

CITY COUNCIL  
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

-----X

September 30, 2009

Start: 10:00 am

Recess: xx:xx am

HELD AT: Council Chambers  
City Hall

B E F O R E: PETER F. VALLONE, JR.  
Chairperson

COUNCIL MEMBERS:  
Erik Martin Dilan  
Helen D. Foster  
Daniel R. Garodnick  
James F. Gennaro  
Vincent J. Gentile  
Melinda R. Katz  
Domenic M. Recchia Jr.  
David Yassky

## A P P E A R A N C E S [CONTINUED]

Peter F. Vallone, Jr.  
Speaking on Intro 1042-A  
Chairperson  
Committee on Public Safety

Melinda R. Katz  
Speaking on Intro 1042-A  
Committee on Public Safety

William Martin  
Committee Clerk  
Committee on Public Safety

1

2

SERGEANT AT ARMS: Quiet please.

3

4

CHAIRPERSON VALLONE: Public Safety Committee heard by Helen Foster and Melinda Katz, is being called to order.

5

6

SERGEANT AT ARMS: Quiet please.

7

8

CHAIRPERSON VALLONE: Good morning everyone. Welcome to today's hearing. We'll be voting on Proposed Intro 1042-A, a Local Law to amend the Administrative Code of the City of New York in relation to the abatement of graffiti on commercial and residential buildings. This legislation amends a local law from 2005 which I sponsored.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Currently property owners who are victims of vandalism are required to address graffiti on their property or face fines. As we discussed at our last hearing, rather than requiring property owners to opt in to City cleanups, this would allow them to opt out. The amendment reduces--shh. The amendment reduces the burden of graffiti removal that rests on property owners and would increase the efficiency with which the City can quickly remove unwanted graffiti from the property.

1  
2 Since our last hearing a few  
3 changes have been made in response to concerns.  
4 The City may not enter a building without express  
5 consent. Additionally the fine structure has been  
6 maintained but does not apply to buildings under  
7 six families.

8 I commend Mayor Bloomberg, Council  
9 Member Brewer who may or may not be here for  
10 making the bill I sponsored a while ago even more  
11 effective. Some concerns have been raised  
12 regarding the parameters of this bill which I'm  
13 sure are going to be addressed by Melinda Katz  
14 which I share. I will still be voting aye however  
15 I do hope that this bill is amended in the future  
16 to address some of the concerns we are about to  
17 hear.

18 Melinda do you want to be heard now  
19 before we do the vote? Okay.

20 COUNCIL MEMBER KATZ: I thank you  
21 Mr. Chair and I have to tell you, I have had a  
22 very, very long experience with graffiti  
23 legislation. When I was at Borough President  
24 Claire Schulman's, I drafted legislation on  
25 graffiti and part of the deal that we made was

1  
2 that the legislation was not going to cover homes  
3 of one to five families; it was only going to  
4 cover homes of six families and above. And I  
5 drafted legislation on that which is why I was  
6 willing to vote for your legislation, Mr.  
7 Chairman, a few months ago, because my  
8 understanding was that it was on six family homes  
9 and above.

10 And for anything from one to five  
11 families, if there was graffiti, in order for the  
12 City to come onto the property, the home owner had  
13 to give permission to the City to come onto the  
14 property. And I thought that was fair.

15 This legislation changes that. I  
16 have absolutely no problem with requiring the City  
17 or allowing the City on the property unless some  
18 one opts out, if it's a six family home or above.  
19 But in this particular case I have two issues when  
20 it comes to single family homes.

21 Number one, as we all know, you can  
22 call 311 ad nauseum, time and time again, and the  
23 City will come out and investigate. In this  
24 particular case, according to counsel, if someone  
25 in my neighborhood calls 311 on me for graffiti it

1  
2 will be assumed to be graffiti. And if the home  
3 owner doesn't check their mail for 35 days or if  
4 the home owner just doesn't send something in, the  
5 City then will have the right to come onto my  
6 property, to be able to clean my garage or my  
7 building at a single family home, without my  
8 permission, without anything.

9           And I just think that's wrong. I  
10 think putting the burden on the home owner to call  
11 the City and say listen I don't want you to come  
12 onto my property because my 10-year old son drew  
13 something on my garage and I think it's the cutest  
14 thing I've ever seen. And maybe nobody else  
15 thinks it's cute but it's my property and it's my  
16 garage.

17           So I think people should clean up  
18 their graffiti. I think that they should make  
19 sure that their homes are good. But there's no  
20 other law, according to what the counsel has been  
21 able to tell me, no other law in this City, for  
22 single family homes, which allows the City of New  
23 York to go onto your property if it's not an  
24 emergency situation and do something to your  
25 property. I don't even think they allow it for

1  
2 health violations. I'm not sure about that but  
3 nobody's been able to tell me that they do.

4           So I understand that this law is a  
5 good one for apartment buildings. I get it. And  
6 I think it's actually good for single family homes  
7 too. But I don't think the burden should be on  
8 the home owner to tell the City not to come onto  
9 the property. I have not looked at my mail; this  
10 may be hard for people to believe, in over 30  
11 days. I may--maybe people find that hard to  
12 believe but I haven't. So if I've had a violation  
13 I wouldn't know it.

14           And so I do think that this is a  
15 problem. I would like to see--if the Speaker or  
16 the Mayor had said that in the next few weeks we  
17 would do an exemption for single family homes then  
18 I would be happy to vote for this Mr. Chair. But  
19 since they haven't I will be a no vote.

20           CHAIRPERSON VALLONE: Thank you. I  
21 share those concerns. The response I've been  
22 given and this is not my bill, is that I guess  
23 that's--it's all technically correct but what  
24 would have to happen is that they would have to  
25 receive the notice, not read it, not respond, not

1  
2 opt out. And then we did take testimony at the  
3 hearing that if the clean team arrives and is  
4 instructed by the owner to leave, they are--they  
5 must leave.

6 In addition, any owner can call  
7 today and be taken off the list and be opted out  
8 for all perpetuity. None of that completely  
9 addresses your concerns but it does give me enough  
10 of a safety net to vote yes on this. Does anyone  
11 else want to be heard before the vote? I'm going  
12 to call the roll, clerk?

13 MR. WILLIAM MARTIN: William  
14 Martin, Committee Clerk. Roll call on the  
15 Committee on Public Safety, Introduction 1042-A.  
16 Council Member Vallone.

17 CHAIRPERSON VALLONE: I vote aye.

18 MR. MARTIN: Dilan.

19 COUNCIL MEMBER DILAN: Mr. Chairman  
20 may I take a brief moment to explain my vote.  
21 Yeah I want to be associated with the remarks of  
22 my colleague Melinda Katz. I agree, I believe her  
23 opening on this bill was dead on. The burden to  
24 remove graffiti should absolutely be on the City  
25 and not on the individual private home owner. And



1

2 last I checked this is America, this is a free  
3 country.

4

5 And government doesn't have the  
6 right to enter someone's property with presumed  
7 consent. And that was on top of me voting against  
8 the last bill that had the penalty provision in  
9 it. This bill, when we first heard it, did not  
10 have a penalty provision in it. It does have a  
11 penalty provision in it now for buildings larger  
12 than five units. And for those reasons I cannot  
13 vote for this bill and I vote no.

14

MR. MARTIN: Foster.

15

16 COUNCIL MEMBER FOSTER: May I be  
17 excused to explain my vote? For the reasons set  
18 forth by both Council Member Katz and Dilan, I'm  
19 voting no.

20

MR. MARTIN: Gennaro.

21

22 COUNCIL MEMBER GENNARO: Mr.  
23 Chairman I wish to speak briefly on my vote.

24

CHAIRPERSON VALLONE: Yes.

25

26 COUNCIL MEMBER GENNARO: Mr.  
27 Chairman, I wish to be associated with your  
28 concerns and your remarks. I support you Mr.  
29 Chairman in this and I vote yes.

1

2

MR. MARTIN: Katz.

3

COUNCIL MEMBER KATZ: I vote no.

4

MR. MARTIN: Recchia.

5

COUNCIL MEMBER RECCHIA: Aye.

6

MR. MARTIN: Gentile.

7

COUNCIL MEMBER GENTILE: [No

8

audible response].

9

MR. MARTIN: Garodnick.

10

COUNCIL MEMBER GARODNICK: Aye.

11

MR. MARTIN: By a vote of five in

12

the affirmative, three in the negative, no

13

abstentions, the item is adopted. Council

14

Members, please sign the Committee Report.

15

[Pause]

16

[Background conversation]

17

[END 1002.MP3]

18

C E R T I F I C A T E

I, Laura L. Springate 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.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature \_\_\_\_\_Laura L. Springate\_\_\_\_\_

Date \_\_\_\_\_October 8, 2009\_\_\_\_\_