

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS

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May 4, 2016

Start: 1:12 p.m.

Recess: 2:19 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E:

RAFAEL L. ESPINAL, JR.
Chairperson

COUNCIL MEMBERS:

Vincent J. Gentile
Julissa Ferreras-Copeland
Karen Koslowitz
Rory I. Lancman
Andy L. King

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

Alba Pico
First Deputy Commissioner &
Acting Commissioner
New York City Department of Consumer
Affairs

Amit S. Bagga
Deputy Commissioner
External Affairs
New York City Department of Consumer
Affairs

Chief William T. Morris
Manhattan South
New York City Police Department

Captain Robert O'Hare
Commanding Officer of Times Square Unit
New York City Police Department

Lieutenant Daniel Albano
Legal Bureau
New York City Police Department

Johanna Zaki
Executive Director
Alliance for Coney Island

Jack Friedman
Representative
Times Square Alliance

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

Jim Caras
General Counsel and Land Use Director
Office of Manhattan Borough President,
Gale A. Brewer

TRANSCRIPTION NOTE: Spanish spoken by
Chairperson Espinal at time stamp [00:56:10].

[gavel]

CHAIRPERSON ESPINAL: Good afternoon. My
name is Rafael Espinal and I am the Chair of the
Consumers Affairs Committee. I am joined by other
members of the committee; we have Rory Lancman from
Queens and we have the bill sponsor, all the way from
the Bronx, my man Andy King. The committee will
conduct its second hearing on Int. 0467-A, a local
law that would require registration of costumed
individuals engaged in solicitation in public spaces.

In recent years, individuals dressed as
well-known characters from various films, television
productions and comic books have become a common
sight on the streets surrounding Times Square. By
and large, these costumed individuals solicit tips
from tourists and other passersby in exchange for
posing for photographs; often this is fun for both
tourists and the costume performers, who also make
money soliciting for tips; unfortunately, there have
also been numerous complaints and news reports
involving aggressive solicitation and worse,
including incidents of violence and allegations of

1 sexual assault. Prompted by these concerns from
2 tourists and local businesses, the committee held a
3 hearing on a previous version of this bill in
4 November of 2014; that previous version would have
5 required licensing of costumed individuals engaged in
6 solicitation. The committee at the time heard
7 extensive testimony from City agencies, including the
8 NYPD, borough presidents, Chambers of Commerce,
9 costumed individuals themselves and other
10 stakeholders in the Times Square business community.

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12 In the summer of 2015, as the committee
13 pondered its next steps on the complex issue, a surge
14 of costumed and painted performers posing for
15 photographs in Times Square's pedestrian plazas
16 prompted more complaints and arrests. The City
17 convened a task force to discuss quality of life
18 issues in the area's pedestrian plazas. One of the
19 task force recommendations recently passed into law
20 by the City Council authorizes a creation of activity
21 zones where performers would be allowed to operate
22 without impeding pedestrian traffic and minimizing
23 aggressive solicitation. Int. 0467-A will compliment
24 this effort to bring order to our pedestrian plazas
25 by adding a measure of transparency; as many as

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2 300,000 pedestrians, from all corners of the world,
3 regularly enter the heart of Times Square each day;
4 according to the Times Square Alliance, on the
5 busiest days that number approaches a half-million
6 persons; costumed individuals who are difficult to
7 identify can add to the confusion in the crowds at
8 the crossroads of the world. Int. 0467-A would
9 require that costumed performers whose faces are
10 covered must registered with DCA and wear proof of
11 registration on their person while engaged in
12 performance and solicitation. This will allow for
13 quick identification when there are incidents and
14 greater safety in the streets and bustling centers of
15 our city.

16 With that said, I would like to call up
17 the first panel. We have Alba Pico, the Acting
18 Commissioner for DCA; Amit Bagga, the Deputy
19 Commissioner for DCA; Tamala Boyd, Deputy General
20 Counsel of DCA; Chief William Morris of the NYPD;
21 Captain Robert O'Hare of the NYPD; Lieutenant Daniel
22 Albano of the NYPD, but before you begin, I would
23 like to give my colleague Andy King a chance to say a
24 few words on his bill.

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2 COUNCIL MEMBER KING: Thank you,
3 Mr. Chair and I thank the NYPD and all interested
4 parties from the City of New York. Back in 2014, as
5 the Chair mentioned, we did have a hearing on
6 Int. 0467, now 0467-A today, in an effort to address
7 some of the chaos that was happening around the
8 streets of New York with individuals who were dressed
9 up in costumes or dressed up in anything that would
10 change their natural look that we will not be able to
11 identify them [sic]. This legislation today that
12 we're gonna be talking about is designed to make sure
13 that we're able to identify all those folks who go
14 out there to solicit, put a smile on someone's face
15 or engage our tourists population, as well as regular
16 New Yorkers.

17 So I'm excited about today's
18 conversation; I wanna thank all the interested
19 parties, from Times Square Alliance to NYPD and the
20 council members who have helped take up this action
21 by establishing the pedestrian plazas that they want
22 to regulate, but I think at the end of the day we
23 still need to go further and that's what this
24 legislation attempts to do from its inception in
25 making sure that we can identify everyone that's out

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2 there; knowing Spider-Man No. 1 from Spider-Man No. 4
3 and I think if we can do that with an identification
4 system, not only are we able to offer transparency,
5 but we're able to weed out some of the bad seeds who
6 make it difficult for those individuals out there
7 that are doing the right thing.

8 So again, I wanna thank each and every
9 one of you and I'm eager to hear your testimony
10 today, and thank you, Mr. Chair.

11 CHAIRPERSON ESPINAL: Thank you,
12 Councilman King. You may begin.

13 ALBA PICO: Good afternoon, Chairperson..
14 Good afternoon, Chairperson Espinal, Council Member
15 King and members of the New York City Council
16 Committee on Consumer Affairs. I'm Alba Pico, First
17 Deputy Commissioner and Acting Commissioner of the
18 Department of Consumer Affairs. I'm joined by my
19 colleagues, Amit S. Bagga, Deputy Commissioner of
20 External Affairs and Tamala Boyd, Deputy General
21 Counsel. We do have special thanks to our colleagues
22 at NYPD that have joined us to testify.

23 Thank you for the opportunity to speak
24 with you today about Int. 0467-A, which would require
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2 DCA to register individuals who solicit in public
3 while wearing costumes and face-obscuring makeup.

4 We would like to thank Chair Espinal for
5 convening today's hearing, as well as Council Member
6 King and other members of the committee for your
7 close consideration of this issue.

8 DCA is the largest municipal consumer
9 protection agency in the country and it is our
10 mission to empower consumers and businesses alike to
11 ensure a fair and vibrant marketplace. The agency
12 licenses approximately 80,000 businesses across soon-
13 to-be 54 different industries, mediates complaints
14 between consumers and businesses, conducts patrol
15 inspections and legal investigations, educates
16 businesses about laws and rules and also enforces New
17 York City's Earned Sick Time Act, commonly known as
18 the Paid Sick Leave Law. In addition to its
19 licensing, consumer protection and labor-related
20 work, DCA operates the Office of Financial
21 Empowerment (OFE) to connect low-income New Yorkers
22 with valuable financial services and education.

23 As the number of tourists coming to New
24 York City has continued to grow over recent years and
25 is expected to reach a record high of nearly 60

1 million this year, so too has the opportunity to
2 provide tourists with new and varied experiences;
3 among these experiences is that which affords
4 tourists, mainly in Times Square, the ability to
5 interact and take pictures with individuals dressed
6 in costumes that are designed to look like
7 recognizable characters, from Minnie Mouse to Elmo to
8 **[inaudible]**, among others. The costumed individuals
9 have become an indelible part of the urban fabric in
10 New York City and in many instances interactions
11 between costumed individuals and tourists are safe
12 and pleasant; unfortunately, this is not always the
13 case; while many costumed individuals are hardworking
14 New Yorkers attempting to earn a living, there have
15 been many reports of these individuals engaged in
16 troubling, unsafe and reckless behavior.

18 As costumed individuals are largely
19 concentrated in tourist-heavy areas such as Times
20 Square, the resulting competition between individuals
21 for business can lead to congestion problems and
22 conflict between performers. Costumed individuals
23 have been reported to be aggressive towards rival
24 performers, tourists who they feel have failed to tip
25 them sufficiently and even the New York City Police

1 Department. The problems caused by congestion and
2 overconcentration tend to become more acute as the
3 weather gets warmer and more people venture out to
4 enjoy New York City's public spaces.
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6 I will now ask my colleague Amit S. Bagga
7 to speak in great depth about Int. 0467-A.

8 AMIT S. BAGGA: Thank you, Commissioner
9 Pico.

10 Int. 0467-A would create a registration
11 for individuals who solicit in public while wearing
12 costumes, masks, accessories, makeup or other objects
13 that obscure the face beyond recognition. Costumed
14 individuals would be required to conspicuously
15 display their registration while wearing a costume
16 and engaging in solicitation in a public space. The
17 fee for a registration would be \$30 and each
18 registration would be valid for two years from the
19 date of issuance. Costumed individuals who solicit
20 in public without a registration would be subject to
21 a civil penalty of \$25 up to \$100 for the first
22 offense and from \$100 up to \$250 for subsequent
23 offenses.

24 DCA very much shares the Council's goal
25 of protecting consumers and tourists, ensuring that

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2 our public spaces are accessible and inviting and
3 making it easier for the NYPD to respond should
4 problems arise.

5 We believe that Int. 0467-A is an
6 important first step in creating an appropriate and
7 enforceable regulatory framework which we believe is
8 a goal shared by the administration and the Council.
9 We seek to work closely with the Council in pursuit
10 of this goal and it is with this in mind that we
11 offer specific feedback on Int. 0467-A as it is
12 currently written.

13 We have identified several challenges and
14 concerns in the current bill that may mitigate
15 Int. 0467-A's ability to address issues involving
16 soliciting or solicitation by costumed individuals.
17 We hope our feedback will be helpful and we look
18 forward to continuing discussions with the Council
19 about how Int. 0467-A can be strengthened.

20 First and most importantly, Int. 0467-A
21 does not provide for a method by which DCA can deny,
22 revoke or refuse to renew registrations; DCA has this
23 ability for all of our existing license categories.
24 Under the current language, DCA would not be able to
25 withhold a registration from an individual who

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2 violates the law by soliciting without registering,
3 engages in fraud or misrepresentation or is convicted
4 of aggressive solicitation. As the bill is currently
5 written, DCA would be required by law to renew such
6 an individual's registration.

7 New York City sanctions an individual's
8 activity when it grants a permit, license or
9 registration; in particular, a DCA license or
10 registration might signal to consumers that it is
11 safe to transact in a business transaction with the
12 holder of that license or registration and that the
13 consumer will have recourse to the agency's consumer
14 protection mechanisms should any problems arise.
15 Creating a DCA registration without giving the agency
16 the power to deny, revoke or refuse to renew
17 registrations for cause risks misleading consumers
18 about the level of risk in their transactions and
19 undermining confidence in DCA's imprimatur as a
20 consumer protection agency.

21 In addition, Int. 0467-A provides that a
22 registration will be valid for two years from the
23 date of issuance; typically, all of the licenses in a
24 DCA category will expire in a set month on a set date
25 rather than on a rolling basis. Applicants can still

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2 come in to apply for a license at any time and fees
3 are prorated based on how much of a license period
4 has already elapsed. This structure allows DCA to
5 better manage our approximately 80,000 licensees by
6 staggering the expiration periods for the soon-to-be
7 54 different categories. Instituting a rolling
8 registration for costumed individuals would create
9 operational difficulties by requiring the agency to
10 process and track these registrations differently
11 than for all of our other license categories. I
12 should note that I believe that the Council has
13 indicated preliminarily openness to changing this
14 particular provision.

15 DCA very much appreciates the opportunity
16 to testify before the committee today; while the
17 agency must respectfully decline to support
18 Int. 0467-A in its current form, we appreciate the
19 Council's leadership on this issue and look forward
20 to continued discussions about creative solutions.
21 We hope that our feedback will be helpful to the
22 Council as Int. 0467-A continues through the
23 legislative process. My colleagues and I will be
24 happy to answer any questions you might have. Thank
25 you.

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2 CHIEF MORRIS: Good afternoon, Chair
3 Espinal and members of the Council. I am Chief
4 William T. Morris, the Chief of Manhattan South for
5 the New York City Police Department; I'm also joined
6 here today by Captain Robert O'Hare, the Commanding
7 Officer of the Times Square Unit and Lieutenant
8 Daniel Albano of the NYPD Legal Bureau.

9 On behalf of Commissioner William J.
10 Bratton, I would like to thank you for the
11 opportunity to speak to you about the bill before you
12 today, Int. 0467-A, which would amend the
13 administrative code to require costumed individuals
14 who solicit in public spaces in our city to register
15 with the Department of Consumer Affairs. Int. 0467-A
16 would enact the new administrative code provisions
17 that apply to any person wearing a costume who
18 accepts or requests "by spoke word, signs, gestures
19 or any other means a fee, donation, tip, payment, or
20 any other form of compensation." The bill would
21 require that costumed individuals who solicit in
22 public spaces to register with DCA. The bill would
23 make it unlawful for a costumed individual to solicit
24 without having first registered with DCA as well as
25 to not conspicuously display their proof of

1 registration while engaged in solicitation of the
2 public. Lastly, the bill would require that the
3 costumed individual, at the request of a police
4 officer or other enforcing agency, remove portions of
5 a costume that obscure the individual's face in order
6 for the officer to verify that the individual wearing
7 the costume is the authorized registrant whose
8 photograph appears on the displayed proof of
9 registration.
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11 We appreciate the Council's interest in
12 addressing the concerns surrounding the proliferation
13 of costumed individuals in our city; the
14 administration recognizes that most costumed
15 individuals are not engaging in criminal activity or
16 intending to take advantage of unwitting tourists,
17 they are simply trying to make a living for
18 themselves and their families and we respect their
19 right to do so. Registration is one tool to
20 addressing this proliferation so that good actors can
21 operate in a better environment and bad actors can be
22 identified and the public can be protected from them.

23 The Police Department is supportive of
24 the concept of registration because it will help our
25 officers to better identify costumed individuals in

1 the field. As we have seen in Times Square, multiple
2 individuals often wear the same costume and this
3 dynamic has, at times, inhibited our abilities to
4 investigate reported crimes and identify those
5 responsible. The Police Department, however, has
6 concerns with the bill as currently drafted; notably,
7 the bill contains no criminal penalties for
8 unregistered solicitation by a costumed individual
9 and/or failure to display proof of such registration.
10 The bill only permits police officers and other
11 enforcing agencies to issue a civil penalty for this
12 conduct. The lack of any criminal penalty provides
13 a significant challenge to enforcing the registration
14 framework currently contemplated in the bill;
15 essentially, there would be no practical way for a
16 police officer or any enforcement authority to
17 properly issue a civil penalty if a costumed
18 character refuses to display their registration or
19 provide any form of identification upon request.
20 Without the ability to properly enforce, the need for
21 registration becomes obsolete and also fosters
22 inequity between those who take the time to register
23 and those who do not. While we certainly recognize
24 that the intent of the bill is to use civil
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1 enforcement, a criminal penalty must be available to
2 the enforcing officer in order to compel a costumed
3 individual to produce the required registration or
4 any kind of identification and to possibly elevate
5 the severity of enforcement for repeat offenders.
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7 Notwithstanding this challenge, we are
8 pleased to continue this discussion as well as
9 collaborating with the Council to make this
10 legislation workable for those who will be tasked
11 with enforcement.

12 Thank you for the opportunity to speak
13 with you today and I'm pleased to answer your
14 questions.

15 CHAIRPERSON ESPINAL: Thank you. I'm
16 gonna give Andy King a chance to ask some questions.

17 COUNCIL MEMBER KING: Thank you,
18 Mr. Chair.

19 I applaud both of your conversations,
20 your honesty; we've been having these conversations
21 for over two years now to try to make sense of how to
22 address what we're dealing with, not just in Times
23 Square, but at Barclays or even at the Statue of
24 Liberty where our New Yorkers are getting dressed up
25 for entertainment and solicitation purposes.

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2 You mentioned the NYPD -- my first
3 question goes to NYPD in regards to being able to
4 have access to the criminal component in here for
5 punishment that allows you the power to act, which
6 currently in the bill, in its current form, doesn't
7 provide you that power to do so. My first question I
8 would have to ask; I understand that; just the mere
9 fact of a bill saying that you cannot be on the
10 streets of New York to solicit in a costume or change
11 the natural appearance; that doesn't give you the
12 power to move... if we're saying it's unlawful to be
13 out there, to engage in activity dressed in such a
14 manner, that that doesn't give police, NYPD the power
15 to remove if we're saying that's mandatory to be out
16 there with that ID on; if you don't have it on, this
17 is what happens to you?

18 CHIEF MORRIS: I think, Council Member,
19 the challenge becomes in the operational world for,
20 the police officer who's engaging in that, it's what
21 happens when the person refuses that order; what
22 happens when the costumed character refuses that
23 order? As I understand it, this intro as currently
24 written, there's no future penalty and that's what
25 the challenge is; what happens when... and I'm

1 repeating myself again; what happens when the
2 costumed person says no, I won't move, and that's why
3 we need the criminal... the potential...

4 COUNCIL MEMBER KING: Okay.

5 CHIEF MORRIS: of a criminal sanction to
6 put some force behind the officer's direction.

7 COUNCIL MEMBER KING: Okay. I mean I can
8 agree, you've gotta have proper punishment; if you're
9 saying the punishment right now is too light other
10 than just writing a summons; there's nothing written
11 in her to say that you can remove somebody from
12 wherever they are if they don't comply.

13 CHIEF MORRIS: Correct.

14 COUNCIL MEMBER KING: Okay. I thought
15 that was the intent, so forgive me for that end, but
16 yes, that's an element that necessarily needs to be
17 in, because you need to have the power to do
18 something if someone doesn't comply and just having
19 words on a piece of paper, if it doesn't give you the
20 power, then we need to make sure it's in this
21 legislation so you have the power to act. So I thank
22 you, I thank you for bringing clarity to that as
23 well.
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Do you see anything else that's missing other than that that would prohibit you from supporting the bill?

CHIEF MORRIS: I think my co-presenters here brought up an issue about the ability to revoke or suspend a license during the licensure period; I think we discussed it was a two-year period..

[crosstalk]

COUNCIL MEMBER KING: Right.

CHIEF MORRIS: so what would happen if we had an individual who had caused some issues during that two-year period; what would we do during that point; I think that's something we would have to look for..

COUNCIL MEMBER KING: Okay.

CHIEF MORRIS: and examine a little bit.

COUNCIL MEMBER KING: Okay. So I would ask you for what suggestions that.. because I know in the previous bill the way it was laid out before, there were a whole host of things that were in there; some things got shifted around, moved out, because there was a fingerprint component that was tied to it at first in an effort to make sure we did weed out if someone was a pedophile or if someone had warrants,

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2 to understand that we won't give them, so that was
3 kind of moved out; what kind of criteria would you
4 add into the bill that would you say might give it
5 more teeth for your operational purposes?

6 AMIT S. BAGGA: So pursuant to our
7 testimony, I think we find it critical that the bill
8 contain ability specifically authorizing DCA to
9 suspend, revoke or fail to renew a license for
10 essentially problematic behavior... [interpose]

11 COUNCIL MEMBER KING: Okay.

12 AMIT S. BAGGA: and I should correct
13 myself; I shouldn't have said license; I meant
14 registration, which is what the... that's the
15 regulatory framework that the bill creates is a
16 registration, not a license. This is critical, from
17 our perspective, because as the largest municipal
18 consumer protection agency, if we are giving our
19 imprimatur to an individual, what we are essentially
20 implying to a consumer is that -- to a tourist in
21 this case or in most cases -- is that it is somehow
22 safe to be interacting with this particular
23 individual [background comment] and we are very
24 deeply concerned that considering the very
25 problematic behavior that has been observed with

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2 respect to costumed characters, specifically in Times
3 Square and I believe the number of arrests since 2011
4 is 71 for a variety of different violations, that if
5 DCA were to provide this type of registration, that
6 we are sending a signal that it is completely safe to
7 be engaging in a commercial transaction with this
8 person and that if this person somehow engages in a
9 problematic transaction with you, and some examples
10 have included aggressive solicitation, holding
11 children hostage for greater tips, et cetera, and we
12 have some specific examples that we can provide you
13 with, that if your registration is not taken away or
14 is not somehow implicated when you engaging in that
15 type of behavior, that we the City are saying that
16 you are still able to be out there and be a costumed
17 character and solicit tips and engage in commercial
18 activity; that to us is a problem as a consumer
19 protection agency and so for us, we would want to see
20 the inclusion of that provision in this bill.

21 COUNCIL MEMBER KING: Okay. Mr. Chair, I
22 don't have any more questions; I think we're all on
23 the same page in regards to how we make sure that
24 this bill is solid enough that it will pass and it's
25 solid enough that it does what it's intended to do

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2 and that's to hold people accountable who are out
3 there and identify the individuals who are out there
4 and have a system in place; if you can't play by the
5 rules, then there are some consequences. So I think
6 all of us are clear on; I know I'm clear on; that's
7 my overall intent. You know when my granddaughter
8 went out there and Strawberry Shortcake snatched the
9 head off a 5-year-old, you know that messes up
10 reality because for kids, that's reality for them,
11 whether it's you know, Dora or anybody else they're
12 watching, that's their reality, so for someone to
13 violate the innocence of a child that way, they
14 definitely need to be held accountable, so I will
15 look forward to working with the chair and working
16 with you to put the teeth in you think that's
17 necessary without log-jamming it so we can actually
18 move it forward. So I understand and I hear you
19 clearly, so I'm looking forward to us putting
20 something together that makes sense that we all can
21 move forward with together.

22 AMIT S. BAGGA: Thank you Council Member;
23 I'd just like to quickly add that we do very much
24 support in general the concept of a regulatory
25 framework here and we do seek to work very closely

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with the Council on creating a regulatory framework that works for both the administration and the Council.

COUNCIL MEMBER KING: Okay. Thank you. Thank you, Mr. Chair.

CHAIRPERSON ESPINAL: Thank you, Councilman King. I just wanna say that you know I do hear the NYPD's call for having more teeth and be able to go after these costumed characters who are not obeying the law or give you the power to be able to remove them in a way that this bill is gonna allow you to. But I have concerns with the DCA portion and it's because of that... we're talking about a license and registration, right; a license is giving the person the ability to go out and do their business and the registration is just for us to know who they are when they're out there in the street; right? So you know, I would have to respectfully disagree with your point, 'cause I do believe that these people do have the right to dress up and do the work they're doing and we shouldn't have the power to remove that right from them; if NYPD feels that they should intervene and remove them off the streets, I think they should have that authority to do that and they

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2 should be able to be registered, so that way we can
3 just know who they are when they're out there with
4 their faces covered.

5 AMIT S. BAGGA: Thank you Chair Espinal
6 for those thoughts. I think, you know, we are very
7 much in agreement in that we certainly don't seek in
8 any way to take an overly aggressive approach towards
9 costumed characters or one that somehow signals that
10 we intend to criminalize them; I don't think that
11 that's certainly the intention of DCA or the
12 administration overall. I do think that if the
13 intent of this particular bill is to simply create a
14 registration that perhaps an area of discussion is
15 where is the best place for that registration to live
16 and hopefully that's something that we can continue
17 to discuss with respect to the bill.

18 CHAIRPERSON ESPINAL: Okay, great.
19 Alright, thank you, thank you for your testimony;
20 appreciate it.

21 CHIEF MORRIS: You're very welcome, sir.

22 [background comment]

23 CHAIRPERSON ESPINAL: I would also like
24 to do a little housekeeping. We have been joined by
25 Julissa Ferreras-Copeland from Queens and Karen

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2 Koslowitz from Queens. We're gonna put this meeting
3 on a hold to switch -- for us to vote on a bill.

4 [pause]

5 Yeah, we're gonna vote on a bill and then
6 we'll come back to talking on the original bill.

7 Okay. Yeah, this is a different law, different bill.

8 [background comments] No, you will have a chance to
9 speak; we're gonna put this hearing on hold; we're
10 gonna move on to another issue for 10 minutes and
11 then we'll come back to this issue.

12 [pause]

13 So we're going to hold a vote on
14 Int. 1006-A. Int. 1006-A acknowledges that times
15 have changed and the government needs to keep pace
16 with the times. The bill would repeal DCA licensing
17 for motion picture projectionists. At one time
18 movie-going could be dangerous; nitrate film was
19 highly flammable and carbon arc lighting required a
20 film changeover every 20 minutes as the carbon rods
21 burned out. The work required special skills and
22 training; DCA tested and licensed projectionists to
23 ensure projectionists were properly trained and
24 qualified.

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2 Film technology has advanced greatly
3 since this license was first implemented, starting in
4 the 1950s, with safer film and more efficient xenon
5 bulbs. In the mid 1990s, digital film revolutionized
6 the movie industry; today the vast majority of movies
7 are made on digital film and projected by digital
8 machines that operate at the push of a button.

9 Digital projection is safer and far less labor-
10 intensive than traditional projection was. Digital
11 film is often delivered remotely via satellite or on
12 a hard drive or other digital media and the
13 projectors operate at the push of a button. The new
14 technology has rendered the old licensee scheme
15 obsolete. Of course, there are few theaters that
16 might periodically roll out the old film projector
17 for special events and screenings; in those cases
18 state law imposes a requirement **[inaudible]** ensure
19 public safety. The movie industry is central to New
20 York City's consumer and businesses alike;
21 Int. 1006-A will update the City's licensing laws to
22 ensure that regulation is tailored to respond to the
23 consumer's interest and to minimize burdens on
24 businesses.

1 With that said, I would like the
2
3 committee clerk to call the roll.

4 COMMITTEE CLERK: Committee Clerk Matthew
5 DeStefano [sp?], Committee on Consumer Affairs, roll
6 call on Int. 1006-A. Chair Espinal.

7 CHAIRPERSON ESPINAL: I vote aye.

8 COMMITTEE CLERK: Ferreras-Copeland.

9 COUNCIL MEMBER FERRERAS-COPELAND: Aye.

10 COMMITTEE CLERK: Koslowitz.

11 COUNCIL MEMBER KOSLOWITZ: Aye.

12 COMMITTEE CLERK: Lancman.

13 COUNCIL MEMBER LANCMAN: Aye.

14 COMMITTEE CLERK: By a vote of 4 in the
15 affirmative, 0 in the negative and no abstentions,
16 the item has been adopted.

17 CHAIRPERSON ESPINAL: We'll keep the roll
18 open for another 10 minutes.

19 [pause]

20 We should get some elevator music going
21 on in here while we wait.

22 [pause]

23 We're gonna hold the vote open to give my
24 other colleagues a chance to come in while we hear
25 Int. 0467-A and if someone does come in to vote, we

1 will switch back over to hold the vote, but we will
2 put the vote on hold and continue hearing
3 Int. 0467-A.

4 [gavel]

5 I would like to call up the next panel;
6 we have Johanna Zaki from the Alliance for Coney
7 Island, Jack Friedman from the Times Square Alliance
8 and we have Jim Caras from Borough President Brewer's
9 office. You may begin; just state your name before
10 you give your testimony.

11 JOHANNA ZAKI: Thank you. My name is
12 Johanna Zaki; I'm the Executive Director for the
13 Alliance for Coney Island.

14 Thank you, Chairman Espinal and members
15 of the committee for allowing me the opportunity to
16 testify on Proposed Int. 0467-A related to the
17 registration of costumed characters engaged in
18 solicitation.

19 Again, my name is Johanna Zaki and I'm
20 the Executive Director of the Alliance for Coney
21 Island, a nonprofit organization dedicated to
22 improving the quality of life of the community and
23 transforming Coney Island into a year round world-
24 class recreational destination.
25

1
2 Since 2012, the Alliance for Coney Island
3 has worked with local business owners and community
4 stakeholders to raise the profile of the people's
5 playground, drawing visitors from throughout the five
6 boroughs and well beyond. Through expanded
7 programming, such as Friday Night Fireworks, Flicks
8 on the Beach and holiday programs, distribution of
9 Coney Island Fun Map and supplemental sanitation
10 services, the Alliance has helped transform Coney
11 Island's Boardwalk into a tourist destination.

12 Last year, throughout the summer season,
13 over five million visitors enjoyed everything Coney
14 Island has to offer, from Nathan's Famous hotdogs to
15 Coney Island Cyclones, the new Thunderbolt, Deno's
16 Wonder Wheel, and countless other businesses and
17 attractions.

18 However, as Coney Island has reemerged as
19 a hot spot for tourists, we have also faced new
20 challenges on the Boardwalk. Last summer costumed
21 characters dressed as Elmo, SpongeBob and other
22 popular cartoon characters began to take up residence
23 on the Boardwalk, demanding tips for pictures with
24 unsuspecting tourists; these characters and other
25 unlicensed vendors detract from the experience of the

1 Boardwalk, hurt local small businesses and leaves
2 visitors with a negative impression of our community.
3 Coney Island faces unique challenges in regulating
4 this type of commercial activity; unlike Times
5 Square, the Boardwalk falls under the jurisdiction of
6 the Parks Department, which has rules in place to
7 regulate commercial activity. The registration
8 requirement proposed in Int. 0467-A removes the
9 anonymity of the costumed individuals and combined
10 with increased enforcement of park rules will provide
11 additional protection for tourists who face
12 aggressive solicitation from costumed individuals.

13 Coney Island is known for its unique
14 performers who draw spectators from all over the
15 world; the Alliance for Coney Island will celebrate
16 the spirit of these performers at our very first
17 Coney Island Busker Festival this summer; they are
18 part of Coney Island's history and support other
19 amusements and attractions in the area. The costumed
20 characters on the other hand create a negative
21 impression on visitors, drawing customers away from
22 the Boardwalk and Coney Island small businesses. For
23 this reason the Alliance supports the goal of
24 Int. 0467-A to increase regulation of costumed
25

1 individuals engaged in solicitation, taking into
2 account any contingencies necessary for enforcement.

3 Thank you for the opportunity to testify.

4 JACK FRIEDMAN: Thank you, Mr. Chairman;
5 my name is Jack Friedman; I'm representing the Times
6 Square Alliance today and our President, Tim
7 Tompkins; I want to send his regards; he was unable
8 to be here this morning. But we'd like to thank you
9 and especially Council Member King for your
10 leadership on this issue from the very beginning,
11 starting several years ago and also to thank each of
12 the council members who have helped to shape
13 Int. 0467-A.

14 As you know, starting several years ago,
15 residents, workers and visitors to Times Square
16 expressed growing concern about quality of life
17 issues and aggressive behavior on Times Square's
18 pedestrian plazas, often involving costumed
19 characters whose identify was obscured. When an
20 initial bill, introduced by Council Member King to
21 address this issue, supported by the Alliance, did
22 not pass, the Mayor's Times Square Task Force
23 ultimately recommended a number of actions, including
24 the passage of legislation that authorizes the
25

1
2 Department of Transportation to write general and
3 site-specific regulations for pedestrian plazas
4 **[inaudible]** that codified into city law this April
5 with the passage of Int. 1109-B.

6 Accordingly, our top priority now is
7 working with the City to implement the provisions of
8 that law, specifically DOT's ability to create zones
9 on the Times Square plazas where designated
10 solicitation for tips by costumed characters and
11 other solicitors can occur, while also preserving
12 space on the plazas where such activity cannot take
13 place. This scheme will also allow costumed
14 characters and others to continue earning a living in
15 Times Square but will let visitors and New Yorkers
16 alike avoid solicitation if they so choose.

17 At the same time, we agree with Council
18 Member King and the authors of Int. 0467-A that the
19 kind of registration scheme they have proposed may
20 well be another useful tool for addressing improper
21 behavior by anonymous characters, should it continue
22 even after the implementation of the zones. Our
23 understanding is that attempts in the past by the
24 NYPD and the DA to take legal action against
25 characters who have engaged in aggressive

1 solicitation, intimidation, verbal harassment and
2 other questionable behaviors have been made more
3 difficult by the challenge of identifying which of
4 many identical costumed characters actually engaged
5 in the unlawful behavior. Above all, we wanna be
6 explicit and clear that we respect and support the
7 fact that many costumed characters are honest players
8 trying to earn a living. Times Square has always
9 been a place that has celebrated expression; the
10 issue is the behavior of certain bad actors who take
11 advantage of the cloak of anonymity to repeatedly
12 hassle or hustle people; as we've said many times,
13 quirky is fine, but creepy is not. When we cite bad
14 incidents, we are not casting aspersions upon the
15 many characters that we think are honestly trying to
16 earn a living; indeed, we think a rational
17 registration system as outlined in this bill can
18 potentially be an additional tool both to validate
19 the legitimacy and affirm the innocence of the many
20 hard- and honest-working costumed characters out
21 there who we support.

22
23 If properly crafted and thoughtfully
24 implemented, a registration system can potentially
25 improve the current situation in three important

1 ways. If someone has a recent or substantial
2 criminal record involving harassment or predatory
3 behavior, registration may disincentivize them from
4 proceeding. Registration also potentially creates
5 accountability for the characters in the same way
6 that the name on a police badge or the name on a taxi
7 medallion helps create a culture where those who are
8 interacting with the public know they can be
9 identified and held accountable and thus are less
10 likely to behave unlawfully. Finally, registration
11 also potentially makes it easier for Consumer Affairs
12 to track recidivist offenders who repeatedly engage
13 in questionable behavior, such as a Spider-Man who
14 was recently arraigned in Manhattan criminal court on
15 his second assault charge in the last few months
16 alone for kicking a tourist over a tip.

17
18 While we have not yet had the opportunity
19 to discuss Int. 0467-A with Council or administration
20 staff and thus reserve our thoughts with respect to
21 the specifics of the bill, lest there be items we do
22 not fully understand, we do wish once again to say
23 our deep gratitude to the council members, especially
24 Council Member King for his early and activist
25 leadership on this issue, and to the Consume Affairs

1
2 Committee chair and members for their thoughtful
3 consideration of this bill.

4 In sum, we do believe that Int. 0467-A
5 can potentially be an additional useful tool in
6 addressing those who take advantage of anonymity to
7 repeatedly engage in unlawful predatory behavior
8 while also legitimizing the many honest and
9 hardworking characters who are just trying to earn a
10 living. Thank you.

11 JIM CARAS: Good morning Chair Espinal
12 and members of the Consumer Affairs Committee. My
13 name is Jim Caras and I'm General Counsel and Land
14 Use Director for Manhattan Borough President Gale A.
15 Brewer. Thank you for the opportunity to testify
16 today on Int. 0467-A and the subject of the
17 registration of costumed individuals. We would like
18 to thank Council Member King and the committee for
19 pursuing this legislation.

20 As you know, at this point Times Square
21 is the area in greatest need of regulation relating
22 to costumed characters; we want costumed characters
23 to be able to operate in a manner that allows them to
24 earn a living and provide entertainment, but not in a
25 manner that allows abuses to go unaddressed because

1 of their anonymity. As we testified at the original
2 hearing on the legislation, the Manhattan Borough
3 President believes licensing or registering these
4 costumed characters should be a tool in addressing
5 this phenomenon so that good actors can operate in a
6 better environment and bad actors can be identified.

7
8 First, the Borough President would like
9 to thank the Council staff for reaching out as they
10 worked on amending this legislation. Borough
11 President Brewer supports the registration approach
12 as one that is protective of expressive conduct; we
13 would recommend that the committee consider reducing
14 the \$30 registration fee to \$10 or \$20 and include a
15 provision that the registration or a temporary
16 registration be promptly issued upon presentation to
17 the Department of Consumer Affairs of the require
18 materials. In this way, no one will be able to claim
19 that we are restraining anyone's right to express
20 their inner superhero.

21 In addition, we know there must be
22 careful balancing between the First Amendment
23 protections for expressive conduct and the City's
24 interest in protecting the public from being targeted
25 by characters who may have engaged in egregious

1 conduct. However, we would urge the committee to
2
3 consider if registrations could be suspended or not
4 renewed if the registrant has engaged in any type of
5 aggressive criminal conduct. We understand that the
6 types of violations found in other licensing schemes
7 which can result in suspension and revocation, such
8 as locational requirements and payment of taxes,
9 could create legal difficulties when applied to
10 expressive commercial conduct, but we believe that
11 narrowly tailored requirements preventing aggressive
12 behavior would withstand judicial scrutiny.

13 Thank you for the opportunity to testify
14 today.

15 CHAIRPERSON ESPINAL: Thank you so much;
16 I appreciate it.

17 JIM CARAS: Thank you.

18 CHAIRPERSON ESPINAL: Thank you. Let's
19 call up the next panel; we have Jose Escalona.

20 [pause] **[00:56:10 Spanish]**

21 JOSE ESCALONA-MARTINEZ: My name is Jose
22 Escalona-Martinez and I am here because I am totally
23 against this Int. 0467-A, against. Why I'm against;
24 I'm gonna say why. Most of the people who are here
25 right now testifying, they even put a statement that

1 control; can you see; can you notice; they just don't
2 want us to be out there, they just want to have the
3 control, even if you guys give an ID, you know, they
4 just want to take us control and that is not gonna
5 happen, because I standup right now with all my
6 colleagues; if we wanna lawsuit the City anytime
7 sooner and I'm already trying to planning it with my
8 lawyer and I'm gonna do it; if you guys don't wanna
9 stop with this situation, this is not a threat; I
10 will do it and I will do it and everybody gonna
11 follow what I'm saying, you know. So please, bring
12 the **[inaudible]**, you know; don't bring... money's not
13 important you know in this life; what is important is
14 happiness; we need to be happy... I feel happy the way
15 I am. He said about Spider-Man a few minutes ago; he
16 don't even know what he's talking about. I was the
17 one who take the video to the *New York Post*; *New York*
18 *Post*, without my permission, to the print shop [sic]
19 and post the world [sic] picture, when Spider-Man was
20 trying to defend himself, because the guy was one
21 aggressor; I have the whole video, you know. Spider-
22 Man never kicked a kid; that never happened; the guy
23 was the one who fight Spider-Man and the Spider-Man
24 was the one to call the police, so this guy over here
25

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2 listened to the news, but nobody know. For example,
3 in the very beginning over here, in the last meeting,
4 they talking about the **[inaudible]** arrest; I have
5 four; I got myself four; three not guilty, another
6 one for felony, they drop it to a misdemeanor; offer
7 me to take community service. Check it out; to tell
8 you the truth, they need to drop it or take it to the
9 court; like I say, I'm not guilty; I'm not the kind
10 of person who go over there to run with a **[inaudible]**
11 running away, you know, this is not me, but they did
12 and they put me all over the news and the City needs
13 to pay for that damage they causing to me. You know
14 now, all these costume characters right here, they
15 are just human beings, you know; there is a lot of
16 people down there; they appreciate us, there is a
17 whole bunch of people **[inaudible]** the news about
18 everything, you know, they put us bad reputation,
19 because before we wasn't like that, but as soon as
20 the City and the news and the police, you know
21 **[inaudible]** to be right there, you know what they
22 did; bad reputation put people in jail. I wanna see
23 how many guys you find guilty; I wanna see how many
24 guilty people the police find when they arrest
25 costumed characters. They accused Woody for touching

1
2 somebody; you guys said it right here a few minutes
3 ago. Woody's not guilty; Woody **[inaudible]** touched
4 somebody and I got Woody form and I can bring.. they
5 dismiss, they seal [sic], you know. Woody was not
6 guilty. So I just wonder if all these things are
7 [sic] being made up by the City, by the police, by
8 internal affairs; what's going on? Come on, let be
9 Times Square and in focuses [sic] and fight terrorism
10 [sic], you know; find those who are selling drugs,
11 you know; those who destroy **[inaudible]**; you know
12 how? Showing practice that they're not supposed to
13 do, you know. In situations like you know, costumed
14 characters, they are there for the kids; people love
15 it in Times Square; we are the attraction, you know.

16 And another thing that I would like to
17 finish with this situation is; we use Times Square;
18 Times Square cannot use us, you know, we are the ones
19 who use Times Square; we are freely to walk; I don't
20 have a license on my back, you know they.. here, you
21 need to park in [sic] over there if you want to be
22 like a costumed character. Think about it, what I'm
23 gonna say. Disney [sic] don't sell me the Batman;
24 Batman, I bought it for just a [sic] replica; this is
25 sole the license do the replica [sic]. Now, did the

1 replica give me... sell me the costume for \$300, \$3,500
2 I pay and I wear it for what; to put in where; on my
3 house; hanger? No, I wear it wherever I want. So if
4 people wanna give me some tips; police officer, the
5 City, the internal affair can tell the people do not
6 give me tip, do not do this; do not do that because
7 this is against the law. We can take this one to the
8 Supreme Court; the Supreme Court will understand, you
9 know, because legislators just made law, but it
10 doesn't mean that they are right, you know, because
11 sometimes you guys listen when somebody -- hey, this
12 is what happened; this is what happened; this is what
13 happened, but what about us, you know, they don't
14 know probably how to express, you know, but I am; I
15 know, I know how to express myself and I have a
16 feeling and I am a human being and I hope these
17 complaints, because this is more worse than Donald
18 Trump, this is more worse than that. Do you wanna
19 see something worse? Costume characters, "we are
20 gonna get rid of costume characters." Stop that,
21 please; it's not costume characters, you know; it's
22 terrorists, it's those who really big crimes. Now, I
23 said to the police, you know, those who commit crime,
24 take it, prosecute, put **[inaudible]** in jail, you
25

1 know, find guilty and show to the world look, we've
2 got a Spider-Man in jail for one year, three months
3 because he did such, such crime, you know. Where is
4 somebody... I wanna see any costumed character in jail;
5 where is it; they **[inaudible]** them not guilty, go.
6 You know what I mean; that's what I'm talking about.
7 Stop accusing costumed characters and ruining their
8 reputations, because right there right now you can
9 imagine how costumed characters feel, you know; feel
10 like... is hurt; there is so many that right now they
11 can't even pay their bills, they can do nothing
12 because people just don't even... they're looking like
13 nasty. For what? You guys right there, the news
14 media, boom... stop this please.

16 CHAIRPERSON ESPINAL: Alright, thank you;
17 I'm gonna ask you to wrap it up so we can
18 **[inaudible]**... [crosstalk]

19 JOSE ESCALONA-MARTINEZ: Yes. Would you
20 like to ask any questions?

21 CHAIRPERSON ESPINAL: Are you done?

22 JOSE ESCALONA-MARTINEZ: Yeah.

23 CHAIRPERSON ESPINAL: Okay. I appreciate
24 your testimony. Andy; do you have any questions?

25 [background comments]

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COMMITTEE ON CONSUMER AFFAIRS

COUNCIL MEMBER KING: Just a yes or no..

[interpose]

JOSE ESCALONA-MARTINEZ: Not at all.

COUNCIL MEMBER KING: Just a yes or no.

So you don't think that we should have any type of
IDs for everyone so we can figure out who they are?
You have... [crosstalk]

JOSE ESCALONA-MARTINEZ: Everybody got
ID.

COUNCIL MEMBER KING: You have an ID.

JOSE ESCALONA-MARTINEZ: Everybody got
it.

COUNCIL MEMBER KING: Everyone out there
has an ID?

JOSE ESCALONA-MARTINEZ: Uhm-hm.

COUNCIL MEMBER KING: Okay. Alright, so
I thank you for that, so I just wanted... [crosstalk]

JOSE ESCALONA-MARTINEZ: And those who
they don't... send the police over there and asking,
"Excuse me sir, ID; you don't have an ID?" Okay,
take in to him, put him in jail; investigate it why
you don't have an ID. Why you would... you know it's
so simple and easy; they did it to me, you know,
asked me ID; I say, "Why should I give you my ID?"

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"You're not gonna give me an ID? I put you into jail." "Okay, here is my ID; do not put me into jail." I show him my ID. "Okay, you've got an ID," you know.

COUNCIL MEMBER KING: Alright.

JOSE ESCALONA-MARTINEZ: Do it to everybody; everybody got an ID **[inaudible]**, you know this is... to give another ID, Andy King, come one, think about it, what I'm talking about; you will see. This is... you know, the controlees, the police want to have... control us because they can have that kind of control; they want us to control, you know, like right now, they're laughing; I'm gonna be walking in Times Square with... don't feel bad for me.

COUNCIL MEMBER KING: Okay. One more question and I'm gonna let you go. Is there anything that you think that we can do to make Times Square a little bit more safe for you and **[inaudible]**...
[crosstalk]

JOSE ESCALONA-MARTINEZ: Yes. Yes.

COUNCIL MEMBER KING: What would that be?

JOSE ESCALONA-MARTINEZ: Okay...

COUNCIL MEMBER KING: One thing.

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JOSE ESCALONA-MARTINEZ: one thing is completely... if you really want to know what we can make **[inaudible]** safe, is to put those who commit crime right there, find them guilty and put 'em right there three months in jail, just like that, simple, find 'em guilty. That's the only thing, if you can... because Times Square is safe. Times Square is safe; there is no place more safe than Times Square in New York City.

COUNCIL MEMBER KING: Okay. Alright.

Thank you; appreciate your testimony... [crosstalk]

JOSE ESCALONA-MARTINEZ: You're welcome.

CHAIRPERSON ESPINAL: Thank you. I

believe that's everyone; I don't believe there's anyone else who is left to testify, so with that said, thank you Councilman Andy King for all your work and putting this bill forward. I also would like to acknowledge that we have been joined by my colleague from Brooklyn, Vinnie Gentile, but the hearing on Int. 0467-A is over; we're gonna switch over to a vote on 1006-A.

[gavel]

COMMITTEE CLERK: Committee on...

[crosstalk]

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COMMITTEE ON CONSUMER AFFAIRS

CHAIRPERSON ESPINAL: We will vote on
1006-A. Clerk, will you please call the roll?

COMMITTEE CLERK: Committee on Consume
Affairs, continuation of roll call, Int. 1006-A.
Council Member Gentile.

COUNCIL MEMBER GENTILE: I vote aye.

COMMITTEE CLERK: Final vote stands at 5
in the affirmative, 0 in the negative and no
abstentions.

CHAIRPERSON ESPINAL: Thank you. So with
that vote we will close out 1006-A.

[gavel]

[background comments]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 25, 2016