

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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January 14, 2009

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HELD AT: Council Chambers  
City Hall

B E F O R E:  
ERIK MARTIN DILAN  
Chairperson

COUNCIL MEMBERS:  
Tony Avella  
Leroy G. Comrie, Jr.  
Lewis A. Fidler  
Robert Jackson  
Melissa Mark-Viverito  
James S. Oddo  
James Vacca

## A P P E A R A N C E S [CONTINUED]

Robert LiMandri  
Building Commissioner  
Department of Buildings

Stephen Kramer  
Senior Counsel  
Department of Buildings

Marilyn King Festa  
Deputy Commissioner of Operations  
Department of Buildings

Lou Coletti  
Building Trades Employer's Association

Robert S. Altman  
Queens and Bronx Building Association  
Building Industry Association of New York City

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2 CHAIRPERSON DILAN: Good afternoon  
3 everybody and Happy New Year to all. My name is  
4 Erik Martin Dilan. I'm the Chair of the New York  
5 City Council's Housing and Buildings Committee. I  
6 guess just at this time I'd like to ask everybody  
7 in attendance today to put their cell phones on  
8 silent mode. And if there is a need for a private  
9 conversation if they could do so outside of the  
10 Committee Room.

11 I know there are not a great deal  
12 of people but a number of people who are signed up  
13 to talk about the item on today's agenda. And if  
14 they could please see the Sergeant at Arms and  
15 fill out an appearance card and we'll try to get  
16 to them as soon as possible. Right now I have  
17 only the Administration signed up but I'd imagine  
18 that some of these cards will be forthcoming.

19 Today the Committee will conduct a  
20 hearing on Intro 878, a Local Law to amend the  
21 Administrative Code of the City of New York in  
22 relation to the application of New York City  
23 Construction Codes for general contractors,  
24 demolition contracts and concrete contractors for  
25 the purposes of obtaining safety registration

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2 numbers. The Bill would require the registration  
3 of certain general, demolition and concrete  
4 contractors operating within the City of New York.

5 These contractors would be required  
6 to submit to DOB certain information including  
7 proof of insurance in order to be issued a Safety  
8 Control Number. Without this Safety Control  
9 Number no contractors may be allowed to do  
10 business in the City of New York on or after  
11 October 1<sup>st</sup> of 2009.

12 This legislation would also allow  
13 the DOB Commissioner to require any entity with a  
14 history of immediately hazardous violations to  
15 come up with a plan to improve its safety record  
16 which includes measures such as the additional  
17 training of workers, employment of a Safety  
18 Compliance Officer or other measures approved by  
19 the Commissioner of Buildings.

20 Additionally this Bill will  
21 increase filing fees for all general contractors.  
22 And today the Committee expects to hear testimony  
23 from representatives from the Department of  
24 Buildings who are here as well as some real estate  
25 professionals including developers, contractors

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2 and other parties interested in the legislation.

3 I want to say it at the outset that  
4 we know negotiations, and this is for the benefit  
5 of members that'll have to repeat as they come  
6 because there's several hearings going on; we are  
7 hearing the original version of this Bill. We  
8 know that there have been conversations going on  
9 in terms of amendments. Those amendments will be  
10 reflected in the very near future but I just  
11 wanted to note for the record we are hearing the  
12 original version and then the amendments will be  
13 included shortly thereafter.

14 Okay and before we get to the  
15 Department of Buildings, I'd like to turn to the  
16 sponsor of the Bill, Council Member Leroy Comrie  
17 for a brief comment.

18 COUNCIL MEMBER COMRIE: Thank you  
19 Mr. Chair. You pretty much covered anything that  
20 I should say but I just will say that in order to  
21 try to bring a level of sameness and also safety  
22 to the construction industry, I thought it was  
23 necessary to be a part of this Bill.

24 As one of my first bills that I  
25 introduced dealt with Site Safety Regulations for

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2 part of the construction industry and trying to  
3 make sure that an industry that we need to embrace  
4 and encourage, especially during this time where  
5 we need to have more done to stimulate the economy  
6 but also to protect workers is important. So I'm  
7 glad to be a part of this bill package.

8 I look forward to all of the  
9 conversations necessary as we do whatever is  
10 necessary to make sure that we have a final  
11 version of the Bill that works for the City to  
12 protect the workers, and to enable government to  
13 have a tracking system so that we can have a clear  
14 line of responsibility for anyone that's engaged  
15 in building in the City of New York. Thank you  
16 Mr. Chair.

17 CHAIRPERSON DILAN: Okay. So  
18 without further ado, we've been joined by the  
19 Commissioner of Buildings, Mr. Robert LiMandri,  
20 Happy New Year. I'll allow you the liberty of  
21 introducing the members of the panel who are with  
22 you. Then you can get into your testimony.

23 COMMISSIONER ROBERT LIMANDRI:  
24 Thank you Chair Dilan. Thank you Housing and  
25 Buildings Committee. Thank you Councilman Comri.

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We are very excited about this Bill.

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On my left I have my Chief Senior Counsel Stephen Kramer and on my right, Marilyn King Festa the Deputy Commissioner of Operations, which includes IT and budget as well.

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Last June in the face of serious construction accidents Mayor Bloomberg, Speaker Quinn and I, in partnership with key members of the City's construction industry who will probably testify before you today announced an ambitious legislative agenda designed to substantially increase the safety of construction sites throughout the City.

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The City then was in the midst of the most sustained construction boom in recent memory, a building boom that had been marred by a large number of worker deaths and terrible construction accidents. All of us recognize that aggressive action was needed to restore New Yorkers' confidence in the construction industry's ability to build safety and the City's ability to regulate the thousands of construction jobs underway every day throughout the five Boroughs.

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We announced a comprehensive

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2 program to more thoroughly regulate contractors  
3 and construction sites in an effort to minimize  
4 the risk of major accidents in the future. The  
5 legislative proposals we've announced covered a  
6 broad array of problems in this large, many-  
7 faceted industry.

8 In summary the major initiatives  
9 were as follows:

10 To require Concrete Safety Managers  
11 on major concrete safety jobs,

12 To enhance requirements of  
13 mandatory site specific safety plans,

14 Mandate safety meetings of all  
15 parties involved prior to a wrecking, junking and  
16 dismantling cranes,

17 To mandate more training for  
18 workers performing rigging,

19 To restrict the use of nylon slings  
20 in crane rigging operations unless specifically  
21 recommended by the manufacturer,

22 Requiring owners of vacant and  
23 structurally compromised buildings to report  
24 unsafe conditions,

25 To require property owners to



perform periodic inspections of retaining walls,

Requiring notification to the State of disciplinary actions when taken against licensed architects and engineers to the State, so the State can determine whether those disciplined needed further remedial action,

To prepare an annual compilation of injuries and fatalities arising out of regulated construction activities in the City,

To require registration of companies engaged in major construction of concrete and demolition jobs in New York City, and finally,

To authorize the Department to assign a Safety Compliance Officer to accident prone construction sites.

The first nine of these bills listed above have all passed, signed into law and now are being implemented by our team. I want to thank all of you and your staff for the hard work that you've been involved in, in working with us in drafting and the passage of those bills.

The bills that are enacted are important but in many ways the Bill before us

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2 today along with Intro 760-A which a Bill that  
3 authorizes the Department to assign a Safety  
4 Compliance Officer to problematic jobs, which has  
5 already been heard by this Committee, are the  
6 cornerstone of the legislative agenda we announced  
7 last June.

8           The Council's enactment of these  
9 bills will not only mark the completion of the  
10 agenda we announced last June, it is the  
11 culmination of months of negotiation and  
12 collaboration with the construction industry that  
13 has resulted in unprecedented agreement on and the  
14 acceptance by industry of new regulation, Safety  
15 Control Numbers, and new oversight of unsafe sites  
16 by the newly created position of Safety Compliance  
17 Officer.

18           Because these measures are needed  
19 to make construction safer in New York City these  
20 two bills will significantly upgrade the scrutiny  
21 unsafe contractors will face, as well as tools  
22 that the Department has at its disposal to monitor  
23 sites with poor safety records and increase  
24 accountability in the construction industry and  
25 build and rebuilds our ever-changing skyline.

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2 While the City must constantly grow  
3 and renew itself in order to respond to the  
4 changing economy and change land use patterns and  
5 population centers, there's no reason why we can't  
6 build safely.

7 The Department's regulation of  
8 construction safety can be described as falling  
9 into four different areas. First regulation of  
10 individuals by focusing on training, licensing and  
11 discipline of architects, engineers and critical  
12 trades who oversee the most important construction  
13 operations.

14 Second, regulation of high risk  
15 operations such as crane operations, excavations,  
16 concrete pour and building demolitions by  
17 encouraging safe practices to be followed in the  
18 field.

19 Third, identification and  
20 regulation of potentially hazardous structures,  
21 that's vacant buildings, retaining walls, high  
22 rise construction and high rise façade  
23 maintenance, and building procedures to minimize  
24 the risk.

25 And finally, regulation of the

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2 companies in the construction industry by focusing  
3 on the records of companies across jobsites to  
4 identify unusual spikes or patterns of accidents  
5 and noncompliance.

6           The first nine items of the  
7 legislative agenda listed above which were  
8 developed and passed with the support of the  
9 Speaker, Members of this Committee and Labor and  
10 Industry, addressed the first three of these  
11 regulatory areas, increasing the training and  
12 accountability of all the individuals, identifying  
13 and improving the conduct of high risk operations  
14 and identifying and inspecting high risk  
15 structures.

16           The Contractor Registration Bill  
17 that is before you today addresses the fourth  
18 regulatory approach, focusing on companies that  
19 oversee and conduct construction operations to  
20 increase their accountability for their safety.  
21 The Bill authorizes the registration of general  
22 contractors, concrete contractors and demolition  
23 contractors and would enable the Department to  
24 track the safety and compliance records of  
25 individual companies across jobsites.

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2 Passage of this Bill would  
3 constitute a significant addition to the  
4 Department's oversight of the City's construction  
5 industry. Intro 878, the Safety Registration  
6 Bill, will empower the Department to track and  
7 monitor individual builders in a way that it's  
8 never done before.

9 This Bill enables the Department  
10 for the first time to proactively track  
11 contractors across jobsites. Registration will  
12 enable the Department to identify companies that  
13 are having an undue number of accidents or  
14 violations in comparison with their peers and to  
15 require those companies to take steps to improve  
16 their records before additional problems arise.

17 By comparing the safety records of  
18 individual companies whether general contractors,  
19 concrete contractors or demo contractors, across  
20 jobsites in the City, the Department will be able  
21 to identify problem actors and to assign its  
22 resources more effectively. The Bill will also  
23 enable the Department to develop standards to  
24 measure company performance and to inform builders  
25 of their comparative performance. Comparative

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2 accident records may also create incentives to  
3 improve safety rankings and encourage builders to  
4 build more safely than their competitors.

5           The Safety Registration Bill is a  
6 significant departure from the Department's  
7 historical way of regulating construction safety.  
8 Traditionally the Department has tracked  
9 individual construction jobs by focusing on the  
10 safety record at individual job sites. For  
11 example you can look at our website and look at  
12 any particular address and you can get a complete  
13 history of the permits and violations that have  
14 been issued at the site.

15           The Department however has not had  
16 the ability or the background information on  
17 individual companies that would enable the  
18 tracking of individual contractor performance  
19 across jobs so as to hold companies accountable  
20 for their overall performance from site to site.  
21 This informational gap has prevented us from  
22 developing information on contractors to see if  
23 particular contractors had safety problems that  
24 needed special attention.

25           The gap also prevented the

1  
2 Department from comparing contractors to one  
3 another to see if certain contractors fall outside  
4 the norm in their construction accident records.  
5 The concept behind this Bill is to make it  
6 mandatory for all general contractors working in  
7 new buildings, in substantial enlargements to  
8 register and obtain a Safety Tracking Number. The  
9 proposal is also extended to all concrete and  
10 demolition contractors, two major subcontractor  
11 groups that have the responsibility for  
12 construction job operations that pose the most  
13 danger.

14 Contractors with unacceptable  
15 safety records as indicated by their rate of  
16 violations in comparison to the job size that  
17 they're working in can be monitored. And  
18 contractors who fail to respond to warnings can  
19 have higher penalties imposed for violations. And  
20 because the Bill also covers major concrete  
21 contractors and demolition contractors involved in  
22 particularly high risk operations that have been a  
23 source of several serious accidents, the  
24 Department will be able to focus on these  
25 problematic areas. We could not have gotten these

1  
2 bills done without the support and partnership of  
3 the construction industry and I want to thank  
4 everyone involved.

5 Our partnership does not end with  
6 the passage of the bills. An important piece of  
7 this unfinished business is to determine the  
8 circumstances under which a Safety Control Number  
9 can be withheld, suspended or revoked. The Bill  
10 currently does not grant this power to the  
11 Department. And after discussions with the  
12 industry and the Council we've determined that  
13 this matter requires further experience and study  
14 in order to create objective criteria to take such  
15 drastic action.

16 The Bill requires the Department  
17 with the participation of the construction  
18 industry and Council to prepare and submit to the  
19 Council and the Mayor recommendations for the  
20 establishment of objective criteria to withhold,  
21 suspend or revoke a Safety Control Number from  
22 truly bad actors. With the industry's help and  
23 the data that we will be able to collect through  
24 the Safety Control Number the Department can begin  
25 to assign once this Bill is effective, I'm



1  
2 confident we'll develop a balanced and fair  
3 proposal for the Mayor and the Council's  
4 consideration.

5 I want to thank the industry for  
6 the frank and constructive way that it's conducted  
7 its negotiations leading up to this Bill.

8 Registration of contractors is a relatively new  
9 concept in New York City. It was only last year  
10 that the Council first gave the Department the  
11 power to register any contractors, namely general  
12 contractors who build one, two and three family  
13 homes. The Bill before us today expands this  
14 concept to cover major contractors in New York.  
15 And it's a significant step indeed.

16 Safe construction sites require  
17 more than craftsmen wearing hard hats and using  
18 safety harnesses when they're high above the City  
19 street. Safety must be a part of the construction  
20 industry's culture. It requires the owner, the  
21 architects and engineers and the construction  
22 manager as well as the workers to each identify  
23 and eliminate jobsite hazards and unsafe work  
24 practices.

25 Safety must be a factor throughout

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2 the cycle of the project from concept of its  
3 design to the excavation of the foundation all the  
4 up to being complete. Efficient and fast  
5 construction does not require shortcuts. As we  
6 have been sadly reminded this past year even some  
7 of the most experienced members of the industry  
8 can become complacent and not follow safety  
9 precautions. Workers, foremen, managers and  
10 owners are all responsible for safe sites and safe  
11 practices. And anyone failing to provide a safe  
12 jobsite for construction workers and the public  
13 must be held accountable.

14 The Safety Registration Bill before  
15 you today helps the Department do just that. The  
16 statistics that show that construction is an  
17 inherently dangerous activity provide no comfort  
18 to the family of the construction worker or the  
19 member of the public who has been injured or  
20 killed. Those statistics provide no comfort to  
21 the City's residents whose homes are damaged by  
22 unsafe construction next door.

23 And with the bills that the Mayor  
24 has signed following the Council's approval and  
25 the contractor registration and safety compliance

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2 officer's Bills that will be complete, working in  
3 partnership with owners and contractors, unions  
4 and workers, we can do better and help ensure  
5 every construction worker who leaves his home  
6 every day comes home at night.

7 New Yorkers are not just depending  
8 on me and my agency to make construction sites  
9 safer. They're depending on all of us. And  
10 there's too much at stake. I want to thank you  
11 again. And I look forward to working to  
12 resolution to bring these to passage. Thank you  
13 Chair.

14 CHAIRPERSON DILAN: Thank you  
15 Commissioner LiMandri. Before we get to questions  
16 I just want to just briefly introduce the Members  
17 who have joined us. We have Council Member Robert  
18 Jackson from Manhattan who just sat down. Council  
19 Member Fidler of Brooklyn who has joined us.  
20 Council Member Jimmy Oddo of Staten Island, also  
21 the Chair of the Task Force on the Improvement of  
22 the Department of Buildings as well as Council  
23 Member Leroy Comri of Queens, Council Member  
24 Melissa Mark-Viverito of Manhattan and Council  
25 Member Tony Avella of Queens.

1  
2 So I just want to briefly take a  
3 second and just say that as a result of, you know,  
4 the horrible summer we had here last year, I think  
5 more needs to be looked into in this City in terms  
6 of keeping the City in safe in terms of the best  
7 construction practices. And we've implemented, as  
8 you said in your testimony, a majority of the  
9 legislative agenda that we collaboratively  
10 announced.

11 But I have a concern on this one in  
12 terms of how the agency will implement in terms of  
13 notice to contractors and in terms of the staff  
14 that DOB may or may not need to implement the  
15 proposed legislation.

16 COMMISSIONER LIMANDRI: With many  
17 of the... we have been quite busy in the last eight  
18 months or so, and we would implement this as we  
19 normally implement most pieces of legislation.  
20 Once it gets passed, and in this case, it's a bit  
21 different. So as you know we are conducting, for  
22 example, our High Risk Construction Oversight  
23 Plan, the Mayor announced a \$4,000,000 investment  
24 in identifying in the 3 high risk areas ways to  
25 make construction sites safer.

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2 And what we did in that case was we  
3 hired an outside consultant. We did inspections.  
4 We identified areas of interest. And we have been  
5 meeting on a regular basis with the industry to  
6 talk through what we're finding. And based on  
7 those discussions we expect to come up with a  
8 coming together of where the regulator needs to  
9 go, with input from the industry.

10 In this case we would do the same  
11 thing. The Bill calls for us to do a study. We  
12 would hire an outside consultant to work with us.  
13 That consultant would be able to look at our data  
14 that we have today and the data that we'll be  
15 collecting going forward once this Bill is  
16 effective, and through a process, consulting  
17 process, we will come together on identification  
18 of what objective criteria would be used as a  
19 means to an end.

20 What the focus and the purpose,  
21 where we want to get to is the regulator wants the  
22 industry to act on its own without oversight in  
23 order to make construction sites safer. So you  
24 have to set it up and you have to set an  
25 expectation. What we see here is that we set an

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2 expectation of what the norm is with a set of  
3 objective criteria, and contractors will see that  
4 as a means to an end to make those construction  
5 sites safer.

6 CHAIRPERSON DILAN: Okay. I guess  
7 where I'm going is just, it may have been a year  
8 or two ago, but I know it wasn't that long ago,  
9 Council Member Oddo introduced similar legislation  
10 with general contractors that applied to one, two  
11 and three family homes. I don't know how that was  
12 implemented but I guess would you be doing this  
13 one similar to the provision on the one, two and  
14 three homes, the one, two and three family homes,  
15 or would you again have to go through the process  
16 that you just stated or was that the process for  
17 the one, two and three family homes?

18 COMMISSIONER LiMANDRI: No. For  
19 one, two and three family homes we did not, we did  
20 not go through a study period. The focus of the  
21 one, two and three family home bill was to protect  
22 homeowners and to make sure that if they have the  
23 right to build a one, two and three family home in  
24 New York City that they are financially viable,  
25 and that there was a consumer protection piece to

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that bill.

This Bill is really about identifying the safety precautions and that the means and methods are being followed.

CHAIRPERSON DILAN: Okay. So just the implementation then will be different. You're saying it would be much more different. I know that it's much more intensive 'cause you're dealing now with more buildings and you're dealing with larger buildings. So I guess in terms of notice, that was the second piece, how will, I guess, the major contractors throughout the City that aren't involved in the legislative process get an idea as to this is what they have to do now in order to get work in this City.

COMMISSIONER LIMANDRI: Well typically when we go through a process where we need to register or license a new group of people, we do a tremendous amount of outreach. The Bill is similar to one, two and three family homes because they'll have to come in. They'll have to fill out probably a one page document, give us some information. We'll go ahead and put it in our system.

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2 But what's different about this  
3 Bill is that we're going to go through a pretty  
4 long process of having a consultant on board. And  
5 we basically communicate in three different ways,  
6 through the internet, through our postings and we  
7 push information if people sign up.

8 The second way that we communicate  
9 to make sure the industry understands is we reach  
10 out to industry groups. So certainly there are  
11 industry groups that are represented across the  
12 board, and then there's probably contractors,  
13 there's probably around seven or so that have the  
14 most membership.

15 And the then third is that whenever  
16 anyone comes in to do any business in our offices,  
17 we usually have a poster board or that type of  
18 thing.

19 CHAIRPERSON DILAN: Okay I guess,  
20 does the Department currently have any method of  
21 keeping track of general contractors or demolition  
22 contractors, concrete contractors who, let's say,  
23 maybe violate the Building Code, Zoning Resolution  
24 or engage in any unsafe work practices?

25 COMMISSIONER LIMANDRI: The only



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2 way that we know that there's a problem is, I mean  
3 that of a contractor on a particular job site for  
4 example, for concrete is that when they are  
5 considered a subcontractor. WE don't permit  
6 directly to those contractors. And we don't  
7 necessarily know who's doing the concrete work on  
8 the job site until we show up.

9 So the permit holder is usually the  
10 general contractor in most cases and that's the  
11 person who's pulling the permit.

12 CHAIRPERSON DILAN: You're saying  
13 then that without this legislation it'd be very  
14 difficult for your agency to track say who would  
15 be doing the contracting on these different types  
16 of jobs?

17 COMMISSIONER LiMANDRI: That's  
18 right.

19 CHAIRPERSON DILAN: And I guess...  
20 how will then say you have a contractor whose  
21 record is problematic. How would, I guess, the  
22 DOB handle that publicly in terms of the general  
23 public who may use some of these contractors in  
24 terms of their records? Any thoughts as to how  
25 the agency would handle that?

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2                   COMMISSIONER LIMANDRI: Well right  
3 now one of the most important things is, you know,  
4 it's important that government treats everyone the  
5 same way. And so what we want to do is we want to  
6 make sure that we level the playing field. So in  
7 many cases we have tried to design programs that  
8 would facilitate that. Specifically in this case  
9 what we would see is that you need to sign up for  
10 a number and we are going to provide an  
11 opportunity to create a baseline of what's going  
12 on on the job site.

13                   So it would not, one would say that  
14 it wouldn't be fair to treat someone who has a  
15 large amount of work with a total number of  
16 violations for example, let's just say they have  
17 50 violations and they have 25 jobs at a certain  
18 volume of work or dollars, and someone who has 1  
19 job and has 25 violations. So the intent of the  
20 study is to try to figure out a way that the City  
21 can objectively focus in and spent its resources  
22 appropriately on the contractors that need the  
23 most help.

24                   CHAIRPERSON DILAN: I guess, you  
25 stated in your testimony that there would be kind

1  
2 of a review and study period for us to, I guess,  
3 deal with the component of the Bill that would  
4 allow for the removal of contractor's Safety  
5 Control Number. And that part, I guess, just  
6 deals with that component of it. It doesn't deal  
7 with implementation at all, right? So.

8 COMMISSIONER LIMANDRI: That's  
9 right.

10 CHAIRPERSON DILAN: Okay.

11 COMMISSIONER LIMANDRI: So. The  
12 effective date, although based on the discussions  
13 we've had, we've been anticipating this would  
14 happen, some time last this year, in the Bill it  
15 say October, maybe it's November or December,  
16 every contractor that would be pulling a permit  
17 after that date would have to have filled in this  
18 two page form, tell us who they are, and they get  
19 issued a number.

20 And from that day forward they keep  
21 pulling permits just like they normally do  
22 business. Nothing changes. What changes is if  
23 you come into the Department some time after that  
24 date and you want to pull a permit and you don't  
25 have a number, then we would not allow you to pull

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2 a permit. So that's what's different.

3           But then during that period of  
4 time, that's when we would be getting the  
5 contractor on board. That would start the process  
6 of figuring out this second provision which is to  
7 say how can we treat a contractor appropriately  
8 based on his record. And that is something that  
9 is very difficult. We all conceded that. And  
10 what we want to do is we want to treat them  
11 fairly. But what we also want to do is we want to  
12 hold people accountable. So registering for a  
13 number doesn't really accomplish the deterrent  
14 factor.

15           So if you were to look at other  
16 segments of the market like home improvement  
17 contractors that are licensed by the Department of  
18 Consumer Affairs, if a contractor is found by a  
19 Department of Consumers Affairs of misleading the  
20 public or fraud or leaving the poor homeowner high  
21 and dry in his kitchen renovation, there is  
22 substantial penalties against that contractor.  
23 Whereas here today, what we're asking for is we  
24 want the ability to track people across job sites  
25 for their safety record and we'd like to develop

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2 criteria to help them rehabilitate to get to a  
3 point where they're safe.

4 CHAIRPERSON DILAN: Okay. And of  
5 the three categories of the demo contractors,  
6 general and concrete contractors, do you have a  
7 sense as to how many people are even doing work in  
8 the City at this time?

9 COMMISSIONER LiMANDRI: No. I mean  
10 that's sort of part of our problem. We do have a  
11 sense for what we think the number of general  
12 contractors are but the concrete and demo is a  
13 little bit--we have estimates but it's not as  
14 quantitative. I can give you some samples.

15 [Pause]

16 COMMISSIONER LiMANDRI: So for  
17 general contractors we think that we're in the  
18 ballpark of around 5,000 to 7,000 contractors.  
19 Concrete and demo is not a number that we can  
20 estimate at this time although we believe that  
21 it's a low number, less than 100 for each.

22 CHAIRPERSON DILAN: Okay. And then  
23 with respect to the plan to correct immediately  
24 hazardous violations, does the Department  
25 anticipate using this tool in lieu of a Stop Work

1  
2 Order or in conjunction with the Stop Work Order?  
3 How do you intend to use this tool as it relates  
4 to your current ability to stop work at a site?

5 COMMISSIONER LIMANDRI: Well one of  
6 the things that we were discussing in this version  
7 of the Bill is to not have that provision move  
8 forward in this Bill and leave that to the study.  
9 One of the reasons for that is that we do have the  
10 ability to stop a job if there's immediately  
11 hazardous right now.

12 CHAIRPERSON DILAN: Okay. Fair  
13 enough. We could deal with it at that time. I'm  
14 going to turn to the sponsor of the Bill, Council  
15 Member Comri for some questions. He'll be  
16 followed by Council Member Mark-Viverito, and then  
17 Council Member Jimmy Oddo. And if any other  
18 Members have questions if they could get my  
19 attention I'll add them on. Council Member Comri.

20 COUNCIL MEMBER COMRIE: Thank you  
21 Mr. Chair. You said right now that you don't have  
22 a number of how many general, demolition and  
23 concrete contractors are out working at this  
24 particular time. But there are no restrictions on  
25 where those contractors can come from.

1  
2 COMMISSIONER LIMANDRI: No there's  
3 not.

4 COUNCIL MEMBER COMRIE: And so this  
5 Bill would help you really to be able to create a  
6 tracking opportunity to have knowledge on where,  
7 on who is coming into the City to work on what  
8 jobs.

9 COMMISSIONER LIMANDRI: That's  
10 right. And it would also allow us to understand  
11 who has the volume of work. And I think that  
12 that's an important discussion point because, you  
13 know, raw numbers of number of violations that a  
14 particular contractor gets is not really an  
15 effective metric if you don't really understand  
16 how they fit into the larger pie of the  
17 construction business.

18 COUNCIL MEMBER COMRIE: And do you  
19 have any idea if they're required to do any  
20 insurance on their equipment or on the job site to  
21 really just, on the equipment that they're setting  
22 up, on the personnel at the site, I would think  
23 that that would be part of their regular safety  
24 coverage for themselves if there were any  
25 problems. But are you aware if they're required,

1  
2 any insurance required or any bonds required with  
3 the City at this point?

4 COMMISSIONER LiMANDRI: General  
5 contractors that pull a permit from us are  
6 required to have insurance. However the subs to  
7 those companies like contractors such as concrete  
8 and demolition contractors may be part of the  
9 umbrella insurance policy or may not be, but  
10 that's a contractual discussion between those two  
11 contractors. We're not aware.

12 COUNCIL MEMBER COMRIE: And you  
13 said earlier that you've gotten a lot of support  
14 from the industry and a lot of feedback from the  
15 industry in regards to this Bill and their desire  
16 to see this Bill move forward. I want to  
17 congratulate them on that. And also ask you, do  
18 you feel that there are a lot of hurdles that have  
19 to be gone through, since is the first hearing to  
20 get to a final version of the Bill quickly?

21 COMMISSIONER LiMANDRI: I don't  
22 think that there's a lot of discussion that needs  
23 to occur to get to a final version. There are  
24 some changes that we think are appropriate to make  
25 such as the one we just discussed on immediately



1  
2 hazardous files. But we think that we've been  
3 working very closely with your counsel's office  
4 and we think we're almost there.

5 COUNCIL MEMBER COMRIE: And do you  
6 think that at any particular time such as there  
7 are bonds required for the small home contractors  
8 with the Department of Consumer Affairs that you  
9 may be doing bonding for the contractors at this  
10 level?

11 COMMISSIONER LIMANDRI: Right now I  
12 would say that the DCA provisions that are to  
13 protect homeowners is really a consumer protection  
14 piece. Those types of bonds are really to protect  
15 the average Joe who is not experienced in  
16 protecting themselves as a business. And this  
17 Bill is really about safety and it's about us to  
18 be able to get to the point where we understand  
19 the industry better.

20 Bonds are typically done between  
21 contractor and owner, developer, to make sure that  
22 those things get actually done correctly and done  
23 well. And that's not a focus of this sort of  
24 space right now.

25 COUNCIL MEMBER COMRIE: Um-hum.

1  
2 All right. Good. I would agree with that, at  
3 that particular point. I don't think that's  
4 necessary. Most of those issues are covered  
5 between the individuals that are doing a  
6 particular job. I was just curious to know if any  
7 of the accidents that have happened, have there  
8 been any problems with shortfalls in insurance as  
9 far as you know?

10 Would any of the accidents that  
11 have happened so far this year, is it--or as far  
12 as the insurance, is there anything that has  
13 popped up as uninsured or any insurance company  
14 decided to not do any recovery compensation for  
15 that damages, as far as you know?

16 COMMISSIONER LIMANDRI: I'm not  
17 aware. However I'm probably not the best person  
18 to ask that question. We can certainly follow up.  
19 The one thing that I would say is we expect that  
20 through the study, insurance coverage will come  
21 up.

22 What is the current policy? You  
23 know, what should the policy be? What is the  
24 coverage? But we really need insurance companies  
25 at the table for discussion. We expect the

1 contractor that we hire will help us understand if  
2 there are any gaps.

3  
4 COUNCIL MEMBER COMRIE: Um-hum.

5 And just finally, have you come up with a  
6 reporting mechanism to inform the public of any  
7 segments that may be, any record of an individual  
8 that may become problematic or will you do a  
9 public reporting of any contractor, general or  
10 demolition or concrete, that has proven to be  
11 extremely problematic?

12 COMMISSIONER LIMANDRI: Well I  
13 think it's a very good point. What we have been  
14 trying to do in our entire sort of program is make  
15 things more transparent. One of the bills that  
16 was passed in this set of nine that's already  
17 passed, requires the Department to post certain  
18 information about accidents on a monthly basis  
19 now. And we're doing that.

20 And if someone wants to know what's  
21 going on in the construction industry, they can  
22 see it for themselves. And certainly at the jobs,  
23 you know that all of that information is public.  
24 It's all on the internet, based on the job site,  
25 by the job number. But ultimately reporting on

1  
2 more global issues, we're not there yet. And what  
3 we are looking forward is again to go back to know  
4 who's playing in the construction field and  
5 understand how they're interrelated across job  
6 sites. And then we can have the discussion about  
7 reporting problematic. But we're not there yet.  
8 And that's what the study will help us do.

9 COUNCIL MEMBER COMRIE: How long do  
10 you think the study will take?

11 COMMISSIONER LIMANDRI: Well what  
12 we'd like to see happen is we'd like to see at  
13 least 6 months of data that comes from the  
14 registrations. So say we register by December,  
15 six months from that period of time, we would  
16 expect that we would gather enough data to have an  
17 informed study. However--and then from that  
18 point, to make some recommendations. So 12  
19 months, you know, from that period of time once  
20 it's enacted, I think is reasonable.

21 COUNCIL MEMBER COMRIE: Hum. Makes  
22 sense. Thank you. I want to get--thank you for  
23 your embracing the spirit and desire of these  
24 bills and continuing to do everything we can to  
25 enhance the safety of the industry and the safety

1  
2 of the public. Thank you. Thank you Mr. Chair.

3 CHAIRPERSON DILAN: Thank you  
4 Council Member Comri. Council Member Viverito.

5 COUNCIL MEMBER MARK-VIVERITO:  
6 Thank you Mr. Chair. Hello Commissioner. One of  
7 the aspects, I'm a sponsor of this legislation as  
8 well, and one of the aspects that I was interested  
9 in was the general contractor piece. And with  
10 regards to the safety registration, one of the  
11 concerns that I had particularly was seeing some  
12 of the problems we were having in my District that  
13 there may be companies that are doing business as  
14 many different entities.

15 And sometimes it was very hard to  
16 really figure out, you know, and there was no  
17 accountability with regards to DOB as to if  
18 someone I was having a lot of problems on one  
19 site, it would not impact their ability to get  
20 permits for other sites. So this, you know, that  
21 was some of the thinking that went behind, you  
22 know, on my piece, on the general contractors, and  
23 how do we centralize that. How do we create some  
24 sort of an opportunity where under one umbrella  
25 you could get information on anyone?

1  
2 So I'm assuming, right, in terms of  
3 the registration aspect of a safety number that  
4 you are going to be asking for if anybody's  
5 registered under how many companies? You know,  
6 what companies? And then being able to then  
7 assess if they have multiple violations whether or  
8 not you would issue them a registration number.  
9 Is that the way it would operate?

10 COMMISSIONER LIMANDRI: Right.  
11 Well everyone can get a registration number--

12 COUNCIL MEMBER MARK-VIVERITO:  
13 [Interposing] Right.

14 COMMISSIONER LIMANDRI: --there's  
15 no reason why you can't have one.

16 COUNCIL MEMBER MARK-VIVERITO: It  
17 could be revoked at some point is what--

18 COMMISSIONER LIMANDRI:  
19 [Interposing] Well after--

20 COUNCIL MEMBER MARK-VIVERITO: --is  
21 what my thinking is--

22 COMMISSIONER LIMANDRI: --the  
23 study--

24 COUNCIL MEMBER MARK-VIVERITO: --  
25 right--

COMMISSIONER LiMANDRI: --and so--

COUNCIL MEMBER MARK-VIVERITO: --

okay.

COMMISSIONER LiMANDRI: --what you really want to do is, and you bring up a very good point which is what we grapple with today, which is doing business as, we don't know who's behind the corporation. We believe that that people who don't want to play by the rules will continue to try to usurp the system--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Exactly.

COMMISSIONER LiMANDRI: --and so what you need is two layers. One is the what is the company's name and who are the people who own that company? So every time they come in and they want to be 123 LaSalle Street, as the corporation that's going to do the construction and pull the permit, and then they want to assemble and be a different kind of a company for the address around the corner. There might be a business need to do that but it doesn't not help us track who that contractor is. And that's certainly what we intend to do.

1  
2 Marilyn King Festa who's with us  
3 has had a lot of experience with the  
4 infrastructure and the IT perspective to be able  
5 to relate those different entities and reporting  
6 and that's exactly what we would like to do.

7 COUNCIL MEMBER MARK-VIVERITO: All  
8 right. So, yeah, there was a particular incident  
9 in my District where we noticed we had a problem,  
10 actually the site had to be shut down, but when we  
11 started doing research into the company, it was  
12 operating under a different name in another part  
13 of the City, but it was still the same general  
14 principals involved and there was a lot of  
15 violations on that site.

16 And so there's a lot of challenges  
17 and I think that this is going to go a long way,  
18 again, as we've really been focused on this as a  
19 City Council in coordinately obviously with you  
20 and the Mayor's Office in improving site safety.

21 So in the study that you are going  
22 to do, I guess, in the registration of contractors  
23 and the demolition contractors and concrete, I  
24 guess, work, you're going to be providing, my  
25 understanding is, an assessment as to whether



1  
2 revocation of a number, right? If there's  
3 multiple violations. Is there any? Could you  
4 give a little bit more insight into your thinking  
5 as to what you're looking at with regards to  
6 revoking a site registration number or a--

7 COMMISSIONER LIMANDRI:

8 [Interposing] Well that, that's certainly part of  
9 the problem. And so I'll give you a quick  
10 example. I think I sort of alluded to it before  
11 which is to say you want to make sure that you  
12 treat all contractors fairly. And you want to; we  
13 want to build a system where the regulator doesn't  
14 have to step in.

15 So what you want to do is you want  
16 to create the opportunity for people to know where  
17 they stand and know what's required and set some  
18 new expectation for safety. And they try to meet  
19 that or exceed that. And if they do they never  
20 fall onto my radar.

21 It's sort of like the IRS. You  
22 want to create a system where the penalties or the  
23 opportunities for enforcement are too great that  
24 you ever want to get it, you ever want to get  
25 there

1  
2 COUNCIL MEMBER MARK-VIVERITO: Um-  
3 hum.

4 COMMISSIONER LIMANDRI: So you  
5 don't want to get on the radar. So you want to  
6 create the system that says look, here's--the  
7 study's going to look at the operations and the  
8 accidents and the violations and how we operate,  
9 and also how the construction industry operates,  
10 and identify some objective criteria that becomes,  
11 if you will, the tick list of things a contractor  
12 should be mindful of and worry about.

13 And if you set it you right,  
14 they'll always have that at the top of their mind  
15 to get to the point where that site is as safe as  
16 it can be. And if that's the case, the idea is  
17 that there would be a potential opportunity to  
18 warn someone that they're going down a road that  
19 is problematic.

20 And what we'd like to see is we'd  
21 like to see the contractor react to that in a way  
22 to rehabilitate, to take action, come up with a  
23 plan, figure out how they can change the course of  
24 doing business so that going forward that  
25 particular site or the number of sites that have

1  
2 problems won't have a tragic accident or won't  
3 consistently have problems.

4           And if that fails then the next  
5 step would be is to go into the area of suspension  
6 or possibly revocation. But to us, those are the  
7 things that are the outlier that almost never  
8 happen. The idea is that they're there if the  
9 City must step in. But we want to provide the  
10 opportunity that they understand what the  
11 expectation is.

12           COUNCIL MEMBER MARK-VIVERITO:

13       Yeah.

14           COMMISSIONER LIMANDRI: And that  
15 they're given some time to, what I'll call  
16 rehabilitate or remediate or to get back on track,  
17 and to keep at top of mind because yes,  
18 construction is inherently dangerous. But we want  
19 to set it up so that they understand where they  
20 sit against their peers.

21           COUNCIL MEMBER MARK-VIVERITO: So  
22 in terms of, so walk us through, so I'm a general  
23 contractor. I come to DOB now with this  
24 legislation in place and I want to get a  
25 registration number. What information are you

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requiring and requesting from me?

COMMISSIONER LiMANDRI: Well we would want to know what the company name is, the address of that company, where a service can be made. And then we would want to know who principally owns the firm. That's basically it.

COUNCIL MEMBER MARK-VIVERITO: And you're not going to be requesting in that application process if you are doing business as other entities? And ask for that information--

COMMISSIONER LiMANDRI:  
[Interposing] Well there will be some questions but again, those will only be as good as the day he tells me. But yes we can ask those types of questions. So if I'm doing business as three different firms today, tomorrow I could be doing them as six. So we will go through and figure out what the best list of questions are but essentially it will be quite, quite short.

COUNCIL MEMBER MARK-VIVERITO: Okay so the challenge here, let me ask you this, could someone, a general contractor that has four or five doing business as entities, they're going to come to you and get a registration number for each

1  
2 one of those. Or would you, you know, I'm just  
3 trying to understand... the breakdown.

4 COMMISSIONER LiMANDRI:

5 [Interposing] No I understand. The opportunity  
6 here is you want to link, I don't necessarily care  
7 how many companies he owns if he has many  
8 different partners, right? So you have to have  
9 the ability to track who owns the entity.

10 COUNCIL MEMBER MARK-VIVERITO: Um-

11 hum.

12 COMMISSIONER LiMANDRI: So if there

13 are five partners that own this company and then  
14 this same individual owns another company but just  
15 with one other person, you would want to be able  
16 to link those two companies by that one person.  
17 So it's like two layers of link. It's across  
18 companies.

19 COUNCIL MEMBER MARK-VIVERITO: No

20 that's great because I guess, you know--

21 COMMISSIONER LiMANDRI:

22 [Interposing] Um-hum.

23 COUNCIL MEMBER MARK-VIVERITO: --

24 the intent here again if you have--

25 COMMISSIONER LiMANDRI:

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[Interposing] This is going--this is not easy--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Right.

COMMISSIONER LiMANDRI: --and it's going to be difficult--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Right.

COMMISSIONER LiMANDRI: --and there will be many ways. So if I don't want to be tracked, I'll ask my sister or my--I mean there's a guy in Queens, there's a guy in Brooklyn--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Um-hum.

COMMISSIONER LiMANDRI: --there's a couple of guys in Manhattan who, you know, my brother, father, son, daughter. And you'll talk to any investigative entity in New York City, New York State, people--and we don't have to talk about safety, we could talk about anything else, if people want to not be tracked they will find a way.

Well this is the first step. We get to there. If we get good enough, they will seek ways to evade the law. And at the end of the

1  
2 day we need to get to a base level of who's out  
3 there and how is it working. And then we can get  
4 to those harder questions. But right now we need  
5 to walk.

6 COUNCIL MEMBER MARK-VIVERITO: Oh  
7 no, understood. Understood that it's just an  
8 opening. Is the study that you're going to  
9 complete and the recommendations, are any of these  
10 other, you know, any of these other challenges  
11 going to be maybe weighed in that report or looked  
12 at. And maybe additional ideas emerge--

13 COMMISSIONER LiMANDRI:

14 [Interposing] Well--

15 COUNCIL MEMBER MARK-VIVERITO: --  
16 you know, on how to improve--

17 COMMISSIONER LiMANDRI: --we would-

18 -

19 COUNCIL MEMBER MARK-VIVERITO: --  
20 the system?

21 COMMISSIONER LiMANDRI: --  
22 absolutely. We would expect that. And this is  
23 again, the beauty of bringing in an outside  
24 entity, right? So we have our own ideas, Marilyn  
25 and I and Steve. And you know, the construction

1 industry may have theirs.

2  
3 But you bring in someone else to  
4 facilitate sessions, we get dialog, we understand  
5 the goal that we're trying to solve, and then at  
6 the end of the day the outsider says well why are  
7 you doing that. That doesn't make any sense. You  
8 really should do this or I know of another  
9 jurisdiction, we've been doing this in many areas.  
10 We held a crane conference where we had ten  
11 different jurisdictions from all over the country  
12 and actually we've had some from Canada and  
13 England come in and tell us what they do.

14 Because we don't necessarily want  
15 to reinvent the wheel if someone else has figured  
16 it out.

17 COUNCIL MEMBER MARK-VIVERITO: Um-  
18 hum.

19 COMMISSIONER LIMANDRI: So we'll do  
20 the same process here whereas we bring in the best  
21 and the brightest from a consulting firm that's in  
22 what I'll call this space, the construction space,  
23 and they will bring in who they need to.

24 COUNCIL MEMBER MARK-VIVERITO: And  
25 my last thing, my last point is, and I welcome



1  
2 that and obviously I understand we're not going to  
3 get to 100%, we're starting something relatively  
4 new.

5           The concern I have, just, and I'll  
6 put that out there, is that there should be some  
7 penalties. If you have the same principals over  
8 and over on multiple construction sites with  
9 serious violations that they should not have the  
10 ability to continue to get permits to do work if  
11 they don't shape up.

12           And that's some of the concerns.  
13 Yes people are always going to try to evade or try  
14 to get away or, you know, or to fly under the  
15 radar but there has to be repercussions, that if  
16 you are operating multiple companies and you have  
17 the same principals involved but you're having  
18 multiple violations and serious site safety  
19 problems. Then you know what, at some point  
20 people should not be issued permits any further.

21           That's, you know, that's some of  
22 the concerns I think that are raised by this  
23 legislation in terms of the reasons why it came  
24 about. So, you know, those are things that I  
25 would hope to look at. And you know, I think that

1  
2 that's something that we haven't done seriously  
3 enough. People seem to be able to continue to get  
4 permits to do other work when they have yet to fix  
5 up and correct behavior that's been, you know,  
6 that has contributed to site safety problems in  
7 other places. So that's just something that I  
8 wanted to put out there. I thank you for your  
9 testimony and for your answers.

10 CHAIRPERSON DILAN: Thank you  
11 Council Member Viverito. I think it was an  
12 excellent line of questioning and it gets to the  
13 heart of what the Bill tries to accomplish.

14 We've been joined by Council Member  
15 Jimmy Vacca who was a member of the Committee and  
16 I understand you have some questions.

17 COUNCIL MEMBER VACCA: Thank you  
18 Commissioner. And I want to echo the line of  
19 questioning that my colleague Council Member  
20 Viverito was engaging in. You speak about  
21 partnerships and you mentioned about whether or  
22 not that partnership is in good standing under the  
23 laws of the State of New York. And that's a very  
24 vague term but I want to clarify that.

25 Are we talking about permits before

1  
2 they're being issued? Your agency ascertaining if  
3 the person applying for the permit has any pending  
4 fines before any City agency that they have not  
5 paid?

6 COMMISSIONER LIMANDRI: This is,  
7 it's interesting that you bring this up--

8 COUNCIL MEMBER VACCA:  
9 [Interposing] I know it's interesting.

10 COMMISSIONER LIMANDRI: --we've  
11 been having this discussion before. And it's a  
12 little bit out of context but I will address it.

13 I do think that the goal here is  
14 about safety. And so what we want to do is we  
15 want to, we are interested in companies to do  
16 business in New York City that have a good safety  
17 track record and if they don't, that they're  
18 willing to change and bring themselves into line  
19 with the norm that occurs here in New York City.

20 Whether you pay fines or are in  
21 good standing with the City of New York in many  
22 different areas is certainly something that we  
23 could discuss to seek legislation to do. We don't  
24 currently have the ability to stop or withhold  
25 someone from doing development in New York City on

1  
2 one site because they owed taxes or violations or  
3 monies on another site. But certainly that's  
4 something that the Council may want to consider.

5 COUNCIL MEMBER VACCA: Thank you  
6 Commissioner. That's, as you know, I have an  
7 instance, but I want to--and that relates to your  
8 just completed statement. I want to go back  
9 though. When you say--when I say violations, my  
10 statement to you is that if there is someone who  
11 has safety violations that are not paid, he's  
12 requesting demolition permits. He is requesting a  
13 permit from your office. He has unpaid safety  
14 violations.

15 Are you then obligated to say well  
16 I want these previous safety violations paid or  
17 the previous safety violations make it incumbent  
18 upon me to deny you a permit? Where do we just  
19 previous safety records when it comes to them  
20 getting an applicant.

21 COMMISSIONER LIMANDRI: Well I--

22 COUNCIL MEMBER VACCA:

23 [Interposing] Application, an application  
24 approved.

25 COMMISSIONER LIMANDRI: --I think,

1  
2 you know, I think it's an excellent point. As you  
3 know we don't have the right to do that today in  
4 the Code. And certainly, you know, we could  
5 discuss it. You know, there is no reason why we  
6 can't look at something like that. As you know  
7 today, safety violations, what's important to this  
8 Department is that the safety violation is  
9 corrected. The payment of the fines is certainly  
10 something that we're interested to make sure that  
11 the City can collect on however currently today we  
12 don't have any Code requirement to be able to do  
13 that.

14 COUNCIL MEMBER VACCA: So someone  
15 who has a record of unsafe, unsafe construction,  
16 unsafe demolition, what this Bill does is  
17 basically a transparency--it's a transparency  
18 bill. You will know that they have a record but  
19 their having a record does not necessarily mean  
20 that they will be denied a permit.

21 COMMISSIONER LiMANDRI: Again, I  
22 think maybe I'll just, as I explained to the other  
23 Council Members in the room, what we need to do is  
24 we need to get up and walk. And what we need to  
25 do is we need to understand who's in the business

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and what's happening out there.

And part of the study is primarily to make sure that we fix the safety of a job site. Whether or not they're in good standing financially with the City of New York is not the essence of this Bill. But certainly if that's something that the Council wants to raise or go down the road, I'm sure that we'd be more than willing to have discussions about it.

But today the Code does not provide for us to be, to withhold a permit.

COUNCIL MEMBER VACCA: You cannot withhold a permit under any conditions? You will go--

COMMISSIONER LiMANDRI:  
[Interposing] I didn't say any conditions.

COUNCIL MEMBER VACCA: --under safety conditions.

COMMISSIONER LiMANDRI: We do--

COUNCIL MEMBER VACCA:  
[Interposing] For safety issues, I'm sorry.

COMMISSIONER LiMANDRI: If we, if there is a by job site, if there's a particular problem on the job site you cannot go back to work

1  
2 until you've resolved the safety concern.

3 Correct?

4 COUNCIL MEMBER VACCA: Yes.

5 COMMISSIONER LIMANDRI: And we  
6 require you to, we require you to pay fines that  
7 go to the Department prior to pulling additional  
8 permits on that same job if they're related. So,  
9 you know, but that's not really the essence of the  
10 discussion here. The discussion is how do we make  
11 jobsites safe. We need to know who's on the  
12 jobsite. We need to know who's in control.

13 What you're talking about is having  
14 a discussion about how should we adjudicate fines  
15 and what power should the Department have to  
16 withhold permits. And I'm not so sure, I'm not so  
17 sure that that's what we should be talking about  
18 at the moment.

19 COUNCIL MEMBER VACCA: So I support  
20 this Bill but I acknowledge that this is the  
21 beginning. It is a baby step. And we're getting  
22 bigger and I think we have to do more because I  
23 know that there are problems beyond this Bill.

24 You know I do want to ask what, you  
25 know, hypothetical or rhetorical questions such as

1  
2 what do we consider a firm that has a good safety  
3 record and a firm that has a bad safety record?  
4 Do we have Rubric that says what's good and what's  
5 bad? I don't hear that.

6 What in the questionnaire will be  
7 put in there regarding various LLCs and companies  
8 and different doing business as, I think Melissa  
9 raised that, and that's a correct question, but I  
10 acknowledge that this is a first step. I think we  
11 have to work with the industry, with you, with the  
12 council. We have to work together, all of us I'm  
13 sure want maximum safety. So it's in that vein  
14 that I thank the Chairman for recognizing me.

15 CHAIRPERSON DILAN: Thank you  
16 Council Member Vacca and I just have to say that  
17 over the years you have come to know me and my  
18 tendencies very well. [Laughing] No, no, no, it's  
19 not about you shutting up. I'll stay on message.  
20 Yeah. Yeah. Council Member Viverito for a  
21 follow-up?

22 COUNCIL MEMBER MARK-VIVERITO: Not  
23 on the fine issue but I guess, something that I  
24 was trying to get at in my questioning, and you  
25 just alluded to it in your response. So basically



1  
2 each site is treated independently and whatever  
3 happens on that site will not necessarily impact  
4 on other sites.

5 That I believe is a problem.

6 That's what I'm saying. And I would hope in the  
7 future we address it because if we have one  
8 company that has ongoing violations at an existing  
9 site and maybe has had Stop Work Orders and has  
10 had to do corrective action, I don't understand  
11 why you, we cannot withhold a permit to do any  
12 other work based on the history of how that  
13 company has operated.

14 If they have a track record about  
15 every site they have serious violations and have  
16 had multiple Stop Work Orders and created unsafe  
17 conditions, the penalty should be that maybe they  
18 should--there should be a reprieve for them, that  
19 they don't get a permit for the next six months or  
20 whatever it is. I just think we have to figure  
21 out a way of having more, you know, of deterrent,  
22 you know, deterring these companies from  
23 continuing to engage in these unsafe practices.

24 And that's what you said that we  
25 don't want to get to the point, you know. But we

1  
2 have to be a little bit more proactive and a  
3 little bit more, you know, a harder line I think  
4 on certain, in certain ways. So is there anything  
5 that allows you do that that? Or is this  
6 something that we would have to change in the Code  
7 to enable you to do that?

8 COMMISSIONER LiMANDRI: If you  
9 wanted us to, I think the goal here is to start to  
10 create the ability to track companies, relate  
11 them--

12 COUNCIL MEMBER MARK-VIVERITO:

13 [Interposing] Okay,

14 COMMISSIONER LiMANDRI: --across  
15 job sites, have some data, create the Rubric, be  
16 able to understand who falls in what box, and then  
17 based on that warn them, tell them you're in a  
18 dangerous position, rehabilitate, remediate, if  
19 you don't we will have now through 760 the ability  
20 to hire someone on our behalf as opposed to me  
21 taking one of my own inspectors, you go, you make  
22 sure you're doing, you spot-check, you make sure  
23 that whatever the agreed to do, to me, to the  
24 Department, they're actually implementing that  
25 because the safety of lives are at risk.

1  
2 And if that doesn't happen that's  
3 when we say the penalty is suspension, revocation,  
4 whatever that is. So to me suspension could mean  
5 lots of things--

6 COUNCIL MEMBER MARK-VIVERITO:

7 [Interposing] Um-hum.

8 COMMISSIONER LIMANDRI: But

9 certainly it could mean that you have 40 permits  
10 open with the Department, you're suspended from  
11 doing work. Now you have to, we have to remember  
12 that in any business, it really comes down to the  
13 circumstances on the job site and the particular  
14 problems on the job site. It could be management.  
15 It could be the subcontractor. There are many  
16 opportunities for a way to correct the resolution.  
17 But I agree with you that if there are significant  
18 issues across job sites then that is a management  
19 problem at the highest level meaning the owner--

20 COUNCIL MEMBER MARK-VIVERITO:

21 [Interposing] Right.

22 COMMISSIONER LIMANDRI: --of that

23 firm and that's where we want to take action. We  
24 absolutely agree with you. We just need to figure  
25 out what the Rubric is to use--

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COUNCIL MEMBER MARK-VIVERITO:

[Interposing] And that's what the study will hopefully...?

COMMISSIONER LiMANDRI: Exactly.

COUNCIL MEMBER MARK-VIVERITO:

Okay. So--

COMMISSIONER LiMANDRI:

[Interposing] Because it would--right now, today, I can't, I can't get to the point where to say these are the three things that we're going to consider because it's a body of study and we need to do some analysis.

COUNCIL MEMBER MARK-VIVERITO: So I

guess then my last question is then in that study, 'cause you're going to come back to us an disuse a report in I don't know how many months, whatever was said, but what are you analyzing, what are you capturing, what are you analyzing? And that will be my last question.

COMMISSIONER LiMANDRI: Oh you ask

all the good questions don't you. I'm sorry?

Yes.

So the idea here is that what we want to be able to do is provide a report based on

1  
2 data. So really we are going to look at what we  
3 and the contractor that we hire believe to be  
4 indicators of safety. Certainly we're going to  
5 look at the volume of work, the type of work that  
6 they're involved in. We're going to want to know  
7 how many companies fit in those boxes. We'll also  
8 want to figure out how many permits or the volume  
9 of work that they have, maybe the dollar volume.

10 But here again you could have a  
11 contractor in Queens, in Brooklyn who has 35 open  
12 jobs, that has a dollar value of construction  
13 worth, I don't know, \$7,000,000. And you could  
14 have a contractor that has 3 contracts worth  
15 \$400,000,000. And so here's where we roll that  
16 data out and we start to determine where are the  
17 opportunities to compare and contrast.

18 And so today I don't have an answer  
19 for you of the scope of how it's going to be but  
20 certainly we're going to look at those types of  
21 indicators, volume, type of contractor, type of  
22 work. We're going to look at volume of  
23 violations, type of violations, it's certainly a  
24 start.

25 COUNCIL MEMBER MARK-VIVERITO: Is

1  
2 the study going to be, is it going to be some sort  
3 of a questionnaire format? I mean like I'm  
4 wondering if there's a way of coming back to us  
5 and just sharing with us what you intend to  
6 capture in terms of data. And whether there's  
7 many any other recommendations that we could make  
8 as a Committee or as a Council with--

9 COMMISSIONER LiMANDRI:

10 [Interposing] Well what we--

11 COUNCIL MEMBER MARK-VIVERITO: --

12 regards to things to look at.

13 COMMISSIONER LiMANDRI: --could do

14 is that initially after we hire the contractor,  
15 we're going to write a scope of work.

16 COUNCIL MEMBER MARK-VIVERITO:

17 Okay.

18 COMMISSIONER LiMANDRI: To that

19 contractor. Certainly I neglected to indicate  
20 areas of interest such as accidents, injuries--

21 COUNCIL MEMBER MARK-VIVERITO:

22 [Interposing] Right.

23 COMMISSIONER LiMANDRI: --and

24 fatalities. But certainly we could come back to  
25 you shortly after they were hired in a forum--

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COUNCIL MEMBER MARK-VIVERITO:

[Interposing] And review the scope of work--

COMMISSIONER LIMANDRI: --and show you the scope of work that we're hiring and the details of what we've come up with.

COUNCIL MEMBER MARK-VIVERITO: I think I would like to see that and I'm sure everyone else would. Thank you very much.

CHAIRPERSON DILAN: Thank you Council Member. I just want to just get maybe one final question from my part. I guess with this, the legislation before us, is there anything that's duplicative with the Bill that we passed that would regulate the one, two and three family contractors?

MR. STEPHEN KRAMER: I think it is--  
-

COMMISSIONER LIMANDRI:  
[Interposing] Just identify yourself for the record.

MR. KRAMER: This is Stephen Kramer, Senior Counsel to the Commissioner. That Bill was addressed to one, two--new buildings, one, two and three family homes, whereas this Bill

1  
2 is addressed to a different--there's a different  
3 set of parameters. It's... but what our thought is  
4 in terms of implementation is that if you have the  
5 effectively the tracking number under the one, two  
6 and three, we would use that as the surrogate for  
7 registration here, so that we don't want people to  
8 have to--

9 CHAIRPERSON DILAN: [Interposing]

10 Okay so just--

11 MR. KRAMER: --have two or three  
12 different registration numbers where we'll be  
13 collecting the same data.

14 CHAIRPERSON DILAN: Yeah I guess  
15 that was getting to my point. So if I'm a  
16 contractor and say I do jobs on say apartment  
17 buildings that say have 10 units but I also do  
18 one, two and three's, do I have to apply for dual  
19 registrations or could I just apply for the larger  
20 registration and not the smaller registration?

21 MR. KRAMER: What we're going to be  
22 doing in order to avoid duplication is going  
23 through the two sets of registrations to make sure  
24 that, we really want to make sure that we don't  
25 create unnecessary paperwork. And I can come back



1  
2 to you just to explain to you precisely how the  
3 details of that will work--

4 CHAIRPERSON DILAN: [Interposing]  
5 Okay.

6 MR. KRAMER: --but we do collect  
7 very similar data. We may ultimately want to  
8 change our forms to make sure we get parallel data  
9 so that, you know, we do have the sufficient  
10 information under both belts.

11 CHAIRPERSON DILAN: Okay but so  
12 aside from that, I guess it'd be safe to say that  
13 it's the Department's view that there's a certain  
14 standard for buildings under four units and then  
15 another standard above four units, is that--

16 MR. KRAMER: [Interposing] Yes.  
17 Yes.

18 CHAIRPERSON DILAN: Okay. So then  
19 I guess with that I'd just like to end by saying,  
20 you know, I look forward to the discussion on, you  
21 know, how we go about setting up the criteria  
22 where individuals may, you know, lose their Safety  
23 Registration Number.

24 I think it needs to be done very  
25 carefully and very thoughtfully especially in

1  
2 these, you know, economic times. I think a  
3 certain amount of discretion should be used to  
4 really focus that tool towards the bad actors and  
5 not take away, you know, obviously the ability of  
6 a decent contractor who made a mistake to cure,  
7 and I look forward to talking about reasonable  
8 cure provisions in that statute because obviously,  
9 you know, I think we're talking about less than  
10 10% of the contractors.

11 But of course you couldn't answer  
12 that because you don't know how many contractors  
13 are operating in the City. But I think we can  
14 agree that it's a small number of contractors that  
15 are creating the largest set of regulatory forms  
16 for everybody in the community. And obviously we  
17 don't want legislation to slow down the few jobs  
18 that these individuals may get. So I look forward  
19 to that part of the discussion. And I thank you  
20 for your input on the item on today's agenda.

21 COMMISSIONER LIMANDRI: Thank you.

22 CHAIRPERSON DILAN: Okay so next,  
23 we only have two witnesses signed up to testify.  
24 And if there's anyone else--and just for the  
25 benefit of the members who aren't here, I said

1  
2 this at the outset. Negotiations for this Bill  
3 are ongoing. They're almost complete. We are  
4 hearing the original version of this Bill but I  
5 guess at the conclusion of the negotiations, I  
6 anticipate this Bill to be fast tracked. And at  
7 the conclusion of the negotiations we'll give you  
8 guys the amendments on the final agreed to version  
9 before we--as soon as we have them.

10 Okay. So next I'll call up Mr. Lou  
11 Coletti as well as Mr. Robert Altman.

12 [Pause]

13 [Witnesses getting settled]

14 CHAIRPERSON DILAN: Okay. And I  
15 understand that these are the only individuals  
16 signed up to testify. So we'll close testimony  
17 after these two individuals. Mr. Coletti,  
18 welcome. Mr. Altman, welcome. Happy New Year to  
19 you both. And we'll begin--

20 MR. STEPHEN COLETTI: [Interposing]  
21 Thank you Mr. Chairman--

22 CHAIRPERSON DILAN: --with Mr.  
23 Coletti.

24 MR. COLETTI: --Happy New Year to  
25 the members of the Committee. Thank you for the

1  
2 opportunity to comment on the Bill and thank you  
3 for working with the industry and with the  
4 Administration in all of the safety bills that  
5 you've signed into legislation this year. We  
6 think it has and will make a significant  
7 difference on public and worker safety as will  
8 this Bill, and to the Buildings Commissioner for  
9 really reaching out and getting the opinions to  
10 make the appropriate safety changes sensible.

11 We're here to support the Bill  
12 based on what we think we agreed to yesterday. I  
13 have, I think we can be supportive of it. I would  
14 like to talk directly because I think the essence  
15 of the Bill was captured in the discussion you  
16 were just having. How do you define what a bad  
17 contractor is? What do you do? What is the  
18 remedy for that?

19 And I would just share with you  
20 that one of the amendments that we talked about  
21 yesterday was taking out the paragraph about that  
22 10% imminently hazardous formula. And the reason  
23 for that is I think one of the most significant  
24 challenges that we will all have is defining what  
25 that criteria is when you are going to take

1  
2 someone's safety registration away. Mr. Chairman  
3 you hit the nail on the head. When you do that,  
4 that company is out of business. They're  
5 bankrupt. They're gone.

6 My organization has over the last  
7 18 months has spent hours and hours speaking with  
8 insurance experts, safety experts, academic safety  
9 experts. I spoke with people at Stanford  
10 University, Princeton University who specialize in  
11 construction statistical analysis. No one could  
12 come up with a formula that you could adequately  
13 say here is the formula for measuring whether a  
14 contractor is safe or not.

15 And I think that's what led us to  
16 this; well we'd better really take a look at this  
17 and get some outside expertise. So I think that  
18 whenever that's done I think we have to be very,  
19 very careful in assessing that criteria because it  
20 can't be based on, in my opinion, just the number  
21 of violations that are issued and some statistical  
22 comparison with the number of square feet.

23 And one of the reasons I say that  
24 is the way the City categorizes violations. If  
25 you look in the Building Code in ECB, you will see

1  
2 a definition called "Major Violations" and when  
3 you read it in the newspaper, you say well this  
4 was an accident on this site and that contractor  
5 had 57 Major Violations, yet according to the law  
6 the definition of a Major Violation is something  
7 that you don't really have to fix up that quickly.  
8 So is it really a Major Violation? But the  
9 perception gets out there that it is.

10 So if you check the DOB website,  
11 your company has 75 Major Violations, they may not  
12 be Major Violations. Imminently Hazardous  
13 Violations, some have a direct imminently  
14 hazardous impact on public safety. Some don't.

15 So I think to rely on a statistical  
16 model like that is very dangerous when you're  
17 talking about somebody's livelihood. So I think  
18 we have a significant challenge before us in terms  
19 of defining what that measure is and what that  
20 standard is when you say to that contractor, okay,  
21 you're out of business.

22 The Commissioner has the single  
23 most powerful weapon to change behavior and has  
24 not been afraid to use it, and that's the Stop  
25 Work Order. And you can get to the same place by

1  
2 saying, okay, you know what, you're performing  
3 unsafe work on this job, I'm shutting it down.  
4 Uh-oh, I found you on another job, I'm shutting  
5 you down. You get to the same place. And I'm not  
6 advocating that. But what I'm suggesting is that  
7 there are tools in the Commissioner's repertoire  
8 to deal with the issues.

9           The other thing that concerns me  
10 based on some of the comments I was hearing was,  
11 you know, when people own multiple companies.  
12 This formula, whatever it is, can't be a one size  
13 fits all. Because my sense in listening to the  
14 members of the Committee is the kind of problems  
15 that you're having are on mid and small sized jobs  
16 in the Boroughs outside of Manhattan. That's very  
17 different from the companies that I represent who  
18 are doing the major high rises.

19           So when you're tracking that kind  
20 of information it's got to be different. I mean  
21 the Commissioner's been very good in being able to  
22 say we have a particular problem on this type of  
23 job or this type of trade and let's focus on it.  
24 If that is a particular problem you are  
25 experiencing on smaller projects, then that's

1  
2 where the criteria needs to be focused on. I  
3 would hope that we would not ask everybody for the  
4 same type of information because many of my  
5 companies are publicly held companies and getting  
6 some of that information is going to be virtually  
7 impossible for them.

8           So I think we have to be very  
9 cognizant of the differences and the types of  
10 companies, the different markets that are built in  
11 New York because we want this to work. There is  
12 nothing more important to my members than safety,  
13 both public safety and worker safety.  
14 Historically we have had the best high rise  
15 construction record in the world.

16           Last year, quite candidly, was an  
17 embarrassment. We took a real close look at  
18 ourselves. Many of the pieces of legislation,  
19 again that you passed, we think helped us. We  
20 have taken steps on our own without legislation.  
21 We created a new Construction Industry Safety  
22 Corporation where we began to look at best  
23 practices from around the world that we are  
24 implementing on job sites today without  
25 legislative, a requirement to do so.



1  
2           The major companies are doing  
3 things that they have never done before. Sharing  
4 safety information and procedures that work for  
5 them to try to ensure that there is some level of  
6 consistency when you work a Turner job and they  
7 handle safety in a certain way, when you go to  
8 work a Bovis job, it's the same set of procedures.

9           So there's a level of coordination  
10 and effort and focus on safety, I think, that in  
11 addition to the legislation is really going to  
12 change the record that none of us are very proud  
13 of from last year. So I think this Bill is  
14 another step forward. We encourage it.

15           We hope that the enforcement of it  
16 will be fair. I mean obviously one of the things  
17 that strikes me is that when you look at I think  
18 the last Department of Building's numbers, in  
19 terms of issuance of Stop Work Orders, I think  
20 more of them were on small projects in the  
21 Boroughs outside of Manhattan than there were on  
22 the high rises.

23           Obviously when you have an accident  
24 on a larger project it gets more attention and it  
25 has the potential of higher risk. And there

1  
2 should be the focus. I'm not suggesting it  
3 shouldn't. But let's not lose sight of some of  
4 the kinds of problems that I think I heard some of  
5 the members of the Committee talk about. But  
6 recognize the solutions to that are very different  
7 than the solutions to potential safety problems on  
8 the larger sites.

9           But I think it's a significant  
10 challenge to come up with the particular formula.  
11 It's going to be difficult. We thought the  
12 insurance industry would really be able to provide  
13 us some guidance because let's face it, they are  
14 not going to provide insurance to a company in  
15 today's world that does not operate a safe  
16 construction site. They are not going to take the  
17 risk with all the financial issues surrounding  
18 this industry. But they didn't. They had ideas  
19 but it's going to be a struggle I think to find  
20 that criteria.

21           Again I ask you to just keep in  
22 consideration you will be threatening an  
23 individual's livelihood. That--I'm not saying it  
24 can't be done but I think we need to be very, very  
25 careful on how we proceed in terms of what that

1  
2 criteria is and what the due process is that that  
3 individual should be entitled to. Thank you.

4 CHAIRPERSON DILAN: Thank you Mr.  
5 Coletti. Mr. Altman.

6 MR. ROBERT G. ALTMAN: Thank you.  
7 My name is Robert Altman. I am the consultant to  
8 the Queens and Bronx Building Association and the  
9 Building Industry Association of New York City and  
10 I would like to thank the Committee for having and  
11 inviting me to testify here today.

12 I have two main points but I want  
13 to reiterate something that Mr. Coletti said. And  
14 it is very difficult to do some sort of formula  
15 and I'll just give you an example. The Queens and  
16 Bronx Builders Association actually has a Worker,  
17 or used to have a Worker Safety Group. That  
18 Safety Group was eventually taken over by the  
19 entire New York State Builders Association and it  
20 is statewide.

21 I will speak to it though with  
22 respect that when it was just the Queens and Bronx  
23 Building Association. Builders who were part of  
24 that Safety Group basically had a perfect record  
25 with respect to safety from an insurance

1  
2 standpoint. That much said, if you looked at the  
3 violations, all of them have violations.

4 All of them have violations that  
5 get classified over the years, dating back  
6 decades. What is immediately hazardous, what is a  
7 major violation, has always been subject to the  
8 political necessities of times and things get  
9 passed as being more dangerous than maybe they  
10 really are.

11 So it should be looked at in that  
12 light if you're going to do something in that  
13 range looking at violations as a methodology, you  
14 may want to in fact rethink what you think are in  
15 fact immediately hazardous and major violations.  
16 If you're going to use that formula, you have to  
17 go back to the entire structure of what you have  
18 and rethink that to say what is really immediately  
19 hazardous because unless you do that, you're going  
20 on something where it might have been a problem at  
21 the moment and never became a problem ever again  
22 even though the violations kept on happening.

23 The two areas that we're concerned  
24 with this Bill 'cause both associations were  
25 actually involved with the original general

1  
2 contractor law that passed that affected one to  
3 three family homes. And we have spoken with  
4 Committee staff on this and we also did speak to  
5 DOB and we think that this will get taken care of  
6 but we figured we'd come down and tell you what  
7 the issue was.

8 Now you've taken it beyond the one  
9 to three family home range and you're doing a  
10 safety registration, there's a different filing,  
11 and so on and so forth. Contracting and  
12 contractors who do work don't necessarily like fit  
13 into neat categories of one to three family homes,  
14 four families or more, and so on and so forth.  
15 They go between the two different categories. And  
16 the goal was not to have a registration once, and  
17 registration again. Don't want to keep on  
18 registering as they fit each category.

19 So the idea is to make it so that  
20 if you do go between categories to have one  
21 registration. I think people have realized that  
22 that is probably the proper method to use in this  
23 instance because registering twice under what is  
24 the same schematic is just too duplicative.

25 The second thing is instead of

1  
2 setting standards we're always loath to see any  
3 time that there is a dollar amount in a bill. The  
4 reason we say that is because when you have a  
5 dollar amount in the Bill, if you're spending this  
6 much more, you're a general contractor, is what  
7 happens today and as you pass it today it makes  
8 sense but in the construction industry, especially  
9 with our inflationary factor that we've had over  
10 the years in New York City, \$1,000,000 today may  
11 not be worth very much in 5 years.

12 I'm thinking of something with  
13 respect to ICIP where they had \$1,000,000  
14 threshold that was set on EEO requirements in 1984  
15 and it was a good threshold then but it took 24  
16 years before the threshold was raised again. So  
17 you're \$1,000,000 now and sometimes politically it  
18 just takes longer, what's better to look at is a  
19 criteria methodology. I understand the Committee  
20 is also looking at that.

21 So I do understand that both these  
22 issues are getting addressed. But from the  
23 industry standpoint we want to let you know why we  
24 thought it made sense for them to in fact get  
25 changed. And we understand that the Council and

1  
2 the Department of Buildings is working to come up,  
3 fashion reasonable solutions to these issues.

4 And that's it. Thank you.

5 CHAIRPERSON DILAN: Council Member  
6 Fidler.

7 COUNCIL MEMBER FIDLER: Thank you  
8 Mr. Chairman. And Mr. Coletti, I think you  
9 probably know that the origin of Intro 878 were  
10 three separate LS requests submitted by Council  
11 Member Comri, Council Member Mark-Viverito and  
12 myself, one relating to general contractors, one  
13 concrete and one demolition.

14 And I believe I put my LS request  
15 in after hearing your testimony at one of these  
16 committee hearings. And it may have been  
17 following a collapse of all or part of a building  
18 because a concrete contractor had not poured the  
19 concrete properly and rendered the building  
20 unstable.

21 And I think where we were hoping to  
22 get to at some point, with all due respect, is to  
23 put irresponsible contractors out of business, not  
24 because we enjoy putting people out of business  
25 but because we are here to protect peoples' lives.

1  
2 Both the people working on the projects and the  
3 people who are living adjacent.

4 And so, you know, assuming an  
5 appropriate level of due process, and accepting  
6 the conundrum of how you come to that criteria,  
7 you do agree that there is some level where the  
8 Safety Registration Number should not be given to  
9 a company with a particularly bad track record.

10 MR. COLETTI: Councilman, I  
11 absolutely agree with that premise. The question  
12 is what is that criteria. But absolutely, because  
13 my guess is perhaps on at least one of the two  
14 tragedies, there probably were contractors on that  
15 job that had no business being on that job.

16 COUNCIL MEMBER FIDLER: And how  
17 would you have determined that?

18 MR. COLETTI: Experience. From  
19 what I've been told on I believe the 51<sup>st</sup> Street  
20 job, there was, it was originally assigned to a  
21 construction manager who had worked in New York  
22 City, had experience. They made a change and a  
23 company from Canada came in and decided that they  
24 were going to save some money from the  
25 construction manager who hired the concrete



1  
2 contractor who had never done a job more than ten  
3 stories in their life.

4 COUNCIL MEMBER FIDLER: So then  
5 it's not just a record of having performed badly,  
6 it's a record of having performed.

7 MR. COLETTI: Yeah I mean I can see  
8 over the future years almost a refining and growth  
9 of this kind of bill into those categories. When  
10 you look at registration processes in different  
11 places in the country, they do begin to make those  
12 kinds of distinctions so that you have to get a  
13 registration based on a certain size and  
14 experience factor. I think the general feeling at  
15 this point was let's walk before we can run.

16 But yes there are criteria. And  
17 candidly the concern on the private sector is the  
18 Department of Building's ability to collect and  
19 manage all this data. That's an issue. If we  
20 would have gone--

21 COUNCIL MEMBER FIDLER:  
22 x[Interposing] I always have a problem with the  
23 ability of the Department of Buildings to do any  
24 task of significance and that's, you know, an  
25 unfortunate reality of this City and I think it's

1  
2 a better Department of Buildings than it used to  
3 be. But--

4 MR. COLETTI: [Interposing] Yes.

5 COUNCIL MEMBER FIDLER: --I would  
6 share that concern. But I would also agree with  
7 the sentiments of Council Member Vacca who said  
8 this is a good bill because it's a first step.  
9 But it is only a first step. And I think that we  
10 need to develop that body of evidence. It's  
11 something that we can't do until we pass this  
12 Bill.

13 And I do understand many of the  
14 issues and pitfalls that you've raised but we need  
15 to--just because an issue is difficult, doesn't  
16 mean that it isn't necessary that we tackle it.  
17 And, you know, the people running the large  
18 publicly held companies, you know, there's got to  
19 be some accountability. They can't just move from  
20 one to the other and leave a wake of bad work  
21 behind them if they're responsible.

22 And we have to get to that point.  
23 We have to do it as expeditiously as possible.  
24 Some of us hope to have another four and a half,  
25 some odd, five years here, and I would say given

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2 the amount of time it took the Department of  
3 Buildings just to get the general contractors on  
4 one, two's and three's done, and I had a promise  
5 from Commissioner Lancaster five months into my  
6 first year on the Council that they were going to  
7 do it without being compelled to have done it.

8 I can say that I want to see this  
9 process done before I'm out of this Council. And  
10 I think it's something that we need to work on and  
11 obviously your expertise and Mr. Altman's  
12 expertise, the industry, is very necessary to it.  
13 But it's going to result in some people being put  
14 out of business. But those are the people that  
15 we're trying to protect the public from.

16 MR. COLETTI: Yeah and I agree  
17 completely. All my concern is that we have due  
18 process and that the criteria be appropriate. My  
19 point before to Councilman Vacca's concerns were,  
20 there isn't one size that fits all. So if that  
21 has been identified as a particular problem, and  
22 it obviously has been, then don't ask the 7,000  
23 general contractors to submit the same detailed  
24 information if you know, say, companies building  
25 15 stories and higher. They're not changing

1  
2 owners every 10 days.

3           So the level of information that  
4 you would request is different than if you see  
5 smaller companies that end up in 4 or 5 companies.  
6 My members have been in business for over 100  
7 years. They're family owned businesses. They're  
8 publicly held companies. And I'm just saying we  
9 need to be smart in going about how we begin to  
10 track that information.

11           COUNCIL MEMBER FIDLER: And we also  
12 need to be concerned about, you know, now that  
13 this system will be in place, that if, god forbid,  
14 one of your members is one of the bad actors, that  
15 they don't look at the system that we've put in  
16 place and say oh my god we need to find a way  
17 maybe to change our business so that we're not  
18 going to be denied a Safety Registration Number--

19           MR. COLETTI: [Interposing] No I  
20 agree with that.

21           COUNCIL MEMBER FIDLER: --so we  
22 have to watch that. And we, you know, big  
23 companies have big, expensive lawyers and find  
24 ways to get around every new system. And really,  
25 you know, I don't have to tell you, I know you

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know it. Lives are at stake.

MR. COLETTI: Yeah.

COUNCIL MEMBER FIDLER: It's not just a matter of, you know, in a 1, 2 or 3 family home, did I leave someone in a lurch by doing half their kitchen. You know, here buildings collapse, 15 stories, the bigger the building, the bigger the risk. I think we've seen that very tragically in the City. I think we need to be very, very careful about this.

And I agree, you know, that sometimes we call things major or immediately hazardous violations that are really nonsensical in some respects. And, you know, if you're doing a lot of construction work, you're going to have more violations. It can't be strictly quantitative either--

MR. COLETTI: [Interposing] Right.

COUNCIL MEMBER FIDLER: --but there has to be, there has to be--we have to be able to get from this first step to that end goal. And we have to do it in a responsible period of time. And I hope, as the Chairman said, this Bill is going to be fast tracked. I'm interesting in

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2 knowing what was negotiated on my Bill. I'd love  
3 to hear it. And maybe we can move forward with  
4 this very quickly. And once we do that I think we  
5 need to go on beyond that.

6 MR. ALTMAN: Mr. Council Member I  
7 agree with everything you've said. I can tell you  
8 that last year was probably the worst year in my  
9 25 years in this industry and to my contractors.  
10 My contractors were not involved in those  
11 tragedies and there's no way to regain the  
12 reputation of the industry in general because  
13 there was no way to make a distinction between  
14 those who follow the rules and those who don't.

15 COUNCIL MEMBER FIDLER: Thank you.

16 CHAIRPERSON DILAN: Thank you. And  
17 if there's no more questions, I'll just sum up by  
18 saying we appreciate the input on both of your  
19 associations on this item. And I know that Mr.  
20 Altman was, and his association was involved in  
21 the first general contractors bill that we were  
22 able to complete.

23 I guess the reason that we do have  
24 the ability to fast track is that the removal of  
25 that safety number will be dealt with within the

1  
2 next three months and that gives us some time to  
3 carefully consider that. So I look forward to  
4 working with you and your organizations on that,  
5 on the construction of that. And, you know, hope  
6 that we can come to some form of mutually  
7 agreeable way of implementing that portion of the  
8 bill.

9 So with that I thank you, again, to  
10 the members of the Committee, the negotiations are  
11 about to wrap up on the Bill. I guess you can  
12 contact, if you want details, you can contact  
13 Committee staff and they can provide you an update  
14 but before the Bill goes be aged [phonetic], I do  
15 want to get for the benefit of members only, a  
16 detailed summary of what was negotiated. And with  
17 that Intro 878-A will be laid aside and that will  
18 conclude--

19 [Off mic]

20 CHAIRPERSON DILAN: Oh excuse me,  
21 I've been corrected, 878, there is no A version at  
22 this time, Intro 878 will be laid aside and that  
23 will conclude today's hearing.

24 [Gavel banging]

C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature \_\_\_\_\_ Laura L. Springate \_\_\_\_\_

Date \_\_\_\_\_ January 30, 2009 \_\_\_\_\_