

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON RECOVERY AND
RESILIENCY

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January 21, 2016
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HELD AT: 250 Broadway-Committee Room, 16thFl.

B E F O R E: Mark Treyger
Chairperson

COUNCIL MEMBERS:

Rosie Mendez
Margaret S. Chin
Donovan J. Richards
Carlos Menchaca
Eric A. Ulrich
Steven Matteo
Alan Maisel

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

Timothy Hogan
Deputy Commissioner of Enforcement

Patrick Wehle
Assistant Commissioner of External Affairs

Mary Van Noy [sp?]
HRO Assistant General Counsel

Margaret Becker
Legal Services NYC

Joe Kupferman
New York Environmental Law and Justice Project

CHAIRPERSON TREYGER: Good afternoon and welcome to this hearing of the Committee on Recovery and Resiliency. I'm Council Member Mark Treyger, Chair of the Committee, and today we will be holding a first hearing on two bills. The first is Intro 448 sponsored by Council Member Alan Maisel in relation to civil and criminal penalties for building code violations resulting from certain work done in response to a natural or man-made disaster, and the second is Intro 1037 sponsored by myself in relation to violations received while awaiting city assistance after a disaster. Quite simply a person waiting for assistance from the City's Build it Back Program should not be issued a violation by the Department of Buildings and forced to pay a fine simply because the program had not yet prepared their property. That is wrong and undermines the public's trust, faith and willingness to participate in recovery programs. Intro 1037, the bill I am sponsoring, would prohibit such civil or criminal penalties for any condition that is under consideration for repair by a recovery program. It would also create a reimbursement program for anyone who has already been forced to pay a penalty. I believe strongly that every city agency

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COMMITTEE ON RECOVERY AND RESILIENCY

needs to support our recovery efforts, and that sometimes requires adjusting our regular enforcement programs. Both this bill and Council Member Maisel's bill share a common guiding principle. Nobody should be left worse off by the recovery process than if they never participated in it at all. When the City makes you wait for repairs, you should not be penalized for it, and when the City hires a contractor to perform recovery work on your house, you should not be penalized if the city or its contractor fails to do the work properly. These principles and these bills do not just apply to Sandy either. If or perhaps when there are future disasters and future recovery programs, these bills would ensure that a fair enforcement policy is in place from the very start. I want to thank everyone who has joined us today including my colleagues who will be joining us shortly once they conclude the budget briefing with the Mayor, and I want to thank Deputy Commissioner Timothy Hogan [sp?] and Assistant Commissioner Patrick Weil [sp?] from the Department of Buildings and representatives from the Build it Back Program for being here as well. I also want to recognize that the Build it Back Program is in the

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COMMITTEE ON RECOVERY AND RESILIENCY

middle of a tremendous undertaking and these bills are not meant as a criticism of them or any of the hardworking contractors making a recovery move. Instead, these bills are simply a recognition of the fact that in every large effort not everything goes as planned or hoped, and we need to be prepared for that. And the inspiration for my piece of legislation happens to be a case that actually has gone through judicatory process where a homeowner was issued a violation by the City when Build it Back informed the homeowner don't make the repairs yet, wait until the city-issued contractor works on your home, and a Buildings Department inspector came out and issued violations on the home. The person appealed this and after an initial decision, that was appealed and the person was forced to pay or told to pay up to 500 dollars in fees and fines with regards to the damage to his property while he was awaiting for a city-issued contractor to do recovery work, and that is just wrong. And I, you know, we've been very vocal in this committee about—it took a long time for the recovery process to begin. It's still taking some time for some people who are still waiting for help and assistance even though there has been progress

2 made in recent years, but we should not be punishing
3 people who are already dealing with the aftermath of
4 both Sandy and the aftermath of inaction for quite
5 some time, and especially when we, one arm of
6 government is saying hold off on making repairs, and
7 the other arm of government is saying we're fining
8 you because we're not seeing repair work being done
9 fast enough. So, with that, I would like to welcome
10 the Administration that came here to testify, and
11 we'll be hearing shortly from my colleague Councilman
12 Maisel about his bill as well, but I'd like to
13 welcome Timothy Hogan from the Department of
14 Buildings from Enforcement and also Patrick Wehle who
15 is the Assistant Commissioner of External Affairs.
16 I'd like to swear you both in, okay? Do you affirm
17 to tell the truth, the whole truth and nothing but
18 the truth in your testimony before this committee and
19 to respond honestly to Council Member questions?

20 TIMOTHY HOGAN: I do.

21 PATRICK WEHLE: I do.

22 CHAIRPERSON TREYGER: Okay, you may
23 begin. Thank you.

24 TIMOTHY HOGAN: Good morning, Chair
25 Treyger and members of the Committee on Recovery and

1 Resiliency. I am Timothy Hogan, Deputy Commissioner
2 at the New York City Department of Buildings
3 Enforcement Division. I am joined by Assistant
4 Commissioner of External Affairs, Patrick Wehle,
5 along with my colleagues from the Mayor's Office of
6 Housing Recovery. We are pleased to be here to offer
7 testimony to Introductory numbers 448 and 1037 which
8 prohibit the issuance of civil and criminal penalties
9 for the building code violations resulting for
10 certain work performed, scheduled to be performed or
11 in response to a natural or manmade disaster. The
12 Department works closely with the Mayor's Office of
13 Housing Recovery to streamline the construction
14 process for homeowners and ensures that all work is
15 performed in compliance with the New York City
16 construction codes. To date, HRO has completed over
17 1,400 construction projects and it is positioned to
18 complete it's Build it Back single family program by
19 the end of the year. The Department has established
20 protocols that it follows in response to a natural or
21 manmade disaster. Under these circumstances, such an
22 inspection reveals conditions that violate the
23 building code, but rather than issuing a violation
24 with an associated civil penalty as would be our
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2 standard practice, the Department issues a notice of
3 deficiency. This notice of deficiency has not
4 monetary penalty, and provides the property owner
5 with notice that they have 90 days to secure the
6 necessary permits and to make the necessary repairs.
7 If the property owner fails to do so, they would be
8 subject to a violation with an associated civil
9 penalty. The Department does not issue criminal
10 penalties for violations resulting from natural or
11 manmade disasters. Depending on the severity of that
12 disaster, the Department may provide a longer grace
13 period to correct the violating conditions.
14 Following Hurricane Sandy, if an initial inspection
15 by the Department revealed violating conditions,
16 property owners were given six months to obtain
17 permits. For those circumstances where the permits
18 were not obtained in six months a notice of
19 deficiency was issued to the property owner. If that
20 permit was not issued or obtained within 90 days
21 after the issuance of the notice of deficiency, a
22 violation was issued. For property owners
23 participating in a city-operated disaster recovery
24 program such as Build it Back with few exceptions,
25 violations are not issued. Exceptions included: a

2 property owner who demolished his building without
3 securing any type of permit and endangering the
4 public to asbestos which had not properly been
5 abated, and an additional one that was related to the
6 adding of a second story on a single family home
7 without retaining any type of building permits. In
8 response to hurricane Sandy, the Department performed
9 detailed and rapid assessments on 19,690 buildings.
10 Of those, 2,874 received notices of deficiency, and
11 ultimately 54 of those buildings received civil
12 penalties. Violations are necessary in very limited
13 circumstances to spur the correction of conditions
14 that have the potential to affect the safety of the
15 occupants and the public. Given the Department's
16 policy on issuing violations in response to a
17 disaster only as a last resort to protect the safety
18 of the public. We question the need for this
19 legislation. Furthermore, the legislation is crafted
20 in such a way as to offer immunity and far more
21 circumstances than we imagine it was intended to
22 handle. For example, in Intro 1037 it appears to
23 excuse any violation regardless of whether or not a
24 natural disaster caused the violation, and concerning
25 Intro 448 it would be very difficult for the

2 Department to determine if a violation resulted from
3 the work done by the city, its contractors or someone
4 else. We also feel that the legislation could result
5 in contractors being incentivized to shun compliance
6 with requirements without fear of penalty. Thank you
7 for your attention and opportunity to testify before
8 you today, and we welcome any questions you may have.

9 CHAIRPERSON TREYGER: Any other
10 testimony, or?

11 TIMOTHY HOGAN: No, that concludes our
12 testimony.

13 CHAIRPERSON TREYGER: I do have some
14 questions and I believe my colleague just messaged
15 that he's on his way, so we'll wait for him as well.
16 In your testimony you mentioned this notice of
17 deficiency has no monetary penalty attached and
18 provides the property owner with 90 days to secure
19 the necessary permits to make the necessary repairs.
20 If the property owner fails to do so, they would be
21 subject to a violation with an associated civil
22 penalty. Is that correct?

23 TIMOTHY HOGAN: That's correct.

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CHAIRPERSON TREYGER: So, the onus is on the property owner to respond to the notice of deficiency?

TIMOTHY HOGAN: As you see, compared to the number of buildings that we looked at, the number of notices of deficiency that were issued were only issued on conditions that we felt had a major impact on the public. For example, the facades of a building that had damage and that needed to be secured to make sure that they didn't fall into a public space, that foundations underneath part of the building may have given way, and we were concerned about the stability of the building so we issued orders for them to put shoring and bracing in place to make sure that the building would remain stable until repairs could be made. So, what we found was is that there were some people who even though those types of issues were brought up, completely ignored the orders and created a danger to the public.

CHAIRPERSON TREYGER: But in the case that I just read to you before, which we could share with you, this is public record, Build it Back informed the property owner do not do anything to your house. So, what do they do when one arm of

2 government is saying don't do anything and the other
3 arm of government is saying we're fining you because
4 you did nothing?

5 TIMOTHY HOGAN: I'm not familiar with
6 that particular case, Council Member, I can't comment
7 on it specifically. I can tell you that our policy
8 when we started this program before we issued those
9 notices of deficiency that one of the first things we
10 did was we took the list of active Build it Back
11 properties and we exempted them off the list knowing
12 that they were going to be addressed by the city, and
13 if we had specific safety concerns on some of those
14 buildings, we made arrangements to have those
15 addressed immediately rather than waiting, so that
16 again, if there was a foundation issue and it needed
17 shoring and bracing that we would get that done until
18 such a time as the repairs could be done.

19 CHAIRPERSON TREYGER: I'd also like to
20 draw attention, you mentioned in your testimony
21 following Hurricane Sandy if an initial inspection by
22 the Department revealed violating conditions,
23 property owners were given six months to obtain
24 permits. The issue I have with that is that it took
25 years for the aid to come through. So, there are

2 many people in a situation where they just did not
3 have any monies. We read about--I'm sure you've
4 heard about the flood insurance debacle where many
5 insurance companies were playing games and
6 fraudulently playing games with people's money and
7 did not reimburse them for damages to their homes.
8 FEMA did not give them sufficient money to cover the
9 entire cost of all the damages to their homes, and
10 the program literally did not move. It was a state
11 of inertia for quite some time beyond six months.
12 So, do you think that that was fair to only give
13 people six months to obtain permits to do their--to
14 do work on their homes when they did not see a dime
15 of recovery aid or insurance money?

16 TIMOTHY HOGAN: Well, the way we handled
17 it is we waited six months before we even went out to
18 look at potentially issuing any notices of deficiency
19 [sic]. So, a lot of people in the meantime resolved
20 some of their issues that were minor that would have
21 resolved--kept us from having to issue any type of
22 notice. You know, if they had doors that were torn
23 off or they had decks that were in dangerous
24 condition, they removed them, even if they didn't
25 replace them and then we didn't give them a notice of

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deficiency. The specific ones where we issued the notices of deficiency or when no action had been taken, they had not applied to Build it Back for the most part. I can only think of one location where we issued an NOD that was in the Build it Back Program that I became aware of afterwards and we basically stopped it. What we found more often was is that people were taking advantage of the storm to do improvements on their properties without pulling permits, and it wasn't so much that we were--the main notice of deficiencies that we did and as I reviewed last night some of the 54 that we referred to, a lot of them were that they were doing additional work to their properties that were not clear, that were not permitted like adding a second floor. There was one property on there where a Build it Back contractor did not properly ground the electrical service to that building and we issued that violation to the contractor, not the homeowner. So, in those situations, specifically with the Housing Recovery Office, anytime that we had a violation that we identified on a property that was Build it Back related we would go back and inspect it to make a determination of whether the work done by the city

2 contractor was bad, and in that instance we issued
3 that violation to the contractor, whether the work
4 that was done by the contractor was finished, and
5 then in a number of instances the homeowner came back
6 in and hooked up additional electrical work
7 unlicensed, many times with wires that were affected
8 by the storm that could cause a fire, and in those
9 instances we did issue violations, but we were very
10 cautious of trying to avoid issuing any violations to
11 people who suffered storm damage unless it had a
12 major effect on the public.

13 CHAIRPERSON TREYGER: I will again share
14 this example with you, because this is counter to
15 what I'm hearing, that this person was basically--his
16 property was inspected. The violation was issued to
17 the property owner, not the contractor, and there
18 seems to be a disconnect between different agencies
19 and different parts of government here. I also want
20 to just draw quick attention to--I also recognize
21 we've been joined by the Minority Leader, Council
22 Member Steve Matteo from Staten Island. Thank you
23 for joining us. That some people were given a
24 violation or fine for building second floor
25 additional. In some cases the government is strongly

2 encouraging people to elevate their homes. With
3 regards to Build it Back the threshold, if your home
4 was 50 percent and if the cost, if the damages exceed
5 half the value of your home, then--and you accept
6 Build it Back money you have to elevate your house.
7 Some people are examining ways of elevation because
8 of flood insurance issues where FEMA's going to
9 redraw the maps within a year or two and they're
10 trying to find ways to mitigate flood insurance risk.
11 What types of communication are you having with Build
12 it Back and City Planning with regards to protecting
13 homeowners from being given violations when in fact
14 what they're trying to do is make their homes more
15 resilient and mitigate looming insurance costs?

16 TIMOTHY HOGAN: So, I think it's kind of
17 a two-fold question. I can tell you that I spent
18 almost three months in the Rockaway Peninsula and in
19 Brooklyn every day after the storm. What I observed
20 at various locations were not the attempt to raise a
21 house, but to make the house--the one for example
22 that was being done in Breezy Point, the person was
23 adding a second floor to the property, had not pulled
24 a permit. The contractor they hired did not put in
25 hurricane protection, hurricane strips to keep the

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roof attached to the house. It was being built completely against what the code requires in New York City, because it was an out of state contractor who came in to do the work. There were no permits pulled. It was not a matter of trying to raise the house. It was a matter of trying to make the house better. Since they had the advantage they figured that they could do an upgrade to the house, and the homeowners openly admitted to me--that to me at the time that she was issued the violation. In the instances where there were a few house raisings that went on. There were some that we looked at violations on and actually didn't violate, but stopped them until they did it properly. They attempted to raise the house without having an engineer involved, and we've had numerous incidences. We had one in Gerritsen Beach in 2012 where they tried to do almost exactly the same thing and didn't attach the top section as they tried to raise it and it fell over and killed a worker, and we've had situations in the Jersey Shore where they were attempting to lift the house without doing proper engineering and the house slid off and took out two

2 houses next door. So, those are the types of issues
3 where we took strong action to protect the public.

4 CHAIRPERSON TREYGER: And I would agree
5 that contractors need to be in compliance with every-
6 -that I fully agree. My issue is--lies, you know,
7 the homeowner who, you know, is looking to get their
8 life back. You know, I mean, for example, I'll tell
9 you areas where I could understand there could be
10 issues and I've had discussions with Director
11 Peterson about this as well because now they were
12 getting to actual rebuilds, this comes up. There are
13 some people who have, you know, decks in their back
14 yards that were not a part of the original C of O. I
15 get that. I hear a lot about that. I hear about
16 there are people who sometimes were renting out their
17 basements when they--and I hear about that as well.
18 But when you hear stories where people were just
19 waiting for--they just didn't have the funds. They
20 just didn't have the money, and we're also
21 encouraging them to wait, you know, keep faith in the
22 system, keep trusting the system, and someone comes
23 from the agency and gives them a fine for this, and
24 granted the issue is real. There's a safety issue
25 with the building, but the onus should not be on the

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property owner. The onus should be on the government to deliver that aid and to rectify the situation or maybe get someone to do the work for them and bill Build it Back or make them pay for it, but because to me--now, I just want to point out something as well. The website for the Rapid Repairs Program, which we don't hear much about these days, but that was very real for many people. The website for the Rapid Repairs Program said that homeowners are responsible for all violations they receive in connection to the work of the Rapid Repairs Program. Does that same policy apply to the work done by the Build it Back Program? You're telling me no.

TIMOTHY HOGAN: When we identify properties where we issued a violation to a homeowner on work that involved a Rapid Repair contractor, we did a re-inspection, and again, if we found that the contractor, for example the one I talked about earlier was on Crossbay [sic] Boulevard in Queens, that the electrical contractor did not properly ground the 200 AMP service, that was written to the contractor. There was one on Neptune Avenue in Brooklyn, I believe on the 2900th block or 3900th block of Neptune Avenue, where a plumbing contractor

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came in and did the plumbing work and never had the gas tested, and hooked up three boilers and two water heaters to it. That violation was issued to the contractor directly even though the work was done under the Rapid Repair Program. So, when we run into those situations with Rapid Repair we did a re-study, and there's one in particular I remember where a person had an illegal apartment in the basement of their house. Rapid Repair went in, put in a new electrical panel for the second floor of the house and said the first floor is illegal electrical work, and Build it Back would not pay to have that restored. When we went to check the electrical work two months later to confirm that it was done properly we found that there was the second panel that had been under water was reconnected, and when we approached the homeowner on it he said that the electrical contractor did it, and we had to go back and pull the bill and bill of lading [sic] of what the electrical contractor billed us for to confirm that the electrical contractor billed us, billed the city for this amount of work. We confirmed that was the amount of work that was done, and we found that the homeowner wend and illegally hooked up that

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illegal apartment to reopen it again without having the electrical service changed and rewired, and so a violation was written to that homeowner.

CHAIRPERSON TREYGER: But I just want to make clear that I volunteered with Habitat for Humanity to rebuild some homes in Coney Island and they've done a lot of great work around the city as well, and their contractors told me personally that some of the people that were involved in Rapid Repairs did a very shoddy job, and I'm not saying all, but in some cases very poor work and they had to redo the work, but the website for Rapid Repairs said the homeowner was responsible for every bit of work done. Can you speak to that?

TIMOTHY HOGAN: I can't speak to that directly because that program was not ours. What I can tell you is is that when--I acknowledge that there were issues with some of the contractors, and we did some referrals both to the licensing unit and the Buildings Department and to the Department of Investigation for fraud, and that was one of the things that was picked up by DOI afterwards as they started looking at some of those contractors and

2 looking at criminal prosecutions on them for the work
3 that they did after Sandy.

4 CHAIRPERSON TREYGER: And again, I think
5 that there's agreement that contractors need to be--
6 comply with the law. They should certainly have all
7 their credentials and licensing, but I just think
8 that property owners, I mean, they must have been on
9 the phone with FEMA, insurance, their banks, a whole--
10 -I'm sure you--I hear that you sympathize with that.
11 It's just that this should not have been an added
12 layer of burden or stress to people already
13 inundated. Can you estimate how many violations were
14 given to property owners who are waiting assistance
15 from Build it Back? Is there a number on that and
16 what the costs are?

17 TIMOTHY HOGAN: I couldn't give you that
18 number. We only issued 54 violations total, and I'm
19 not sure how many of those were in Build it Back
20 Program, but if we found that we issued one and
21 somebody was in Build it Back we dismissed it.

22 CHAIRPERSON TREYGER: Well, this person
23 was not dismissed.

24 TIMOTHY HOGAN: It may be an exception
25 that got through and slipped through the cracks, but

2 as a general rule if we found that Build it Back was
3 involved or that the rapid repair program was
4 involved, then we only issued them in the extreme
5 situations where we found work was done illegally
6 afterwards, or if the shoddy work was done by the
7 contractor it went to the contractor not to the
8 homeowner.

9 CHAIRPERSON TREYGER: This raises
10 questions about other agencies too beyond buildings.
11 I mean, if people or if the contractor is doing work
12 and they leave some debris or something outside, is
13 Sanitation going to give them a ticket for that as
14 well? I mean, again, Sanitation issues a ticket to
15 the homeowner, not to the contractor.

16 TIMOTHY HOGAN: I couldn't speak to that.
17 That's a Sanitation--

18 CHAIRPERSON TREYGER: [interposing] Yeah,
19 we--there's an issue here. I mean, I--we really do
20 have to do everything possible. Look, to the credit
21 of my colleagues from Staten Island, I'm going to
22 recognize former Councilman Ignizio and I think
23 Council Member Matteo as well worked on a bill to--a
24 resolution actually about property taxes, people that
25 were going to be hit with tax increases for fixing up

2 their homes, and so we had to work with the State
3 Legislature and the Mayor and the City Council to the
4 credit of my colleagues to help provide relief to
5 people not to hit with property tax increases. But
6 in the case of violations with regards from either
7 Buildings or Sanitation or any other agencies. We
8 have to apply the same mentality. I mean, I could
9 understand when it comes to the issues, for example,
10 of illegal conversions, that's fair game. I could
11 understand the issue of making sure that people are
12 complying with building safety codes, that's fair
13 game. I understand, you know, making sure that we're
14 complying with the C of O, I understand, but the onus
15 should not be placed squarely on the property owner,
16 that there has to be some sense of common sense where
17 the contractor did not get money yet or there's no
18 money yet to pay the person yet from the city. Why
19 is the homeowner being told your house is left in bad
20 condition, we're giving you a violation? Now, from
21 one side you're saying well that might motivate them
22 to do the work faster. Money is not appearing in
23 their bank accounts. It's not going to just pop up
24 and say here are the dollars. So, I do think that
25 there are some issues here, and I think that we're

2 going to have to work through them. I think my
3 colleague has a question, Council Member Steve
4 Matteo?

5 COUNCIL MEMBER MATTEO: Thank you, Chair
6 Treyger for your leadership and your advocacy. Just
7 from the day of the storm 'til now, it's been as
8 strong as ever, and we appreciate your leadership.
9 You mentioned 54 violations. That's citywide?

10 TIMOTHY HOGAN: Correct.

11 COUNCIL MEMBER MATTEO: And you said some
12 were dismissed.

13 TIMOTHY HOGAN: Correct.

14 COUNCIL MEMBER MATTEO: So, can you walk--
15 the onus is on obviously the homeowner then to show
16 why it should be dismissed? Like, what was the
17 process of--I'm not asking you for specifics, but
18 just in general. So--

19 TIMOTHY HOGAN: [interposing] Ones I can
20 specifically talk to you about is one instance where
21 the homeowner contacted us and said, "I got a
22 violation and it was a Build it Back--or it was a
23 Rapid Repair contractor who did the work." As soon as
24 we heard those words we went back, identified the
25 information, confirmed it was a Build it Back

2 contractor, and Rapid Repairs contractor, and we
3 dismissed the violation on the homeowners and we
4 wrote it to the contractor who did the work.

5 COUNCIL MEMBER MATTEO: Oh, but you--so
6 you then, you reissued the violation?

7 TIMOTHY HOGAN: We issued the violation to
8 the contractor for doing improper electrical work.

9 COUNCIL MEMBER MATTEO: And then what was
10 the follow up for that to be actually remedied or
11 fixed in the house?

12 TIMOTHY HOGAN: That--the remedy was then
13 handled where a licensed electrician came in and did
14 the repairs.

15 COUNCIL MEMBER MATTEO: And they did the
16 work and then--

17 TIMOTHY HOGAN: [interposing] Correct.

18 COUNCIL MEMBER MATTEO: showed that they
19 did it? Was that a fine to the contractor?

20 TIMOTHY HOGAN: The contractor was
21 required to come in and do the repair work to get it
22 to meet the standards--

23 COUNCIL MEMBER MATTEO: [interposing] No,
24 I understand that, but did they also get a fine on
25 top of that?

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TIMOTHY HOGAN: Yes, they got an ECB violation.

COUNCIL MEMBER MATTEO: Okay. Now, you said in your testimony, and I apologize if I--if the Chair already brought this issue up, but it's protocol after a natural man-made disaster about issuing a violation and there's no monetary penalty attached within 90 days. That's--is that an MOU or is that just--is that somewhere where that's found?

TIMOTHY HOGAN: We, the Buildings Department made a determination after Sandy that we did not want to issue violations to people that were severely affected by the storm. We waited six months for people to be able to try and handle issues on their own, and then went out to the properties where we had safety concerns, and if nothing had been done we issued a notice of deficiency which did not exist in the agency prior to the storm.

COUNCIL MEMBER MATTEO: Okay.

TIMOTHY HOGAN: And we built a protocol basically saying that whenever there's an event we'd wait 90 days and give people 90 days to do work, and when it was a major storm that we were going to wait the six months and then go out to look at what hadn't

2 been remedied, and then we would give them a notice
3 of deficiency and give them either 60 days--up to six
4 months depending on what the condition was, but the
5 general rule was between 60 and 90 days to do
6 something to resolve the issue, and only in those
7 instances where we felt that it was a severe issue
8 for a blatant violation of the building code being
9 taken on did we issue those 54 violations.

10 COUNCIL MEMBER MATTEO: And can you just
11 give an example of something that's severe or blatant
12 that you issued anyway?

13 TIMOTHY HOGAN: So, just some of the ones
14 we're talking about, they put in a 200 AMP electrical
15 service on a building and didn't hook the ground up.
16 We had one where a plumber put in gas piping to fire
17 three boilers and two hot water heaters and never had
18 the gas piping inspected to make sure that it didn't
19 leak. We had a homeowner in Breezy Point who decided
20 to add a second floor to their residence and tore the
21 top half of the house off and built a second floor
22 and didn't have it built to code, didn't have it meet
23 the hurricane strap requirements that we have in
24 place that if you build near the ocean you need to
25 put in hurricane straps to keep your roof from

2 blowing off and taking your neighbors out, and that
3 was not completed by the contractor from out of state
4 who had no idea that that was even a building code
5 requirement. We had another person in Breezy Point
6 who tore his house down, and it was an asbestos
7 shingle building and he tore the house down on his
8 own and carted it away in the back of a pick-up truck
9 and never had the house asbestos abated. So, those
10 are the types of issues that we were dealing with
11 with some of the homeowners and the way that they
12 were acting after the storm that was causing blatant
13 disregard to the public and to the safety of the
14 public.

15 COUNCIL MEMBER MATTEO: Okay. So, just
16 going back to my point for the 90 days. Is that in
17 the Memorandum of Understanding? Is that delineated
18 in writing? Is that an official--

19 TIMOTHY HOGAN: [interposing] No, that was
20 a policy that we developed in the Buildings
21 Department.

22 COUNCIL MEMBER MATTEO: Is that a policy
23 going forward?
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2 TIMOTHY HOGAN: That's our policy that
3 we've been following having to do with any of the
4 major storms.

5 COUNCIL MEMBER MATTEO: But that's--my
6 point is that's not in writing anywhere?

7 TIMOTHY HOGAN: It's not a written policy.

8 COUNCIL MEMBER MATTEO: Shouldn't it be?

9 TIMOTHY HOGAN: We'll look at that.

10 COUNCIL MEMBER MATTEO: I mean, I think
11 at least we would have an MOU saying that. So,
12 anything that's violated now for someone's who is
13 just starting their repair work now in a Build it
14 Back Program? So, if there's a violation, so what
15 is--

16 TIMOTHY HOGAN: [interposing] The way that
17 the building--

18 COUNCIL MEMBER MATTEO: The homeowner now
19 still has the onus on the homeowner?

20 TIMOTHY HOGAN: The way that the current
21 system is set up with the Build it Back Program is as
22 the contractor is doing the construction we have
23 inspectors who are doing inspections on those
24 properties and issuing objections, which is the
25 standard process that would be followed when you're

2 building a house. We would have a development
3 inspector go out, do an inspection of those
4 properties and note the objections of things that
5 have to be fixed to make it code compliant. There
6 are no civil violations or civil penalties involved
7 with any of that process at all.

8 COUNCIL MEMBER MATTEO: And if by any
9 chance something's missing, the Build it Back
10 contractor leaves the onus's on whom to fix it or?

11 TIMOTHY HOGAN: Well, the final C of O
12 sign off should resolve the--make sure--

13 COUNCIL MEMBER MATTEO: [interposing] To
14 resolve--

15 TIMOTHY HOGAN: [interposing] these
16 issues.

17 COUNCIL MEMBER MATTEO: So you will do a
18 final inspection on this?

19 TIMOTHY HOGAN: That's correct. We've
20 devoted--there's a team devoted specifically to the
21 Build it Back Program. I believe it's 30 inspectors.
22 It's about 30 inspectors and engineers and architects
23 that work fulltime in the Build it Back Program to
24 make sure that the work's being carried out properly.

2 COUNCIL MEMBER MATTEO: Yeah, I agree with
3 the Chair that, you know, we have to do everything we
4 can to make sure that our constituents aren't overly
5 burdened, and you know, through this process that's
6 just been, you know, such a painful process as it is,
7 and so you know, for me I do believe that one, we
8 should at least have that MOU or that should be
9 written policy somewhere about storms and the policy
10 right after, and I'll continue to work with my
11 colleagues. I appreciate your testimony. I
12 appreciate your leadership, Chair Treyger, and I'll
13 send it back to you.

14 CHAIRPERSON TREYGER: Thank you, Council
15 Member Matteo, and you have been a, in my opinion,
16 you and the delegation have been champions for your--
17 in Staten Island and really for all Sandy victims. I
18 appreciate your partnership. We've been joined by
19 Councilman Maisel who will speak momentarily on his
20 bill, but you mentioned that someone hired an out-of-
21 state contractor to do work, I think that was in
22 Breezy example. Since we're on the subject, just to
23 let you know, when FEMA came down to people's homes,
24 the people who came down were also out-of-state.
25 There were people coming in from Utah, Iowa,

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Wisconsin with no sense of New York building codes or building New York standards. Insurance adjusters, those that did come out or the people that came out to inspect, many of them are also not from New York. There seems to be a lot of New York issues. With regards to the build--you mentioned that you have 30 or so inspectors dedicated to Build it Back cases, is that correct?

TIMOTHY HOGAN: Correct.

CHAIRPERSON TREYGER: So, is there a self-certification process used with these contractors with regards to--or they actually will go out? How often do they inspect? Because I'm just curious to know that Build it Back makes public who their contractors are by region. So for example, in my district there's a group that does--LERO [sic] that does contracting work with Build it Back. On Staten Island they might have a different group. Are you aware of all the groups that were hired by Build it Back?

TIMOTHY HOGAN: I'm from the enforcement side of the house.

CHAIRPERSON TREYGER: Right.

2 TIMOTHY HOGAN: I'm not the development
3 side.

4 CHAIRPERSON TREYGER: Right.

5 TIMOTHY HOGAN: So, I have a very limited
6 knowledge. I know that there are about five or six
7 contractors that are Build it Back contractors that
8 are doing the work in different boroughs, but I'm
9 not--it's not really my area of expertise.

10 CHAIRPERSON TREYGER: Right, because to
11 me, there should not be a communication gap or issue
12 since we really know who they are. Build it Back did
13 not--I don't think there's a thousand contractors. I
14 think there's a handful of people doing this work if
15 I'm not mistaken. So, there should be clearer
16 communication and expectations exchanged between
17 Buildings Department and these contractors making
18 sure that things are going according to code. I think
19 that's a very manageable request and manageable
20 expectation. But one last thing I'll say and then
21 I'll turn it over to my colleague Council Member
22 Maisel, is I'm also concerned about language barriers
23 with some of these property owners. Many of the
24 people in my district speak languages other than
25 English. They speak Chinese, Russian, Spanish. Are

2 these inspectors reflective of the diversity of our
3 city and of these neighborhoods as well, making sure
4 that they speak these languages as well?

5 TIMOTHY HOGAN: We have a very diverse
6 workforce, very diverse workforce.

7 CHAIRPERSON TREYGER: But these inspectors
8 in particular, I mean, are these people that--are
9 they bilingual? Do they speak languages beyond just
10 English?

11 TIMOTHY HOGAN: Yeah, we have Spanish-
12 speaking. We have Hindu-speaking. We have Mandarin.
13 We have a variety of languages that our inspectors,
14 you know, individual inspectors speak.

15 CHAIRPERSON TREYGER: And that applies to
16 the 30, though, for Build it Back? Because again--

17 TIMOTHY HOGAN: [interposing] I don't know
18 the make-up of the Build it Back inspectors
19 themselves, because it again, it's not my area, but I
20 can tell you that as our inspection force is an
21 extremely diverse group that speaks multiple
22 languages, multiple different cultural groups
23 represented, and when we have needs for specific
24 languages we're normally able to get somebody who can
25 communicate.

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COMMITTEE ON RECOVERY AND RESILIENCY

CHAIRPERSON TREYGER: The reason why I ask is because other agencies had to make adjustments. You know, NYCHA for example in the beginning did not have Russian-speaking staff dealing with emergency outreach when the boilers went down because of the cold weather. The temporary boilers didn't operate in cold weather, and so I myself and my staff that spoke Russian had to go out 11 o'clock at night to translate information and material to get them into a heating shelter. So, I just think that our agencies, especially with regards to this recovery process need to do all that we can to break down any barrier both bureaucratic or language as well. I'd like to call upon my colleague, Councilman Maisel, who I thought introduced a very important and timey bill, and I liked Intro 448, and I'd like to welcome my great colleague from Canarsie, Councilman Maisel.

COUNCIL MEMBER MAISEL: Thank you, Mr. Chairman, and thank you presenters. This legislation was in response to Hurricane Sandy, and unfortunately government does not get provided with crystal balls. So, we can't see into the future as to what problems are going to come up, what emergencies are going to come up and how we're going to deal with those

2 emergencies. So one of the unexpected occurrences
3 was that we did have Build it Back and we had Rapid
4 Repair, and the contractors didn't always do what
5 they were supposed to do. Then they get Building
6 Department personnel come in and inspect. They find,
7 oh, my God, they didn't do it right. So, the
8 homeowner, either it's a deficiency as I saw in your
9 testimony very briefly, unfortunately I couldn't be
10 here to hear the whole testimony, or if it's just a
11 deficiency, then the homeowner is then responsible
12 for taking care of that deficiency. Most of these
13 people haven't a clue, especially in an emergency.
14 If the City of New York is responding to a crisis by
15 bringing in and paying for contractors and others to
16 do work, it should be the responsibility of the City
17 of New York to make sure that the work is done right,
18 and if the work isn't done right, they should issue
19 themselves a deficiency and make sure that it gets
20 fixed, and that's the purpose of this bill.
21 Hopefully, this will never happen again, but hope wax
22 is eternal and who knows what's going to be five
23 years or ten years down the road. Legislation is
24 supposed to be a tool. It's supposed to provide
25 government with the ability to deal with situations

2 that require remediation or correction, and that's
3 what this bill does. The people who got their
4 violations or deficiencies that's two years ago, I
5 don't think there' anybody left in that category.
6 This is for the future. Thank you, Mr. Chairman, for
7 pushing this legislation for a hearing and Brad Reed
8 [sp?] for writing it to begin with. I'm very
9 grateful.

10 CHAIRPERSON TREYGER: Thank you. Thank
11 you, Councilman Maisel, because I said before I think
12 your bill was visionary because you--what you have
13 predicted has come to fruition. There are people who
14 are now stuck in this situation, I think which is
15 very unfortunate, and we have to do all that we can
16 to rectify it. I think my colleague Council Member
17 Rosie Mendez is here and she has a question as well.
18 Thanks.

19 COUNCIL MEMBER MENDEZ: Thank you.
20 Looking at Intro 1037 and 448, Department of
21 Buildings has some concerns about the language as
22 written. So, my question is, is there any way to
23 tweak the language that would get your agency to feel
24 more comfortable that this is not open ended and some

2 bad actors may be falling through the cracks and not
3 getting violations that they should get?

4 PATRICK WEHLE: Good afternoon,
5 Councilwoman. There are two issues that we have with
6 the legislation, both pieces that Deputy Commissioner
7 Hogan spoke to. One is the way in which it's crafted
8 we find it it's the overly broad and perhaps beyond
9 the intent of sponsors of legislation. The other
10 issue relates to--

11 COUNCIL MEMBER MENDEZ: [interposing]
12 Please refer to which one or is it both?

13 PATRICK WEHLE: It's both.

14 COUNCIL MEMBER MENDEZ: Both are over
15 broad?

16 PATRICK WEHLE: Overly broad. But more
17 important than that, we do have a process in place
18 that we think is effective, and for all the Sandy-
19 effected areas that we did visit that we performed
20 assessments on, a small number of them ultimately
21 received notices of deficiency, and of that small
22 number an even smaller number, 54 buildings in total
23 ultimately receive civil penalties from the Buildings
24 Department. So, we don't exactly think there's a
25 problem that requires legislation to solve.

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COUNCIL MEMBER MENDEZ: Okay. So, no language would make you comfortable with these bills, because you don't think we should be legislating this? You think your agency right now is dealing with these issues adequately?

PATRICK WEHLE: I think that's correct. Certainly the Department is always willing and able to continue conversations with the Council, but we think our process that we have in place adequately addresses this issue. That being said, of course, this was absolutely, as members of the committee know better than most, an unprecedented disaster that required an unprecedented response, and I'm sure we do not do a perfect job, and there were in fact limited instances or perhaps we issued a violation error. When that was brought to our attention, we did everything we could to address that issue as quickly as possible. Chair Treyger brought to our attention this afternoon an issue that we're not familiar with but is somewhat curious, and we look forward to the opportunity to have a conversation with the Chairperson about that specific instance and see what the circumstances are.

2 COUNCIL MEMBER MENDEZ: Thank you,
3 because you anticipated my next question. And in the
4 instance that Chair Treyger has brought forward, upon
5 review, you would rescind any violation or any
6 penalties or any fees retroactively to when it was
7 issued if that turns out to be the case?

8 PATRICK WEHLE: Not having seen the
9 violation and the circumstances it's hard to say.
10 We're certainly happy to take a look. Quite
11 honestly, the fact that this violation in particular
12 appears to have been adjudicated, it seems even more
13 curious, but once again, we're more than happy to
14 take a look very closely at the matter.

15 COUNCIL MEMBER MENDEZ: Well, let me just
16 ask you one question, another question. If the
17 matter was adjudicated, I'm not even sure where it
18 was adjudicated in, I didn't hear that part of--

19 CHAIRPERSON TREYGER: [interposing] At the
20 Environmental Control Board.

21 COUNCIL MEMBER MENDEZ: Okay, so it's an
22 administrative agency.

23 CHAIRPERSON TREYGER: Yes, right.

24 COUNCIL MEMBER MENDEZ: So, DOB would
25 still be able to in this case--if it found that there

2 was--it was improperly issued, eradicate that
3 decision at the ECB? Could--or--this is what I'm
4 trying to find out, right? If in fact DOB issued
5 this violation mistakenly and you determine upon
6 review that it was issued mistakenly, can you work
7 with ECB to eradicate these--this instance from the
8 records, or is this going to be a cost to the
9 homeowner or the contractor to try to appeal that if
10 it's even appealable, because there's a certain
11 amount of time to appeal, and then I have a follow-
12 up, but let's just get that answer.

13 PATRICK WEHLE: So, I'm not intimately
14 familiar with the process and how it would work, but
15 certainly we would work with the respondent, ECB, to
16 take a look at the violation, the circumstances and
17 see assuming it was issued in error, what possibly
18 can be done to rectify that.

19 COUNCIL MEMBER MENDEZ: Okay. So, I
20 should say that I wish, I hope someone at DOB is--
21 knows what the process is. It has been my
22 frustration with many issues in buildings where we
23 inform DOB and it gets, you know, certain things are
24 sent to DOB, certain things are sent to ECB. ECB
25 issues a violation or if DOB issues violation, it

2 ends up at an ECB hearing, nothing happens on my side
3 where there should be some follow-up. The homeowner
4 or in this case, the developer just lets the
5 violation linger and linger, and it takes several
6 attempts to get to, you know, get ECB to enforce
7 anything. So, I'm not quite sure what happened here,
8 that something was enforced, adjudicated. Maybe the
9 homeowner didn't show up or the contractor or whoever
10 it was that it ended up in adjudication, but it seems
11 to me that that's something that DOB should really
12 know about because I spent my last 10 years in office
13 getting agencies to work together, and with two years
14 left to go, I've only made a small dent in that.
15 Just saying. So, then I would imagine you have no
16 idea how this would work out if it was a criminal
17 violation and there was a criminal adjudication?

18 PATRICK WEHLE: Well, for these specific
19 types of--you know, our process is we don't issue
20 criminal penalties in these circumstances. So, that
21 certainly wouldn't have happened. But again, for
22 this specific case, not knowing the circumstances
23 it's hard to really comment now on what the sort of
24 outcome would be, but once again, we're happy to work
25 with the Council Member and the respondent to

2 understand the issue better and see what if anything
3 could be done.

4 COUNCIL MEMBER MENDEZ: So, you do issue
5 criminal violations, but you have not in issues that
6 have pertained Super Storm Sandy?

7 PATRICK WEHLE: Correct.

8 COUNCIL MEMBER MENDEZ: Okay. Thank you
9 very much.

10 CHAIRPERSON TREYGER: And just to give
11 thank you for those great questions, Council Member
12 Mendez. We've also been joined by Council Member
13 Menchaca. Just to shed more light on this case, the
14 original hearing officer dismissed the violation, and
15 then the City appealed it, and let me read to you
16 what it says. "The board further finds that while
17 the hearing officer credited respondent's evidence,
18 no proof was submitted to show that he was legally
19 prevented from repairing the cited condition by
20 October 28, 2014, approximately two years after
21 Hurricane Sandy. Accordingly, the board grants the
22 appeal and orders that the recommended decision and
23 order be reversed. Violation found. Amount due:
24 five hundred dollars." So, this decision was
25 basically saying again the onus on the homeowner.

2 Well, you didn't prove to us that two years from
3 Hurricane Sandy you could not do this work, and
4 that's just wrong. He was enrolled in the Build it
5 Back Program. Build it Back took a while to get
6 started. Let's just leave it at that. More than
7 enough time. And because he could not--he had to
8 prove government bureaucracy was initially inept. I
9 mean, this is what frustrates people and elected
10 officials about government, that the onus was put
11 squarely on this homeowner to prove everything when
12 he's trying to get his life back up, and I will
13 gladly share with you, and I'm just voicing my
14 frustration because whoever wrote this appeal
15 decision maybe was not catching up to the times, that
16 it took over two years, in some cases over three
17 years for work to begin for people. So, that's just
18 ignoring reality. I'm also curious to know about
19 these notices of deficiency. Are these notices in
20 different languages, or it's just in English?

21 TIMOTHY HOGAN: I don't have an answer
22 for that. I know they're in English. I don't know
23 what other languages we might have made them in. I'm
24 just not sure.

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COMMITTEE ON RECOVERY AND RESILIENCY

CHAIRPERSON TREYGER: The reason why I ask is because there have been so many cases of--I just recently had a meeting in my district with Build it Back and Amy Peterson, the Director, was there, and there were a number of immigrant homeowners who just said that they just did not know about the Build it Back Program, and so my district actually was a district that did not have as high as number as enrollees as other districts have, and I think that there was a language barrier and the outreach plan at the time I think was grossly insufficient. I'm just curious to know, you know, what efforts, you know, are being made to make sure that we are providing clarity every way possible to these very diverse communities, both in terms of outreach for the recovery--that I've worked with Build it Back on, but I would say that the agencies need to be reflective of that effort too, that we have very, very diverse communities. It's been a challenge for small businesses as well for the immigrant communities to make sure that they are informed and aware of all the rules and regulations, but even in the case of homeowners we have very diverse neighborhoods. And you know, just like I think it's important to have

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inspectors that are bilingual in the languages spoken in these areas, I would say that even these types of notices should be made available in different languages as well.

TIMOTHY HOGAN: I can't tell you that specifically I worked significantly on the buildings that were red-tagged that had to be demolished for the majority of those buildings and that in those instances I used Russian and Arabic staff members that work with me to do translations of those documents before the people signed them because we had specific ones that were required by FEMA and the Army Corps of Engineers. So, I used translation people when I needed them. I had another person in Staten Island that I was working with who spoke Spanish, and I used a Spanish interpreter to go through the documents. So, I did feel that--I did over 600 face-to-face interviews with people who had to have their house demolished and used interpreters in every instance where I felt we needed one, and asked them to tell me if they needed an interpreter. If I felt that they weren't--they didn't understand what we were saying, then I asked for an interpreter.

2 CHAIRPERSON TREYGER: I would also add
3 that when someone receives a notice of deficiency,
4 unless there's like a big sign on it that says, "This
5 is not a violation. You are not required to pay
6 something right now." I'm not sure if they understand
7 what that means, and I have concerns about that.

8 TIMOTHY HOGAN: We could supply you with
9 a copy of the language on the form. It's very clear
10 that there was no penalty due, that they need to
11 correct the deficiency on the property.

12 CHAIRPERSON TREYGER: Is it like in size
13 like 20 font that this is not a bill, this is not a
14 fine? Because language and the way it's presented to
15 people is important, because if I get a notice from
16 the City of New York right away I assume it's a fine
17 or a violation. Are people right away--people fear
18 the worst immediately, and you know, I just want to
19 make sure that we're making it crystal clear to
20 people that this in itself is not a fine or a
21 violation and they have a certain amount of time to
22 respond accordingly. I would like to see a copy if
23 you have that available.

24 TIMOTHY HOGAN: We'll arrange to get a
25 copy to you.

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CHAIRPERSON TREYGER: Yes, Councilman Maisel? Councilman Menchaca, yes, Councilman Maisel has a quick follow-up according [sic] to his bill then Councilman Menchaca.

COUNCIL MEMBER MAISEL: I'm not sure you gentleman are getting the point. If the City of New York is contracting with a contractor to do work in someone's house, they should be responsible for the work, not the homeowner. So if you're going to send them a notice of deficiency, you are now putting the burden on the homeowner to take corrective actions that the city should be responsible for. I don't understand why this language is so vague. It's very specific, but it also says that they have 90 days to secure the necessary permits to make the repairs. Why should the homeowner have to go get permits to fix what the City of New York should be legally responsible for? You got to explain that to me?

TIMOTHY HOGAN: Alright, so Council Member, I know you weren't here earlier, so I'll go through it again. Before we went out to issue notices of deficiency we went to the Rapid Repair Program and the Build it Back Program, and any property that was on that list that they identified

2 at that time did not receive a notice of deficiency.
3 The--

4 COUNCIL MEMBER MAISEL: [interposing] But
5 that--but frankly, that is not actually the case,
6 because in my district there were people who got
7 these notices or violations that were fixed by Rapid
8 Repair or Build it Back, mostly Rapid Repair.

9 TIMOTHY HOGAN: Okay. So, on the Rapid
10 Repair side, when we identified a property that was
11 fixed by Rapid Repair where a notice of deficiency
12 was given, there were some instances where that
13 happened, not a lot but there were a few, and where
14 those were issued, if we went in and determined that
15 the contractor who did the work was deficient we
16 dismissed the violation against the homeowner and we
17 issued a violation to the contractor and we required
18 the contractor to come back, do the repair to make it
19 fall within code, and then they got the ECB violation
20 for doing the shoddy work in the first place.

21 COUNCIL MEMBER MAISEL: So, let me ask you
22 a question. So how does the Buildings Department
23 know to go inspect a particular property?

24 TIMOTHY HOGAN: So, we have a requirement
25 on all electrical work that when you do electrical

2 work you have to--you can't get it self-certified.
3 You have to have an inspector come out and look at
4 it.

5 COUNCIL MEMBER MAISEL: Right. So, the
6 contractor had to get a permit?

7 TIMOTHY HOGAN: The contractor on Rapid
8 Repairs was to pull a permit.

9 COUNCIL MEMBER MAISEL: So the City
10 Buildings Department knows that it was Rapid Repair
11 that was having this work done?

12 TIMOTHY HOGAN: Correct.

13 COUNCIL MEMBER MAISEL: Okay, so--

14 TIMOTHY HOGAN: [interposing] There were
15 some instances where we made--after the Rapid Repair
16 contractor did work and they left and we went back
17 afterwards to inspect it because they were doing so
18 many houses we didn't have enough inspectors, so we
19 might get there three or four days later. When we
20 went in to inspect the work, we found some locations
21 where homeowners had actually reattached illegal
22 electrical work within their residence.

23 COUNCIL MEMBER MAISEL: Alright, that's
24 the color of a different horse. I mean, I'm not--

25 TIMOTHY HOGAN: [interposing] So that--

2 COUNCIL MEMBER MAISEL: I'm not--

3 TIMOTHY HOGAN: [interposing] So that
4 leads to some of the violations.

5 COUNCIL MEMBER MAISEL: Alright, that's
6 fine. I mean, that obviously should not happen, but
7 there are many people in my district who came to
8 various town hall meetings that we had complaining
9 about these violations. All I'm saying is the City
10 knows that they're responsible because they got the
11 contractors to go into the buildings to do the work.
12 The Buildings Department should then reach out to
13 Build it Back or any successor agency and say, "Look,
14 you are responsible for getting that contractor into
15 the house in the first place. You take care of it."
16 Don't--in other words, don't put the burden on the
17 homeowner. They went through enough. They don't need
18 any more aggravation to try to figure out what am I
19 supposed to do about this.

20 TIMOTHY HOGAN: I agree, and we did work
21 with Build it Back and Rapid Repair when we did
22 identify a contractor that we issued it directly to
23 the contractor and dismissed it against the
24 homeowner.

25 COUNCIL MEMBER MAISEL: Okay, thank you.

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CHAIRPERSON TREYGER: I think Council Member Mendez has a follow-up question.

COUNCIL MEMBER MENDEZ: Thank you. First of all, I want to thank Council Member Menchaca for letting me ask this question. It's a follow-up to what Chair Treyger was asking about language. So, I wanted to just state on the record that in 2009 then Mayor Bloomberg passed Executive Order 120, which makes every city agency mandate that the six most spoken languages other than English, Spanish, Chinese, Haitian-Creole, Russian, Korean, and Italian, that every agency had to translate or provide translation in those six languages. So, I would want to know what DOB is providing written translation of in those languages and what it's using a translation bank for and how it's getting implemented in these cases, and if you don't have the answer I know the Chair will want that, and we will want it in writing.

TIMOTHY HOGAN: We don't have all those details here, but we'll certainly provide it to the Chair in writing.

COUNCIL MEMBER MENDEZ: Thank you very much, and thank you Council Member Menchaca.

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COMMITTEE ON RECOVERY AND RESILIENCY

CHAIRPERSON TREYGER: Thank you, and next, Council Member Menchaca.

COUNCIL MEMBER MENCHACA: Thank you, Chair, and thank you, Council Member Mendez, for good follow-up there. And I--so, I represent Red Hook, also another neighborhood like Council Member Treyger that was not able to connect to the promise of the previous Administration, a very sloppy, sloppy program that continues to, I think, aim for better, and I think that we've been seeing that progress in drips and drabs, and so I hear that there's a lot of opposition to these bills. And you've heard from Council Member Maisel on just what we're trying to do is to bring the onus back to the city in a real way, and I think one of the things that the members of my community want to know is if they want to return to this program, whether or not we're going to have real quality control as we move forward when ramping up construction is expected in 2016, and so what can you tell us separate and apart from these bills that you are doing to make sure that the quality of -- that there's real quality control in the construction? And I know you have some other staff here with you to help, and so I'm happy to hear more about that.

2 TIMOTHY HOGAN: I think the main focus is
3 that we have developed a whole Build it Back unit
4 that has inspectors, architects, engineers that
5 specialize in the Build it Back process to make sure
6 that the work that is being contracted by the city is
7 done under code and properly done.

8 COUNCIL MEMBER MENCHACA: Can I pause you
9 there really quick?

10 TIMOTHY HOGAN: Sure.

11 COUNCIL MEMBER MENCHACA: So all that
12 expansion, that's just essentially taking the program
13 and expanding the current force. So, the inspectors,
14 the contractors, you're not creating a whole new unit
15 of quality control--

16 TIMOTHY HOGAN: [interposing] No, yes,
17 brand new unit.

18 COUNCIL MEMBER MENCHACA: Okay, so tell
19 us about that.

20 TIMOTHY HOGAN: We have a three--

21 COUNCIL MEMBER MENCHACA: [interposing]
22 That's--I think that's what we want to know.

23 TIMOTHY HOGAN: We had a temporary
24 authorization to hire staff for I believe it's three

2 years, specifically devoted; all they do is Build it
3 Back. They don't do other work.

4 COUNCIL MEMBER MENCHACA: What do they
5 do, though, in Build it Back?

6 TIMOTHY HOGAN: They do claim review.
7 They do plumbing inspections, construction
8 inspections, electrical inspections. They issue
9 objections when somebody is doing construction and
10 it's not to code. They will issue those objections
11 and they work through the process to make sure that
12 the properties are properly built according to code
13 of the City of New York, and that's their sole
14 responsibility.

15 COUNCIL MEMBER MENCHACA: So, I'm just
16 kind of thinking about having this conversation in
17 the--in our kind of--in our community, and so I'm
18 hearing a lot of inspection, and so you're ensuring
19 quality. What about time as well, and is time an
20 opportunity for you with this extra level of
21 oversight that will allow for these projects to move
22 faster, because it's one of the things that people
23 are complaining about, that this is such an arduous
24 process which is why you have residential homeowners
25 taking matters into their own hands. And so we're

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not--we could potentially not be solving the problem.
How are you--I hear the quality control. Where's the
time control here?

TIMOTHY HOGAN: I'm not a Build it Back--
it's not my area of responsibility or expertise. I
can tell you that they get--when the original plans
are submitted they get expedited reviews in a very
quick turnaround time so that they can build these
buildings as quickly as possible. I know that we have
the applications pending. I believe there's--I was
told that there's a significant number of
applications that we're expecting any day now. They
have not come in yet. When they come in the staff is
fully devoted fulltime to get those through as
quickly as possible.

COUNCIL MEMBER MENCHACA: Okay. Well,
again, the oversight that this committee will
continue to do will be on that itself. So time will
tell. Last two questions are on reporting of
horrible, shoddy, sloppy work. Will you create
mechanisms and do you have current mechanisms for
people to report this horrible, sloppy, shoddy work?

2 TIMOTHY HOGAN: Are you talking
3 specifically about work being done by the city
4 contractors?

5 COUNCIL MEMBER MENCHACA: Yes.

6 TIMOTHY HOGAN: So, all the city
7 contractors that are doing this work are subject to
8 the Build it Back Inspection Program. So--

9 COUNCIL MEMBER MENCHACA: [interposing]
10 I'm talking about community residents being part of
11 this process. So, are they going to be allowed to
12 and do they have a mechanism to report this work
13 themselves, the people?

14 TIMOTHY HOGAN: If they find that they
15 move into the building and the work was improperly
16 done, then we will work on getting that resolved.
17 I'd have to hand--

18 COUNCIL MEMBER MENCHACA: [interposing]
19 But how do they communicate? And if there's somebody
20 on staff that can come talk about that, how can they
21 communicate that, and going back to Chair Treyger's
22 question about communicating this to multiple
23 language speaking residents and homeowners, and is
24 that part of that package of communication?

2 TIMOTHY HOGAN: Yeah, I'd have to defer
3 that to the Office of Recovery.

4 COUNCIL MEMBER MENCHACA: Okay, can we get
5 them up here to talk? Thank you.

6 CHAIRPERSON TREYGER: Could we just
7 identify yourself and we'll swear you in as well?

8 MARY VAN NOY: My name is Mary Van Noy
9 [sp?]. I'm Assistant General Counsel at the Office of
10 Housing Recovery Operations.

11 CHAIRPERSON TREYGER: And do you affirm
12 to tell the truth, the whole truth and nothing but
13 the truth in your testimony before this committee and
14 to respond honestly to Council Member questions?

15 MARY VAN NOY: I do.

16 CHAIRPERSON TREYGER: Thank you. Council
17 Member Menchaca?

18 COUNCIL MEMBER MENCHACA: So, the
19 question at hand is really a mechanism, a kind of
20 clear and communicable [sic], something to be able to
21 communicate to our people on the ground, mechanisms
22 for reporting sloppy work?

23 MARY VAN NOY: First of all, apologizes
24 that Director Peterson was unable to be here today. I
25 will do my--

2 COUNCIL MEMBER MENCHACA: [interposing]

3 Well, send her our best.

4 MARY VAN NOY: I'm happy--

5 COUNCIL MEMBER MENCHACA: [interposing]

6 Please.

7 MARY VAN NOY: to do my best to address
8 your questions.

9 COUNCIL MEMBER MENCHACA: Thank you.

10 MARY VAN NOY: Or to take down any
11 questions that I'm not able to address and take them
12 back for response. To the issue of--so, while
13 projects are in process we certainly have mechanisms
14 for homeowners to contact Build it Back and to
15 communicate with us about issues that they're
16 experiencing in the home maybe with the work if it's
17 not up to high standards or if they're having issues
18 with contractors. We have project managers who often
19 times have direct communication with homeowners while
20 the projects are ongoing.

21 COUNCIL MEMBER MENCHACA: It seems a
22 little casual here. I'm looking for mechanisms that
23 are official that can be recorded that can be brought
24 into further hearings, can be measured, that's what
25

2 I'm looking for. Do you have those things in place
3 and can you describe that to us?

4 MARY VAN NOY: We do. I mean, we do
5 record all complaints. So, if a homeowner contacts
6 the Build it Back Customer Service line, we track
7 through our system all complaints and work to
8 resolve--

9 COUNCIL MEMBER MENCHACA: [interposing] So
10 that's the mechanism?

11 MARY VAN NOY: So, we do--yes, we do have
12 tracking of homeowner--

13 COUNCIL MEMBER MENCHACA: [interposing]
14 So, there's a phone number that everybody calls. Do
15 you know that number?

16 MARY VAN NOY: I do not know it offhand.

17 COUNCIL MEMBER MENCHACA: Okay, but
18 there's a number. If someone can Google that if
19 there's--that's googleable [sic]. So there's a
20 hotline that people can call, and tell me more about
21 what happens and whether or not it's part of your
22 communication to homeowners in the process that, hey,
23 kind of like our 311 system. If you see something
24 say something. Here's a number. Tell me about how
25

2 that's part of the culture of our program, of the
3 Build it Back Program.

4 MARY VAN NOY: So, the Build it Back
5 Customer Service line is 212-615-8329.

6 COUNCIL MEMBER MENCHACA: Okay, great.

7 MARY VAN NOY: So to the question of so
8 how is it communicated to homeowners that they can--

9 COUNCIL MEMBER MENCHACA: [interposing] Is
10 this part of the process? I really want to understand
11 if this is something that is at a core component.
12 This is what drives information for us to be able to
13 look and review, and if this is not something that is
14 part of your process, and then we're going to
15 recommend that it become part of your process that we
16 get real time information from homeowners as they
17 return or in the process inspect city work, and
18 that's important here as well. As we get down to real
19 customer service from a city that is promising so
20 much right now to members, to people of the community
21 that have yet to see work done that are still
22 waiting.

23 MARY VAN NOY: So, we have extensive--we
24 have an extensive system of touchpoints with--

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COUNCIL MEMBER MENCHACA: [interposing]

Okay.

MARY VAN NOY: homeowners through the process as they are being reviewed for eligibility as their home, you know, their homes are going into design. There's a lot. There are a lot of opportunities where city staff directly is communicating with homeowners about what is going on with their properties and when construction is going to begin, and with whom they would be in touch throughout the process. It's fairly extensive, and I would be happy to provide the committee with, you know, sort of our, you know, demonstration, sort of our procedures, how a homeowner actually moves through the process.

COUNCIL MEMBER MENCHACA: Great. And there is reference to posters and Multilanguage pieces of documents that get given to people. Is that hotline kind of prominent in this, and I guess this is for review later, and I don't know if you--it doesn't sound like you have that here today, but it would be good for the committee to review that and if we can offer some recommendations in making that a kind of core component. That's going to help create

2 accountability, which is what everybody's going to
3 want right now in a big way if they want to continue
4 in this program, and giving people that opportunity
5 and that line, a lifeline in so many ways to be able
6 to come back and say, "Look, this wasn't done right."
7 And be able to do that, measure that for us to look
8 at is going to be important. Final question for you,
9 are there any sense of warranties on the work that's
10 happening on, well, logistic [sic]--are there any
11 warranties in this program?

12 MARY VAN NOY: There are warranties on--

13 COUNCIL MEMBER MENCHACA: [interposing]

14 Tell us. Tell us about this.

15 MARY VAN NOY: So, there is a one-year
16 warranty on any city contractor work that is
17 performed under the Build it Back Program.

18 COUNCIL MEMBER MENCHACA: And then now
19 the second question to that is, for all these
20 warranties of one year, how does someone engage the
21 warranty process, and is it different from the
22 hotline process? And tell us a little bit about the
23 warranty process?

24 MARY VAN NOY: The homeowners after work
25 is completed they receive a letter that details the

2 warranty and instructions for how they would act on
3 any complaint under the warranty.

4 COUNCIL MEMBER MENCHACA: Got it. Can you
5 give me examples of some of the things that are in
6 warranty?

7 MARY VAN NOY: I will. I will pull up the
8 letter.

9 COUNCIL MEMBER MENCHACA: Great, awesome.
10 Oh, and we would like a copy of that too, by the way.

11 MARY VAN NOY: I can provide that.

12 COUNCIL MEMBER MENCHACA: Thank you.

13 MARY VAN NOY: So, for example, the
14 letter says that the Build it Back Program warranty
15 covers workmanship defects. So, the contractor will
16 be required to fix any problems with your repairs.
17 For example--so it gives an example of what might be
18 a repair that a contractor would come back to fix. It
19 says you can call a Build it Back Customer Service
20 representative, and your contractor will come and fix
21 it.

22 COUNCIL MEMBER MENCHACA: Great. I would
23 like a copy of that, too. Thank you so much for your
24 work.

2 CHAIRPERSON TREYGER: Okay. Just a quick
3 follow-up, and next we have--we've been joined by my
4 very great colleague from the Rockaways, Donovan
5 Richards, as well. But--and from Breezy Point in the
6 Harbor and others, Eric Ulrich, Council Member
7 Ulrich. Just a quick follow up question. So, is the
8 311 system linked up to the Build it Back Service
9 Center? Oh, you'll--yeah, I'm sorry. Yeah.

10 MARY VAN NOY: I'm sorry, Chair. What was
11 your question?

12 CHAIRPERSON TREYGER: Is the 311 system
13 linked to the Build it Back Service Center? So, if
14 someone doesn't know that 212 number, if they call
15 311 can they be linked to that Build it Back Service
16 Center?

17 MARY VAN NOY: I believe yes. I would
18 have to--I will have to check to confirm, but I--my
19 understanding is that if inquiries have come through
20 311 they are routed to Build it Back Customer Service
21 line.

22 CHAIRPERSON TREYGER: So, is it safe for
23 us to encourage our residents to also call 311 with
24 these issues as well, or do they need to only call
25 that 212 number?

2 MARY VAN NOY: I will check to confirm
3 our level of confidence with the connection between
4 311 and--

5 CHAIRPERSON TREYGER: [interposing] And
6 you can get back to us on that?

7 MARY VAN NOY: Yes.

8 CHAIRPERSON TREYGER: Okay. Council
9 Member Richards, you have questions as well?

10 COUNCIL MEMBER RICHARDS: Thank you.
11 Thank you.

12 CHAIRPERSON TREYGER: Oh, someone else
13 before?

14 COUNCIL MEMBER RICHARDS: Oh.

15 CHAIRPERSON TREYGER: Oh, I'm sorry.
16 Council Member Margaret Chin was on the que before.
17 My apologies, my fault. To my great colleague from
18 Lower Manhattan who just scored a big victory for her
19 district with the resiliency funds, Council Member
20 Margaret Chin?

21 COUNCIL MEMBER CHIN: Thank you, Chair.
22 My question is that are you tracking contractors that
23 has a lot of complaints to make sure that they're not
24 going to be on the list of contractors that's going
25 to be used by the City?

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COMMITTEE ON RECOVERY AND RESILIENCY

MARY VAN NOY: As I said previously, we are tracking complaints against contractors. I don't have information at this time about any actions that we've taken in response to in terms of on contractors and response to complaints.

COUNCIL MEMBER CHIN: I think we would like to get that information, because if there's some contractors that are not good, they're doing shoddy work, I mean, they shouldn't be used by the City. I mean, these homeowner needs good contractor to help build and repair and fix their home, and for them to go through all this trouble and then--and have shoddy work done, that's just not fair. So, I think the city really needs to step up on that. And also my other question is that for homeowners who didn't wait to sign up for the Build it Back Program or the Rapid Repair Program like right after Super Storm Sandy, they sort of got the work done themselves, or they hired their own contractor and they got the work done, and when they get violations, is there a way for them to also get help from the City to sort of make sure the contractor--if they could file a complaint with the city to make sure the contractor comes back and fix the work that ws done improperly?

2 MARY VAN NOY: If you could clarify,
3 would this be while a homeowner is--while their
4 property is being worked on by a Build it Back
5 contractor?

6 COUNCIL MEMBER CHIN: Well, they didn't--
7 they didn't sign up for the program, okay? I mean,
8 there were people like say in the immigrant community
9 that we know of, they just sort of like didn't know
10 about the program or have problems signing up but
11 they need the repair done, so they hire a contractor
12 and they get the work done, and then they get
13 violations or they felt that the work wasn't done
14 property. So, can they still be able to get help
15 from the City? I mean, it's in the Buildings
16 Department, if there are contractors who doesn't do
17 good work can they file a complaint?

18 MARY VAN NOY: This would be a homeowner
19 that's not in the Build it Back Program.

20 COUNCIL MEMBER CHIN: Yes, not in the
21 Build it Back Program.

22 TIMOTHY HOGAN: There's a number of ways
23 that that could be handled depending on who the
24 contractor was. If it's a home improvement
25 contractor, they're normally licensed under

2 Department of Consumer Affairs, and they would be
3 able to go to the Department of Consumer Affairs to
4 file a complaint about the work. If they hired an
5 unlicensed contractor to do electrical work on the
6 property, then that's an issue, because they didn't
7 check to make sure it was a licensed person in the
8 first place, and they should have made sure that a
9 license was--a permit was pulled in order to do the
10 work on their premises. So, they could subject
11 themselves to a violation for doing that, but the
12 main issue is that if they had used a licensed
13 contractor from the beginning and the licensed
14 contractor would have pulled the permits that were
15 required to make sure that it was properly installed
16 and inspected.

17 COUNCIL MEMBER CHIN: I think if that's
18 really--go back to having the outreach information in
19 multiple languages so people can understand what to
20 expect on what they should be doing. You know, God
21 forbid another storm happen and their home is
22 damaged. How they should, you know, get licensed
23 contractor, I think those information the City should
24 get it out there in the language that people could
25 understand so they could be better prepared and not

2 get, you know, have problem afterwards when they get
3 people who are either not licensed or should be on a
4 list where these are the contractor that you should
5 not hire because they have multiple, you know, record
6 of shoddy work. So, I think that's something going
7 forward. We need to get those information.

8 TIMOTHY HOGAN: We do supply a list of
9 unlicensed contractors that we've caught doing
10 electrical work or plumbing work, and we seize their
11 vehicles when they do it on a property and we catch
12 them in the process of doing it, and they are listed
13 as contractors that are not licensed by the city and
14 that have received violations for being unlicensed
15 contractors in the City.

16 COUNCIL MEMBER CHIN: Where do you have
17 that list?

18 TIMOTHY HOGAN: It's on our web page.

19 COUNCIL MEMBER CHIN: It's on your web
20 page.

21 TIMOTHY HOGAN: Yes.

22 COUNCIL MEMBER CHIN: But we got to
23 publicize that is on your website.

24 TIMOTHY HOGAN: We actually have done
25 some publication on that. Also, during Sandy, all of

2 our public notices went through the Mayor's Office of
3 Communications to make sure that it was the same
4 message that went out to each community in languages
5 that were available at the time.

6 COUNCIL MEMBER CHIN: Thank you. Thank
7 you, Chair.

8 CHAIRPERSON TREYGER: But I think the
9 Council Member raises an interesting point, because
10 you know, I recall that, those moments, you know, the
11 day after the storm, and I'm sure my colleagues who
12 represent districts could also sympathize with this
13 that there was just so much demand for contractors,
14 and there was just so much that people were
15 scrambling, chasing to find someone who could do
16 boiler work, and I don't know what our supply is of
17 licensed contractors. I also know that there is a lot
18 of price gouging because people were paying a lot of
19 money for boilers that should have never been that
20 price, and I also know that there were some big
21 issues with the Rapid Repairs, but my problem with
22 this system again is that there's just too much onus
23 on the Sandy victim at a time when they're just
24 trying to pick up the pieces of their lives, and
25 that's--so, I mean, I understand that the DOB has a

2 job to do to make sure. I fully--I get that, but I
3 think that government needs to be adaptive and
4 reflective of reality on the ground, that if you only
5 have a certain number of people licensed to do this
6 work, what do you do in these emergency situations.
7 And I'll give you an example, my colleagues joined me
8 in Coney Island our first hearing, that even with
9 licensed people NYCHA put boilers into buildings that
10 don't work below 40 degrees, and people didn't have
11 heat and hot water during the winter. So, even with
12 licensed people there's issues. So, I just--I don't
13 know what you do in this situation when the demand is
14 so high. Thousands of people are in need of work to
15 be done in their home and only a certain number of
16 licensed people out there. Some of them might have
17 engaged in some shoddy business practices as well.
18 What do you do in this situation?

19 TIMOTHY HOGAN: Just to go back, you just
20 reminded me of something that I forgot to mention
21 previously during Sandy. One of the ways you got a
22 notice of deficiency during Sandy is if we went back
23 and we knew that you needed to have a boiler or an
24 electrical panel put in, and when we got back there
25 we found that you replaced it, but you didn't do it

2 with a licensed contractor. So, rather than writing
3 you a violation, we gave you a notice of deficiency
4 and told you to go get a licensed electrical
5 contractor to come in and make sure that the people
6 who installed it installed it properly and make any
7 corrections to the system. So, that was one of the
8 reasons we developed a notice of deficiency program
9 was because we knew that this type of stuff was going
10 on. We were actually seizing vans, driving back into
11 Nassau County from--into the Rockaways. So, they
12 were coming down from Nassau County. They weren't
13 licensed to do work in New York City, and we were
14 stopping their vans and turning some of them around,
15 but when we did find that people did electrical work
16 or plumbing work from a nonlicensed person, we did
17 issue notices of deficiency and told them, "Hey,
18 look, in the next 90 days you need to go out and get
19 a plumber to look at and make sure the gas work was
20 properly installed, to make sure that the electrical
21 system's properly grounded." And as long as you did
22 that and they pulled a permit, you never got a civil
23 penalty.

24 CHAIRPERSON TREYGER: But I just want to
25 make you aware that there were many licensed

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contractors, you know, that did do good work also, but they have told me that they still have not been paid by Rapid Repairs, and they said, "Good luck in the next emergency because we will not do business with the City of New York ever again." So, we have a problem here that--and so I am concerned about the supply of licensed people in the event of another emergency. I'm also concerned about what are homeowners supposed to do when supply is not meeting demand and they have no boiler in the winter or they have, they don't--I mean, this is an issue beyond just DOB to address, but this is just the reality on the ground. Councilman Richards I believe has a question.

COUNCIL MEMBER RICHARDS: Just quick points because I think everybody touched on certainly what I wanted to--certainly wanted to say. Just wanted to go back into warranties. Why a one-year warranty? What was their thinking around a one-year warranty?

MARY VAN NOY: I don't have the answer to that.

COUNCIL MEMBER RICHARDS: Arlighty [sic].

2 MARY VAN NOY: I can--I'll take that back
3 to--

4 COUNCIL MEMBER RICHARDS: [interposing]
5 Okay, I would just suggest because imagine your home
6 is getting done, you know, now, you know, or in the
7 summer perhaps, and then you know, you run into a
8 winter, a real rough winter and something breaks. I
9 have no idea, but it's just something we should pri--
10 I just want to hear what was the thinking around the
11 one-year warranty. Why not two years? At least
12 giving the homeowner a year to be there before, you
13 know, we know if it truly is going to hold together.
14 Not saying it's not going to hold together, and I
15 want to applaud Build it Back for some of the work
16 they're doing. Just on--just going back to the
17 packaging, I guess, around, you know, unscrupulous
18 individuals or pre--or obviously when you're going
19 into work into people's homes. Is the City taking
20 any pre-pictures, like, you know, before you go in to
21 do work of the homes? And if not, I would suggest,
22 you know, you do it because imagine, you know, you
23 get into it--and for the City's protection as well.
24 I mean, I imagine a homeowner, you look the home and
25 perhaps they break something. Not to put the owners-

2 -not that my constituents would do that. I represent
3 honest constituents, but imagine something goes wrong
4 in the home and the City, you know, the onus can be
5 on the city. So, has there been any thought to
6 certainly taking pre-pictures, you know, prior to
7 work being done?

8 MARY VAN NOY: Our practice is to take
9 pictures when we're doing the initial inspection of
10 the home to--

11 COUNCIL MEMBER RICHARDS: [interposing]
12 So, the initial inspection.

13 MARY VAN NOY: identify storm damage and
14 repairs that have already been made.

15 COUNCIL MEMBER RICHARDS: Okay, so you do
16 take pictures in this.

17 MARY VAN NOY: That's correct.

18 COUNCIL MEMBER RICHARDS: Okay, so that's
19 good. And then I would just suggest and I will be
20 quiet, is perhaps around information to homeowners
21 on, you know, if there is shoddy work being done
22 perhaps when you're packaging and going through this
23 process rather than just saying here's a hotline.
24 There should perhaps just be a simple form that you
25 give homeowners, and you know, perhaps I don't know

2 if you would require a signature, I have no idea, but
3 it should be part of the initial package of Build it
4 Back, and perhaps you can give that suggestion. You
5 know, if you get shoddy work, here's the number to--I
6 mean, just simple. SOP rather than we may give them
7 a phone number to call or they should call 311. That
8 should just be part of standard operating procedure,
9 just a simple sheet that says work is done shoddy,
10 call XYZ. I'm not sure if that's being done, but if
11 it's not that strikes me as something simple the City
12 can do.

13 MARY VAN NOY: I will take that
14 suggestion back, and I will also look further to see
15 what our current procedures are around that type of
16 communication.

17 COUNCIL MEMBER RICHARDS: And I think
18 it's important once again even for signature from the
19 owner to acknowledge, because then that means that
20 they actually read it, and you know, once again just
21 from the standpoint of protecting the city as well,
22 even though I'm more interested in protecting the
23 homeowner. You know, I think it serves a dual
24 purpose. So, with that being said, thank you,
25 Chairman for your leadership on this.

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CHAIRPERSON TREYGER: Thank you, Councilman Richards, for I think very common sense suggestions, proposals. Now that we have Build it Back here too, just a quick question here and I touched up on this earlier, is there a coordination between Build it Back and other agencies such as the Department of Sanitation to prevent homeowners from being violated for conditions that may have been caused by a contractor, failure to clear construction debris from a property like I mentioned earlier, or a sidewalk or a street obstruction?

MARY VAN NOY: So, if we--when we receive specific cases, we will receive a complaint perhaps from the homeowner about a condition. If they--if it's something that if we're there during the project and we receive that complaint, we will do--we'll work on specific cases and do what we can to rectify the situation so that there's no, you know, no lasting impact on the homeowner for something like that.

CHAIRPERSON TREYGER: But have you heard of cases so far where people have been fiend by Sanitation if there's debris left behind by the contractor?

2 MARY VAN NOY: I've heard of that type of
3 issue. I don't have specific examples, but if we've
4 received that specific example I can find out what we
5 have done in response.

6 CHAIRPERSON TREYGER: I mean, I--I feel
7 like we're going to keep hitting this point over and
8 over again, but I just--it's--there's a disconnect
9 here, because we really--look, the government has
10 took steps to rectify the property tax situation,
11 which is commendable from the state and the city work
12 together. Sometimes it happens, right? But in this
13 situation this is within our control. We don't need
14 Albany's permission on this. We can do this on our
15 own. So, if the contractor's doing work and garbage
16 is left behind and that ticket should not go to the
17 homeowners if they're trying to--if they're working.
18 I mean, that's just a no-brainer to me, but I think
19 we're going to have to have some follow-up
20 conversations with the Director Peterson and other
21 agencies making sure that we are clearing the hurdles
22 and the red tape and bureaucracy to help these people
23 recover in peace, because I--you know, we can't
24 assume that everyone's just going to have common
25 sense here in a sense where we should not be

2 ticketing someone if they're doing work on the house
3 or as far--you know, if they're--I point out examples
4 before where the homeowner should be, there are areas
5 where the homeowner is squarely responsible, illegal
6 conversions, other types of serious things, I get
7 that, but if they're doing work on the house and they
8 put some debris out, that should not be at the
9 homeowner's fault. Are there--is there any--there's
10 no other questions? I look forward to this
11 conversation continuing. I think that there will be
12 further need for review here, and I think there's a
13 willingness to have more conversations about these
14 bills as well. Am I correct in saying that?

15 TIMOTHY HOGAN: That's correct.

16 CHAIRPERSON TREYGER: I appreciate that.
17 Thank you for your time here this afternoon. Okay,
18 if there's anyone in the audience that has not filled
19 out a slip or would like to testify or speak, please
20 make sure that you fill out a slip with the Sergeant
21 at Arms. I'd like to call up Margaret Becker from
22 Legal Services New York City and Joe Kupferman New
23 York Environmental Law and Justice Project. We'll
24 begin with Ms. Becker.

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MARGARET BECKER: Thank you, Chairman,
for this opportunity. As you said, my name is
Margaret Becker. I'm Director of Disaster Recovery at
Legal Services NYC. I'm testifying on their behalf.
We have offices in all five boroughs including
dedicated disaster recovery staff in Queens, Staten
Island and Brooklyn. I also wanted to mention that
the Brooklyn Long Term Recovery Group has endorsed
our testimony. It didn't make it into the print
version, but they've sent their endorsement. Before
I get into the substance, I just wanted to mention
that this Department of Buildings protocol of waiving
violations for people who are in the Build it Back
Program is news to the advocate community which
underscores the need for this to be a law, not an
internal procedure. We cannot effectively advise
clients or represent them, clients who are facing
this truly Kafka-esque [sic] situation without public
disclosure of that policy, because you know, I can
tell you that it has been inconsistent in its
enforcement. I think it goes without saying that the
proposals here would be a great benefit to many
Sandy-affected low income homeowners who are still
struggling to recover as well as those who would be

2 affected in the future, and I wanted to add that in
3 our experience, though, the problem is not limited to
4 Department of Buildings. As you've mentioned, our
5 clients are facing violations from Department of
6 Sanitation and Department of Environmental Control or
7 Environmental Protection as well, nor is it limited
8 to violations incurred after the Build it Back
9 Program was created. So, many of these violations
10 came out before Build it Back existed. So, you know,
11 amending the language to include violations that
12 preceded homeowners being under evaluations for Build
13 it Back help or a similar future agency would help
14 further address the problem, and again, this is a
15 technical recommendation. We have clients who are in
16 line for Build it Back or state by-outs or
17 acquisitions who are facing violations and as the
18 legislation is written, it only would apply to people
19 that are waiting repair or rebuild, whereas there are
20 many people awaiting acquisition who are in a similar
21 situation where it would be pointless for them to
22 spend money on their home. And I also wanted to note
23 that, you know, there's possibility that this
24 legislation could have adverse effect on tenants who
25 are occupying Sandy-damaged property and but it seems

2 certainly feasible to draft it in a way that would
3 eliminate harm to any tenants in damaged property.
4 Now, you know, and as you've pointed out, ideally for
5 the remainder for our Sandy recovery and for any
6 future disasters the City would have a system in
7 place to ensure that these agencies were
8 communicating with each other and so that issues of
9 safety and health can be promptly addressed without
10 it being the onus of the homeowner to deal with those
11 situations, because currently that's not effectively
12 taking place. I just wanted to share a few
13 particular examples of our clients who face this
14 problem. Mrs. Rhodes who is disabled has been
15 displaced from her Broad Channel home since Sandy.
16 With her family she's been living in a cramped
17 apartment in Que [sic] Gardens for over three years
18 now. Her home was damaged beyond repair and it's
19 been unoccupied since Sandy. Build it Back will be
20 fully rebuilding it, but in the meantime, Mrs. Rhodes
21 has incurred citations and fines from both the
22 Department of Buildings and the Department of
23 Sanitation. She was fined 530 dollars by the
24 Department of Buildings for failing to maintain the
25 roof, porch and side stairs of an unoccupied

2 building. She was unable to pay this fine, and
3 presumably it is increasing. We have had clients
4 come to us complaining of Department of Buildings
5 citations from electrical work done by Rapid Repairs
6 from Department of Sanitation and Department of
7 Environmental Protection violations for debris left
8 by Build it Back contractors. Particularly
9 troublesome story is that of Mr. and Mrs. H who are
10 elderly homeowners in Red Hook. Their home was
11 damaged. They had limited income, no insurance. So,
12 they were hoping to get assistance from the Build it
13 Back Program. However, a week before Thanksgiving of
14 2013 they received three violations and a full vacate
15 order by the Department of Buildings for Sandy-caused
16 damage. They tried to address this by communication
17 with city officials to no avail. They then had to
18 hire a contractor to do the work so that to clear the
19 violations as well as so that they could return to
20 their home. The work cost them about 45,000 dollars.
21 They used credit cards to pay for some of the work.
22 They borrowed money from friend's loans, which they
23 have little hope of ever being able to repay, and
24 they still owe money to the contractor. Now, because
25 this work was done after they registered for Build it

2 Back they are now ineligible for Build it Back
3 assistance. They will not be reimbursed for any of
4 that because they were forced by one agency to do
5 work right now when another agency was telling them
6 they had to wait. They have paid 5,000 dollars in
7 Department of Buildings fines. The Department of
8 Buildings has since informed them that they will be
9 reimbursed for two out of three of those fines. Mrs.
10 B is an elderly woman with limited mobility who was
11 displaced from her New Dorp [sic] home to a third
12 floor, a walk-up, third floor walk-up apartment where
13 she has been since Sandy. She received a Department
14 of Buildings citation in early 2013 that required to
15 secure and demolish the damaged home. She struggled
16 for over a year to resolve the problem through the
17 Department of Buildings and to try and seek Build it
18 Back assistance with it. She eventually had to pay
19 over 4,000 dollars out of her own nearly empty pocket
20 to have the home boarded up while she awaits federal
21 assistance. I'll be quick with the last few
22 examples. Mrs. Creasler [sp?] is a homeowner whose
23 Sandy-damaged home in South Beach, Staten Island is
24 unsafe for residents because of mold. She's been
25 living out of state which was the only affordable

2 place she could secure while awaiting for recovery.
3 Since Sandy she has received nine Department of
4 Sanitation violations totaling almost 3,000 dollars
5 for failure to cut weeds, remove construction
6 materials from her lawn, and Build it Back will be
7 fully rebuilding her home eventually. I've already
8 mentioned that it's important that this be a law and
9 not simply a policy so that it's enforceable as well
10 as known to the community and advocates, and I also
11 wanted to mention that I think having a complaint
12 line is only effective if there is speedy and
13 meaningful follow-up on those reports and complaints,
14 and I hope that Build it Back will be forthcoming
15 with fuller explanation of how those complaints are
16 addressed as well as data on how quickly those
17 complaints are addressed.

18 CHAIRPERSON TREYGER: That's a good point
19 because the reason why I asked the question about
20 whether the 311 system links them to Build it Back is
21 because you get a number, and if it's linked, then
22 you're able to track that complaint with that number.
23 Otherwise, I know Build it Back has created their own
24 tracking system, which we're hearing that they might
25 have, but it'll be interesting to see if 311 could

2 pick up that tracking system, kind of make government
3 kind of work, you know, coordinate better. Thank you
4 for your testimony. Mr. Kupferman, a familiar face,
5 strong advocate. Thank you for your time.

6 JOE KUPFERMAN: Thank you. I'm Joe
7 Kupferman. I'm Executive Director of the New York
8 Environmental Law and Justice Project and the
9 Environmental Justice Initiative for Haiti, and I've
10 been working with many groups on the ground in Haiti
11 post-earthquake and post-Hurricane Sandy. I applaud
12 that you're holding this hearing. I'm also concerned
13 that too much emphasis is placed on the amount of
14 violations that are being issued. Last year, or
15 Fiscal 2014, over 531,000 ECB violations were issued.
16 This includes everything including building
17 violations, and over 440 million dollars went
18 uncollected in fines. So basically the word out
19 there is that if you get a fine you don't have to pay
20 it. Only maybe the small homeowner or the small
21 vendor is getting it. So, it's really, really hard
22 to make those fines stick, and as a person that's
23 represented many, many tenants before ECB on behalf
24 of tenants, it's really hard to get a violation
25 sticking to a, you know, to a landlord or a bad

2 builder or a bad contractor. The city has to go
3 after the bad contractors and builders, but they
4 haven't. The Buildings Department has something
5 called an aggravated violation where they could
6 actually start accumulating the violations or
7 gathering the number of violations that one builder
8 or one landlord has, and they failed to do that. So,
9 basically they're failing to go after injunctive
10 relief. The city does have something called the Bad
11 Actor Policy, as does the state, and we used that
12 back in 2001 when the city went crazy during the West
13 Nile Virus spraying. We brought in OSHA [sic] after
14 the workers complained and they said they were only
15 given one mask or whatever and they got a 350 dollar
16 fine. We also got a one million dollar DEC fine
17 against the city's contractor that they were
18 supposedly watching. We used the OSHA violation to
19 force the city not to hire those people again, and
20 they hired the Rosen [sic] people. So the main thing
21 that was brought up by many of the Council Member is
22 that the city gives fines, doesn't collect them, but
23 still continues to give business to these
24 contractors. So, one of the first things we should
25 look into is putting them on the bad list and

1 refusing to give them contractor's leases or any type
2 of abatements. And from my experience, bad
3 construction in the city as buildings going up all
4 around here including renovation, is one of the major
5 health threats that the city faces today, not just
6 the owner of the building, but the adjoining
7 neighbors. And Sandy, I think was a pure health
8 disaster. As I mentioned before, I represent the
9 people of Haiti, organizations in Haiti, and one of
10 the lawyers that sued the United Nations for the bad
11 aid that they provided. They provided soldiers down
12 there. They had poor sanitation. The excrement went
13 into the river system and over 1,000 people have died
14 of Cholera. In New York City post Sandy marked seven
15 of the 17 sewage plants were not working. So we had
16 millions of gallons of sewage that came onto the
17 land, into the elevator shafts, into the basements of
18 most of the buildings and houses that we're talking
19 about, and yet the city refused to really put up any
20 type of health advisory. So, they sent homeowners,
21 workers, everyone else back there. The city has one
22 of the best mold guidelines in the country that even
23 OSHA cites, but the city refused to codify those
24 codes. So, I'm concerned today that we're looking
25

2 concerns of several homeowners, but it's a major
3 health crisis. If you ask the Health Department, you
4 should--you know, the other departments, the other
5 committees should even ask that this--I think a spike
6 in the amount of mold-related problems. So, we place
7 homeowners and workers, you know, in the zone of
8 danger, and we should definitely codify those codes.
9 The other part, which is real small is that as we
10 know that climate change we're really concerned about
11 that, that the city has a million tree program, and
12 yet, what happens when the Building Department issues
13 a rebuild for a house or a building, they usually
14 allow unfettered access to the sidewalk to rebuild.
15 We're losing thousands and thousands of veteran old
16 trees that the city is not requiring anybody to put
17 back. So, in some ways we're planting a million
18 trees, but the rebuild program is not looking at the
19 totality of doing a, you know, a pure green rebuild.
20 And part of the problem I think other departments
21 have is that it was mentioned about putting boilers
22 in and making sure the right boilers were there. The
23 City's new air code in regards to 2.8 million BTU's
24 and up will only require a simple registration, which
25 means only 30 to 35 percent before were inspected.

2 So, now, we're doing a step back in terms of allowing
3 boilers to go in with no inspection, with no
4 enforcement, whatever. So, I think it's--now it's
5 time to rebuild that we should look, you know, we
6 should revisit that, and I urge this committee to
7 look at the totality and actually look at especially
8 the public health issues that are there. Thank you.

9 CHAIRPERSON TREYGER: Thank you, Mr.
10 Kupferman. And I want to note that Mr. Kupferman was
11 very instrumental in with regards to post-9/11 when
12 people who went down to ground zero to do work and
13 were told it was safe to do work and later realized
14 how sick that they got, and thanks to his efforts and
15 his leadership he helped really expose the EPA for a
16 lot of misinformation that actually I think cost
17 lives and cost people's good health. So, I take your
18 suggestions very, very serious, and this committee
19 actually is planning already a joint hearing with the
20 Health Committee, Chaired by Corey Johnson, whose
21 been very responsive and open to having a joint
22 discussion about both hospitals and health post-Sandy
23 as well. So, I thank you for your timely
24 suggestions.

2 JOE KUPFERMAN: And if I could just state
3 one thing?

4 CHAIRPERSON TREYGER: Yeah, sure.

5 JOE KUPFERMAN: I'm also concerned about
6 what the city is building along the waterfront, and
7 they've taken away in some cases community gardens to
8 build concrete-filled amphitheaters. So we're really
9 concerned. There's a little contradiction in terms
10 of the city praising, you know, good green
11 development, and yet they're permitting and actually
12 fostering bad development.

13 CHAIRPERSON TREYGER: I hear you, and I
14 certainly I have not been shy in being vocal about
15 some of what's happened under the Bloomberg
16 Administration and some stuff that's being carried
17 over. I will just note that I certainly agree that
18 for contractors doing poor work and irresponsible
19 dangerous work, they need to be held accountable to
20 the fullest extent of the law. The only--the issue
21 that we try to raise here today is that we were told
22 that there's an internal rule, internal policy, about
23 making sure that homeowners who are trusting
24 government to give them the recovery aid that they
25 were promised that they would not be subjected to

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finest or violations based on that recovery work are being hit with violations, and many of these people live in neighborhoods in my district and Coney Island or Canarsie or Red Hook, Rockaways who can really least afford any additional burdens that they're going through in their lives, but I fully agree with you that contractors that do bad work, poor work and don't comply with building and safety codes need to be held responsible to the fullest extent of the law. And I also want to just thank you for your suggestion about making sure that the language is crafted that we're not putting any undue burden on tenants or residents because we're very--you're absolutely correct, that is not the intent of this whatsoever, both from my bill or Councilman Maisel. And so we'll be very open to your suggestions and working with you further on that, but thank you for the meaningful suggestions here today. If there's no other, I want to thank my Committee Counsel, Brad Reed, and Policy Analyst, William Murray, and also Johnathan Seltzer has been very helpful. With that, the hearing's adjourned.

[gavel]

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COMMITTEE ON RECOVERY AND RESILIENCY

C E R T I F I C A T E

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



Date January 27, 2016