaters that those sites would require in
14 the winter months, I'm using the number of 5 per
15 restaurant site, that's low. That's a conservative
16 measure. That would result in over 60,000 propane
17 heaters and tanks being deployed out on the streets
18 and sidewalks in New York in very densely populated
19 areas. I would just urge you to take the scale of
20 that deployment into account when you're considering
21 this. I understand that, for example, Derek Kaye said
22 that he thinks there's a few thousand out there right
23 now with food vendor trucks. That means that were
24 this to be granted, this bill to be passed, there
25 would be 10 times as many propane heaters out and

2 about amongst residents, tourists, restaurant owners,
3 and the public in general. I think that's a
4 significant increase that as the FDNY Chief has said
5 is really what this is all about, the context. It's
6 about the context. I would urge you to take the
7 safety, the increased safety risks in that context.
8 Thank you.

9 ALEX PAULENOFF, COUNSEL: Thank you, Miss
10 Leon. Seeing as there are no additional panelists
11 signed up to testify, I will turn it back to Chair
12 Ariola for closing remarks.

13 CHAIRPERSON ARIOLA: I'd like to thank
14 the Council staff. I'd like to thank the Council
15 Members who spoke, our Chiefs from the Fire
16 Department and especially the people who came to give
17 public testimony. It certainly was compelling, and it
18 brings us to a point where it's now our job to take
19 those divergent perspectives and find a solution.
20 Again, I thank all of you for coming out, and I look
21 forward to us now internally having conversation
22 regarding this issue and this bill. [GAVEL]

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1 COMMITTEE ON FIRE AND EMERGENCY MANAGEMENT

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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 <INSERT TRANSCRIPTION DATE>