

CITY COUNCIL  
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON HEALTH

AND PARKS & RECREATION

-----X

October 14, 2010  
Start: 1:30pm  
Recess:

HELD AT: Council Chambers  
City Hall

B E F O R E:

MARIA DEL CARMEN ARROYO  
Chairperson of Health Committee

MELISSA MARK-VIVERITO  
Chair Parks and Recreation  
Committee

COUNCIL MEMBERS:

Gale A. Brewer  
Daniel Dromm  
Mathieu Eugene  
Julissa Ferreras  
Helen D. Foster  
Vincent J. Gentile  
Daniel J. Halloran  
Robert Jackson  
Brad Lander  
Rosie Mendez  
Domenic M. Recchia, Jr.

## A P P E A R A N C E S

## COUNCIL MEMBERS:

Ydanis A. Rodriguez  
Deborah L. Rose  
James Vacca  
Peter F. Vallone, Jr.  
Jimmy Van Bramer  
Albert Vann

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

Dr. Thomas Farley  
Commissioner  
New York City Department of Health and Mental Hygiene

Adrian Benope  
Commissioner  
Department of Parks and Recreation

Dr. Maureen Kilicki  
Chief Medical Officer  
American Cancer Society for New York and New Jersey

Dr. William Borden  
Spokesperson  
American Heart Association, American Stroke  
Association

Michael Sielback  
Vice President for Public Policy and Communications  
American Lung Association in New York

Sheila Feinberg  
Director  
New York City Coalition for a Smoke Free City

Ron Malendi  
Certified Master of Tobacconess, President  
New York Tobacconess Association

Joe Row  
Executive Director  
International Premium Cigar and Pipe Retailers  
Association

Glenn Loop  
Executive Director  
Cigar Rights of America

Jeffrey Croft  
President  
New York City Park Advocates

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

Lauren Schuster  
Staff Attorney  
NYPIRG, New York Public Interest Research Group

Laurie Baskin  
Director of Government and Education Programs  
Theatre Communications Group

Joe Applebaum  
Brooklyn Resident

Audrey Soak  
Founder  
New York City Citizens Lobbying Against Smoker  
Harassment, CLASH

Linda Stewart  
Resident

David Geralitz  
Former Winston man

Howard Yarow  
Resident

Lasette Lopez  
High Bridge Community Life Center

Georgette  
Resident

Beverly Nelson  
High Bridge Community Life Center

Phil Coningsburg  
Member, Vice President, Member  
Queens Community Board 7, Bay Terrace Community  
Alliance, Friends of Fort Titan Parks

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

Barbara Fisher  
Member  
New York City Citizens Lobbying Against Smoker  
Harassment, CLASH

Stephen Helfer  
Member  
New York City Citizens Lobbying Against Smoker  
Harassment, CLASH

Leonard Waller  
Member  
New York City Citizens Lobbying Against Smoker  
Harassment, CLASH, CRA

Margaret Wallman  
Resident

Haceeba Rasheed  
Program Manager  
Council of People's Organization, COPO

Jose Gonzalez  
Resident

Barbara Hart  
Program Manager  
Bronx Breathes

Douglas Nam Lee  
Community Manager  
Asian Americans for Quality

Matthew Shotkin  
Resident

John Davis  
Resident

Ingrid Ann Zouzic  
Resident

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

Darren Johnson  
New York Restoration Project

Hasaan Vasa  
Council of People's Organization, COPO

Wayne Grains  
Resident

Ted Riel  
Crane Community Services

Karen Blumenfeld  
Executive Director  
GASP, Global Advisors on Smoke-free Policy

Jim Pestilli  
Chairperson, President, Chairman  
Staten Island Quits, Tartenville and Charleston Civic  
Association, Conference House Conservancy

CHAIRPERSON ARROYO: Good

Afternoon. A couple of housekeeping items before we begin: for those of you who are standing, there is a room right behind us, the sound I understand will be piped into that room. You'll be able to hear the proceedings so that you can make yourselves comfortable. It looks like we're going to be here a little while today so I suggest that you find a seat and make yourselves comfortable. The Sergeant has already announced that if there's anyone that is here to give public testimony and has not filled out one of these little slips, see the Sergeant in the corner.

Good afternoon. My name is Maria del Carmen Arroyo and I chair the Committee on Health in the Council. Today, we will be conducting a hearing jointly with the Parks and Recreations Committee on two pieces of legislation. The first piece, Intro 332 sponsored by Councilwoman Gale Brewer, it would completely restrict smoking on park property and pedestrian plazas. We will also be hearing testimony on Intro 381, sponsored by Council Member Peter Vallone, and we will hear from both the prime

1  
2 sponsors in a few minutes. This bill, Vallone's  
3 bill, would restrict smoking in park property and  
4 pedestrian plazas but would require park property  
5 larger than two acres to have designated smoking  
6 areas equal to at least 20% of that space.

7 I would like to thank my co-chair,  
8 Councilwoman Melissa Mark-Viverito, Chair of the  
9 Parks and Recreation Committee, for joining the  
10 Health Committee today and working on these two  
11 important public health measures.

12 Despite tremendous strides, there  
13 are still nearly one million smokers in our city.  
14 In addition to these smokers, a recent study found  
15 that 2.5 million people have been exposed to high  
16 enough levels of second hand smoke that they have  
17 measurable residue in their body. This figure was  
18 higher than the national average, despite the fact  
19 that New York City has the lowest smoking rate  
20 nationally and that's something that we need to be  
21 concerned about.

22 There are several studies. I'm  
23 sure that we will hear about. I have a great deal  
24 more to talk about in terms of data in my opening  
25 statement but in the interest of time, I'm sure



1  
2 that this information will come out through the  
3 public testimony that's going to be provided and  
4 I'm sure there's some that's not included in my  
5 opening testimony. We have a great deal of  
6 interest around these two pieces of legislation.

7 We want to make sure that we give  
8 everyone an opportunity to speak their mind and  
9 give us their opinion on whatever side of the  
10 issue you sit on. We will provide an opportunity  
11 for the administration, the Department of Health  
12 and the Parks Department to provide testimony. We  
13 will put the public testimony on a three minute  
14 clock that I hope we all adhere to. If not, we  
15 will be here a very, very long time today.

16 So with that, I turn over--before I  
17 do, though, I want to thank my committee staff,  
18 Adirra Simon, counsel to the Committee and Joe  
19 Mancino, the analyst for the Committee who do all  
20 the work that makes me sound really, really smart.  
21 Thank you, guys. And now I turn it over to  
22 Melissa.

23 CHAIRPERSON MARK-VIVERITO: Thank  
24 you Madam Chair and it's great to sit side by side  
25 with you. I know when you were chair for Aging

1  
2 and I was chair of the Senior Services sub-  
3 committee we did some joint hearings together so  
4 it's nice to be doing one jointly again.

5 I want to thank everyone to this  
6 hearing, which we all clearly can see is a very  
7 contested issue. I'd like to thank Council Member  
8 Maria del Carmen Arroyo and the Health Committee  
9 for convening today's joint hearing. As well, I  
10 want to thank the Committee staff, Allow Frank and  
11 Patrick Mulvahill because they obviously as well  
12 have been working very feverishly to make sure  
13 that this hearing takes place.

14 Today's oversight hearing will  
15 address the public health of New York citizens  
16 while in our city's parks. In addition, we'll  
17 hear testimony regarding Intro 332 and 381 both of  
18 which aim to address smoking in parks and public  
19 spaces.

20 The nation as a whole is making a  
21 strong push to promote healthier lifestyles and  
22 work collectively with citizens toward achieving  
23 personal wellness. New York City has been at the  
24 forefront of this fight by tackling the behaviors  
25 that lead to many of our city's public health

1  
2 problems. In my district, the number of asthma  
3 cases is alarming and I'm concerned about my  
4 constituents' ability to enjoy outdoor activities  
5 without being subjected to additional airborne  
6 pollutants brought on by second hand smoke.

7 New York City is home to hundreds  
8 of parks that are accessed frequently by our  
9 city's residents and as public space they should  
10 be enhancements to our overall well being and not  
11 negatively impact the health of our city. So with  
12 that I really thank everyone for being here. I  
13 look forward to hearing the testimony regarding  
14 this matter.

15 CHAIRPERSON ARROYO: Thank you  
16 Council Member Viverito. Now we will hear from  
17 Council Member Gale Brewer.

18 COUNCIL MEMBER BREWER: Thank you  
19 both very much. As prime sponsor of this  
20 legislation, I am honored to be here, particularly  
21 332, always glad to hear all aspects of our  
22 legislation. I look forward to hearing from the  
23 public on both sides of the issues.

24 I support no smoking in parks and  
25 beaches. I think for the reasons you've heard.

1

2 One, public health; I know that people say well  
3 why would you start restricting. What are the  
4 statistics? I feel strongly that I want people to  
5 live longer. I think as you get to be my age you  
6 have many family members and many friends who are  
7 suffering from cancer treatments and hopefully  
8 make it through. I know that this is not the only  
9 reason people get cancer but anything I can do and  
10 anything we can do to curtail cancer and to make a  
11 better public health in New York is a plus.

12 Secondly, regarding the beaches in  
13 particular, according to past testimony the fact  
14 of the matter is that 75% of the litter on the  
15 beaches is from cigarette butts. If we can  
16 curtail that, I think that would be a very good  
17 thing for those using the beaches.

18 Third is there are statistics  
19 showing that young people follow those who are  
20 older and certainly regarding smoking. So if  
21 parents and adults smoke then young people are  
22 going to smoke. I am, just like many of my  
23 colleagues, working really hard to get people not  
24 to smoke.

25 I do think that, and I'm sure that

1  
2 the Commissioner will share this with us, that  
3 there is a higher percentage of New Yorkers with  
4 the cotinine, which is the toxin from second hand  
5 smoke in our bodies, 57% of New Yorkers versus 45%  
6 of others in the United States. So for public  
7 health reasons, for sanitation reasons and for the  
8 future of our young people, I'm very supportive of  
9 Intro 322. Thank you Madam Chairs.

10 CHAIRPERSON ARROYO: Council Member  
11 Vallone.

12 COUNCIL MEMBER VALLONE: Thank you.  
13 Let me first applaud the Administration, the  
14 Mayor, our Commissioners and the Speaker and our  
15 Chairs and Gale Brewer especially for moving  
16 forward with this idea of banning smoking in our  
17 parks and our beaches. I think it's a great  
18 debate to have. Let me thank you all for letting  
19 my compromise be part of that debate. It didn't  
20 have to happen this way. It was a last minute  
21 thing; it got thrown up very quickly by staff.  
22 Thank you. I know it was put on today by our  
23 Chairs to be part of the debate so thank you very  
24 much for that.

25 I think the original bill that Gale

1  
2 and the Mayor and Speaker Quinn has is a very good  
3 idea. I think the compromise may be a little  
4 better idea and this is why. My bill would not  
5 ban smoking in pedestrian plazas but it would ban  
6 smoking in our parks and our beaches. The larger  
7 parks and beaches, though, those over two acres  
8 would have to set aside a 20% section for smoking.

9           Now people that know me know I'm a  
10 health nut. I'm an anti smoking advocate. I  
11 wrote the trans fat ban. My father passed the  
12 first smoking bill in this city, which has gone  
13 through many machinations since then. But here's  
14 why I think the compromise works. Indoor smoking  
15 sections never worked well. We tried them. As I  
16 was quoted today in the paper, it's like having a  
17 urinating section in a pool. Never, never really  
18 got that down the right way.

19           Outside, as the Commissioners have  
20 admitted, you don't have the same health concerns  
21 you have inside so I think a section would work.  
22 It would also work because enforcement would be  
23 easier. I've heard the Health Commissioner on TV  
24 doing a great job, saying that the idea here is  
25 for self enforcement. If you have a workable

1  
2 compromise, if you provide an area, I think that's  
3 going to make people obey the law better and make  
4 enforcement easier.

5 Pedestrian plazas I don't believe  
6 should be part of the equation. One, I don't  
7 think many people know where a plaza ends and the  
8 sidewalk begins so you don't want them to  
9 inadvertently get tickets. Number to is as Gale  
10 said, one of the major reasons for this bill is  
11 litter. Unfortunately, too many smokers have used  
12 our parks and beaches as their ashtrays, 75% of  
13 the litter is cigarette butts. You don't really  
14 have that same concern on a pedestrian plaza,  
15 which can be easily swept, much more easily than  
16 sand or than grass.

17 So that's why I think the  
18 compromise works. Again, let me applaud the  
19 original sponsors and our Chairs for moving this  
20 debate forward. Whatever way it goes, it's going  
21 to set an example for the world so I thank you  
22 all.

23 CHAIRPERSON ARROYO: Thank you,  
24 Council Member Vallone. Before we call up the  
25 first panel for testimony, I want to acknowledge

1  
2 the members that are here. I will pull rank, I  
3 guess, and since I'm the Chair of Health, I'll  
4 mention the members from the Health Committee who  
5 are here and we'll go from there. Council Member  
6 Vallone, Council Member Vann is here, yes, Council  
7 Member Eugene and Ferreras I think is sitting  
8 behind me, and Council Member Recchia is here,  
9 thank you for joining us, Council Member Jackson,  
10 Council Member Vacca, Council Member Rodriguez on  
11 the other end and Council Member Landers. Thank  
12 you all for joining us.

13 Now, if we're ready for the first  
14 panel, I'd like to call our distinguished  
15 commissioners, Dr. Thomas Farley, Commissioner for  
16 the Department of Health and Mental Hygiene and  
17 very, very timely Commissioner Adrian Benope from  
18 the Parks Department. Thank you. I think you  
19 guys know how this show works. Identify  
20 yourselves for the record and please begin.

21 DR. THOMAS FARLEY: Good afternoon,  
22 Chairperson Arroyo, Chairperson Mark-Viverito and  
23 members of the New York City Council Committees on  
24 Health and Parks and Recreation. I'm Dr. Thomas  
25 Farley, Commissioner of the New York City



1  
2 Department of Health and Mental Hygiene. [off  
3 mic] [Laughter] I would like to thank you for the  
4 opportunity to comment on Intro 332 and the other  
5 introduction, I'm sorry I don't have a number in  
6 front of me, Council Member Vallone's bill.

7 I strongly support Intro 332.

8 Working together, the Bloomberg administration and  
9 the City Council have made historic progress to  
10 reduce smoking and protect all New Yorkers from  
11 the harmful effects of tobacco smoke. This law  
12 would build on our success and make our parks and  
13 beaches safer, cleaner places to play and  
14 exercise.

15 Beginning in 2002, the  
16 administration launched a comprehensive tobacco  
17 control program to reduce and prevent smoking. By  
18 executing in quick succession multiple, intensive,  
19 synergistic program components: taxation,  
20 legislation, public education and the promotion of  
21 smoking cessation. And rigorously evaluating  
22 these efforts, the city has made enormous  
23 progress. New York City's current smoking rate,  
24 15.8% is the lowest on record with fewer than one  
25 million adult smokers in New York City. This

1

2

represents 340,000 fewer smokers than in 2002.

3

4

5

6

7

8

9

10

11

We're equally proud of the dramatic decrease in smoking rates among public high school students, a 64% decline between 1997 and 2009. At 8.4%, New York City's current rate of youth smoking is among the lowest in the country but we still have work to do. Smoking is still the leading cause of preventable death in New York City, responsible for one in three preventable deaths and one in seven deaths overall.

12

13

14

15

16

17

18

19

20

21

22

23

24

In 2009, there were more than 7,500 deaths attributable to smoke in New York City residents aged 35 and older, representing 14% of all deaths in the city. Of New York City's current smokers, one third are expected to die from a smoking related illness. More than 950,000 adults and 18,000 public high school students still smoke. Moreover, the decline in our smoking rates has leveled off in recent years. Even though a smaller percentage of New Yorkers smoke than the national average, a greater percentage of us are exposed to the harmful effects of second hand smoke.

25

In this context, creating smoke

1  
2 free parks and beaches make sense for several  
3 reasons. First and foremost, it would reduce the  
4 number of people exposed to the harmful health  
5 effects of second hand smoke. Second hand smoke  
6 is deadly and causes premature death and disease  
7 in children and adults. It contains more than 250  
8 toxic and carcinogenic chemicals, including carbon  
9 monoxide, hydrogen cyanide, benzene and arsenic.  
10 As stated by the U.S. Surgeon General, there is no  
11 risk free level of exposure to second hand smoke.

12           Despite New York City's low smoking  
13 rate and our ban on smoking in virtually all work  
14 places, a large number of New York City residents  
15 have elevated levels of cotinine in their blood, a  
16 byproduct of nicotine indicating recent exposure  
17 to tobacco smoke. In fact, while 45% of non-  
18 smokers in the rest of the nation have elevated  
19 cotinine, the rate of New York City is 57%.

20           There are many harmful effects of  
21 second hand smoke. Young children are especially  
22 vulnerable because their bodies are still  
23 developing. Second hand smoke exposure can  
24 increase respiratory infections, cause ear  
25 problems and worsen asthma. Adults exposed to

1  
2 even low levels of smoke can have abnormalities in  
3 gene functioning similar to those seen in regular  
4 smokers and are more likely to have reduced lung  
5 function and respiratory symptoms.

6 Exposure to second hand smoke also  
7 has acute adverse effects on the cardiovascular  
8 system. Second hand smoke causes an estimated  
9 46,000 deaths from heart disease in the U.S. every  
10 year. 30 minutes of exposure to second hand smoke  
11 can increase risk of blood clots, slow the rate of  
12 blood flow through the arteries and the heart,  
13 injure blood vessels and interfere with their  
14 repair. In healthy adolescents, even modest  
15 exposure to tobacco smoke may be harmful to blood  
16 vessels.

17 Despite the widespread perception  
18 that second hand smoke simply dissipates in the  
19 open air, this is simply not true. Studies have  
20 shown that second hand smoke exposure can be just  
21 as high outdoors as inside. For example, studies  
22 conducted in Canada and Australia at outdoor  
23 restaurants have demonstrated that air around  
24 smokers contain significant levels of fine  
25 particle pollution from second hand smoke. And

1  
2 that these levels increase when the number of  
3 smokers increase.

4 Non-smokers eating at outdoor bars  
5 and restaurants where smoking is allowed have high  
6 levels of cotinine in their blood, indicating  
7 exposure to second hand smoke. And a person  
8 sitting within three feet of a smoker outside can  
9 be exposed to levels of second hand smoke similar  
10 to those found indoors.

11 Last week our environmental health  
12 staff conducted a few measurements of airborne  
13 particles generated by smokers in New York City  
14 parks to illustrate this. They found that levels  
15 of fine particles measured three feet from a  
16 single cigarette smoker were more than eight times  
17 higher than background levels. Even at 5 a  
18 distance of about six feet fro the smoker, average  
19 particle levels were three times higher than  
20 background levels and more than double that of  
21 levels recorded at the entrance to the Holland  
22 Tunnel.

23 Smoking in parks and beaches not  
24 only directly harms people trying to enjoy these  
25 recreational facilities, it also contributes

1 indirectly to smoking initiation by children.  
2 Adults serve as role models for children, both  
3 positively and negatively and when children see  
4 adults smoking, they are more likely to view  
5 smoking as acceptable and even appealing behavior.  
6

7 To put this more simply, children  
8 learn to smoke by watching adults smoke. For  
9 example, a 2009 study in the Journal of Pediatrics  
10 found adolescents whose parents smoke are nearly  
11 three times as likely to start smoking as  
12 adolescents than those whose parents do not smoke.  
13 It is extremely important that we prevent our  
14 children from initiating smoking because 90% of  
15 smokers start before they turn 20. If we can  
16 protect our children, we can raise an entire  
17 generation of New Yorkers free of the damage  
18 caused by this addiction.

19 Smoking in parks is more common  
20 than you might think. 90% of respondents in New  
21 York City from a state survey reported noticing  
22 people smoking in outdoor public areas such as  
23 beaches and parks in the last 12 months.

24 Smoking in parks and beaches has  
25 also created a litter problem that harms the

1  
2 beauty of our parks, is costly to clean and is a  
3 hazard to children, pets and the environment. A  
4 recent survey of parks, playgrounds and beaches in  
5 New York City conducted by the Department of Parks  
6 with the assistance of the Health Department found  
7 that cigarette butts and related litter accounted  
8 for 49% of all litter. Cigarette related litter  
9 accounted for an astounding 75% of all litter on  
10 beaches and 33% of litter in parks.

11 Cigarette butts made of plastic  
12 cellulose acetate make take more than 18 months to  
13 decompose. Anyone who has ever been a parent of a  
14 toddler knows that they tend to pick up cigarette  
15 butts that they find on the ground and put them in  
16 their mouths. In 2007 poison control centers  
17 around the U.S. received nearly 5,000 calls  
18 concerning children under the age of six who had  
19 swallowed cigarette butts. Cigarettes are also a  
20 fire hazard, accounting for 9% of outdoor fires in  
21 the U.S.

22 While New York City has been a  
23 trailblazer in many areas of tobacco control,  
24 we're behind other areas when it comes to parks  
25 and beaches. More than 450 municipalities

1  
2 including Los Angeles, Oakland, San Francisco,  
3 Salt Lake City and nine jurisdictions in New York  
4 state have prohibited smoking at all of  
5 specifically named cities' parks.

6 More than 90 municipalities,  
7 including Los Angeles, San Diego, Chicago and two  
8 jurisdictions in New York state have prohibited  
9 state in all of specifically named city beaches.  
10 For example, virtually all of the 80 miles of Los  
11 Angeles County coastline are covered by policies  
12 that make it illegal to smoke on public beaches,  
13 as are over 5,000 acres of public parks and  
14 beaches in Chicago.

15 Making parks and beaches smoke free  
16 is consistent with other park rules that prohibit  
17 littering, disorderly behavior, possessing or  
18 drinking alcohol, using glass bottles on beaches  
19 and playgrounds. Smoke free parks and beaches  
20 will make these spaces healthier and more  
21 enjoyable for everyone.

22 I want to say a word about Intro  
23 381. I appreciate Council Member Vallone's  
24 intentions but this bill would not do enough to  
25 reduce the harmful effects of second hand smoke.



1  
2 Creating smoking areas in parks and beaches would  
3 lead to confusion and undermine the reasons for  
4 making them smoke free. Parks should be places  
5 where all New Yorkers can enjoy clean air and  
6 healthy activities. Families should be able to  
7 bring their children to parks and beaches knowing  
8 that they won't see others smoking. Smoking areas  
9 would not eliminate the cigarette litter in our  
10 parks and beaches. It's much easier to explain  
11 the law and for people to understand the rules if  
12 they cover entire parks and beaches.

13 Public support for smoke free parks  
14 and beaches is strong. A 2009 Zogby [phonetic]  
15 survey found that 65% of New York City adults  
16 favor banning smoking in outdoor recreational  
17 places such as parks, ball fields and playgrounds.  
18 I expect that an overwhelming majority of New  
19 Yorkers will support smoke free parks and beaches,  
20 including people who are now opposed.

21 When the administration first  
22 proposed smoke free bars and restaurants, only  
23 about half of New Yorkers favored the measure.  
24 Now more than 75% of New Yorkers support the law  
25 and most people couldn't imagine having to inhale

1  
2 smoke while having a beer or a burger at their  
3 neighborhood bar. Just as no one could imagine  
4 sitting next to a smoker on an airplane. If this  
5 bill passes, someday New Yorkers will not be able  
6 to imagine a time when they had to content with  
7 the tobacco smoke and cigarette butts in their  
8 parks and beaches.

9 Frederick Law Olmsted [phonetic]  
10 held public parks as the lungs of the city,  
11 sanctuaries where citizens could go to escape over  
12 crowded conditions and polluted air. We need to  
13 ensure that all of our parks and beaches provide  
14 just that, a healthy environment in which to relax  
15 and enjoy the surroundings. With the passage of  
16 Intro 332, we will protect New York City residents  
17 and visitors from harmful health effects of second  
18 hand smoke, reduce smoking among children and  
19 protect our environment from cigarette litter.

20 Because of pioneering efforts by  
21 New York City, smoke free standards across America  
22 and the world have changed. However given the  
23 magnitude of the health problems caused by smoking  
24 we can not rest on our past success. Making parks  
25 and beaches smoke free is crucial to this effort.

1  
2 I want to thank the Council for  
3 considering this legislation and for continuing to  
4 work with us to protect the health of New Yorkers.  
5 I'm happy to answer your questions.

6 ADRIAN BENOPE: Good afternoon  
7 Chairs Arroyo and Mark-Viverito and the Council  
8 Members who are members of the Health and Parks  
9 Committees, I want to thank you for allowing us to  
10 testify before you today. I'm Adrian Benope, I'm  
11 the Commissioner of the Department of Parks and  
12 Recreation. I want to thank you for this  
13 opportunity to discuss Intro 332 and Intro 381.

14 First I'd like to thank  
15 Commissioner Farley and the Department of Health  
16 and Mental Hygiene who have been strong advocates  
17 on this issue. We have enjoyed a very close  
18 working partnership with the Department of Health  
19 on many issues, ranging from keeping the beaches  
20 and pools safe and clean to confronting the  
21 specters of childhood obesity to providing  
22 increased opportunities for fitness for adults.  
23 We wholeheartedly support the work that the  
24 Department is doing to make the lives of New  
25 Yorkers better, safer and also the work of the

1  
2 City Council in that regard. And we are honored  
3 to be partnering with you, Commissioner Farley and  
4 the Mayor on this important initiative.

5 In addition, I want to thank a good  
6 friend and fellow West Sider, Council Member Gale  
7 Brewer who had taken the lead on this initiative  
8 on the Council side and for being a steadfast  
9 friend to the parks in her district and across the  
10 city.

11 COUNCIL MEMBER BREWER: You're  
12 welcome.

13 MR. BENOPE: There's nobody at this  
14 table who's not a friend of parks or in the back  
15 row even or in the audience or in the whole city.  
16 As you hear me say time and time again, the  
17 Department of Parks and Recreation takes care of  
18 over 29,000 acres of green space across the city.  
19 Our first priority is to ensure that parks,  
20 playgrounds and all our facilities are safe and  
21 clean places for the public to enjoy.

22 Intro 332 will have a significant  
23 positive impact on tens of millions of visitors  
24 and New Yorkers who enjoy beaches and parks year  
25 round. In addition to the very significant public

1

2 health factors that Commissioner Farley has just  
3 mentioned, there are significant environmental and  
4 aesthetic byproducts that come with smoking in  
5 parks. In fact, on my way here, and I apologize  
6 for being late, I walked through City Hall Park  
7 and the only litter that I saw was cigarette butts  
8 and there were a significant number of butts under  
9 all the benches. This is a park that gets cleaned  
10 several times a day. I walked through clouds of  
11 smoke.

12

We, as Commissioner Farley  
13 mentioned, we recently partnered to evaluate the  
14 composition of litter. This is kind of like that  
15 guy who used to go through Bob Dillon's litter,  
16 picking up and analyzing it to see what he can  
17 make of Bob Dillon's life. Well, we actually went  
18 through, we had interns that went through - talk  
19 about thankless jobs - and counted all the  
20 different kinds of litter being picked up in parks  
21 and playgrounds. We did this in 25 parks across  
22 the city.

23

What we found was we looked at the  
24 cigarette related, that included cigarette butts  
25 and cigarette packaging and we compared it to

1  
2 other litter sources including paper waste and  
3 food litter, bottles, cans, broken glass and  
4 animal waste. What we found is really surprising.  
5 That cigarette related litter accounted for 75% of  
6 the individual litter items on beaches. I'm not  
7 saying as volume but as individual sort of  
8 particle matter. Even more astonishing, it  
9 accounted for 45% of the litter in the playgrounds  
10 and 33% of general litter in the parks.

11 The other thing we get is a lot of  
12 anecdotal information from park users and  
13 visitors. People always say to us that they find  
14 that they see people sitting in a park and  
15 flipping their butts into the lawn or into  
16 whenever they may be. The parents will sometimes  
17 tell me it's skeevy; that they go to the beach and  
18 they dig their hands in the sand and they come up  
19 with a handful of cigarette butts and that kids,  
20 as the Commissioner mentioned, will just, little  
21 kids. If you had little kids in your life,  
22 they'll just pick something up and pop it in their  
23 mouth and that's not a pleasant thing with a  
24 cigarette butt.

25 As I had discussed with the Parks

1  
2 Committee in June, we began an anti litter  
3 initiative this year trying to reduce the amount  
4 of staff resources that have to be put into  
5 cleaning up after a small number of inconsiderate  
6 park goers, people who simply drop their litter  
7 where they are sitting or standing. Our jobs  
8 could be done in half the time if people simply  
9 put litter in wastebaskets where it belongs.

10           So we believe that this  
11 legislation, in addition to the most significant  
12 impact, which is a public health impact will help  
13 us to reduce litter and it will single handedly  
14 create savings allowing our staff to spend less  
15 time cleaning up those very small cigarette butts,  
16 which are very hard to pick up. You can't grab  
17 them; you have to sweep them. They're very hard  
18 to separate from the sand. That alone will help  
19 us be able to do a better job cleaning parks.

20           Combined with the improved health  
21 and vitality that people experience by going to  
22 cleaner parks with cleaner air makes this  
23 legislation a win for everyone. Our belief is  
24 that this legislation will make our green spaces  
25 even safer, they'll be more pleasant for children

1  
2 and adults to play sports, for visitors of all  
3 interests to enjoy healthier and cleaner parks and  
4 beaches. We hope that the Council will pass Intro  
5 332 and we thank you for your ongoing partnership  
6 and your unwavering support of parks in all five  
7 boroughs and I will be here with the Commissioner  
8 to answer any questions you may have.

9 CHAIRPERSON ARROYO: Thank you  
10 Commissioner. I'd like to acknowledge other  
11 members that have joined us and will throughout  
12 the afternoon, Council Member Van Bramer I think  
13 in the back row as well and Council Member Dromm  
14 thank you for joining us.

15 Commissioner Benope, you have not  
16 made any comments about the legislation introduced  
17 by Council Member Vallone.

18 MR. BENOPE: Let me first say that  
19 Council Member Vallone is a great supporter of  
20 parks and supports the parks. While I appreciate  
21 his interest in this legislation, I think it would  
22 be impractical and undesirable to try to quardon  
23 off separate location for people to smoke in  
24 parks.

25 On my way over here I was trying to



1  
2 think about it in numbers. If we had to have 20%  
3 of a park have smoke areas in it, just take  
4 Central Park as an example, which is 843 acres.  
5 That would be about 168 acres, how do you  
6 visualize 168 acres? Take the Great Lawn and the  
7 Sheep Meadow combined, that's about 30 acres. So  
8 you would need areas five and a half times the  
9 size of the Great Lawn and the Sheep Meadow  
10 combined to set aside for smokers. How do you  
11 deal with a lot of small areas like dog runs or  
12 one large area? It would be highly impractical to  
13 try to guard off smoking areas in a park. I  
14 can't see where it would work.

15 We spend so much time when we do  
16 put up fences, signs, enforcement. It just, I  
17 don't see it working. I think that the way the  
18 legislation is written that allows smoking to take  
19 place on the edges of the parks is probably the  
20 best way for that to happen.

21 CHAIRPERSON ARROYO: I'm going to  
22 defer to the prime sponsors of the bills we're  
23 discussing today. First we're going to call on  
24 Council Member Vallone and then Council Member  
25 Brewer.

1  
2 COUNCIL MEMBER VALLONE: Okay,  
3 thank you Madam Chair. I didn't know you were  
4 coming straight to me. Let me just begin with  
5 that thank you, I'll see you Monday at the opening  
6 of our skate park in Astoria, long time coming. I  
7 understand that there's some practical  
8 difficulties in establishing this but many parks,  
9 I think, it would be relatively simple. Put up  
10 two signs on one that say the east side of the  
11 park that says smoking from here to sidewalk  
12 allowed. In most of the parks I think we can get  
13 this done. We'll have to take a look at that but  
14 I don't think it's that impractical.

15 Commissioner Farley mentioned on  
16 page six where you speak about my bill. I thank  
17 you for some of the nice things and we're 80% on  
18 the same side here. Don't get me wrong, 80%. You  
19 mentioned how big the smoking area would be. Well  
20 times that by four and that would be the non-  
21 smoking area so we're both looking at making huge  
22 portions of this city banning smoking areas so  
23 we're on the same side for most of this.

24 Now Commissioner Farley you said  
25 it's easier to explain, I'll give you that. But

1  
2 you say some other things, which I have to take  
3 some issue with here. You say families should be  
4 able to bring their children to parks and beaches  
5 knowing that they won't see others smoking. I  
6 think that's part of our concern here, that this  
7 does go too far. And we're not legislating based  
8 on our concern about what other people see. We're  
9 legislating based on health concerns, we're  
10 legislating based on litter concerns. When you  
11 start talking about what other people see, we're  
12 going way too far, which is a complaint a lot of  
13 people have with this bill. I'm not concerned  
14 with what they see.

15           Even in the worst study that you  
16 could come up with, because that's probably what  
17 you would mention when you come to our hearing,  
18 when it comes to the harm of second hand smoke in  
19 an outdoor area, even the worst study says it can  
20 be as harmful outdoors as indoors if you're three  
21 feet away. I'll give you that and that's why the  
22 smoking section indoors doesn't work because  
23 you're very often three feet away from another  
24 table. You're very rarely three feet away from  
25 somebody in a park, especially if you know what

1  
2 that section is. So even the worst study  
3 imaginable is telling us that the effects of  
4 smoking outdoors, second hand smoke outdoors are  
5 not going to be as bad as indoors.

6 It's still bad, which is why I'm on  
7 board with 80% of this, just not as bad as  
8 indoors. Let me have you comment on that before I  
9 move on.

10 DR. FARLEY: Just on the issue of  
11 how close you get to people. We went to Columbia  
12 park the other day, which is not far from the  
13 Health Department, and took these photos here.  
14 It's a very crowded park. The benches are pretty  
15 much all taken, there's an awful lot of people  
16 smoking. That means that anybody who's sitting on  
17 a bench next to a smoker is going to be exposed to  
18 significant levels of second hand smoke.

19 COUNCIL MEMBER VALLONE: But that  
20 won't happen with the smoking section. The  
21 smaller parks exempt and it would be a larger park  
22 and you're going to stand on the border line I  
23 guess it's possible that you're three feet away  
24 but very rarely.

25 DR. FARLEY: If there were a

1  
2 smoking section there still would be anybody who's  
3 close to that section is going to get some,  
4 depending on the wind that's blowing, some level  
5 of exposure. Let me just raise this analogy.  
6 Benzene is in second hand smoke, this is a  
7 chemical we know causes cancer. If Commissioner  
8 Benope here were to say, we discovered that  
9 benzene helps the grass grow so we're going to  
10 spray it on the grass all over Central Park.  
11 Don't worry, it will only kill a few people each  
12 year, I think most people would take issue with  
13 that and say no, I don't think our parks should  
14 have any chemicals in there that we know is  
15 killing a lot of people if we can prevent it. And  
16 I think we can prevent it.

17 The fact that there are lower  
18 levels of exposure outdoors than indoors doesn't  
19 mean that we should accept that. This is a really  
20 major health problem.

21 COUNCIL MEMBER VALLONE: I agree  
22 for the most part. Let's discuss pedestrian  
23 plazas for a moment. When it comes to  
24 enforcement, I assuming Parks Department would  
25 have no enforcement on the pedestrian plazas.

1

2

That would be DOT, Commissioner Benope?

3

4

5

6

7

8

9

10

11

12

13

14

MR. BENOPE: I think the matter is under discussion. The enforcement we'd have to work on, whether enforcement gets adjudicated, whether it goes to the ECB. But if things worked out so that other agencies could do enforcement. It could include the Police Department, it could include Sanitation Department, it could include the Parks Department, all of that I think is open for discussion. A number of city agencies have the ability to enforce both criminal violations and Environmental Control Board violations so I think this is something still to be worked out.

15

16

17

18

19

20

21

22

23

24

25

COUNCIL MEMBER VALLONE: Okay. I'm only going to ask one or two more questions because there's a lot of Council Members here. Much of your justification, Commissioner Farley, especially on page six you mention beaches and parks, beaches and parks but you don't mention plazas. Beaches and parks should be areas where people can bring their families. I think that's one of the reasons my bill doesn't cover or won't cover plazas once it's written up the way I intended.

1  
2           What would the justification be for  
3 plazas? I don't think that's a place anybody goes  
4 expecting to be smoke free. I don't want to sit  
5 in the park or beach all day surrounded by smokers  
6 but if I'm walking by a plaza, I understand  
7 sometimes someone's going to be walking in the  
8 other direction. So do you believe that the  
9 outdoor health concerns are as valid in a plaza as  
10 they are in a park or beach?

11           DR. FARLEY: Our reason for  
12 supporting having the exclusion be in pedestrian  
13 plazas is that they're really equivalent to a  
14 park. These are places where people go to sit, to  
15 enjoy the surroundings. They're not walking from  
16 one place to another at the time. So the  
17 development of pedestrian plazas has basically  
18 increased what I would consider park space in New  
19 York City. That's a good thing. So we see no  
20 reason to not have them be smoke free when we're  
21 making our parks and beaches smoke free.

22           COUNCIL MEMBER VALLONE: I do see  
23 and I don't expect you to agree with me on this.  
24 I do see that it would be much more confusing to  
25 include plazas. Most people don't know where.

1  
2 There are some obviously plazas but some you're  
3 not sure if you're walking across a plaza or just  
4 a sidewalk area and they are much easier to clean.

5           When we talk about these disgusting  
6 cigarette butts, which are all over the place, you  
7 can sweep them up on a plaza. You can't really do  
8 that on a beach or a park; it's very difficult to  
9 clean. I was a lifeguard for seven years, I know  
10 how difficult it is to clean cigarette butts off  
11 of beaches. I don't think all of the concerns are  
12 there for plazas. I thank you again, both, for  
13 all the work that you've done on our parks and on  
14 our health. I look forward to continuing to work  
15 with you on this issue and so many others. Thank  
16 you.

17           DR. FARLEY: Thank you very much.

18           CHAIRPERSON ARROYO: Thank you,  
19 Council Member. I want to ask a question before I  
20 turn it over to Council Member Brewer on the  
21 enforcement question. The answer was very vague.  
22 We don't know how the enforcement will be done and  
23 where?

24           MR. BENOPE: As there are a number  
25 of different aspects, saying what is the mechanism



1  
2 for enforcement, which agencies enforce and how  
3 would we envision enforcing. The first answer is  
4 that enforcement here is not seen as a revenue  
5 producing got you kind of thing. What we hope and  
6 expect will happen, you can compare this perhaps  
7 to the canine waste law, which was introduced I  
8 think more than 30 years ago now. Where it's  
9 largely self enforcing. Yes.

10 [off mic]

11 MR. BENOPE: Yes.

12 CHAIRPERSON ARROYO: That's his  
13 favorite topic.

14 MR. BENOPE: For the most part,  
15 people pick up after their dogs. It's done  
16 through peer enforcement. The dog owners talk to  
17 other dog owners and say hey, we're all part of  
18 this community, don't let your dog leave a mess  
19 behind. And then for those area where people are  
20 completely inconsiderate and do it repeatedly,  
21 that's when the enforcement steps in. The  
22 enforcement is done to cure the behavior and not  
23 to get income. We don't expect the penalties will  
24 be very high here.

25 So the Parks Department, if they

1  
2 can't get a smoker to move off to perimeter they  
3 can issue an Environmental Control Board summons.  
4 It's currently drafted right now, the notices of  
5 violation are returnable to the Health Department  
6 but it would probably make more sense to have them  
7 returnable to the Environmental Control Board,  
8 which is where most of the other summonses issued  
9 as notices of violation are adjudicated.

10 Then which agencies enforce in this  
11 bill, we would be given new authority to enforce  
12 this and all the provisions of the Smoke Free Air  
13 Act in parks property. As is currently the case  
14 with the current Smoke Free Air Act, other  
15 agencies, including the Buildings Department,  
16 Consumer Affairs, Environmental Protection, the  
17 Fire Department and Sanitation have always had the  
18 ability to enforce the role on non-parks property.

19 So now every named agencies in the  
20 amended Clean Air Act can enforce the smoking ban  
21 on parks and non-parks property. We don't expect  
22 the Police Department to get involved with this  
23 but all the other enforcement agencies can and  
24 will get involved with it.

25 CHAIRPERSON ARROYO: You don't

1  
2 expect the Police Department to get involved but  
3 will an officer-

4 MR. BENOPE: [interposing] They're  
5 not named.

6 CHAIRPERSON ARROYO: They're not  
7 named.

8 MR. BENOPE: They're not named.

9 CHAIRPERSON ARROYO: Okay. Council  
10 Member Brewer.

11 COUNCIL MEMBER BREWER: Thank you  
12 very much. I wanted to know from Parks  
13 perspective, just to give an example, right now  
14 most people here know but not everyone that you're  
15 not supposed to smoke or allowed to smoke on  
16 playgrounds. Yet I see that it's self enforced,  
17 would that be not an example of self enforcing, no  
18 smoking in playgrounds. I think it's pretty  
19 well...

20 MR. BENOPE: It's largely self  
21 enforced in playgrounds. Where we have the  
22 problem is playgrounds is not specifically where  
23 the children play but in the adjacent areas.  
24 Often a playground has a play area and then next  
25 door would be a sitting area and maybe a

1  
2 basketball court, a handball court. That's where  
3 we're predominantly finding the smoking litter.  
4 But most playground areas are less than two acres.

5 Then you have playgrounds within  
6 larger parks that are more than two acres so then  
7 you get into a--

8 COUNCIL MEMBER BREWER:

9 [interposing] No, what I'm saying is if you're  
10 talking about enforcement...

11 MR. BENOPE: Well, anyway.

12 COUNCIL MEMBER BREWER:

13 ...playgrounds are a good example. It is enforced  
14 but it's self enforced. I don't see PEP officers  
15 giving anybody a ticket in a playground.

16 MR. BENOPE: For the most part, no,  
17 it's 99% self enforced and we would expect that  
18 would be the case in parks across the city.

19 COUNCIL MEMBER BREWER: That's what  
20 I was trying to say.

21 MR. BENOPE: yes.

22 COUNCIL MEMBER BREWER:

23 Commissioner of Health, I know that the opponents  
24 feel strongly and I'd like to get your response  
25 regarding the studies 'cause you have mentioned a

1  
2 couple of cities, a couple of states, a couple of  
3 countries in your testimony. Could you be more  
4 specific as to the health effects and what kind of  
5 actual studies there are to back you up.

6 DR. FARLEY: Studies on which  
7 question?

8 COUNCIL MEMBER BREWER: Secondary  
9 smoke.

10 DR. FARLEY: On second hand smoke,  
11 well there are a large number of studies looking  
12 at people who are exposed to second hand smoke  
13 indoors to demonstrate the adverse health effects.  
14 Those have been put together to come up with  
15 estimates for how many people die each year from  
16 second hand smoke. Those studies, to summarize  
17 them, it's the people who are regularly exposed to  
18 second hand smoke, increased risk of heart  
19 disease, increased risk of lung cancer.

20 Right now across the entire country  
21 the estimate is that 50,000 people die per year  
22 from exposure to second hand smoke. Now most of  
23 that exposure, admittedly, is indoors but then  
24 let's talk about outdoors. As I said, the Health  
25 Department did a study here in New York City with

1  
2 New York City residents where we tested in their  
3 blood for a chemical called cotinine. This is a  
4 breakdown product for nicotine so it's a sign that  
5 you have been exposed to smoke.

6           If you take the smokers out the  
7 equation and only look at non-smokers you find  
8 that 57% of non-smoking New Yorkers have been  
9 exposed to second hand smoke. Some of that could  
10 be indoors, the rest of it has got to be outdoors.  
11 It could be outdoors in many places but it does  
12 suggest that substantial exposure, or to put it  
13 another way, the majority of New Yorkers are  
14 becoming smokers against their will. We can't  
15 control all of that in the Health Department but  
16 we do think that in parks specifically, which are  
17 set aside as healthy places for people to enjoy,  
18 we ought to be able to protect them from that  
19 here.

20           COUNCIL MEMBER BREWER: I know some  
21 cities, Chicago, Los Angeles for example, have  
22 banned smoking in outdoor locations. Have there  
23 been lawsuits in these areas? Have they been  
24 successful or have the no smoking bans been  
25 maintained?

1  
2 DR. FARLEY: They have been  
3 successful. I'm not aware of any municipality  
4 that has changed course and reversed after they  
5 put a policy in place and they are largely self  
6 enforcing, as Commissioner Benope said. And they  
7 are generally popular.

8 COUNCIL MEMBER BREWER: And you've  
9 talked to some of the commissioners in these areas  
10 regarding the positive impacts in these cities?

11 DR. FARLEY: Yes, we have talked to  
12 people in those cities. We've called several of  
13 them to find out their experiences. Their  
14 experiences are that if people are aware that  
15 smoking is not allowed there that people generally  
16 follow the rule and the people like it. As I said  
17 in the testimony, it takes people to adjust to a  
18 change in policy about our environment. But once  
19 they've adjusted, they can like it very much.

20 The idea of smoke free restaurants  
21 and bars was not necessarily greatly popular when  
22 it first went through and now it's enormously  
23 popular. I think in the future we will look back  
24 on this time and say how could we have ever  
25 tolerated smoking in a park.

1  
2 COUNCIL MEMBER BREWER: Okay, thank  
3 you.

4 CHAIRPERSON ARROYO: Thank you  
5 Council Member Brewer. Just three very quick  
6 answers here in terms of follow up with regards  
7 to--I want to recognize Council Member Debbie Rose  
8 has joined us. Just you mentioned about the large  
9 number of city residents, Commissioner Farley. In  
10 your testimony, large number of city residents  
11 have elevated levels of cotinine, you were  
12 speaking about that. How did you arrive at that?  
13 What was it? How do you base that information?  
14 Where are you gathering it from?

15 DR. FARLEY: This was a Health and  
16 Nutrition examination survey that we did in 2004  
17 to look at a wide variety of health issues, where  
18 we get a representative sample of approximately  
19 2,000 New Yorkers. We ask them a large number of  
20 questions, we do a physical examination and we did  
21 a large number of laboratory tests. We used that  
22 study to look at a large number of health  
23 problems.

24 One of the things we did is we took  
25 those blood samples and we tested it for cotinine



1  
2 and that's where it came from; essentially the  
3 same methods that were used for a national study  
4 on health and examination. In the national study  
5 45% of non-smokers had cotinine in their blood but  
6 in New York City it was 57% despite of the fact  
7 that our smoking rates are lower than they are  
8 nationally.

9 CHAIRPERSON ARROYO: Thank you for  
10 that. And then you also indicated that causes an  
11 estimated 46,000 deaths from heart disease in the  
12 U.S. Number in New York, if you have that, do you  
13 have a breakdown, do you have an idea?

14 DR. FARLEY: I don't have a number  
15 for you now. I can tell you it will be in the  
16 hundreds.

17 CHAIRPERSON ARROYO: Okay. Then  
18 just lastly in terms of the pedestrian, since that  
19 came up, how many do we have, either Commissioner,  
20 in the City of New York? Do you know?

21 MR. BENOPE: We can get you the  
22 answer. My guess is we probably have half a dozen  
23 or so plazas now, or sort of a larger size more or  
24 less.

25 CHAIRPERSON ARROYO: But smaller?

1  
2 MR. BENOPE: I can check with DOT,  
3 yeah.

4 CHAIRPERSON ARROYO: Thank you for  
5 that. We'll continue with our line of questioning  
6 here. If we could have Council Member Vacca has  
7 question.

8 COUNCIL MEMBER VACCA: Yes, thank  
9 you. Some of my questions were answered. My main  
10 concern was regarding enforcement and I do know  
11 that both pieces of legislation have 120 days from  
12 the date of effect. So I would assume, if I'm  
13 correct tell me I'm correct, that during that 120  
14 days you would both do a public outreach effort,  
15 posting signs, doing extensive signage posting.  
16 What would be done by your agencies during that  
17 period to make sure that these laws, whichever law  
18 we adopt, is enforced?

19 MR. BENOPE: We would be adjusting  
20 all of our signage. We have signage that spells  
21 out park rules in all of the parks and playgrounds  
22 so we'll simply have to adjust it. Maybe just  
23 strip in the additional rule, that signage  
24 obviously is already in place at all the  
25 playgrounds and swimming pools so we wouldn't have

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

to change anything there.

It would just be a matter of changing up the signage, putting out information on our web site, working with all the civic groups with the 55,000 people who are part of the Partnerships for Parks. We have a very large and comprehensive database of people who are involved with the parks, groups, one or another group, the community boards, obviously the schools, the other ones you assume. We have ample time to get the word out.

COUNCIL MEMBER VACCA: I wanted to clarify about plazas. I do know we don't have an extensive amount of plazas yet in New York City but we have an extensive number of green streets. Are green streets covered? Some of the green streets have benches and sitting areas, do you consider them public plazas for the purposes of this law?

MR. BENOPE: Right now most of the green streets, the majority of the green streets do not have sitting areas. They're just little landscape triangles. They're a small number that have some sitting areas. Those would be

1  
2 considered parks, any place with a sitting area  
3 would be considered a part but for the most part  
4 they're not parks. You can't even walk through  
5 them.

6 COUNCIL MEMBER VACCA: But if there  
7 is a green street with benches you will consider  
8 it a park so therefore smoking would not be  
9 allowed.

10 MR. BENOPE: Would not be allowed  
11 except on the perimeter of it.

12 COUNCIL MEMBER VACCA: On the  
13 perimeter. And public plazas you said it was  
14 only, I think you said seven, the number. What do  
15 you consider--

16 MR. BENOPE: [interposing] I don't  
17 know. I could be misquoted here but I have to  
18 check. I think there's around half a dozen  
19 depending on how you count them. There's maybe a  
20 couple here at Times Square, at Union Square, at  
21 Madison Square and maybe a few others.

22 COUNCIL MEMBER VACCA: A public  
23 plaza is a place where people sit on a median that  
24 is owned by the City of New York.

25 MR. BENOPE: The public plazas are

1  
2 streets that have been closed and converted to  
3 public assembly areas. They, in many cases, have  
4 tables and chairs on them so they look and act  
5 like a park but they're not yet park property. Or  
6 they aren't park property; they're DOT property.

7 COUNCIL MEMBER VACCA: All right.  
8 Lastly, we talked about other cities and their  
9 experience. My question to you is that where  
10 other municipalities have prohibited smoking in  
11 beaches and parks, what type of smoking decrease  
12 has been noticed among people in those localities?  
13 Has there been a general decrease in smoking based  
14 on the prohibition in parks and beaches?

15 DR. FARLEY: In general smoking  
16 rates are on a slow decline across the country.  
17 There have been no published studies to evaluate  
18 the effect of specifically park and beach smoking  
19 prohibition, on that rate so I can't answer to  
20 that effect, question.

21 COUNCIL MEMBER VACCA: We don't  
22 know if the enactment of these laws will result in  
23 an overall smoking decrease beyond what the city  
24 has normally be experiencing?

25 DR. FARLEY: We can not be sure of

1  
2 that, no. We think it'll contribute to the  
3 overall efforts we have to reduce smoking rates  
4 but we can't guarantee that.

5 COUNCIL MEMBER VACCA: Okay, thank  
6 you.

7 CHAIRPERSON MARK-VIVERITO: Thank  
8 you, my co-chair. Commissioner Benope, one of the  
9 challenges I have with, we already banned smoking  
10 on playgrounds. Although you indicate that there  
11 is signage. In my opinion the signage that is  
12 currently in the playgrounds is less than adequate  
13 in terms of helping the self enforcement notion.  
14 It is contained on a list of rules that are  
15 posted, I guess, upon entry in the park and that's  
16 the last you see of it. I think signage is a  
17 major consideration in this discussion in that I  
18 haven't heard plan for modifying what signage is  
19 available and/or what will be installed to help  
20 the self enforcement concept?

21 MR. BENOPE: I think we would do  
22 the basic signage that we're going to do because a  
23 lot of the rules that we have in parks and  
24 playgrounds, many of them are very serious rules.  
25 We don't allow people to bring dogs into

1  
2 playgrounds. Obviously you can't bring drugs,  
3 alcohol, all of those things.

4           Those are all there. The question  
5 I think we'll look at is, is that enough and do we  
6 have to do more. The main reason is you want  
7 people to see it, A, in some prominent places,  
8 they're walking around at the park. And then, B,  
9 you need to have a tool that you can point to when  
10 and if you need to do enforcement.

11           I think the thing we want to try to  
12 avoid is having a visual clutter of a sign every  
13 five feet. I think what we'll do is try to take a  
14 common sense approach and add signage where  
15 necessary. I have seen that in places where we  
16 have a problem with people bringing in glass that  
17 becomes broken glass; we'll put up a separate sign  
18 that says no glass bottles.

19           We have separate signage just for  
20 the beaches, to warn people about the possibility  
21 of rip currents and not swimming after hours when  
22 the lifeguards aren't there and so on and so on.  
23 We do have like to pass the in house to make up  
24 new signage as necessary.

25           CHAIRPERSON MARK-VIVERITO: Thank

1  
2 you. As a point of clarification on the  
3 enforcement issue, going back since you touched on  
4 it a little bit. Considering that there are other  
5 municipalities or localities that have implemented  
6 similar bans. How is the enforcement being  
7 handled in those areas? Is it similar to what you  
8 laid out, is it different?

9 DR. FARLEY: It is similar to what  
10 we laid out here. What we heard is in general  
11 they're self enforcing and the Parks Department in  
12 general have that authority but they would use it  
13 infrequently.

14 MR. BENOPE: Most cities do not  
15 have a separate park enforcement patrol. The  
16 levels of enforcement rules are probably generally  
17 less than what you get in New York City parks,  
18 just because they tend to have fewer staff  
19 assigned to those duties. But I think it's like  
20 everything else, these are rules that sort of  
21 would be common sense and where you can really  
22 picture people doing the enforcement through peer  
23 pressure.

24 CHAIRPERSON MARK-VIVERITO: Thank  
25 you. We've been joined by Council Member



1  
2 Halloran. The next one to ask questions is  
3 Council Member Jackson

4 COUNCIL MEMBER JACKSON: Well,  
5 thank you madam Co-Chairs and good afternoon  
6 Commissioners. My name is Robert Jackson. I  
7 represent Council District 7 in Northern  
8 Manhattan. Let me just state for the record that  
9 no one in my immediate family smokes. And while I  
10 support some ban I do not support a total ban.  
11 Basically, I've stated when this matter was  
12 introduced on the floor that I think the  
13 government is being too restrictive on people.  
14 It's trying to restrict and tell people how to  
15 live.

16 With that said, I want to ask a  
17 couple of questions. You mentioned in your  
18 testimony Dr. Farley that some municipalities and  
19 cities have had certain beaches restricted or  
20 certain beaches allow where smoking is totally  
21 allowed and others where it's not smoking allowed.  
22 That could happen if in fact a compromise was  
23 reached in one or more bills, is that correct?  
24 Would you go along with something like that?

25 DR. FARLEY: We think that the

1  
2 exclusion should be basically the park, that we  
3 don't agree with the idea of having separate  
4 smoking areas in parks, if that's what your  
5 question is.

6 COUNCIL MEMBER JACKSON: I said  
7 specifically beaches because you said in here, in  
8 your testimony refers to certain beaches where  
9 smoking was, I guess, allowed and certain parks  
10 where smoking was allowed. You mentioned that in  
11 your testimony.

12 DR. FARLEY: I think until recent  
13 decades people smoked on beaches all over. And  
14 there's been a movement across the country to  
15 gradually make beaches smoke free. In some cases,  
16 the municipality has made it for everything within  
17 its jurisdiction, some of them it's been just for  
18 specific beaches. So it wasn't necessarily a  
19 conscious decision to direct smoking to one beach,  
20 it was that they have designated certain beaches  
21 or in some cases all beaches as smoke free.

22 COUNCIL MEMBER JACKSON: Okay. So  
23 let me ask you a question. If you had your way as  
24 the Commissioner for the Department of Health,  
25 would you ban smoking altogether everywhere in the

1

2 city, even on sidewalks?

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DR. FARLEY: We understand that

there will always be some people who smoke, just

as there's a lot of habits that we greatly

discouraged but don't get down to zero. On the

other hand, we do think that we can have smoking

rates far lower than what we have right now. What

we're going to say about parks though is that

parks and beaches are specific places that are set

aside by the government, paid for by taxpayer

dollars to be health places for people to enjoy.

So we think that those spaces should be smoke

free.

COUNCIL MEMBER JACKSON: I

understand that and that's what you said in your

testimony but my question to you was as the Health

Commissioner, would you approve of banning smoking

altogether, totally? Because when you walk

outside this building, 250 Broadway, you're

walking passed people that smoke; that's a

sidewalk. You can walk down a sidewalk anywhere

in the City of New York and you may walk passed a

smoker. As the Commissioner of the Department of

Health, if you had the authority would you ban

1

2

smoking totally in New York City, that's my

3

question to you. So you never answered my

4

question.

5

DR. FARLEY: There will always be

6

smokers and there always will be places where I

7

think people should be allowed to smoke--

8

COUNCIL MEMBER JACKSON:

9

[interposing] So tell me where. Tell me where,

10

Commissioner.

11

DR. FARLEY: I'm not prepared to

12

answer that now--

13

COUNCIL MEMBER JACKSON:

14

[interposing] But you're not really answering my

15

question. It's a simple question, there's a yes

16

or no answer. Would you ban smoking totally in

17

New York City? You said that there should be

18

places where people should smoke. I ask you

19

where, for example, in their home, on the street?

20

If they can't smoke in their home, then tell me

21

where. Maybe they should go up on the roof and

22

smoke. Do you know what I mean? I just ask that

23

question because go back tow hat my response was,

24

I think that government is trying to clamp down on

25

the people too much here. I don't smoke.

1

DR. FARLEY: I understand that.

2

3

COUNCIL MEMBER JACKSON: My

4

question to you is would you ban it totally in New

5

York City? That's what my question is.

6

DR. FARLEY: The answer is no. The

7

Mayor has said that people should be allowed to

8

smoke if they want to. They certainly can smoke--

9

COUNCIL MEMBER JACKSON:

10

[interposing] But where?

11

DR. FARLEY: They can smoke in

12

their own homes?

13

COUNCIL MEMBER JACKSON: Where

14

else? On the sidewalks?

15

DR. FARLEY: People can smoke on

16

the sidewalks. We're not talking about banning

17

smoking on sidewalks here.

18

COUNCIL MEMBER JACKSON: Then it's

19

okay with you. You would not ban smoking on

20

sidewalks, Commissioner? I'm trying to pigeon

21

hole you into a situation just like you're trying

22

to--based on your testimony and you have evidence

23

to back it up. You're trying to pigeon hole

24

smokers into not smoking on beaches and parks.

25

Isn't that correct?

1  
2 DR. FARLEY: We're trying to do a  
3 few things here. One is we want to discourage  
4 anybody from smoking. We want to protect our  
5 children from smoke, from smoking. As a  
6 physician, as a pediatrician, I feel a particular  
7 obligation to try to prevent us from having a next  
8 generation of addicted smokers so I think that's a  
9 particular point.

10 COUNCIL MEMBER JACKSON: I agree  
11 with you.

12 DR. FARLEY: We think that we  
13 should protect people from second hand smoke where  
14 we can do that.

15 COUNCIL MEMBER JACKSON: Do you  
16 think that government then, I'm sorry, is being  
17 too restrictive here by trying to ban smoking  
18 totally in parks and totally on beaches? Do you  
19 think that government is being too restrictive?

20 DR. FARLEY: No, not at all.  
21 Again, these are government locations. It's  
22 government property that is set aside for everyone  
23 to enjoy...

24 COUNCIL MEMBER JACKSON: What about  
25 smokers who pay taxes?

1  
2 DR. FARLEY: ...so I do think the  
3 government has the right to--

4 COUNCIL MEMBER JACKSON:

5 [interposing] What about smokers who pay taxes?  
6 They pay taxes in order to support the beaches and  
7 parks also. Do they have a right, in your opinion  
8 a Constitutional right, to smoke in a public park  
9 or public beach? Let's assume this scenario,  
10 Commissioner. It's night time, it's winter. I'm  
11 on the beach and I'm a smoker and I'm walking  
12 smoking. Is anything wrong with that?

13 DR. FARLEY: Let me say, first of  
14 all no one is born a smoker. This is something, a  
15 habit that people pick up and we discourage people  
16 from continuing that habit. We provide a lot of  
17 assistance for smokers to quit. So we want them  
18 to quit, that's one thing they can do.

19 Another choice they can do is smoke  
20 less often so when they're in a park just not  
21 smoke. We don't think they have the right to  
22 expose people to second hand smoke that is hurting  
23 the health of somebody else. We do not think is a  
24 right in the Constitution or in the New York City  
25 Charter. And we recognize that we can not totally

1  
2 eliminate second hand smoke and totally eliminate  
3 second hand smoke exposure but we do think that  
4 parks specifically are places where people should  
5 not have to have that exposure.

6 COUNCIL MEMBER JACKSON: So if one  
7 or more of these two bills, Intro 332 and 381, was  
8 amended to say okay, in these beaches or these  
9 parks, smokers won't be allowed. Let's assume say  
10 in New York City there's two beaches where totally  
11 you could smoke if you want to, or several parks  
12 where you could smoke if you want to. You would  
13 not be in favor of that is my understanding.

14 DR. FARLEY: I would not be in  
15 favor of that, correct.

16 COUNCIL MEMBER JACKSON: And  
17 Commissioner Benope, would you be favor of that?

18 MR. BENOPE: I would also not be in  
19 favor of that because I think you'd be forcing the  
20 people who live near that beach to travel to go  
21 away from that beach to get away from the  
22 dangerous effects and the unpleasant effects of  
23 second hand smoke.

24 COUNCIL MEMBER JACKSON: But you  
25 would also be forcing smokers to go to beaches



1

2

that are designated smoking beaches, is that

3

correct?

4

MR. BENOPE: No, there would be no

5

beaches that would designated smoking beaches.

6

COUNCIL MEMBER JACKSON: What I'm

7

saying to you, if there were beaches that were

8

designated, you'd be forcing smokers to go to

9

beaches that are designated beaches if they wanted

10

to smoke on a beach, is that correct?

11

MR. BENOPE: Except we're not

12

envisioning having any designated smoking beaches.

13

COUNCIL MEMBER JACKSON: Well,

14

Commissioner, one thing is you're the commissioner

15

you're not a legislator to make the laws. That's

16

up to us. So I just wanted to ask you that. But

17

let me ask a question with respects to

18

restrictive. Commissioner Farley, if you had your

19

way would you ban alcohol totally? Because I know

20

the negative effects of alcohol, I have a relative

21

that's an alcoholic. I had a brother that died at

22

the age of 25 from alcoholism. I've testified in

23

court, friends that have been killed by automobile

24

accidents and I literally cried in the court room.

25

Would you bind liquor, all totally together? And

1

2 in essence, would government be too restrictive on  
3 that particular matter?

4

DR. FARLEY: Although alcohol is a  
5 major public health problem, I would not be in  
6 favor of banning alcohol consumption, however I am  
7 in favor of...

8

COUNCIL MEMBER JACKSON: Why not?

9

DR. FARLEY: ...prohibiting its  
10 consumption in parks and beaches and I think we  
11 have rules to that effect.

12

COUNCIL MEMBER JACKSON: So you  
13 don't object to smokers smoking, then?

14

DR. FARLEY: I greatly discourage  
15 smokers from smoking, I greatly discourage anyone  
16 from smoking.

17

COUNCIL MEMBER JACKSON: I assume  
18 you discourage people from drinking also because  
19 the negative impacts of alcohol. Is that correct?

20

DR. FARLEY: We do discourage  
21 people from harmful drinking.

22

COUNCIL MEMBER JACKSON: Let me  
23 just ask a question. I think that someone made in  
24 their statement, one of you, about that in beaches  
25 75% of the refuse is cigarette butts. Where did

1

2

that statistical information come from? In my

3

opinion as a lay person I don't believe that 75%

4

of all of the dirt on the beaches are from

5

cigarette butts. Where did you get those analyses

6

from?

7

MR. BENOPE: We did a study. We

8

counted. This is 75% of the individual litter

9

items. We went to 25 parks and beaches, counted

10

all the litter, the number of items on the

11

beaches; 75% of the number, the items, 75% of the

12

items.

13

Council Member: That's not volume.

14

MR. BENOPE: It's not volume.

15

COUNCIL MEMBER JACKSON: Oh, that's

16

not volume.

17

Council Member: So you have an

18

individual butt, that's one item. But you can

19

have a--

20

CHAIRPERSON ARROYO: [interposing]

21

Council Members, please. Let's, one on one

22

conversation.

23

COUNCIL MEMBER JACKSON: Yeah, I

24

was just listening to my colleague for the moment.

25

CHAIRPERSON ARROYO: Let's focus.

1

2

COUNCIL MEMBER JACKSON: So 75% of the items that were counted, is that correct?

4

MR. BENOPE: That's correct.

5

6

COUNCIL MEMBER JACKSON: Was this study done in the wintertime, in the summertime? When was it done and by whom?

8

9

MR. BENOPE: It was done in the summertime. It was done by people working in the Health Department and the Parks Department.

10

11

COUNCIL MEMBER JACKSON: When was that study done, please, if you don't mind?

12

13

MR. BENOPE: Roughly three months ago, I think.

14

15

COUNCIL MEMBER JACKSON: can you please send to the joint committees a copy of that? I would like to get a copy.

16

17

18

MR. BENOPE: Absolutely.

19

20

COUNCIL MEMBER JACKSON: Is it online?

21

22

MR. BENOPE: It's not available online but we can give you a copy.

23

24

COUNCIL MEMBER JACKSON: Okay. That's it for now. Thank you very much.

25

CHAIRPERSON ARROYO: Council Member

1  
2 Jackson, thank you. We've been joined by the  
3 prior chair of the Parks and Recreation Committee,  
4 Council Member Foster. Thank you for joining us  
5 and also Council Member Gentile. The next Council  
6 Member to ask questions is Council Member  
7 Rodriguez.

8 COUNCIL MEMBER RODRIGUEZ: How many  
9 New Yorkers visit the park every year?

10 MR. BENOPE: We don't have a full  
11 count but we have some counts that we can  
12 extrapolate from. We know that we hit 19.5  
13 million visitors to the beaches this past summer  
14 alone. We know that we have approximately 35  
15 million visits paid to Central Park on a given  
16 year so the safe number is tens if not hundreds of  
17 millions of visits to parks every year.

18 COUNCIL MEMBER RODRIGUEZ: From  
19 that number, what percentage do you think are  
20 children?

21 MR. BENOPE: Well, there are  
22 approximately 1.1 and 1.2 million school age  
23 children in New York or maybe 1.1 million children  
24 in public schools. I don't have all the  
25 demographics but easily 15%, say, or maybe more

1

2 because children go to parks at higher rates than  
3 adults, especially playgrounds and ball fields.

4

COUNCIL MEMBER RODRIGUEZ: In the  
5 whole perspective, how do children get impacted by  
6 second hand smoking compared to adults?

7

DR. FARLEY: Children are  
8 particularly vulnerable in that it tends to  
9 exacerbate asthma. We have a very high percentage  
10 of children in New York City that have asthma, as  
11 you may know. When they come in contact with  
12 second hand smoke it tends to cause asthma  
13 attacks. It causes other respiratory problems.  
14 The long term implications for health is something  
15 we don't fully know but we certainly worry about  
16 that because we know it has health effects on the  
17 heart and risk of lung cancer in adults.

18

COUNCIL MEMBER RODRIGUEZ: If this  
19 Introduction 332 becomes a bill, how would that  
20 impact our children?

21

DR. FARLEY: I think it would  
22 benefit them in two ways. First when they go to  
23 parks they would not be exposed to second hand  
24 smoke. Second, when they go to parks they would  
25 not be seeing adults smoking in the way that they

1  
2 see adults smoking now. As a parent, I can say I  
3 don't want to have to bring my child to a park to  
4 play soccer and instead have them get a lesson in  
5 how to smoke. Children use adults as role models  
6 so seeing those adults smoking has an adverse  
7 effect.

8 COUNCIL MEMBER RODRIGUEZ: I just  
9 want to say I have my daughter three and a half.  
10 I think that most New Yorkers when they look for  
11 apartments, we look for places where it's safety,  
12 education and parks. I believe that both we have  
13 a right to decide if we want to smoke in our own  
14 private places. But I believe that when it comes  
15 to places where we bring our family and children,  
16 we also have to be responsible.

17 Even those New Yorkers who smoke  
18 and it is a right to smoke. I think that when you  
19 have children you care about those children. I  
20 don't believe that's people who smoke they go  
21 smoking around children. And I believe that parks  
22 and beaches are places where we bring our  
23 families. I hope that we can move forward on  
24 these introductions. I hope that we will get the  
25 majority support of the Council to make these a

1

2 law.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CHAIRPERSON ARROYO: Thank you

Council Member. We have next, Council Member

Halloran. Just to my co-chair know that at some

point I will be stepping out for a little bit to

attend to a meeting at the Mayor's office but I

will be back, in case I leave prematurely.

Council Member Halloran.

COUNCIL MEMBER HALLORAN: Thank

you. Good afternoon, Commissioners. I was a

social scientist before I was a lawyer so let's

talk about your study just briefly because what I

heard was some very unscientific methodology.

Your claim is in your survey that you performed,

the pieces of debris that were picked up were

counted individually and that gives you your 75%

of the garbage recovered in beaches is cigarette

related. Is that accurate?

MR. BENOPE: That's correct.

COUNCIL MEMBER HALLORAN: Okay. So

you would agree with me, as a good scientist

would, that that is statistically not the proper

venue to vet the volume of garbage on a beach.

Would you agree with me there?



1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. BENOPE: What I would say is that we have done some studies of the issue? You could certainly do more in-depth studies. But I would say both anecdotally and on the base of this study, cigarette related litter is a significant problem, particularly on beaches where we have to clean with special beach rakes and beach sifting machines. The butts are too small. They mostly don't get caught in those machines so they get left behind. They don't biodegrade.

I would say anecdotally, walking through City Hall Park just now, the only litter I saw were a significant numbers, probably hundreds of cigarette butts on the ground. Every other piece of litter had been picked up. So cigarette butt litter is a pernicious form of litter. It's by no means the largest amount by volume; it's relatively small by volume. But as objects in a landscape that are particularly difficult to get rid of and do not biodegrade, it's one of the most and pernicious forms of litter.

COUNCIL MEMBER HALLORAN: So then we're in agreement, Commissioner, that neither the subset of volume of beach garbage is cigarette,

1

2 correct?

3

MR. BENOPE: That's correct.

4

5 would agree with me further that that in fact is  
6 an issue of litter enforcement not smoking, would  
7 you agree with me there?

8

9 MR. BENOPE: No, because as I  
10 indicated on a number of occasions in my  
11 testimony, the import of this legislation is not  
12 to reduce littering; if so, we would be calling  
13 this a littering legislation. The import of this  
14 legislation is public health. There is a side  
15 benefit, small but important side benefit, that it  
16 would reduce littering and reduce the number of  
17 objects that you would encounter on a beach or the  
18 park.

18

19 But I want to be quite clear here,  
20 our support of this legislation is not about the  
21 litter. It's about the public health benefits and  
22 the enjoyment of parks. If there's some small  
23 side benefit of having less litter, the most  
24 pernicious kind to pick up, well that's a nice  
25 side effect.

25

COUNCIL MEMBER HALLORAN: Do we

1  
2 have any nifty charts like you do for the litter  
3 stuff for the public health benefits or did we  
4 just blow up the charts that would suit the agenda  
5 that you're pushing with regards to statistical  
6 information, which is obviously misrepresented in  
7 the data that you're putting up on these two  
8 charts.

9 MR. BENOPE: The data is very well  
10 represented. It happens to be factual. Of the  
11 objects we pick up, the largest number are  
12 cigarette butts.

13 COUNCIL MEMBER HALLORAN: The  
14 largest in terms of individual items and, as you  
15 testified just moments ago, clearly not by any  
16 means in volume. You'd agree with me,  
17 Commissioner, that when we dispose of waste, and I  
18 know you're not the Sanitation Commissioner,  
19 you're the Parks Commissioner. But you would  
20 agree with me when we dispose of waste, we talk  
21 about it in tonnage, we talk about it in bulk, we  
22 talk about it in volume. We don't talk about it  
23 in individual pieces. If I drop 27 pieces of  
24 tinsel on the ground, yes, you picked up 27 pieces  
25 of tinsel but they have absolutely no tangible

1  
2 volume. Would you agree with me at least there,  
3 Commissioner?

4 MR. BENOPE: What I would say is  
5 that unfortunately I have a lot of experience with  
6 picking up litter, going back to my earliest days  
7 in the Parks Department picking up litter. And  
8 that litter comes in many forms. Some of it is  
9 really disgusting and some of it is really  
10 dangerous. The overall volume is less of an issue  
11 than what's there. If you're a parent going to a  
12 playground or a beach, your experience will be  
13 dictated not by what the volume of litter is but  
14 is my kid going to encounter a piece of broken  
15 glass. Now that piece of broken glass may be even  
16 smaller than a cigarette butt but that's...

17 COUNCIL MEMBER HALLORAN: More  
18 dangerous.

19 MR. BENOPE: ...a dangerous form of  
20 litter. All kinds of litter have their drawbacks.  
21 Again, I think you're seizing on rather the less  
22 consequential issue here which is not the public  
23 health issue. The litter is an important issue  
24 but the most important issue is the public health  
25 issue. Would the parks be a lot better off

1  
2 without a lot of cigarette butts in them? There's  
3 no doubt they would be.

4 COUNCIL MEMBER HALLORAN: I'm sure  
5 the parks would be a lot better off without any  
6 broken glass. They would probably be better off  
7 without any animal waste. I don't disagree with  
8 it. What I asked you, though, was whether we have  
9 any nifty charts talking about the public health  
10 benefits rather than the number of items, which  
11 were cigarettes which were found which doesn't  
12 belie the volume of the litter that's being picked  
13 up. But rather simply looks to inflate and make  
14 it appear as though there is this huge amount,  
15 volume amount, of cigarette butts on the beach.  
16 Which when compared to the other forms of litter,  
17 by volume, is insignificant.

18 But those are all Parks issues.  
19 I'll turn over to our Health Commissioner.  
20 Commissioner, Council Member Jackson asked you a  
21 question about whether or not you saw any parallel  
22 between the consumption of alcohol and  
23 prohibitions related to it and continuous  
24 prohibitions towards smoking in public places.

25 Has the city actually engaged in

1  
2 any scientific analysis of the effects of second  
3 hand smoke in New York City on New York City  
4 public streets, which obviously we're one of the  
5 most traveled commercially by truck and vehicle  
6 traffic, with some of the oldest buildings still  
7 utilizing older forms of heating and cooling  
8 systems. Have we undertaken a study in New York  
9 City to study the impact of second hand smoke  
10 versus other carcinogens in the New York City area  
11 on the New York City streets?

12 DR. FARLEY: We haven't. The  
13 health effects of second hand smoke, though, are  
14 going to be the health effects wherever they are;  
15 they're the same toxins.

16 COUNCIL MEMBER HALLORAN:  
17 Commissioner, you would agree with me that the  
18 reason that scientific studies are done in  
19 particular areas is to gauge what the ambient  
20 toxicity is versus the specific toxin that you're  
21 looking to study, would you agree with me there?

22 DR. FARLEY: There are different  
23 questions you can answer with different studies.  
24 If the question is second hand smoke bad for your  
25 health, the answer is absolutely.

1

COUNCIL MEMBER HALLORAN: Agreed.

2

3

DR. FARLEY: We have good evidence

4

for that. If the question is do we have more

5

second hand smoke exposure, do we have higher

6

concentrations of potentially harmful particles in

7

the air from second hand smoke than from

8

automobile exhaust. I just gave an example here

9

earlier where we took measurements by the Holland

10

Tunnel and we took measurements within a few feet

11

of a smoker and they were much higher within a few

12

feet of the smoker; that's consistent with

13

national data.

14

So that people near a smoker are

15

going to be exposed to levels of fine particle

16

pollution that are higher than they look at in the

17

regular ambient air, even in New York City.

18

COUNCIL MEMBER HALLORAN: But

19

Commissioner, you're a scientist as well, you

20

would agree with me, you're a medical doctor. You

21

would agree with me that there are two components

22

to exposure, right? One is duration and one is

23

concentration and they are separate measurable and

24

quantifiable issues, correct?

25

DR. FARLEY: I would agree with

1

2

that.

3

COUNCIL MEMBER HALLORAN: Okay.

4

And you would agree with me that you could have a

5

slightly higher exposure of a toxin for a shorter

6

period of time that does less damage than a longer

7

period of exposure to a less toxic substance and

8

create more damage. You'd agree with me?

9

DR. FARLEY: That's possible, yes.

10

COUNCIL MEMBER HALLORAN: Okay. So

11

the studies that you did conclude, I believe, said

12

that the dissipation rate for smokers when they're

13

either someone moves away from the proximity or

14

the smoke is extinguished is almost instantaneous

15

in dissipation in the case of a smoker. Is that

16

the case with auto exhaust?

17

DR. FARLEY: I don't know about the

18

smoke being almost instantaneous. It depends on

19

how the wind is blowing.

20

COUNCIL MEMBER HALLORAN: Sure.

21

DR. FARLEY: If you're getting at

22

the question is air pollution in New York City,

23

aside from smoking, a health problem, the answer

24

is yes. The Health Department with other city

25

agencies is trying to work on that. That doesn't



1  
2 mean that we should not at the same time work on  
3 exposure to second hand smoke.

4 COUNCIL MEMBER HALLORAN: Okay.

5 No, I understand that. I'm just trying to get at  
6 the science behind what you're doing. I think  
7 I've pointed out quite well that we talked about  
8 the litter component of this and that that is not  
9 actually--you can talk about individual pieces and  
10 count them up and reach a very large number. But  
11 in terms of volume, it's actually very small. So  
12 I'm trying to do the same thing in terms of  
13 looking at the data that you're working with.

14 So you would agree with me by  
15 analogy that banning cars in New York City would  
16 be in the public's interest because the second  
17 hand toxins created by exhaust fumes are an  
18 equally great health threat, especially if the  
19 duration is longer. Would you agree with me  
20 there?

21 DR. FARLEY: Reducing the number of  
22 cars that are producing air pollution in New York  
23 City is something that would be good for health.  
24 This administration...

25 COUNCIL MEMBER HALLORAN: Has done

1

2 that.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DR. FARLEY: ...has worked hard to try to reduce that. Again, that is a separate issue from what I think the topic is today and that is, should we prohibit smoking in parks to protect people from second hand smoke there.

COUNCIL MEMBER HALLORAN:

Commissioner--

CHAIRPERSON ARROYO: [interposing]

Council Member.

COUNCIL MEMBER HALLORAN: Yes.

CHAIRPERSON ARROYO: You were not here when we started the hearing. We have many people signed up to testify, if you could conclude your questioning.

COUNCIL MEMBER HALLORAN: I appreciate that. Thank you Madam Chair for the time. Just two more questions. Commissioner, at what point is it enough? I'm asking that as the Libertarian Republican in the room. At what point do we stop telling our citizens how much sugar to consumer, how much salt they're allowed, how many drinks a day they can have? At what point do you feel that individual liberty is sufficient to say,

1  
2 well, you know what, the government maybe  
3 shouldn't regulate?

4           Because isn't it a fact that we now  
5 in jurisdictions ban smoking in a car when a child  
6 is present. Is your next step smoking in a house  
7 where a child is present is illegal as well?

8 'Cause that sounds like the slippery slope that  
9 you're heading on because when this first smoking  
10 ban was introduced back in '95 we were told no,  
11 it's never going to get to the point where we're  
12 banning it on the public streets.

13           Well, guess what? Here we are,  
14 it's 2010 and guess what we're doing? We're  
15 starting to ban it on the public streets. I'm not  
16 a smoker. I have no interest in smoking. I think  
17 it's a horrible habit. I don't even smoke a cigar  
18 so you're not talking to somebody who has any  
19 vested interest in continuing to poison himself.  
20 But I think the news is out there, if they don't  
21 know that it's dangerous now, I don't think  
22 they're ever going to get it so that's not the  
23 question is.

24           The question is when is enough  
25 enough. You're the Health Commissioner, you tell

1  
2 me what the line in the sand is, interesting  
3 analogy, what the line in the sand is between the  
4 government telling us what to do with our bodies.  
5 Oh, wait a minute. We're not allowed to do that.  
6 Oh, that's only with abortion. What the line in  
7 the sand is for us to say we're not going to  
8 intrude. Are we going to be back here in five  
9 years talking about a ban on smoking in households  
10 that have children in them?

11 DR. FARLEY: First of all, let me  
12 congratulate you for not being a smoker. I think  
13 that's a smart decision.

14 COUNCIL MEMBER HALLORAN: It made  
15 my brain cells work better I think.

16 DR. FARLEY: Second of all let me  
17 say that the question here is parks that are  
18 common resources, set aside by the government,  
19 paid for by taxpayers' dollars. Are these places  
20 that we should be supporting smoking that has  
21 health implications as we mentioned with second  
22 hand smoke exposure. We have a variety of rules  
23 of what you can not do in a park, which do not  
24 apply to other places. Such as you can't bring a  
25 glass bottle on a beach for very good reason

1  
2 because we don't want the broken glass for kids to  
3 cut their feet on.

4 I come down very strongly as the  
5 Health Commissioner that parks should be places  
6 where we have clean, fresh air that people can  
7 enjoy without harming their health.

8 COUNCIL MEMBER HALLORAN: But okay  
9 Commissioner, can you just answer the other part  
10 of my question which is A, will I see you in five  
11 years or your predecessor or possibly Mayor  
12 Bloomberg's fifth term, will I see a bill in front  
13 of this body? 'Cause I make sure I get re-elected  
14 just to come back and fight it. Banning smoking  
15 now in households because we've done that with  
16 cars. If you have a child in the car you can't  
17 smoke in the car because now you're endangering  
18 that child, regardless of whether the Supreme  
19 Court says you have the right to raise the child  
20 how you want, blah, blah, blah. Are we going to  
21 see that? Is that the next extension here,  
22 commissioner?

23 CHAIRPERSON ARROYO: Council  
24 Member.

25 COUNCIL MEMBER HALLORAN: Yeah.

1

2 I'm sorry, Madam Chair.

3 CHAIRPERSON ARROYO: Okay.

4 COUNCIL MEMBER HALLORAN: Can I  
5 just have him answer that one question? Are we  
6 going to see a further evolution of this beyond  
7 parks? Are we going to see you next advocating  
8 and being a prohibition almost status with this in  
9 other places? Or are you telling these people,  
10 this is it, we're not going any further. It's not  
11 going to come to the sidewalks, it's not going to  
12 come to your house. Are you willing to say that  
13 right now?

14 DR. FARLEY: You're asking very  
15 vague hypothetical questions. The discussion  
16 really today is about should we allow smoking in  
17 parks. And we think that people should be able to  
18 enjoy their parks without being exposed to second  
19 hand smoke.

20 COUNCIL MEMBER HALLORAN: Madam  
21 Chair, I will turn the mic back over to you but I  
22 would sincerely appreciate a real answer. This is  
23 a legislative body, we get to ask the questions  
24 before we submit legislation. We get to know what  
25 the policy and public policy implications are of

1  
2 any piece of legislation we pass. So I'm asking  
3 the health commissioner who is the person who, in  
4 a sense, is in the back on this issue whether or  
5 not he's going to come forward again with a  
6 further and more restrictive set of laws that he's  
7 going to request.

8 I think I'm entitled to that  
9 answer, Madam Chair and I'd like him to either say  
10 yes or no to these people, to the citizens of the  
11 City of New York, are we looking at this being  
12 another step forward or not. Are we going to see  
13 a further expansion of this on to the sidewalks?  
14 Are we going to see a further expansion of this  
15 down the road? I think that's a legitimate  
16 question and it has policy implications directly  
17 to this bill.

18 CHAIRPERSON ARROYO: Commissioner?

19 DR. FARLEY: Again, what you're  
20 saying is a very vague, open ended question, will  
21 you be doing anything in the future and I can't  
22 say what we'll be doing in the future. I can say  
23 that I feel very strongly that we should have  
24 smoke free parks and beaches.

25 CHAIRPERSON ARROYO: We can

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

continue this debate...

COUNCIL MEMBER HALLORAN: Thank you, Madam Chair.

CHAIRPERSON ARROYO: ...for a lot longer but we're going to put an end to it right now. I have one question on the--One of the questions around enforcement that I don't think came up was the fines. Who's going to issue? What is the fine going to be on this fine issue if we pass this law?

MR. BENOPE: That hasn't been defined yet but if it's similar to the other ECB violations it's around \$50 probably. And whoever the issuing agency would be among the number of agencies who could issue.

CHAIRPERSON ARROYO: Now the current fines for smoking in areas prohibited by the Smoke Free Air Act is \$100. Why not be consistent with that? I'm not suggesting.

MR. BENOPE: I think to be decided but that's the level of some of our other lower level offenses in the parks. I think this could all be worked out.

CHAIRPERSON ARROYO: Okay. Thank



1  
2 you both for your testimony. I don't think there  
3 are any other members who have questions. I'm  
4 sure that there are many more that we can ask but  
5 in the deference of time, we want to get to the  
6 public testimony because that is equally as  
7 important in this process as you providing the  
8 information that you have. So thank you both very  
9 much and we look forward to continuing to work to  
10 save and beautify our parks and to influence  
11 public health in our city. Thank you both.

12 DR. FARLEY: Thank you.

13 MR. BENOPE: Thank you.

14 CHAIRPERSON ARROYO: Okay. I'm  
15 going to call the next panel and we're going to do  
16 this in the order of panels in favor and panels  
17 opposed. The first panel in favor will be four  
18 people. I have a clock somewhere, right, that  
19 we're going to run. That the handsome guy with  
20 the camera is covering over there. Excuse me,  
21 sir. Three minutes, okay. Yeah, that helps.  
22 Thank you.

23 Dr. Maureen Kilicki, American  
24 Cancer Society and I will probably butcher some  
25 names so please forgive me in advance, Dr. William

1  
2 Borden, American Heart Association, Michael  
3 Sielback, American lung Association and I think  
4 it's Sheila Feinberg from the New York City  
5 Coalition for a Smoke Free City. I'm going to ask  
6 you please, please, please don't read your  
7 testimony verbatim. If you can speak from your  
8 experience that certainly is a lot more helpful  
9 for us and it will allow us to stay to the three  
10 minute time that we're trying to observe and  
11 respect for those that are waiting that will have  
12 to wait a long time to testify as well. So I  
13 think you guys have done this before. Choose and-  
14 -sure.

15 COUNCIL MEMBER VALLONE: Madam  
16 Chair, thank you for this hearing. I know you're  
17 going to have at least one more. I,  
18 unfortunately, have to leave. I'd like to say I  
19 have to get back to my district but my daughter  
20 has a championship volleyball game so I need to  
21 get to that. I will take copies of all the  
22 testimony when they're submitted and make sure I  
23 read them. Continually work with you as we move  
24 forward on this.

25 CHAIRPERSON ARROYO: Thank you,

1  
2 Council Member Vallone. Okay, choose who goes  
3 first. Identify yourself for the record. We'll  
4 hear from all of you and then we'll go into the  
5 question and answer part. Okay.

6 DR. MAUREEN KILICKI: Good  
7 afternoon, legislators. Sorry I missed Dr. Farley  
8 there. Thank you for this opportunity to speak  
9 about Intro 332. My name is Maureen Kilicki. I'm  
10 a physician. I'm representing the American Cancer  
11 Society today. I'm the Chief Medical Officer of  
12 the American Cancer Society for the states of New  
13 York and New Jersey. I also am a cancer  
14 physician. I'm an oncologist. I've been a cancer  
15 physician for 30 years. I am Deputy Physician and  
16 Chief at Memorial Sloan Kettering Cancer Institute  
17 and I'm the Medical Director of the Regional Care  
18 Network at Memorial. I'm also a New Yorker and  
19 I've been a New Yorker, a proud New Yorker for  
20 over 40 years.

21 You've heard a lot of the testimony  
22 from Dr. Farley already. He's given a lot of the  
23 facts and the evidence about it. Let me just say  
24 very straight out, and there is also my full  
25 printed testimony available so in the interest of

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

time.

The American Cancer Society is committed to reducing the devastating burden of cancer in our community. You've heard about tobacco use, exposure to second hand smoke and the devastations and the damage it does to all of us and especially New Yorkers. The Smoke Free Outdoors Act will help reduce tobacco use in this city to historic lows.

It should be noted and I get the privilege of going to national meetings all the time, New York State and New York City is highly regarded as really leading the vanguard in tobacco cessation and tobacco preventive use. I think we have this opportunity now to continue to lead the vanguard. New York is recognized as a leader in cancer control and prevention, sets the gold standard and is the envy of other states and other municipalities. This is not our opportunity to continue moving forward in doing this.

You've heard the facts and the figures about the deaths from smoking and tobacco related cancers. Again, I will speak specifically about cancer since that's what I know. More than

1  
2 3,400 people die who are non-smokers from cancers  
3 related to second hand smoke.

4           Again, in the interest of time, you  
5 have my full testimony but I do want to say that  
6 on behalf of the American Cancer Society, we do  
7 know that there is a majority of New York City is  
8 non-smokers. Being exposed to second hand smoke,  
9 we heard about this horrific figure, 57% high  
10 cotinine levels compared to 45% in other  
11 municipalities. So laws that prohibit smoking in  
12 public places and create smoke free environments  
13 are the most effective approach to prevent this  
14 exposure to harmful tobacco products.

15           We've talked about the litter  
16 issues. The other key issue here is the benefit  
17 it's going to have on our children not being  
18 exposed to second hand smoke, not being exposed to  
19 adults to do such in public places and seeing that  
20 it's just not allowed.

21           Again, on behalf of the ACS, the  
22 laws that create smoke free public access, smoke  
23 free areas are the most effective approach to  
24 reduce the harms of second hand smoke so thank you  
25 very much.

1  
2 DR. WILLIAM BORDEN: Hi, good  
3 afternoon and thank you for having us. I'm just  
4 going to mention that we're submitting testimony  
5 of a mother, concerned mother who is a resident of  
6 New York City, which we've done separately.

7 So good afternoon Chairperson  
8 Arroyo, Chairperson Mark-Viverito and members of  
9 the City Council, my name is Dr. William Borden  
10 and I am the spokesperson of the American Heart  
11 Association, American Stroke Association. We are  
12 the largest organization in the world dedicated to  
13 building of healthier lives, free from heart  
14 attack and stroke, which are the number one and  
15 number three causes of death nationally.

16 I have prepared remarks, which all  
17 of you have so I'm going to stray from the  
18 remarks. A lot of the statistics that we quote  
19 are some of the same ones that the commissioners  
20 mentioned earlier, which I think paint a very  
21 vibrant picture of how this proposal would help  
22 the residents of New York City.

23 I'm just going to tell you about  
24 the experiences that I have as a cardiologist.  
25 I'm a perena [phonetic] cardiologist and a lot of

1  
2 the patients that I see are young people who have  
3 heart disease. They come to me for specific care,  
4 for why they had heart disease at a young age.

5 Many of these people who are in their 40s and 50s,  
6 but sometimes in their 30s, who have heart disease  
7 are smokers.

8 The smoking did not begin in their  
9 30s and 40s, the plaque of coronary arteries  
10 builds up over many, many years. Anything that we  
11 can do to help them to quit smoking or more  
12 importantly to prevent them from ever starting  
13 smoking I think is critical. When I talk to my  
14 patients, many of them say to me doctor I'd really  
15 like to quit smoking, how can I do that.

16 I certainly refer them to the  
17 resources that New York City and New York State  
18 has and they find those helpful. But often this  
19 is a habit, this is a routine. It's easy for them  
20 if they were to go to a park or beach to light up  
21 a cigarette 'cause that's what they've always  
22 done. If we put situations where they're not able  
23 to light up as easily, they're less likely to  
24 light up their cigarettes, they're less likely to  
25 smoke. It makes it easier for these citizens to

1

2

quit smoking.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I think that the most important part really has to do with the children and preventing the starting of smoking. As Commissioner Farley said, no one is born a smoker. They learn how to smoke and they learn how to smoke by watching adults. So if we minimize the time and areas where they're playing, doing healthy activities like exercise, exposure to cigarette smokers, they are going to be less likely to pick up the habit themselves.

So I thank you for considering this introduction and I look forward to seeing it passed and successfully implemented. Thank you.

MICHAEL SIELBACK: Good afternoon. My name is Michael Sielback, Vice President for Public Policy and Communications for the American Lung Association in New York.

I'd like to begin by just putting it out there and voicing our strong support for Intro 332, which would make New York City's parks, beaches and pedestrian plazas smoke free. The fact is that tobacco remains one of New York's leading public health issues. Despite our



1  
2 successes, tobacco still is responsible for  
3 killing more New Yorkers every year than AIDS,  
4 drugs, homicide and suicide combined.

5 We believe that decision makers  
6 must now turn their attention to preventing New  
7 Yorkers from being exposed to second hand smoke.  
8 We know that second hand smoke kills. In fact,  
9 second hand smoke is responsible for 54,000 deaths  
10 each year in the U.S. You heard about the Surgeon  
11 General report, you heard of the EPA has declared  
12 this a Class A carcinogen. We know that second  
13 hand smoke is responsible for 3,000 lung cancer  
14 deaths a year in no-smokers.

15 Second hand smoke is scientifically  
16 linked to contributing to and causing dozens of  
17 diseases and illnesses, including asthma, heart  
18 disease, respiratory track infections and ear  
19 infections. It worsens asthma conditions and have  
20 even been linked to a significant cause of early  
21 childhood asthma. Not to mention that it causes  
22 thousands of cases of bronchitis and pneumonia in  
23 children aged 18 months and under.

24 Research has shown, as you've  
25 heard, that outdoor second hand smoke exposure

1  
2 could be as dangerous as indoor smoke exposure.  
3 We strongly support the right of all New Yorkers  
4 to breathe healthy air in public spaces such as  
5 parks and beaches. People shouldn't have to  
6 choose between enjoying public places and  
7 breathing healthy air. These are places where  
8 children and congregate. Second hand smoke  
9 exposure should be limited.

10           Instituting smoke free parks and  
11 beaches is an especially important issue for  
12 children's health. Children breathe in 50% more  
13 air than adults do per pound of body weight so we  
14 know that when they're being exposed to pollutants  
15 like second hand smoke it's actually affecting  
16 their lungs even greater.

17           For an individual with asthma, just  
18 walking through a cloud of second hand tobacco  
19 smoke is enough to trigger an asthma attack. Laws  
20 such as this which limit exposure are important  
21 health initiatives which could reduce hospital  
22 visits.

23           As we've also heard, you heard  
24 about the fact that it's going to reduce a litter  
25 issue which is obviously a positive for greening

1  
2 our parks and making it a place where people are  
3 going to congregate. Frankly, New York City is  
4 not the first metropolitan area to consider this.  
5 Over 200 municipalities across the state have  
6 limited smoking in outdoor places in one form or  
7 another.

8 And lastly, this is an issue of  
9 public supports. Beyond the diverse coalition of  
10 groups, almost 50 have signed on to a memo  
11 supporting Intro 332. But 65% of New York City  
12 residents report measures like this so this is  
13 something that makes sense for your constituents.

14 We believe that our parks, beaches  
15 and pedestrian plazas should be 100% smoke free.  
16 Through our prior tobacco control efforts, we've  
17 learned time and time again that smoking sections  
18 do not work and do not protect public health.  
19 With all due respect to the sponsor, the City  
20 Council shouldn't be making compromises to public  
21 health so please support Intro 332 and I'm here to  
22 answer any questions you have. Thanks.

23 SHIELA FEINBERG: Good afternoon.  
24 My name is Sheila Feinberg and I'm the Director of  
25 the New York City Coalition for a Smoke Free City.

1  
2 The Coalition for the past ten years and counting  
3 has been dedicated to raising public and policy  
4 maker awareness of the harmful impacts of smoking  
5 and second hand smoke. This afternoon I want to  
6 thank Council Member Brewer for introducing  
7 legislation 332 and the 12 Council Members who are  
8 already on board as current co-sponsors.

9 I am pleased to provide testimony  
10 in support of Intro 332, which would complete a  
11 ban on smoking in all New York City's public  
12 parks, pedestrian plazas and beaches. I just want  
13 to state really quickly, the Coalition does not,  
14 will not support policy that allows smoking in  
15 some parts of parks and beaches. Therefore, I'm  
16 only here to speak in support of 332.

17 I don't want to repeat what you've  
18 already heard from the commissioners both Farley  
19 and Benope so let me just start my brief testimony  
20 with some facts. New York youth will smoke 35.5  
21 million packs of cigarettes this year and over  
22 20,000 New York kids will become addicted, daily  
23 smokers. One-third of them will die prematurely  
24 from tobacco related illnesses.

25 Furthermore, several studies have

1  
2 found that parental smoking, especially more  
3 exposure to parental smoking, increases the  
4 likelihood of adolescent smoking in their  
5 children. This policy would help address this by  
6 not allowing smoking in parks or ball fields where  
7 many kids enjoy playing sports.

8           When New York City passed the Smoke  
9 Free Air Act we were considered public health  
10 pioneer. I think everyone in this room is proud  
11 of that. And contrary to the many skeptics at the  
12 time, restaurants and bars have not closed.  
13 Instead the nightlife and tourism industry have  
14 flourished. I think the same is true for parks.  
15 Parks will be in even higher demand and higher use  
16 once we have smoke free parks, beaches and ball  
17 fields and pedestrian plazas.

18           New York City now has the  
19 opportunity to follow the lead of 44 other  
20 counties in New York state that have already  
21 adopted smoke free policies for parks and/or  
22 beaches. Nationally, big cities such as Chicago,  
23 Los Angeles and Seattle, have also made their  
24 public parks smoke free because they too are  
25 recognizing the positive health and environmental

1  
2 impacts of this sound, good public policy to make  
3 smoke free parks and beaches.

4 Closer to home, the Coalition is  
5 currently working in each borough, meeting with  
6 elected officials, community boards and community  
7 based organizations to build support for both  
8 Intro 332 and any good policy that promotes the  
9 health of New Yorkers. I'll close there.

10 CHAIRPERSON ARROYO: Thank you.  
11 Only two of you spoke on the other intro, Council  
12 Member Vallone's bill. I didn't hear an opinion  
13 from the two of you on that bill. Very quickly,  
14 do you support it?

15 DR. KILICKI: The ACS does not  
16 support that bill, only Intro 332.

17 DR. BORDEN: The American Heart  
18 Association also does not support the bill to  
19 section out smoking areas and only supports Intro  
20 332.

21 CHAIRPERSON ARROYO: Okay. Council  
22 Member Jackson.

23 COUNCIL MEMBER JACKSON: Thank you,  
24 Madam Chair. Good afternoon.

25 CHAIRPERSON ARROYO: Be mindful of

1

2 the time, please.

3 COUNCIL MEMBER JACKSON: Say that  
4 again.

5 CHAIRPERSON ARROYO: Mindful of the  
6 time, please.

7 COUNCIL MEMBER JACKSON: Sure.  
8 Good afternoon. Thank you for coming in and  
9 giving testimony. I appreciate your testimony. I  
10 guess a question that I had and Dr. Farley had  
11 mentioned in his testimony that there's certain  
12 cities and municipalities that made certain  
13 beaches or parks where people could smoke and I  
14 guess banned others. So for example if New York  
15 had ten beaches and they made two beaches where  
16 people that wanted to smoke could smoke and the  
17 other eight would be no smoking whatsoever, would  
18 any of you go along with that? If you were here  
19 when I testified, I'm saying that government is  
20 now becoming too restrictive on the people's right  
21 to do what they want to do. So if I wanted to  
22 drink alcohol all day long, I should be able to do  
23 that, which I can. But so my answer is would you  
24 support if the legislation was amended to say out  
25 of ten beaches, let's say, two would be for

1  
2 smokers and eight would be totally for non-  
3 smokers. That's what my question is for you guys  
4 representing your agency.

5 MR. SIELBACK: Council Member, I'd  
6 like to--

7 COUNCIL MEMBER JACKSON:  
8 [interposing] Just identify yourself, if you don't  
9 mind.

10 MR. SIELBACK: My name is Mike  
11 Sielback with the Lung Association. I would say  
12 to your first point, I differ actually on what the  
13 Commissioner was saying. I believe you were  
14 saying that various municipalities have taken the  
15 steps to either banning smoking in parks or in  
16 beaches. I don't think he was--but I could be  
17 mistaken. I think he made it abundantly clear  
18 that he does not and we do not support creating  
19 separate beaches that would be smoke free.

20 I think you heard the Parks  
21 Commissioner specifically say why should we be  
22 making, for example, Coney Island Beach the beach  
23 where you're allowed to smoke. All those  
24 residents should be able to be in areas that are  
25 smoke free.



1

COUNCIL MEMBER JACKSON: I

2

understand.

3

MR. SIELBACK: To your second--

4

COUNCIL MEMBER JACKSON:

5

[interposing] I'm saying, would your agency or who you're representing would they support that, what I just said to you? If there were ten beaches or ten parks, naming two that where smokers would be able to go. It's either a yes or no answer.

6

7

MR. SIELBACK: No.

8

COUNCIL MEMBER JACKSON: You don't

9

have to reiterate what your position is, I already know what your position is. Would you'll support that, yes or no?

10

11

MR. SIELBACK: No.

12

MS. FEINBERG: No.

13

COUNCIL MEMBER JACKSON: What about

14

you? Dr., you said no. Who are you, please? Identify.

15

16

MS. FEINBERG: Sheila Feinberg.

17

COUNCIL MEMBER JACKSON: From what

18

agency or department.

19

MS. FEINBERG: New York City

20

Coalition for a smoke free city.

21

22

23

24

25

1  
2 COUNCIL MEMBER JACKSON: Okay and  
3 doctor, just identify yourself, please.

4 DR. BORDEN: Dr. William Borden  
5 with the American Heart Association, we would not  
6 support that policy.

7 COUNCIL MEMBER JACKSON: And  
8 doctor?

9 DR. KILICKI: Maureen Kilicki from  
10 the American Cancer Society, we would not support  
11 that.

12 COUNCIL MEMBER JACKSON: And would  
13 you support smoking altogether, totally ban it  
14 totally in New York City altogether, would you  
15 support that or you disagree with that? I'm just  
16 asking as far as people's right to smoking and  
17 tobacco is legal, would you ban it totally in New  
18 York City, your agencies or your organizations you  
19 represent. So people could not smoke in their  
20 homes, on the sidewalk, anywhere. What's your  
21 position on that? Please, identify yourself.

22 DR. KILICKI: Again, Kilicki from  
23 the American Cancer Society, to the best of my  
24 knowledge the ACS has not made a statement on that  
25 but that's a person's right to smoke in the

1

2 privacy of their home.

3 COUNCIL MEMBER JACKSON: Anybody  
4 else?

5 DR. BORDEN: Likewise. William  
6 Borden from the American Heart Association, I'm  
7 not aware that the American Heart Association has  
8 any policy on that and I believe as it stands now  
9 that everyone has a right to smoke in their home  
10 and should be continued that way.

11 COUNCIL MEMBER JACKSON: And on the  
12 streets too, right?

13 DR. BORDEN: And on the streets and  
14 sidewalks as Intro 322 is being proposed.

15 COUNCIL MEMBER JACKSON: Anybody  
16 else?

17 MR. SIELBACK: The Lung Association  
18 is not supporting any legislation to ban smoking  
19 in New York City. I would say, though, because  
20 you raised the point about drinking alcohol. The  
21 moment that you drinking alcohol is having an  
22 effect on the greater public we would look to do  
23 something about that. Frankly, you can not get  
24 into a car because the effect that you would have  
25 on other people and yourself. I actually would

1

2 just disagree with the position you made.

3

4

5

6

7

8

9

10

COUNCIL MEMBER JACKSON: Really, you would? That alcohol related deaths and domestic violence and all of that has a huge negative impact and that people are dying, being killed and partners are being beat up as a result of alcoholism. Should we ban alcohol in New York City? Do any of you doctors have an opinion on that?

11

12

13

14

DR. BORDEN: I would just say that we support efforts that are going to limit exposure to second hand smoke and that's why we support this.

15

16

COUNCIL MEMBER JACKSON: Okay, thank you. Anyone else?

17

18

MS. FEINBERG: The Coalition would not--we're just here to speak in support of 332.

19

20

COUNCIL MEMBER JACKSON: Thank you very much. Thank you, Madam Chair.

21

22

23

24

25

CHAIRPERSON ARROYO: Thank you, Council Member Jackson. Thank you all. I don't think there are any more questions. I'd like to call the next panel in opposition. We want to hear from I think it's Glenn Loop, did I say that

1  
2 right, Cigar Rights of America, Ron Malendi, New  
3 York Tobacconess Association and Joe Row, I think  
4 it's I-P-C-P-R, I'm not sure what that stands for  
5 but hopefully you'll clarify that when you come  
6 up. If we can limit the noise as we're exiting  
7 the room that would be very helpful, so that we  
8 can get the panel started.

9 [Pause]

10 Okay, you can go in whatever order  
11 you choose. Identify yourself for the record.  
12 We'll hear from the three of you before we can  
13 engage in the question and answer session. Begin.

14 RON MALENDI: Is this on? Okay.

15 CHAIRPERSON ARROYO: If the light  
16 is off, the mic is on. It's kind of retarded but  
17 yeah, that's the way it works.

18 MR. MALENDI: Testing, okay. My  
19 name is Ron Malendi. I'm a Certified Master of  
20 Tobacconess President of the New York Tobacconess  
21 Association and General Manager of Dela Concha, a  
22 professional Tobacconess in Midtown Manhattan.  
23 And I come before you today to educate and explain  
24 why the proposed ban to eliminate smoking in the  
25 parks and beaches, as well as the pedestrian

1  
2 plazas, is flawed and will not accomplish your  
3 goals.

4 First of all the bill is based on  
5 junk science. There is no conclusive scientific  
6 evidence that second hand smoke in wide open  
7 spaces presents any health hazard. As a matter of  
8 fact, the amount of toxic chemicals in the air is  
9 mainly from car and truck exhaust. According to  
10 the book, "Air and Breathing" by Dr. Steven  
11 Jaslion, MD, driving a car is the most air  
12 polluting act an average citizen commits. Not  
13 only are there local effects such as poisoning  
14 humans, breathing the bad air but this air  
15 contains the following pathogens from toxic car  
16 and truck exhaust: carbon monoxide, nitrogen  
17 dioxide, sulfur dioxide, suspended particles less  
18 than ten microns which are inhaled into the lungs,  
19 benzene, that's one of the components that Dr.  
20 Farley mentioned, formaldehyde and hydrocarbons.

21 Let me also remind the committee  
22 that on any given day there are tens of thousands,  
23 if not hundreds of thousands of cars and  
24 automobiles on our streets, which is far greater  
25 than the number of smokers. If health is really

1

2 the issue then you would have no choice but to ban  
3 trucks and cars inside the city and we all know  
4 that that is not going to happen.

5

6 Two, why would the city want to  
7 move a smoker from the wide open space of a park  
8 and bring them back into the city streets where  
9 it's more congested. This is nothing more than a  
10 planned agenda, a litmus test to eventually ban  
11 smoking on the sidewalks because of increased  
12 smoking on the sidewalks of our city streets.

12

13 The park or open space is so large  
14 that why would a non-smoker even need to come  
15 anywhere near a smoker. This is common sense.  
16 I've included some pictures of Central Park, wide  
17 open spaces, very little people if any walking  
18 around and the traffic jams in our city as well as  
19 people crowding on the streets of New York.

19

20 There has also been the talk about  
21 the littering on the beaches but again, that's a  
22 litter problem and there's laws against that. If  
23 you throw anything on the ground you should get  
24 fine - period.

24

25 Enforcement issue, who's going to  
enforce this law and do we really want our

1  
2 officers of the law distracting and issuing  
3 summonses when there could be other more serious  
4 crimes taking place, including terrorism.

5           As you can see, this has nothing to  
6 do with health and everything to do with the fact  
7 that you don't want to see anyone smoking out in  
8 public. Laws that are based on emotion are laws  
9 that not only fail outright but these laws  
10 represent the government that does not serve its  
11 people but rather its own agenda.

12           This harassment, persecution and  
13 discrimination to our businesses and rights has to  
14 stop. Enough is enough. I find it downright  
15 despicable that our own New York City government  
16 has nothing better to do than come up with laws  
17 that are really disguised as prohibition through  
18 increments. We need to get New York working  
19 again. The city should be finding its way to put  
20 people back to work and not pass laws which take  
21 our basic rights away. Thank you.

22           CHAIRPERSON ARROYO: Thank you for  
23 adhering to the time signal. I'm sure you have a  
24 lot more to say.

25           JOE ROW: Thank you. Madam Chairs,



1  
2 committee people, you asked what IPCPR is. My  
3 name is Joe Row, I'm the Executive Director of the  
4 International Premium Cigar and Pipe Retailers  
5 Association. We go by IPCPR. We're in our 78th  
6 year of continuous operation as a not for profit  
7 trade association incorporated in the state of New  
8 York and represent premium professional  
9 tobacconess in New York and around the world.

10 I'm not here to tell you smoking is  
11 good for you. Heck, you'd laugh me out of the  
12 room. I am here to talk about the issue of second  
13 hand smoke. There's an awful lot we don't know  
14 about this issue. I've included three enclosures  
15 with my testimony, a paper by the noted  
16 pulmonologist, Dr. Jerome Arnett, Jr., title "The  
17 Emperor Has no Clothes: The Truth About Second  
18 Hand Smoke". The 27 page executive summary of the  
19 2006 Surgeon General's report, the health  
20 consequences of involuntary exposure to tobacco  
21 smoke with a cover analysis from my legislation  
22 director.

23 Please note, this is the full  
24 executive summary. We did not pick and choose  
25 that which we may like in it but you have all 27

1  
2 pages verbatim. I think I saved your backs on a  
3 lot of trees by not bringing the full 707 page  
4 report.

5 In Dr. Arnett's paper, he speaks to  
6 the fact that exposure to second hand smoke is an  
7 unpleasant experience for many non-smokers and for  
8 decades was considered merely a nuisance. The  
9 idea that it might actually cause disease in non-  
10 smokers has been around since the 70s. The recent  
11 survey shows that more than 80% of Americans now  
12 believe it is harmful to non-smokers but what are  
13 the facts.

14 The 1972 Surgeon General report  
15 first addressed passive smoking as a possible  
16 threat to non-smokers. The problem was addressed  
17 again in '79, '82 and '84. In '86 in the report  
18 there were charges that second hand smoke could  
19 cause cancer. I'm watching that clock, trying to  
20 go fast.

21 After that, the EPA was charged  
22 with checking into the facts of the '86 Surgeon  
23 General report. They produced a report three  
24 years later in 1992 basically scathing second hand  
25 smoke. This paper was eventually thrown out,

1  
2 overturned by a federal judge, William Olsteen.  
3 And a 92-page opinion stated a culture of  
4 arrogance, deception and cover up at the Agency--

5 At any rate folks, read the  
6 testimony. What you find is this is not such a  
7 clear cut issue. There are many professional  
8 experts who disagree with what the effects of  
9 second hand smoke are. I also have an economic  
10 study in there to talk about the issue as well.  
11 Our members economically deliver \$2.3 million to  
12 this city in sales tax, not counting business tax  
13 and personal tax. Thank you. I'm here for any  
14 questions.

15 CHAIRPERSON ARROYO: Thank you.

16 GLENN LOOP: I'm Glenn Loop, I'm  
17 the Executive Director of Cigar Rights of America.  
18 New York City and New York State ranks among our  
19 highest basis of membership in the country. We  
20 submit that this proposal is based more upon  
21 political hype and public relations zeal than upon  
22 scientific evidence and a true concern for public  
23 health. It's a brand of flavor of the month  
24 politics that seeks to divert attention from the  
25 actual pressing issues of the day confronting the

1

2

citizens of New York City.

3

4

5

6

7

8

9

10

In a public health context this proposal will not prevent one case of cancer, one case of asthma, one heart attack or prevent one person from partaking in perfectly legal tobacco products. It is advocated by a city health department that used over \$70,000 in public funds to produce a pamphlet on how to safely use heroine.

11

12

13

14

15

16

17

18

19

20

21

22

I realize that these types of proposals are motherhood and apple pie and good for the general public and that this somehow makes the governing body seem progressive. In fact you would be making bad public policy. I highlight the city of Athens, Georgia as they considered an outdoor smoking ban and they consulted with the University of Georgia, Athens, an renowned environmental science department where they concluded that "Is this a public health concern? Do these levels pose a risk? We have not answered that yet."

23

24

25

We also submit into the record a journal article from the Journal of Toxicology and Pharmacology that says such evidence is quite

1  
2 inconclusive. We also submit into the record an  
3 article from the British Medical Journal that says  
4 such evidence is very inconclusive. And we also  
5 submit into the record a voluminous study from the  
6 Congressional Research Service that says there is  
7 no sound analysis that definitively proves that  
8 public governing bodies ought to pass such  
9 policies. We submit that into the record.

10           And the comments of Dr. Michael  
11 Siegel, the Boston University School of Public  
12 health where he commented on this specific  
13 proposals that places like Central Park and the  
14 other large parks in New York City are not the  
15 types of places for this policy and we submit his  
16 comments into the record.

17           Well, let's take the health debate  
18 out of this equation. In this vain, we would hope  
19 you would consider the position and recent action  
20 of California governor, Arnold Schwarzenegger, as  
21 he vetoed a virtually identical piece of  
22 legislation in a state not known for being tobacco  
23 friendly. A proposal that also would ban smoking  
24 in public parks and in public beaches the governor  
25 stated, "There is something inherently

1  
2 uncomfortable about the idea of the state  
3 encroaching in such a broad manner on the people."

4           The proposed ordinance states that  
5 the Department of Parks and Recreation shall have  
6 the power to enforce the policy. From a purely  
7 public safety context, if Parks and Recreation  
8 staff have such police powers and there's actually  
9 New York City police officers patrolling Times  
10 Square where smoking would become illegal, I would  
11 much rather have their minds be on identifying a  
12 Fasal Shazaad than a pedestrian with a cigar.

13           We have also read of self policing  
14 as a characteristic of this ordinance. Do we  
15 really want to start pitting city residents  
16 against each other in this fashion. Again, this  
17 is a clear case of misplaced priorities. If a  
18 policy at all is to be considered then let's find  
19 some common ground.

20           First, we believe this entire  
21 proposal should be defeated but we know that there  
22 are certain places where smoking should not be  
23 allowed such as playgrounds frequented by underage  
24 youth. We; hope you take these sentiments into  
25 consideration and we look forward to your

1

2

questions.

3

CHAIRPERSON ARROYO: Thank you.

4

Council Member Vacca has a few questions.

5

COUNCIL MEMBER VACCA: Well, let me

6

say a couple of things. First, is there anyone

7

here from the Health Department at this point?

8

Okay. I asked to see this booklet and I would

9

like you to look at Tip 5; I'm not happy with what

10

I read.

11

MR. LOOP: Is that the one where

12

you get to jump up and down?

13

COUNCIL MEMBER VACCA: No, this is

14

the one that eludes to heroine and I would like to

15

follow up because I don't like what I see. Number

16

one.

17

Number two, this is the first time

18

I've heard an argument that second hand smoke is

19

not dangerous and I find that argument

20

unacceptable without proof. It is in my opinion

21

without question that second hand smoke is

22

dangerous. I know you are an advocate for people

23

who smoke cigars but to dispute that and site some

24

study and some judge's decision. Where all of us,

25

every ounce of proof we've seen has indicated that

1

2 it's dangerous is just out there somewhere. I  
3 think that it's not even appropriate to site.

4

5 Now, the last speaker, you're from  
6 Cigar Rights of America, sir?

7

MR. LOOP: Yes, sir.

8

9 COUNCIL MEMBER VACCA: You know, I  
10 have to state something. I keep my Blackberry on  
11 me. When I wake up, when I put it down, when I go  
12 to bed. I respond to citizens, to my  
13 constituents, to whatever. I received in the past  
14 week about 1,000 or so emails from your  
15 organization. Cigar Rights of America, different  
16 names saying the same thing. Do you think that  
17 that is a way to influence people, to basically  
18 block me from doing anything else but reading  
19 these duplicate, triplicate emails. They say the  
20 same thing, signed by different people. Do you  
21 think that this is the way to influence people  
22 when I find that offensive and disruptive to what  
23 I want to do as an elected official for my  
24 constituents. I hear you. I heard you after the  
25 first email and I heard you after the second  
email. So I brought that to you because I don't  
think that's considerate to me as a member of the



1

2

Council. It's not considerate to me.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

My issue with this whole thing is simply this: I understand your testimony. You have a constituency you represent. Let me tell you something. My issue with this is the issue of how far does government go. That issue, which my colleagues brought up, I understand. But to rationalize the smoking of cigarettes or cigars in public places is something I can't accept.

I haven't signed on to the bill but I think that your perspective is so far out there that it flies in the face of realism. Thank you.

MR. LOOP: Would you like me to respond to that?

CHAIRPERSON ARROYO: Uh, we're trying to make our questions and answers as brief as possible. We still have quite a number of people who want to get up to that table and provide their testimony. I want to be respectful of everyone's desire to do that so if we can keep it short.

MR. LOOP: 30 seconds.

CHAIRPERSON ARROYO: Please, I appreciate that.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. LOOP: I think that Council Member, with all due respect and I sympathize with that, we do think that it's important that you hear from constituencies. It's the exact same type of communications mechanism that those who support this type of proposal have been doing for years. Finally our side of the debate is developing a way to get its message across. You didn't hear from me a thousand times. You heard from a thousand different people who have grave concerns about this type of policy making. I would wrap this up to a modern day debate on electronic democracy and I think that's what that communications mechanism is.

I do think the science is questionable, especially with regard to cigars but again, it's about environmental exposure, prolonged exposure. And I think the debate is very open on that.

COUNCIL MEMBER VACCA: Just for the record, quickly Madam Chair. I appreciate your caution. I do not know if any of these people, I have never heard of any of these people, I do not think that any of them are my constituents, I do

1  
2 not know who they are. They could be from Osh  
3 Kosh; I have no idea who they are. I want to make  
4 that clear.

5 My constituents who want to reach  
6 me know how to reach me. I want to know how they  
7 feel but I do not want my ability to do my job to  
8 be subverted for almost a week by constantly,  
9 constant barrage from people I don't know saying  
10 the same thing thousands of times. Thank you.

11 CHAIRPERSON ARROYO: Your point is  
12 well taken, Council Member. We have Council  
13 Member Jackson followed by Council Member Brewer.

14 COUNCIL MEMBER JACKSON: Thank you,  
15 Madam Chair.

16 CHAIRPERSON ARROYO: I urge my  
17 colleagues, please.

18 COUNCIL MEMBER JACKSON: Good  
19 afternoon. Are you representing cigar companies  
20 or cigar smokers or cigars and cigarettes? Sorry.

21 MR. ROW: In my particular case, I  
22 represent premium tobacco stores. We have a  
23 number of members in New York State.

24 COUNCIL MEMBER JACKSON: Between  
25 cigarettes, too, is that correct?

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

MR. ROW: They may sell cigarettes.

COUNCIL MEMBER JACKSON: They may.

MR. ROW: Their primary business is premium cigars, smoking pipes and pipe tobacco.

COUNCIL MEMBER JACKSON: And you sir.

[off mic]

COUNCIL MEMBER JACKSON: Speak into the mic, please. Say your name, who you represent, please.

MR. MALENDI: I'm Ron Melendi. I represent the New York tobacco Association. We're represent professional tobacco, which mainly deal with premium cigars and pipe tobacco.

COUNCIL MEMBER JACKSON: Okay. And you sir? Just identify yourself.

MR. LOOP: Glenn Loop, Executive Director of Cigar Rights of America. We're principally a consumer based organization.

COUNCIL MEMBER JACKSON: Okay. I heard one of you say that you agree with banning cigarette smoking in children's playgrounds and what have you. But as far as the beaches and parks you would disagree with that and

1  
2 representing your constituency which are basically  
3 cigar smokers. Is that correct?

4 MR. LOOP: Yes, sir. For us.

5 COUNCIL MEMBER JACKSON: What about  
6 if there were designated, let's say an example  
7 that I gave. We have ten beaches and ten parks  
8 and two parks and two beaches were designated for  
9 smokers and non-smokers. Would you agree with  
10 that?

11 MR. MALENDI: We would like to  
12 have, especially parks that are large enough like  
13 Central Park, should have the ability to have  
14 smokers. Playgrounds, I agree that if there are  
15 children and there's a playground there should be  
16 non-smoking sections, maybe a non-smoking family  
17 picnic area. But walking through a park when  
18 there's no one around or the person's 300 feet  
19 away or 200 feet away--

20 COUNCIL MEMBER JACKSON:

21 [interposing] No, could you answer my question  
22 specifically because I'm time limited. As far as  
23 you got ten beaches and ten parks, peter Vallone's  
24 bill is saying two acres or more. If there were  
25 two designated beaches or two designated parks for

1

2

smokers and non-smokers combined but the other  
eight for non-smokers, would you agree with that?

3

4

MR. MALENDI: Well, if the parks  
are close together. If the guy has to drive--

5

6

COUNCIL MEMBER JACKSON:

7

[interposing] They're not close together. As long  
as there are two would you agree or disagree with  
that? I'm just asking a simple question. You can  
come 100 different scenarios if it's far or close  
and what have you and so forth. I'm trying to  
understand if there is a legislation passed where  
they said okay we're going to have smoking at  
these two beaches if you want to smoke or these  
two parks if you want to smoke, would you agree to  
that, would your company agree to that? That's  
what I'm asking the three of you.

10

11

12

13

14

15

16

17

18

MR. MALENDI: If we have no other  
choice, if it's either that or no smoking I would  
agree to it but that's, you know.

19

20

21

COUNCIL MEMBER JACKSON: Okay and  
what about the other two of you?

22

23

MR. ROW: I represent retailers.  
It's their decision in running our association.

24

25

Personally, I agree with the 80/20 rule. I don't

1

2

agree with eight yes and two no or vice versa.

3

Personally, I would say no. My association would

4

not have a position but I've answered your

5

question.

6

COUNCIL MEMBER JACKSON: Okay and

7

you sir?

8

MR. LOOP: I really don't think

9

constituents, residents of this city ought to be

10

segregated in any fashion like this.

11

COUNCIL MEMBER JACKSON: And from a

12

scientific point of view I believe one or more of

13

you said that there's scientific evidence that

14

second hand smoke has not proven, based on

15

whatever analysis or whatever doctors or

16

scientists, had no negative impact on people.

17

Whereas Dr. Farley and others and many, many other

18

people, I guess if I had to guesstimate. I don't

19

have any statistics, maybe 10:1 scientists and

20

researchers will say it does have a negative

21

impact. Am I right or wrong in that assessment?

22

MR. LOOP: Council Member, I'm not

23

a doctor but I do know how to read. These studies

24

that I have reviewed seemed to just bring in

25

enough question of how existing studies were

1

2 conducted to plant the seed of doubt in my mind.

3

4 COUNCIL MEMBER JACKSON: And you  
5 sir? Just identify yourself, please, if you don't  
6 mind.

6

7 MR. MALENDI: My name is Ron  
8 Melendi from the New York Tobacco Association.  
9 Again, I agree with what Glenn just said, these  
10 are studies that I've looked at which--

10

11 COUNCIL MEMBER JACKSON:

11

12 [interposing] Which studies?

12

13 MR. MALENDI: --there are  
14 questions.

14

15 COUNCIL MEMBER JACKSON: I would  
16 think there's hundreds of studies about the  
17 negative impact on second hand smoke. How many  
18 studies to you have? Not you personally but how  
19 many studies have pro smokers have to show that  
20 second hand smoke, there's really no proven  
21 negative impact? Because I'm sure that the other  
22 groups can give me hundreds of studies.

22

23 MR. MALENDI: I think it what we're  
24 saying here is second hand smoke exposure in wide  
25 open spaces. We're not talking about inside. I  
just want to make that very clear. Another thing

25



1  
2 that I just want to make very clear that I think  
3 that Council should know is just before I looked  
4 up the term cotinine or whatever, it's the  
5 byproduct that Dr. Farley was looking at. One of  
6 the things in there was it's also prescribed as an  
7 anti-depressant so I think the Council should  
8 really look into that to see exactly what that  
9 means. Because if that's the case, there's people  
10 taking anti-depressants that is made from this  
11 stuff that's going to skew your results so I just  
12 wanted to get that on the record.

13 COUNCIL MEMBER JACKSON: Let me  
14 thank you all for coming in. I appreciate it.  
15 Thank you, Madam Chair.

16 CHAIRPERSON ARROYO: Thank you,  
17 Council Member. Council Member Brewer. And  
18 before, I want to apologize first and then  
19 acknowledge that we have been joined by Council  
20 Member Mendez who has been sitting here for a bit  
21 without acknowledging her presence.

22 COUNCIL MEMBER BREWER: Thank you.  
23 You're all national I think and Chicago, LA, maybe  
24 other cities either in a park and/or a beach have  
25 banned smoking. How does that impact your

1

2

business and were you involved in those

3

discussions? How do you think it's fairing in

4

terms of your constituency?

5

MR. ROW: Let me speak for my

6

members. We're national, international in fact.

7

The tobacco industry in total is being constantly

8

pummeled. When people think tobacco, they think

9

cigarettes. Our industry, the three of us here,

10

represent a small segment that is a product of

11

choice not habit, a celebratory product, a cigar,

12

pipes. I can tell you that every time there is a

13

smoking ban, a tax increase, our members suffer.

14

They're hard working independent, mostly

15

generational family businesses and they suffer.

16

That economic study in my notes

17

will show from an economist from the St. Louis

18

Federal Reserve the impact in that area when those

19

smoking bans were passed. Pre-post, pre-2002 to

20

2007 where the growth in the restaurant industry

21

declined after the passage. Again, this is before

22

our economy went in the tank so it's good data.

23

But our members suffer.

24

MR. MALENDI: I'd just like to add

25

to that, I represent the New York Professional

1  
2     Tobacconess retailers. I've been in this business  
3     for 25 years. My family has been in the tobacco  
4     business for over 100 years. My great grandfather  
5     is from Cuba, my grandfather is from Cuba so it's  
6     a long line of a tobacco family. Our business is  
7     suffering.

8                     I'm also the general manager of  
9     Dela Conche, a professional tobacconess in Midtown  
10    Manhattan and we've seen our business decline.  
11    All these laws, whether excessive taxation, the  
12    75%; in one year it went from 46% to 75% to flavor  
13    bans of tobacco in the city, which is absolutely  
14    ludicrous. If you're going to ban the flavored  
15    tobacco why not ban flavored alcohol? I still  
16    don't understand that at all. Just on and on and  
17    on to the point where my business is being  
18    crushed. My members, we represent about 200  
19    professional tobacconess in the state, about 50 in  
20    the city limits, they're just being crushed.  
21    Business is going to Pennsylvania--

22                     COUNCIL MEMBER BREWER:

23    [interposing] I'm just saying, what I was looking  
24    for okay, I'm not going to pursue it but in places  
25    like LA and San Francisco and/or Chicago where

1  
2 there is banning, specifically, was there much  
3 change in terms of who purchased and so on. I  
4 don't know if I'm getting that kind of answer but  
5 I don't need to pursue it because of the  
6 timeframe.

7 MR. MALENDI: Of course it's going  
8 to impact my business because what's going to  
9 happen is you know--New York City is like a  
10 country. We get tourists from all over so when  
11 people come--

12 COUNCIL MEMBER BREWER:  
13 [interposing] No, I appreciate it. Let's keep  
14 going because I know the Chair's got time  
15 constraints but thank you very much.

16 MR. MALENDI: Okay.

17 CHAIRPERSON ARROYO: Thank you,  
18 Council Member Brewer. Thank you for your  
19 testimony and your information, very insightful  
20 and we appreciate you taking the time. Yes.  
21 Yeah, the Sergeant will pick up the studies that  
22 want to be entered into the record. Thank you  
23 very much for your time. I'd like to call up the  
24 next panel. This panel will be in favor of the  
25 legislation, Jeffrey Croft, New York City Parks

1  
2 Advocates, Lauren Schuster, NYPIRG and you're  
3 going to tell us what that is, right, Laurie  
4 Baskin, Theatre Communications Group and Joe  
5 Applebaum, it doesn't say what group you represent  
6 but thank you. I suspect that you all have done  
7 this before so choose, identify yourselves for the  
8 record and mindful of the three minute clock. I  
9 urge you please don't read from your testimony.  
10 The best testimony I ever hear is the one that's  
11 given from personal experience.

12 JEFFREY CROFT: Good afternoon. My  
13 name is Jeffrey Croft, I'm President of New York  
14 City Park Advocates, a non partisan watchdog group  
15 dedicated to improving parks and public health.  
16 We strongly support and applaud the City Council  
17 and the Mayor's efforts to protect the people from  
18 second hand smoke in parks, beaches and city owned  
19 pedestrian plazas.

20 We are firmly behind their efforts  
21 to pursue a broad expansion of the city's Smoke  
22 Free Air Act, which bans smoking in bars and  
23 restaurants by extending it to properties owned by  
24 the city's largest land holder, the Department of  
25 Parks and Recreation. When enacted New York City

1  
2 will have by far the largest municipal park system  
3 in the country, if not the world, that prohibits  
4 smoking in its parks and beaches.

5 This proposed law would ban smoking  
6 in all 29,000 acres of park land, including 1,700  
7 parks, playgrounds, parkways, 14 miles of city  
8 beaches as well as boardwalks, public marinas,  
9 public pedestrian malls and plazas, some of which  
10 do not fall under the jurisdiction of the Parks  
11 Department. This is an important step in helping  
12 to combat cigarette smoking and its ill effects.

13 Smoking is already prohibited in  
14 some park facilities in New York City including  
15 playgrounds and recreation centers but not in most  
16 recreation areas. When passed, New York City  
17 would join other municipalities as mentioned like  
18 Chicago and Los Angeles who banned it three years  
19 ago. Hundreds of cities and municipalities across  
20 America have already enacted either full or  
21 partial bans.

22 Smoking is responsible for one in  
23 three preventable deaths in New York City  
24 according to New York City figures. Second hand  
25 smoke causes more cancer deaths than asbestos,

1  
2 benzene, arsenic and pesticides combined. Besides  
3 the obvious health benefits, people have a right  
4 not to be forced to breathe harmful air. Our air  
5 has already been compromised by other manmade  
6 environmental hazards.

7 Children are particularly  
8 susceptible to second hand smoke. Even brief  
9 exposure can trigger serious health problems for  
10 asthmatics and people with compromised  
11 cardiovascular systems. As everyone knows, most  
12 children often have to suffer in silence as their  
13 parents, grandparents and/or caretakers expose  
14 them to these harmful toxins.

15 A couple of things I'd like to just  
16 comment on, on these testimony. I think it's a  
17 mistake not to include NYPD in the enforcement. I  
18 thought I heard that they were excluded; if we  
19 could just look into that because honestly they  
20 are the largest enforcement agency.

21 As Council Member Halloran finally  
22 admitted in what I feel his embarrassing diatribe,  
23 this project is poisoning our bodies. Anything  
24 this City Council can do to prevent that is  
25 extremely important. We also ask that the City

1  
2 Council not compromise by adopting Vallone's bill.  
3 Our health has been compromised enough by this  
4 deadly product. Again, anything we can do to  
5 prevent this is a very, very positive thing -  
6 prevent second hand smoke from reaching the  
7 public. Thank you.

8 LAUREN SCHUSTER: Thank you so much  
9 for the opportunity to speak before you today. My  
10 name is Lauren Schuster. I'm a staff attorney  
11 with NYPIRG, the New York Public Interest Research  
12 Group. NYPIRG is New York State's largest and  
13 most effective social justice organization. We  
14 have chapters at 20 college campuses across the  
15 state. We work on a wide variety of issues  
16 including environmental preservation and consumer  
17 protection and have a long history of working to  
18 limit people's exposure to second hand smoke and  
19 tobacco products.

20 I want to speak to the  
21 environmental impacts of cigarette butt litter. I  
22 think everybody else has pretty much spoken to the  
23 health impacts. So while outdoor smoking poses a  
24 clear health threat to all New Yorkers it also  
25 poses a significant environmental threat.



1  
2 Cigarette butts, which can take many years to  
3 decompose, are the most common form of litter  
4 found in parks and beaches.

5 Cigarette butts are not  
6 biodegradable and can release toxic chemicals such  
7 as nicotine, benzene, cadmium and lead into the  
8 water and the air where they are discarded. They  
9 also pose a significant risk to marine wildlife  
10 who ingest them, mistaking them for food, and  
11 become toxic. Recent experiments actually have  
12 shown that one cigarette butt has enough poisons  
13 to kill half the minnows in one liter of water in  
14 a mere 96 hours.

15 There are also benefits. Reducing  
16 the number of public spaces where smoking is  
17 permitted may help reduce the number of young  
18 people who view smoking as socially acceptable and  
19 ultimately the number of young people who become  
20 smokers. NYPIRG is a student directed  
21 organization so preventing youth smoking is very  
22 important to us. According to a joint study by  
23 Blue Cross/Blue Shield and the University of  
24 Minnesota School of Public Health, there is a  
25 clear association between the frequency that you

1  
2 observe smoking in various locations and the  
3 perception that smoking is socially acceptable.  
4 They concluded that policies that restrict smoking  
5 in various locations will reduce both visibility  
6 and the perceived acceptability.

7 Intro 332 is going to lead to  
8 cleaner and more beautiful public spaces, safer  
9 and healthier air for our residents and may have  
10 the added benefit of reducing the number of young  
11 people who begin smoking. All New Yorkers deserve  
12 the right to breathe clean air at our public  
13 parks, beaches and pedestrian plazas. For these  
14 reasons NYPIRG respectfully urges the Council to  
15 pass Intro 332. Thank you.

16 LAURIE BASKIN: Am I on now? Yeah.  
17 Hi, thank you very much for this opportunity to  
18 testify today. My name is Laurie Baskin. I'm  
19 Director of Government and Education Programs at  
20 Theatre Communications Group. TCG is the national  
21 organization for the American Theatre. And it  
22 exists to strengthen, nurture and promote the  
23 professional not for profit American Theatre. We  
24 serve nearly 500 theatres across the country,  
25 including 61 here in the five boroughs and more

1

2 than 12,000 individuals nationwide.

3

[Timer sounds]

4

I don't think I used three minutes

5

yet. [Chuckles] Should I keep going? Okay.

6

TCG appreciates the city's desire

7

to improve the health of its citizens and

8

wholeheartedly supports all efforts toward that

9

end. We are not encouraging people to smoke. At

10

the same time we would like to share with you the

11

importance of theatrical smoking to our art form.

12

The tradition of employing

13

theatrical smoking to express mood and tenor, to

14

develop plot and to typify a character's

15

personality is important in historical and

16

contemporary theatrical works, both well known and

17

obscure. In Edward Albia's Who's Afraid of

18

Virginia Wolf, smoking is an integral behavior on

19

the part of the character, Martha. In Hal

20

Holbrook's One Man Show, Mark Twain Tonight he

21

includes the cigar puffing for a trail of Mark

22

Twain whose gruff, boisterous personality would be

23

unrecognizable without the lit cigar in hand.

24

In the Pulitzer Prize winning play,

25

Anna and the Tropics the ethos of the play's

1  
2 locale, a Tampa cigar factory in the late 1920s  
3 comes alive with the visual element that reeks of  
4 cigar smoke and viewed to a darkened stage.  
5 Cigars are central to the character's livelihood  
6 and culture.

7           Among TCG's membership is the  
8 Public Theatre on Lafayette Street, which also  
9 presents performances at the Dela Court Theatre in  
10 Central Park. The Public also from time to time  
11 presents performances in other parks around the  
12 city and so do other theatre companies.

13           TCG's member theatres in accordance  
14 with the indoor smoking ban already in place in  
15 New York City most regularly use herbal cigarettes  
16 in performances where smoking is called for by the  
17 playwright or the director. But there are  
18 occasions where a regular cigarette or a cigar may  
19 be called for. I understand it's difficult and/or  
20 expensive to find herbal cigars.

21           Therefore in the interest of  
22 freedom of expression and artistic expression, TCG  
23 requests that any new legislation in at banning  
24 outdoor smoking in our parks and public places in  
25 New York City provide some provision so that a

1  
2 theatre company could apply for an exemption or a  
3 waiver for tobacco products for a particular  
4 performance. Thanks.

5 CHAIRPERSON ARROYO: I'm sorry.  
6 The battery went out on the remote. We're okay  
7 now? Okay.

8 JOE APPLEBAUM: Joe Applebaum,  
9 ordinary citizen from Brooklyn. I'll try to be  
10 non-repetitive and talk about things that have not  
11 been mentioned so far, for example--and I'll just  
12 plunge in. I'm not a professional speaker.

13 Smell. We all have noses. We have  
14 five senses. I have a book here which they  
15 referred to, I think, before, 700 pages, Health  
16 Consequences of Involuntary Exposure to Tobacco  
17 Smoke or Cigarette Smoke. I'm not going to go  
18 into that because we've spoken about it. But like  
19 I say, I'm an ordinary citizen. I used to use  
20 Marine Park for jogging. I used to go to the  
21 Boardwalk, on Coney Island I used to go to the  
22 beach. I now have to go all the way at the end of  
23 the beach, near Seagate where there's basically  
24 hopefully nobody around because once you go where  
25 there's people, there's smokers.

1  
2           That smell is horrific. I just  
3 used the thesaurus the other day. I think this is  
4 important. Obnoxious, offensive, I'm talking  
5 about the smell, vile, gross, nasty, odious,  
6 disgusting. Okay? Everybody laughs and  
7 trivializes it but I walk into Macys and they want  
8 to test the perfume on you. We all have a nose.  
9 We all have a sense of smell. It's horrific. It  
10 depresses me; it angers me. All I look for on a  
11 normal day is to be able to go outside and breathe  
12 fresh, clean air that God or Mother Nature  
13 provided to us. Oftentimes I see religious people  
14 smoking. To me, they're spitting in the face of  
15 God. I just don't comprehend this.

16           I want to say another thing. It's  
17 a matter of attitude. I consider smokers to be  
18 the most selfish, inconsiderate people on the face  
19 of the earth. They have no consideration for  
20 their fellow man. Okay? We non-smokers, as far  
21 as I have learned, we're the majority. Okay? I  
22 don't know exactly the numbers but why don't we  
23 speak up? I'm not going to ask people here how  
24 many are in favor of 332.

25           I understand that the majority is

1  
2 supposed to rule in this country. I understand we  
3 protect minority rights so maybe we should be in  
4 the minority because it seems minorities get  
5 rights more than the majority.

6 Now, as I was saying, I don't  
7 understand how these people totally ignore the  
8 rights of the non-smokers. We are sick of it.  
9 I'm sick of walking on the street. To me, it's a  
10 literal assault and a battery. People don't seem  
11 to want to understand that that cigarette smoke  
12 travels and it assaults and batters our  
13 respiratory systems. We're sick of it. We're  
14 sick of it.

15 CHAIRPERSON ARROYO: Council Member  
16 Jackson.

17 COUNCIL MEMBER JACKSON: Thank you,  
18 Madam Chair. Good afternoon everyone. Thank you  
19 for coming and giving testimony. I'm going to  
20 ask. I don't know if you were here in the  
21 beginning of my testimony. I feel that government  
22 is becoming so restrictive. They're trying to  
23 restrict what we are doing in New York City. Do  
24 you feel that the government is being too  
25 restrictive in this situation? I assume the

1  
2 answer is no but quickly, if you don't mind,  
3 either yes or no answer. Just identify yourself.  
4 Do you feel that the government is being too  
5 restrictive? Please if you don't mind. Yes or  
6 no, if you don't mind.

7 MR. CROFT: Yes, I was definitely  
8 here for all of this. No, definitely feel--

9 COUNCIL MEMBER JACKSON:  
10 [interposing] Give your name please.

11 MR. CROFT: I'm sorry. It's  
12 Jeffrey Croft from New York City Park Advocates.  
13 In this case I don't think there is a correlation  
14 between what this proposed law is envisioning.

15 COUNCIL MEMBER JACKSON: Okay.

16 MS. SCHUSTER: Lauren Schuster,  
17 NYPIRG and I would have to agree, government is  
18 not over regulating. There are a lot of perfectly  
19 legal activities that the government regulates  
20 when it abuts against the public health and safety  
21 and I think this is one of those issues.

22 COUNCIL MEMBER JACKSON: Okay,  
23 thank you. Next please.

24 MS. BASKIN: Laurie Baskin from  
25 Theater Communications Group. Government has the



1  
2 ability to put forth an exemption or a waiver for  
3 artistic expression and that's what I'm here on  
4 behalf of, thank you.

5 COUNCIL MEMBER JACKSON: I'm sorry.  
6 What does that mean? I didn't understand your  
7 answer. What's your answer? Do you think that  
8 government is being too restrictive here?

9 MS. BASKIN: No.

10 COUNCIL MEMBER JACKSON: Okay,  
11 thank you.

12 MR. APPLEBAUM: Joe Applebaum,  
13 ordinary citizen. Politically I'm on the right;  
14 I'm a conservative, okay. But I'm not a  
15 doctrinaire dogmatic ideologue. I take every  
16 issue as it comes so I differ with--what was your  
17 question?

18 COUNCIL MEMBER JACKSON: Do you  
19 think that government is being too restrictive in  
20 this situation?

21 MR. APPLEBAUM: This is a special,  
22 unique situation that people have to be aware of.  
23 In other words--

24 COUNCIL MEMBER JACKSON:  
25 [interposing] So it's a yes.

1  
2 MR. APPLEBAUM: You have rights to  
3 do what you want with your own--

4 COUNCIL MEMBER JACKSON:  
5 [interposing] Joe, Joe.

6 MR. APPLEBAUM: The smoke travels  
7 and it affects me--

8 COUNCIL MEMBER JACKSON:  
9 [interposing] Joe, you already said that. I asked  
10 a very specific question.

11 MR. APPLEBAUM: I said the  
12 government has a right to get involved in this  
13 issue.

14 COUNCIL MEMBER JACKSON: Okay,  
15 thank you.

16 MR. APPLEBAUM: Because it doesn't-  
17 -

18 COUNCIL MEMBER JACKSON:  
19 [interposing] Thank you, Joe.

20 MR. APPLEBAUM: It's not just an  
21 individual right; it affects other people.

22 COUNCIL MEMBER JACKSON:  
23 [interposing] Joe, thank you. You've already said  
24 that. I heard you loud and clear. I didn't ask  
25 you to explain what you said before. I just asked

1  
2 for a simple question. So now, my next question  
3 is do you feel that based on what you've expressed  
4 representing your organization, do you think that  
5 government should, New York City should ban  
6 smoking altogether, everywhere; apartments,  
7 streets, everywhere. If you have a yes or no  
8 answer, if you don't know, if you're group hasn't  
9 taken a position, just say so.

10 MR. CROFT: I'm against. Smoking  
11 is a horrific and horrible thing and in my  
12 opinion, there is nothing beneficial--

13 COUNCIL MEMBER JACKSON:  
14 [interposing] I understand that.

15 MR. CROFT: --that smoking does.

16 COUNCIL MEMBER JACKSON: I truly  
17 understand everything what you said. My answer is  
18 would you ban smoking altogether in New York City,  
19 totally?

20 MR. CROFT: Again, that's not part  
21 of this bill.

22 COUNCIL MEMBER JACKSON: I just  
23 asked. I'm asking you a question.

24 MR. CROFT: I would say yes.

25 COUNCIL MEMBER JACKSON: Okay,

1

2 thank you.

3

MR. CROFT: Absolutely.

4

COUNCIL MEMBER JACKSON: Thank you.

5

MR. CROFT: No problem.

6

COUNCIL MEMBER JACKSON: Just

7

identify yourself, if you don't mind.

8

MS. SCHUSTER: Lauren Schuster and

9

I would say that--sorry. Lauren Schuster, NYPIRG,

10

and I would say at this point we're not talking

11

about a total ban on smoking. We're talking about

12

banning smoking in certain limited public spaces--

13

COUNCIL MEMBER JACKSON:

14

[interposing] I understand what we're talking

15

about--

16

MS. SCHUSTER: --to protect family

17

and children.

18

COUNCIL MEMBER JACKSON: --but I'm

19

asking you a question representing your group. Do

20

you think that your group would go along with

21

banning smoking totally in New York City?

22

MS. SCHUSTER: At this point no but

23

I can't speak to hypotheticals.

24

COUNCIL MEMBER JACKSON: Thank you.

25

MS. BASKIN: Laurie Baskin from

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

TCG, we haven't taken a position on that.

COUNCIL MEMBER JACKSON: TCB stands for what again? Theatres of what?

MS. BASKIN: Theatre Communications Group. We have no position.

COUNCIL MEMBER JACKSON: Okay. And Joe, Mr. Public.

MR. APPLEBAUM: Yeah, I personally I would love to see going after these tobacco industry banning the sale, manufacture and I would like to see a total ban on smoking, however. I understand that's a practical--

COUNCIL MEMBER JACKSON:  
[interposing] Okay, Joe. Thank you.

MR. APPLEBAUM: You didn't let me finish.

COUNCIL MEMBER JACKSON: No, I asked a simple question.

MR. APPLEBAUM: No, you don't. You have to let the person answer.

COUNCIL MEMBER JACKSON: I can. Joe, you've already said what you wanted.

MR. APPLEBAUM: You don't want to hear the answer.

1  
2 COUNCIL MEMBER JACKSON: You've  
3 already answered.

4 MR. APPLEBAUM: Let me answer.

5 COUNCIL MEMBER JACKSON: You've  
6 already answered.

7 MR. APPLEBAUM: You're not letting  
8 me--

9 COUNCIL MEMBER JACKSON:  
10 [interposing] I appreciate it, Joe. I appreciate  
11 it very much.

12 [Crosstalk]

13 CHAIRPERSON ARROYO: If we can,  
14 please.

15 COUNCIL MEMBER JACKSON: I  
16 appreciate it. I just asked a simple question,  
17 would you want to ban smoking totally in New York  
18 City. Your answer was yes.

19 MR. APPLEBAUM: No. Can I finish?

20 COUNCIL MEMBER JACKSON: Your  
21 answer was yes. Thank you. And with that, I'll  
22 just say thank you very much.

23 CHAIRPERSON ARROYO: Thank you  
24 Council Member Jackson. Thank you to the panel.  
25 The next panel we have Audrey Soak, Linda Stewart,

1  
2 David Geralitz. I'm not sure I can read this one,  
3 Howard Yarow. I'm sorry, I can't read your  
4 writing. Thank you all for coming to testify.  
5 Feel free to start.

6 AUDREY SOAK: Thank you. I'm going  
7 to warn you right now that my testimony was three  
8 minutes and 45 seconds. After two hours of  
9 Commissioner Farley, we're due that extra 45  
10 seconds at least, thank you. My name is Audrey  
11 Soak. I am the founder of New York City Citizens  
12 Lobbying Against Smoker Harassment.

13 Approve this proposal and you will  
14 be guilty of forcing an edict upon the public  
15 built upon a fraud to satisfy a personal craving  
16 that can not only be described as religious in  
17 nature, not public health. New York City  
18 officials rest most of their case for this ban on  
19 two hardly conclusive studies from which the  
20 following two talking points carefully crafted to  
21 pray on the ignorant, to deceive them to win this  
22 game have emerged.

23 First, a person sitting within  
24 three feet of a smoker outside can be exposed to  
25 levels of second hand smoke similar to those

1  
2 experienced indoors. This lie for effect comes  
3 from what's called the Stanford Study. As a man  
4 of science and key advisor and proponent, Dr.  
5 Farley must know that without accounting for  
6 quantity of cigarettes smoked and duration of  
7 exposure this statement is false.

8           The author of this research himself  
9 has said, when the cigarette goes out the smoke is  
10 gone. Not like in a bar where it hangs around for  
11 hours. I can debate that too but not for now.  
12 And admitted the brevity of exposure serve to make  
13 it inordinately difficult to ascertain the actual  
14 health risk. Dr. Farley chooses to be dishonest  
15 with the public by failing to divulge the  
16 researcher's full conclusion. That is, if you're  
17 upwind from a smoker, even if sitting right next  
18 to him or six feet away "You'll get no exposure to  
19 outdoor smoke".

20           Having now been informed of this,  
21 if your preference is still to deprive one group  
22 of their liberty over advising walk away to the  
23 other, it becomes perverted on its face  
24 considering the country we live in.

25           The second statement: more than



1  
2 half of non-smoking New Yorkers have elevated  
3 levels of cotinine, a byproduct of nicotine in  
4 their blood. This figure comes from a blood test  
5 taken in 2004, thus outdated, so how do we know  
6 it's still true. Yet, shh, don't tell anyone,  
7 right?

8 Honesty sacrificed for the fear  
9 effect. Regardless, it's hardly the whole  
10 equation and men like Dr. Farley know that. Proof  
11 of exposure says absolutely nothing about the risk  
12 of level for harm due to that exposure. The gold  
13 standard of toxicology is the dose makes the  
14 poison. To quote the CDC itself, "The presence of  
15 a chemical in blood or urine does not necessarily  
16 indicate that the chemical will cause disease."  
17 That goes for exposure to tobacco smoke, too. "No  
18 safe level" has been no more than a politically  
19 motivated statement, not grounded in anything  
20 resembling respectable science.

21 To put the statement in question in  
22 proper perspective you might as well say that 57%  
23 of New York City residents were caught in the rain  
24 without their umbrellas. Okay, how many drowned?  
25 I think you know your entire scientific case for

1  
2 this ban disintegrates upon exposure to sunlight.  
3 So why don't you just come clean and end this  
4 charade by admitting, which you probably mostly  
5 have already, that this has zero to do with  
6 protecting anyone from exposure to smoke. And all  
7 to do with the Mayor's and your desire to exert  
8 control over an individual's free will to engage  
9 in legal behavior through coercive governing. The  
10 enactment of personal bias into law, it's  
11 depraved.

12           Approve this and soon I'll be here  
13 again testifying against your plan to ban smoking  
14 in homes. Well, I don't think so. This is where  
15 we draw the line. It's time to flip the script.  
16 The danger is now absolutely you; not me. It's  
17 this behavior by government that's toxic and  
18 nasty. It stinks. Compared to what we're  
19 witnessing today, cigarette smoke smells like  
20 roses. The shame to bear is yours, not mine.  
21 There is more dignity in smoking this cigarette  
22 than in the game of malice disguised as virtue  
23 being played here.

24           The rights of being tolerated ends  
25 where my civil liberties begin. The informed

1  
2 choice to use a legal product is normal. What  
3 you're doing here today is an aberration. When  
4 the law's an ass, it's our duty to revolt. Go  
5 ahead and pass this; we will not comply. And  
6 those who respect the promise of freedom and  
7 individualism in this country rather than your  
8 self propagandizing collectivist ideology of a  
9 healthy city. That you think allows you to turn  
10 us into your lab rats, well give us this pass and  
11 you're only deluding yourselves when you think  
12 they don't outnumber the squeaky wheels in this  
13 room. Thank you so much for letting me speak and  
14 for allowing me the extra time.

15 LINDA STEWART: Don't start the  
16 clock until I start talking. My name is Linda  
17 Stewart. I think that what you're planning here  
18 today in 332 is disgraceful. If the Council  
19 supports this, no longer can it dodge or take  
20 umbrage in analogies to Germany's national  
21 socialism or America's Jim Crow. You'd be  
22 planning the same things for this same irrational  
23 reasons towards the same fanatical ends.

24 You now, as they then, seek a  
25 rational cover in science and boy, do the racists

1

2 and anti-Semites have science. But yours, like  
3 theirs, is a science so skewed so cosigned at the  
4 hands of zealots that it's merely designed to  
5 prove the preposterous to the credulous. Though  
6 occasionally what it claims, that half an hour  
7 spent with a smoker can give a heart attack to the  
8 innocent, that mere contact with smokers' clothes  
9 can injure your babies, kittens and plants can  
10 sound more to the rational ear like a pitch from  
11 Salem instead of Munich. You know this stuff  
12 isn't so.

13                   You know it because you're well and  
14 you grew up in a country where 60% smoke, where  
15 people smoked around you and where you possibly  
16 smoked yourself. As Mayor Bloomberg himself  
17 smoked. And what carnage he must have caused,  
18 especially since he claims that there's no safe  
19 level of exposure to other's smoke. That line by  
20 the way, while a bonanza for propaganda, is a  
21 slogan without science. Ad libbed at a press  
22 conference by Surgeon General Carmona, a man  
23 already on record as favoring prohibition but with  
24 nothing - repeat nothing - to back it up in his  
25 report. But it sure can enflame passion and

1

2

that's the purpose of propaganda.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

In 1993 Colin Powell, who favored a ban on gays in the military, said it was totally different from banning Blacks in the military and I hollered back at the television set no it's not. And no it's not. It's always the same thing and it's always based on the same thing. That a majority propagandized and carefully talked to fear just simply doesn't want to be around those people, whoever those people are. But since that truth isn't comfortable, it picks as its defense, it's a matter of public health. That gays cause AIDS, Jews cause typhus, Blacks cause malaria and then it desperately tries to back it up with science.

Attached to my testimony are examples of racist science overwhelming parallel to what's happening now and I would urge you to read it. Two days after crystal knock Jews already proven by unimpeachable science to be the cause of tuberculosis and typhoid fever and already banned from indoors was suddenly banned from parks.

Next, and I'm reminded the

1  
2 Speaker's recent pronouncement that for now at  
3 least smokers can still walk in Times Square but  
4 they would not be allowed to sit. Next the ban  
5 was extended to include public benches anywhere,  
6 bus stop, plaza, - -. Next, as you may know, they  
7 were entirely banned from sidewalks, a proposal  
8 that even now is a gleam in the Council's eye and  
9 that the Commissioners won't deny, at least when  
10 it comes to a smoker smoking, in other words being  
11 himself. And in the other eye is a gleam to evict  
12 smokers from their apartments.

13                   Let me just conclude please. The  
14 Nazi governor of occupied Poland, it is  
15 unacceptable that Germans should be obliged to  
16 encounter Jews when they enter or leave the house  
17 and are in this way liable to infection from  
18 academics. Quote Joseph Gobels, "Jews have always  
19 been carriers of disease. They should either be  
20 concentrated in a ghetto or liquidated, for  
21 otherwise they will infect the population."

22                   The only disease being spread threw  
23 this city and sewn in this chamber is the disease  
24 of discrimination backed by over leaning  
25 government. Call is Ashism [phonetic] if you

1  
2 like; it infects populations and kills civil  
3 society.

4                   DAVID GERALITZ: Good afternoon.

5 My name is David Geralitz. I am the former  
6 Winston man. I started my career in New York City  
7 30 years ago when I was hired by RJ Reynolds to  
8 represent Winston, America's best product. My job  
9 was to entice and encourage and lure children to  
10 smoke. My job was extremely successful for eight  
11 years.

12                   In 1989 I quit smoking personally  
13 because of family issues, my own health. I made  
14 the decision, not my state or federal government.  
15 I started working for the American Cancer Society,  
16 American Lung, American Heart, World Health  
17 Organization, I was ABC Person/Man of the Week  
18 because of my stand against big tobacco.

19                   Please understand that I am not  
20 here as a pharmacologist and epidemiologist, a  
21 lawyer, a legislator, a Council person. I am a  
22 bimbo. I was paid hundreds of thousands of  
23 dollars to get kids to smoke. I turned on RJ  
24 Reynolds when I testified in Congress that tobacco  
25 companies' job was to entice and encourage and

1  
2 lure children. And when asked about smoking I  
3 testified that the right to smoke according to RJ  
4 Reynolds was reserved for the young, the poor, the  
5 Black and the stupid.

6           It took me eight years to figure  
7 that out when I became a member and the golden boy  
8 for the anti-smoking movement. The anti-smoking  
9 movement 22 years ago, with the efforts of the  
10 American Cancer, Lung, Heart, was based on public  
11 health. Eight years ago I divorced myself from  
12 the anti-smoking movement. I disassociated myself  
13 with them because I did not want to be guilty by  
14 association with all of the propaganda and the  
15 brainwashing that was coming out.

16           I've tried courageously and I tried  
17 to be nice about this. I have tried to spend my  
18 life encouraging kids to never smoke. I have seen  
19 five to six million kids throughout every state  
20 and seven countries. I am here today in  
21 opposition of what you are trying to do with 27%  
22 of the American population living in the city,  
23 paying for their own discrimination.

24           The taxes are the highest in the  
25 nation at \$11 a pack, plus. You are asking these



1  
2 smokers to take more and more when it is a legal  
3 product. I sat here and listened to the doctor of  
4 the American Cancer, American Lung, the gentleman  
5 from American Heart and also Smoke Free New York.  
6 Not one of them has ever, as far as I know in the  
7 last 22 years, has asked for a total ban on  
8 tobacco.

9                   If tobacco is as bad as everybody  
10 says it is, public opinion should not matter.  
11 When 1964 came and went and Surgeon General Luther  
12 Terry said tobacco kills, that was when something  
13 should have been done. And now to keep throwing  
14 smokers under the bus, day after day after day,  
15 using fraudulent and junk science media, I think  
16 it is time to get the questions answered so that  
17 28% of your population in Manhattan can no longer  
18 feel like they're leper, second class citizens and  
19 dirty, filthy children killers. Thank you.

20                   HOWARD YAROW: Thank you Chair and  
21 members of the Council. Thank you for the  
22 opportunity to address this afternoon, however  
23 briefly, on the important issue on the proposed  
24 passage of new legislation banning smoking legal  
25 tobacco products in the great out of doors within

1

2

the confines of our great metropolis.

3

4

5

6

7

8

9

10

11

12

Simply put, while I for one as a public law scholar and educator, concerned citizen and civic advocate and occasional smoker of cigar and pipe, do harbor serious personal doubt as to the constitutionality of such a ban within a classically liberal or libertarian scheme of order of liberty based both on theories of the positive affirmation of rights as well as the restriction on the reach that is the breadth and the depth of the police power.

13

14

15

16

17

18

19

20

21

22

23

24

25

I am one in the same time well aware that the weight of American judicial opinion supports the prevailing political and legislative trend on this question. Therefore, I would urge that the political, legislative process do its best to tailor and proportion such a ban in order to create designated smoking areas within all public spaces which may fall under such a ban, thus recognizing and protecting the rights of those who choose to smoke outdoors as they have done in this jurisdiction and its predecessors for centuries, while at one in the same time recognizing and protecting the rights of those who

1  
2 choose not to come into contact with any smoke  
3 produced, at least by tobacco products.

4           This seems to me as a reasonable,  
5 contemporary compromise which acknowledges that a  
6 civilized society, through its legislative  
7 processes seeks as a primary goal in and of  
8 itself, successfully to accommodate the interests  
9 of competing factions. In this case, the rights  
10 of smokers as well as non-smokers to share public  
11 space in the common out of doors. Thank you for  
12 your attention and time. I'm happy to engage in  
13 dialogue should there be any questions

14           CHAIRPERSON ARROYO: Thank you very  
15 much for your testimony. I think Council Member  
16 Jackson, do you have a question?

17           COUNCIL MEMBER JACKSON: Thank you,  
18 Madam Chair. I'm trying to ascertain each panel  
19 very quickly whether or not they agree whether or  
20 not. Do you feel that government in this  
21 situation is being too restrictive by passing this  
22 particular law on people that smoke? It's a  
23 simple yes or no answer. Just identify yourself  
24 for the record.

25           MS. SOAK: Audrey Soak, founder of

1  
2 NYC Clash. Of course it's a simple question and  
3 the fact that none of the other people he asked it  
4 to could answer it tells you what their intentions  
5 are. Yes, it's too restrictive and yes they  
6 intend to go further.

7 MS. STEWART: Linda Stewart. Yes,  
8 exactly it is too restrictive. They're falsely  
9 accusing smokers outdoors of being public health  
10 menaces and demeaning them.

11 COUNCIL MEMBER JACKSON: Next  
12 please.

13 MR. GERALITZ: Yes.

14 COUNCIL MEMBER JACKSON: Next,  
15 please.

16 MR. YAROW: Yes, total ban too  
17 restrictive.

18 COUNCIL MEMBER JACKSON: Okay.  
19 Now, Peter Vallone, Jr. submitted, I think, Intro  
20 381 which basically says that if a park or beach  
21 is more than two acres there should be designated  
22 smoking areas. I know that absent of a total ban  
23 that you would agree with that because smokers  
24 would have a place to smoke. Is that correct?

25 Clash: I can not sit here and

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

approve of it because we compromised ourselves out of the park.

COUNCIL MEMBER JACKSON: Okay, so you would not agree with that?

MS. SOAK: I would have to say, you take it all or there be no ban because to give them a half now, they'll come back for the half later. What's the difference?

COUNCIL MEMBER JACKSON: Let me just ask it this way. I've asked the other panels. Assuming that there were ten parks and ten beaches and they designated eight as totally non-smoker to give smokers the right of let's say two beaches and two parks. If they want to go there to the beaches, they can enjoy the beach and smoke. As a compromise, would you agree with that or would you just want one total or the other. Just identify yourself.

MS. SOAK: Audrey Soak. If we were speaking rationally about this--

COUNCIL MEMBER JACKSON:  
[interposing] And I'm trying to speak rationally.

MS. SOAK: The thing is it's become irrational that we've even come to speaking about

1  
2 bans in parks. You had the business owners should  
3 be able to choose whether to allow smoking or not,  
4 that's private property rights. With the parks,  
5 if we were talking to rational people, excluding  
6 you Councilman, I would agree to that but we're  
7 not speaking with rational people anymore.

8 COUNCIL MEMBER JACKSON: What are  
9 you saying? My colleagues are not rational?  
10 Next.

11 MS. SOAK: Anybody--

12 COUNCIL MEMBER JACKSON:  
13 [interposing] No, next please.

14 MS. SOAK: Anybody who feels that  
15 they're within the anti-tobacco movement are not,  
16 let me clarify that.

17 COUNCIL MEMBER JACKSON: Okay, next  
18 please.

19 CHAIRPERSON ARROYO: Can we keep  
20 this to...please.

21 COUNCIL MEMBER JACKSON: I'm trying  
22 to keep it straight to the point.

23 CHAIRPERSON ARROYO: Thank you.

24 COUNCIL MEMBER JACKSON: So would  
25 you agree with that compromise? I'm trying to

1

2

understand whether or not smokers. Are you

3

willing to agree to a compromise or would you not?

4

MS. STEWART: It's putting too much

5

in the hands of some bureaucrat to decide.

6

Quickly, on September 12, 2001 I went to the duck

7

pond, which is the place where I get the most

8

solace. People were all one there; people were

9

smokers, non-smokers, no one was fanning the air,

10

running away. We were all Americans. We were

11

brothers and sisters. We were New Yorkers. And

12

you are trying to divide us along crazy lines.

13

COUNCIL MEMBER JACKSON: Thank you.

14

Next please.

15

MR. GERALITZ: I somewhat disagree.

16

I go along to get along. I've done that for 22

17

years. I think any compromise in this particular

18

case, if it was done rationally, I would be more

19

in favor of the 80/20.

20

COUNCIL MEMBER JACKSON: 80/20?

21

MR. GERALITZ: Yes, sir. I don't

22

know if my constituents would agree but I just

23

know that you have--

24

COUNCIL MEMBER JACKSON:

25

[interposing] So that's basically the example that

1

2 I gave with ten?

3 MR. GERALITZ: Yes, sir.

4 COUNCIL MEMBER JACKSON: So you  
5 would go along with that?6 MR. GERALITZ: I personally would  
7 because I believe some concessions have to be  
8 made. But I think only at the risk of dealing  
9 with rational people.10 COUNCIL MEMBER JACKSON: Okay, but  
11 not 80/20 like 80%, an example where I gave 80%  
12 where smokers are allowed. I'm talking about only  
13 20% where smokers would be allowed.14 MR. GERALITZ: Well you said  
15 something about ten parks and ten beaches.16 COUNCIL MEMBER JACKSON: Right.  
17 Eight being non-smoking altogether and two being  
18 for smokers, that's 80/20.19 MR. GERALITZ: 80% of the parks  
20 would be smoke-free and the 20% could be smokers.21 COUNCIL MEMBER JACKSON: Okay,  
22 okay.23 MR. GERALITZ: Or peripheral or  
24 some area, somewhere where they're not treated  
25 like lepers.



1

2 COUNCIL MEMBER JACKSON: Okay.

2

3

Next, please.

4

MR. YAROW: Yes, Councilman. I

5

would agree with the compromise only because the

6

real-politic of the situation demands it. As I

7

said in my statement, I think that a total ban is

8

of dubious Constitutionality but I think that the

9

prevailing winds are blowing against so that if

10

you can accommodate the rights of smokers and non-

11

smokers in a public space, it's better to do so.

12

COUNCIL MEMBER JACKSON: Well,

13

thank you. Thank you call. Thank you Madam

14

Chair, Madam Co-chair.

15

MS. SOAK: Sir, if I may, who

16

decides the 20%. Is the duck pond off grounds for

17

smokers and smokers can only go to 96th Street and

18

West End?

19

COUNCIL MEMBER JACKSON: Who knows?

20

That's a good question.

21

MS. SOAK: That's scary.

22

COUNCIL MEMBER JACKSON: Thank you.

23

CHAIRPERSON ARROYO: Thank you

24

panelists for your testimony today, for being

25

here. We'll move on to the next panel. I'll just

1  
2 read the names; people will accommodate  
3 themselves. We have Beverly Nelson, Georgette, I  
4 hope that's correct from Smoke Free in Jackson  
5 Heights, New York, Phil Coningsburg and Lasette  
6 Lopez.

7 [Pause]

8 CHAIRPERSON ARROYO: Okay. I'm not  
9 going to assume that you've done this before.  
10 Yeah, okay. So you can choose who goes first.  
11 Identify yourself for the record. You may begin.  
12 I think you've heard enough of the chimes and that  
13 indicates the three minute time limit that we're  
14 trying very, very hard to adhere to.

15 LASETTE LOPEZ: Hi, good afternoon.  
16 My name is Lasette Lopez and I work with High  
17 Bridge Community Life Center. I work for High  
18 Bridge Community Life Center, a not for profit  
19 organization located in the High Bridge section of  
20 the Bronx. High Bridge Community Life Center has  
21 been in the community for 30 years. During my 19  
22 years of employment with High Bridge Community  
23 Life Center I have learned to get involved and to  
24 speak for the greater good.

25 I come here today in support for

1  
2 the City Council Intro 332. I would like to share  
3 my own personal experience. I am a healthy non-  
4 smoking Latina woman with two children. I have  
5 never been diagnosed with any respiratory  
6 conditions however when I am close to smoke,  
7 cigarette smoke or when any heavy smoke comes  
8 within close proximity of me my chest begins to  
9 get very tight and I become very nauseous. I  
10 don't know how to say this without just saying it  
11 but being in a beach with your children with the  
12 beating sun and feeling nauseous because the  
13 person next to you is smoking is really annoying.  
14 I like to enjoy my time that I have with my  
15 children at the beach and in the parks.

16 I feel that if I experience these  
17 conditions from cigarette smoke, others may  
18 experience them, too. Why subject people,  
19 especially children in parks in beaches, to  
20 hazardous and harmful fumes? So please pass this  
21 bill for a healthier environment today and a  
22 healthier you tomorrow.

23 I just want to say that the  
24 comments that I've heard today here, especially  
25 sitting in my chair, I heard it's not anyone's

1  
2 business. Well, you're right. It's not anyone's  
3 business until it affects you and it affects me,  
4 my children and anyone around me. So then I  
5 become--it is my business and it should be your  
6 business, too. If the question is the government  
7 being too restrictive, in this situation I don't  
8 feel that it is for this particular reason, for my  
9 own reasons. But just like the smokers have their  
10 own reasons to smoke, it is not my business. But  
11 when it affects me, it becomes my business. Thank  
12 you.

13 GEORGETTE: Good evening everybody.  
14 My name is Georgette. I'm a hospital worker,  
15 nursing for 25 years. I can not put ten of my  
16 fingers to tell you how many I take care and then  
17 I see dying in the hospital bed. My own  
18 experience is my husband start smoking before our  
19 marriage. He would even force me to smoke with  
20 him, however, I refused. He would smoke in bed.  
21 One day he set my hair on fire, that was the worst  
22 experience. He was sleeping and then the  
23 cigarette dropped on my hair.

24 So when my husband reached the age  
25 of 60, his health deteriorated badly. Soon the

1  
2 doctor diagnosed him with lung cancer. He was so  
3 ill he could not breathe. He had to live under  
4 oxygen 24 hours a day, that was the worst part of  
5 it. My husband was a victim of tobacco industry.  
6 The industry doesn't care about us, over our  
7 health. They did not care about the health of my  
8 husband who died for a good reason.

9 I am speaking today because I want  
10 people to know that smoking killed my husband. I  
11 blame the tobacco industry for his death. I want  
12 to make sure no one else suffers like he, my  
13 husband suffer. And then I look at his face and  
14 it was just like ghost I had in my hand and that I  
15 have no right to ask anybody help because I was a  
16 nurse. Then I have 25 years of experience working  
17 in hospital.

18 I am here also to speak for the  
19 future of our children. I want to protect them  
20 from both smoking and second hand smoking. We do  
21 not want to sacrifice our children anymore. If I  
22 speak up I will help to serve them. Thank you.

23 BEVERLY NELSON: Hi, good  
24 afternoon. My name is Beverly Nelson, I also work  
25 at High Bridge Community Life Center in the South

1  
2 Bronx and I was asked to come and speak from a  
3 parent's point of view. I am the parent of a six  
4 year old son who suffers from asthma.

5 I live in New York City and I take  
6 every precaution imaginable to prevent him from  
7 having an asthma attack. However there is one  
8 trigger that I can not control and it is second  
9 hand smoke. It only takes a matter of minutes of  
10 exposure to second hand smoke to cause him to have  
11 a full blown asthma attack. No parent wants to  
12 see their child suffer an asthma attack. It is  
13 one of the most devastating experience to go  
14 through, especially when it's due to someone  
15 else's negligence, which you can not protect your  
16 children from.

17 I can not stop others from smoking  
18 around my child at outdoor recreational places. I  
19 can, however, confine him at home so he is not  
20 exposed to toxins from second hand smoke, which  
21 trigger his asthma. I have to live with making  
22 the decision between either letting him go outside  
23 to enjoy his childhood or to keep him confined and  
24 unhappy so that he can remain healthy. This is an  
25 unfair decision for parents to have to make every

1  
2 single day. Therefore, I support Intro 332  
3 because I believe our children deserve to come out  
4 and play and remain healthy while doing so. Thank  
5 you.

6 PHIL CONINGSBURG: Hello. Thank  
7 you very much for being here and having the  
8 hearings. My name is Phil Coningsburg. I'm a  
9 member of Queens Community Board 7, also Vice  
10 President of the Bay Terrace Community Alliance  
11 and a member of Friends of Fort Titan Parks. This  
12 is in northeast Queens. I'm here speaking as an  
13 individual, the President of the BTCA. The  
14 speakers is on the list of speakers to talk more  
15 about what we've done.

16 I would like to say that I'm in  
17 favor of Intro 332, which would improve the  
18 quality of life for my family and fellow New  
19 Yorkers by allowing visitors to our city parks and  
20 beaches to breathe free from tobacco smoke. As  
21 someone who has restricted lung capacity and  
22 asthma, outdoor tobacco smoke is harmful to me and  
23 unavoidable trying to earn a living and fulfill my  
24 everyday responsibilities. I'm like Danny  
25 Thomason, trying to get into work, having to go

1  
2 around all the people smoking in front of  
3 buildings; that's something I have to do to earn a  
4 living.

5 But I should be entitled to come  
6 into a place and relax and not have that same, be  
7 subjected to the same toxic air. It's not a  
8 question of it being harmful. Evidence of the  
9 harmful effects of outdoor. ETS was confirmed in  
10 2006 when both the U.S. Surgeon General report  
11 clearly stated that there is no safe level of  
12 exposure to second hand smoke. The California  
13 Environmental Protection Agency declared outdoor  
14 tobacco smoke has a "toxic air pollutant".

15 However, I hope and look forward to  
16 the day of being able to relax in a smoke free  
17 local park. If 470 municipalities in this country  
18 have already passed some free park legislation.  
19 Let me repeat that: 470 municipalities have smoke  
20 free parks, including San Francisco, Los Angeles,  
21 San Diego and Albuquerque and the entire  
22 commonwealth of Puerto Rico. Then why shouldn't  
23 the greatest city in the world become number 471?

24 You and the full Council have the  
25 power to do that. I am asking you to take this



1  
2 opportunity and set the example for Albany to  
3 follow. I would encourage the Health Committee to  
4 stand tall and strong and not fall to the lobbying  
5 onslaught that you will be subjected to in the  
6 coming months as Intro 332 works its way through  
7 the process. As a veteran of Smoke Free advocacy  
8 testimony--

9 [Timer sounds]

10 A couple more seconds, please.

11 Since the 1990s I've seen what pressure is put  
12 against past Council Members but I'm confident for  
13 the full Health Committee and eventually the full  
14 Council will pass the strongest possible bill,  
15 without any amendments to weaken 322 before Mayor  
16 Bloomberg signs the bill.

17 And I have one comment on 381. In  
18 vain, I urge the Health Committee to vote down  
19 Intro 381 that was just introduced by Council  
20 Member Peter Vallone, Jr. How ironic is it to  
21 have the Vallone name associated with a watered  
22 down smoke free air law when the Vallone name was  
23 the City Council's strongest--

24 CHAIRPERSON ARROYO: [interposing]

25 Please, everyone has been very, very mindful of

1

2 the time so I'm going to ask you to do the same.

3 Go and finish.

4

MR. CONINGSBURG: Thank you.

5

6 CHAIRPERSON ARROYO: Okay. Council  
Member Jackson has a question, please.

7

8 COUNCIL MEMBER JACKSON: I just  
9 wanted to know, you've heard my testimony. I  
10 think that the city is being too restrictive and  
11 obviously some of you if not all of you disagree  
12 with that. If they, in the scenario of ten  
13 beaches and ten parks and eight being totally  
14 smoke free and two being allowed for people that  
15 want to smoke. And there's hundreds of thousands  
16 of New Yorkers that smoke, would you be in favor  
17 of that type of compromise. Let's say two out of  
18 the ten parks and beaches for smokers and the  
other eight totally non-smoking?

19

MR. CONINGSBURG: If I could say--

20

COUNCIL MEMBER JACKSON:

21 [interposing] Just identify yourself. If you can  
22 hopefully say yes or no answer.

23

MR. CONINGSBURG: Phil Coningsburg.

24

25 No, I don't think it's something that I would  
approve. Under the ADA it might be discrimination

1

2

for people who have disabilities and I would consider that a discrimination.

3

4

COUNCIL MEMBER JACKSON: Okay, next please if you don't mind, Georgina, Georgette.

5

6

Madam, would you go along with eight parks or beaches non-smoking and two for smoking to allow people that want to smoke, which is legal, to smoke. Would you go along with that?

7

8

9

10

GEORGETTE: My experience.

11

COUNCIL MEMBER JACKSON: No?

12

GEORGETTE: I don't want to hear about cigarette.

13

14

COUNCIL MEMBER JACKSON: Okay, thank you. Next, please.

15

16

MS. LOPEZ: Lasette Lopez and no, I believe that everyone should enjoy the beaches. We're not saying don't go to the beaches, we're saying don't smoke at the beaches.

17

18

19

20

COUNCIL MEMBER JACKSON: Okay, next please.

21

22

MS. NELSON: Yeah, Beverly Nelson.

23

No.

24

25

COUNCIL MEMBER JACKSON: This is my last quick question. So would you support, if

1

2 this was a bill saying banning smoking totally,  
3 altogether everywhere in New York City would you  
4 favor that or would you be against that?

5 MR. CONINGSBURG: Most certainly  
6 would.

7 COUNCIL MEMBER JACKSON: You'd be  
8 in favor of that?

9 MR. CONINGSBURG: I'd be in favor  
10 of a total ban.

11 COUNCIL MEMBER JACKSON: Total, in  
12 the house, everywhere, walking street sidewalks,  
13 everything.

14 MR. CONINGSBURG: The only  
15 possible, if it's an unattached dwelling, not  
16 attached to any other like an apartment building,  
17 I believe the FDA should be allowed to ban tobacco  
18 cigarettes and tobacco products but Congress did  
19 not allow them to do that and that would solve the  
20 problem a lot of people have here.

21 COUNCIL MEMBER JACKSON: About  
22 total ban, totally in New York City, to Georgina,  
23 Madam?

24 GEORGETTE: I don't want to hear  
25 about cigarette after my experience.

1  
2 COUNCIL MEMBER JACKSON: Okay, so  
3 your answer is yes, you would ban it for the  
4 entire city of New York.

5 GEORGETTE: No, I won't say that.

6 COUNCIL MEMBER JACKSON: You said  
7 you don't want to hear about smoking at all.

8 GEORGETTE: No, I can not talk to  
9 all the people.

10 COUNCIL MEMBER JACKSON: Okay, very  
11 good. Madam. Ban it totally in New York City,  
12 everywhere.

13 MS. NELSON: No, I wouldn't. I  
14 wouldn't.

15 COUNCIL MEMBER JACKSON: Okay and  
16 you?

17 MS. LOPEZ: Yeah, no, I wouldn't.

18 COUNCIL MEMBER JACKSON: Okay,  
19 thank you very much. Thank you Madam Co-Chair.  
20 Thank you panelists for your time and your  
21 testimony. The next panel in opposition, Barbara  
22 Fisher, NYC CLASH, Stephen Helfer, NYC CLASH,  
23 Leonard Waller, Margaret Wallman. Quick, Robert  
24 left the room. Let's do this quickly.

25 [Laughter]

1  
2 No, good debate, it's a good  
3 debate.

4 CHAIRPERSON ARROYO: Good  
5 afternoon, panelists. I'm not sure if you've done  
6 this before or not. Identify yourself for the  
7 record, choose who goes first, we'll wait until  
8 you conclude the testimony and we'll go back and  
9 forth if there are questions. The light is off,  
10 the mic is on.

11 BARBARA FISHER: Hi, my name is  
12 Barbara Fisher. I'm a proud member of New York  
13 City CLASH. I'm from Staten Island and I have a  
14 long trip home but anyway my opening comment is  
15 brother. And by that I mean Big Brother.

16 Enough is enough. Our legislators  
17 at all levels should stick to writing the many  
18 bloated, abusive and inefficient monstrosities  
19 they've created over the years like the MTA, the  
20 water board and the Port Authority, just to name a  
21 few. How about reviewing civil service system  
22 with pensions, benefits and multiple dipping are  
23 out of control.

24 In the current Kafka-esque  
25 nightmare of bureaucracy, an economic depression,

1  
2 do our elected officials try to ameliorate much  
3 less address those problems. No, they prefer to  
4 pander to the already entitled special interest  
5 groups by creating additional nanny laws, which  
6 serve only to further and hinder the working and  
7 small business classes.

8 Common sense questions. This  
9 proposal started out because of litter on the  
10 beaches a couple of months ago. First, are  
11 smokers the only ones littering? Second, where  
12 are all the public ashtrays? Wouldn't a tossed  
13 butt into a litter basket ignite a fire? Third,  
14 since the books already have litter laws why  
15 aren't they being enforced by all the agents of  
16 EPA, DEP, Sanitation, etc?

17 David Brooks of the New York Times  
18 recently spoke on Charlie Rose Show about these  
19 two classes now in this country that are in  
20 conflict. King Bomb-berg has made our city a show  
21 place and magnet for the elite, the entitled and  
22 tourists. The pedestrian malls, bike lanes, tree  
23 plantings all appeal to the media and the "now,  
24 me, I" and my "people". The self centered and  
25 self promoted individuals and lobbying groups.

1  
2 And to a point of better economic  
3 times that's okay but what about us other folks?  
4 The working and small business classes; we pay  
5 taxes, vote and obey laws. Our voices are ignored  
6 but we do get saddled with nanny laws, sneaky  
7 hidden taxes, outrageous housing costs and the  
8 palava and pablom of posturing politicians.

9 We get no government hand outs or  
10 pork, patronage. Nor can we afford an entourage  
11 of attorneys, accountants and Sica fans to  
12 insulate us against the realities of New York City  
13 living. It's duly noticed the hubris of this  
14 hearing, the hierarchy. Last but not least, what  
15 about our rights? Much like a hoard of hyenas  
16 attacking a wildebeest, the wolf pack oligogues  
17 [phonetic] of government and anti-smoking advocacy  
18 have targeted and hunted down a scapegoat. In  
19 tandem, they have fabricated a smoke screen, pun  
20 intended, like the Wizard of Oz.

21 This construct is a diversion  
22 serving many purposes, enacts restrictive  
23 caretaker legislation while making it appear that  
24 something productive is being done. It generates  
25 incomes and insulates and hopefully from their



1  
2 perspective eliminates the smoker. The wolf pack  
3 justifies its tactics and goals by citing the  
4 "public good" to deny and restrict our choices,  
5 making smokers pariahs in the process and that's  
6 it.

7                   STEPHEN HELFER: My name is Stephen  
8 Helfer. I'm speaking as a private citizen with  
9 CLASH, New York City CLASH. I get no money from  
10 New York City or state government. Our tobacco  
11 companies and I do not stand in awe or beholden to  
12 Michael Bloomberg.

13                   A couple of points on scientific  
14 accuracy. One of my colleagues or friends brought  
15 up that question with the City Council. It  
16 appeared to me that the City Council took umbrage.  
17 Well, let me just as an example, just an example.

18                   Counselor Brewer, she said that  
19 cotinine was a toxin. It's not a toxin. It's a  
20 harmless metabolite. As the sponsor of the bill I  
21 should think you would know that. Maybe it was  
22 just a slip of the tongue but it is not a toxin.

23                   Thomas Farley, who is the  
24 Commissioner of Public Health here. One would  
25 think, wow, we can trust that man. He's our

1  
2 Commissioner of Public Health. Yet when he  
3 compared the level of smoke exposure in a park to  
4 the Holland Tunnel, he very conveniently left out  
5 that the Holland Tunnel has one of the most  
6 powerful air filtration systems in the world.  
7 Wouldn't you expect Thomas Farley, Commissioner of  
8 Public Health, to mention that to all of us?

9           This ban will really discriminate  
10 the poor, homeless and the mentally ill. They  
11 smoke at a much higher rate than the rest of the  
12 population. This bill will in effect drive them  
13 out of the parks and drive them away from the  
14 concords where Mayor Bloomberg wants to entertain  
15 visiting tourists with lots of money.

16           Simon Chapman, who is one of the  
17 most famous anti-smoking specialists in the world  
18 wrote a very, very good paper, which I highly  
19 recommend to you called Going Too Far, the Limits  
20 of Anti-Smoking Policy. In this paper Dr. Chapman  
21 writes "The Surgeon General's report", that's the  
22 2006 Surgeon General's report, "on involuntary  
23 exposure to tobacco smoke made no recommendations  
24 and reviewed no evidence on the dangers of outdoor  
25 exposure or the importance of controlling it.

1  
2           There should be a lesson in that  
3 for all of us, Dr. Chapman writes. I certainly  
4 hope the City Council of New York will heed Dr.  
5 Chapman's sage warning. Thank you.

6           LEONARD WALLER: Leonard Waller,  
7 member of CLASH, member of CRA and just an  
8 ordinary citizen who smokes. You all have my  
9 testimony, which basically outlines everything I  
10 wanted to say. I'd like to thank Councilman  
11 Robert Jackson and Halloran and Peter Vallone, Jr.  
12 for at least having an open mind.

13           The Bloomberg administration picked  
14 up from the Giuliani administration. Part of my  
15 life's history is that yes, I'm gay. Yes, I  
16 worked in the adult industry all my life, managed  
17 clubs, bars. A lot of things that have been  
18 outlawed in New York, along with Mayor Giuliani's  
19 famous 60/40 zoning law. I watch how laws get  
20 passed with the good of everyone in mind and then  
21 slowly each administration chips away a little  
22 more at it.

23           Well, enough is enough. I'm a  
24 father, grandfather, citizen and I go to the  
25 parks. Yeah, I'm probably guilty. I live in the

1  
2 Bronx, I live a block and a half from Mashulla  
3 Parkway and along the outside of the park are  
4 benches surrounding the outside. I'll sit on a  
5 bench, feed the squirrels, which I'm being told  
6 now is against the law and smoke a cigar. I  
7 really don't think I'm harming anyone. Parents  
8 come by with their kids. If somebody would say  
9 anything, of course I would move. I'm a  
10 considerate human being but they don't.

11 Directly across the street from  
12 Mashulla Parkway on East 203rd Street is a public  
13 school with a huge play yard and there are benches  
14 on the street along the play yard. Yes, people  
15 can smoke on them because they're technically not  
16 in a play yard and they're not in the jurisdiction  
17 of parks. But every day two or three Mr. Softee  
18 trucks come by and park there, running their  
19 engines for four or five hours and that pollution  
20 doesn't bother anyone. I just somehow don't  
21 understand it.

22 The other thing is if you go to  
23 city parks and in 1986 and '87 I worked briefly  
24 for the Parks Department in Riverside Park.  
25 You'll find barbeques, picnics, people grilling.

1  
2 You'll find Central Park and along Central Park,  
3 vendors burning anything from gas grills to  
4 charcoal grills. Well, isn't that polluting a  
5 park? If I walk passed Central Park on the  
6 outside and a friend is sitting on a bench and I  
7 stop and talk to them, am I now polluting the park  
8 anymore than if I was sitting next to him on the  
9 outside of the park a foot and a half away. I  
10 don't believe so.

11 September 23rd, and I beg your  
12 indulgence, I was here for the Committee that was  
13 hosted by Senator Tom Duane. He claimed New York  
14 State is down 35% in smokers since Mayor Bloomberg  
15 and Albany did the study. No, we're--

16 [Timer sounds]

17 I beg a few more seconds, please.  
18 We're not down 35% smokers, we're down 35% sales  
19 tax stamp sold because with all the increases you  
20 forced, not you specifically individuals, forced  
21 people to go to other states. Cigarettes in New  
22 York, even though I don't smoke them, are about  
23 \$11 and change a pack. Jersey you get the same  
24 pack for \$8, \$7 and change. You can buy them  
25 through the internet even cheaper even though a

1

2

lot of services and credit cards are being gone after by the state. And you can buy them on the black market. So there's your 35%.

5

6

7

In 1985 in the height of the AIDS crisis we banned sex from all back room bars, clubs, swing clubs--

8

9

CHAIRPERSON ARROYO: [interposing] Leonard.

10

11

MR. WALLER: Yeah, keep quiet, I know.

12

13

CHAIRPERSON ARROYO: No.

MR. WALLER: My time's up.

14

CHAIRPERSON ARROYO: No. [Chuckles]

15

16

MR. WALLER: I'd like to thank you and I urge you please, don't approve this bill. Protect the rights of the citizens. I'm here for any questions. Thank you. Oh, I'm sorry.

17

18

19

20

MARGARET WALLMAN: Hi, I'm Margaret Wallman. I just found out about CLASH so I joined. I was going to do this--well, I wouldn't have known about this so I'm going to try to say this parts.

21

22

23

24

25

[Singing] You can't talk to a man when he don't want to understand. Oh, no. [Stops]

1

2

singing]

3

4

5

6

7

8

9

10

11

Okay, I'm not really a singer. I hope I don't get sued by Carol King. So the point of this was that I've been smoking for over 25 years, an undisclosed number of packs of cigarettes a day. It may not be that very much impressive of a voice. You should have heard what it sounded like a week ago. My cough has improved now, you may have heard it earlier. My cough gets worse with withdrawals.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Previously, I thought cigarettes were the sole cause of my lung problems, as did the doctors. On a lighter note, my heart is very healthy. I tried cigars for a short time. I have a little anecdote that I forgot to include in my opinion. When I was 19 I quit smoking. I decided to deal with my withdrawals through second hand smoke but it wasn't easy. I had to be carefully coordinating inhaling in a close distance as the smoker exhaled directly into my face. If the shotgun was not calculated and coordinated correctly, I could not get a drag of nicotine and I was trying. I also tried cigars for a short time.

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

My second omission from my opinion is that I weather strip my door to be considerate of my neighbor by removing the cigarette smell from the hallway. I have no smoking discussions with my daughter that can be extended to the schools in a life skills class that I recommended to Mayor Bloomberg. I am glad to say that my daughter has never swallowed a cigarette butt. I think I'll do a better job of raising my daughter than New York City would.

Many people have untreated, undiagnosed medical conditions that have no other viable recourse than coping with tobacco. Tobacco is indigenous to this continent; tobacco has a long history with religious and economic origins on this continent and should not be so easily dismissed.

I'm asking no taxation without representation and at least separate but equal conditions for tobacco smokers if this is what it comes down to. When society is healthy physically, spiritually, mentally and financially. They'll be no need for drugs, including tobacco. I'm trying to preserve the right for freedom of



1  
2 religion and life and liberty and the pursuit of  
3 happiness for us all.

4 I am asking compassion for a  
5 minority group. Please do not pass this proposal  
6 to ban outdoor smoking in parks, pedestrian malls  
7 and beaches, intro 332. To me, beaches and  
8 pedestrian malls are more of an issue. Excessive  
9 daytime sleepiness restricted by ability to walk,  
10 although for others parks may be more of an issue,  
11 although I would like to be able to smoke in  
12 Central Park.

13 As far as the night life not  
14 getting any worse. I think it used to be better  
15 but I don't get out much because I have a child  
16 now so that's it.

17 CHAIRPERSON ARROYO: Okay, well  
18 thank you very much.

19 CHAIRPERSON MARK-VIVERITO: Thank  
20 you for bringing some levity to the situation.

21 CHAIRPERSON ARROYO: I know Council  
22 Member Brewer has a question.

23 COUNCIL MEMBER BREWER: I just have  
24 a question. I know how you feel but I also want  
25 to know how you would respond to the previous

1  
2 panel, children who have asthma attacks, people  
3 who have limited lung capacity have to walk  
4 through. It may not bother you or me but it does  
5 have severe consequences to those families. How  
6 would you answer those questions?

7 MR. WALLER: I'd like to respond  
8 quickly. Between 1980 and 1996 the number of  
9 persons who smoke in this country and the exposure  
10 of second hand smoke to most people decreased  
11 dramatically. This is widely available. Yet the  
12 incidence of asthma in this country grows 77%.  
13 According to the Heart and Lung Association and  
14 National Institutes of Health, the cause of asthma  
15 is not known, contrary to what some people have  
16 said here today.

17 There are a lot of triggers for  
18 asthma including pollen, cold weather, emotional  
19 upset, physical activity and much of the public  
20 housing there's an unacceptable level of roach  
21 droppings. So please don't blame it on smoking.  
22 Thank you.

23 COUNCIL MEMBER BREWER: Okay. I  
24 would just add that in addition to those and I  
25 would certainly agree with you that if we can

1

2 curtail one aspect of it that we should do so.

3 That would be my comment.

4

5 for--

6

7 MS. WALLMAN: [interposing] I also  
8 have. I don't know. I don't want to fight. I'd  
9 rather compromise with restricting it to certain  
10 areas so people know to avoid them if they think  
11 that's going to trigger their asthma. My  
12 neighbor's son has asthma. I never triggered an  
13 asthma attack on him. And if they come up, I'll  
14 smoke out on the balcony on something because he  
15 has asthma. We try to be conscientious of those  
16 who have health issues around us.

16

CHAIRPERSON ARROYO: Yes.

17

18 MR. HELFER: I'd like to also point  
19 out that the Bronx has the highest rate of asthma  
20 in any of the five boroughs. Does that mean that  
21 all smokers live in the Bronx? I don't think so.  
22 I think there are a lot of things that cause  
23 asthma and I think everything has to be considered  
24 and taken in a moderate view. It's easy to pick  
25 on one group but let's really address the whole  
issue.

1

2

CHAIRPERSON ARROYO: I think

3

Council Member Viverito's district in East Harlem

4

holds the title.

5

CHAIRPERSON MARK-VIVERITO: Highest

6

levels of asthma, unfortunately. Thank you very

7

much to this panel. Thank you for coming today

8

and testifying and for your patience. The next

9

panel, Colin Pello, Jose Gonzalez, Barbara Hart,

10

Douglas Lee. Douglas Lee is here? And we have

11

Barbara? And we have Jose Gonzalez? So Colin is

12

not so we'll call somebody else. We've got Hilary

13

Kline. Okay, go on. Vladis Publia, okay.

14

Haceeba Rasheed, I hope I pronounced--okay.

15

Anybody can feel free to start.

16

HACEEBA RASHEED: Hello, my name is

17

Haceeba Rasheed and I'm from the Council of

18

People's Organization, also known as COPO. I am

19

the Program Manager there. I am here to show

20

COPO's support on the initiative for a smoke free

21

city, specifically Intro 322. I'm not going to go

22

into statistics. We've all heard it; we've been

23

here for hours but I did want to express my

24

personal experience with the damaging effects of

25

second hand smoke.

1  
2 As a child I did not have asthma.  
3 I did not suffer from it at all; I was a healthy  
4 child. One morning when I was a senior in high  
5 school, normal day just walking up the stairs  
6 going into the school where a bunch of kids who  
7 were smoking, a few were my friend as well. I was  
8 just speaking to them, hanging out when all of a  
9 sudden I started having great difficulty breathing  
10 and unknown to me, I was having an asthma attack.  
11 Since I never had an asthma attack before in 18  
12 years of my life.

13 When I was rushed to the hospital  
14 the doctors examined me, they x-rayed my lungs,  
15 everything. The doctors asked me how many years  
16 had I been smoking. I was 18 years old. When I  
17 responded to him that I've never smoked a day in  
18 my life, he was very reluctant to believe me. He  
19 had to ask me at least two times more before he  
20 finally told me the reason why he's so  
21 disbelieving. It was because my lungs on the ex-  
22 ray showed that my lungs showed the same damage as  
23 a person who had been smoking for five years. I  
24 was 18 years old and I had lung damage compared to  
25 a smoker of five years.

1  
2 Even until this day, I'm 25 years  
3 old now. I still suffer from asthma. I can't  
4 even go to a public park on a lazy afternoon  
5 enjoying a beautiful day without either having to  
6 take my pump out because I feel an asthma attack  
7 coming on because of all the smoke surrounding me.  
8 It's come to the point where I don't even go  
9 outside to parks or a large group of people where  
10 I see are smoking because I'm afraid that I will  
11 be rushed to the hospital once again because of an  
12 asthma attack.

13 For the most part I can manage my  
14 asthma except when I'm around second hand smoke.  
15 For all the people who have come here to testify  
16 that there's no information, no statistics or  
17 proof that second hand smoke is detrimental to  
18 asthma--

19 [Timer sounds]

20 Aw. I'm living proof that it's  
21 true. Thank you.

22 JOSE GONZALEZ: Good afternoon  
23 everybody and Council Members. Thank you for this  
24 opportunity. My name is Jose Gonzalez. I have  
25 two children and I'm happily married with my wife.

1

2

3

4

5

I live in the Harvard Station of the Bronx but one of the things that I get involved in this is when something is affecting seniors and the children. We need to go there and fight against anything.

6

7

8

9

10

11

12

13

What she said when we talk about the statistics, data, all of those things, we, all of us know what the data are and the statistics. But I will say that cigarettes have been killing millions of people around the world. Here in the United States the cigarettes is leading the cause of death, taking the lives of more than 435,000 people.

14

15

16

17

18

19

20

21

22

Many children are born or get disease from what is called second hand smoke, where non-smoker inhaling smoke in different places such as restaurants, shopping center, in the street but also playgrounds, parks. They go to the park where there are seniors, youngsters, children who also have asthma and all the medical, critical conditions that can even sometimes cause their death.

23

24

25

Tobacco, as we know and we heard that, kills more than any other disease nationwide. Here in New York City, the deaths

1  
2 kill more than AIDs, homicide, drugs and suicides  
3 all combined. One of the things that I heard is  
4 when I go to the track, which is located in front  
5 of the beautiful new Yankee Stadium that we have  
6 in High Bridge.

7 I sometimes it happens to me. I'm  
8 walking on the track and people walking next to me  
9 and my children, my two children, and they're  
10 walking, exercising but they are smoking next to  
11 me. And any park that I've been with my kids I've  
12 seen people smoking when we were walking on the  
13 sidewalk, we have to cross the street because I've  
14 been teaching my kids those advertisements that  
15 we've been watching on TV, this is a very bad for  
16 any human being. I'm taking this really in  
17 consideration.

18 We say how our neighborhood,  
19 families and children are protected from this  
20 disease when they are exposed to second hand  
21 smoking and ordinary city parks and play grounds.

22 [Timer sounds]

23 MR. GONZALEZ: I'm going to finish  
24 quick. And beaches. We already heard that. The  
25 Bronx also have the highest asthma hospitalization



1  
2 rate from 0 to 14 years old. As a father it is my  
3 responsibility to teach my kids that their mom and  
4 their dad don't smoke. I've seen advertisements,  
5 as I said, and our children and our family deserve  
6 a healthy life and a legislation in New York City  
7 that protects families and environment and  
8 legislation that will give us more time to help  
9 our lives and our families as well.

10 CHAIRPERSON MARK-VIVERITO: Okay,  
11 thank you very much. Thank you for your  
12 testimony.

13 BARBARA HART: Sorry. Good  
14 afternoon Madam Chairman and members of the  
15 Council. I want to thank you for allowing me to  
16 speak on such an important issue. I am Barbara  
17 Hart and I am Program Manager for Bronx Breathes,  
18 the Bronx Tobacco Cessation Center. I'm here in  
19 support of local law 332-2010 prohibiting smoking  
20 in pedestrian plazas in public parks.

21 I need to say from the very outset,  
22 there is no public benefit to smoking. In our  
23 society laws are created to protect people from  
24 threats to health and safety. Public health laws  
25 modifying individual behavior were born of an

1

2

understanding that freedom is not absolute.

3

4

5

6

7

8

The Outdoor Air Act does not deny the right of smokers to smoke. It asserts that the right of New Yorkers to breathe smoke free air without carcinogens and toxins serves a greater good than the desires of smokers to smoke anywhere and at any time.

9

10

11

12

13

14

15

16

17

18

19

People walk through the streets of New York. I go to Orchard Beach during the summer. It's one of my favorite beaches besides Reese. Just sitting on the boardwalk trying to eat some popcorn and enjoy some sun, has always been interrupted by the smoke of people smoking. Walking through the parks. I live in Central Harlem. I live a block away from St. Nicholas Park. Walking through that park, which I generally do every evening, has always been interrupted by people smoking.

20

21

22

23

24

25

We have a right, just like everyone else, to breathe healthy, smoke free air. I understand how people believe that they're taking their rights away. But just because they want to smoke doesn't mean that we have to suffer and breathe in toxins while they're smoking their

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

cigarettes. Thank you.

DOUGLAS NAMLAN: Good afternoon.

My name is Douglas Nam Lee and I'm a Community Manager at Asian Americans for Quality. We're a 36 year old community development and civil rights organization serving New Yorkers from all five boroughs. I'm really here to speak in support of Intro 332 for a lot of reasons.

Second hand smoke and cigarette use and also the use of smokeless tobacco are really huge issues in the Asian American community. It leads to really high levels of lung cancer but also oral cancer in addition to all the other health issues that have been raised by folks out here today.

The city says reports that about 10.6% of Asian New Yorkers smoke but actually we know that actually it's a lot more. There are many community studies that have been done like by NYU where the rates vary greatly as low as 12% for South Asian New Yorkers, as high as 32% for Korean New Yorkers. I think those kinds of disparities are all over the city across communities and basically it's the huge impact that cigarette

1  
2 smoke has in our communities is why I'm here  
3 today.

4           Too many New Yorkers live in  
5 overcrowded and cramped housing. I think for  
6 these folks the parks and the beaches are our  
7 living rooms, they are our backyards. I think  
8 folks have a right to have healthy and clean  
9 environments when it's really an extension of  
10 where we call home. That's how we see the issue.

11           I want to make a final point, too.  
12 I've been here since 1:00 so I've heard the many,  
13 many perspectives that have been raised. I heard  
14 also folks from the city talk about enforcement,  
15 how there really was not a whole lot of clarity.  
16 So I hope we look to the leadership of the Council  
17 to make sure there is clarity. And why I raise  
18 that is mainly because we know that safety in  
19 parks is not safe for everyone. There have been a  
20 lot of stories and a lot of issues in our  
21 community where the enforcement of very basic park  
22 rules such as closing times and such as  
23 unpermitted vending has escalated beyond just the  
24 pest and there have been some arrests related to  
25 it.

1  
2 At the end of the day we're about  
3 civil rights for everyone and we want to make sure  
4 that whether it's a smoking issue or other  
5 enforcement issues that folks aren't unjustly put  
6 into the criminal justice system. Saying that,  
7 though, I think this is a good policy. I think it  
8 will accomplish a lot and it could definitely  
9 benefit our communities. Thank you.

10 CHAIRPERSON MARK-VIVERITO: Thank  
11 you all very much for testifying. Council Member  
12 Brewer.

13 COUNCIL MEMBER BREWER: Question,  
14 is it really 36 years? Oh my God.

15 MR. LEE: Yes.

16 COUNCIL MEMBER BREWER: I was there  
17 for the first day, that's scary. My question is  
18 what kinds of education do you think would be  
19 helpful? I, too, do not want anybody to get a  
20 summons, violation, etc. How do you think in  
21 terms of what I talked about earlier, neighbor to  
22 neighbor, etc, how can it work in the community?

23 MR. LEE: I think a lot of  
24 community organizations have been working on  
25 smoking cessation and tobacco control work,

1  
2 helping folks quit. Looking back again at the  
3 most recent community health survey that I asked  
4 how many people are using nicotine replacement  
5 therapy among smokers. People of color still have  
6 the lowest rates of actually using nicotine  
7 replacement therapy. I think the city can  
8 obviously continue doing what it does. I think  
9 community groups and community leaders need to do  
10 education.

11 In terms of how it applies to any  
12 future park policy, I think it's also a bigger  
13 picture of translating signs and information. Not  
14 just the top three languages in the city, the top  
15 three languages in the city are not spoken in  
16 every neighborhood in the city so really making it  
17 locally relevant.

18 CHAIRPERSON MARK-VIVERITO: Thank  
19 you all. Next panel, Matthew Shotkin, Lisa  
20 DeFrancesco, Matias Clark, Ingrid Ann Zouzic, I  
21 think, John Davis and Wayne Monies, Mones. Thank  
22 you very much. Feel free to begin.

23 MATTHEW SHOTKIN: Thanks for  
24 holding this hearing. I heard about this hearing  
25 at CB6 last night from Rosie and it's good to see

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

you, Maria. Just save that until the end.  
Smoking cessation in the parks and beaches is a problem, with the price of cigarettes going up and most people smoking, it might but I don't know if it's going to be less or more of a problem. Maybe a compromise of the larger parks, for example, Central Park and Bryant Park.

The beaches should have a smoking ban for sure. There are trainings for smoking cessations. Cigarette litter, as we've already heard today, accounts for 75% of the city's litter, just so you know that I was paying attention.

I propose a smoking ban in the bars and clubs because that's just habit. It's second hand smoke. As somebody said earlier, I think there's also be a ban on penthouse smoking and as a fines person, Gale, this should also be a fine of at least between \$50 and \$100 if you're caught smoking.

The last thing that I'll say before I wrap up is that I found this on the actual floor as I walked in. It says Smokers Rights Group press conference in advance of public hearing on

1  
2 outdoor smoking ban in New York City. This is by  
3 the New York City CLASH representatives and  
4 members, headed by David Gerawitz who used the  
5 face of Winston cigarettes on his face. He was a  
6 Winston man. Thanks for your time today.

7 CHAIRPERSON MARK-VIVERITO: Thank  
8 you, Mr. Shotkin. I think from your testimony  
9 that we might have put you on the wrong panel but  
10 thank you very much for testifying. Yes.

11 JOHN DAVIS: Okay, great. Thank  
12 you ladies and gentlemen. My name is John Davis  
13 and I have been suffering from asthma in 1974, a  
14 touch of it in my right lung. It's been caused by  
15 the fact that I have bad chemistry. I have  
16 allergens caused by pollen and dust, dirt, fumes  
17 from spray cans, car exhaust, stuff like that.  
18 This aggravates my asthma a slight bit but when  
19 spring springs, as you know, I really get it bad.  
20 Unfortunately, or maybe not unfortunately because  
21 it really helps me out.

22 In 1997 I started smoking and the  
23 only time I really get aggravated from my smoking  
24 is during the spring. The rest of the time,  
25 there's no problems so the one point I'm trying to



1  
2 get across, it's your body chemistry. If you were  
3 given a bad bill of goods and you got bad body  
4 chemistry, then you shouldn't be sitting there  
5 screaming at somebody who's smoking a cigarette  
6 saying, you're making me sick. It's like listen,  
7 take it up with the birds who made you - period.  
8 I have to, that's the way I look at it.

9           Number two, in the course of going  
10 to the city parks I always try to put myself far  
11 away from other people to make sure that they're  
12 not inhaling my carcinogens because I know it can  
13 annoy people and make them sick, especially their  
14 children. Then I always police my butts. Now if  
15 we could just figure out a way to make sure that  
16 the citizens of New York are well educated, that  
17 they take some courtesy and to take up their  
18 butts. And tell the parents that hey, if you see  
19 a guy over there smoking a cigarette why in the  
20 heck do you want to put down your picnic blanket  
21 and your basket right there. They were there  
22 first. Out of common courtesy, just move over to  
23 the other place.

24           As for the possibility of doing it  
25 like 8% smoke free parks and two smokers parks,

1  
2 that might make it harder on me since I don't have  
3 a car to get there. Because if it's not Central  
4 park which is easy for me to access, I might just  
5 say well why even bother going to the park because  
6 it's just too far out of the way.

7           Everybody can work together on  
8 this. It's not that difficult. Everything's been  
9 fine the way it has been since they built Central  
10 Park and the city in general so you just might as  
11 well just let it ride and roll with it. You're  
12 welcome. Take care.

13           INGRID ZOUZIC: Hi, my name is  
14 Ingrid Zouzic and I'm a resident of New York City.  
15 First of all I want to let you know how horrified  
16 I am at the number of businesses that went down  
17 and went bankrupt, especially the bars,  
18 restaurants are surviving but bars upon bars upon  
19 bars have been closed down since the ban was  
20 introduced. I know for a fact that we could have  
21 done it differently. I know there were proposals  
22 to install air exhaust systems in bars to take  
23 care of the smoke issue but that was not taken  
24 under consideration.

25           So to me it really seems more of

1  
2 against smokers, really, than a second hand smoke.  
3 All of these organizations, institutions, really  
4 lobbying. They just don't like smokers, basically  
5 that's the truth. So that's one thing that I  
6 would like to talk about.

7 Second thing is I became very  
8 fascinated with the research itself of second hand  
9 smoke. That's how I found out there is also being  
10 studies done on third hand smoke and a fourth hand  
11 smoke and maybe even ten hand smoke. We don't  
12 know that. But the thing is that I became very  
13 fascinated and I have called thinking that surely  
14 we must have proof of second hand smoke. I have  
15 called national Surgeon General's office some time  
16 ago and I asked to have access to that research.

17 Real research takes about 17 years,  
18 takes two people non-smoker and a smoker. Non-  
19 smoker has to be exposed 24/7 to second hand smoke  
20 to really establish and to really get proof. Now,  
21 I called Surgeon General's office and spoke to his  
22 assistant and I asked for access to research. She  
23 said hold on. She went; she came back. She was  
24 acting very surprised that I'm asking for  
25 something like this and she said we do not have

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

research in this office. That was shocking. How do you base your reports on and your suggestions, whatever?

I said where do I get access to that research? Where is the research? Surgeon General says it is pooled research. Okay, what does that mean pooled research? That means it's taken from here, from there, from elsewhere, from down here. So I can submit that kind of research to Surgeon General's as well. I'm sure we all can submit that kind of research. So that's very disturbing that the Surgeon General has no research, no access to that kind of research, very disturbing. And she could not even tell me how I could go about getting access to the research and who has the real research.

[Timer sounds]

Is that it? Oh, I had so much more to say, really.

CHAIRPERSON MARK-VIVERITO: thank you all for your testimony. We appreciate it, thank you.

MR. SHOTKIN: Listen, can I put this in later because I want to--this is a [off

1

2 mic]

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CHAIRPERSON MARK-VIVERITO: Sure, you can submit it later on. Yes, no problem, you can submit it at any time if you want to. Thank you again for the panel. The next panel with two panels left to my understanding, one on each position. Oh, the rest are in favor, okay. So we have Leila Madsuzki from Take Care Staten Island, Darren Johnson, Hasaan Vasa, Wayne Grains. There are three on the panel right now, Ted Riel.

[Pause]

Okay, you can choose who goes first, identify yourself for the record, please begin.

DARREN JOHNSON: Good afternoon. My name is Darren Johnson and I'm with New York Restoration Project. I want to thank Chairwoman Mark-Viverito, Chairwoman del Carmen Arroyo, Council Members Jackson and Brewer for letting us come and testify today. I was actually with our founder, Bette Midler, on Monday and we had a very lengthy and long discussion about Intro 332. She asked that we come here today to share our support for the proposed ban on smoking in public plazas

1

2

and in public parks.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

You've obviously heard a lot of data today about the health risks of second hand smoke. What Bette asked that I communicate to you is the impact that cigarette smoking has on the beautification of our parks and the enormous weight, the burden it puts on the park staff as well as organizations like New York Restoration Project and other not for profit conservancies.

We actually reached out to our operations head when talking about this and asked what kind of impact it had on our staff. They spend currently 20% of our operation staff's time is spent picking up litter in the parks and gardens that we help manage with the City of New York. That equates to more than \$200,000 of our not for profit budget goes towards picking up trash and litter. We estimated that since our founding 15 years ago that we've picked up millions upon millions of cigarette butts as well as discarded cigarette containers.

It's not just cigarette litter that plagues our parks and public plazas, though. It's also the millions of plastic bottles and plastic

1  
2 bags that litter our shorelines, parks and urban  
3 forest. History has proven trash ridden parks  
4 often become unforgotten and unused places. So  
5 while we believe this ban is a first and important  
6 step in reducing litter in New York City, we  
7 encourage the Council to give serious  
8 considerations also to measure that would  
9 significantly reduce or ban the use of plastic  
10 bags and bottles in the city.

11 Understanding the ill effects of  
12 smoking has on the health of our residents and the  
13 sustainability of our urban landscapes and where  
14 Pee [phonetic] actually took the lead many years  
15 ago in banning smoking from the 55 community  
16 gardens that we own through our land trusts. We  
17 wanted to share that the communities that we serve  
18 actually embraced the ban that we placed in the  
19 gardens. It has been respectively adhered to.

20 In closing I just want to share  
21 that we believe it's a shared responsibility of  
22 all of us to protect New Yorkers and protect our  
23 public spaces. So I want to thank you and again,  
24 unwaveringly share our support for Intro 322.

25 HASAAN VASA: Good afternoon. My

1  
2 name is Hasaan Vasa and I'm from Council of  
3 People's Organization, COPO. I am here to support  
4 the bill 332. I would say it is not breaking news  
5 that smoking kills. That is everybody knows; it  
6 is reality. It is injurious to health and  
7 especially children and elderly people are  
8 adversely affected by tobacco and second hand  
9 smoke.

10 It reduces the span of life. Let  
11 me share my own family experience here. My father  
12 was a chain smoker. He used to lit cigarettes one  
13 after the other. When he reached the age of 40 he  
14 got sick and doctors diagnosed tuberculosis. He  
15 was told that if he did not quit smoking  
16 immediately he would die soon. He was a man of  
17 strong will. He threw away the packet from his  
18 pocket and after that never smoked.

19 He died at the age of 89 after  
20 that. I would say that, like my father, all  
21 elderly people should live healthy and long lives.  
22 They should be given an opportunity and a clean  
23 environment to live.

24 My son is asthmatic. Whenever he  
25 has exposure to second hand smoke his respiratory



1  
2 problems aggravate. It's not the question of  
3 smoke does give asthma or not. The question is it  
4 aggravates. Everybody knows; it is known it  
5 aggravates the symptoms. I brought him twice to  
6 emergency during this year.

7           Think about highly vulnerable  
8 children of New York. They are your children,  
9 they are my children and we need to give them  
10 clean air to breathe. Clean beaches, clean parks  
11 and clean surroundings, school surroundings. If  
12 we do not take steps right now, the health of  
13 200,000 children who are already exposed to second  
14 hand smoke, it is at stake.

15           COPO endorses the endeavors of the  
16 city to make it smoke free. Thank you.

17           WAYNE GRAINS: My name is Wayne  
18 Grains. I am a 62 year old multi racial gay male.  
19 I am here to talk to you about the addiction that  
20 took away my very breath and why it means so much  
21 to me to have smoke free parks and beaches in New  
22 York City.

23           I started smoking cigarettes at the  
24 age of 24. By the time I was 50 I had been  
25 smoking for 26 years and I never thought about

1  
2 quitting. My cigarettes are the love of my life.  
3 I shall always have you my friend, lover and  
4 constant companion, or so I thought until one  
5 morning I woke up at 2:00 am unable to breathe. I  
6 kept grasping for air as if I were being  
7 suffocated. My roommate woke up from the sound of  
8 me grasping for air and called 911.

9 I was hospitalized for seven days  
10 with an IV of antibiotics in my arm as well as an  
11 oxygen mask on my face. I was told to stop  
12 smoking immediately. I had no idea that the  
13 substance I was inhaling was accumulating in my  
14 lungs. I did stop smoking for a few days but was  
15 unable to stay quit. That was the first of many  
16 visits to the hospital by cigarette addiction.

17 A few years later, stills smoking,  
18 I was diagnosed with cancer. My radiation  
19 treatment lasted for six weeks. Well, you would  
20 think that would have sent my cigarettes flying  
21 into the garbage can but it didn't. my smoking  
22 increased and my excuse was it seemed to ease the  
23 pain of the radiation.

24 When I was 59 years old I had a  
25 serious case of PCP pneumonia and spent nine days

1  
2 in the hospital. The doctor told me I would not  
3 be able to work anymore and would most likely  
4 never work again. I had to file for Social  
5 Security Disability with the diagnosis of COPD,  
6 chronic obstructive pulmonary disease. At the  
7 time, I managed to not smoke for one year.

8 One year later in the evening the  
9 chest pains caught me by surprise. I was working  
10 on my computer when I began to be aware of a  
11 slight discomfort on my chest. I thought if I  
12 just sit and wait it would go away. It did not so  
13 I decided to lay down but still the chest pain  
14 persisted. I called 911. It turned out I was  
15 having a heart attack. Four arteries had clogged  
16 and I had to have stint procedure in all four of  
17 them.

18 After I was discharged from the  
19 hospital I started smoking again because I was  
20 feeling so much better.

21 [Timer sounds]

22 I had no more chest pains and  
23 besides quitting proved to be too difficult. Six  
24 months later breathing became so difficult that my  
25 primary care physician sent me back to the primary

1  
2 specialist prescribed in home oxygen. I wanted to  
3 stop smoking. I spent two, three days and  
4 sometimes as much as four days but I always went  
5 back. It just seemed to ease the depression.

6 CHAIRPERSON MARK-VIVERITO: Wayne.

7 MR. GRAINS: My last cigarette was  
8 February 8th.

9 CHAIRPERSON MARK-VIVERITO: Wayne.

10 MR. GRAINS: 2010.

11 CHAIRPERSON MARK-VIVERITO: 2010.

12 MR. GRAINS: At 8:06 pm.

13 CHAIRPERSON MARK-VIVERITO: Wayne.

14 MR. GRAINS: Six months later my  
15 doctor approved me to go back in in-home therapy  
16 and I can breathe so much better. If I accomplish  
17 nothing else in life...

18 CHAIRPERSON MARK-VIVERITO: I know  
19 you're not ignoring me, Wayne.

20 MR. GRAINS: ...at least I have  
21 stopped smoking.

22 CHAIRPERSON MARK-VIVERITO: Oh, I  
23 see. I'm trying to get your attention because you  
24 ran out of time a little while ago. But conclude  
25 quickly.

1

2

CHAIRPERSON ARROYO: Your

3

conclusion. Do you have a conclusion. You have a

4

conclusion in your testimony, do you want to read

5

that?

6

MR. GRAINS: If I accomplish

7

nothing else in this life at least I have stopped

8

smoking. Thank you for letting me testify.

9

CHAIRPERSON MARK-VIVERITO: Thank

10

you, thank you.

11

TED RIEL: Hello everyone. My name

12

is Ted Riel. I'm with Crane Community Services.

13

It's a non profit organization based in New York

14

City. We serve about 20,000 clients yearly and

15

the company has been in existence for 37 years.

16

There are about 200,000 cranes in the New York

17

City area.

18

In my work, I'm in charge of a few

19

youth volunteers and anytime that I take them to

20

the park what happens is we're greeted by

21

cigarette butts on the street and there are

22

passersby who are just causally smoking and

23

puffing away in our face. It's not only

24

disrespectful but it's not good for the kids.

25

Anybody knows that.

1  
2 Smoker's defense is they have the  
3 right to smoke. Yes, you have the right to smoke  
4 but you don't have the right to harm others. The  
5 other thing is many people don't realize this but  
6 when you're smoking and walking at the same time,  
7 at the parks especially, when you're burning  
8 cigarette in your hand and walking. A lot of  
9 times that hand with the burning cigarette in your  
10 hand is right at the eye level of most of the  
11 kids. So when you're casually walking by  
12 sometimes you can get those embers and harm the  
13 kids' faces just by casually walking by with a  
14 cigarette in your hand.

15 Anyhow, I'm going to keep this  
16 short. To say the least, the situation should not  
17 continue and everyone has a right to breathe fresh  
18 air. If you can not do this at parks and beaches,  
19 where can we? So I support the 100% ban on  
20 smoking in New York City parks and beaches. Thank  
21 you.

22 CHAIRPERSON MARK-VIVERITO: Thank  
23 you very much to the panel. Thank you for your  
24 time and thank you for your patience. I know it's  
25 been a long day. This may possibly be our last

1  
2 panel. I'm going to call the names, I've got Irv  
3 Kaplan, Warren Schreiber. Okay, Irv Kaplan, James  
4 Pestilli, Karen Blumenfeld, do we have Wayne Mones  
5 here from Staten Island, Matias Clark, Lisa  
6 DeFrancesco, Gladis Publia, Hilary Kline, Colin  
7 Pello, Leila from Take Care Staten Island. Okay,  
8 either one of you feel free to begin.

9 KAREN BLUMENFELD: I know we say--

10 CHAIRPERSON ARROYO: [interposing]  
11 I wanted to say we save the best for last but I  
12 will probably offend...

13 MS. BLUMENFELD: You took the words  
14 out of our mouths.

15 CHAIRPERSON ARROYO: ...everybody  
16 that came before you so we're not going to do  
17 that. But thank you so much...

18 MS. BLUMENFELD: I'll say it,  
19 you've saved the best for last.

20 CHAIRPERSON ARROYO: ...for your  
21 patience.

22 MS. BLUMENFELD: Thank you. My  
23 name is Karen Blumenfeld. I'm the Executive  
24 Director of GASP, which stands for Global Advisors  
25 on Smoke-free Policy. We are a non profit that's

1  
2 existed for over 36 years in the State of New  
3 Jersey. Our mission is to promote clean air for  
4 non-smokers and tobacco free lives. We provide  
5 educational information not only to New Jersey but  
6 across our country as well as internationally.

7 I personally have spoken on several  
8 occasions on smoke free parks, playgrounds and  
9 their benefits at the American Public Health  
10 Association conference, National Conference on  
11 Tobacco and Your Health and other public health  
12 conferences.

13 I applaud the Council for proposing  
14 332. It is definitely a benefit to public health.  
15 It will protect children, adults, all people,  
16 especially those who are breathing disabled, who  
17 have health problems that are exacerbated by  
18 exposure to second hand smoke. I personally had  
19 childhood asthma so regardless of whether there  
20 are hundreds of peer reviewed studies that have  
21 been published and used in the Surgeon General's  
22 2006 report, I can attest to you that second hand  
23 smoke affected and exacerbated my asthmatic  
24 conditions when I was young.

25 In fact, my father who is 82 years



1  
2 old and God bless him, has asthma. When he walks  
3 on the street, if there's smoking in front of him  
4 he will start to have asthmatic problems. I can  
5 confirm personally as well as from my professional  
6 experience that second hand smoke is deleterious  
7 to one's health.

8 In addition I've given you a white  
9 paper that we've published. It's online as well  
10 as in your hands now. It discusses all of the  
11 studies that demonstrate the hazardous effects of  
12 second hand smoke outdoors. I don't want to use  
13 up my time to go through each of those individual  
14 studies but there are there, they've been peer  
15 reviewed and it's documented. Second hand smoke  
16 outside is harmful to people.

17 In fact, a new study published a  
18 couple of months ago by actually in the American  
19 Heart Association's Journal of Circulation showed  
20 that second hand smoke can also increase issues  
21 with cholesterol blockages in young children. So  
22 not only are there asthmatic issues and other  
23 chronic diseases issues that are concerned but  
24 also I'm sure that the Health Department as well  
25 as the City Council is concerned with all sorts of

1

2 chronic diseases and health problems.

3

4

5

6

7

8

9

10

11

12

13

14

In addition, I'm a little concerned, in fact I'm a lot concerned about the tobacco industry that testified earlier using the 30 year old accommodation strategies that they've been employing for many years saying that there should be accommodations for smokers, wherever. I'm sure that if the City Council had not passed the ordinance for smoke free restaurants and bars that the same argument would continue to be used now, if that in fact were the case here, that we did have smoking still in the bars and the restaurants.

15

16

But thankfully we do not and I see this as a move in the right direction.

17

[Timer sounds]

18

19

20

21

22

23

24

And I can just conclude by saying yes, our organization and I personally believe that tobacco smoke should be eliminated from use not only in New York City but across the globe. It's the number one cause of preventable disease and death on this planet and there is no positive, beneficial effect of using tobacco. Thank you.

25

JAMES PESTILLI: Good afternoon.

1  
2 My name is Jim Pestilli. I'm from Staten Island  
3 and I'm here representing several organizations.  
4 I'm Chairperson of Staten Island Quits, which was  
5 founded to combat the high rate of smoking on  
6 Staten Island. I also am the President of the  
7 Tartenville and Charleston Civic Association and I  
8 am chairman of the Conference House Conservancy, a  
9 263 acre site in the southern end of Staten Island  
10 that is a huge park that is used by hundreds of  
11 visitors on a regular basis.

12 I'm going to skip the demographics  
13 and some of the health information since it's been  
14 stated all afternoon and share with you. In the  
15 summer of 2009 because of the high rate of smoking  
16 on Staten Island and the issues around youth  
17 smoking, a pilot program was launched. It was  
18 called Staten Island Quits in conjunction with the  
19 New York City Coalition for a Smoke-free City, the  
20 American Cancer Society, the City of New York  
21 Parks and Recreation and Assemblyman Lou Tobacco.

22 Basically we were able to get a  
23 pilot done which banned all smoking in Staten  
24 Island parks. The Coalition developed and  
25 promoted our primary theme which was smoke free

1  
2 parks are healthy parks; healthy parks equal  
3 healthy kids. I can very easily tell you that the  
4 public continues to support this unofficial ban  
5 and we have had no negative complaints. There has  
6 been no public outcry against this pilot. As a  
7 matter of fact, although it's anecdotal, it's been  
8 noted that public smoking habits have  
9 significantly lowered especially around children.

10 Here is an actual one year  
11 experiment showing. It did not include the  
12 beaches but it did include the parks, that was  
13 very positive and well embraced by a community who  
14 has the highest cancer death rate, the highest  
15 smoking rates of both adults and children.

16 In closing, simply our parks and  
17 beaches are family gathering places, public sites  
18 that are intended for relaxation, recreation and  
19 for physical activity, especially for children and  
20 young adults. The presence of smokers, second  
21 hand smoke and the litter present from cigarette  
22 butts contradict these principals by creating an  
23 unhealthy and unwelcoming environment. To be  
24 confronted by smoking and second hand smoke  
25 defeats our efforts to promote healthfulness,

1  
2 positivity and good decision making skills to our  
3 youth. It simply is giving them the wrong  
4 message.

5 Tobacco consumption is unacceptable  
6 behavior in every circumstance. But for us adults  
7 to continue to turn a blind eye toward the problem  
8 of public smoking is more than unacceptable. It  
9 is irresponsible, careless and entirely  
10 inconsistent with the values we hope to pass along  
11 to our children. We must ensure that this no  
12 longer is the case. Most of all I'm here today to  
13 represent my three grandchildren who frequent the  
14 parks, who I do not want to see exposed to  
15 something that can affect their health. Thank  
16 you.

17 CHAIRPERSON ARROYO: Thank you both  
18 and thank you for waiting. It's important to get  
19 the opinion on the record. I know it took a lot  
20 of energy to sit and wait but thank you for  
21 waiting as long. Jim, I have a question. Forgive  
22 my ignorance. Assembly Lou Tobacco is a real guy?  
23 [Laughter]

24 MR. PESTILLI: Yes, it is. As a  
25 matter of fact I didn't mention it. I do a

1

2

program with Lou Tobacco. It's called Tobacco

3

Against Tobacco. [Laughter] We go into the public

4

schools in Staten Island. Yeah, just a quick

5

little anecdotal story. It's very amusing.

6

The American Cancer Society office

7

used to be in a building on Staten Island in New

8

York Plaza and above that office was the

9

Republican headquarters. Lou Tobacco is a

10

Republican. When he was first running for office

11

there was a huge sign above our ACS sign that said

12

Vote Tobacco. So we somehow had problems with

13

that. When we finally vote, we sat down with him

14

and said now you got to pay back.

15

I have to tell you his is by far

16

probably one of the strongest advocates against

17

smoking. He is not adverse. On Election Day, he

18

actually went over to a woman who lit up a

19

cigarette in her SUV or her car with her child and

20

confronted her about what she was doing. Yes,

21

he's real and he's doing a great job.

22

CHAIRPERSON ARROYO: Thank you.

23

Excuse me. There is a public service flyer

24

presented by the Assemblyman. I just needed to

25

ask. I thought it was just one of those things

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

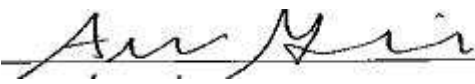
that happens when somebody's trying to be cute.

MR. PESTILLI: That was our flyer that was distributed in all of our parks when we did the pilot.

CHAIRPERSON ARROYO: I want to thank Council Member Brewer and Council Member Jackson for holding strong and sitting with us all these hours. Thank you all who did the same and this meeting is now adjourned.

C E R T I F I C A T E

I, Amber Gibson, 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 October 29, 2010