

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FIRE AND CRIMINAL JUSTICE

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February 10, 2009

Start: 10:12 am

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HELD AT: Hearing Room
 250 Broadway, 16th Floor

B E F O R E: MIGUEL MARTINEZ
 Chairperson

COUNCIL MEMBERS:
 Tony Avella
 Eric N. Gioia
 James Vacca
 Mathieu Eugene

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Thomas Jensen
Chief of Fire Prevention
FDNY

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Assistant Chief of Fire Prevention
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A P P E A R A N C E S (CONTINUED)

David H. Baker
General Counsel
U.S. Lighter Association Inc.

Susan Santanello
Novelty lighter retailer
Lilfishes.com

Xuejie Wong
Co-Chair
Product Safety Association International

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CHAIRPERSON MARTINEZ: Thank you.
We're going to call oversight hearing of the Fire and Criminal Justice Services Committee to order.
Good morning. My name is Miguel Martinez. I am the chair of the Fire and Criminal Justice Services Committee. I want to acknowledge my colleagues on the committee: Council Member Tony Avella, Council Member Jimmy Vacca and Counsel to the committee Rob Calandra. Today we're conducting an oversight hearing to review the New York City Fire Alarm Inspection Union. We will also hear testimony on Proposed Intro. 884-A, which prohibits the retail sale and distribution of novelty lighters in New York City. The committee previously held a hearing on Intro. 884-A on December 17th, 2008, at which we heard testimony in support of the bill from the New York City Fire Department and the Uniformed Fire Officer Association. Regarding our oversight topic, the Bureau of Fire Prevention, which ensure fire protection of residential and commercial occupancy through direct inspection of location and enforcement of laws and regulation. One of the units within the bureau responsible for

1
2 conducting inspection is the Fire Alarm Inspection
3 Unit. This unit is comprised of civilian
4 inspectors who inspect fire alarms, smoke
5 detectors, emergency voice communication systems
6 in office buildings, hotels, hospitals, schools,
7 nursing homes, boat fuel storage facilities and
8 piers. It is my understanding that these
9 inspections can result in a letter of approval, a
10 letter of defect for deficiency that must be
11 corrected within 90 days of issuance, or a
12 violation for a more severe deficiency that must
13 be corrected within 30 days of issuance. In 2007,
14 the New York City Controller's Office issued an
15 audit report which determined that the Fire Alarm
16 Inspection Unit did not adequately ensure that
17 requests for inspections of fire alarm systems and
18 the results of inspections were properly recorded
19 and reported. They did not adequately ensure that
20 inspections were performed in a timely manner to
21 ensure that safety-related issues were identified
22 and resolved. The report noted that an audit
23 conducted more than ten years ago identified some
24 of the same findings. The major findings in the
25 report were as follow. The unit had not developed

1 formal procedures to follow when recording
2 requests for inspection, tracking these requests,
3 conducting inspections and following up on
4 inspection. As a results, inspections were not
5 conducted in a timely manner and the unit did not
6 always follow up on the letters of defect and
7 violation order. In those instances where the
8 unit did not follow up, it did not generally do so
9 within its own formal timeframes. The unit did
10 not have a reliable system of tracking requests
11 for inspection and actual inspections conducted by
12 the unit. The record keeping practices of the
13 unit were inadequate. Inspections conducted were
14 lacking. Request for inspection documentation was
15 scattered and filing cabinets containing essential
16 inspection files were unsecured. The unit
17 inadequately reported the number of inspections
18 conducted. This resulted in an inflated number of
19 inspections being reported in the unit's
20 productivity report for Fiscal Year 2006 and the
21 Mayor's Management Report for Fiscal Year 2006.
22 the unit did not meet its formal target of
23 auditing self-certified inspections. The
24 inspectors of the unit were not adequately
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1 supervised. As a result, field activity reports
2 were not always approved by a supervising
3 inspector, and inspectors were not always working
4 in the field as required. Last October, UPN-9
5 News aired a report based on a six-month
6 investigation. In that report, one person
7 identified as a current inspector in the unit
8 responded yes when asked if the unit was corrupt.
9 Another person identified as a former unit
10 inspector indicated that nobody cares about
11 safety. A second person identified as a former
12 unit inspector who himself was reported to have
13 forged documents falsely stating that a building
14 had a working fire alarm was reported to have said
15 that there were some crooked inspectors at the
16 unit, but that most of the inspectors were honest
17 but overworked. The report also indicated that
18 there were 3,000 buildings in the city with
19 potentially faulty fire alarm systems and some 300
20 buildings with life-threatening defects. I think
21 it goes without saying that I and the members of
22 this committee are deeply troubled by both the
23 controller's report and the UPN-9 report. At the
24 end of the day, we want to be assured that when
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1
2 fire alarms, smoke detectors and communication
3 systems are required, that they have been
4 installed correctly and are in proper working
5 order to safeguard the public and our first
6 responders. The only way to ensure this is to
7 have a system that inspects these devices when
8 they are installed and then periodically,
9 thereafter, as directed by applicable laws and
10 rules. When information is received by the city
11 that they are in need of inspection that they are
12 then inspected. I want to make sure that the
13 inspectors who are conducting these inspections
14 are properly trained, are doing appropriate
15 inspections, documenting their findings and
16 following up in a timely manner to ensure that
17 defects are corrected. I also want to make sure
18 that these inspectors are not overworked and are
19 working under the direction of supervisors of good
20 character who are capable of managing the enormous
21 task of conducting these inspections in an
22 effective, efficient, and professional manner.
23 While I am sensitive to the enormous workload of
24 this unit, the safety of these systems are meant
25 to ensure and must not be compromised for any

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2 reason. Regarding Intro. 884-A, the 2008 New York
3 City Child Fatality Report found that injuries are
4 the leading cause of death for children in the
5 United States. According to the report, from 2001
6 through 2006, there were 66 fire-related child
7 deaths and four deaths due to scald burns in New
8 York City among children, age 1 through 12. Fire
9 and burns remain the second leading cause of death
10 among New York City children as a result of
11 unintentional injury. After motor vehicle death,
12 fire is the leading cause of accidental death for
13 children in the homes, according to the report.
14 The report also indicated that nearly one-quarter
15 of all fire-related child deaths were caused by
16 children playing with matches or a lighter. This
17 was the leading single ignition source of fire
18 resulting in child death. Proposed Intro. 884-A
19 amend the Administrative Code of the City of New
20 York in relation to the prohibition of retail sale
21 and distribution of novelty lighters. The bill
22 would prohibit the sale or distribution of novelty
23 lighters in New York City, but would not apply to
24 the transportation of novelty lighters through the
25 city or the storage of novelty lighters in

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2 warehouses for distribution centers in the city
3 that is close to the public for purpose of retail
4 sales. The bill subjects those who violate its
5 provisions to civil penalties of not more than
6 \$1,000 for the first violation and not more than
7 \$2,500 for a subsequent violation. Novelty
8 lighters are often reasonable toys and attract
9 children. They have been reported to cause
10 serious injury through the country, including
11 death. Although the United States Consumer
12 Product Safety Commission requires novelty
13 lighters to be child resistant, I don't believe
14 this safeguard is enough. The state of Maine and
15 Tennessee have banned these lighters, as have
16 several municipalities in Arkansas and elsewhere
17 across the country. We should do the same here.
18 Since our last hearing, there are some notable
19 changes to Proposed Intro. 884-A. It was amended
20 by moving its provision from Title 17 of the
21 Administrative Code, which have given the New York
22 City Department of Health the authority to enforce
23 the provisions of the bill to Title 20, which will
24 thereby give the authority to the New York City
25 Department of Consumer Affairs. Additionally,

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2 Section 20-617 was added to provide that any
3 violation of the provisions of the bill would be
4 adjudicated at a tribunal of the Department of
5 Consumer Affairs. Furthermore, the definition of
6 novelty lighter was modified to include lighters
7 designed to resemble cartoon characters, guns,
8 watches, musical instruments, vehicles, animals,
9 food, or beverages and to clarify that the
10 lighters that feature flashlights or make musical
11 sound for entertainment are included and to
12 exclude standard disposable and refillable
13 lighters that are printed or decorated with logos,
14 labels or artwork. Finally, Proposed Intro. 884-A
15 no longer requires the commissioner to suspend any
16 fine in lieu of warning for a 30-day period
17 immediately following the enactment of the law. I
18 want to thank everyone for being here today. We
19 have testimony from the fire department, both on
20 our oversight hearing and we look forward to
21 hearing the department's opinion on the amended
22 Intro. 884-A. We've been joined by Chief Jensen,
23 who is the chief responsible head of the Fire
24 Prevention Bureau. Thank you, Chief, you may
25 start your testimony.

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2 THOMAS JENSEN: Thank you. Good
3 morning, Chairman Martinez and Committee members.
4 My name is Assistant Chief Thomas Jensen. I am
5 the Chief of Fire Prevention for the New York City
6 Fire Department. Thank you for the opportunity to
7 speak with you today about the FDNY Fire Alarm
8 Inspection Unit. I am joined today by Assistant
9 Chief Richard Tobin, also of the Bureau of Fire
10 Prevention and Department Counsel, Julian Bazel.
11 The FDNY Bureau of Fire Prevention is responsible
12 for protecting residential and commercial
13 properties throughout New York City by enforcing
14 the local laws and regulations pertaining to fire
15 protection. The Fire Alarm Inspection Unit is
16 with the Bureau of Fire Prevention. Its mission
17 is to ensure fire and life safety in both the
18 public and private sectors via the implementation
19 of a citywide program of fire alarm systems, fire
20 detection systems, emergency fire voice
21 communication systems and other related fire
22 preventative and fire preventative notification,
23 detection and extinguishing systems. This
24 includes systems located in facilities throughout
25 New York City, including office buildings, hotels,

1 hospitals, schools, nursing homes, department
2 stores, health clubs, dormitories, daycare centers
3 and cabarets. The Fire Alarm Inspection Unit has
4 a dedicated, highly experienced staff of 26. That
5 includes a director and deputy chief inspector, 3
6 supervisors, 4 clerks and 16 inspectors. In the
7 past, we have had difficulty hiring inspectors for
8 the unit because of relatively low starting
9 salaries, a protracted hiring process and some
10 stringent eligibility requirements. We had a
11 limited applicant pool and a continuing inability
12 to meet our headcount. This affected our ability
13 to keep up with industry demand for fire alarm
14 inspection during this decade's unprecedented
15 construction boom. Related issues surfaced in a
16 report by the Comptroller in June 2007. The
17 department has begun to implement many of the
18 recommendations contained in that report. We have
19 now been able to get back up to headcount through
20 an aggressive recruitment effort over the last two
21 years. Filling these vacancies has enabled us to
22 strengthen the management of the unit, including
23 adding more supervisory inspections and
24 streamlining the unit's record keeping. Among the
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2 management improvements we have made are: a new
3 procedure manual for the unit; a new system for
4 checking out files; a uniformed system for
5 tracking inspections; improving the data we track
6 and report to the Mayor's Management Report;
7 training inspectors in the basic elements of field
8 activity, routing and reporting; auditing 5% of
9 the letters of defect we issue; and instituting
10 regular supervisory inspections. Following the
11 comptroller's audit we prioritized the clearing of
12 the letter of defect re-inspection backlog, which
13 at the time of the audit totaled 3,200. Most
14 accounts in the backlog were additions and
15 modifications of already existing and approved
16 base building fire alarm systems. Since November
17 2007, we dedicated two inspectors to exclusively
18 target the backlog. Nine other inspectors share
19 the remainder of the workload. Through their
20 efforts, we inspected and cleared 1,839 of those
21 accounts and re-inspected and found violations at
22 687. The 2009 business plan provides for the re-
23 inspection of the remaining accounts not in
24 compliance over the next year. We also have two
25 other initiatives underway. We are creating a

1 professional certification audit program for non-
2 core additions and modifications to fire alarm
3 systems. This is a voluntary program that we
4 anticipate may free up as much as 25% of our
5 current inspection workload. We are also revising
6 our plan review process to include Department of
7 Buildings' review of add-ons to fire alarms
8 systems. For example, additional strobes or smoke
9 detectors. Another important step will be in the
10 area of technological advancement for the unit.
11 The FDNY has entered into a four-year, \$25 million
12 contract, with IBM to enhance our computer
13 capabilities to track inspections and improve the
14 sharing of inspection data within the bureau and
15 the department and with other city agencies that
16 have inspection responsibilities, such as DOB and
17 the Department of Environmental Protection. With
18 these measures, we believe we are turning the
19 corner and are now better able to keep up with our
20 workload and meet industry demand. We have been
21 successful in moving this unit in the right
22 direction. We are confident that going forward
23 this will continue. We were also asked to comment
24 on Intro. 884-A, the novelty lighter bill. We
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1
2 remind the council of our interest in keeping
3 children from harming themselves and others by
4 starting fires. In 2007 alone, our fire marshals
5 investigated 71 cases of juveniles involved in
6 fire play in New York City, which caused 19
7 serious injuries and 2 fatalities. However, we
8 are advised that Congress has been considering
9 legislation that would ban the sale of novelty
10 lighters designed to look like toys. We think it
11 would be more prudent to allow the legislation to
12 go forward on the federal level to create
13 uniformity across the country. We remain open to
14 discussing this with the council. Thank you for
15 the opportunity to speak with you today. We will
16 be happy to answer your questions at this time.

17 CHAIRPERSON MARTINEZ: Thank you,
18 Chief. Who is the head of the Fire Alarm
19 Inspection? You're the head of the bureau, but
20 who's in charge of that particular unit.

21 THOMAS JENSEN: Let me ask Chief
22 Tobin to respond. The Fire Alarm Unit is under
23 his command.

24 RICHARD TOBIN: The Fire Alarm Unit
25 is one of several units that reports to me. It

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2 has a manager that is directly responsible for
3 overseeing that unit. The manager is with us,
4 it's Bob Rampino. He's in the room here. His
5 second in command is Barrington Brown, who is also
6 with him.

7 CHAIRPERSON MARTINEZ: So they
8 report to you directly?

9 RICHARD TOBIN: They report to me.

10 CHAIRPERSON MARTINEZ: The overall
11 manpower or headcount for the unit is 26, or are
12 you under headcount?

13 RICHARD TOBIN: Are you down one at
14 this point, Bob? They're down one. So you're at
15 25 now.

16 CHAIRPERSON MARTINEZ: But the
17 total?

18 RICHARD TOBIN: The total manpower
19 for the unit has not grown in years. It's stayed
20 static at exactly the numbers you see there today.

21 CHAIRPERSON MARTINEZ: Sixteen
22 inspectors with 3 supervisors. The chief
23 mentioned in his testimony that you caught up
24 1,839 inspections.

25 RICHARD TOBIN: That was the

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2 backlog that they culled. That is out of the
3 3,200 that were backlogged.

4 CHAIRPERSON MARTINEZ: This was
5 after the comptroller's report?

6 RICHARD TOBIN: This was
7 immediately after the comptroller's report. Let
8 me explain about the comptroller's report. I was
9 promoted in May. The first thing I heard about
10 the comptroller's report was the first meeting I
11 went in August of that year, which was a closing
12 report. So in the time following--

13 CHAIRPERSON MARTINEZ:
14 [interposing] I'm sorry Chief. I'm sorry, there
15 are just multiple hearings.

16 RICHARD TOBIN: So in the immediate
17 aftermath of the comptroller's report, I believe
18 we took very aggressive measures to address the
19 issues that were raised by the comptroller,
20 including an aggressive hiring program, the
21 development of a business plan to address the
22 backlog, authorized overtime, securing the files
23 and a number of issues that were in the report.

24 CHAIRPERSON MARTINEZ: What are the
25 number of inspections conducted per inspector?

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Tell me how the unit works. You have 16 men out in the field. At the end of the day what do you expect from them?

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RICHARD TOBIN: That would best be given to you directly by the unit manager. That's one of seven units that reports to me. In the past year, we've had the Deutsche Bank fire. I have been the chief that's designated to head the CDA team that's being put together. I was the chief that was designated to represent the department at City Hall on the CDA work group. I was the chief that was designated to do several other things. The person who could best answer questions about the day-to-day operations of the unit would be Bob Rampino. He's right here.

CHAIRPERSON MARTINEZ: Identify yourself for the record.

ROBERT RAMPINO: The total number of inspections that a field unit inspector conducts has averaged pretty consistently, over the past few years, as 2.4 inspections per day. Beginning with a morning inspection, which is an original inspection, which could be an inspection for a certificate of occupancy or a TCO. It's the

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2 larger inspection and it could take anywhere
3 between two and a half and four hours on average.
4 Then following that inspection, there are re-
5 inspections. There's usually room for at least
6 one other inspection and sometimes more.

7 CHAIRPERSON MARTINEZ: 2.4 is that
8 what you mentioned?

9 ROBERT RAMPINO: Inspections per
10 day per inspector.

11 CHAIRPERSON MARTINEZ: What is 2.4?
12 How did you get that? Was it 5 inspections, 20
13 inspections, 3 inspections?

14 ROBERT RAMPINO: It would come out
15 to 2.4 inspections per day on an average.

16 CHAIRPERSON MARTINEZ: How many
17 buildings is that? In lean terms, you send me out
18 to the field, how many unit?

19 ROBERT RAMPINO: It would be 2.4
20 fire alarm systems.

21 CHAIRPERSON MARTINEZ: You say that
22 the duration could be from two to four hours.

23 ROBERT RAMPINO: Two and a half to
24 four hours. The first inspection is usually that
25 long.

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2 CHAIRPERSON MARTINEZ: How do you
3 keep track of the amount of hours that the
4 inspections are being conducted?

5 ROBERT RAMPINO: The inspectors
6 fill out time sheets. The information is data
7 entered. The clients are billed for inspection
8 services. All of those things tend to come
9 together to verify the amount of time that's
10 involved. We also perform supervisory inspections
11 in relation to each one of the inspectors over the
12 course of the year.

13 CHAIRPERSON MARTINEZ: What changes
14 have been made in terms of reliability of the
15 self-reporting by the inspectors, since we found
16 in the comptroller's report that oftentimes they
17 would inflate the amount of time that it took them
18 to do the inspection?

19 ROBERT RAMPINO: What happened
20 regarding the comptroller's audit is that we were
21 counting each and every inspection stop, whereas
22 the Mayor's Management Report we then instituted a
23 uniform count throughout the entire bureau. So we
24 only counted complete inspections rather
25 inspection stops or re-inspections. The system

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2 that we're now using doesn't count re-inspections,
3 or no-access inspection stops. We were counting
4 them as inspection stops and as inspections.

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6 CHAIRPERSON MARTINEZ: How often
7 did the supervisor go out to self-inspect the
8 inspection made by the inspector?

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9 ROBERT RAMPINO: Apart from being
10 in contact with his inspectors every day, the
11 supervisor has to perform a minimum of six
12 supervisory inspections a year per inspector.
13 That's in keeping with the standards established
14 by the DOI and by the Fire Department.

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15 CHAIRPERSON MARTINEZ: Do you think
16 these standards are sufficient for the amount of
17 systems throughout the city?

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18 ROBERT RAMPINO: Yes, I do.

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19 CHAIRPERSON MARTINEZ: It covers
20 even new construction?

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21 ROBERT RAMPINO: Yes, it does.

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22 CHAIRPERSON MARTINEZ: Within that
23 amount of inspections?

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24 ROBERT RAMPINO: We have
25 supervisors going out to follow up on an
inspector's inspection six times a year.

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CHAIRPERSON MARTINEZ: Correct.

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3 But my question is about new commercial mall or
4 shopping center.

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ROBERT RAMPINO: A mall or a
6 shopping center might entail innumerable
7 inspections. In other words, many accounts. So
8 he would be responsible for one of those accounts.

9

CHAIRPERSON MARTINEZ: Who would be
10 responsible for the other accounts?

11

ROBERT RAMPINO: Those would be
12 detailed to our other inspectors, depending on who
13 made application for the inspection.

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CHAIRPERSON MARTINEZ: So you're
15 telling me that in one facility you may have an
16 inspector doing the fire alarm. You may have
17 another inspector responsible for the smoke
18 detectors and another one you have for the voice?

19

ROBERT RAMPINO: No. You might
20 have multiple accounts in one location. You might
21 have multiple fire alarm systems in one location.
22 You might have additions and modifications to an
23 existing system. So an inspector would be
24 responsible for one of those applications, one of
25 those accounts.

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2 CHAIRPERSON MARTINEZ: So you're
3 telling me the same thing. There are multiple
4 applications for multiple systems.

5 ROBERT RAMPINO: Correct.

6 CHAIRPERSON MARTINEZ: Now that
7 supervisor, he's responsible to supervise one of
8 those applications and not the entire--

9 ROBERT RAMPINO: [interposing] A
10 supervisor, in a unit of ten or more, must go out
11 a minimum of six times a year to do a supervisory
12 inspection of an inspector.

13 CHAIRPERSON MARTINEZ: I understand
14 that. I'm in a commercial building. There are
15 multiple applications.

16 ROBERT RAMPINO: There may or may
17 not be.

18 CHAIRPERSON MARTINEZ:
19 Hypothetically, according to what you said, there
20 are multiple applications. That supervisor is
21 only responsible for supervising one of those
22 applications in the same building.

23 ROBERT RAMPINO: That would be
24 rarely the case. That's simply not the case most
25 of the time.

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2 CHAIRPERSON MARTINEZ: But that's
3 what you just said.

4 ROBERT RAMPINO: A supervisor would
5 go out and would perform a supervisory inspection
6 in relation to the one account that the inspector
7 was assigned for the day.

8 CHAIRPERSON MARTINEZ: I understand
9 that. I just want to be clear. It's not looked
10 at as the actual physical structure that you're
11 inspecting, but rather one application.

12 ROBERT RAMPINO: The one
13 application, that's correct.

14 CHAIRPERSON MARTINEZ: Let me go
15 back to the inspectors. I know the chief made
16 reference to that in his testimony in terms of the
17 difficulties and I want to come back to that. In
18 terms of the difficulty of hiring in this unit,
19 and you mentioned the issue of salaries, and I
20 want to touch on that. Can you tell us the
21 requirements to be a fire alarm inspector?

22 RICHARD TOBIN: The requirements to
23 be a fire alarm inspector in the City of New York
24 are very stringent. I believe they have to have
25 at least six years experience in the field.

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ROBERT RAMPINO: Yes.

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RICHARD TOBIN: Six years

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experience in the field as either a licensed
electrician or they have to have a Bachelors of
Science degree in electrical engineering with some
of background. We are competing against the
private alarm industry out there. We are looking
to bring people in at \$40,000 a year when in a
comparable industry they can make close to
\$70,000.

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ROBERT RAMPINO: It's a little

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higher, chief, it's around \$49,000. But that's
the same as it was in 2002. It's very difficult
to hire.

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CHAIRPERSON MARTINEZ: \$49,000 and

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you're competing with?

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ROBERT RAMPINO: In private

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industry you could easily make between \$75,000 and
\$100,000. If you're working as a technician or a
fire alarm installer, you could make much more.
So we have to compete for that.

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CHAIRPERSON MARTINEZ: What type of

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background check is conducted before hiring?

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RICHARD TOBIN: It's an extensive

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2 background check that's done through the
3 Department of Personnel and Human Resources.

4 CHAIRPERSON MARTINEZ: I know that
5 the chief just mentioned that you're currently at
6 25 instead of 26. Chief, I'll ask you this. For
7 the amount of high rises and commercial properties
8 in the City of New York, not to mention our piers
9 and our storage facilities, is 26 an accurate
10 number to conduct the amount of inspections?

11 ROBERT RAMPINO: We had 2,800
12 applications last year for inspections.

13 CHAIRPERSON MARTINEZ: Why did we
14 only hire 26?

15 RICHARD TOBIN: No, he had 2,800
16 applications.

17 ROBERT RAMPINO: We had 2,800
18 applications for original inspections last year.

19 THOMAS JENSEN: You're simply
20 asking if 16 inspectors is enough to handle this
21 workload?

22 CHAIRPERSON MARTINEZ: Correct.

23 THOMAS JENSEN: Absolutely not.
24 It's a very heavy workload to expect 16 inspectors
25 to be able to keep up with.

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2 ROBERT RAMPINO: Since the end of
3 the comptroller's audit we've performed over
4 15,000 inspections.

5 CHAIRPERSON MARTINEZ: Is the 16
6 the number, the cap that you can't go beyond 16?

7 THOMAS JENSEN: We usually operate
8 with an allocation that hasn't been increased.

9 CHAIRPERSON MARTINEZ: What needs
10 to happen to increase that? Is that departmental?

11 THOMAS JENSEN: I would say so,
12 yes. We'd have to request additional resources.

13 RICHARD TOBIN: You have requested.

14 THOMAS JENSEN: Yes, we have.

15 CHAIRPERSON MARTINEZ: I'm going to
16 yield to Council Member Jimmy Vacca because I know
17 he has another hearing and I'll come back with
18 further questions. Council Member Vacca?

19 COUNCIL MEMBER VACCA: I'm sitting
20 here very upset with this. I read today's papers
21 and now I see this. I have a ladder company on
22 City Island in my district that's now closed
23 during the evenings and I see that we have
24 opportunities to raise revenue that somehow are
25 going out the window. First of all, these jobs,

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2 whether they pay \$48,000 or \$49,000, I think in
3 today's economy, there are qualified people who
4 would take these jobs because they cannot find
5 employment elsewhere. I think these jobs would go
6 pretty quickly. I don't think we're right in
7 assuming that we may have the difficulty we had
8 before in 2009 facing what we're facing. When we
9 have a backlog, we have an opportunity to bring
10 revenue into the City of New York and we're not
11 utilizing and then I'm being told that we have to
12 risk life and limb of people because the fire
13 department has no way to meet the gap, I think
14 it's totally irresponsible. I'm upset over this
15 whole process. Now, you said in 2005, you upped
16 your revenue to \$2 million.

17 THOMAS JENSEN: That is correct.

18 COUNCIL MEMBER VACCA: Is that
19 still \$2 million? Is this consistent in 2006 and
20 2007?

21 THOMAS JENSEN: We've been pretty
22 consistent over the last few years. It's
23 approximately \$2 million.

24 COUNCIL MEMBER VACCA: If the
25 backlog was cleared up, what are we looking at?

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2 How much in revenue? Is it a doubling of that or
3 more?

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THOMAS JENSEN: No, I wouldn't say
5 that. I think in order to address the backlog and
6 meet the demand that we face in the present, we
7 would probably need four additional inspectors,
8 another supervisor and a clerk in support. Then
9 we probably could, with what the numbers are, we
10 would be able to meet our mission goals.

11

COUNCIL MEMBER VACCA: What are the
12 fees you charge?

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THOMAS JENSEN: It's \$210 an hour
14 for inspection services.

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COUNCIL MEMBER VACCA: Are these
16 establishments required to have yearly
17 inspections?

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THOMAS JENSEN: No, they do not.
19 It's only upon installation.

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COUNCIL MEMBER VACCA: Only upon
21 installation for new premises?

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THOMAS JENSEN: That is correct.

COUNCIL MEMBER VACCA: When you
inspect do you make a referral to the Buildings
Department? Is the Buildings Department aware of

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your inspection?

THOMAS JENSEN: Yes. The client has to make application first at the Buildings Department before it eventually comes to the fire department for making application for an inspection.

COUNCIL MEMBER VACCA: Can he get his C of O without you?

THOMAS JENSEN: No.

COUNCIL MEMBER VACCA: No? So we're talking of another problem here where people are not getting certificate of occupancies based on a backlog your agency may have.

THOMAS JENSEN: The certificate of occupancy requires that we do an inspection at the very beginning. The backlog that we were referring to before of 3,200 doesn't relate to the certificate of occupancy at all.

COUNCIL MEMBER VACCA: What's the wait time?

THOMAS JENSEN: The wait time at the present is three months. If an applicant comes and wants an inspection, they have to wait three months before they can get one.

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COUNCIL MEMBER VACCA: What's

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acceptable?

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THOMAS JENSEN: A month.

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COUNCIL MEMBER VACCA: I would

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think a month is acceptable, yes. Let me ask you

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this, you talk about self-certification and you

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mentioned self-certification is similar to that in

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the Buildings Department. The Buildings

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Department has a self-certification policy.

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However, the Buildings Department has a higher

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percentage of applicants that are audited based on

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self-certification than you have. The self-

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certification of the Buildings Department is

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transparent on their biz system, where your self-

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certification of an establishment is not known to

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the public. It's not transparent. How do I know

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in my community whether or not a self-certified

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application was accepted on its face or whether or

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not there was an audit. I have no way of knowing.

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I don't see how there is an analogy between the

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two agencies and where the public's right to know

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comes in.

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JULIAN BAZEL: Julian Bazel,

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counsel, let me just address that briefly.

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2 There's a couple of different things going on
3 here. The fire department has never had self-
4 certification the same way that the Department of
5 Buildings has, which is where they accept a
6 certification from an engineer or an architect in
7 lieu of actually conducting an inspection. At
8 present, the fire department inspects all new
9 installations and may issue a letter of defect,
10 which may or may not affect the actual function of
11 the system, but reflects defects in the
12 installation. And thereafter, they may accept
13 signoffs subject to an audit. We do an initial
14 inspection. What's under discussion now in order
15 to reduce the backlog and to enable the unit to
16 focus its resources on what are considered to be
17 the more critical needs an expedite the process of
18 getting C of Os and TCOs is to allow a true
19 professional certification program only for non-
20 core components of the fire alarm system. So
21 essentially what the unit would do is focus its
22 efforts on the major installation such as the
23 risers, the control panels and the core systems
24 associated with the essential safety components
25 and not attempt to inspect every single

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2 installation, such as if they have to relocate a
3 strobe from one part of a room to another. Or, if
4 there are build-outs, which are the less critical
5 components. They're important components, but not
6 the essential components. We would allow
7 professionals to certify. This was something that
8 came up during our code revision process that the
9 industry very aggressively pushed for in order to
10 reduce the workload and then the backlog. We're
11 poised to develop a rule. That initiative will be
12 associated with an audit policy and hopefully one
13 that we'll be able to devote additional resources
14 in order to make sure that there is sufficient
15 oversight of that professional certification
16 process.

17 COUNCIL MEMBER VACCA: We should be
18 at a point where the fire department has qualified
19 people looking at every location. I'm concerned
20 about self-certification when we talk about fire
21 prevention and extinguishment systems in hotels,
22 nursing homes, schools, health clubs and
23 dormitories, daycares and cabarets. I'm concerned
24 about people self-certifying anything. Even that
25 term frightens me. I want a professional person

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2 to go in there and make sure. If that means that
3 we have to hire more people or we have to raise
4 the fees, then we have to do that to guarantee the
5 public safety. I'm talking out loud to you. I'm
6 wondering to myself why this function isn't rolled
7 over into the Buildings Department. Did we ever
8 consider rolling this over into the Buildings
9 Department and having that agency do this as part
10 of a C of O process? That would seem to make
11 sense to me. I throw that out to you. I mean not
12 that anybody here is in a position of policy
13 making where you can make a decision. But I throw
14 it out to you because the audit from the
15 comptroller is terrible. I see the audit from the
16 comptroller and you say you agree. That's what
17 everybody says when they get an audit from the
18 comptroller. They agree. But the audit found
19 what it found. The findings are damning. I
20 really think that this requires further discussion
21 and oversight from this council. I do, again,
22 come back to the point where this is a revenue
23 producing aspect of our city. Certainly it has
24 not performed or been managed the way it should
25 have. If there was an alarm to be sounded, we

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2 should have sounded it. This council should have
3 known. There should not have been a comptroller's
4 report that necessitated this type of an alarm
5 system when it comes to public safety and when it
6 comes to loss of revenue and management. I think
7 that this is what I see here. I'm certainly going
8 to discuss this in light of my own neighborhood
9 situation, which I do not think has to exist. The
10 more I learn, the more I see the reality. Thank
11 you.

12 CHAIRPERSON MARTINEZ: Thank you,
13 Council Member. You mentioned that once an
14 application is filed for a new building, it's
15 usually a month before the inspection is
16 conducted.

17 THOMAS JENSEN: That's the way it
18 should be.

19 CHAIRPERSON MARTINEZ: How is it?

20 THOMAS JENSEN: Well, these days it
21 takes approximately three months.

22 CHAIRPERSON MARTINEZ: What's the
23 average time between the issuance of a letter of
24 defect and a follow-up inspection?

25 ROBERT RAMPINO: That should be 90

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days as well, but that's also dependent upon the manpower resources that we have available and the original inspection demand up front.

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CHAIRPERSON MARTINEZ: The average time between the issuance of violation order and the follow up of inspection? How long does that take?

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ROBERT RAMPINO: The issuance of a violation order?

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CHAIRPERSON MARTINEZ: And the follow up of that inspection.

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ROBERT RAMPINO: Right now, the violations that we issued last year are going to be followed up this year, according to our 2009 business plan.

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CHAIRPERSON MARTINEZ: So a year?

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ROBERT RAMPINO: Yes.

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CHAIRPERSON MARTINEZ: So, in essence, we're in trouble. At any given time we could be in a commercial space and a fire alarm will go off.

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ROBERT RAMPINO: It's a question of resources, Council Member.

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CHAIRPERSON MARTINEZ: So it's a

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2 question of resources, but you're telling us here
3 that in the City of New York at any given time we
4 could be in a building where the fire department
5 issued a violation order on the system and it's
6 going to be a year later before we go up there to
7 inspect again.

8 ROBERT RAMPINO: Not necessarily.
9 But it could be more time than we'd like. It
10 could be more than that 30 days.

11 CHAIRPERSON MARTINEZ: You just
12 finished saying a year.

13 ROBERT RAMPINO: I said that it
14 could be a year.

15 CHAIRPERSON MARTINEZ: There was an
16 assertion made that the unit had not developed a
17 formal procedure to follow up when recording
18 requests for inspection. Tracking these requests,
19 conducting inspection and following up on the
20 inspection. As a result, the inspections were not
21 conducted in a timely manner and the unit did not
22 always follow up the letter of defect. Obviously,
23 you just finished saying that. In those instances
24 where the unit did not follow up, it did not
25 generally do so within the formal timeframe. You

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2 formal timeframe is a month, correct?

3 ROBERT RAMPINO: I'm not sure what
4 you mean.

5 CHAIRPERSON MARTINEZ: In the
6 comptroller's report it indicates that the formal
7 timeframe for inspections to be conducted were
8 never met by the unit.

9 ROBERT RAMPINO: The 90 days
10 associated with the letter of defect is not
11 statutory. It was established by the unit as a
12 reasonable period at the time.

13 CHAIRPERSON MARTINEZ: Well you
14 never meet that though.

15 ROBERT RAMPINO: We rarely do.

16 CHAIRPERSON MARTINEZ: You never
17 meet the time for defect nor for the violation
18 order.

19 ROBERT RAMPINO: That is correct.
20 Understand, it's not a very difficult thing to do
21 if the resources are available; it's easier to
22 track.

23 CHAIRPERSON MARTINEZ: I understand
24 that. It's really concerning. I'm not coming
25 down on you or the chief, but we have a New York

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2 City that in essence is putting at risk the lives
3 of New Yorkers. If you're in a high rise and one
4 of your inspectors go into that high rise and the
5 voice system is not working, you're telling me
6 that's going to take a year before a follow-up
7 inspection is done to see if this is corrected.

8 ROBERT RAMPINO: Most of the
9 violations are issued in relation to letters of
10 defect. They may not be major items. We do
11 require that the client follow-up on even minor
12 items.

13 CHAIRPERSON MARTINEZ: But you
14 don't know that because you're not following up
15 yourself.

16 ROBERT RAMPINO: We're not
17 following up in as timely manner as we would like.
18 That's correct.

19 CHAIRPERSON MARTINEZ: So within a
20 year timeframe you're telling me that if you go in
21 this building in January '08, it could be January
22 of 2010 before you realize that the fire system
23 here at 250 Broadway is functional, or if the
24 owner of the building actually did the
25 corrections. It's going to take you a year later

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2 of find out.

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ROBERT RAMPINO: It may take us longer than we would like. Could it be a year in a given instance? The answer to that is yes.

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CHAIRPERSON MARTINEZ: You were going to say, Chief?

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THOMAS JENSEN: I'm trying to figure out exactly the scope of what you're talking about. If it's a violation it follows the letter of defect. When they're inspecting a system, if it's that serious of a violation, a letter of defect cannot be issued, a violation order is issued, which would not allow them to have a certificate of occupancy. A letter of defect does not rise to the level of a violation order. A letter could point out something like a strobe light not installed according to the plan, such as it being 18 inches over or 30 inches down rather than where the plan calls for. That would result in a letter of defect. If one of your detectors in the system wasn't working, you would get a letter of defect. The systems by their very nature are built to be redundant. That one defect would not be a life-threatening situation because

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there are other detectors that would pick that up.

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So a letter of defect, in 99% of these cases and

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maybe more, would be a less than life-threatening

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situation.

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CHAIRPERSON MARTINEZ: And a letter

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of violation?

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THOMAS JENSEN: A letter of

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violation is more serious.

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ROBERT RAMPINO: What he's saying

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is absolutely correct. We expect the clients will

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even follow up on that one small item that isn't

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life-threatening. So eventually a violation will

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be issued for that as well.

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CHAIRPERSON MARTINEZ: Chief, can

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we get back to that? That's an important

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clarification you're making. Can you also do the

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same with the violation order? The issue is more

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in terms of the timeframe that the department has

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established in terms of following up with

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inspections. Already we know you're about a year

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delayed on the letter of defect. The violation

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order is the more severe one, correct?

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THOMAS JENSEN: Correct. If I gave

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you a violation order for something in this

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2 building that affected the alarm system, we would
3 also issue an order saying that you had to either
4 institute a fire watch, a fire guard, or another
5 system. We wouldn't just let the building be
6 occupied if there was no system operating. It
7 just wouldn't happen. There would have to be
8 something in place to protect the people.

9 CHAIRPERSON MARTINEZ: How will
10 ensure that?

11 THOMAS JENSEN: There's follow up.
12 There has to be follow up.

13 CHAIRPERSON MARTINEZ: He just
14 finished saying that every follow-up is delayed.

15 THOMAS JENSEN: Not every follow-
16 up. I think that you have to take into
17 consideration the severity of the violation.

18 RICHARD TOBIN: Maybe I can clarify
19 one thing because there may be a little bit of
20 confusion here. A violation order is an
21 enforcement instrument that as a commissioner's
22 order directs someone to correct a condition.
23 What I think the confusion is here is that if we
24 go out and observe a serious violation, we will
25 issue a violation order that will immediately direct

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2 and forthwith an appropriate timeframe to take the
3 necessary steps to return the system to a working
4 order. It will require, in appropriate cases, the
5 posting of fire guards and we may do surveillance.
6 Have the local company or otherwise have people
7 doing surveillance of the property to make sure
8 that steps are being done to correct this
9 dangerous condition. I think what Bob Rampino is
10 talking here is that if the letters of defect,
11 which are considered to be non-critical are not
12 corrected within an appropriate period of time, a
13 violation order will also be issued. Those
14 violation orders is because they haven't corrected
15 the less serious violations which do have to be
16 corrected in a timely fashion. When those are
17 not, then we would issue a violation order. I
18 think what Bob was indicating earlier, if I
19 understood him correctly, was that we may not get
20 out to conduct a re-inspection of those kinds of
21 violation orders. But the serious violation
22 orders, it's my understanding we would be
23 responding to very promptly.

24 CHAIRPERSON MARTINEZ: What's
25 promptly? When you issue a violation order, how

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often do you go out? How fast do you go out to re-inspect on the violation?

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ROBERT RAMPINO: It depends on the violation.

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RICHARD TOBIN: If it's a forthwith violation, it's 24 hours.

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ROBERT RAMPINO: Exactly.

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CHAIRPERSON MARTINEZ: If it's a what?

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RICHARD TOBIN: Forthwith violation they have 24 hours to correct it.

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THOMAS JENSEN: That's correct.

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CHAIRPERSON MARTINEZ: So what other type of serious violation orders? Do you have one that would take 24 hours? And what are the other ones?

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ROBERT RAMPINO: You have others that might be a minor item on a letter of defect that is not life-threatening. It might be two smoke detectors in a ceiling with 100 smoke detectors. It's not going to be life-threatening, but they should be corrected.

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CHAIRPERSON MARTINEZ: We're mixing two things here. Because you have the order of

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2 defect. So if we didn't respond to the order of
3 defect it now becomes an order of violation. I'm
4 not interested in that. We cleared that up. You
5 issued an order of violation.

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ROBERT RAMPINO: After the letter
of defect is what you're saying?

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CHAIRPERSON MARTINEZ: No.

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THOMAS JENSEN: No, he's talking
about the serious issues.

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CHAIRPERSON MARTINEZ: You came
into this building and you found a serious
violation. Not because you issued a previous
order, but you came into the building now and you
found some serious violation. How long does it
take--

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ROBERT RAMPINO: [interposing] And
the system wasn't working, we'd go back
immediately and we'd call for the issuance of fire
guards.

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CHAIRPERSON MARTINEZ: How many
violation orders are issued on a yearly basis?

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ROBERT RAMPINO: Probably about
1,200.

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CHAIRPERSON MARTINEZ: Out of those

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2 1,200, how many are re-inspected?

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ROBERT RAMPINO: We'd like to re-inspect all of them this year.

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CHAIRPERSON MARTINEZ: I'm not asking what you would like to do. I'm asking you how many.

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ROBERT RAMPINO: I don't know the answer to that question offhand. I could get back to you on that. I really don't know.

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THOMAS JENSEN: Maybe I can clear this up. I think you're asking about a system operating like in this building, if the system went down. There is a procedure. The owner of the building, or his designee, which is called an impairment coordinator, he immediately must call the fire department to report that the system is not functioning. A unit would go over to inspect it. Not the inspection unit at headquarters. They basically inspect brand new installations before people are even in the building. The regular fire department unit, engine or ladder company would go over and would immediately give violation orders, 24 hours to repair the system and place fire guards until it is repaired. We're

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2 really talking about two different systems here.
3 It's the initial installation before people are in
4 the building, before there's a C of O issued that
5 the Fire Alarm Unit at headquarters takes care of.
6 If there's a system down in a building while the
7 building is occupied, the local fire department
8 unit goes over and they take immediate action and
9 give immediate violations. It's two different
10 systems.

11 CHAIRPERSON MARTINEZ: I understand
12 that. I'm glad you clarified that. So when you
13 have the local firehouses going in there and doing
14 an inspection and finding a violation, who follows
15 up?

16 THOMAS JENSEN: They do. If the
17 system is down 24 hours--

18 CHAIRPERSON MARTINEZ:
19 [interposing] Not this unit?

20 THOMAS JENSEN: Not that unit, no.
21 That's basically an inspection of the initial
22 installation of the unit normally before people
23 are even in the building.

24 CHAIRPERSON MARTINEZ: So, Chief,
25 that's a good point you bring up and I'm glad you

1
2 clarified that. Let's go back to what was said
3 earlier. So I'm in a commercial building and
4 there are multiple applications and two or three
5 of those applications have violation orders.

6 THOMAS JENSEN: If it's an initial
7 installation and the violation orders are issued,
8 which means it's serious, the building doesn't get
9 a C of O and it can't be occupied until they're
10 cleared. We actually terminate the inspection and
11 leave and then tell them to reschedule when it's
12 fixed.

13 CHAIRPERSON MARTINEZ: I want to
14 stay on that same line. So we find that but then
15 does it fall through the gap that a supervisor
16 comes in but that supervisor is only responsible
17 to supervise one of those applications. Does it
18 stop all of the applications? Did you get that?

19 THOMAS JENSEN: No.

20 CHAIRPERSON MARTINEZ: I'm trying
21 to go back to what was said earlier. Supervisors
22 are responsible to go out to the field six times a
23 year. In a building we may have several
24 applications for inspections. That supervisor is
25 only going to go into that building that has five

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applications and supervise one of those applications. They don't go out after all of the applications that are out there. Is that correct?

ROBERT RAMPINO: That's something that very rarely happens. The supervisor would go out. Whatever the activities of his subordinate that day would be reviewed by that supervisor. If there were multiple accounts in a building and that inspector was going to inspect all of those accounts, the supervisor would oversee what he was doing that day, even if it was the multiple accounts. If it was multiple accounts, they'd be smaller jobs and the supervisor would be free and available to do that work.

CHAIRPERSON MARTINEZ: We've been joined by Council Member Mathieu Eugene from Brooklyn and Eric Gioia. Council Member Tony Avella has questions.

COUNCIL MEMBER AVELLA: Thank you, Mr. Chair. I'm sorry, I had to step out for a vote at the Land Use Committee. I've got to tell you that I'm shocked by what I hear, absolutely shocked. You're in charge of this unit, correct?

ROBERT RAMPINO: Yes.

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2 COUNCIL MEMBER AVELLA: What did
3 you do before you took this job.

4 ROBERT RAMPINO: I'm the
5 administrative manager of the unit.

6 COUNCIL MEMBER AVELLA: What
7 training did you have to take this job? I'm the
8 administrative manager of the unit. I worked as
9 the supervisor at the central station inspection
10 unit.

11 COUNCIL MEMBER AVELLA: Of the fire
12 department?

13 ROBERT RAMPINO: In the fire
14 department, in the bureau. I was the director of
15 management services in the bureau and I performed
16 various other staff activities over the years.

17 COUNCIL MEMBER AVELLA: How long
18 have you been the head of this unit?

19 ROBERT RAMPINO: Since 2002.

20 COUNCIL MEMBER AVELLA: What is the
21 makeup of the unit in terms of uniform personnel
22 as opposed to non-uniform personnel?

23 ROBERT RAMPINO: It's a civilian
24 unit.

25 COUNCIL MEMBER AVELLA: So there

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2 are no firefighters under that title in this unit?

3 ROBERT RAMPINO: No, sir.

4 COUNCIL MEMBER AVELLA: What are
5 the qualifications for people to be an inspector
6 in this unit?

7 ROBERT RAMPINO: You have to have
8 at least six years of experience in the fire alarm
9 industry, very often that involves installations.
10 You could be an electrician technician. You could
11 be an electrical contractor. Very often an
12 applicant for the job would have a B.S. in
13 electrical engineering.

14 COUNCIL MEMBER AVELLA: I know the
15 chair has gone over this a number of times. I'm
16 sure my colleague Jimmy Vacca did. But I've got o
17 tell you, I'm confused to the different levels of
18 violations. Is there one protocol that shows the
19 level of severity from beginning to end, from the
20 simplest violation to the most serious? It's
21 interesting that you keep giving a different
22 answer based upon the type of question that's
23 being answered. But I haven't heard the clear cut
24 answer. What is the simplest violation to what is
25 the most complicated?

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2 ROBERT RAMPINO: We do have a
3 protocol in relation to the core system, or the
4 essential components to a fire alarm system. We
5 make use of that when we cancel an inspection and
6 issue a violation. That has to do with the fire
7 command station, the panels, any mediating panels,
8 data gather panels, elevator recall, fireman
9 service and things of that nature. It would
10 automatically result in the cancellation of an
11 inspection if those components were not in proper
12 working order. So those are the items that would
13 be focused on as very significant and very
14 important. Things that would be less important
15 would be like the placement of audio/visual
16 devices, for example.

17 COUNCIL MEMBER AVELLA: Again,
18 going back to my question, do you actually have
19 the protocol that spells all of this out?

20 ROBERT RAMPINO: We have a
21 memorandum of understanding as to what the base
22 building system is. We do have a protocol as to
23 what would result in the cancellation of an
24 inspection based on the seriousness of the system
25 components. We can zero in on all of that very

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easily.

COUNCIL MEMBER AVELLA: Again, that's not my question. I'm sure you can zero in on anything, but do you actually have a protocol that spells out the simplest to the most hazardous violation?

ROBERT RAMPINO: We don't have list as such, if that's what you're asking.

COUNCIL MEMBER AVELLA: Don't you find that shocking?

ROBERT RAMPINO: No.

COUNCIL MEMBER AVELLA: Why not? Because I find it shocking. That leaves too much discretion to an inspector whose not a firefighter.

ROBERT RAMPINO: It doesn't discretion. The protocol that we have in place clearly spells out what the important components of the system are that have to be operational before we can continue the inspection.

COUNCIL MEMBER AVELLA: This is absolutely surprising to me.

THOMAS JENSEN: Look, I'm going to be honest. I'm baffled by that myself. My

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2 understanding is that there are clear cut
3 standards for what rises to the level of a
4 violation. That's what you're asking isn't it.
5 It's simple and clear cut. There are clear
6 standards. If the enunciated panel does work,
7 that rises to a violation. You cannot issue a
8 certificate of occupancy. If the elevators do not
9 recall to the lobby when they're supposed to, that
10 results in a violation and you cannot get the
11 certificate of occupancy. As a matter of fact,
12 the inspection stops. You tell them it's over and
13 you're not ready. You've got to remember that
14 what the Alarm Unit does is the initial inspection
15 of the building for a certificate of occupancy and
16 the add-ons. Say a company moved out and another
17 company moved in and did extensive work and they
18 added on systems or added a vertical addition to
19 the building, or a horizontal addition where you
20 expanded the basic spine, then this unit would go
21 out and do that inspection. Certain violations,
22 or defects in the system would result in a
23 violation order. There is a hierarchy of what
24 they are. There's a specific hierarchy.

25 COUNCIL MEMBER AVELLA: He doesn't

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2 seem to think there is one.

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THOMAS JENSEN: Well, he's very
4 confusing when he speaks. That's all I can tell
5 you. There is a hierarchy.

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COUNCIL MEMBER AVELLA: Chief,
7 could you get us that?

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THOMAS JENSEN: I'll get the
9 hierarchy to you. I'll get you exactly what the
10 procedure is so that you will understand. We have
11 it. We have a manual. The inspectors are trained
12 and they are aware of it. It is not an ambiguous
13 area where they can go out and just pick from Item
14 B or Item Z. They're not grocery shopping.

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COUNCIL MEMBER AVELLA: I'm sure
16 from your level you hope that's the case.

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THOMAS JENSEN: I know that's the
18 case. There are specific guidelines laid out by
19 the NFPA. There are specific guidelines which we
20 follow. We don't just let you go into any
21 building and send people out where they can pick
22 willy nilly. We do have bam, bam, bam, and this
23 is no good and it's a violation. I can understand
24 your concern because when I listened to it my head
25 was spinning. I admit it.

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2 COUNCIL MEMBER AVELLA: I have one
3 more question and then I'll turn it back to you,
4 Mr. Chair. I think Jimmy Vacca mentioned the
5 self-certification process. There are building
6 owners who self-certify their plans and the
7 Department of Buildings will just approve it.
8 This has been a huge cause of abuse throughout the
9 entire system. There are many of us, including
10 myself, who believe self-certification should be
11 thrown out. Is your unit going by self-
12 certification? In other words, somebody signs a
13 professional certification, an architect or the
14 building contractor, saying we've installed
15 properly the fire alarm system. Is that accepted
16 as is?

17 THOMAS JENSEN: The answer right
18 now is no. As Chief Tobin explained, whenever
19 there's an original installation or the add-on
20 installation, this unit does an inspection.
21 However, what came up during the code revision
22 process is that this unit has historically had a
23 backlog. Given the fact that this is the only
24 pre-C of O inspection that the agency does and
25 when there's a construction boom it's really

1
2 important for the inspections to be done promptly
3 so it doesn't hold up the building's occupancy,
4 the industry strongly advocated that we make some
5 distinctions between certain kinds of
6 installations and other kinds of installation and
7 allow professional certification of the less
8 critical installations. That's what I was
9 explaining before is that we continue the
10 proposal, which is moving towards a rule. It is
11 not a final decision. It's still under
12 discussion. But when we developed the code, we
13 did get a narrow grant of authority from the
14 council for non-core components of a fire alarm
15 system, such as the strobes and various build-out
16 components that do not constitute the spine or the
17 electrical closet where all the wiring is. We
18 will continue to inspect the core components as we
19 do now. However, we are considering or moving
20 towards a proposal that will allow an architect
21 or an engineer to certify these add-ons so that it
22 would free up the resources to focus on getting
23 the inspections done on the core system. Some may
24 have called this self-certification, but it's not
25 really self-certification. The only other aspect

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2 of this is that if we issue letters of defect for
3 one of these initial installations, there is a
4 process by which the owner can certify compliance
5 or correction of those less critical defects in
6 writing to us, I believe it's by affidavit and
7 that we check on them through an audit process.
8 It's similar to what we do with an environmental
9 control board notice of violation.

10 COUNCIL MEMBER AVELLA: My last
11 question is directed to you, Chief. In your
12 opinion, and you don't have to answer this if you
13 don't want to, would it be better to have a
14 firefighter do these inspections as opposed to
15 just an inspector? If you had the resources.

16 THOMAS JENSEN: A firefighter?

17 COUNCIL MEMBER AVELLA: Yes, a
18 firefighter who has been trained to investigate
19 fire alarms.

20 THOMAS JENSEN: We've been down
21 this road before. We've been down this road years
22 ago with the City Council. The City Council were
23 the ones who civilianized this bureau. To get
24 firefighters to come into this job is not easily
25 done. We've been through this with the unions.

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2 We've been through it numerous times when I was an
3 officer. The head of the Fire Officer's Union
4 attempted to get fire officers to come to fire
5 prevention. It's not easily done. The average
6 firefighter does not have the training. It's
7 substantial training. You're talking about six
8 years in the industry. We're not taking people
9 who are just off the street. The way he made it
10 sound when he said it was a lousy economy and
11 you're going to get these people to come. We
12 don't get them to just come. We've posted and
13 posted and posted. The economy may be down, but
14 all of these systems in the city still require new
15 installations, they're being overhauled any time
16 they work on these systems. There's plenty of
17 work out there for these guys. We don't see a lot
18 of them lining up to take these jobs. But
19 training firefighters that would take six year's
20 experience. Most firefighters want to be on the
21 fire truck. They don't want to be down in fire
22 prevention. Those that would be the ones on
23 light duty. And those are the ones that are going
24 to retire or they're going to leave. So it's not
25 going to be a job that we're going to have

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2 firefighters banging down the door to take. It
3 wouldn't help us at all.

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COUNCIL MEMBER AVELLA: Thank you,
5 Mr. Chair.

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CHAIRPERSON MARTINEZ: Thank you,
7 Council Member. We have a question from Council
8 Member Mathieu Eugene.

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COUNCIL MEMBER EUGENE: Thank you
10 very much, Mr. Chair. Thank you for holding this
11 hearing. Thank you to all of you for being here
12 because this is so important for the life of
13 people in New York. I just want to understand one
14 point. You said that when you conduct an
15 inspection if there are some violation you stop
16 the inspection until the defect is corrected?

17

RICHARD TOBIN: Correct.

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COUNCIL MEMBER EUGENE: How long
19 should it take to resolve the problem? Legally,
20 how long should the owner of the building take
21 before he resolves the situation?

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RICHARD TOBIN: You're referring to
23 the initial inspection, right?

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COUNCIL MEMBER EUGENE: Yes.

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RICHARD TOBIN: He can't occupy the

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2 building without correcting it. So the owner is
3 looking to get this done as expeditiously as
4 possible. He's pushing on the electrical
5 contractor or whoever does his system to get this
6 done because he wants to get people in. Nobody
7 wants to build a building and not make money off
8 of it. He can't make money unless he gets people
9 in. He can't get people in unless we sign off on
10 the certificate of occupancy. With violations he
11 can't get that. So the owner is anxious to get it
12 done. Because of the backlog, we have people that
13 are constantly calling trying to get their
14 inspections done. Part of the problem is they
15 anticipate that it will be backlogged, so they
16 call and schedule inspections before they're
17 actually done. Then we send inspectors there and
18 they're still not done. So this is not as easily
19 resolved as it seems.

20 COUNCIL MEMBER EUGENE: So we are
21 talking about an empty building.

22 RICHARD TOBIN: Yes, empty
23 buildings.

24 COUNCIL MEMBER EUGENE: What is the
25 process for an occupied building when you conduct

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2 an inspection?

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RICHARD TOBIN: Are you talking about if the system were to go out of service?

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COUNCIL MEMBER EUGENE: Yes.

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RICHARD TOBIN: If the system goes out of service in an occupied building, under the Fire Code, building management is obligated to notify the local fire company that the system is down. The local fire company does an immediate inspection. They do the inspection. They find out whether the system is down. If the system is down, they order fire guards and they give them a forthwith violation. They may give them up to 15 days to get the system working. Usually it's forthwith to restore the system to working order. Until the system is restored, they have to have fire guards in the building. They have to place placards on everything that's out of service. It's responded to immediately. It's not responded to by this unit. That's what Chief Jensen was explaining before. It's responded to by the field units of the New York City Fire Department, the engine companies and the ladder companies that are out there in the different boroughs.

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COUNCIL MEMBER EUGENE: Thank you.

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If they have 15 days to correct the problem,

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anything can happen in 15 days.

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RICHARD TOBIN: Normally it would

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be a forthwith, depending on the condition. A

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violation order could be forthwith, which gives 24

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hours. A violation could be 15 days depending on

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the condition. It could be anywhere within that

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timeframe. If it was a serious violation it would

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be forthwith. Get people on the scene and having

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them working within 24 hours to restore the

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system. Depending on the nature of the system, it

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might take them three days. In that three day

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period they would have to provide fire guards on

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the floor. They'd have to take some kind of

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action. They wouldn't be able to occupy the

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building unless they took some kind of remedial

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action that the fire department believes would

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address any risk.

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COUNCIL MEMBER EUGENE: Thank you

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very much. Thank you, Mr. Chair.

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CHAIRPERSON MARTINEZ: Thank you.

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Chief, I want to go into some of the assertions

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that were made in terms of the reliability of the

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2 system for tracking requests for inspection and
3 the actual inspection conducted by the unit. What
4 has the department done to remedy the situation?
5 What corrective measure has been implemented?
6 There was some allegations that there was no
7 reliable system for tracking requests for
8 inspection or actual inspections conducted by the
9 unit.

10 RICHARD TOBIN: In general we
11 tightened up all the oversight procedures in the
12 unit. We have an inspection coordinator. Barry
13 Brown, don't you do the inspection coordination?
14 The scheduling and all? You do the scheduling
15 don't you? He had been. Who's doing the
16 scheduling now? Alex Spector [phonetic]. To
17 address these issues, we specifically tightened.
18 We made a business plan. Under the business plan
19 we have specific people who are tasked with
20 specific items so that we wouldn't have these
21 things fall through the cracks. I can get you a
22 copy of the business plan. The business plan was
23 developed. It followed strict guidelines for a
24 business plan. We made accountability one of the
25 key issues of that plan. It was to address what

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2 the comptroller's report talked about.

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CHAIRPERSON MARTINEZ: The allegation of record keeping and practices in the union in terms of being inadequate, such as inspection document lacking; request for inspection documentation was scattered; and the file cabinet containing essential inspection files was unsecured. What effort has the department made to remedy these problems?

RICHARD TOBIN: Every one of those steps was addressed. We agreed to that. We locked the cabinets. The cabinets are locked at all times when they're not working on the files. You cannot enter the third floor. You just can't walk into the third floor. You have to be let in through security. When you get there, you have to come in through the desk. You have to be buzzed in. The Fire Alarm Unit works in a specific area. Everything now is in a charge out. You can't have folders. In the past, folders would be taken out. Somebody would be working on it and leave it at their workstation locked up above. Now when you take this folder out there's a checkout system, much like they have in the public library.

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2 There's a card system. We instituted a card
3 system. If you take this folder out, we have a
4 clerk who knows you took it out. It's logged that
5 you took it out and you have to log it back in.
6 So we put in a control for that. We put in a
7 control for the SOP. We wrote a new SOP manual.
8 Every member of the unit was given the SOP manual.
9 We increased their training. Every member of the
10 unit was sent for updated training on the fire
11 prevention information management system and the
12 need to input the inspection into there. They
13 received the latest training. I believe every six
14 months we have updated training. We took
15 aggressive steps to address specifically what the
16 comptroller cited.

17 CHAIRPERSON MARTINEZ: What about
18 the allegation of inadequate reporting in terms of
19 the number of inspections conducted.

20 RICHARD TOBIN: He alluded to that.
21 That was a count. You have to understand how the
22 fire department does its inspection count. A unit
23 goes out to 250 Broadway for an inspection. They
24 get there and the electrical contractor isn't
25 there. The inspector still went out to the site.

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2 He was there and he was tying up his time. They
3 took a mark for an inspection. It was an
4 incomplete inspection. The problem we had was the
5 unit wasn't differentiating between incomplete
6 inspection and completed inspection. As part of
7 the agreement now, under the Mayor's Management
8 Report, the only inspections that are reported to
9 the Mayor's Management Report are completed
10 inspections with an asterisks and a note of how
11 many attempted inspection so that we show the
12 units out there working. It's not the unit's
13 fault if there's an appointment at 9 o'clock in
14 the morning and they get there and the contractor
15 is not there. Sometimes we have inspectors
16 standing around for an hour in the lobby waiting
17 for somebody to show up. So these were some
18 issues where we had to account for the
19 productivity of the unit and indirectly the
20 comptroller felt it was misleading. So from this
21 point forward we will address it as completed
22 inspections and the other with an asterisks as
23 visits.

24 CHAIRPERSON MARTINEZ: In what
25 manner did the department address the need to

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2 segregate the duties of reviewing request forms
3 and related inspection documentation, as well as
4 scheduling among different staff members?

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RICHARD TOBIN: That was the
segregated duties.

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CHAIRPERSON MARTINEZ: Can you
speak to the mike?

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ROBERT RAMPINO: The segregated
duties we decided would be dependent on whether or
not we were able to get an additional clerk and
actual work space down on the first floor. That's
something that we're still working on. That's one
item that hasn't been accomplished.

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CHAIRPERSON MARTINEZ: I'm sorry,
Chief, let me go back because you mentioned the
space and where you work from. Are you located at
MetroTech?

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RICHARD TOBIN: Yes, sir.

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CHAIRPERSON MARTINEZ: We've got to
get you more space at MetroTech.

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RICHARD TOBIN: Right now we're
fighting tooth and nail to get space on the third
floor. The CDA unit that we're establishing we're
probably going to hang them off the ceiling. We

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2 don't know where we're going to put these people.
3 Space is a real problem.

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CHAIRPERSON MARTINEZ: In what way
5 has the department enhanced the FPIMS to create
6 data reliability to monitoring the inspection
7 process?

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RICHARD TOBIN: The FPIM system is
9 a COBOL based system. It operates on a Unisys
10 platform. It's an old system. It's antiquated.
11 It was a building system.

12

CHAIRPERSON MARTINEZ: But you
13 mentioned some new technology though.

14

RICHARD TOBIN: Right now the new
15 technology is the IBM. The fire department
16 entered into a contract with IBM. The mayor's
17 office was fully supportive. They pushed it
18 through OMB for us. It's a \$25 million contract.
19 It's a four-year implementation phase where
20 eventually the whole department will be using
21 handheld computers. The data will go into a
22 central data warehouse. It will be stored at that
23 location. It will automatically prompt them when
24 the re-inspections are due, have a schedule of
25 where they're going and everything will be

1
2 automated. Data sharing will be going across from
3 the Buildings Department, HPD, et cetera. It's a
4 very, very aggressive undertaking. We're in the
5 first phase of it now. We've got the big data
6 warehouse. That has been developed. Working with
7 IBM we have a parallel project going in the Fire
8 Alarm downstairs on the third floor, which is know
9 as that FARR Project. It's a handheld computer
10 program. The FARR stands for field activity
11 routing and reporting. It's still being pulled
12 together. It's not ready to piloted yet. We have
13 IBM people there working aggressively developing
14 the workflow and understanding how the work gets
15 done and laying everything out. They're putting
16 the standard form of orders into these handheld
17 computers so that the inspector is able to go out
18 there. One of the concerns that you had about if
19 an inspector sees items such and such, it will now
20 be in the standard form of orders. There is no
21 question that this is a violation. This cannot be
22 treated any other way.

23 CHAIRPERSON MARTINEZ: When do you
24 expect to have the system up and running? Do we
25 have a target date?

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2 RICHARD TOBIN: It's going to be
3 phased in. It's going to be phased in as a pilot.
4 The FARR Project is exactly that, a pilot. It's
5 been going on for a while. There's a lot of
6 roadblocks. Right now I can tell you the
7 milestones. We're trying to achieve certain
8 goalposts. We're behind schedule on some of that.
9 It was a lot more complicated than we originally
10 thought. As far as the bigger project, the IBM
11 project, which FARR will eventually be consumed
12 by, it's still a four-year implementation.

13 CHAIRPERSON MARTINEZ: Four years?

14 RICHARD TOBIN: Four years for
15 completion where the department would have it up
16 and running in its entirety. That's the goal.

17 CHAIRPERSON MARTINEZ: That's the
18 entire department, correct?

19 RICHARD TOBIN: The entire
20 department.

21 CHAIRPERSON MARTINEZ: Within that
22 four-year period, when do you foresee this coming
23 to the unit?

24 RICHARD TOBIN: To this unit?

25 CHAIRPERSON MARTINEZ: Yes.

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2 RICHARD TOBIN: This unit was not
3 included in the pilot. So I would say it's a
4 couple of years before this unit will be in.

5 CHAIRPERSON MARTINEZ: Is there a
6 reason why they weren't included? These are men
7 that are out in the field conducting hands-on
8 inspections. It's just much easier to keep track
9 of.

10 RICHARD TOBIN: This is a pilot
11 project. We are looking to put a reliable plane
12 on the street that runs, is functional and works
13 the way we want. We're not looking to come out of
14 the hangar with an F-18 immediately. This unit
15 has much more complex workloads than district
16 offices. District offices go out and it's very
17 basic. They sign off on permits. They're not
18 involved with electrical contractors. They're not
19 involved with other agencies. They're not
20 involved with some of the issues we are. It's a
21 lot more complicated to put this unit into this.
22 Eventually, yes, but we really have to get the
23 first model up and running. We're not going to
24 have the completely finished unit for a couple of
25 years.

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2 CHAIRPERSON MARTINEZ: I agree with
3 you. I think that we need to put our heads
4 together because it is a complicated unit. But
5 again, it's a unit that deals with the daily lives
6 and public safety.

7 RICHARD TOBIN: Every one of our
8 units to some extent.

9 CHAIRPERSON MARTINEZ: Because of
10 some of the perceptions that are out there
11 pertaining to the unit and the comptroller's
12 report. I understand that as a new supervising
13 chief in the department you're doing the best you
14 can to address many of the concerns and the issues
15 highlighted by the comptroller's report. But
16 there needs to be some sort of technology so that
17 when we do have inspectors out in the field we
18 have more reliability and transparency in terms of
19 the issues of inspections.

20 RICHARD TOBIN: I think we've taken
21 steps where if you see the paperwork that's in, I
22 think you'll see it's very transparent. There's
23 no smokescreen out there. It's not nearly as
24 ambiguous as it sounds. If you want to, I'm more
25 than willing to have you come to the third floor.

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2 I'm more than willing to have you come out and
3 actually shadow an inspector. I'm more than
4 willing to have you come and see how the workflow
5 is done. There's nothing here that isn't
6 transparent. There's nothing here that isn't
7 addressed. But the fact is, this unit and all of
8 the other units are going into this but technology
9 doesn't happen like that just because a
10 comptroller's report came out. This is a process
11 that's been going on. When we put it out there,
12 we want to make sure that it's actually something
13 that works. It takes time. This unit is more
14 complex than some of the other units.

15 CHAIRPERSON MARTINEZ: I agree.

16 RICHARD TOBIN: But we've taken
17 aggressive steps to make sure that their workflow
18 is accounted for. We've taken very aggressive
19 steps to make sure that their time in the field is
20 accounted for. Approximately 80% of their actual
21 time is spent doing inspections. They don't have
22 vehicles. There are no vehicles available to
23 these people. These people are coming in and
24 they're taking the subway or they're taking
25 busses. When they're out in Queens you don't get

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2 from Point A to Point B like that. There's a lot
3 of stuff that's involved. And still 80% of their
4 time at work is done on actual inspections. I
5 understand the concern, but I don't think that the
6 unit should get the living hell beat out of it
7 because there's a lot of stuff that's gone into
8 this unit. I know because this unit has kept me
9 up night after night after night. We have
10 aggressively addressed the concerns. It's very
11 easy to sit there and say you should be able to
12 get this or that. It doesn't happen that way in
13 the real world. We are taking very aggressive
14 steps to address this unit. We are very aware of
15 the critical nature of what the work is. That's
16 all I can really say.

17 CHAIRPERSON MARTINEZ: Council
18 Member Avella alluded and you responded to some
19 concerns about a formal protocol. How does the
20 department familiarize its supervising inspectors
21 of the unit with the responsibility regarding
22 oversight of inspection as outlined in the FDNY
23 manual? The field personnel activity report and
24 oversight requirements.

25 RICHARD TOBIN: That's all part of

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2 the standard operating procedures manual. In
3 reply to the comptroller's report we sat down,
4 updated and issued a newly revised standard
5 operating procedure.

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CHAIRPERSON MARTINEZ: Can you
share that with the committee?

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RICHARD TOBIN: I can share every
single thing with you. I am more than willing to
have you come in. I think you should come in. I
think that some of the stuff you're relying on,
such as Chang's report and the other people that
reported. Darrel Ellis [phonetic] has been
convicted. Singh has been terminated by the
department. Matthews has been terminated by the
department. If you're going to go on nothing but
that testimony there you have to understand who
these people were that put a lot of this stuff out
there. If you want to talk about their stuff, I
have emails. But the point is, I think you should
see firsthand what the unit is doing. I think you
should take the time and do due diligence to
actually come and see what they're doing. Maybe
you can see where the shortcomings are and help us
address them. But we are making very aggressive

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moves to do the same.

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CHAIRPERSON MARTINEZ: Chief, with all due respect, the purpose of this oversight is not to make accusations of the men and women that are out there doing their jobs, but rather looking at a report made by the comptroller's office, an executive office of the City of New York. We have a responsibility to address these reports coming out from the comptroller.

RICHARD TOBIN: I agree with you.

CHAIRPERSON MARTINEZ: I think that a lot of progress has been made with this oversight in terms of getting some clarity in terms of the functioning. Usually when we have our oversight we're dealing with larger broad issues of the fire department. In this instance we're talking about a unit of 26 members and 16 field officers. The work that they do is so critical and important that sometimes we miss out on having these type of discussion unless a report comes out telling us it needs to be looked at. As chair of the committee, I'm glad that you've taken some concrete steps in addressing the report that the comptroller came out with. You already

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2 mentioned that you will be sharing some of the
3 guidelines and procedures that you already put in
4 place. We haven't received it, so I'm glad you're
5 going to make that available. I thank you for the
6 offer of having a field trip to the office to see
7 some of the new procedures that you've
8 implemented, particularly when it comes to the
9 record keeping, which is one of the most
10 concerning issues coming up from the comptroller's
11 office. We're not relying on a news report.
12 We're relying on factual documentation and the
13 department itself acknowledges that there have
14 been some problems. As I mentioned, you are
15 addressing them. However, it is also a fact that
16 when you do have members who used to serve in the
17 unit, and one member who is currently in the unit
18 whose identity was not disclosed, making these
19 type of allegations, we also need to address it.
20 This committee has been very respectful because we
21 understand the value that the fire department has
22 to the city. We've been very respectful and
23 careful in addressing any issue of corruption in
24 the department. But I do have to ask what you
25 have to say about those charges of corruption.

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2 I'm not particularly interested in any individual,
3 but overall with the unit.

4 RICHARD TOBIN: This addresses
5 nothing but that report. This is a synopsis from
6 day one when Bob Rampino took this unit over. I
7 have notes back from May 22, 2007. As far as any
8 issue of corruption, I can assure you that in this
9 unit any hint or scintilla of something going
10 wrong, Bob has been on top of it. I have the
11 reports right here. It would take a long time to
12 go through them. All of these pages here are
13 emails back and forth to Ed Richards, who works
14 with the department, he's with the Bureau of
15 Investigations. Anytime anything happened, the
16 reports were made right away.

17 CHAIRPERSON MARTINEZ: Can I
18 interrupt you there? Just for the record I want
19 to point out that when the allegations came to my
20 attention as chair of the committee, I also had
21 the responsibility of reporting it to the
22 Department of Investigation and forwarding them
23 any documentation that I got, which I did. I just
24 wanted to point that out for the record.

25 RICHARD TOBIN: Anybody who gets

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2 that, right, we know that. This is why I would
3 like for you or for somebody from this committee
4 to go through this unit and let show you what
5 we've done and show you physically the steps we've
6 taken to address specific items in the
7 comptroller's report. I think that I could state
8 unequivocally that there is no corruption in this
9 unit. If there is the slightest smell that
10 something isn't right, this unit is on top of it.
11 Ed Richards has been notified of anything that's
12 gone wrong, or any hint of anything going wrong.
13 Right away the reports are sent in where we
14 thought somebody might not have been where he
15 should have been. We have not had anything come
16 up. I have numerous cases here where Bob Rampino
17 is right on top of those situations. It would
18 take a long time to go through all of this, but I
19 could show you that. Not to pick on anyone, but
20 again, some of the people making the allegations
21 of corruption were arrested. Two of them have been
22 terminated. I have emails from them. When
23 somebody is accused and when an accuser is there,
24 they have a right to address them. I think you
25 should see some of the emails from some of the

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2 people. Things such as accusing us of being
3 infidels or saying they are waiting to come back
4 and go to war with the fire department. This was
5 long before that report came. Some of it I would
6 go home and my wife would look and say this is the
7 ranting of a madman. But you have to see them.

8 CHAIRPERSON MARTINEZ: I will
9 follow up with you in taking up your invitation.

10 RICHARD TOBIN: I think it's
11 important that you do.

12 CHAIRPERSON MARTINEZ: I would
13 again request that you share with us your new
14 protocols and the procedures that you've put in
15 place.

16 RICHARD TOBIN: Every single thing
17 we have, we can give you. We can give you the
18 protocols. We can give you the work plan. We can
19 give you the business plan. We can give you
20 everything.

21 CHAIRPERSON MARTINEZ: Chief, what
22 happened to the bill? You liked it last year.

23 THOMAS JENSEN: The novelty bill?

24 CHAIRPERSON MARTINEZ: Did you
25 think I was going to let you get away with that?

1
2 THOMAS JENSEN: I think we do like
3 the concept, but I think if there is federal
4 legislation that would be the best way to go.

5 CHAIRPERSON MARTINEZ: But you
6 recommended for us to move forward on a bill to
7 ban these lighters.

8 THOMAS JENSEN: It actually wasn't
9 me. It was another chief. We totally agree with
10 the concept.

11 CHAIRPERSON MARTINEZ: And the
12 Department of Health by the way.

13 THOMAS JENSEN: We have no problem
14 with the concept. We totally agree with the
15 concept and we know the problem is out there with
16 these lighters. But we think that federal
17 legislation might actually be the way to go to
18 really coordinate with everyone outside of the
19 City of New York.

20 CHAIRPERSON MARTINEZ: But if we
21 have local laws, what impact would it have if the
22 federal government comes up with a ban?

23 THOMAS JENSEN: It's very simple.
24 We have local laws here in the City of New York
25 that you're not allowed to use kerosene heaters,

1
2 but they're sold all throughout the country.
3 People bring them in. If a federal law is passed
4 then that's it. They're not coming in. They're
5 not making them in New Jersey and then bringing
6 them into New York. The federal legislation would
7 be the legislation--

8 CHAIRPERSON MARTINEZ:

9 [interposing] Who's sponsoring this federal
10 legislation? When did the department get
11 notification of this?

12 THOMAS JENSEN: I don't know that.
13 We'd have to check with our intergovernmental
14 group in the fire department. They've been on top
15 of that and watching legislation. That's why they
16 recommended that this may be the better way to go.

17 CHAIRPERSON MARTINEZ: But in
18 concept, does the department agree with the bill
19 we have forward?

20 THOMAS JENSEN: I think in concept
21 we can't argue with the safety factor. I agree
22 with the concept absolutely.

23 CHAIRPERSON MARTINEZ: I think we
24 should have further discussion in terms of should
25 we wait for the federal government to act. Many

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2 times this council has taken action because we
3 can't wait for the federal government to act. The
4 fact that they're thinking about it doesn't mean
5 that it's going to happen.

6

THOMAS JENSEN: We'd be open to
7 have further discussions as time goes on to see
8 which would be the best way to go.

9

CHAIRPERSON MARTINEZ: I want to
10 thank you for your testimony today. This is a
11 very important and essential unit to the fire
12 department and the City of New York in terms of
13 public safety and fire prevention in the City of
14 New York. As we move along to improve the
15 understanding of this unit, we will continue to
16 have further dialogue in terms of the
17 understanding of the operation and function of the
18 unit and some of the new procedures that have been
19 implemented in the department to ensure that we
20 deal with the backlog and ensure that we deal with
21 inspection and re-inspection of violations in a
22 timely manner. I want to thank the three of you
23 for your testimony. I look forward to visiting
24 the floor of the unit at MetroTech.

25

THOMAS JENSEN: Thank you. We have

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2 the same goals in mind.

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CHAIRPERSON MARTINEZ: Thank you.

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[Pause]

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CHAIRPERSON MARTINEZ: Thomas Papa,

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Zygmunt Staszewski, and Edward Keshecki. Are you

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here? Call the next panel. Gentleman, if you

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have written testimony, please summarize because

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unfortunately there's a scheduled meeting here at

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one and we several panels coming up. Please

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identify yourself and start your testimony.

12

THOMAS PAPA: Good morning,

13

everyone. My name is Thomas Papa. I'm the

14

current president of the New York Fire Alarm

15

Association. I'm a licensed fire alarm installer

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in the state of New York and involved in

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installation, maintaining, servicing and

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inspecting fire alarms since 1993. I'm also Level

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II certified in fire alarms technology by the

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National Institute for Certificate in Engineering

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Technology, known as NICET. I speak on behalf of

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the New York Fire Alarm Association. The New York

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Fire Alarm Association is a representative

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organization of engineers, manufacturers,

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installers, fire alarm equipment distributors and

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2 central office monitoring companies. It's
3 principle mission is to provide for the education
4 of its members and to ensure that they remain
5 current and up to date as it regards to codes and
6 standards. Individuals within this organization
7 have been an integral part of the New York City
8 Building and Fire Code development process as far
9 back as the landmark legislation for high rise
10 buildings, known as Local Law 5 of 1973. All fire
11 installations are subject to a test and inspection
12 by the Fire Alarm Inspection Unit in accordance
13 with applicable codes governing the work. The
14 successful installation of a fire alarm system is
15 a multi-disciplined activity requiring knowledge
16 of Electrical Codes, Construction Codes, standards
17 such as the National Fire Protection Association,
18 NFPA, American National Standards Institute, ANSI,
19 and the American with Disabilities Act, ADA. The
20 installation of fire alarm systems involves the
21 application of over 50 recognized standards which
22 deal with installation requirements. It requires
23 approvals from Underwriters Laboratories as UL
24 and/or Factory Mutual, to name just two. The list
25 is voluminous since it is the fire alarm system

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2 that integrates all aspects of the building
3 systems, not the least of which is the basic alarm
4 functions to notify the occupants but control such
5 functions as elevator recall, smoke control and
6 notification to the fire department. Everything
7 related to fire alarm is codified in one form or
8 another. Members of our association are required
9 to maintain proficiency through a variety of
10 certifications by which they maintain their
11 qualifications. As an organization which has
12 intimated connections with the fire alarm
13 inspection unit, we ask that this unit be provided
14 with the much needed support so that they have the
15 necessary tools, both educationally and physically
16 to perform their vital role of ensuring the public
17 safety. We strongly urge that all inspectors be
18 required to have a minimal level certification by
19 the way of NICET, NFPA or ICC courses. We also
20 advocate a continuing educational program designed
21 to allow for the upgrading of their skills to keep
22 pace with this dynamic and ever-changing field.
23 This is extremely necessary as the new New York
24 City Construction Code nears implementation. We
25 strongly advocate more complete testing of

1
2 systems, recognizing that this is not easy in
3 terms of available manpower and current methods.
4 We believe it can and should be done. This takes
5 more time than is currently allotted and will
6 require the cooperation of the fire department and
7 industry to develop the methodology for this to
8 happen. This organization and its members depend
9 greatly on the Fire Department Inspection Unit and
10 its ability to perform knowledgeable, thorough and
11 timely inspections. We trust that this hearing
12 will provide the impetus for the modernization of
13 the unit as a partner which is responsible for the
14 life safety of the residents of the City of New
15 York. I would like to start by urging a
16 reactivation of the FDNY Industry Advisory Board.
17 The FDNY Industry Advisory Board was established
18 on September 12, 1989 by then Chief of Fire
19 Prevention Joseph DeMeo, at the request Automatic
20 Fire Alarm Association of New York. The Fire
21 Department Industry Advisory Board meetings were
22 held by several subsequent chiefs of fire
23 prevention on the first Thursday of each month,
24 except for July and August, from 1989 to 2001.
25 Then a few meetings were held in 2002 and 2003.

1
2 The attendance list from December 12, 1989 shows
3 representation of the FDNY; the Buildings
4 Department; Society of Fire Protection Engineers;
5 the Fire Safety Directors Association; the
6 Automatic Fire Alarm Association, which was the
7 predecessor of the New York Fire Alarm
8 Association; the Real Estate Board; New York Fire
9 Sprinkler Contracts Association; Building Owners
10 and Managers Association; the New York Board of
11 Fire Underwriters and the New York City Builders
12 Association. Over the years, representatives of
13 the Port Authority, New York Society of
14 Architects, Society of Professional Engineers,
15 Local 3 IBEW, and the Subcontractors Association
16 have also attended these meetings. For almost 15
17 years, the Industry Advisory Board served as a
18 conduit of information flowing from the fire
19 department to the private industry and vice versa.
20 Its many accomplishments included code changes
21 after the first World Trade Center bombing;
22 convincing the Port Authority to replace their
23 centralized emergency lighting and fire alarm,
24 which on September 11, 2001, helped save thousands
25 of lives; revision of the Halon 1301 regulations;

1
2 revisions of Central Station monitoring
3 regulations; several memoranda and code
4 interpretations regarding free egress in fire and
5 non-fire emergencies; et cetera. Since September
6 11, 2001, there were only a few IAB meetings. The
7 last of them was on April 15, 2003. We strongly
8 believe that the presence of the International
9 Advisory Board helped disseminate information from
10 the fire department and allowed for a constructive
11 dialogue between the FDNY, the Department of
12 Buildings, Real Estate and the fire protection
13 industry. With numerous problems related to the
14 fire protection industry building up over the past
15 few years, and the adoption of the IBC, there is
16 even more need for reactivation of the Fire
17 Department Industry Advisory Board as soon as
18 possible. Other additional members of our
19 association are here. We have Ed Keshecki, who is
20 vice president of the New York Fire Alarm
21 Association and Zygmunt Staszewski who was the
22 founding president of the New York Fire Alarm
23 Association. They will be speaking in more
24 specific terms as to the steps which this
25 association feels will enhance the effectiveness

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of the Fire Alarm Inspection Unit. Thank you.

CHAIRPERSON MARTINEZ: Thank you.

Again, if we have your written testimony here for the record, please summarize. We're going to activate our prompter.

ED KESHECKI: My name is Ed

Keshecki. I'm the owner of Statewide Fire Corp located on Staten Island. We're an FDNY approved central station where we monitor several thousand New York City fire alarm systems. I'm currently vice president of the New York Fire Alarm Association, a member of the National Fire Protection Agency Building Fire Safety System section. I'm Level IV certified in fire alarm technology by the National Institute for Certificate in Engineering Technologies. I'm also a member of the New York Fire Safety Directors Association and the Society for Fire Protection Engineers. Central issues related to the scheduling, conducting of inspections and entire process leading up to acquiring a fire alarm system final letter of approval are directly related to a lack of resources. The New York Fire Alarm Association recognizes the current lack of

1
2 resources to adequately manage all inspections,
3 documentation and defect corrections. Bringing
4 the existing system in line with current
5 technologies will encourage time management,
6 document standardization, document control and
7 accessibility, data retrieval and storage through
8 an electronic database, which will generate
9 revenue and increase public safety. Lacking
10 current technology, the present system often
11 results in inspection dates for fire alarm systems
12 running three months or longer. The engineer,
13 building owner, electrician and fire alarm company
14 would have to file for an inspection date at least
15 three months prior to completion of the fire alarm
16 system in order to obtain a timely inspection. In
17 the case where an inspection date needs to be
18 rescheduled, calling the telephone number provided
19 by the fire department has not proven to be a
20 viable solution. Much of this communication can
21 and should be performed by email. This would
22 allow for immediate notification of schedule
23 changes by the fire department and would eliminate
24 situations where fire inspectors arrive to
25 premises where concerned parties have tried to

1
2 reschedule inspections. Email and cell phone
3 communications would provide instant communication
4 between the fire department and those needing to
5 reschedule or cancel. It can also take up to
6 several more months to obtain the actual Fire
7 Department Letter of Approval due to the internal
8 policy that requires payment of the inspection
9 bill before the document is issued. This should
10 be a collections matter and should not be related
11 to the issuance of the letter of approval. Credit
12 card payments are presently accepted by most city
13 agencies. The acceptance of credit cards as
14 payment would simplify and expedite the process.
15 There are code related issues which presently are
16 considered to be subject to interpretation by fire
17 inspectors. Consistency during installation will
18 lead to consistency during inspections.
19 Consistency during installation can only occur
20 when written clarifications are issued by the fire
21 department relative to items which may be subject
22 to interpretation and more importantly, that
23 information must be distributed to and applied
24 uniformly by all fire inspectors and all members
25 of the fire alarm industry. As a suggestion, the

1
2 New York Fire Alarm Association and the fire
3 department could design a standardized inspection
4 form to be used for different occupancies being
5 inspected. Based on the comptroller's audit
6 report, there are currently over 4,000 open
7 letters of defect. I understand that was being
8 addressed somewhat. An increase in staffing,
9 combined with the use of modern technology, such
10 as PDAs and laptops, would allow the department to
11 generate revenues exceeding the expense involved.
12 Additionally, the revisiting and closing out of
13 these pending letters of defect and violation
14 orders will ensure that proper corrective measures
15 have been taken, thereby providing the public with
16 the protection that the system was intended to
17 provide. The Fire Alarm Association has the means
18 to promptly disseminate new information through
19 our website, our meetings and the symposium we
20 will be holding in June. We would also welcome
21 input from the Fire Department Inspection Unit if
22 they are aware of particular items that are
23 frequently written on letters of defect which are
24 not addressed by electricians and fire alarm
25 installers. This is just one item which could be

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2 addressed by the reactivation of the Fire
3 Department Industry Advisory Board. When the fire
4 department and the fire alarm community work
5 together, the result would certainly be
6 consistency in installation and inspection.
7 Providing the inspection unit with new technology
8 and adequate staffing is absolutely essential if
9 the unit is to function efficiently and in a
10 manner which will greatly increase productivity
11 and most certainly increase revenue. Thank you.

12 ZYGMUNT STASZEWSKI: My name is
13 Zygmunt Staszewski. I'm a licensed professional
14 engineer in New York State involved in design and
15 inspections of fire alarm systems since 1982. In
16 addition, for 17 years now, I've been teaching
17 fire alarm courses at New York University School
18 of Continuing and Professional Studies. I'm also
19 a New York State certified instructor authorized
20 to conduct security and fire alarm system courses
21 required for New York State licensing. I'm also
22 Level III certified in fire alarm technology by
23 the National Institute for Certification in
24 Engineering Technologies, NICET. I would like to
25 address one of the most important topics related

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2 to the Fire Alarm Inspection Unit which is the
3 training and certification of inspectors.

4 Currently, under the Department of Buildings'
5 rules for special inspections agencies already in
6 effect, personnel conducting inspections of fire
7 alarm systems when not inspected by the fire
8 department must be NICET Level II certified in
9 fire alarm systems and work under a supervision of
10 either a New York State licensed professional
11 engineer or a New York City licensed master
12 electrician. Under the present fire department
13 rules, there are no established certification
14 requirements for either the Fire Alarm Inspection
15 Unit inspectors or their supervisors. We believe
16 that the Fire Alarm Inspection Unit should take
17 advantage of the NICET certification program
18 currently recognized by many cities and 31 states.
19 Back in the 1980s, Fire Department Chief Inspector
20 Milton Fishkin was a licensed professional
21 engineer. Currently, there are no licensed
22 professional engineers supervising all inspection
23 units within the Bureau of Fire Prevention, which
24 I believe is contrary to the New York State
25 Education Law. In the late 1990s, the Automatic

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2 Fire Alarm Association conducted several NICET
3 courses. At that time we invited all Fire Alarm
4 Inspection Unit inspectors to participate in our
5 training at no charge and many of them did. Such
6 training gave them a thorough knowledge of the
7 NFPA standard 72, currently known as the National
8 Fire Alarm Code. Please note that both the New
9 York City Building Code, effective July 2009, and
10 the New York City Fire Code, already in effect as
11 of July 1, 2008, adopted the 2002 version of NFPA
12 72. Therefore, knowledge of NFPA 72 and
13 certification based on such code will be crucial
14 to conducting proper inspections of fire alarm
15 systems designed and installed under such code.
16 The New York Fire Alarm Association will be soon
17 conducting additional courses on NFPA 72 and
18 preparation courses for the NICET certification.
19 We welcome all Fire Alarm Inspection Unit
20 inspector and supervisors to attend these courses.
21 After the courses we will welcome their
22 participation in the NICET examination and
23 certification process, which will result in a
24 unified standard. Thank you.

25 CHAIRPERSON MARTINEZ: Thank you.

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2 So, in essence, your recommendation is that the
3 unit participate in some of the training and
4 dialogue with your association.

5 ZYGMUNT STASZEWSKI: Well there is
6 a NICET certification which is the only nationally
7 recognized certification in fire alarm systems.
8 The fire alarm industry has been training their
9 own people in NICET certification for the last 20
10 years or so. The New York City Buildings
11 Department requires the certification for people
12 doing fire alarm system inspections if they're not
13 conducted by the fire department. I think it's
14 only prudent to ask that the fire department
15 inspectors meet the same criteria as the private
16 industry.

17 CHAIRPERSON MARTINEZ: Mr. Papa,
18 you mentioned that there was an advisory board
19 that was made up of all the industry when it came
20 to fire alarm inspections?

21 THOMAS PAPA: That is correct. As
22 I had stated, it eventually just sort of
23 dissolved. At present there is no industry
24 advisory board in the process of meeting. Our
25 association includes engineer, installation

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2 companies, manufacturers, monitoring companies.
3 So if we get all these different aspects of this
4 industry in one room, along with the fire
5 department, I think that we could clarify and
6 solidify a lot of these issues before they become
7 bigger issues.

8 CHAIRPERSON MARTINEZ: What's your
9 opinion of the current unit right now?

10 THOMAS PAPA: Obviously, we would
11 like things to be sped up a little bit. It's our
12 association's position to try to help make that
13 happen any way we can.

14 CHAIRPERSON MARTINEZ: Thank you
15 for your testimony, gentleman.

16 THOMAS PAPA: Thank you.

17 CHAIRPERSON MARTINEZ: The next
18 panel includes John Dean from the National
19 Association of State Fire Marshals, Bill Wells
20 from the Congressional Fire Services Institute and
21 David Baker from the Lighter Association. Anyone
22 wanting to testify needs to fill out one of these
23 slips as well. Gentleman, please identify
24 yourself for the record. Again, if you have
25 written testimony, I will ask you to summarize

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2 because we have them for the record. Can you say
3 your names so we know who you are?

4 DAVID H. BAKER: David Baker.

5 JOHN C. DEAN: John Dean.

6 CHAIRPERSON MARTINEZ: Bill Webb is
7 missing. You can start your testimony.

8 JOHN C. DEAN: Council Member
9 Martinez and distinguished members of the
10 Committee on Fire and Criminal Justice Services.
11 My name is John Dean. I'm the immediate past
12 president of the National Association of State
13 Fire Marshals, NASFM, whose members are the senior
14 state level fire officials of the United States
15 and the District of Columbia. I'm also the state
16 fire marshal of Maine. I'm proud to say that in
17 March 2008, Maine was the very first state to pass
18 a statewide ban on novelty lighters. I will
19 attempt to summarize some points here so that
20 perhaps I can answer some of your questions and
21 concerns regarding the federal legislation. I'll
22 try to be brief. We, obviously, are in support of
23 the Novelty Lighter Act that you're considering.
24 We think it's a well-crafted bill and it will go a
25 long ways towards decreasing fire losses in your

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2 city and protecting some of our most valuable
3 possessions, our children. We know that four out
4 of five associated deaths and injuries in the
5 United States involve matches and lighters. In
6 your own city child fatality report that you made
7 mention of in your opening remarks, one-quarter of
8 the city's fire deaths are a result of children
9 playing with matches or lighters. This is not
10 just a youth issue. We know that from research
11 done in Oregon and in my own state that youth
12 involved in fires are often eight years and older.
13 In Oregon, in the group using lighters, they saw
14 it rise from 55% to 70% preferring lighters. In
15 Maine, we see that ages 6 to 16 account for more
16 than 85% of the fires. Now, there are some
17 children who have psychological problems and need
18 some close supervision and some care. But there
19 are many youths who are just curious about fire.
20 One small mistake can prove deadly. There are
21 plenty of things in anybody's home that can burn
22 very easily with just a flick of one lighter.
23 These toy-like or novelty lighters by design have
24 characteristics that appeal to children and
25 adults, obviously, because they're collecting

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2 them. They put them out where everybody can see
3 them. It's very easy for children to get a hold
4 of them. These lighters are supposed to comply
5 with the federal child resistant standards but
6 they oftentimes do not. And even if they do, that
7 is only meant to deter 85% of the children under
8 age 5. As I just mentioned, there are children
9 older than that that are very much involved in
10 this and have better dexterity.

11 CHAIRPERSON MARTINEZ: Just
12 summarize.

13 JOHN DEAN: Three minutes is very
14 short. I want to tell you that I've been the
15 state fire marshal in Maine for over 11 years and
16 I'm at the legislature a lot and involved in a lot
17 of bills. This was the easiest bill to pass that
18 I've ever been involved in. We had no opposition
19 whatsoever. Everybody spoke in favor of it.
20 Enforcement has been very, very easy. People have
21 voluntarily complied. In fact, many of the retail
22 folks said they were glad to get rid of them
23 because they're not very well made. They're
24 rarely sold through legitimate distributors.
25 They're sold by what we call trunk slammers,

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2 people who just sell them out of their car and
3 they're gone. These come back because they're
4 defective. They have to give the money back and
5 then they can't get their money back because they
6 may never see the person who sold them to them.
7 So some of them were very glad to get rid of them.

8 CHAIRPERSON MARTINEZ: Can you
9 touch base on the federal legislation?

10 JOHN C. DEAN: There is no federal
11 legislation pending. There were two bills that
12 introduced the last session. They died.
13 Nothing's happened in this session. There's no
14 guarantee that anything will happen, or even if
15 it's introduced that it will pass. I think that
16 this is a very good venue to mention that New
17 York's leadership in the fire safe cigarette area.
18 It was the first state to do it. Over 85% of the
19 population in the United States is covered by the
20 fire safe legislation because all the states are
21 adopting it. And still we have no federal
22 legislation. So I think that oftentimes the local
23 and state actions eventually prompt the federal,
24 but it's not a guarantee.

25 DAVID H. BAKER: Mr. Chairman,

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2 members of the committee and legal counsel, my
3 name is David Baker. I'm the general counsel of
4 the U.S. Lighter Association. I'm going to very
5 briefly summarize our position. We think this is
6 a great bill. It follows on the heels of Fire
7 Marshal Dean's bill in Maine. We actually think
8 this is better drafted than any ordinance or law
9 in the country. This is a banning bill. It is
10 very cleanly written. It clearly delineates what
11 needs to be banned. Our position is that lighters
12 are tools, they are not toys. They are designed
13 to produce a flame. They are not something to be
14 played with. Children should not be playing with
15 lighters, period. Our position is that novelty
16 lighters should be banned and we strongly support
17 this bill. Thank you.

18 WILLIAM M. WEBB: Mr. Chairman, my
19 name is Bill Webb. I'm the executive director of
20 the Congressional Fire Services Institute in
21 Washington, D. C. We're a nonprofit, non-policy
22 institute that works with members of Congress to
23 educate them about the challenges and the needs of
24 the fire service. We work mostly with the
25 leadership of the Congressional Fire Services

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2 Caucus, which is the largest caucus in Congress
3 with over 300 members, split evenly among
4 Republicans and Democrats. The driving force of
5 our organization is our National Advisory
6 Committee, of which the National Association of
7 State Fire Marshals serves. We have 42 members
8 that serve on this organization. We passed a
9 resolution unanimously in 2007 in support of an
10 effort to ban the sale of novelty lighters. That
11 is the reason why I'm here and that is to speak on
12 behalf of our NAC. In reference to the question
13 about federal legislation, Mr. Dean is correct.
14 There were two pieces of legislation introduced in
15 the last session and they died. One of the
16 members who introduced the bill last year stepped
17 down. So we now have to find a new House member
18 to pass that bill. We have indications that a
19 member from the Senate will reintroduce his
20 measure, but again, time is of the essence here.
21 We have worked on cigarette legislation for
22 probably the last 10 or 12 years and have gotten
23 nowhere. Following the Warwick fire in Rhode
24 Island that killed over 100 people, we worked on
25 legislation that would provide economic incentives

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2 to install sprinklers. That was six years ago and
3 we're still waiting for Congress to act on that
4 bill. So Congress does have a tendency to not go
5 at breakneck speed on a number of initiatives. So
6 that is why we're here today to impress upon you
7 the need to address this issue at the local level
8 where we're seeing so much advancements made at
9 the state and local level. Any type of federal
10 legislation that would be approved, would not
11 supersede what is being done at the local and
12 state level. In summary, I'd just to quote one of
13 Mr. Dean's colleagues, a former Oregon State fire
14 marshal who has taken a lead on this issue as
15 well. She said, "there is simply no good reason
16 for a hazardous substance, a flammable liquid, to
17 be placed in a toy-like container." Thank you
18 very much. It's my pleasure to be here.

19 CHAIRPERSON MARTINEZ: Thank you,
20 gentleman. I think your testimonies were clear
21 cut. I appreciate you coming and taking the time
22 to come and testify in favor of this important
23 bill. Thank you.

24 WILLIAM M. WEBB: Thank you.

25 CHAIRPERSON MARTINEZ: The next

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2 panel includes Susan Santanello and Xuejie Wong.
3 Anyone else who wants to testify, please fill out
4 a slip. Thank you.

5 SUSAN SANTANELLO: My name is Susan
6 Santanello. I've been a novelty lighter collector
7 and retailer for the last 11 years. My customer
8 base consists of collectors throughout the United
9 States as well as worldwide. Since 1994, novelty
10 lighters have been subjected to tests overseen by
11 the CPSC to make sure the children five and
12 younger are unable to light them. Statistics from
13 Children and the Fire, a report in 1994 through
14 1997, states that the fires that resulted in child
15 deaths, 94% were due to residential fires. Over
16 one-third of all fires involving child injuries
17 and deaths were the result of open flame. Matches
18 as the form of ignition remained relatively
19 consistent over the four years. There was a
20 consistent yearly decrease in injuries and deaths
21 related to lighters. The percentages for the
22 period from 1994 to 1997 went from 22% to 12%.
23 This is proof that the CPSC's document instituted
24 in 1994, which required child resistant mechanisms
25 for lighters was working. The report also stated

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2 that from 1993 to 1997 matches as a form of heat
3 ignition in 58% of children playing with fire was
4 still the most common form. An article titled,
5 Study of the Effectiveness of the US Safety
6 Standard for Child Resistant Lighters, state that
7 there was a 58% reduction of fires caused by
8 children age five and younger. A note that most
9 children that suffer and die in fires are actually
10 five and older. They're the statistics in a lot
11 of these articles. According to statistics for a
12 ten-year period from the U.S. Fire Administration,
13 Residential Structure and Building Fires, stated
14 October 2008, that between 1996 and 2005, the
15 percent of fire deaths have gone down by 18.1%.
16 The NFPA estimated that the 83% of fire deaths
17 occurred in residential structures. According to
18 the 2005 report the causes of the residential
19 fires were mainly cooking; open flame, which
20 included candles, matches and careless cause;
21 heating and smoking. The playing with a heat
22 source was only at 6%. In January 2009, an
23 article came out, Children Playing with Fire,
24 written by Jennifer Flynn from the NFPA. She
25 stated that 2006 structure fires, deaths, and

1 injuries are the lowest ever recorded. Why aren't
2 Colbri, Ronson and Zippo required to have child
3 resistant devices on their products? If you drop
4 a lit Zippo lighter, it continues to burn. A
5 novelty lighter needs pressure on the ignition to
6 remain lit. Bic and Scripto safety devices are
7 easily removed as well as easy to light. If a
8 child could have the overall strength to depress
9 the igniter on a novelty lighter, they surely
10 could light a Bic, a Zippo or any other lighter.
11 What about matches? According to the U.S. Fire
12 Administration report, 58% of children playing
13 with fires were started with them. This is an
14 unfair attack on a product that has been in
15 compliance with the CPSC. By banning novelty
16 lighters, this will no effect on children playing
17 with fire. They will continue to use matches,
18 Bics and the rest that have no childproof
19 mechanisms. By banning novelty lighters in New
20 York and possible the U.S. you'll only be opening
21 the door of an illegal importation of the product
22 from foreign services who are not in compliance
23 with child safety requirements. You will also be
24 hurting many small businesses through the country
25

1
2 on top of the economic crisis. I fail to see why
3 banning an item that is currently in compliance
4 with the law, while allowing other types that are
5 available that are easily disabled or not in
6 compliance at all to remain in the marketplace.
7 It seems self-defeating that those items which are
8 a much bigger threat.

9 CHAIRPERSON MARTINEZ: I need you
10 to summarize. Finish up.

11 SUSAN SANTANELLO: It seems more
12 practical to make all lighters child resistant and
13 to educate the public.

14 CHAIRPERSON MARTINEZ: Thank you.

15 XUEJIE WONG: Good morning, elected
16 officials, chairman and other VIPs. My name is
17 Xuejie Wong. I'm co-chair of the Product Safety
18 Association International, speaking on behalf of
19 the other chairman in our association, Mr. Lin.
20 I'm here to oppose the introduction of this
21 Novelty Lighter Act. As Susan described earlier,
22 this novelty lighter has already been regulated by
23 the CPSC which has the child resistant together
24 with safety warning labels. The regulation is
25 strictly enforced. Furthermore, according to the

1
2 supplementary documents in the Exhibit 1, that we
3 find out that there are many other more dangerous
4 products currently in the U.S. market, posing more
5 of a threat than the novelty lighters. Yet these
6 products have not been banned from distribution or
7 sale. In the recent years, the novelty lighters
8 have captured more and more market shares, thus
9 the sales and distribution of the disposal
10 lighters has been decreasing. That's the main
11 purpose that this well founded association has
12 been attacking their competitors to try to
13 monopolize the market and control the pricing so
14 that in the future there will be no competition
15 against them. We should be taking other proactive
16 steps instead of banning the sales and
17 distribution of novelty lighters altogether. From
18 the statistics that were revealed earlier that
19 there is no mention in the number of deaths and
20 injuries that are caused specifically by the
21 novelty lighters. Rather the lighters is a whole
22 group. So this is an assumption that the youth
23 are susceptible to playing with the novelty
24 lighters. But actually there is no statistics
25 reflecting that. One may argue that the youth

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2 just like to play with fire, regardless if it's a
3 novelty lighter or a regular disposable lighter.
4 So therefore, we need to consider the health and
5 safety of the product for public use and also the
6 availability of the variety of lighters in this
7 category, as well as the economic interests of all
8 the merchants. This needs well balancing, rather
9 than banning the novelty lighters altogether. So
10 therefore, I respectfully request consideration in
11 our favor.

12 CHAIRPERSON MARTINEZ: Thank you
13 both for your testimony and taking the time to
14 come here and testify on the bill. Thank you very
15 much.

16 ROB CALANDRA: Also submitted for
17 the record are statements from Xing Yung Zi
18 [phonetic] from ASG Enterprise in opposition to
19 the Proposed Intro. 884-A. Testimony submitted
20 from Tommy Wong of Zreative Product Inc in
21 opposition to Proposed Intro. 884-A. A statement
22 in opposition to the Introduction from Hank Chang
23 from Wing Sale, Inc. A statement from John Gibson
24 of Gibson Enterprises in opposition to the
25 proposed introduction. A statement in support of

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Proposed Intro. 884-A from the New York State Fire
Administration, Floyd Madison.

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CHAIRPERSON MARTINEZ: Thank you.

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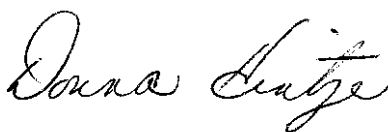
Seeing no other witnesses, at this point, we have
concluded our oversight hearing of the Fire and
Criminal Justice Committee. Meeting adjourned.

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C E R T I F I C A T E

I, Donna Hintze 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__

Date February 19, 2009