

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE

-----X

October 18, 2012
Start: 10:24 a.m.
Recess: 12:17 p.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
DOMENIC M. RECCHIA, JR.
Chairperson

COUNCIL MEMBERS:

Council Member Gale A. Brewer
Council Member Fernando Cabrera
Council Member Leroy G. Comrie, Jr.
Council Member Elizabeth S. Crowley
Council Member Julissa Ferreras
Council Member Lewis A. Fidler
Council Member Robert Jackson
Council Member G. Oliver Koppell
Council Member Karen Koslowitz
Council Member Darlene Mealy
Council Member Joel Rivera
Council Member James G. Van Bramer
Council Member Albert Vann

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

James Esposito
Chief of Fire Operations
Fire Department of New York City

Stephen Rush
Assistant Commissioner for Budget
Fire Department of New York City

Julian Basil
Department Counsel
Fire Department of New York City

David Pollack
Associate Executive Director
Jewish Community Relations Council

Rosemary Ginty
Executive Director
Catholic Community Relations Council

Mary Ann Rothman
Executive Director
Council of New York Cooperatives and Condominiums

Robert Altman
Legislative Consultant
Building Industry Association of New York City and
Queens and Bronx Building Association

Angela Pinsky
Senior Vice President Management Services and
Government Affairs
Real Estate Board of New York

Frank Ricci
Director of Government Affairs
Rent Stabilization Association

1
2 CHAIRPERSON RECCHIA: You ready?
3 Good morning, and welcome to today's Finance
4 Hearing. My name is Domenic M. Recchia, Jr., and
5 I'm the Chair of the Finance Committee. Today, we
6 will discuss a bill proposed by the
7 Administration, Intro 940. It's na--would codify
8 into law the Fire Department's existing general
9 building fire safety inspection program, and
10 notably impose new fees for the program.
11 Currently, the Fire Department does not charge
12 fees for the general inspections. Before we get
13 started, I wanted to thank the staff who worked so
14 hard to put this hearing together: Tanisha
15 Edwards, my attorney; Regina Poreda-Ryan and John
16 Lisianskiy. I'm grateful for all their efforts.
17 I'd also like to thank those testifying here today
18 and for providing the input. We'll be hearing
19 from several departments representing the
20 Administration, but before we do that, I want to
21 briefly summarize the bill. If enacted, Intro 940
22 would impose fees for the general building fire
23 safety inspections performed by the FDNY
24 personnel. Currently, general building fire and
25 safety inspections are primarily performed by the

1
2 Fire Department's uniformed firefighting
3 personnel. However, civilians at FDNY's
4 specialized unit are also authorized to conduct
5 these inspections. General building fire and
6 safety inspections are performed during the
7 regular course of duties for both uniformed fire
8 fighters and civilians. As such, no fee is
9 charged. Under this bill, buildings over six
10 stories would be charged a \$500 fee. Buildings
11 six stories or less would be charged a \$400 fee.
12 Upon inspection, proof of inspection will be
13 required to be submitted to the building owner.
14 Fees implemented with this bill would be imposed
15 no more than once a year. The scope and frequency
16 of inspections would be at discretion of the
17 Commissioner. Houses of worship, clergy and
18 kindergarten through 12th grade schools would be
19 exempt from paying fees when the premises are
20 inspected. And generally, one and two family
21 dwelling are exempt. And it's not clear from the
22 bill today where hospitals stand, and what would
23 happen to the hospitals. To implement this bill,
24 the FDNY would hire 14 civilians at an approximate
25 cost of \$930,000. Alternatively, the revenue

1
2 generated from this bill is projected to be around
3 \$8.4 million in FY'13 and \$9.9 million in FY'14.

4 Many have raised issues with this bill because the
5 Commissioner's across the board discretion
6 regarding the scope and frequency of inspections,
7 as well as the person's chosen to perform the
8 inspections. These opponents also state that this
9 bill could result in increased inspections, fines,
10 violations and penalties for building owners.

11 Representatives from the Fire Department, HPD and
12 the Department of Buildings are here to answer any
13 questions that will be raised by the Committee. I
14 look forward to hearing more details on this bill
15 from the Administration. But before we begin, I'd
16 like to recognize all my Council Members who have
17 joined us this morning: to my left, we have
18 Julissa Ferreras, we have Joel Rivera; to my
19 right, we have Council Member Lewis Fidler, we
20 have Council Member Karen Koslowitz, and Council
21 Member Fernando Cabrera. Without saying that--

22 JAMES ESPOSITO: [off mic] Good
23 morning, Chairman [pause, on mic] Okay. Good
24 morning, Chairman Recchia, and Council Members.
25 I'm James Esposito, I am the Chief of Fire

1
2 Operations. I'm joined by Steve Rush to my right,
3 our Assistant Commissioner for Budget; Julian
4 Basil, our Department Counsel; and the Chief of
5 our Bureau of Fire Prevention, Tom Jensen, he's
6 right to my left. Over the last several years,
7 the Fire Department, like all mayoral agencies,
8 has been asked to propose initiatives to reduce
9 costs or improve revenue collections to help the
10 City maintain a balanced budget. In addition to
11 facing the prospect of fire company closings, the
12 Fire Department has made significant headcount
13 reductions in fire operations continues to face
14 constraints on civilian hiring and has very
15 limited opportunity to replace critical staff.
16 Units throughout the Department are affected.
17 While we cannot predict with any certainty what
18 budget cuts may be proposed for the rest of the
19 fiscal year and beyond, we know that the City
20 continues to face a difficult financial situation.
21 Earlier this month, the Mayor asked uniform
22 agencies to proposed options to cut 2.7 percent of
23 operating budgets in the current fiscal year, and
24 four percent in the next fiscal year. The
25 inspection fee. All FDNY engine and ladder

1
2 companies conduct building inspection safety
3 program inspections of buildings within their
4 respective administrative districts. These fire
5 safety inspections are conducted on a cyclical
6 basis, depending on an assessment of the risks
7 generally associated with the type of occupancy,
8 as well as the specific use and occupancy of each
9 building, including commercial, residential,
10 manufacturing, institutional, mercantile and
11 public occupancies. The fire companies follow a
12 detailed inspection protocol in conducting such
13 inspections and assess such things as egress,
14 combustible material storage, electrical hazards,
15 and fire protection systems. Part of the adopted
16 Fiscal Year 2013 budget is a new fee that can only
17 be instituted with City Council approval for these
18 periodic BISP fire safety inspections. These
19 inspections would result in fees of \$400 for
20 buildings at or under six stories and \$500 for
21 above six stories. We expect that our fire
22 companies will perform inspections in
23 approximately 36,000 buildings annually,
24 generating approximately \$8 million in revenue
25 each year. The bill. The bill before you would

1
2 amend the City's Fire Code to provide that the
3 Fire Commissioner may require Fire Department
4 representatives to conduct inspections on a
5 periodic basis. It also sets forth the
6 occupancies that would be affected, the scope of
7 the inspections, the reporting of the results of
8 the inspections, the actions that may be taken
9 based on those results, and the schedule of fees.
10 Specifically, the bill identifies the affected
11 occupancies as any building with the exception of
12 one and two family dwellings are three
13 occupancies. The bill provides that the Fire
14 Department will determine the frequency of the
15 inspections based on the type of occupancy, the
16 size, use of the building, incidence of fire,
17 and/or other considerations relevant to the fire
18 risk presented by such buildings and vulnerability
19 of the building occupants. The bill specifies the
20 scope of the inspections as including the
21 maintenance of the means of egress, fire escapes,
22 fire separations and fire protection systems,
23 storage of combustible materials, evidence of
24 electrical hazards and/or such other requirements
25 as the FDNY determines. The bill directs that the

1
2 Fire Department will provide to the building owner
3 upon completion of the inspection proof of the
4 inspection and such other information as the Fire
5 Commissioner may prescribe. The bill provides
6 that the fire companies will take enforcement
7 action as appropriate if they observe violations
8 of the Fire Code, or other laws, rules and
9 regulations that the Fire Department enforces.
10 The bill clarifies the provisions of the bill
11 shall not otherwise limit the FDNY's inspection
12 authority, and states that the FDNY may inspect
13 any premise for the purpose of enforcing the Fire
14 Code or any other law, rule or regulation the FDNY
15 enforces, including inspections associated with
16 permits, installation and testing of systems or
17 for purposes of investigating potential violations
18 of the Fire Code. The bill amends the Fire Code
19 Appendix that sets forth the fees the Fire
20 Department charges in connection with the Fire
21 Code administration and enforcement. As just
22 stated, the new fees are either \$500 for buildings
23 more than six stories, or 75 feet in height; \$400
24 for smaller buildings. Finally, the bill
25 prohibits the Fire Department from charging the

1
2 BISP more than once a year, regardless of how many
3 times the building may be inspected during that
4 period. The bill prohibits the Fire Department
5 from charging the BISP fee to buildings classified
6 as an assembly group A occupancy by the Building
7 Code, which includes public assembly occupancies
8 used for gathering for civil, social, religious or
9 recreational purposes; or for food or drink
10 consumption or other similar activities, such as
11 theaters, restaurants, many of which already
12 receive inspections and incur a fee under the Fire
13 Code for assembly permits. Or, from charging the
14 BISP fee to premises used and owned or operated by
15 religious or educational institutions. The
16 effective date of the law would be 90 days from
17 enactment, provided however that the Fire
18 Commissioner may promulgate rules and take all
19 other actions necessary for the implementation
20 this law prior to such effective date. And once
21 again the reasons to support the bill. While this
22 is a revenue enhancement bill, the local law does
23 promote public safety. With the BISP inspections,
24 fire companies enforce compliance with the Fire
25 Code, as well as building code provisions that the

1
2 Fire Department is authorized to enforce. They
3 serve to ensure that among other things, required
4 means of egress, fire separations are maintained,
5 and that sprinkler systems are operational. The
6 inspections also serve to identify any unsafe
7 conditions that might require buildings to be
8 vacated, as well as unlawful occupancies and
9 alterations that are reported to the Department of
10 Buildings. The inspections further serve to
11 familiarize firefighters with conditions that they
12 could encounter during a fire or emergency.
13 Typically, the fire companies inspect higher fire
14 risk and/or higher vulnerable occupancies on a
15 annual basis. The less vulnerable buildings are
16 inspected once every two, three, four or five
17 years, with the frequency dependent upon available
18 time and department resources. The Fire
19 Department is in the process of developing a
20 sophisticated, computerized, risk-based inspection
21 program called RBIS, or the Risk Based Inspection
22 System. When finalized, RBIS will enhance the
23 Fire Department's ability to maximize the benefit
24 and efficiency of building fire safety
25 inspections. RBIS is ready for citywide rollouts

1
2 starting next month. These general building fire
3 safety inspections provide a benefit to property
4 owners, as well, by helping to ensure that
5 buildings are maintained and operated in a safe
6 and lawful manner, and thereby reduce the
7 building's risk of fire. It is anticipated that
8 the free authorized by this local law for these
9 inspections would annually generate approximately
10 \$8 million in revenue. This would help ensure the
11 continued provision of essential fire safety
12 services in New York City. So, in conclusion, I
13 thank the Committee and the entire City Council
14 for their ongoing support and I'd be happy to take
15 your questions at this time.

16 CHAIRPERSON RECCHIA: Thank you
17 very much. Before we start asking questions,
18 we've been joined by Council Member Al Vann.
19 Before I got into a lot of questions, but before I
20 go into that, I'm going to give my colleagues an
21 opportunity to ask questions first. But I just
22 have one question in regards to this. According
23 to not-for-profits being exempt and so forth,
24 where do hospitals stand under this bill?

25 JAMES ESPOSITO: The hospitals, I--

1
2 would incur a fee. We inspect hospitals annually,
3 some of them are very major hospitals here right
4 in Manhattan. And they do take a significant
5 amount of resources and time to inspect.

6 CHAIRPERSON RECCHIA: And how much
7 would their fee be?

8 JAMES ESPOSITO: According to the
9 bill, if the structure itself is above six
10 stories, it would incur a \$500 fee; and if it is
11 below six stories or 75 feet, it would incur a
12 \$400 fee.

13 CHAIRPERSON RECCHIA: And so even
14 if a hospital is a not-for-profit, they still will
15 incur this fee?

16 JAMES ESPOSITO: Yes, that is
17 correct. [background comment] I'm--go ahead
18 Steven.

19 STEPHEN RUSH: In 2009--

20 CHAIRPERSON RECCHIA: Just identify
21 yourself.

22 STEPHEN RUSH: Steve Rush,
23 Assistant Commissioner for Budget and Finance. In
24 2009, there was legislation enacted as part of
25 budget adoption that removed the exemption for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

nonprofits and charitable institutions from fire prevention inspection fees.

[pause]

CHAIRPERSON RECCHIA: And so, just so we're clear, the hospitals now pay a fee for the ambulance that FDNY never charged before--

JAMES ESPOSITO: Not as of yet.

CHAIRPERSON RECCHIA: And now-- what?

JAMES ESPOSITO: That has not been enacted yet, but that's contemplated, but it hasn't happened yet.

CHAIRPERSON RECCHIA: But it's being contemplated to be enacted, and now we're going to charge them more fees on, for this. Okay. I'll follow up. First we have Lew Fidler-- Cabrera first, and then Council Member Lew Fidler.

COUNCIL MEMBER CABRERA: [laughs]
Thank you so much. Thank you so much, Chair.
Welcome. First, let me just state that I understand the necessity for these inspections, they are crucial. But I am very concerned about the nonprofits being charged. As it is, just a few months ago, the Mayor put forth for garbage

1
2 removal for nonprofits to be charged for garbage
3 removal. That was \$23 million worth of revenue
4 that is being drawn out, during a time when
5 nonprofits cannot afford to lose a penny. As a
6 matter of fact, the--many of these nonprofits are
7 operating at 75 percent capacity in terms of their
8 revenue, some of them are 50 percent. I have a
9 very difficult time supporting this bill, as long
10 as the nonprofits are going to be listed. So, let
11 me ask you a question: how many nonprofits are
12 being inspected right now?

13 JAMES ESPOSITO: There are
14 thousands of inspections of--

15 COUNCIL MEMBER CABRERA: Do you
16 know how many thousands of those and how much - -

17 JAMES ESPOSITO: [interposing] I
18 wouldn't give you a number offhand, but annually
19 the revenue associated with nonprofit inspections,
20 which is essentially recovering the cost that, of
21 our inspections--

22 COUNCIL MEMBER CABRERA: I would
23 really like--

24 JAMES ESPOSITO: --about \$3
25 million.

1
2 COUNCIL MEMBER CABRERA: About \$3
3 million?

4 JAMES ESPOSITO: Yes.

5 COUNCIL MEMBER CABRERA: I would
6 really like to know how many, if you could give us
7 that, that information, I think that's crucial.
8 Let me just share an overall picture, as someone
9 who pastors the church, as well, and I thank you
10 for not including the houses of worship,
11 synagogues, mosques, churches, Bahá'i temples and
12 so forth, for that consideration. But please
13 understand that many of these organizations, for
14 example, your PA, right now for your public
15 assembly, if a nonprofit for some reason for
16 another, doesn't have their PA certificate, and it
17 wasn't in the Buildings Department, right now the
18 Fire Department makes those nonprofit go and go
19 back to an architect, pay \$13,000-\$14,000, maybe
20 even more, and carry that weight. I mean, I just
21 see that this piling up of costs and costs and
22 costs to be carried by these nonprofit, and that
23 makes me, again, very nervous. How much do you
24 charge for boiler inspection right now?

25 JAMES ESPOSITO: A boiler

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

inspection would be approximately, it be up to
\$105 an hour. [background comment] Yeah.

STEPHEN RUSH: \$90 to \$105.

COUNCIL MEMBER CABRERA: And what's
the average per organization?

JAMES ESPOSITO: About \$105 is the
average.

COUNCIL MEMBER CABRERA: So usually
it's just one hour inspection?

JAMES ESPOSITO: That's for the
half hour. 30 minutes.

COUNCIL MEMBER CABRERA: 30
minutes, okay. Very good. In terms of, and I
just have two quick questions here ... in terms of
the timeframe, the legislation is silent on the
timeframe, that the proof inspection must be
provided to the building owner, once the
inspection is completed. Can you let us know
what's the timeframe for them to get proof, in
case they need to, there's a dispute?

JAMES ESPOSITO: We're currently
contemplating that would be sent out as part of
the bill, bill notice.

COUNCIL MEMBER CABRERA: Okay. And

1
2 my last question: are you not double, is there
3 going--is there going to be a perception, or the
4 reality, actually, of double dipping in terms,
5 let's say the Buildings Department and other
6 agencies who, who may come and charge a fee for
7 other things that they're going to be inspection,
8 at times. Would there be the potentiality for
9 that?

10 JAMES ESPOSITO: In general, there
11 are fire prevention specific inspections conducted
12 by the Bureau of Fire Prevention, which are for
13 more specialized inspections. The fire prevention
14 inspection conducted by the field units, is more a
15 generalized inspection looking for hazards. There
16 is potential for some duplication but we don't see
17 much of it as part of the ongoing duties for the
18 fire inspection units by the field units.

19 COUNCIL MEMBER CABRERA: Okay, very
20 last question here, and I'll close. You just
21 sound very passionate about this. You're talking
22 about for nonprofit and getting back to the
23 nonprofits. \$3 million, what would be the
24 overall, in terms of all the organizations put
25 together, in terms of their revenue, if you were

1

2 to include the nonprofits, for profits, how much
3 are we talking about?

4

JAMES ESPOSITO: Our fire
5 prevention revenue is approximately \$60 million;
6 that offsets the cost of the Bureau. So, it pays
7 for the sal--it funds the salaries of the
8 inspectors, that are providing Fire Code
9 enforcement, that's keeping the City safer.

10

COUNCIL MEMBER CABRERA: What kind
11 of an impact you will have if you didn't have this
12 \$3 million? Could you still be able to operate?

13

JAMES ESPOSITO: It depends on the
14 budget that's funded for the Fire Department. You
15 know, we're advised that we have to come up with
16 targeted reductions because obviously they're
17 saying that our budget cannot be funded to the
18 levels that it's at. Given those choices, we
19 need, we need to find ways to say costs that we're
20 providing, inspection, services we're providing at
21 no charge we can no longer do that.

22

COUNCIL MEMBER CABRERA: Okay, I
23 will respectfully request that nonprofits will not
24 be incl--I'm not prepared to vote for this unless
25 the nonprofits are removed. Thank you so much,

1

2 keep doing the great work that if the Fire
3 Department's doing. We do have the very best in
4 the world. Thank you.

5 CHAIRPERSON RECCHIA: Before we go
6 forward, I'd like to recognize we've been joined
7 by Council Member Gale Brewer. Okay. Just a
8 follow up on one question, on the hospital
9 questions, before, is you said that if the
10 hospital has six stories or more, it'll have to
11 pay a fee of \$500, okay? Now, is that per
12 hospital or is that per building? 'Cause some
13 hospitals have more than one building.

14 JAMES ESPOSITO: Yeah, that would
15 be per building.

16 CHAIRPERSON RECCHIA: Per building.
17 Okay.

18 JAMES ESPOSITO: Yeah, per
19 structure.

20 CHAIRPERSON RECCHIA: All right.
21 Council Member Lew Fidler, who will then be
22 followed by Council Member Gale Brewer.

23 COUNCIL MEMBER FIDLER: Thank you,
24 Mr. Chairman, and I want to thank the panel for
25 being honest with us ,and referring to this a

1

2 revenue enhancement program. And I forget the
3 exact words that you used in responding to Council
4 Member Cabrera, but clearly this is part of, or if
5 not your entire November PEG proposal. Is that
6 accurate?

7

JAMES ESPOSITO: I would say, we're
8 trying to plug a hole, yes.

9

COUNCIL MEMBER FIDLER: Okay. And
10 you know, look, I have expressed my opinion about
11 the size of the PEG proposal made the Mayor
12 already as being a red herring, it's, you know,
13 it's really largely unnecessary, what we need to
14 do is come to a responsible solution to the outer
15 borough taxi plan that allows the sale of the
16 medallions, and of course the November PEG plan
17 would not entirely disappear, but virtually
18 disappear, and so I can say for one thing, until
19 that issue's resolved, I'm not prepared to vote
20 for any, any unnecessary PEG. Is there, I think
21 you were also pretty honest about this: there is
22 absolutely no new service being provided in this
23 bill, just new fees.

24

JAMES ESPOSITO: That is correct.

25

COUNCIL MEMBER FIDLER: So there's

1

2 no particular benefit to property owners or
3 taxpayers as a result?

4 JAMES ESPOSITO: No. To be honest,
5 we are out there right now doing the building
6 inspection program that--

7 COUNCIL MEMBER FIDLER: Okay. And-
8 -

9 JAMES ESPOSITO: --that's required.

10 COUNCIL MEMBER FIDLER: So, in
11 effect, the only benefit that will be received
12 here is you making your November PEG.

13 [background comments]

14 JAMES ESPOSITO: Well, the BISP
15 program is a service to the public. We are out
16 there.

17 COUNCIL MEMBER FIDLER: But you're
18 doing it already, I mean--

19 JAMES ESPOSITO: We're doing it
20 already, but--

21 COUNCIL MEMBER FIDLER: You're just
22 codifying what you're doing already in the rest of
23 the bill, and the only new thing is the fee.

24 JAMES ESPOSITO: Without the fee,
25 we may have to reduce that service.

1
2 COUNCIL MEMBER FIDLER: Well, you
3 know, that's kind of, you know, looking at it as
4 if the Fire Department isn't connected to the
5 entire rest of the government of the City of New
6 York. You know, to suggest that if you're not
7 able to generate this \$8.4 million, and I assume
8 that figure is net of the additional cost of the
9 14 civilian employees you'd be hiring, if you're
10 not able to collect that, you know, either, you
11 know, something else in the budget could be cut, I
12 mean, you know, OMB doesn't get to make this
13 decision in a vacuum, right. I mean, you know,
14 something, maybe we could cut, you know, services
15 in another department, maybe we don't need to cut
16 services. Maybe we could raise revenue elsewhere.
17 But, you know, you're telling me you've been
18 directed already to have a cut of how much?

19 JAMES ESPOSITO: This is, just to
20 be clear, this was part of last year's budget
21 reduction program. And it is, was part of the
22 budget adoption that is already--this revenue
23 number, approximately \$8 million, is already in
24 the 2013 budget.

25 COUNCIL MEMBER FIDLER: And so

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

what's your additional PEG for November?

JAMES ESPOSITO: We have a, we have an additional PEG that totals about \$70 million for FY'13. FY'14, I'm sorry.

COUNCIL MEMBER FIDLER: And how do you intend to meet that?

JAMES ESPOSITO: We're working on various initiatives with the Office of Management and Budget and the Mayor's Office.

COUNCIL MEMBER FIDLER: Okay. Well, look, I, I think there's a very fine line between fees and taxes. And I think this is a tax, it's not a fee. And I have a real problem with this. I'm not only concerned about not-for-profits, I'm concerned about the for profits, the people who own buildings in the City that are already being stressed to an extraordinary degree. And again, I would say that there's about \$1.35 billion of revenue that is sitting on the table while everyone, you know, huffs and puffs about not moving off their position on the taxi medallions, the outer borough taxi issue, and that is just unacceptable to me. And I cannot see, I cannot see under any circumstances voting for this

1

2 bill, with our without not-for-profits, with or
3 without anybody else, until we've resolved the
4 larger issue, and then we get down to these micro-
5 issues, which to me is nothing more than a tax.
6 So, thank you.

7

CHAIRPERSON RECCHIA: Thank you,
8 Council Member Fidler. Council Member Gale Brewer

9

COUNCIL MEMBER BREWER: Thank you.
10 I certainly appreciate your honesty, also, and
11 agree with my colleagues. My question is, now,
12 when you have, in Manhattan we have a lot of joint
13 buildings which are both nonprofit and for-profit.
14 So, how does that work in terms of you would
15 assess in the future? In other words, I--how does
16 that work in terms of future assessments? How
17 would it work? When you have a nonprofit and a
18 profit?

19

JAMES ESPOSITO: The fee, the fee
20 will be levied on the building owner.

21

COUNCIL MEMBER BREWER: The lead
22 owner, okay.

23

JAMES ESPOSITO: That's correct.

24

COUNCIL MEMBER BREWER: So it
25 doesn't matter that there's a nonprofit that is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

habitating and renting or anything like that.

JAMES ESPOSITO: That's correct.

COUNCIL MEMBER BREWER: Okay, and the other question that I have is how--how much would a--I agree that, I could not support this bill, but is there any fire safety reason to do this revenue enhancement? Or is it just a revenue enhancement?

JAMES ESPOSITO: Essentially, as we stated earlier, we were given budget targets to reduce our budget because funding's not, not funding is possibly not available. Next year's budget we're facing the closing of 20 fire companies again. So we're trying to avoid operational reductions, even though we're facing significant operational reductions already, we face significant headcount reductions, reduce the staffing and fire companies. We've taken a lot of steps, we're looking at, now we're looking at cost recovery for services that we provide that we think are a benefit to the public. We understand we never charged for those services before, but from our position, what we're being advised that we need to come up with, these are things we have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to look at.

COUNCIL MEMBER BREWER: Okay, I understand your perspective, but I understand also that, as my colleagues indicated, is a very hard time for individuals who are trying to-- particularly on the smaller side, make the, either the staffing for the nonprofits or the revenue for the individual building. Thank you very much, Mr. Chair.

CHAIRPERSON RECCHIA: Are you finished, Council Member Brewer? All right. Council Member Karen Koslowitz.

[pause]

COUNCIL MEMBER KOSLOWITZ: So, in essence, what you're saying is that places of worship will be charged, because many of them have not-for-profits in their establishments, because costs are down.

JAMES ESPOSITO: If the, if it is a house of worship, there is no fee that will be charged.

COUNCIL MEMBER KOSLOWITZ: If there's a senior center in the--

JAMES ESPOSITO: If the predominant

1

2 use is as a house of worship, then there's no fee
3 charges. It's predominate use of the facility,
4 that's been codified in the law already.

5 COUNCIL MEMBER KOSLOWITZ: How do
6 you define predominant?

7 JAMES ESPOSITO: Our inspection,
8 our inspectors would go out there and make an
9 inspection. And they would make, they would give
10 us a review of that.

11 COUNCIL MEMBER KOSLOWITZ: So
12 there's nothing in your laws or rules--

13 JAMES ESPOSITO: It's the
14 predominant use or occupancy of the building. And
15 often we would use the Department of Building's
16 records to identify that.

17 COUNCIL MEMBER KOSLOWITZ: Okay,
18 well, that's--I would have a hard time with this
19 bill, as well.

20 CHAIRPERSON RECCHIA: You finished,
21 Councilman? Okay. Does any other Council Member
22 have questions? We've been joined by Council
23 Member Liz Crowley. Okay. I'm just going to
24 follow up on one thing you said about your
25 statement about funding. If you do, if this bill

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

doesn't pass, will the FDNY have to reduce inspections because you didn't get this fee?

JAMES ESPOSITO: No, not immediately.

CHAIRPERSON RECCHIA: And the 14 additional civilians that you were going to hire to implement this program, did you hire those people yet?

JAMES ESPOSITO: No, we did not.

CHAIRPERSON RECCHIA: No, okay. And if you do not get his fee, would you have to, 'cause you have an incoming fire class, correct? That's coming? Yes. And would you have to cut the number of new firefighters coming in that first class?

JAMES ESPOSITO: No, we need firefighters right now, we're down over 600.

CHAIRPERSON RECCHIA: Okay.

STEPHEN RUSH: There would be, there would be, however, and \$8 million revenue gap in our budget--

CHAIRPERSON RECCHIA: Gap, right, and that's why I'm just trying to figure out how you'd make that up. You know, In addition to

1
2 that, in the bill, you know, you classify certain
3 buildings as A, B, C, D and E. Right? Could you
4 explain how an A building, a B building--

5 JAMES ESPOSITO: That's the current
6 system we use, it's based on a life hazard and
7 risk to the occupancy in the building. For
8 example, a manufacturer using a combustible glue,
9 employing over 25 employees, perhaps would be an A
10 building, where you know, we have a combustible
11 that is inside of a structure that could burn,
12 with a significant life hazard. Similarly, any
13 school or building holding a large number of
14 children, for example, that, too, is an A
15 occupancy under, under the current system, the
16 rules and guides that we have in our books right
17 now; whereas, a, for example, a three story
18 multiple dwelling that has no history of any type
19 of previous fires and we have no violations
20 associated with that building, that building would
21 be classified as an E building, requiring an
22 inspection once every five years, as opposed to
23 the A buildings, the more, I guess, the buildings
24 that are prone to more serious fires and
25 consequences in the event of a fire, they would

1
2 require inspections once every year. So we're
3 trying to minimize the risk throughout the City by
4 these fire prevention inspections.

5 CHAIRPERSON RECCHIA: And--and the,
6 is it true, and that the fire commanders would
7 have total discretion to determine which buildings
8 get--

9 JAMES ESPOSITO: Well, right now we
10 do, right now we're out there, and we do classify
11 our buildings accordingly. We have the set of
12 documents, a set of rules, and the guidelines that
13 we follow, in making those determinations. And
14 buildings are placed in those A through E
15 categories right now. However, as I mentioned in
16 the testimony, we are in process of moving to a
17 computerized RBIS system, risk based analysis,
18 where it's capturing different databases and
19 assisting more accurately with these risks
20 associated with occupancies in buildings. And it
21 will generate the inspections accordingly.

22 CHAIRPERSON RECCHIA: You know--in
23 addition to that, you know, it's unclear what new
24 services will be performed that would warrant this
25 new fee. I'm very--I don't see it. You know what

1
2 I mean? Because if there are no new services,
3 then one could argue that this charge being
4 imposed is a tax and not a service fee. So, could
5 you tell us what new services are being done that-
6 -

7 JAMES ESPOSITO: We acknowledge
8 that the services are services we've always
9 provided, although they will be improved with the
10 RBIS program; however, again from the Fire
11 Department's perspective, we're being told our
12 budget has to be reduced by a certain amount of
13 money. Ultimately, that's decided by the Council
14 and the Mayor. But given our mandate to reduce
15 costs, we look at operational costs, and as you
16 know, 20 companies have been on the table for
17 several years now. We don't want to look at
18 further operational cuts. So we're looking at
19 cost recovery. And this simply is saying if the
20 revenues do not, are not matching what the
21 expenses are, then obviously the tax revenue isn't
22 covering. I can't speak to what happens at the
23 higher level, but I'm just speaking for the Fire
24 Department.

25 CHAIRPERSON RECCHIA: No, no, no, I

1
2 understand, that's the budget. But you've come
3 forward and say now we're going to impose this
4 fee, okay, and for new services that we will
5 perform. What I'm asking you is not about the
6 money, I understand all about the money, but what
7 new services are going to be performed, in order
8 to charge this additional fee and because one
9 could argue, one could bring a lawsuit, say, "This
10 is not a fee," you're already doing this. So if
11 you're already doing it, you just never charged
12 for it, and you just, you can't just now charge
13 for it, you have to say what I'm doing now is
14 different, and what's new about it, because one
15 could argue that it's really a tax, it's not a
16 fee.

17 JULIAN BASIL: Julian Basil--

18 CHAIRPERSON RECCHIA: I'm just
19 trying--

20 JULIAN BASIL: Counsel--

21 CHAIRPERSON RECCHIA: I'm just
22 trying to get--it is a, you know, clarification on
23 this.

24 JULIAN BASIL: Yeah, I think that's
25 why this is being presented as a local law, in the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

sense that right now the Fire Code sets forth a variety of inspectional, of Code requirements, and which are associated with annual inspections.

CHAIRPERSON RECCHIA: Before you go on, could you just identify yourself - -

JULIAN BASIL: [interposing] Yeah, I'm sorry, Julian Basil, Counsel to the Department. Right now the Fire Code sets forth a variety of Code requirements and there are fees associated with annual and other inspections, of, for you know, testing of systems, witness systems, periodic inspections, permit inspections and so forth. What we are doing here is proposing a local law that proposes that there be now something called a general fire safety inspection, which is congruent to the ongoing inspection programs that's being performed by our fire companies, and establish a fee for that. So this is essentially, as I think one of the other members correctly stated, this is codifying an existing practice and making it essentially a code requirements, with an associated inspection fee. So that's really what we're doing, we're structuring an existing inspection program, but it

1
2 has been structured as a fee for service type fee,
3 rather than a general tax, which is unrelated to
4 any specific service, i.e., inspection that's been
5 conducted.

6 CHAIRPERSON RECCHIA: Before
7 implementing this and proposing this bill, did you
8 or anyone ask the Law Department to render an
9 opinion or a decision on this?

10 JULIAN BASIL: The Law Department
11 has reviewed this and approved it as to form. And
12 reviewed any legal issues associated with it.

13 CHAIRPERSON RECCHIA: Did they do
14 that orally or in a memo?

15 JULIAN BASIL: I'm not aware of
16 anything that's in writing. But they, you know,
17 they do certify it as to form when they transmit
18 it to the Mayor's Office for introduction, is my
19 understanding.

20 CHAIRPERSON RECCHIA: But do they
21 certify it as to the content of it, just not the
22 form.

23 JULIAN BASIL: Well, I don't know
24 if I can speak for the Law Department, exactly,
25 but I, my understanding is--

1
2 CHAIRPERSON RECCHIA: Yeah, 'cause
3 we asked the Law Department to be here today, but
4 unfortunately for some reason they - -

5 JULIAN BASIL: [interposing] It is
6 my understanding that if, when they review
7 legislation they make sure that it is lawful and,
8 you know, it wouldn't violate any state or other
9 laws.

10 CHAIRPERSON RECCHIA: 'Cause this
11 has been brought to us by several people who are
12 opposing this, that this is a tax, it's not new
13 services, there's nothing being addition services,
14 and therefore, legally you cannot do this, without
15 calling it a tax, and not a fee I position. So,
16 there's a big issue that has to be clarified. And
17 that's why I asked if there was a written
18 memorandum on this or opinion from the Law
19 Department, that could clarify this for me and of
20 course we're trying to look into this right now.
21 Council Member Fidler has additional questions.

22 COUNCIL MEMBER FIDLER: Yeah, and
23 again I want to thank this panel for their uniform
24 honesty here and, you know, I have to tell you I'm
25 just a humble country lawyer, but it sure sounds

1
2 to me like the record here is very clear, that
3 whether you are creating it by local law, by
4 regulation, merely attach your name to a service
5 that's already provided, and not changing the
6 service, kind of supports the argument that it's a
7 tax not a fee, and I think the record is pretty
8 clear about that. I wanted to follow up actually
9 on a question that, an answer you gave to Council
10 Member Koslowitz, about going into say a house of
11 worship that has a senior center and at an
12 inspection, deciding whether or not it's
13 predominant use was as a house of worship or as a
14 senior center. So, let's say you have a building
15 and service are a half an hour every day, except
16 for one day a week where maybe they're four or
17 five hours, but you have a senior center that's
18 open for eight hours a day, five days a week. In
19 that hypothetical, what would the predominant use
20 of the building be?

21 JAMES ESPOSITO: As I stated
22 before, we look at the Department of Buildings and
23 the certificate of occupancy on the building, and
24 that would pretty much determine whether or not
25 it's, you know, a house of worship or other.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

COUNCIL MEMBER FIDLER: So then your answer that it would be dependent upon the inspection isn't exactly accurate, because you can get the certificate of occupancy without going to the premises, you know, in advance.

JULIAN BASIL: Yeah, let me just clarify that. Obviously, the certificate of occupancy is sort of where you start your analysis. You know, if the building is not classified as a house of worship that raises some questions right from the start. But I think--

COUNCIL MEMBER FIDLER: As it should.

JULIAN BASIL: --the typical situation is, you know, sort of you know it when you see it, you see a house of worship, it's designed and arranged as a house of worship. It's used as a house of worship. That's pretty clear. I think the issues tend to arise when there are ancillary buildings which, you know, may be separate, may have separate structures or, you know, separate facilities. And that's where you start to get into the issue, "Now, is this part of the house of worship or is this now, say like a

1
2 school, next to a, now a school will have a
3 separate exemption, but there may be other
4 ancillary facilities whereas typically the house
5 of worship, which may have other activities going
6 on in it for at various times of the day is it's
7 not generally considered to be a different build--
8 a different use. You know, I'm going to ask you
9 one more time to respond to my hypothetical. But
10 I just want to point out to you that, you know,
11 sometimes there's communities and demographics
12 change, congregations in a particular house of
13 worship, you know, may dwindle, and with them
14 their financial ability to remain open. And so
15 they may be dependent upon something like having a
16 senior center paying rent in their building, or
17 perhaps a youth program paying rent in their
18 building. And then if you classify them as
19 something other than what the certificate of
20 occupancy says, you're just, you know, shoving
21 another nail into the coffin of their finances by
22 asking them to pay because now you've got a senior
23 center and a youth program in there, and your
24 congregation may not support daily prayer anymore,
25 but only perhaps weekly prayer. So, I would once

1

2 again ask you if you could, in that context,
3 assuming the C of O says house of worship, what
4 would your answer be to that hypothetical? Would
5 it be, would it continue to remain exempt as a
6 house of worship or would you see it as ancillary?

7

JULIAN BASIL: Based on your
8 hypothetical, it sounds like, it appears that
9 would be feeable.

10

COUNCIL MEMBER FIDLER: It would be

11

feeable.

12

JULIAN BASIL: Yes.

13

COUNCIL MEMBER FIDLER: Okay, so,
14 you know, I mean, look, you unfortunately, you
15 didn't have me at hello on any of this, but I
16 would have to say to you that you will probably
17 push a dozen religious institutions into
18 nonexistence when you start to tack on this fee.
19 Because it's exactly those that are teetering on
20 the brink that are most desperate to have those
21 other uses in addition to their ability to remain
22 open as a spiritual center and a house of prayer.
23 I just think, you know, look, I don't blame you
24 guys, I understand that this is something that's
25 been thrust upon you, by OMB, and by the

1
2 circumstances that they perceive the City to be
3 in. I just think this is just the wrong, wrong
4 thing to do on so many different levels. And when
5 you add, you know, and I thank you again for your
6 honesty, you add your answer to that hypothetical,
7 I'm surer than ever that I couldn't vote for this.
8 Thank you.

9 CHAIRPERSON RECCHIA: Thank you.
10 Council Member Liz Crowley.

11 COUNCIL MEMBER CROWLEY: Thank you,
12 Chair. Good morning. It's likely that many
13 building owners wouldn't let you into the
14 premises, if more fines were going to be incurred
15 or if there's no clear timeframe of how often a
16 building will be visited. Has that been taken
17 into consideration?

18 JAMES ESPOSITO: Yes, of course
19 that's a possibility, but it would be unwise
20 because of the good that the safety inspection is,
21 you know, for not only the occupants of the
22 building, but for the entire community. But you
23 know, you raise a valid point.

24 COUNCIL MEMBER CROWLEY: So--

25 JAMES ESPOSITO: We thought about

1

2 it, but I don't know how much, I don't know how
3 much of a problem it would actually be.

4 COUNCIL MEMBER CROWLEY: I could
5 foresee that as a problem. That building owners,
6 many who are operating small businesses, or are
7 already getting taxed and fined by the City, so
8 much so that they're not likely to currently let
9 health inspectors in. And I could see them doing
10 the same thing; thereby, making it more dangerous
11 a building by not letting fire inspectors in.
12 Currently, the fines that building owners receive
13 for not being fire code, do we know how much is
14 generated every year?

15 JAMES ESPOSITO: In, notices of
16 violations, the, approximately from the Fire
17 Department's, \$11-\$12 million.

18 COUNCIL MEMBER CROWLEY: And does
19 that go into the Fire Department's budget?

20 JAMES ESPOSITO: Fire Department
21 does receive a credit for that, and it's part of
22 the Fire Department's annual revenue, yes.

23 COUNCIL MEMBER CROWLEY: Would this
24 plan have less firefighters inspecting buildings?
25 And more civilians?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STEPHEN RUSH: No, not necessarily.

COUNCIL MEMBER CROWLEY: But there's a plan to hire more civilians to ensure that this program moves forward.

JAMES ESPOSITO: The back office operation to make the program work, not the inspection function.

COUNCIL MEMBER CROWLEY: Has the FDNY considered any other revenue generated ways other than putting this inspection fee in?

JAMES ESPOSITO: There have been other proposals but this is the bill before you.

COUNCIL MEMBER CROWLEY: No more questions, thank you.

[pause, background noise]

CHAIRPERSON RECCHIA: And when, when you do these inspections, right, am I correct in saying that the number of violations would increase?

JAMES ESPOSITO: No.

[background comments, laughter]

CHAIRPERSON RECCHIA: Okay. I'm sure there are people in this room who disagree with you. You know, 'cause you're talking about

1

2 the fee, also, but it's just not the fee, it's
3 also the violations. Now, you're going to hire--
4 you know, the fees charged on this bill, you know,
5 are performed by the FDNY, but you're going to
6 hire other people, civilians, to do these
7 inspections, also.

8

JAMES ESPOSITO: No, that's not
9 correct, the civilians that, there is a separate
10 bureau, the Bureau of Fire Prevention, that does
11 inspections, but the civilians will be hired for
12 more of the back office operations to make the
13 billing end of this work.

14

CHAIRPERSON RECCHIA: So, these 14
15 people will not be, they'll be doing the back
16 office paperwork?

17

JAMES ESPOSITO: Right. And it's
18 probably, we were, as we reassess the program,
19 assuming this legislation was approved, we
20 probably would need no more than six individuals,
21 we've reassessed how it works, so we think we can
22 make savings on the expense side, as well.

23

CHAIRPERSON RECCHIA: So, and the
24 fire inspectors that you have now, would you
25 increase them?

1

2

JAMES ESPOSITO: Not related to
this function, no.

4

[pause]

5

6

CHAIRPERSON RECCHIA: What is the
protocol for revisiting certain properties
following the initial inspection?

7

8

9

10

11

12

13

JAMES ESPOSITO: If a property is
clean, there's no reason to go back. And
depending on the category the building is in, A
through E currently, we would revisit the building
in a year, two years, three years, four years or
five years.

14

15

CHAIRPERSON RECCHIA: But let's say
if it's not clean.

16

17

18

19

20

21

JAMES ESPOSITO: Well, we have to
go back and reinspect the violation that we
uncovered to ensure that it was corrected. Or, we
do have the NOV which could be issued in certain
situations, and that is the self-certification
process.

22

23

CHAIRPERSON RECCHIA: Self-
certification.

24

JAMES ESPOSITO: Right.

25

CHAIRPERSON RECCHIA: Right. And

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

over the years, have the number, you know, do you see that number increasing, decreasing?

JAMES ESPOSITO: Yeah, it certainly hasn't declined; if anything, they have increased. I don't have the exact numbers available, but they are considerable.

CHAIRPERSON RECCHIA: And how many notices of violations or violation orders to fire companies issue during the course of a general building fire safety inspection?

JAMES ESPOSITO: I have a schedule here, in 2012, I have 146,000 inspections conducted. We issued almost 7,000 violation orders, 3,500 NOVs, close to 400 summonses, and we referred, as we call them, they're referrals that belong under the jurisdiction of another agency, which is generally the Department of Buildings 2,100 times.

CHAIRPERSON RECCHIA: And is it true that building owners pay \$11-\$12 million for NOVs each year that are issued during the general building fire inspections?

JAMES ESPOSITO: These are for notices of violations of which are violations of

1
2 the Fire Code. We think our program of the field
3 units and fire prevention has done a lot to
4 improve fire safety in the City, I would think.
5 And these violations are an important part of
6 improving compliance.

7 [background comment, pause]

8 CHAIRPERSON RECCHIA: But I asked
9 you about the number, \$11-\$12 million.

10 JAMES ESPOSITO: Yes, in the Fire
11 Department's budget, then there are arrears
12 collection in the Department of Finance, which can
13 total another \$6 million related to fire
14 prevention fines.

15 CHAIRPERSON RECCHIA: And you say
16 in the City, do you mean Manhattan, or is that all
17 the five boroughs?

18 JAMES ESPOSITO: Five boroughs.

19 CHAIRPERSON RECCHIA: And [pause]
20 so, each commander, it's up to their discretion,
21 on what buildings to inspect and how often.

22 JAMES ESPOSITO: Originally, the,
23 you know, many, many years ago, when the program
24 was rolled out, uh, yes, it was a decision based
25 on a profile. And using that profile, uniformly

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

throughout the City, depending on the risk of the occupancies and the specific dominant use of the buildings, the certificates, we would categorize them accordingly.

CHAIRPERSON RECCHIA: And when was the last time that list was updated or revised?

JAMES ESPOSITO: Actually, every time we go out to do a building, we do research on the building, we use various databases in Department of Buildings, HPD, we look at our files, we look to see if there was any fire related activity. With respect to violation orders issued to the building or fires that may have occurred in the building, and it's done as we conduct an inspection, right now, on an annual basis, through the five year basis, depending on the building.

CHAIRPERSON RECCHIA: Now, I'm looking through some data that my staff put together. I'm just like, just amazing how in Community Board One in Staten Island, they have the most inspections of their small buildings than any other borough. You know. [background comments] This is ... [pause] And when I look

1

2

...

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

JAMES ESPOSITO: Yeah, they had a, let me see. Inspections. Mm. Yeah, we have a program specific to each borough, targeting specific hazards. There's a construction practice using lightweight construction, particularly dangerous in the event of a fire. And we're out there ensuring that contractors are putting proper fire protection in this lightweight construction, to prevent fire spread. A lot of this lightweight construction would collapse in one minute or two minutes, in the event of a fire, and our units out there under the auspices of the division commander, put a program in place and it's continuing, all private dwellings under construction, basically are receiving inspections, to make sure that this fireproofing and the construction process is as per the manufacturer's requirements.

CHAIRPERSON RECCHIA: They must be doing a lot of construction in Community Board One. They have over 1,500 inspections.

JAMES ESPOSITO: Again, you brought the question up, so I was just, you know--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRPERSON RECCHIA: Yeah, no, no, I just, I'm just curious to know--

JAMES ESPOSITO: --trying to come up with an answer.

CHAIRPERSON RECCHIA: No, I know, I just, you know.

JAMES ESPOSITO: Yeah.

CHAIRPERSON RECCHIA: Just amazed here when I look at this. All right, out of the 146,000 inspections, how many were for general inspections, which is the scope of this bill.

JAMES ESPOSITO: Yeah, I think they were all, you know, general inspections.

CHAIRPERSON RECCHIA: And how many NOVs for the general inspections?

[pause, background noise]

JAMES ESPOSITO: I guess it was 3,500.

CHAIRPERSON RECCHIA: 3,500.

JAMES ESPOSITO: That was in Fiscal Year '12.

[pause, background noise]

CHAIRPERSON RECCHIA: And what did that amount to?

1

2

JAMES ESPOSITO: I couldn't tell
you that .

3

4

5

CHAIRPERSON RECCHIA: Couldn't
tell. You think you could follow up with us? Go
back and see if you could follow up with that.

6

7

JAMES ESPOSITO: We'll take a look.

8

9

CHAIRPERSON RECCHIA: All right.

10

I'll put it to you in writing. If this new bill
was to be implemented, this would be like surprise
visits, there still wouldn't be any notices?

11

12

JAMES ESPOSITO: Yeah, generally we
don't make prearrangements, but I used to be the
Manhattan Borough Commander and, you know, we have
a lot of commercial occupancy over there,
especially the restaurants, and so on and so
forth, and we would try to make prearrangements
with the folks over there, they're very
cooperative and we wouldn't want to hit 'em at
their busy, active lunch hour, for example, you
know, we'd wait--

13

14

15

16

17

18

19

20

21

22

COUNCIL MEMBER BREWER: Unlike the
Health Department.

23

24

JAMES ESPOSITO: Yeah, well. Yeah,
but the inspections are generally unannounced, we

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

don't, you know, announce the inspections.

CHAIRPERSON RECCHIA: All right.

Council Member Karen Koslowitz has further question.

COUNCIL MEMBER KOSLOWITZ:

Actually, it's a request. Fines for general inspections. Can I get a breakdown by zip codes of the fines?

JAMES ESPOSITO: We'll take a look

at that, that's, you know, the fines are done by another agency. We do the inspections, they issue the fines, but we'll speak with them, see what we can get you.

COUNCIL MEMBER KOSLOWITZ: Okay,

thank you.

CHAIRPERSON RECCHIA: Just so I'm

clear, the fines are also done by the Department of Buildings and HPD, that's correct?

JAMES ESPOSITO: Yes, other

agencies issue fines, that's correct. [background comments] Violations.

CHAIRPERSON RECCHIA: The

violations are, yeah, Buildings Department and HPD. Right, anybody else, I leave anybody else

1

2 out? Just so we know where we can get other data
3 from. [background comments] Okay. Council
4 Member Fidler, then it'd be, followed by Council
5 Member Crowley.

6

COUNCIL MEMBER FIDLER: On just, I
7 want to go back over the numbers for a second.
8 How many inspections per fiscal year would be
9 done, you know, under the new provision for the
10 charge?

11

12

JAMES ESPOSITO: I don't believe
anything would change.

13

14

15

COUNCIL MEMBER FIDLER: No, I
understand that, I'm asking you how many? What's
the rule, how many--

16

17

18

JAMES ESPOSITO: In terms of the
billable number, we assume there's like 35,000
inspections, building inspections.

19

20

21

22

23

24

25

COUNCIL MEMBER FIDLER: Right.

JAMES ESPOSITO: Inspection the
building, they have many occupancies, and
therefore it's not just one inspection per
building. You would take schools out of that, so
you're talking about probably a base of about
28,000 buildings, 26,000-28,000 buildings, that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

would be potentially subject to the fee.

COUNCIL MEMBER FIDLER: But if there's more than one occupancy and more than one inspection, wouldn't that increase the number you were charging?

JAMES ESPOSITO: No, one fee per building per year.

COUNCIL MEMBER FIDLER: One fee per building, so you're saying 28,000. Okay. I'll let Council Member Crowley go and I'll get my calculator out, so I don't hold everybody up. Thanks.

COUNCIL MEMBER CROWLEY: If each building's going to be charged once a year, that means the Fire Department will be visiting them that year. And currently, it doesn't happen once a year. Correct? Only if it's a school or--are you held to a standard, to visit particular buildings once a year?

JAMES ESPOSITO: No, we have, we have a building inspection safety program right now, and we do have a schedule that the units follow. Every unit in the field is assigned nine hours of building inspections each week. And

1
2 that's the schedule we follow. And they have a
3 criteria by which they follow to inspect the
4 buildings in their administrative district. So,
5 irregardless, buildings dependent upon the risk
6 category they find themselves in will find
7 firefighters knocking on their door for an
8 inspection. So, either way, whether or not, you
9 know, the program is enacted, the inspection cycle
10 will continue.

11 COUNCIL MEMBER CROWLEY: If the
12 program was to be enacted, and I don't believe it
13 has much support currently in the City Council, I
14 think there are other ways to find the funds, to
15 keep our fire companies open or our Fire
16 Department fully staffed. But I do believe, if
17 this was to be implemented, there'd be more
18 inspections happening, trying to raise more, and
19 generate more funds. And there's a likelihood
20 that our firefighters will be outside doing these
21 inspections when real emergencies are happening,
22 and whereby affecting response times.

23 JAMES ESPOSITO: Yeah, the Fire
24 Department is following a schedule. And you know,
25 either, whether this program is enacted or not,

1

2 the inspections would continue as they are now.
3 There are a lot of components to a firefighter's
4 day, in the field, and building inspections are
5 just one of 'em.

6 COUNCIL MEMBER CROWLEY: But the
7 main responsibility is to respond to emergencies,
8 so if there are more firefighters out there
9 inspecting buildings--I believe it would increase,
10 when you see that the money is being generated from
11 these inspections, it would, like any other City
12 agency does when they're generating funds, they
13 would do more of that. Are there other
14 municipalities that charge for these inspections?

15 JAMES ESPOSITO: There are about
16 four or five other major municipalities that do
17 charge for these inspections.

18 COUNCIL MEMBER CROWLEY: What, who,
19 where are they?

20 JAMES ESPOSITO: Yonkers, San
21 Francisco, I believe Illinois, Denver. So, we did
22 a little benchmarking and those cities, or cities
23 within those locations, do charge.

24 COUNCIL MEMBER CROWLEY: Okay, I
25 have no further questions.

1
2 CHAIRPERSON RECCHIA: Before Lew
3 Fidler, Council Member Fidler's still working with
4 his calculator. [laughter] I have a question for
5 you. When you launched the new risk based
6 inspection system, will violations increase?

7 JAMES ESPOSITO: Probably will,
8 because we believe the system is, will be more
9 efficient than the previous manual system we had
10 in place. The new system, as we introduce it, and
11 as it evolves, as the databases gets larger, we
12 would be able to better identify those buildings
13 where people's lives are in danger, and would
14 enable us to get out there to do these
15 inspections.

16 CHAIRPERSON RECCHIA: And ... how
17 will the inspect--this inspection cycle change the
18 frequency? How much, like how will it change
19 under the rest of the inspection.

20 JAMES ESPOSITO: Yeah, the
21 inspection cycle, as I said, is a standard. You
22 know, the companies go out nine hours a week, you
23 know, three days a week, for a period of three
24 hours each. And we don't expect any increase or
25 necessarily any decrease in the current numbers

1

2 regarding the buildings inspected. We just
3 believe we're going to have better inspections
4 done, better quality inspections done.

5

CHAIRPERSON RECCHIA: I understand
6 that, but, you know, under the new risk based
7 inspection system, right, violations will
8 increase. Since violations will increase, you
9 got, the Fire Department have to go back to make
10 sure they've been corrected. So that is going to,
11 what you just said, that is going to change the
12 inspection cycle and the frequency, and put a
13 bigger burden on commercial buildings and other
14 buildings.

15

JAMES ESPOSITO: You know, you're
16 bringing up a hypothetical, I don't know.

17

CHAIRPERSON RECCHIA: I'm not
18 bringing up a hypothetical, I'm bringing back
19 reality.

20

JAMES ESPOSITO: Well--

21

CHAIRPERSON RECCHIA: I mean, just
22 so you know what my experience has been, the
23 Department of Finance implemented a new computer
24 system to assess properties. It turned out that
25 not only it was a disaster, but it turned out that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

co-ops and condos across the City, especially in Queens, they're taxes went up drastically. And it was very unfair.

JAMES ESPOSITO: Well, I live in Queens, you know--

CHAIRPERSON RECCHIA: Co-op/condo?

JAMES ESPOSITO: [laughs]

CHAIRPERSON RECCHIA: So, what I'm trying to get at, here, is that we're not against protecting buildings, protecting people, and inspections and doing it the right way; it's just that what we just want to make sure it's done in a rational way, and that it's not unfair, and that, you know, it's going to be done so that everyone could live with this and see how, you know, before you know it, you're going to have to increase this whole division.

JULIAN BASIL: I would just say in response to that particular question, depending on the violations, we might issue a Notice of Violation, which is, you understand is, does not require us to reinspect. Obviously--

CHAIRPERSON RECCHIA: Right, it could be self-certified.

1
2 JULIAN BASIL: --if there were a
3 series of violation, of conditions that warrant
4 issuance of a summons, or violation orders
5 subsequently resulting in summonses, you are
6 correct that that would, over time, affect
7 frequency. But I guess at this point we can't
8 anticipate that.

9 CHAIRPERSON RECCHIA: Okay, I'm
10 going to turn it over to Council Al Vann, then
11 we'll go back to Lew Fidler. And before we move
12 that, I would to recognize we've been joined by
13 Council Oliver Koppell. Go ahead.

14 COUNCIL MEMBER VANN: Yeah, thank
15 you, Chari, I'm really just trying to get clarity.
16 Is there a correlation between the number of
17 inspections, which uncovers the violations, and
18 fewer instances of conditions where you have to
19 respond because of a fire? I mean, the purpose of
20 an inspection system, I would think, is to try and
21 lessen the risk of fire. And so, is that--?

22 JAMES ESPOSITO: Yes, no, yeah,
23 that's very accurate and based on our experiences
24 we know the risks to people and structures and
25 different type of occupancies, we know why fires

1
2 happen, we have a keen eye, we're able to get in
3 there. We use a methodical and checklists to
4 conduct these thorough inspections. We uncover
5 legitimate hazards to the occupants of the
6 building. And I mean, we can't, it's difficult to
7 make predictions on how many lives we save through
8 these inspections, but it is very valuable to the
9 occupants of the building, to the community at
10 large, and to the firefighters who have to go into
11 the buildings and fight these fires.

12 COUNCIL MEMBER VANN: So that it
13 would seem to logically follow that even if there
14 were not a PEG, and you weren't having to increase
15 your revenue, it is in the best interests of the
16 citizens of the City and of the Fire Department to
17 have a very aggressive inspection system. Because
18 it--at the end of it, it would seem you would be
19 saving lives.

20 JAMES ESPOSITO: Yes, and you know,
21 we, all levels of command take this very
22 seriously. This is a prime function of the Fire
23 Department and your statement is accurate.

24 COUNCIL MEMBER VANN: Right, so
25 even if there were, without a tax or a fee, it's

1

2 something that you would want to pursue rather
3 aggressively. I'm a little, it's kind of hard to,
4 you know, the money seems to corrupt a system,
5 regrettably. And so, while we recognize that they
6 need to fill this gap, what happens if this
7 legislation doesn't go forward? What do you do
8 then?

9 STEPHEN RUSH: Potentially, the
10 fire Department faces an \$8 million revenue gap,
11 and that would be up to ultimately the City
12 Council and the Mayor to negotiate the Fire
13 Department's budget for the next year, and for the
14 remainder of this year.

15 COUNCIL MEMBER VANN: Yeah, Mr.
16 Chairman, I feel it almost doesn't matter whether
17 it's a tax or a fee, if they still have this nut.
18 And in order to try and deal with this nut,
19 they're trying to find a less offensive way of
20 raising that money by not affecting their ability
21 to fight fires, by taxing on this quote "fee or
22 tax" to those that they're going to inspect. And
23 presumably, determine more violations which
24 presumably would reduce the risk of them having to
25 come out and fight that fire. It's a circular

1
2 situation. I don't know the answer, I'm just
3 trying to get clarity in understanding the
4 situation. Thank you.

5 CHAIRPERSON RECCHIA: Situation is
6 very clear that they included this in their budget
7 to raise \$8 point--\$9 million and if this does not
8 go through, yes, we'll have to find another way to
9 make up this gap. And, but like I said, we've
10 been hearing, you know, everything we put forward,
11 we're a democracy, people come out and voice their
12 opinions, and we're going to sit down and figure
13 this all out. But if we do not move forward with
14 this, then we would have to come forward and
15 figure out how we can make this gap up. And so, I
16 already have been looking into this, to see how we
17 could work together, you know. I've been hearing
18 from a lot of my colleagues, they're not
19 supportive of this. It's a problem. And we're
20 trying to see and work this out. But we're going
21 to hear testimony from a lot more people today.
22 So I look forward. Oliver Koppell has a question.
23 Then we'll go back to Fidler and Koslowitz.

24 COUNCIL MEMBER KOPPELL: Thank you.
25 I apologize for being late, Mr. Chairman, but I

1
2 checked with my counsel who's been here, and
3 apparently this question has not been asked, so I
4 hope I'm not repeating what's already been asked.
5 I've had legislation introduced for some time
6 because I found--and not only in my district, but
7 there's some tragic stories that inspections
8 haven't been done of certain buildings, because
9 the owners have refused access. And the City has
10 been, if I may say so, very bad about enforcing
11 access when access hasn't been available, and I
12 have legislation, I believe Council Member Vallone
13 also has similar legislation, that would require
14 that one go to court to gain access where access
15 has been refused. In response to that
16 legislation, a couple of tragedies, including in
17 The Bronx, where people died in fires, where there
18 were apparently violations. The Mayor instituted
19 a program of building inspections where the Fire
20 Department went with the building inspector to the
21 building in order to convince the owner to open
22 the door, basically. Are you familiar with that?

23 JAMES ESPOSITO: Yes, I am.

24 COUNCIL MEMBER KOPPELL: And has
25 that worked?

1
2 JAMES ESPOSITO: To some degree. I
3 believe we're getting into about 55 percent of
4 those problematic buildings, right now. That's
5 the current statistic. The program comes through
6 my office right now, and it is continuing, they
7 target specific residential buildings that had
8 been problematic. There was a criteria and as I
9 said, you know, 50-55 percent of the time we're
10 getting in.

11 COUNCIL MEMBER KOPPELL: Would the
12 moneys that are provided here, would they do
13 anything to increase the number of those types of
14 inspections, those inspections where access has
15 been rejected or refused or not available?

16 JAMES ESPOSITO: No.

17 COUNCIL MEMBER KOPPELL: This would
18 have nothing to do with that.

19 JAMES ESPOSITO: No.

20 COUNCIL MEMBER KOPPELL: [laughs]
21 But wouldn't, if you're going to hire additional
22 staff, wouldn't that make it possible to do more
23 of that?

24 JAMES ESPOSITO: Yeah, as we
25 pointed out, the additional staff, I believe,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

would be a back house--

STEPHEN RUSH: The staff, there's no inspection staff being hired.

COUNCIL MEMBER KOPPELL: I see.

STEPHEN RUSH: The firefighters do the inspections, the staff would be, that would be hired, would be for the billing operation, to do the billing.

COUNCIL MEMBER KOPPELL: Well, 50-- I'm not going to belabor the point, Mr. Chairman, but ... Mr. Chairman, I don't want to belabor the point, because it's a little bit off subject, but first of all I will tell you that I think doing these inspections is very important. If revenue will in any way help to get the inspections done, I am supportive. I heard you say some were not supportive, but I can tell you I'm supportive, because these inspections have to be done. But I think that the statistics--

CHAIRPERSON RECCHIA: No, the inspections are being done. Now they're just going to charge a fee for the inspections.

COUNCIL MEMBER KOPPELL: No, I under--yes, but maybe they'll do them more

1
2 vigorously if they get fees for it. But, but I'm
3 not opposed to the fee. I--but I do want to call
4 to your attention, Mr. Chairman, since we're on
5 this subject, that only 55 percent of the attempts
6 to get into buildings where access has been
7 denied, have been successful, according to the
8 witness. And that's not satisfactory, as far as
9 I'm concerned. And what my legislation would do
10 is say where in the 45 percent say, where access
11 is denied, the City would go to court to get a
12 court order, to inspect. And I would urge you,
13 Mr. Chairman, and your staff, to look into that.
14 Because--

15 CHAIRPERSON RECCHIA: Are you
16 saying we should add an addition--we should add a
17 fee for that?

18 COUNCIL MEMBER KOPPELL: Oh,
19 definitely, but--

20 CHAIRPERSON RECCHIA: Make it up
21 that way.

22 COUNCIL MEMBER KOPPELL: --but
23 that's where there's a property owner who's
24 refusing access. My legislation would require
25 proper notice of the property owner, if the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

property owner still refuses access after proper notice, hit him hard, and let him pay the cost of the legal proceeding. I don't have any problem with that.

CHAIRPERSON RECCHIA: I'm not talking about the legal proc--I'm just, you know--

COUNCIL MEMBER KOPPELL: So I'd like you to look into that.

CHAIRPERSON RECCHIA: We will look into that, Council Member, but many times there's a reason why the landlord doesn't let us in, you know. Many times these are absentee landlords or landlords that really, they don't care.

COUNCIL MEMBER KOPPELL: But if you give them proper notice, and you get a court order, they can get in.

CHAIRPERSON RECCHIA: We will definitely look into that, definitely follow up on that, I would--

COUNCIL MEMBER KOPPELL: It's, the deaths, several deaths in the last couple of years, because inspections weren't done and there were legal constructions, and ways, ac--not access, egress was blocked. And an inspection

1

2 would have revealed that. And if we hear that 45
3 percent of the time they don't get in, that's not
4 a very happy result.

5

CHAIRPERSON RECCHIA: Okay, thank
6 you very much, Council Member. Council Member
7 Fidler.

8

COUNCIL MEMBER FIDLER: Well,
9 first, I just want to say that the Housing and
10 Buildings Committee just held a hearing on,
11 related to the subject that Council Member Koppell
12 just raised, and I certainly would have no problem
13 if a taxpayer--if taxpayer are putting, being put to
14 additional expense, by a property owner who's
15 refusing access, when they had reason to know that
16 they were being asked for access, I think that's
17 an appropriate place where there's a cost
18 associated with the specific conduct of the
19 property owner, and it ought to be passed on to
20 the property owner. And I've heard the panel say
21 a couple of times that if we don't pass this
22 legislation, then how we fill this revenue gap is
23 a matter of discussion between the Council and the
24 Mayor. I wish that were true. As we all here
25 know, the Mayor has the ability to slash spending

1
2 in any agency as he sees fit, without seeking
3 Council approval. So, I hope that doesn't happen
4 here, but I just wanted to keep the record clear
5 on it. I just want to be clear on the numbers,
6 and it was given by Committee Counsel a, your
7 gross estimate of revenue here, and it still
8 doesn't quite match up to the things you've told
9 us today, I just want to be clear. You said
10 there's be 28,000 covered inspections here. And
11 at the lower rate of \$400, and I assume the
12 preponderance of those 28,000 would be lower, you
13 know, lower, and given your new estimate that you
14 don't need a million dollars of additional
15 civilian employees, but probably half of that,
16 based upon six instead of 14, and assuming that
17 it's not all going to be collectible, that your
18 collectability rate was supposed to be 85, I still
19 come up with a few million dollars more than your
20 revenue gap. Can you speak to that?

21 JAMES ESPOSITO: We come up to
22 approximately \$8.1 million.

23 COUNCIL MEMBER FIDLER: Well--

24 JAMES ESPOSITO: In revenue, not
25 including the offsetting costs. Based on 26,000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

building inspections and for small buildings,
26,000, almost 27,000 small buildings, and
approximately 2,800 large buildings.

COUNCIL MEMBER FIDLER: Yeah, but,
so I have your costs here and you get to that
number by including the actual cost of the
inspections, like you're already doing. That's
the--isn't that unfair?

JAMES ESPOSITO: We are building,
we are billing the costs of the firefighters' time
at the inspection, that's correct.

COUNCIL MEMBER FIDLER: All right,
but you're doing that now anyway.

JAMES ESPOSITO: That's correct.

COUNCIL MEMBER FIDLER: So, you're
really generating considerably more revenue than
\$8 million, because each, I believe, you're
assessing \$453 in costs to the small building
inspections and \$537--

JAMES ESPOSITO: The fees - - the
fee is \$400, though.

COUNCIL MEMBER FIDLER: So I
understand, but I'm looking at your proposed, you
know, your gross revenue estimate chart that you

1

2 gave to Committee staff. And, you know, you said
3 you have 26,780, you know, small buildings, total
4 cost is \$501 per, okay. And you break out your
5 costs here.

6

JAMES ESPOSITO: Right, and if you
7 break out the costs, we took out, we took out
8 schools and buildings--

9

COUNCIL MEMBER FIDLER: I
10 understand that, but I'm looking at per building,
11 here, your direct costs, on each one, is \$453, but
12 you're saying the cost of the inspection is, in
13 firefighter time, is that correct?

14

JAMES ESPOSITO: That's right, but
15 the legislation is basically we're discounting
16 that fee to a \$400 per small building.

17

COUNCIL MEMBER FIDLER: Yeah, but,
18 you know, you're missing my point, either, you
19 know, I hope not deliberately, all right, what I'm
20 saying to you is that \$453 is already budgeted for
21 and included, you're already doing it.

22

JAMES ESPOSITO: We are absorbing
23 this--

24

COUNCIL MEMBER FIDLER: You've
25 already told you're not doing any new inspections.

1

2

JAMES ESPOSITO: --we're absorbing--
-we're absorbing those costs as we speak.

3

4

COUNCIL MEMBER FIDLER: Right, so
the actual revenue, the net revenue that you are
generating here, all right, by asking us to impose
a fee for the services you're already doing, needs
to be increased, all right, by \$453, or \$400 times
26,870. Because you're, you can't deduct the cost
that you're already incurring, and obligated by
law to continue to incur, all right, and tell me
that this bill is going to generate \$8 million in
revenue. It's actually going to generate
considerably more than that, is that not correct?

10

11

12

13

14

15

16

JAMES ESPOSITO: That's not
correct.

17

18

19

20

21

22

23

24

25

COUNCIL MEMBER FIDLER: All right,
then you've lost me. If you're, if you, I am
saying to you that I don't believe it is fair for
you to deduct the direct cost, okay, the direct
cost of an inspection that you're already
obligated by law to do, that if we hadn't had this
discussion you'd still be doing. And then tell me
you're going to deduct that from the new charges
that you're asking people to pay, to get the

1

2 amount of revenue that would be coming in. That
3 is just not accurate.

4

JAMES ESPOSITO: We--Right, well,
5 potentially we could've made a higher fee, we
6 chose to go at a lower fee.

7

COUNCIL MEMBER FIDLER: That's,
8 regardless of what the fee is--

9

CHAIRPERSON RECCHIA: Okay, Council
10 Member--

11

COUNCIL MEMBER FIDLER: --you are
12 deducted from the co--from the revenue that is
13 being generated by the new fees, the cost you're
14 already incurring. Correct?

15

JAMES ESPOSITO: We agreed to that
16 already, yes, we--

17

COUNCIL MEMBER FIDLER: Okay.

18

JAMES ESPOSITO: --we--

19

CHAIRPERSON RECCHIA: Okay.

20

COUNCIL MEMBER FIDLER: Okay.

21

Thank you.

22

CHAIRPERSON RECCHIA: Council

23

Member Koslowitz.

24

[pause, background noise]

25

COUNCIL MEMBER KOSLOWITZ:

1
2 Currently, excuse me, currently uniform
3 firefighters perform general building fire safety
4 inspection under Intro 940. The Commissioner may
5 require that a general fire safety inspection be
6 conducted by Department representatives on a
7 periodic basis. Which seems to authorize any FDNY
8 personnel in addition to uniform firefighting
9 personnel, to conduct general fire safety
10 inspection. What other Department representatives
11 will be charged with performing general building
12 safety inspections?

13 JULIAN BASIL: We worded the
14 legislation generally because, you know, we don't
15 know in the future what, you know, how programs
16 might be modified or whether we would use
17 civilians at some point. You know, right now the
18 fee that's associated with this legislation is
19 based on the uniform personnel. Typically, you
20 know, the only, right now the other inspectional
21 force are the fire protection inspectors in the
22 Bureau of Fire Prevention, and if we were somehow
23 to start using them for general building fire
24 safety inspections, then we would probably adopt a
25 modified fee that would be appropriate to that

1

2 cost structure. But we use general terms just to
3 keep our options open and allow us to use our
4 personnel most efficiently as our needs develop.

5

COUNCIL MEMBER KOSLOWITZ: Well,
6 how can we accept a bill like this when you're not
7 even sure what you're going to be doing?

8

JULIAN BASIL: Well, no, I mean, I
9 think, we've indicated what our current practice
10 is, which is the, you know, consistent with the
11 uniform personal conducting these general building
12 safety inspections, but when we're writing code
13 provisions, you know, we're leaving the agency
14 some flexibility to modify the program in the
15 future if we decide to, you know, use uniformed
16 and civilians, or use civilians for certain kinds
17 of occupancies, you know, especially now with this
18 RBIS program, you know, maybe at some point we
19 might decide to consolidate certain inspections
20 with the fire prevention inspection. So there's,
21 it just leaves open the possibility that we can,
22 you know, utilize our resources in the most
23 efficient manner/

24

COUNCIL MEMBER KOSLOWITZ: And how
25 would you train, if you did use out--you know,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

other personnel, how would you train them?

JULIAN BASIL: Well, all of our fire protection inspectors are, received extensive training in the Fire Code and in the other laws that they, that they enforce. If you want more information, I can have the Chief of Fire Prevention address that issue.

COUNCIL MEMBER KOSLOWITZ: Well, it just seems to me that you really haven't through this out. The thought in this is to raise the revenue, and how it's going to be implemented and who's going to implement it, hasn't really been thought out. I mean, you're saying now that it will be fire personnel that be doing it, but then there's that, you're leaving the door open for it to be other personnel. So--

JULIAN BASIL: Well, the reason for the Local Law, as I indicated earlier, is that we're asking the City Council to establish a category of inspection, you might call it, which is, in addition to an inspection associated with a particular permit or an inspection associated with a plan or a particular kind of fire protection system that we witness the test of it. This is a

1
2 new kind of inspection program, called a general,
3 you know, building fire safety program, and
4 that's, we've established this inspectional
5 program and the related fee. So, that's the
6 reason why there is this general language
7 establishing a general fire safety inspection to
8 be conducted by whatever Department
9 representatives the Department determines are most
10 appropriate to conduct it. But I think the, right
11 now, the fee that's being offered is based on the
12 existing practice of having fire companies go out
13 and conduct building, the building inspections.

14 COUNCIL MEMBER KOSLOWITZ: Well, I
15 still see the door open and I said it before, and
16 now I say it now, wholeheartedly, that it would be
17 very, very hard for me to support a bill without
18 knowing exactly what's going to happen down the
19 road.

20 JULIAN BASIL: Okay.

21 COUNCIL MEMBER KOSLOWITZ: Thank
22 you.

23 JULIAN BASIL: Thank you.

24 CHAIRPERSON RECCHIA: We've been
25 joined by Council Member Mealy, Council Member

1

2 Leroy Comrie, Council Member Jimmy Van Bramer.
3 Council Member Crowley, does any other Council
4 Member have any questions? Okay. Council Member
5 Crowley, then it'll be Council Member Comrie.

6

COUNCIL MEMBER CROWLEY: The
7 Building, the Fire Code is very extensive. How
8 many pages is it? [laughter, crosstalk] But your
9 Fire--

10

JULIAN BASIL: It's hundreds and
11 hundreds of pages.

12

COUNCIL MEMBER CROWLEY: --and it's
13 your Fire officers that receive training in the
14 Code, each year.

15

JULIAN BASIL: Well, I think--I'll
16 let the Chief answer it. I think it's fair to say
17 that anyone who has any field responsibility has
18 training in the Code and various levels and in
19 building inspection.

20

COUNCIL MEMBER CROWLEY: But, upon
21 inspections, building inspections, it's a Fire
22 officer, it's usually the Fire Lieutenant, that's
23 in the building, is that correct?

24

JAMES ESPOSITO: Yes, that's
25 correct.

1
2 COUNCIL MEMBER CROWLEY: That's
3 after the Fire officer, being a firefighter for
4 many years. And then going through extensive
5 training, within the Fire Code, to understand it,
6 in order to go into buildings and to detect
7 whether they are safe, or whether there are any
8 fire hazards. I think Karen Koslowitz and my
9 colleague, you know, she had some really good
10 questions, when she talked about Intro 940.
11 You're saying in this Intro, if this bill was to
12 pass and become a law, that Fire personnel that
13 don't have the extensive training that Fire
14 officers have, nor the experience, could possibly
15 go in and do these inspections. So you're opening
16 the door for that in this current Intro.

17 JAMES ESPOSITO: Yeah, actually,
18 all new firefighters, as we call them, probies,
19 firefighters themselves, they do have training,
20 and they are currently doing these inspections.
21 So--

22 COUNCIL MEMBER CROWLEY: So it's
23 not just the Fire officer that does the--

24 JAMES ESPOSITO: --and it's
25 supervised, it's supervised by the Fire officer--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER CROWLEY: Right.

JAMES ESPOSITO: --who has additional background and training.

COUNCIL MEMBER CROWLEY: Okay, I think that's important to know, 'cause I've even heard them testify at other hearings, that they do not receive near the amount of safety training in this Fire Code, and that the Code is always changing, or is about to change. And you know, just that this Intro has to be amended if you're-- because it's currently allowing people without that extensive training, the way it's written, to do these types of inspections.

JAMES ESPOSITO: As I said before, the inspections with the field forces, currently being done in and day out and they're doing a good job, actually.

COUNCIL MEMBER CROWLEY: Okay, they're doing a good job, and I'm not saying that they're not, I'm just worried about who would be doing these inspections in the future. And whether they would have extensive experience and extensive training. That being said, I don't think you're going to change my mind about that,

1
2 whatever you answer that question, however you
3 answer that question. My main concern is, let's
4 say you generate, you know, you have your Fire
5 officers and your personnel doing these
6 inspections, and you're sending out bills to all
7 these building owners and businesses, and they're
8 not paying them. Because I know that within other
9 areas of your budgets, there's tens of millions of
10 dollars in fees each year that are administrative--
11 --that are incurred, by you know, your emergency
12 services such as your EMS team going out and doing
13 ambulance runs. And you know, tens of millions of
14 dollars each year are expended, and billed, and
15 money is not coming in to pay those bills. So,
16 why--you know, and that's over \$100 million. And
17 this is just about \$10 million. Why are you going
18 to--or how is the Department going to be able to
19 collect these funds if you're not able to collect
20 in other areas.

21 STEPHEN RUSH: Our record on fire
22 prevention inspections, in the Bureau of Fire
23 Prevention, is done quite well, it's in the 85 to
24 90 percent range. In fact, we discounted our
25 revenue target here by 15 percent, assuming that

1
2 there will be some people, not matter what you do,
3 will find ways not to pay. But inevitably, if
4 they refuse payment, we can put a lien on the
5 property. And that has helped us over the years
6 to keep the revenue numbers up in the fire
7 prevention. And to ensure that the revenue, to
8 recover the costs of our inspections, is being
9 achieved by the Fire Department.

10 CHAIRPERSON RECCHIA: Okay. You
11 finished up or--

12 COUNCIL MEMBER CROWLEY: I just,
13 just in finishing, there are areas within your
14 budget where you have people owing outstanding
15 amounts to the Fire Department, if those funds, or
16 just a fraction of those funds, were collected you
17 wouldn't have to implement this fee.

18 STEPHEN RUSH: Well, if you have,
19 we 've talked about this in the past, and there's
20 a substantial number of people who are uninsured
21 in New York City, cannot afford to pay their
22 ambulance bill. It's a very difficult debt to
23 collect, you can talk to anyone in the industry,
24 medical debt is very difficult to collect,
25 especially when we're talking about a debt that's

1

2 not over \$1,000. So, we've tried various
3 different things over the year, but ambulance debt
4 for people who are uninsured is very difficult to
5 collect.

6

CHAIRPERSON RECCHIA: Okay, thank
7 you very much. And Leroy Comrie's going to be the
8 last Council Member to ask questions. Because we
9 have a lot of people that want to testify, and we
10 have to be out of here by 1:00 o'clock. So
11 Council Member Leroy Comrie.

12

COUNCIL MEMBER COMRIE: Thank you,
13 Mr. Chair. I just wanted to understand something
14 that's not necessarily on topic with this. I
15 don't support this bill, I don't see it as being
16 helpful to ensuring that we continue to maintain a
17 good relationship with the businesses in the City
18 that are already struggling in this economy to
19 stay afloat, to try to add new fees and harassment
20 on them to do, to do a fire inspection and to
21 charge more money, it doesn't rate with what we've
22 been doing as a member of the Regulatory Review
23 Committee, with the City Council. We've been
24 trying to find ways to eliminate burdens on
25 business, and I think that this would just be an

1
2 addition to it. So, I would hope that we get one
3 side of the Mayor's Office to talk to the other
4 side and work on amending this bill. My only
5 question is that once you inspect the property for
6 the year, how is it--once you inspect the property
7 for the year, what is the process to record to
8 ensure that a person does not get multiple
9 inspections by multiple Fire Department personnel?

10 JAMES ESPOSITO: Is that under this
11 bill, you're speaking about?

12 COUNCIL MEMBER COMRIE: Yeah, well,
13 we could, not it's not--

14 JAMES ESPOSITO: Well, you're only
15 allowed to do one inspection per year, and charge
16 for that.

17 COUNCIL MEMBER COMRIE: Right. And
18 if the, but if the inspection finds a problem
19 because of a error in paperwork, how does that get
20 resolved?

21 JAMES ESPOSITO: Again, the bill
22 clearly indicates that only one fee can be charged
23 each year from that building.

24 COUNCIL MEMBER COMRIE: Okay.

25 JAMES ESPOSITO: From the building

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

owner.

COUNCIL MEMBER COMRIE: One fee,
for whatever the problem is.

JAMES ESPOSITO: Whatever the
problem.

COUNCIL MEMBER COMRIE: If there's
an ongoing problem or a new problem that was found
because of incorrect filing of paperwork, how does
that get resolved?

JAMES ESPOSITO: Again, from all,
everything I understand, it's just a one shot deal
here.

[background comment]

COUNCIL MEMBER COMRIE: Right, but
do they have to get multiple inspections? What
I'm trying to find is some, some--let me drill
down a little deeper in the question, I was trying
to be quick because of time, but a lot of property
owners found that their alt files, alteration
plans were filed incorrectly, or their plans were,
now that the building is apartment, it's been
scanning documents and scanning in building plans,
a lot of buildings are finding out all around the
City that the plans that were actually filed are

1
2 not the plans that were actually done, because of
3 errors in the Building Department submissions or
4 errors in submissions with other people, they're,
5 the files that were actually scanned into the Fire
6 system are not the actual work, the actual files
7 that indicate what's actually in a building. And
8 I've been getting complaints from a myriad of
9 business owners that they're going through
10 situations with the Fire Department where they're
11 getting multiple inspections and multiple problems
12 with trying to clear up a paperwork technicality,
13 because they had passed Fire inspections for
14 years, but now all of the sudden because the
15 paperwork popped up, showing that there was an
16 alteration, that--or a change order, that they
17 are, they can't get cleared from the Fire
18 Department. I'd be more than happy to get you the
19 specifics, I have about--

20 JAMES ESPOSITO: Yeah, that would
21 be helpful.

22 COUNCIL MEMBER COMRIE: --seven
23 different buildings including two catering halls
24 in my district that made alts back in the '80s,
25 and because the paperwork is now caught up in the

1
2 computer system, they are getting stuck in a
3 position where they're being threatened with their
4 ability to operate.

5 JAMES ESPOSITO: Yeah. I think
6 there's a process now to coordinate, better
7 coordinate the public assembly, place of public
8 assembly permitting process between buildings and
9 Fire, and I think this is all sort of trying to
10 catch up and clean up, to make sure that all these
11 occupancies have Department of Buildings approved
12 seating plans and they have their Department of
13 Buildings permit, which is now called a
14 certificate of operations. So, I think that
15 that's what may be generating this, and then
16 ultimately, when that's hopefully all sorted out,
17 then it'll just go back to being a regular annual
18 inspection and they won't have to go back to
19 buildings every year, unless they make alterations
20 to the property. But I think that's what you're
21 referring to, but we could--

22 COUNCIL MEMBER COMRIE: Well, I'll
23 get you specific - - , but it's, I got like three
24 or four businesses, a couple of nonprofits,
25 actually, that have had plans that were, they

1
2 thought were filed from years ago, and now because
3 of computerization, they realize that, I guess
4 it's the, they didn't even know there was a place
5 of assembly permit needed for some of these
6 kitchens. And it's something we need to clear up.
7 and as you may know, we just put in some bills
8 dealing with improving how people can get place of
9 assembly permits. So I hope we can clear that up,
10 'cause at the end of the day we need to keep small
11 business in the City, and not have 'em run out
12 because of regulations or over inspection, so.
13 Thank you, Mr. Chair.

14 CHAIRPERSON RECCHIA: Thank you,
15 Council Member. I want to thank you for coming to
16 testify today. I want to thank all my Council
17 Members. We're now going to take testimony from
18 the public. All right? And I want to--hold on,
19 does anybody want to hear from HPD?

20 FEMALE VOICE: Or DOB.

21 CHAIRPERSON RECCHIA: Or DOB? No,
22 without seeing that, we'll--the, I just want to
23 know they're here. Chris Gonzalez is ready to run
24 out of the room. [laughter] Okay. I want to
25 thank the Fire Department for being here. Okay.

1
2 CLERK: Sandy Meyers [phonetic],
3 David Pollack [phonetic] and Rosemary Ginty
4 [phonetic].

5 [pause, background noise]

6 CLERK: For members of the public
7 who wish to testify, if you have, in testimony,
8 please submit the testimony to the Sergeant-at-
9 Arms [background noise] before testifying.

10 [pause, background noise]

11 CHAIRPERSON RECCHIA: If anybody
12 wishes to testify, they have to fill out a form.
13 Okay.

14 DAVID POLLACK: Okay, good morning,
15 I--

16 CHAIRPERSON RECCHIA: Please talk
17 into the mic, identify yourself, and turn the mic
18 on, please, thank you.

19 DAVID POLLACK: Morning. My name's
20 David Pollack, I just wanted - -

21 CHAIRPERSON RECCHIA: Hold on, hold
22 on, I don 't think the microphone's on.

23 DAVID POLLACK: Sandy Meyer and--

24 [pause, background noise]

25 DAVID POLLACK: My name's David

1
2 Pollack, I want to introduce my colleagues,
3 Rosemary Ginty, Sandy Meyers, and Shana Mosher.
4 We represent--Rosemary will introduce herself and
5 we'll be talking for the Human Services Council of
6 New York City, a UJA federation, and I want, just
7 wanted to thank the Chair, Councilman Recchia, for
8 his leadership on this issue. And it's clear we
9 don't have a lot to say, because you, the members
10 of this Committee are clearly sensitive to this
11 issue. Want to turn this over to Rosemary.

12 ROSEMARY GINTY: Okay, and good
13 morning, Mr. Chairman, Members of the Committee,
14 my name is Rosemary Ginty, I'm the Executive
15 Director of the Catholic Community Relations
16 Council, representing the Archdiocese in New York
17 and the Diocese of Brooklyn on City issues. Thank
18 you very much for the opportunity to come here and
19 testify. I am not here to question in any way the
20 establishment of a fire inspection program to
21 ensure public safety, only to express concerns
22 over a new fee to be imposed for this fire
23 inspection. Since time is limited, let me make
24 just three points. First, from an historic point
25 of view, there is a tradition in our City of

1
2 acknowledging the important position our religious
3 and not-for-profit institutions hold in caring for
4 the welfare of all in our City. Now there are
5 many City mandates, both legislative and
6 administrative, that cost money, and as they deal
7 with life and safety issues, this is
8 understandable and completely appropriate. Safety
9 requirements of course must be met. What breaks
10 with the tradition is the new, never before
11 imposed fees, which really are unfunded mandates
12 and that is our concern here. Just as an
13 additional historic note, in 2009, there was a
14 proposal, Intro 1010, to charge not-for-profits
15 for the first time for fire inspections. It was
16 amended at the eleventh hour by the City Council,
17 we are very grateful that you saw the merit in our
18 request to limit somewhat the imposition of fees.
19 It was not total relief, and it was not perfect,
20 but it was significant and important for many
21 struggling institutions. And I thank you for
22 that. My second point. We need clarity on these
23 exemptions. Any legislation must be clear,
24 understandable and not subject to individual
25 interpretation. The 2009 exemption was clear,

1
2 Intro 940 talks about exempting Category A
3 buildings. This for me is confusing, it's
4 guaranteed confusion. And yet there's a proven
5 need for clarity in these definitions. Let me
6 just give you one example. Schools K through 12
7 were exempted in the 2009. We have instances
8 thought of our schools K through 8 being invoiced
9 for inspection fees because the inspector said
10 they were not K through 12. And therefore, not
11 exempt. Clearly worded legislation, rules,
12 regulations, are essential. It will save
13 countless hours on our part and the part of City
14 officials, rectifying these errors. So I implore
15 you to do this to the extent you can. Third, and
16 my last point. [pause] When considering
17 exemptions, I request that you include our City's
18 not-for-profit institutions, it offers so many
19 essential services to our citizens. I know there
20 is a need for additional revenue, to meet the
21 needs of the City. But imposing never before
22 assessed fees, on not-for-profit institutions, can
23 take scarce funds from the very services that the
24 additional revenues are meant to fund. In
25 conclusion, I ask a continuation, no diminution of

1
2 the 2009 exemptions, inclusion of not-for-profit
3 institutions, and lastly clarity of legislative
4 definition. Thank you.

5 DAVID POLLACK: Thank you,
6 Rosemary. Our points are essentially the same. I
7 just wanted to go on the clarity issue, and answer
8 a question. There's a, that was raised by Council
9 Members Koslowitz and Fidler, just as an example,
10 you know, our predecessors up here said, "We know-
11 -what's a house of worship, we know it when we see
12 it." Well, there were cases after 2009 when the
13 Fire Department kept invoicing synagogues, saying
14 "We want to see your IRS letter." Well, any of
15 the attorneys on this panel who know the IRS Code,
16 houses of worship are not required to have IRS
17 letters. And it took almost seven months of
18 negotiation to get them to sit down and read the
19 IRS Code, so that they would understand what was
20 happening. And a synagogue in I think it's in
21 Council Member Koslowtiz's district, or the
22 adjoining one, this synagogue had a school but the
23 school, although it was for kids, and it was state
24 recognized, it was for special ed students. So
25 the Fire Department's answer was, "Well, the 2009

1
2 legislation said K through 12, ungraded special ed
3 doesn't count." Well, these are the kinds of
4 things that we think should be clarified, the
5 expansion to cover all nonprofits, who own and use
6 their building for nonprofit uses, should be
7 included. Thank you.

8 ROSEMARY GINTY: Thank you.

9 CHAIRPERSON RECCHIA: Anybody else
10 have anything else to say? Anybody have any
11 questions? We've been joined by Council Member
12 Robert Jackson. Thank you very much. Next panel.

13 [pause, background noise]

14 CLERK: Marianne Rockman
15 [phonetic], Robert Altman, Frank Ricci, and Angela
16 Pinsky [phonetic].

17 [pause, background noise]

18 CHAIRPERSON RECCHIA: Is Ms. Pinsky
19 here? She left?

20 FEMALE VOICE: She's here, her
21 things--here she is.

22 CHAIRPERSON RECCHIA: I didn't want
23 to start without Ms. Pinsky.

24 ANGELA PINSKY: Sorry.

25 CHAIRPERSON RECCHIA: That's okay,

1
2 take your time. And that's just more important
3 things. [laughter] Mr. Doyle, do you want--
4 [background comments] Is there anybody else that
5 would like--that wants to testify? [background
6 comment] Does anybody else want to testify?
7 Just, then this will be the last panel.

8 [pause, background noise,
9 technical]

10 CHAIRPERSON RECCHIA: State your
11 name for the record, if you're from and where
12 you're from.

13 MARY ANN ROTHMAN: My name is Mary
14 Ann Rothman. I'm the Executive Director of the
15 Council of New York Cooperatives and Condominiums.
16 And I thank you for the opportunity to testify in
17 opposition to this legislation. The co-ops, half
18 of the co-ops in the nation and hundreds and
19 hundreds of condominiums, are found in New York
20 City, people who buy their homes there, make a
21 commitment to this city, and a commitment to
22 making their homes as safe and as comfortable as
23 possible. My organization tries to keep members
24 updated on laws that affect them, and help them
25 comply with all requirements. This can be

1
2 daunting, as more and more requirements are placed
3 on New York City buildings, imposing more and more
4 costs on CNYC members and other buildings. The
5 owner occupants of cooperative housing seek always
6 to ensure that their homes are safe and that
7 they're in compliance with all laws and
8 regulations. Fire safety is particularly
9 important to us, and we're accustomed to visits by
10 fire inspectors. It's a valuable city service
11 that should be covered by the taxes we pay. The
12 provisions of Intro 940 are puzzling in that they
13 appear simply to be stating what is already
14 current practice. The one difference is the
15 authorization of fees for the fire safety
16 inspection. CNYC strongly opposes the very
17 unwelcome precedent of authorizing the City to
18 collect a fee for a necessary inspection. I agree
19 with your evaluation that this is a tax. To our
20 knowledge, this has never before been done, we
21 find the concept unfair and urge its elimination
22 from this legislation. That said, we must also
23 object to the inequities of the fees proposed. We
24 find it unconscionable to consider charging each
25 shareholder in a four unit cooperative \$100 toward

1
2 an inspection visit that had no cost last year
3 when it was performed; while the fee for the high
4 rise building next door amounts to just a few
5 dollars per unit. What will be the fate of
6 cooperatives or condominiums with multiple
7 buildings, I think we learned this morning that
8 each building will incur a fee. Will a separate
9 fee be imposed for each townhouse in a large
10 scatter site condominium? CNYC normally limits
11 its remarks to cooperatives and condominiums, but
12 we see no reason for these fees to be imposed on
13 the owners of any property in our City. The
14 prospect of \$400-\$500 in additional fees could be
15 the proverbial straw that breaks the backs of our
16 member cooperatives and condominiums who are
17 already trying to cope with so many, very many
18 issues and unfunded mandates for their buildings.
19 I could list them but I will spare you that. We
20 consider the proposed fees for the fire safety
21 inspection wrong, oppressive and very bad
22 precedent. We urge the Council not to authorize
23 them. Without the fees, this legislation seems an
24 unnecessary reiteration of current practice. We
25 respectfully request that it be withdrawn. Thank

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

you.

CHAIRPERSON RECCHIA: Thank you very much. Mr. Altman.

ROBERT ALTMAN: My name is Robert Altman, I am the Legislative Consultant to the Building Industry Association of New York City and the Queens and Bronx Building Association. I am testifying today in opposition to Intro 940, which is a tax in the guise of a building inspection program. No one is saying that the City should not come in and inspect the premises for fire safety. That is part of the duties of the City and can be done now. And all the properties subject to this law already pay taxes to the City so this action can be taken. But let's face it, the real reason this law is introduced is to raise revenue by imposing what really is a tax. Even the Council understands that having, understands this, having placed this legislation not in Housing and Buildings, but in the Finance Committee, which addresses revenue issues, not building safety issues. So this being a tax that is not a property tax, means that it requires approval from Albany, although I do not see any

1
2 language in the enactment clause that addresses
3 this requirement. Being that the real estate
4 industry is already taxed enough, we oppose this
5 legislation and thank you for the opportunity to
6 testify.

7 CHAIRPERSON RECCHIA: You know,
8 just so I just want to clarify this, is that ...
9 your comment, "even the Council understands that,
10 placed this legislation not in the Housing and
11 Building but in the Finance, addresses revenue
12 issues not building safety issues," okay, this is
13 not only revenue but it is dealing with safety
14 issues and other issues that the Fire Department
15 would like to expand, okay, it's going to cost
16 them more to expand their thing. So, it's not a,
17 you know, just because it didn't go to Housing and
18 Buildings, it came to Finance, it's irrelevant,
19 you know what I mean? And, you know, and I think
20 that comment was uncalled for. Ms. Pinsky.

21 ANGELA PINSKY: So we, there is a
22 number of comments made by the City Council that
23 have already been reiterated, so I'll try and just
24 summarize our testimony, but thank you, Chairman
25 Recchia, and the Committee on Finance. REBNY

1
2 represents over 13,000 owners, developers,
3 managers and brokers of real property in New York,
4 and we thank you for the opportunity to testify.
5 So, under current practices, real estate property
6 owners and the Fire Department, work cooperatively
7 on a number of initiatives to maintain fire safety
8 on a regular basis. We regularly work with the
9 Fire Department on emergency action plans and fire
10 safety plans, we run fire drills within our
11 building, and REBNY members consider complying and
12 coordinating with the Fire Department a critical
13 part of their day-to-day responsibilities in
14 owning and managing buildings. However, we are
15 troubled by the fact that this is a fee imposition
16 on what had previously been provided to buildings
17 free of charge. There are a number of charges
18 that inspections the Fire Department has that are
19 outlined in the Fire Code that are associated with
20 the buildings request through a permit
21 application. And there are a number of
22 inspections that the Fire Department charges for
23 as the building requests them. But as far as we
24 know, this is the only inspection that will issue
25 a charge without having a specific cause. And we

1
2 are concerned that with the high, with no
3 notification and the high cost, and the potential
4 high frequency of these potential inspections,
5 that it will lead to a severely diminished and
6 antagonistic relationship between the real estate
7 community and the Fire Department. Additionally,
8 we feel that the flat fee being proposed fails to
9 demonstrate that the associated fees are a
10 reimbursement to the Fire Department for services
11 incurred. So, a 70 story commercial building will
12 incur the same fee as a five story residential
13 building. So it doesn't reflect the number of man
14 hours that are, that the Fire Department will be
15 there. And again, we are concerned that this fee
16 creates a dangerous opportunity for the Fire
17 Department to, at its discretion, increase the
18 risk profile of a building, and therefore raise,
19 or increase the frequency of these inspections,
20 should there be another budget bap in the future.
21 Unlike Mary Ann, we will list a couple of the
22 things that the buildings have recently been asked
23 to do as part of being part of the City, and that
24 are currently very expensive, but are part of a
25 building's responsibility in terms of safety,

1
2 including Local Law 11, façade inspections,
3 benchmarking requirements, heating oil boiler
4 conversions, elevator inspections and
5 sprinklerization retrofits, which are all for the
6 good of New York City, which all buildings are
7 undertaking, but are also very expensive, at this
8 current time. And we do feel that the Department
9 may feel obligated to prove the value of these new
10 inspection fees by finding multiple violations,
11 which will only add to the cost associated with
12 this regulation. So, we are concerned about this
13 bill and we look forward to continuing our
14 conversation with the Administration and the City
15 Council.

16 FRANK RICCI: Thank you, Mr.
17 Chairman, Members of the Committee. My name's
18 Frank Ricci, I'm the Director of Government
19 Affairs at the Rent Stabilization Association. We
20 represent primarily residential building owners
21 throughout the City, 25,000 owners that
22 collectively have about one million units of
23 housing in their portfolio. As the last person to
24 speak today, I don't think I have too much new to
25 add, to what the prior speakers, some of the

1
2 Council Members have said, but I just want to
3 point out that right now HPD does inspections to
4 administer the Housing Maintenance Code, which
5 includes means of egress, which includes a lot of
6 the same things enumerated in Intro 940 that the
7 Fire Department is currently inspecting for. Same
8 thing with the Buildings Department. There's no
9 corresponding diminution of these in other Codes
10 to take into account the fact that the Fire
11 Department will now, and I agree with Angela, will
12 probably more aggressively go out and do these
13 inspections, 'cause there's a fee attached to it.
14 There's also no coordination of what one inspector
15 sees from HPD versus what a Fire Department's
16 inspector sees. So there's going to be an
17 associated cost with that. And several years ago,
18 this Council saw fit--we used to have the
19 situation with sprinklers in buildings, and many,
20 many, many small buildings have a sprinkler system
21 in the central hallway. This was required when
22 many of them had been converted to SROs back in
23 the '20s and '30s, the sprinkler systems remained.
24 So, there was a duplication of effort, HPD
25 required an annual sprinkler inspection, and the

1
2 Fire Department was requiring an annual sprinkler
3 inspection, through our lobbying efforts and the
4 lobbying efforts of people at this table, we said
5 "Look, it's a duplication, you're spending twice
6 as much money," so it was all consolidated into
7 the Fire Department, with the proviso that the
8 sprinkler inspection be done--it was eliminated
9 from HPD, but they said, "Okay, Fire can do it
10 now," and someone with a certificate of fitness
11 has to inspect the sprinkler systems, which is
12 more than just the sprinkler system, because it's,
13 there's a whole checklist of things in the
14 building that the person with the certificate of
15 fitness goes through right now today, every 30
16 days; but there's a cost attached to it. Many of
17 the companies who do this are companies, the
18 owners have to pay them to do it every 30 days.
19 Then there's either a 30 month or a five year
20 inspection, where the Fire Department comes out
21 and charges a fee and they witness the inspection,
22 and you have to have someone with a, who's
23 certified to perform the flow test. So there's
24 all kinds of fees right now that are connected
25 with this. So, unless, if, and it doesn't sound

1
2 like this Council's going ahead with this bill in
3 this current form, but at some point down the
4 road, should they, I think then you need to look
5 at the Housing Maintenance Code, and the Building
6 Department Building Code, and remove some of the
7 requirements there, so that owners aren't hit from
8 every different angle. The last point I wanted to
9 make is that sometimes I think when housing is
10 discussed in the City, it's often thought of as
11 the high rent stuff in Manhattan. And that's not
12 the bulk of what happens out there. Many of the
13 buildings in the outer boroughs, the average rent,
14 the median rent, is \$500-\$600-\$700 a month. If
15 you have a six unit building, and now you're
16 coughing up another \$500 a year, that's one
17 apartment's rent for one month, that's a huge hit
18 on the bottom line of a building, and I think
19 that's something that needs to be taken into
20 consideration. Thank you.

21 CHAIRPERSON RECCHIA: Does any
22 Council Member have any questions? Does anybody
23 else want to say anything? I want to thank you
24 all for coming to testify. This concludes this
25 hearing on Proposed Intro 940 by the

1

2

Administration.

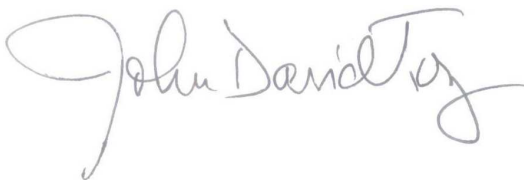
3

[gavel]

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned to the right of the printed word "Signature".

Date November 9, 2012