

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FIRE & CRIMINAL JUSTICE SERVICES

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December 17, 2012

Start: 1:13 p.m.

Recess: 2:00 p.m.

HELD AT: 250 Broadway
Committee Room - 14th Floor

B E F O R E:
ELIZABETH S. CROWLEY
Chairperson

COUNCIL MEMBERS:
Vincent J. Gentile
Daniel J. Halloran III
Rosie Mendez
Ydanis A. Rodriguez
Peter F. Vallone, Jr.

A P P E A R A N C E S

Richard Tobin
Assistant Chief of Fire Prevention
NYC Fire Department

Kanda Gordon
Associate Commissioner of Borough Operations
NYC Department of Buildings

Julian Basil
General Counsel
NYC Fire Department

Robert S. Bookman
General & Legislative Counsel
New York City Hospitality Alliance

CHAIRPERSON CROWLEY: Good

afternoon, my name is Elizabeth Crowley and I am the Chair of the Fire & Criminal Justice Services Committee. Today we are hearing proposed Intro 943A, which amends various code provisions regarding the place of assembly certificate of operation, which I will refer to as the certificate, and introduces place of assembly permit, which I will refer to as the FDNY permit. The bill is sponsored by Council Member Inez Dickens and several of my colleagues in conjunction with the Mayor. I'd like to recognize Council Member Vincent Gentile, who is here today with us, who also sits on the Committee, and we've been joined by representatives of the Fire and Buildings Departments, who are here today to testify and to answer questions. In 2009 the New York City Regulatory Review Panel was created by a local law to review the structure and function of city regulations and their impact on small businesses. After garnering input from small business owners, industry representatives and members of the public, the review panel issued a report which detailed the panel's findings and

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2 recommendations on fostering small business growth
3 by eliminating and mainstreaming regulatory
4 obstacles. Simplifying the place of assembly
5 permitting process was one of the panel's
6 suggestions. Proposed Intro 943A would amend
7 several provisions of the administrative, building
8 and fire codes relating to place of assembly in
9 order to coordinate and streamline the regulation
10 of those places by the DOB and the FDNY.

11 Currently a certificate is required for premises
12 where 75 or more members of the public gather
13 indoors or 200 or more gather outdoors for
14 recreation, educational or social purposes, or to
15 consume food. The current application for a
16 certificate is filed with the DOB, and the DOB
17 reviews the application and performs an inspection
18 prior to the issuance of the certificate. The DOB
19 issues certificates for one year, and they must be
20 renewed on an annual basis. The renewal is based
21 on inspection by the FDNY prior to the expiration
22 of the certificate. Although FDNY inspects places
23 of assembly, FDNY does not renew those
24 certificates, but rather forwards the inspection
25 results to the DOB, and provided it is

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2 appropriate, the DOB will issue a renewal. The
3 involvement of two agencies in the renewal process
4 for these certificates has been criticized as
5 being duplicative and often causes delays in
6 businesses receiving timely renewal of the needed
7 DOB certificate. This bill will address those
8 concerns by streamlining this process. This bill
9 will allow DOB to issue an initial certificate,
10 but only the FDNY will be involved in the renewal
11 of these certificates. The bill will authorize
12 the FDNY to issue, after an annual compliance
13 inspection, an FDNY permit that together with the
14 DOB-issued certificate would authorize the
15 continued operation of the business. The FDNY
16 permit would last for a year, subject to renewal.
17 The DOB certificate would not expire, but would be
18 inoperative without an accompanying FDNY permit.
19 Additionally, the bill specifies that if places of
20 assembly make certain changes, a new or amended
21 certificate from the DOB will be required. Small
22 businesses are the backbone of our local economy,
23 this bill will reduce regulatory fees and
24 eliminate unnecessary steps by saving money and
25 time in the renewal process. With the passing of

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2 this bill, the city will have a better way to
3 monitor whether small businesses are in compliance
4 with Fire and Building code regulations, which
5 improves public safety and insures that all
6 businesses are playing by the same set of rules.
7 Chief Tobin has some opening remarks, and
8 representatives from the Department of Buildings
9 are also available to answer questions. Excuse
10 me, Chief Tobin, once you are ready, please
11 identify yourself for the record and begin your
12 testimony. Sorry, before you begin, we've been
13 joined by Council Member Ydanis Rodriguez.

14 CHIEF TOBIN: It's on now? Okay.
15 We're good to go?

16 CHAIRPERSON CROWLEY: Once you are
17 ready, begin your testimony.

18 CHIEF TOBIN: Okay. Good
19 afternoon, Chairman Crowley and Committee members,
20 my name is Rich Tobin, I'm the Assistant Chief of
21 Fire Prevention for the New York City Fire
22 Department, commonly known as FDNY. Thank you for
23 the opportunity to speak with you today about
24 Intro 943A. As you may know, the Mayor's business
25 customer service initiative was undertaken in

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2 collaboration with Speaker Quinn and others at the
3 Council to make it easier and faster for business
4 in New York City to comply with government
5 regulations. As part of that effort, the Mayor's
6 Office has been working with the Department of
7 Buildings and the FDNY to streamline and improve
8 the coordination of the building and fire code
9 provisions relating to places of assembly in New
10 York City. Intro 943A will codify the proposed
11 changes to improve that process. Specifically
12 this bill would amend certain provisions of the
13 city's administrative code relating to places of
14 assembly, which are defined as gathering places of
15 75 or more people indoors and 200 or more people
16 outdoors for civic, recreational, religious,
17 eating and drinking, social or other purposes.
18 With the enactment of this legislation, we will
19 eliminate the current two-agency renewal process
20 that has resulted in delays, confusion and
21 frustration on the part of the public. Currently,
22 the process for obtaining approval of a place of
23 assembly space in New York City requires first
24 DOB's approval of an application that includes
25 among other things a seating plan. If DOB

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2 approves the application, and the space passes a
3 DOB inspection, DOB issues a certificate of
4 operation for the place of assembly that is valid
5 for one year. Each year, prior to the expiration
6 of the DOB certificate of operation, the FDNY
7 inspects the place of assembly. The purpose of
8 the FDNY inspection is to confirm that the
9 premises remain in compliance with code
10 requirements and the approved seating plan. If
11 the FDNY inspectors do observe any violation, they
12 will take the appropriate enforcement action. The
13 FDNY then advises DOB of the places of assembly
14 that have passed inspection, and DOB issues the
15 certificate of operation renewal to the
16 establishment. Unless changes are made to the
17 premises requiring a new certificate of operation,
18 DOB's renewal of the certificate of operation has
19 been solely an administrative function. The 2008
20 fire code began the process of streamlining these
21 inspections and permit renewals by authorizing the
22 FDNY, consistent with its inspection role, to
23 issue an annual place of assembly permit.
24 However, the building code was not amended at that
25 time to eliminate the duplicate requirement that

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2 the DOB annually renew the certificate of
3 operation. If enacted, Intro 943A would not
4 change DOB's role in authorizing the certificates
5 of operation or approving the seating arrangement.
6 DOB would continue to be involved at the initial
7 approval stage, but would be involved thereafter
8 only if an applicant needed a new or amended
9 certificate of operation, because the assembly
10 space was being changed in some way. This is
11 analogous to the process governing certificates of
12 occupancy. If no change is made to the premises,
13 no further DOB approval is required. Under this
14 proposal, FDNY would issue the annual permits
15 indicating that the premises have passed an
16 inspection and are in compliance with code
17 requirements. This eliminates the need for two
18 agencies to be involved in the renewal of the
19 authorization to operate a place of assembly. The
20 proposed local law would therefore eliminate
21 unnecessary delays and make the process more
22 transparent to the regulated community, which
23 includes business owners, non-profits, religious
24 institutions, and members of the general public.
25 Thank you for the opportunity to speak in support

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2 of Intro 943A today, we appreciate the efforts of
3 the City Council in helping us pass this important
4 legislation, and we would be happy to answer any
5 questions at the end.

6 CHAIRPERSON CROWLEY: Thank you,
7 Chief. We've been joined by Council Member Rosie
8 Mendez. I know that we have a commissioner from
9 the DOB, if you could identify yourself, do you
10 have any testimony today?

11 MS. GORDON: No I do not. My name
12 is Kanda Gordon, I'm the Associate Commissioner
13 for Borough Operations from DOB.

14 CHAIRPERSON CROWLEY: Okay, thank
15 you, Commissioner Gordon. Chief, or Commissioner,
16 how many places of assembly are there currently
17 today in the city?

18 MS. GORDON: In the entire city we
19 have roughly about 30,000, from places of assembly
20 in the city. On the average we issue about 1,000
21 places of assembly per year.

22 CHAIRPERSON CROWLEY: On the
23 average, in an average year you issue 1,000 new
24 certificates?

25 MS. GORDON: New certificates,

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that's correct.

CHAIRPERSON CROWLEY: And on average you receive 29 or 30 thousand renewals?

MS. GORDON: We do about that many renewals per year.

CHAIRPERSON CROWLEY: When an application is made for a renewal, what is the fee?

MS. GORDON: For a renewal it is \$100.

CHAIRPERSON CROWLEY: How about when you are doing your initial first-time certification?

MS. GORDON: That would be \$200.

CHAIRPERSON CROWLEY: \$200. And every year the 29,000 or 30,000 that are up for renewal are inspected by the FDNY?

MS. GORDON: If they are on your master list, is that correct?

CHIEF TOBIN: Right, they're not all on the list. In the Fire Department, when they define a PA space, the Buildings Department, there are a lot of these spaces that don't require inspection by the Fire Department. They include

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2 things like in school construction, all the public
3 schools, every assembly space in a school is
4 listed in the Buildings Department, but they're
5 not licensed by the city, so we only inspect the
6 licensed places, which cuts that population down
7 dramatically, let's say for a fee.

8 CHAIRPERSON CROWLEY: Okay, so how
9 many do you currently inspect?

10 CHIEF TOBIN: Right now it's a
11 rough estimate, and I can get back to you, roughly
12 we would probably ... we're doing 4,000 licensed PA
13 accounts right now, and they believe that once we
14 take this on, we'll most likely have 9,000
15 accounts that we'll be inspecting.

16 CHAIRPERSON CROWLEY: So once you
17 take this on, you will not be doing the 30,000?

18 CHIEF TOBIN: No we won't be doing
19 30,000, because as I said, all of those 30,000
20 don't come up to the criteria of 75 people or
21 more, and then a vast number of them are in public
22 schools and--

23 CHAIRPERSON CROWLEY: (Interposing)
24 And who inspects the public schools?

25 CHIEF TOBIN: We inspect, the Fire

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2 Department inspects the public schools, and we do
3 have a group that inspects them, but we don't
4 inspect them for a permit in this case, we just
5 inspect them for the exits, for the clearance and
6 for the required extinguishers, etc.

7 CHAIRPERSON CROWLEY: Why are
8 public schools exempt?

9 CHIEF TOBIN: Because of the fee.

10 CHAIRPERSON CROWLEY: Because of
11 the fee?

12 CHIEF TOBIN: Sure. I believe so.
13 We don't charge a fee or a license to public
14 schools.

15 CHAIRPERSON CROWLEY: Right now how
16 long does it take on average for a business who is
17 up for renewal to get the FDNY there for the
18 inspection and then the process of working through
19 the DOB to make sure that they get that
20 inspection?

21 CHIEF TOBIN: I actually had asked
22 and looked into that before we came here, right
23 now approximately the length of time for renewal
24 would be reduced from ... it takes approximately
25 three months now for the process, and it would be

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2 reduced to less than a month, because we're
3 eliminating that circular go-around.

4 CHAIRPERSON CROWLEY: So if I'm
5 operating a place of assembly and I need to have
6 my renewal, I should be figuring out nine months
7 into the process to start renewing.

8 CHIEF TOBIN: Right.

9 CHAIRPERSON CROWLEY: Because
10 that's how long it takes.

11 CHIEF TOBIN: That's how long it
12 took before, but we're going to cut that down from
13 three months to one month.

14 CHAIRPERSON CROWLEY: So now it's
15 safe to say that you will only have to start your
16 process for renewal 11 months into--

17 CHIEF TOBIN: (Interposing) Right,
18 because we're hoping that we'll get greatly-
19 expedited customer service through this.

20 CHAIRPERSON CROWLEY: And now with
21 if a business goes through the FDNY with this ...
22 let's say this legislation becomes law.

23 CHIEF TOBIN: Right.

24 CHAIRPERSON CROWLEY: How much
25 would a business save? Would they save any money

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by not having to go for the renewal with the DOB?

CHIEF TOBIN: Yeah, I would think they would ... well, I know that it would eliminate one step, now I don't know whether there would be -

MS. GORDON: (Interposing) They would still have to pay.

CHIEF TOBIN: They would still pay the renewal fee to the Fire Department.

MS. GORDON: There would still be a renewal.

CHIEF TOBIN: That's the only difference. But it would eliminate that step.

CHAIRPERSON CROWLEY: So the business would still have to pay.

CHIEF TOBIN: A renewal fee, sure.

MS. GORDON: A renewal fee.

CHAIRPERSON CROWLEY: So in essence it doesn't save money.

MS. GORDON: It saves time.

CHAIRPERSON CROWLEY: It just saves time.

CHIEF TOBIN: A lot of time.

CHAIRPERSON CROWLEY: We've been

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2 joined by Council Member Dan Halloran from Queens,
3 and Council Member Vallone from Queens. One
4 second. Now if the FDNY is doing the inspections
5 for a greater number of businesses, why would
6 those businesses not have the FDNY inspect their
7 space prior?

8 MS. GORDON: No, they were having
9 the FDNY inspect its space, it was a matter of the
10 timing, how long it took from the point the
11 request or the renewal was made until the
12 inspection, the FDNY inspection took place.

13 CHAIRPERSON CROWLEY: But earlier
14 the Chief said that they currently review
15 approximately 4,000, and you said earlier that you
16 have about 30,000, so the 26,000 difference--

17 CHIEF TOBIN: (Interposing) That
18 they don't--

19 CHAIRPERSON CROWLEY: (Interposing)
20 ... couldn't all be public schools.

21 CHIEF TOBIN: No.

22 MS. GORDON: As the Chief said,
23 they're not all under ... I'm looking at the total
24 population of P of A spaces.

25 CHAIRPERSON CROWLEY: Okay.

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2 MS. GORDON: And the population
3 that we are speaking about today is really in the
4 4,000 area, because that's what the FDNY would
5 have to inspect on an annual basis.

6 CHAIRPERSON CROWLEY: And when I
7 was reviewing the briefing of the bill, I was
8 under the impression that there was no renewal,
9 and that this was going to be a cost savings for
10 businesses.

11 MS. GORDON: No.

12 CHIEF TOBIN: No, there always was
13 a renewal fee, right? Wasn't there a \$100?

14 MS. GORDON: We're no longer
15 charging the fee, they're no longer paying the DOB
16 fee, they're still paying the FDNY inspection fee,
17 because they always have.

18 CHIEF TOBIN: Right.

19 MS. GORDON: But now they no longer
20 have to pay the DOB renewal fee. So I was
21 incorrect, so the \$100 fee is currently today for
22 the applicant to renew. Once this goes into
23 effect, then there is no renewal fee, there's just
24 the inspection fee.

25 CHIEF TOBIN: Right.

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2 MS. GORDON: The FDNY inspection
3 fee.

4 CHAIRPERSON CROWLEY: Will the cost
5 of the FDNY inspection fee go up?

6 CHIEF TOBIN: No. No, the fee ... as
7 a matter of fact, we checked with our people, and
8 the renewal fee is the same, no change.

9 CHAIRPERSON CROWLEY: How do you
10 come about with an inspection fee? How do you
11 arrive at a number, when the FDNY is out doing
12 inspections?

13 CHIEF TOBIN: The FDNY inspection
14 fee, I have the legal with me, but I believe it's
15 ... the only fee we can charge is whatever, to cover
16 the cost of what it takes for us to do the fee,
17 the processing fee. Am I correct, Julian? Can I
18 ask, can I defer that Julian?

19 MR. BASIL: Yes, I'll identify
20 myself.

21 CHAIRPERSON CROWLEY: Thank you.

22 MR. BASIL: Julian Basil, Counsel
23 to the Fire Department. The inspection fees for
24 places of assembly and other ... and any other
25 inspection we do are set forth in appendix A to

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2 the fire code. And they are ... there's different
3 fees depending on the size of the occupancy, the
4 number of people authorized for the occupancy, so
5 I believe it ranges from several hundred dollars
6 to much more for very large occupancies. So it's
7 all spelled out there, and that is based on time
8 spent.

9 CHAIRPERSON CROWLEY: Who will
10 track compliance? I would imagine that there are
11 a certain number of businesses with certificates
12 of assembly currently expired and still operating
13 in the city. How does the DOB currently track
14 businesses to make sure that their certificate is
15 not expired? And how will it change, and if it
16 will change going forward, could you please answer
17 that question?

18 MS. GORDON: Well, the Department
19 of Buildings, we do the initial inspection for the
20 place of assembly and we will continue to do that.
21 And we're tracking at that point that the plans
22 that we see on the site during the inspection
23 match what we approved. The inspections after
24 that first year are done by the Fire Department.

25 CHAIRPERSON CROWLEY: Is the DOB

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comfortable with saying for sure that all businesses are currently complying with up-to-date certificates?

MS. GORDON: Yeah, that is a tough one, because again--

CHAIRPERSON CROWLEY: (Interposing)
And is there a fine for a business that is operating?

MS. GORDON: Absolutely.

CHAIRPERSON CROWLEY: And how often, who will issue ... with the FDNY inspector issue a fine?

CHIEF TOBIN: The FDNY--

CHAIRPERSON CROWLEY: (Interposing)
If it is not in compliance?

MS. GORDON: Yes.

CHIEF TOBIN: The FDNY inspectors will issue a summons or a notice of violation if they find them out of compliance.

MS. GORDON: So do you think that the FDNY inspection fee will increase based on this bill?

CHIEF TOBIN: No.

MS. GORDON: So there will be no

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2 changes impact, that this bill will be a cost
3 savings to businesses who are up for renewal.

4 CHIEF TOBIN: It should definitely
5 be a cost savings.

6 CHAIRPERSON CROWLEY: To save them
7 \$100 renewal fee.

8 CHIEF TOBIN: Right.

9 CHAIRPERSON CROWLEY: And it will
10 also save--

11 CHIEF TOBIN: (Interposing) It
12 should expedite the whole process.

13 CHAIRPERSON CROWLEY: Now, will the
14 FDNY be hiring more people to do inspections?

15 CHIEF TOBIN: Yes we will, as a
16 matter of fact we received approval from OMB for
17 11 additional inspectors and four community
18 coordinators in order to expedite this process and
19 make it as efficient as possible.

20 CHAIRPERSON CROWLEY: So the FDNY
21 is preparing to do more inspections.

22 CHIEF TOBIN: Yes. We had
23 anticipated this, because we knew under the 2008
24 fire code that we were going to have this ability,
25 so we had requested these inspectors.

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2 CHAIRPERSON CROWLEY: But I'm a
3 little confused, because each year you're already
4 doing these inspections. So why would the
5 caseload grow, if currently the FDNY is out there
6 doing these inspections on a yearly basis?

7 CHIEF TOBIN: I would ... honestly I
8 would have to get back to you, I would have to
9 talk to the director of public assembly unit to
10 find the exact reason for that.

11 CHAIRPERSON CROWLEY: My guess
12 would be that there are many businesses that are
13 not in compliance, and that are operating with an
14 expired inspection sticker, or may not even have
15 gotten the proper certificate of compliance to
16 begin with, and maybe that's the reason--

17 CHIEF TOBIN: (Interposing) It's
18 possible.

19 CHAIRPERSON CROWLEY: ... why there's
20 a need for more inspectors.

21 CHIEF TOBIN: In a city with a
22 million buildings out there, it's a good
23 possibility. We find that out when we do our
24 inspections, you know, we have the list, we go
25 out, if we find them we violate them. We do an

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2 extensive inspection when we go out. And we also
3 receive complaints through the Mayor's taskforce,
4 any time we hear anything we go out and inspect
5 these premises.

6 CHAIRPERSON CROWLEY: Okay, now I'm
7 a business, and my business is growing, so I'm
8 going to have the architect put in plans to
9 expand. And I'll need to then have to have a new
10 certificate, or would it just be permission
11 permitted by the FDNY? Do I have to go through
12 the Buildings Department to get a new certificate,
13 or will I be able to just work with the FDNY to
14 have an up-to-date permit?

15 CHIEF TOBIN: You'll have to go to
16 Buildings--

17 MS. GORDON: (Interposing) Yeah,
18 and get an amendment, assuming that you are not
19 changing your use or something with your occupancy
20 classification. If it's just because you've
21 expanded, you now want to have another type of
22 layout, you can get an amendment to what your ... to
23 your initial.

24 CHAIRPERSON CROWLEY: What if I'm
25 buying a restaurant that has a certificate that is

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2 good for ... a permit that is good for a few more
3 months, just changing the name of the business,
4 would I have to put in for a new certificate?

5 MS. GORDON: You would put in for
6 an amendment, if you're just doing a name change.
7 We have a small, very small subset of place of
8 assemblies where it's prior to when we went into
9 effect with BIS, which is our Buildings
10 Information System, so there's a small subset of
11 those applicants that for anything that ... any type
12 of change they would have to file an initial.

13 CHAIRPERSON CROWLEY: Can you
14 explain BIS again, your system?

15 MS. GORDON: Business, the
16 Department of Buildings, it stands for Buildings
17 Information System, and it's a way for us to track
18 all of the applications that are put into, against
19 the city, with regard to permitting and C of O's.
20 And the system began in the late 80's, each job
21 application that is put into the city, like for
22 the Department of Buildings where you need to get
23 a permit, each of those is tracked, and it's given
24 a job number.

25 CHAIRPERSON CROWLEY: Will the FDNY

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have a need to utilize that system with the permitting process?

MS. GORDON: Yes, just about every agency uses the BIS system, it's a way to glimpse what types of applications and permits have been issued for property.

CHAIRPERSON CROWLEY: So will the onus be on the business to get the permit renewed, or will FDNY have a system of knowing when a business is ready to be inspected?

MS. GORDON: It's a combination of looking in BIS and also there's a master list.

CHIEF TOBIN: Once the master list is in, and the premises is inspected, then it goes into our system, once it's turned over from Buildings, it goes into what's called FPIMS, which is the Fire Prevention Information Management System, and it automatically schedules the inspection when it's due, so we'll know when these come up. We have a database of all the buildings.

CHAIRPERSON CROWLEY: And at that point when you know that the inspection is due, would you call the business, write them, send them an email? How would you contact the business to

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set up a ... or would you just inspect?

CHIEF TOBIN: I believe we just inspect, because we want to go find the premise as it is, not, we don't want to give the heads-up, here we come, make sure all your exits are open, make sure everything is in order, make sure your seating plan is approved, is it, you know, in compliance. And if we do that, it kind of defeats the idea. We want to go out and find them as it is operating.

CHAIRPERSON CROWLEY: Okay, I understand that. Now this bill is ... we believe it will generate funds for the city, and we believe that ... do you believe that, that this revenue will come in from doing maybe more inspections?

CHIEF TOBIN: I'm not sure that it will generate ... whatever DOB gives up in that one thing, we may ... I'm not sure that--

CHAIRPERSON CROWLEY: (Interposing)
Or will it cost the city, will it cost the city?

CHIEF TOBIN: I don't think it will cost the city.

CHAIRPERSON CROWLEY: The renewal fee will no longer be applicable?

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2 CHIEF TOBIN: I'd have to get back
3 to you on that, I'm not sure of the exact revenue
4 effect for the Fire Department.

5 CHAIRPERSON CROWLEY: Well, the
6 Fire Department is hiring 11 new staff members.

7 MS. GORDON: Right.

8 CHAIRPERSON CROWLEY: To do the
9 inspections.

10 CHIEF TOBIN: Well, we would
11 certainly have enough to cover that, but--

12 CHAIRPERSON CROWLEY: (Interposing)
13 Okay. I'm going to recognize Council Member Dan
14 Halloran for questions.

15 COUNCIL MEMBER HALLORAN III: Thank
16 you, Chief, for being here, thank you very much.
17 You mentioned BIS, the Buildings computer system,
18 and I'd like to talk about that. Now the Fire
19 Department doesn't have access to BIS, do they?

20 CHIEF TOBIN: Yes we do.

21 MS. GORDON: Yes.

22 COUNCIL MEMBER HALLORAN III: You
23 do? And it's cross-integratable?

24 CHIEF TOBIN: Yes.

25 COUNCIL MEMBER HALLORAN III: And

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2 you're able to read that from your own terminals
3 in the Fire Department.

4 CHIEF TOBIN: Right. The building
5 identification number gives us access to that.

6 COUNCIL MEMBER HALLORAN III: And
7 how much information are you able to get off of
8 the system? Everything? Are you ... is it
9 everything that's in the system there you are able
10 to read at the Department?

11 MS. GORDON: Right, any agency
12 would be able to read what we call the PW1, which
13 is the planned work application, and the
14 information on that application has things such as
15 the location of where the work is to take place,
16 the type of work. It has the occupancy
17 designation and scope of work to be done, so it's
18 pretty extensive in terms of what the applicant is
19 planning to do at that site.

20 COUNCIL MEMBER HALLORAN III: Okay.
21 And one of the incidents that we came across,
22 which is not directly related to the inspections
23 themselves by the Fire Department, is that the
24 Buildings Department issued violations to
25 homeowners after the hurricane to secure their

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2 buildings. Their rationale was it's the only way
3 that the Buildings Department computers are able
4 to log information about potentially damaging or
5 dangerous conditions. One of the things we were
6 told was that information is not cross-compatible,
7 but you're here telling me that in fact it is, and
8 the Fire Department is able to access that
9 computer information as it is right now.

10 MS. GORDON: Well, the information
11 that's cross-transferable, if you will, is, you
12 know, obviously "read-only", and I was referring
13 more to, as I said, planned work, as opposed to I
14 think you're referring to violations or notices of
15 deficiency, and for that bulk of work, that I'm
16 not entirely sure what can and cannot be read by
17 other agencies.

18 COUNCIL MEMBER HALLORAN III: Okay.
19 Well, it would be good to know from a public
20 safety standpoint, and I'm sure Chair Vallone is
21 here and can make notes. We seem to have
22 different information coming out of different
23 agencies and sub-agencies even, about what is or
24 isn't cross-referencable across the city's
25 networks. And obviously I know Chair Brewer has

1
2 done a lot with DOITT to attempt to put us on the
3 same platform, but it doesn't seem to ever really
4 get there. So that's interesting. The second
5 thing I think that our Chair was alluding to was
6 the costs on this. Now I had the opportunity this
7 weekend to be at several Christmas events, and I
8 will tie this together, and one of them was at the
9 Veterans of Foreign Wars. And unfortunately the
10 Veterans of Foreign Wars in Whitestone is sitting
11 on \$2,000-worth of property tax billing which is
12 now come over from the revenue side of finance,
13 which has nothing to do with property tax, because
14 they're exempt, for the fees that they're now
15 paying for inspections the Fire Department is
16 conducting at their location, and I assume up
17 until legislation was passed two years ago, they
18 were exempt from paying those fees. Now Veterans
19 of Foreign Wars post owes over \$1,800 in
20 inspection fees for their tiny little piece of
21 property on 149th Street in Whitestone, which is
22 non-waivable and of course the city has now liened
23 the property in the sense that they've put those
24 notices onto the Department of Finance website,
25 the Department of Finance has transferred them

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2 onto a property tax bill, which of course they
3 don't really have, but ... and I assume that since
4 it's accruing interest and accruing each year's
5 inspection fees, they will have the option of
6 either trying to pay this or waiting until they
7 ever dispose of the property to do something with
8 it. Have you encountered other not-for-profits
9 like our veterans facilities that have had
10 problems paying these inspection fees that you've
11 been forced to impose based on the change in the
12 statute?

13 CHIEF TOBIN: From the Fire
14 Department I have to speak to the people in
15 finance at the Fire Department, Commissioner Rush.
16 I know that, I guess it was two years ago, around
17 that time, when these hearings were going through
18 at City Hall, they were quite contentious for the
19 past, and I know this, particularly houses of
20 worship, schools, things like that, were exempt.
21 But not everybody was exempted.

22 COUNCIL MEMBER HALLORAN III: Not
23 everybody, right, our veterans facilities were
24 included in this.

25 CHIEF TOBIN: There were some

1
2 people who were quite disgruntled, I'd have to get
3 back to you.

4 COUNCIL MEMBER HALLORAN III: Okay.
5 Would you be able to tell us, do you have access
6 to a database in the Fire Department that would
7 tell you how many of these not-for-profits that
8 are still in the billing category have not paid or
9 are delinquent, things like that? Are you able to
10 amass a list like that for us?

11 CHIEF TOBIN: I think we could.

12 COUNCIL MEMBER HALLORAN III: Okay.

13 CHIEF TOBIN: Sure.

14 COUNCIL MEMBER HALLORAN III: Well,
15 I would simply ask that we take a look and see if
16 there is a pattern. I tend to think that those
17 who served our country by putting their lives on
18 the line, who own a small facility so that their
19 members can gather and remember the times they
20 served this nation should probably not have been
21 included in the list of people paying fees to the
22 City of New York to simply exist, and I wonder how
23 many of them throughout my county and other
24 counties are currently in arrears to the city as a
25 result of that, and maybe there is something we

1
2 can do by tweaking that legislation and ask the
3 Chair to maybe recommend that legislative services
4 look at the potential of modifying the statute to
5 include one woefully-undercategorized group of
6 people, our veterans who didn't make it into the
7 exemptions that everybody else benefited from in
8 that legislation.

9 CHIEF TOBIN: Sure.

10 COUNCIL MEMBER HALLORAN III: Thank
11 you. Nothing further, I yield back.

12 CHAIRPERSON CROWLEY: Thank you,
13 Council Member Halloran. Earlier ... yes. Earlier
14 you mentioned that there are 30,000, approximately
15 30,000 places who are awarded these certificates
16 of occupancy ... assembly. Now, how many of the
17 30,000 are greater than 75 people allowed, or
18 greater than 200?

19 MS. GORDON: We'd have to get back
20 to you on that, I don't have that information with
21 me. Oh, greater than 75, yeah, well that is the
22 definition of when you need a place of assembly,
23 is over 75.

24 CHAIRPERSON CROWLEY: But earlier
25 the Chief said that there were under ... if you have

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30,000, he only inspects 4,000.

MS. GORDON: Right, so I'd have to get you the breakdown. I mean, you're looking for now what is not inspected by Fire?

CHIEF TOBIN: Maybe Julian can help you with this.

MR. BASIL: Julian Basil, Counsel to the Department. Part of the discrepancy between these numbers might be accounted by the fact that there are multiple, sometimes multiple assembly spaces in one premises, and that may be some of the confusion here. So that's ... might account for part of that. I do think--

CHIEF TOBIN: (Interposing) That's exactly right, because take for instance if you go to NYU and we inspect a building that has, let's say it's 1 Washington Square or whatever it is, that particular building could six, seven, eight different assembly spaces in the building, rooms that qualify as assembly spaces, but they're operating under one permit, they're listed under one, so that's why we would have 4,000 permits, but actually in that particular case, we're going to have one inspection with six places of assembly

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in it.

CHAIRPERSON CROWLEY: With six certificates.

CHIEF TOBIN: Right, exactly.

CHAIRPERSON CROWLEY: Under one name.

CHIEF TOBIN: Under one permit in that name, right, exactly.

MR. BASIL: And just to further clarify it, on some of the fee stuff, as I understand it, the bill would eliminate the Department of Buildings renewal fee, so that will be a net loss of revenue to the city. However, the Fire Department--

CHAIRPERSON CROWLEY: (Interposing) Sorry, could you start over?

MR. BASIL: Yeah, just with regard to the fee issue. The elimination, the bill will eliminate the Department of Buildings renewal fee, as we discussed earlier.

CHAIRPERSON CROWLEY: Right.

MR. BASIL: So that would be a net loss I gather of something in the order of \$350,000 annually from that source of revenue.

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2 The Fire Department does not charge extra for the
3 permit that it will be issuing, it's part, it's
4 folded into this inspection fee, so we are doing
5 inspections currently and billing for those
6 inspections, so we will ... there will not be any
7 net increase from that, unless -- and this is
8 where this additional staff comes in -- there may
9 be, you know, places of assembly that Buildings
10 has on its master list that for whatever reason
11 the Fire Department has not seen, so there might
12 be some incremental increase, and obviously that
13 would generate some additional revenue, and offset
14 the cost of this additional staff. I mean, in due
15 course, when that's all sorted out, and we, you
16 know, all our lists are harmonized and we have a
17 complete list, our fees will be adjusted as
18 necessary, you know, if it's increase them, we
19 will increase them, if not, that won't be
20 necessary to increase them. But at this time the
21 only revenue impact that we anticipate is from the
22 discontinuance of the Department of Building's
23 renewal fee, that's my understanding of the
24 situation.

25 CHAIRPERSON CROWLEY: How many

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places do you think will benefit from this bill?

MS. GORDON: Well, it's got to be at least the 4,000, the four or five thousand that you would have to inspect anyway.

CHIEF TOBIN: I think any of them that are renewing are going to benefit just from the expedited process. They won't have to spend as much time.

CHAIRPERSON CROWLEY: Do you foresee more inspections that the FDNY will do each year?

CHIEF TOBIN: Yes, I think so, yeah. That's why we're putting on more staff.

CHAIRPERSON CROWLEY: But where ... why would there be an increase in inspections? That's what I'm trying to get at here.

CHIEF TOBIN: Well, right now, like I said, we have a database that shows 4,000, and they are saying that -- this is an estimate that I'm receiving from the unit -- that we are probably going to have 9,000 accounts.

CHAIRPERSON CROWLEY: So what I want to get at is, are there every year approximately 5,000 places of assembly that should

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2 have been inspected, that go, and have gone,
3 uninspected, and now will no longer go uninspected
4 and therefore be safer?

5 MS. GORDON: No.

6 CHAIRPERSON CROWLEY: There has to
7 be a discrepancy, if currently the FDNY is only
8 inspecting 4,000 and next year that list is going
9 to grow to 9,000, where are the other 5,000 coming
10 from?

11 CHIEF TOBIN: (aside) I think it's
12 just the difference in (inaudible).

13 MS. GORDON: Yeah. Well, I, you
14 know, Chief Tobin is pointing out something too, I
15 mean, it's the ... for these many years we've had
16 the two lists, we've had, you know, the Department
17 of Buildings through BIS and the number of places
18 of assembly, and then a master list that the Fire
19 Department had, and we have had experiences with
20 those two lists not being reconciled, some of
21 which, you know, I think you're hearing. So I
22 think what the Chief is saying that we know for,
23 you know, in the area of 4,000 he will have to
24 inspect--

25 CHAIRPERSON CROWLEY: (Interposing)

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Do you believe that--

MS. GORDON: (Interposing) ... but there's a possibility that--

CHAIRPERSON CROWLEY: (Interposing) ... approximately one out of two businesses or places of assembly go uninspected that should have been inspected?

MS. GORDON: I can't answer that, I don't know that.

CHIEF TOBIN: I don't think so.

CHAIRPERSON CROWLEY: But there has to be a certainly percentage of places of assembly that currently go uninspected that should be inspected, if your list is going to grow from 4,000 to 9,000.

CHIEF TOBIN: I think our list is going to grow from 4,000 to 9,000 because, as I said, we keep a list based on the address and not the specific, so I think that that almost doubles the number.

CHAIRPERSON CROWLEY: Okay.

CHIEF TOBIN: Like I said, and I don't think that there's going to be 5,000 places that haven't been inspected, I think that the way

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2 we do our lists are different, and like I said, we
3 go out, we have an FPINS account number which
4 holds that one address that could be six spaces in
5 that one address and--

6 CHAIRPERSON CROWLEY: (Interposing)

7 And one address can have permission to have a
8 certain--

9 CHIEF TOBIN: (Interposing) Right,

10 it can have--

11 MS. GORDON: (Interposing) That's

12 correct.

13 CHAIRPERSON CROWLEY: ... a room--

14 CHIEF TOBIN: (Interposing)

15 Exactly.

16 CHAIRPERSON CROWLEY: Given the

17 permission while--

18 CHIEF TOBIN: (Interposing) Like I

19 said.

20 CHAIRPERSON CROWLEY: ... another

21 area may not have those.

22 CHIEF TOBIN: If you go to NYU and

23 you're going to have the auditorium on the first

24 floor, you're going to have the lecture hall on

25 the third floor, you're going to have another hall

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2 on the fifth floor, you're going to have halls
3 throughout the building. We'll carry that as one,
4 they carry it as a different number. So I think
5 when we reconcile this, that there won't be any
6 5,000 that are falling between the cracks. I said
7 before, I mean, this is a huge city, this is a
8 huge building population. Are there some things
9 that fall between the cracks? Absolutely, but
10 nowhere near what you're imagining here.

11 CHAIRPERSON CROWLEY: Good. Okay,
12 I have no further questions, and Council Member
13 Halloran, no--

14 COUNCIL MEMBER HALLORAN III:
15 (Interposing) No, I'm okay.

16 CHAIRPERSON CROWLEY: Thank you for
17 testifying and for answering the questions.

18 CHIEF TOBIN: Okay.

19 CHAIRPERSON CROWLEY: And then we
20 have Robert Bookman with New York Hospitality
21 Alliance. Welcome, and when you are ready, please
22 identify yourself for the record and begin your
23 testimony.

24 MR. BOOKMAN: Thank you, Madam
25 Chairman, my name is Robert Bookman, I am counsel

1 to the New York City Hospitality Alliance.

2 Briefly, the Alliance is a broad-based membership
3 association founded this year to foster the growth
4 and vitality of the industry that has made New
5 York City the hospitality capital of the world.

6 It is the first association ever formed in New
7 York City representing all facets of this diverse
8 industry: restaurants, bars, lounges, destination
9 hotels and major industry suppliers. We are doing
10 the normal things that associations do, including
11 commenting on legislation. This particular bill,
12 probably most of that 4,000 or 9,000, depending on
13 which number you want to use, of the locations
14 that have public assembly permits, are members of
15 the hospitality industry, restaurants, bars,
16 nightclubs, hotels. So we're very interested in
17 this, we were involved in the regulatory review
18 panel initially, and reform of the public assembly
19 process was one of the highest priorities of our
20 industry that came through the regulatory review
21 panel, so we are very pleased. We have worked
22 with your Committee, with Rob Newman and counsel
23 here, Robert, and we've worked with the
24 administration as well. Many of our concerns and
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2 comments have been included in this bill, we think
3 it is a positive step in the right direction, it's
4 not a panacea, it's not going to resolve all the
5 concerns we have concerning the process, but we
6 certainly would urge that this reform which will
7 reduce the cumbersome nature of the renewal
8 process to a large extent. The practical effect
9 of the current process is that businesses are
10 simply left with expired permits and there's
11 nothing ... despite best efforts. You know, between
12 the two agencies and the amount of time, and it's
13 only an annual permit to begin with, as where most
14 city licenses are two years or longer, you're
15 almost out of compliance, you know, by the time
16 you get your renewal. It's not a simple system
17 between the two agencies, it was actually after 25
18 years of doing this wonderful to see the two of
19 them actually sitting here together, two agencies
20 that don't have a real history of cooperation. So
21 I mean, this is a good thing, you know, it's what
22 needs to be done. I am curious, as you are,
23 concerning some of their answers. You know, it's
24 hard, I don't know how we could be doubling the
25 number of establishments that are going to be

1 inspected by the Fire Department. I suspect that
2 there is some problems with how they are
3 organizing their list, but I do have to also say
4 though, over the years the Fire Department is, you
5 know, prioritizes these PA inspections, because
6 there are a lot of inspections. So we're happy to
7 see that they're getting more staff to actually do
8 it, and do it in a timely manner, because we are
9 often waiting for them to do the renewal
10 inspections, and we're out of compliance when
11 we're simply waiting for an inspection. And then
12 you can get a violation for not having a current
13 PA permit, when you're simply waiting for either
14 the inspection or the paperwork to go through. So
15 I would hope that they would make appointments, I
16 understand, you know, what the Fire Department
17 said, is they like to just show up, but many of
18 our businesses are not open during the same hours
19 as they're doing their inspections, so it's a
20 night-life establishment, they're opening at nine,
21 ten o'clock at night. They show up during the day
22 and they mark you out of business. So you have a
23 real nightmare scenario in getting your PA
24 renewed. So this will, my guess is this will
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2 start a real conversation passing this
3 legislation, because it's making people focus on
4 what's doing right and doing it fairly, and but I
5 do also suspect that there will be a dramatic ... I
6 do suspect that part of the reason for the
7 difference is that there are many 80-person
8 restaurants, 90-person restaurants that haven't
9 changed, they're the same year-in and year-out,
10 and the Fire Department doesn't get around to
11 doing those renewals. So I do think part of the
12 difference is there's going to be a lot more
13 places inspected, and there will be a lot more
14 revenue for the city as a result of it, which will
15 pay for those 11 people. Thank you.

16 CHAIRPERSON CROWLEY: Will your
17 businesses save any money?

18 MR. BOOKMAN: No, it never happens
19 that we save money. Yeah, the 100 bucks a year,
20 but that's true, but all those establishments, the
21 businesses that aren't being inspected regularly
22 will now get the Fire Department inspection fee,
23 and invariably they come up with some things that
24 you need to correct or they issue you a sign
25 that's not posted properly, or a light bulb is

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2 out, so it's ... you know, these inspections are
3 not, you know, we should be honest with each
4 other, a lot of these annual inspections are not
5 because there's been any concern about fire safety
6 changes, it's a fund-raising way of issuing
7 summonses and getting some money for it. You
8 know, many of these places have no changes year-in
9 and year-out. One could question why they need an
10 annual inspection as long as they gave you an
11 affidavit from a licensed professional saying
12 there's been no change from the prior year, you
13 know, a lot more ... there's a lot of stuff done in
14 the city based on affidavits from professionals,
15 you probably ... but let's see what happens. If
16 they really do go from 4,000 to 9,000, I think
17 they'll be coming back to you and suggesting
18 either a longer period of time between renewals or
19 some sort of self-certification, because you know,
20 if they're really more than doubling it, it's
21 questionable whether they would have the personnel
22 for that.

23 CHAIRPERSON CROWLEY: Interesting
24 to learn that this was one of the highest, or if
25 not the highest priority of the industry?

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2 MR. BOOKMAN: One of the highest
3 priorities, yeah, because it's a bureaucratic
4 nightmare, the current PA process, you know,
5 between the two agencies and, you know, you get
6 your inspection, but the Fire Department can't
7 give you a renewal certificate, so it goes on this
8 monthly list to the Buildings Department, and God
9 forbid you just missed the cutoff on the once-a-
10 month that they were transmitting that, so that
11 the Buildings Department could issue you the
12 actual document and you're, you know, you're out
13 there with an expired PA permit. And people do
14 get summonses for that, there's no question about
15 it, and then that costs money. So to the extent
16 that we hope that will stop, it will save
17 businesses money, because they won't ... there
18 shouldn't be as many summonses for expired PAs.

19 CHAIRPERSON CROWLEY: Would you put
20 an estimate on how many are operating right now
21 with expired PAs?

22 MR. BOOKMAN: In the city?

23 CHAIRPERSON CROWLEY: Yes.

24 MR. BOOKMAN: Thousands. Small
25 mom-and-pop neighborhood, probably not in

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2 Manhattan, you know, quite frankly, they're very
3 on top of that. But in your boroughs that you
4 represent, you know, your neighborhood bar that's
5 been there for 20 years that has an occupancy of
6 85, God knows the last time, you know, Joe's has
7 had a PA renewal inspection.

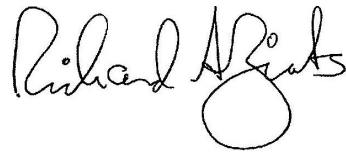
8 CHAIRPERSON CROWLEY: Okay, good.
9 I don't have any other questions, I want to thank
10 you for being here today to testify.

11 MR. BOOKMAN: My pleasure, as
12 always. Thank you.

13 CHAIRPERSON CROWLEY: And this
14 concludes the Fire and Criminal Justice Committee
15 hearing of December 17th. We're going to vote
16 tomorrow on it.

C E R T I F I C A T E

I, Richard A. Ziats, 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 _____ December 24, 2012 _____