

COMMITTEE ON HOUSING AND BUILDINGS

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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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October 26, 2022
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HELD AT: 250 BROADWAY - COMMITTEE ROOM -
14TH FLOOR

B E F O R E: Pierina Ana Sanchez, Chairperson

COUNCIL MEMBERS:

Alexa Avilés
Charles Barron
Tiffany Cabán
David M. Carr
Eric Dinowitz
Oswald Feliz
Crystal Hudson

A P P E A R A N C E S

Charlene Obernauer, Executive Director for New
York Committee for Occupational Safety and
Health

G. Lafayette

2 SERGEANT-AT-ARMS: Welcome to the New York
3 City hybrid hearing on the Committee on Housing and
4 Buildings.

5 At this time, please silence all
6 electronic devices. Thank you.

7 If you wish to submit testimony, you may
8 do so at testimony@council.nyc.gov. That's
9 testimony@council.nyc.gov.

10 Chair, we can begin.

11 CHAIRPERSON SANCHEZ: [GAVEL] Good
12 afternoon. I am Council Member Pierina Sanchez, Chair
13 of the Committee on Housing and Buildings. I want to
14 thank you all for joining today's hearing and also
15 for your patience as we were getting to a later
16 start. We will be today examining the construction
17 safety within our city, and we will also be hearing a
18 number of bills related to this topic.

19 I would like to acknowledge my Colleagues
20 from the City Council who present, Council Member
21 Barron, Council Member Hudson, Council Member Aviles,
22 Council Member Kagan could not be here because he is
23 Chairing a concurrent hearing.

24 There's no denying the importance of the
25 construction and real estate industry in the City of

1 New York. The Department of Buildings oversees the
2 safety and compliance of 1.1 million buildings within
3 our city. Just last Fiscal Year, 28,203 homes were
4 completed and new buildings across the city. This is
5 not to mention the number of commercial sites that
6 were constructed and other building typologies, with
7 a total of 168,423 permits issued in year 2021. There
8 are an estimated 15,000 firms that are involved in
9 the industry from special riggers to metal
10 fabricators to telebooms to steamfitters, pipe
11 layers, and the list goes on, and the accompanying
12 human infrastructure is substantial. An estimated
13 375,000 workers fill the many jobs and human hours
14 needed to fulfil the work of the industry. Of these,
15 the demographics are poignant. Only 8.7 percent of
16 all construction industry workers are women, down
17 from 9.5 percent in 2019 and yet trending upward from
18 8.4 percent in 2018. While the sector is
19 diversifying, we have 63.3 percent of all
20 construction workers who identify as non-white, which
21 is relatively unchanged from 2019. In 2017,
22 immigrants held 59 percent of the jobs in the
23 construction industry in New York City. Nearly half
24 came from Ecuador, Mexico, the Dominican Republic,
25

2 Jamaica, or China. Overall, the construction industry
3 had its highest share of foreign-born workers of any
4 sector in the City of New York. Real estate is
5 critical to the city. Real estate is to New York City
6 what oil is to Texas. When we dig into the unionized
7 versus non-unionized workforce within the
8 construction industry, we find heartening and
9 troubling demographic patterns. We find that black
10 workers are far more represented in the union
11 construction workforce where they account for 21.2
12 percent of employment and that in the non-union
13 construction workforce, they account for 15.8
14 percent. Minorities overall now make up 55 percent of
15 all New York City blue collar union construction
16 jobs. Hispanics are heavily over-represented in the
17 non-union sector, accounting for nearly half of all
18 employment. The trends within the younger workforce
19 shows us that the trends are going in the right
20 direction with respect to diversification in
21 alignment with the population in the City of New
22 York.

23 Commissioner, I want to take a moment to
24 thank you for your follow-through, for you and your

2 staff from the last hearing and giving us all the
3 data and information that we requested.

4 As construction activity increases, so
5 does the potential for construction-related
6 incidents, making worksite safety a key concern for
7 all New Yorkers. We're continuing to confront the
8 economic recovery from the COVID-19 pandemic.

9 Construction will be and remain a key priority as a
10 key component of the New York City workforce. We need
11 to build up the housing stock, we need to build
12 places that will host more jobs, more schools, more
13 activities for our young people, our homeless and
14 inadequately housed neighbors, but a just recovery
15 also requires us to center worker safety and dignity
16 within the industry. The City Council has made great
17 strides to this end. In 2017 with the passage of
18 Local Law 196 which was sponsored by then Council
19 Member Jumaane Williams and now Public Advocate. It
20 specifies certain training and qualification
21 requirements that those engaged in construction and
22 demolition must meet, including that workers at
23 jobsites requiring a construction superintendent, a
24 site safety coordinator, or a site safety manager
25 must have a total of 40 hours of site safety

2 training. I look forward to today hearing more about
3 the compliance with this piece of legislation and how
4 DOB investigates noncompliance.

5 Despite these legislative strides, of
6 course, our city has a long, long way to go. DOB's
7 own 2021 Construction Safety Report noted 712
8 incidents, 505 injuries, and 9 fatalities, 7 of which
9 were the results of worker falls. It is tragic any
10 time that a worker suffers a fall at a job site. It
11 is all the more tragic knowing that worker falls are
12 preventable. As such, I'm very interested to hear
13 today about DOB's fall prevention efforts as this is
14 the leading cause of death and injury on sites. To
15 the families of those that we have lost, my deepest
16 condolences. We can and must ensure that what
17 happened to your family doesn't happen to others, and
18 we have to interrogate piece by piece all parts of
19 the information that we have available about what
20 happened in each incident.

21 A 2020 published audit by the Office of
22 the New York City Comptroller, however, concludes
23 that DOB's controls over handling of complaints need
24 improvement, specifically with respect to timeliness
25 and responding to and following up on complaints at

2 every stage of the process. DOB, according to then-
3 Comptroller Stringer, did not consistently perform
4 initial and second inspection attempts of complaints,
5 and that was in 2020 so the reporting is dealing with
6 2019, prior to the pandemic. Inspections of hazardous
7 conditions that it previously identified were also
8 not inspected a second time in a timely manner. In
9 addition, when DOB receives certifications of
10 corrections from respondents stating that the
11 violations have been corrected, the agency did not
12 perform the required reviews in a timely fashion,
13 and, finally, DOB did not ensure that a random audit
14 of inspections which are performed on a sample of
15 certificates to determine accuracy were performed in
16 a timely manner, if at all. I look forward to hearing
17 about how the administration has taken these
18 criticisms into account and is making changes to
19 improve site safety.

20 We cannot meet the city's housing needs,
21 as you know that I am very passionate about as this
22 Council is, we cannot meet the city's housing needs
23 without remembering the people who are building it,
24 the workers. I believe this City Council and DOB will
25 work together to push forth legislation and policy

2 that will have a real impact on construction safety,
3 and I know that with your 90-day commission the
4 meetings are endless, but the work is ongoing to
5 improve the agency. With robust enforcement which
6 brings a greater dignity to our workforce, we will
7 have a better New York.

8 I would like to thank my staff, my Chief-
9 of-Staff Sam Cardenas and Kadeem Robinson as well as
10 our Housing and Buildings Committee staff, Audrey
11 Son, Jose Conde, Charles Kim, Dan Kroop, and the
12 entire Finance Division which supported the committee
13 report for this hearing.

14 With that, I'll turn it over to our
15 Committee Counsel to administer the oath.

16 COMMITTEE COUNSEL: Please raise your
17 right hand. Do you affirm to tell the truth, the
18 whole truth, and nothing but the truth in your
19 testimony before this Committee and to respond
20 honestly to Council Member questions?

21 ADMINISTRATION: I do.

22 COMMITTEE COUNSEL: Thank you. You may
23 begin when ready.

24 COMMISSIONER ULRICH: Good afternoon,
25 Chair Sanchez and Members of the Housing and

2 Buildings Committee, my good friends, former
3 Colleagues, especially Council Member Barron, my
4 neighbor. My district used to join his in East New
5 York and Ozone Park so it's good to see everybody.
6 It's interesting but it's good to be on the other
7 side of the counter here, but it's good to be here.

8 My name is Eric Ulrich. For the record, I
9 am the Commissioner of the New York City Department
10 of Buildings. I'm joined today by Joe Esposito, our
11 recently appointed Deputy Commissioner of Enforcement
12 and also my Deputy Commissioner of External Affairs,
13 Guillermo Patino, who ironically used to be the
14 Counsel to this Committee as well so a lot of
15 familiar faces here and other members of my senior
16 leadership team, my Chief-of-Staff Nadya Stevens is
17 here, and we may have one or two other folks from
18 Buildings here.

19 We're pleased to be here to discuss the
20 Department's work to keep construction sites safe.
21 New York City is home to nearly 1.1 million buildings
22 and tens of thousands of active construction sites.
23 With the support of nearly 1,600 dedicated employees,
24 the Department works to support development and the
25 construction industry as it creates new residential

2 and commercial spaces. Safety is central to this
3 work. Safety is at the top of our minds as the Code
4 Development Team works with the industry to craft
5 updates to the construction codes as our Plan
6 Examiners review construction plan and as our
7 Inspectors visit construction sites and existing
8 buildings. The regulations the Department enforces
9 exist to protect those who live, work, or visit our
10 city.

11 I'm pleased to report that the
12 construction industry continues to rebound from the
13 COVID-19 pandemic with more construction jobs being
14 filled last Fiscal Year than in the previous fiscal
15 two years combined. Last Fiscal Year, over 150,000
16 construction jobs were filled with the Department, an
17 increase of 25 percent over the previous Fiscal Year,
18 and we're seeing that trend continue this year. We
19 know far too well that with more construction comes
20 an increased risk of serious incidents, which is I
21 appreciate the City Council bringing this issue to
22 our attention and with this hearing today. The City
23 Council has been a key partner when it comes to
24 keeping construction sites safe, and I look forward
25 to our continued work together and partnership.

2 Earlier this year, we issued our second
3 annual Construction Safety Report which covers
4 calendar year 2021. The report provides deep insights
5 on construction safety trends in the five boroughs
6 and examines Department initiatives that lead to
7 declines in construction-related incidents and
8 injuries during that time. The 2021 report shows that
9 the multi-year decline in construction-related
10 incidents in the city has continued in 2021, dropping
11 another 10 percent compared to 2020 and over 40
12 percent since 2018. We will continue to issue these
13 annual Construction Safety Reports because they
14 provide the industry with important information
15 regarding construction-related incidents including an
16 overview of incidents that could have resulted in
17 serious injuries or fatalities. While the decline in
18 construction-related incidents we have seen in recent
19 years is promising, the Department is committed to
20 doing even more to drive down incidents, and we will
21 continue to work with its partners in the industry
22 and in government to accomplish that goal.

23 In June, the Department implemented a new
24 requirement that licensed construction
25 superintendents cannot be responsible for more than

2 five major construction jobs at any one time, which
3 represents a reduction from the previous limitation
4 of 10 jobs. Furthermore, by 2026, no construction
5 superintendent can be responsible for no more than
6 one job. This measure ensures that dedicated site
7 safety professionals have the capacity to provide
8 appropriate oversight at the jobs for which they are
9 responsible, and we are confident that this will
10 improve safety at construction sites. We've been
11 working very closely with the members of the
12 construction industry that are impacted by this
13 change, which resulted in a smooth transition from 10
14 jobs to five jobs for those who were impacted.

15 In order to build capacity, the
16 Department of Buildings recently updated its rules to
17 provide a pathway for site safety coordinators and
18 site safety managers to become construction
19 superintendents, a change that has been well-received
20 by the industry. In 2024, the Department will also be
21 requiring more site safety supervision at larger
22 construction sites with a new requirement that
23 construction superintendent and a site safety
24 coordinator or site safety manager be designated for
25 such sites taking effect.

2 To help ensure that safety regulations
3 are being complied with, the Department also
4 continues to conduct its proactive, unannounced
5 inspections of larger construction sites which
6 includes inspections to ensure that workers have
7 appropriate site safety training where such training
8 is required. The site safety training requirement for
9 construction workers and supervisors was fully phased
10 in last year and requires that workers have at least
11 40 hours of safety training and that supervisors have
12 62 hours of safety training. We are very pleased with
13 the compliance we are seeing in the field, and we
14 thank the construction industry for their
15 collaboration over the last three-year period during
16 which time this was phased in.

17 Finally, early next month a new set of
18 construction codes will be taking effect. These
19 construction codes continue the Department's efforts
20 to improve and enhance construction safety
21 requirements that apply to all construction projects.
22 The Department is hard at work implementing the new
23 regulations including updating our DOB Nav system,
24 and we will continue to issue guidance to the
25

2 industry to advise them of changes that will impact
3 their work in the future.

4 All of these measures are the result of a
5 collaboration with the City Council and the
6 Department of Buildings, and we look forward to
7 working together on additional common sense measures
8 to improve safety at construction sites throughout
9 the five boroughs.

10 We are in the middle of the Adams
11 Commission, a 90-day Commission convening
12 stakeholders from labor, industry, the non-profit
13 sector, and city government agencies to produce a
14 comprehensive blueprint recommending structural
15 improvements at our agency. We are already receiving
16 very promising recommendations from our industry
17 partners, many of which we plan to act on in short
18 order. The goal of this initiative is to further
19 modernize the Department and make sure it works for
20 all New Yorkers, now and in the future. We look
21 forward to keeping you updated on this work, and we
22 will certainly need your partnership to implement the
23 reforms that require legislative changes. Chair, I
24 want to take a moment just to thank you and your
25 staff's participation in many of the sessions that

2 we've been conducting over the past 60-odd days so
3 thank you for your participation and your leadership.

4 Turning now to the two bills before the
5 Committee today, Intro 267 and Intro 268. Intro 267
6 would require that employer identification cards be
7 distributed to workers as part of pre-shift safety
8 meetings required at construction sites. Such cards
9 must include the name and contact information of the
10 employer, the name and contact information of the
11 applicable site safety manager, and the address of
12 the worksite. The Department is supportive of
13 providing workers with this information and
14 understands that it could be particularly helpful for
15 workers who may only be employed at a particular site
16 for a short period of time. We would like to work
17 with the Committee to identify the best way for this
18 information to be communicated to workers as the
19 requirement that this information be communicated
20 before every shift may be too frequent.

21 Intro 268 would require that the
22 Department inspect sites that have received a stop
23 work order every 14 days until such stop work order
24 is lifted. Such inspections may require that at least
25 three inspectors be present during a single

2 inspection. The Department is not supportive of this
3 legislation as it is not a productive use of our
4 inspectorial resources to visit a site that has been
5 issued a stop work order where no construction work
6 may be occurring. Additionally, the requirement that
7 a minimum of three inspectors be present to confirm
8 that work is not occurring to a stop work order being
9 issues places a significant strain on our limited
10 inspectorial resources. These resources could instead
11 be used to respond to emergencies, complaints from
12 members of the public, or to perform proactive
13 inspections. Response times for such inspections
14 could all be compromised should this proposal move
15 forward in its current form. The Department would
16 welcome the opportunity to discuss this proposal with
17 the Sponsor of this bill and the Members of this
18 Committee to further understand its goals so that we
19 can work to address any concerns this Committee may
20 have.

21 I want to thank you for the opportunity
22 to testify before you today, and I welcome any
23 questions that you may have.

24 CHAIRPERSON SANCHEZ: Thank you so much,
25 Commissioner. I'm going to ask just two sets of

2 questions and then I'll turn it over to Colleagues
3 again because I appreciate you all and I know that
4 we've gotten off to a late start here.

5 The first question really is around the
6 Adams Commission. It has been 60 days of the 90 so
7 when can the public and the Council expect to see the
8 recommendations from the Adams Commission and is
9 there anything that you would like to highlight today
10 as far as what you've been hearing?

11 COMMISSIONER ULRICH: Again, I first want
12 to thank you for your participation. You and your
13 staff have just been terrific in terms of providing
14 legislative proposals and ideas, and most of those I
15 think are grounded in the important constituent work
16 that you and your Colleagues do in your districts so
17 it actually has a practical application, and we
18 appreciate that.

19 We are more than halfway through the
20 Adams Commission 90-day period. We're very pleased
21 thus far with many of the recommendations that we've
22 received and at the end of the 90 days, the Buildings
23 Department will produce a preliminary report which
24 will outline actions that will require City Council
25 Local Law legislation, actions that the Mayor may

2 want to take via executive order or has the ability
3 to take and do unilaterally, and then rule-making
4 internally that we'll have to do with the agency
5 through our rule-making process so hopefully we'll be
6 able to categorize the recommendations and the
7 remedies that have come up as a result of all these
8 working group sessions into those three categories
9 and we look forward to the Council being a partner in
10 that. We can't do it without the Council. There are
11 many code revisions which for legal reasons require
12 legislative action so your cooperation, your
13 participation, and your willingness to be a part of
14 this Commission and making it a success is critical
15 to what we're trying to accomplish.

16 CHAIRPERSON SANCHEZ: Thank you so much,
17 Commissioner. Second, and recognizing that this might
18 be some of the topics that are being discussed in the
19 90-day Commission, but going over then-Comptroller
20 Stringer's audit released in 2020, I mentioned it in
21 my testimony, but there were a lot of criticisms
22 within that audit around DOB's handling of complaints
23 and re-inspections that are sort of required by the
24 agencies but are not taking place. Can you speak to
25 changes that have already happened and how DOB is

2 thinking about this inspection, re-inspection, lack
3 of timeliness allegations and sort of concerns that
4 came out of the Comptroller's report.

5 COMMISSIONER ULRICH: As was mentioned, we
6 were happy to cooperate with the Comptroller's audit.
7 We do on a regular basis, and we're happy to provide
8 our own internal data and information that could help
9 shed light on areas where improvement is needed, but
10 I'm going to ask Guillermo Patino, our Deputy
11 Commissioner of External Affairs to address more
12 specifically some of the points that you raised in
13 the Comptroller's audit. Some of the things that have
14 come up have already addressed, have already been
15 fixed. Those no backlogs no longer exist in the form
16 that they did prior to the pandemic, and we're very
17 happy about that and where there are areas for
18 improvement we want to work together to address those
19 areas, but generically speaking the data that is
20 included in that report is not the most current data
21 available, and I think that our current data reflects
22 more accurately the progress that we've made and the
23 level of responsiveness that we're able to provide
24 when it comes to responding to complaints that we've
25 received.

2 DEPUTY COMMISSIONER PATINO: Just speaking
3 generally, I think we've done a lot at the agency
4 since the audit period. Since 2018, for example,
5 we've seen a significant decrease in construction-
6 related incidents. It's been about a 33 percent drop
7 in injuries. We established a Construction Safety
8 Compliance Unit at the Department in late 2018, which
9 focuses on conducting proactive inspections at larger
10 construction sites. They check for things like making
11 sure that workers are compliant with the site safety
12 training requirements. We've also fully implemented
13 Local Law 196 as of March 2021 which requires, as you
14 mentioned in your opening statement, 40 hours of
15 training for workers, 62 hours for supervisors, and
16 we've also updated our instruction code since then to
17 strengthen safety requirements. As it relates to
18 following up on violations that we've issued,
19 particularly class 1 violations that represent the
20 most serious conditions, we're following up on those
21 in 60 days as the Code requires now, and we can
22 certainly provide the update data on that information
23 as well.

24 Finally, I'll also add, because you
25 mentioned it in your opening statement, as it relates

2 to auditing certificates of correction, the Council
3 also passed a bill following that audit that requires
4 that we audit at least 15 percent of the certificates
5 of correction that are submitted for class 1
6 conditions, and we're meeting and exceeding those
7 targets as well and happy to provide the data on that
8 as well.

9 CHAIRPERSON SANCHEZ: I think I
10 (INAUDIBLE) with you, Guillermo, when I was working
11 at City Hall.

12 DEPUTY COMMISSIONER PATINO: I think
13 that's right.

14 CHAIRPERSON SANCHEZ: Musical chairs. That
15 is encouraging to hear, and I'd love to see updated
16 numbers on that front, inspections and re-
17 inspections, but just continuing on this and then
18 I'll turn it over to some of my Colleagues who want
19 to ask questions and I'll come back around, but the
20 most recent MMR highlights that there was a decrease
21 in construction inspections completed in Fiscal Year
22 '21 from 162,135 in '21 to 130,837 inspections in
23 Fiscal '22 so in the context of meeting these
24 requirements including the 15 percent audit of the
25 certificate of corrections, what is causing this

2 decrease? Will DOB be able to meet the target of
3 140,000 inspections for Fiscal '23?

4 COMMISSIONER ULRICH: I would like to say
5 generally speaking that in 2021 most of our workforce
6 like so many other city agencies was returning to
7 full work week and in-person, I don't want to use the
8 term regular, but regular work schedules and so that
9 might've resulted in some delays, especially earlier
10 in the previous calendar year, but for the most part
11 we have maintained excellent service levels and quick
12 turnaround times, we've reduced the number of days
13 and reduced the backlogs that existed in certain
14 categories in response to level 1 and level 2
15 violations so we're very pleased with the current
16 level of service that we're providing and we've
17 reduced the backlog and the amount of days that it
18 takes for our inspectors to respond to certain types
19 of complaints. Most of the complaints that we receive
20 come through 311. I know that you have the data
21 regarding the number of complaints over the years,
22 but we also receive complaints directly from
23 Community Boards, from local Council Members or
24 churches and non-profit groups or houses of worship
25 so we respond to those as well. That's not always

2 reflected in the data, and we do try to prioritize
3 those as well.

4 CHAIRPERSON SANCHEZ: I appreciate that.

5 Can you just highlight the total number of complaints
6 DOB received in 2021 and 2022, the most common types?

7 COMMISSIONER ULRICH: Going back to 2019,

8 we received via 311 93,356 complaints. In the year

9 2020, again accounting for COVID, we received only

10 80,204 complaints. That's roughly 13,000 fewer. In

11 2021, we received 81,000 complaints, just starting to

12 come out of the pandemic so not inconsistent with

13 2020 but slightly more. So far year-to-date this

14 year, we've received via 311 64,471 complaints to

15 311, and we've issued over 40,000 OATH or ECB

16 violations, summons as a result of those 311

17 complaints that have come in. It's important to know

18 that a lot of our work is proactive. It's not just

19 responsive. It's not like we only go out when someone

20 calls 311. As I mentioned in my testimony, a lot of

21 the work that we do, particularly around safety, is

22 proactive, unannounced, routine, multiple visits to

23 thousands of active construction sites throughout the

24 city and those are not in response to any complaints

25 that we get. Those are just to make sure that work is

2 being done according to plans, that people have the
3 proper safety equipment, and that everything is code
4 compliant so safety is at the heart of everything
5 that we do. We are reactive, but we are also a
6 proactive agency when it comes to enforcement.

7 CHAIRPERSON SANCHEZ: Thank you,
8 Commissioner. Last piece on this, there's a target of
9 140,000 inspections in the MMR, and recognizing that
10 the most important thing is what is actually
11 happening on the ground but do you think that DOB is
12 on track to meeting the 140,000 inspections this
13 year?

14 COMMISSIONER ULRICH: Assuming that the
15 trend continues and the construction industry
16 continues to be a boom for the city and the numbers
17 keep going up, we have adequate staffing levels,
18 we've reassigned certain people that were involved
19 with development or plan exam into the ranks of our
20 Inspector Divisions and into our units to make sure
21 that they have the coverage that they need. Our
22 Deputy Commissioner of Enforcement, Joe Esposito, I
23 always joke with him that when he was Chief of the
24 New York City Police Department he was in charge of
25 36,000 police officers and now he's in charge of

2 roughly 600 buildings inspectors so I think we're up
3 to the task and we have the right supervision and the
4 right support, the right training. We just welcomed
5 the new class not too long ago. I think we have
6 another class graduating in November, and we're
7 looking forward to bringing on our new inspectors and
8 they're receiving great training and they're going to
9 do a great job and help us accomplish the mission,
10 but what we do is very serious because it definitely
11 keeps New Yorkers safe, the people that work on the
12 job sites and the people that live in the surrounding
13 area and in the community. We want to make sure that
14 everybody's safe. Safety is at the heart of
15 everything that we do, and we're not going to allow
16 any amount of construction activity to stand in the
17 way of safety.

18 CHAIRPERSON SANCHEZ: Thank you. I want to
19 acknowledge that we are trending in the right
20 direction in terms of worker safety. We have a ways
21 to go, but it's definitely getting better.

22 I want to acknowledge Council Member
23 Aviles for questions.

24 COUNCIL MEMBER AVILES: Good afternoon.
25 Good to see you. In the vein of safety, I represent

2 District 38, and this August we had an inappropriate
3 use of an articulating boom truck that was being used
4 as a crane.

5 COMMISSIONER ULRICH: I was there.

6 COUNCIL MEMBER AVILES: Right, and it just
7 missed a glass building where my daughter and many
8 other children would have been in that building. It
9 damaged a home and a building next door to it, but
10 thankfully no one was hurt in this situation. One
11 month later in the Bronx, another situation of an
12 articulating boom being improperly used a crane. In
13 fact, I've seen it in my District several times over
14 again since now I know the distinction and what to
15 look for. I know that the agency, I guess there was a
16 timeline to develop some rules around proper usage of
17 the equipment so I'd just love to hear if those new
18 rules have been developed and would love to hear a
19 commitment from your agency to promulgate those rules
20 and to ensure us that the agency is absolutely
21 choosing people's safety over profit from an industry
22 that seems to not be very keen on regulating this
23 equipment and trying to skirt actually licensing of
24 proper crane usage so I'd love to hear where those
25 rules are, I'd like to know whether the agency is

2 committed to enforcing those rules and to ensuring
3 safety absolutely first over industry profit.

4 COMMISSIONER ULRICH: Thank you for the
5 question, Council Member, and I was at that
6 particular incident and also the one that happened
7 about a month later in Greenpoint that did result in
8 a fatality.

9 COUNCIL MEMBER AVILES: I was referring to
10 one in the Bronx where there wasn't a fatality so you
11 had another one.

12 COMMISSIONER ULRICH: There was one where
13 there was, it was all over the news at the time where
14 the bucket that normally gets attached to the arm of
15 the excavator wasn't properly secured, and we believe
16 it accidentally detached from the arm and it crushed a
17 worker who happened to be underneath. They were
18 trying to use it to move some heavy piping or
19 construction material from one side of the job site
20 to the next. My point of bringing up this particular
21 situation and referencing the one that you just
22 mentioned is that human error is always a factor and
23 that is something that is a challenge for us and for
24 the public. If people are not going to use
25 construction equipment or machinery the way that it

2 is manufactured to be used, there's no amount of
3 regulations or codes or safety requirements that
4 could be put into place that will prevent that from
5 happening other than us doing a better job of
6 policing these job sites, which we're doing. Just so
7 you know, too, the second that there is a serious
8 injury or fatality involving a construction worker
9 due to improper use of a piece of equipment or truck
10 or boom crane as you mentioned, we send inspectors
11 out to every single job site that is under that
12 contractor or that they may be working on
13 simultaneously to make sure that there isn't a
14 pattern of irresponsible or reckless behavior taking
15 place or that they are having workers who don't have
16 the proper training or don't have the skills to use
17 certain equipment that they're not going to cause
18 other fatalities or other serious injuries so we send
19 them out immediately. We issue a stop work order
20 first and foremost. The Department of Investigation
21 and our own investigators, our engineers show up at
22 the job site to conduct a thorough investigation, but
23 simultaneously we have inspectors going out to every
24 that's under that contractor or affiliated with that

2 contractor make sure that no one else is in harm's
3 way.

4 The situation with the booms cranes is
5 that those trucks and those pieces of equipment are
6 constantly changing. Every year they're coming out
7 with new models, and the manufacturers that actually
8 make these pieces of equipment, the ones that they're
9 making today in some ways you wouldn't recognize them
10 from five or six years ago because they're constantly
11 evolving. The instability involving these pieces of
12 equipment, I don't want to say almost always, but on
13 a regular basis whenever one of them tips over it's
14 because they don't extend the arms out all the way
15 which are what stabilizes..

16 COUNCIL MEMBER AVILES: They're not
17 cranes.

18 COMMISSIONER ULRICH: They're not cranes.
19 They're not supposed to be used as cranes and..

20 COUNCIL MEMBER AVILES: Exactly.

21 COMMISSIONER ULRICH: And these
22 contractors, unfortunately, use them as cranes
23 because they think that it's easier and cheaper to
24 use them to transport materials from the truck on the
25 ground to the second or third story where people are

2 doing work so it's an improper use of construction
3 equipment, the people that are operating it don't
4 have the level of training that they need, they're
5 not totally familiar, and there's almost always human
6 error involved which causes one of these incidents so
7 we're on the lookout but we require the help and the
8 cooperation of the public too help us identify..

9 COUNCIL MEMBER AVILES: Commissioner, are
10 you committing to increasing regulation and
11 enforcement around proper usage of this equipment and
12 licensing?

13 COMMISSIONER ULRICH: We've met with the
14 makers of the equipment, we've met with the industry,
15 we've met with many of the labor groups that are also
16 concerned by the use of unskilled labor with this
17 type of equipment, and we should be coming out with
18 something next year, but I can't get into too much
19 because there will be certain pieces of equipment
20 that will fall under the new regulation and others
21 that won't so I can't get into too much, but the good
22 answer is that yes, our Code Development Team is
23 actively working on this, is looking at this, and you
24 will see additional regulation of equipment like this

2 but not all pieces of equipment that are on a
3 particular job site.

4 COUNCIL MEMBER AVILES: My understanding
5 was it was supposed to come out this November. Are
6 you saying that it's going to come out in a year from
7 now?

8 COMMISSIONER ULRICH: I think it's
9 probably more likely to come out after the new year.

10 COUNCIL MEMBER AVILES: Okay.

11 COMMISSIONER ULRICH: November 7th is the
12 new code adoption. There are additional codes going
13 into effect but not specifically concerning boom
14 cranes.

15 COUNCIL MEMBER AVILES: So we missed the
16 deadline for boom cranes in this upcoming?

17 COMMISSIONER ULRICH: It's not about the
18 deadline. It's about some of the challenges to
19 regulate them. They're typically not regulated in
20 other jurisdictions either, but there are similar
21 types of equipment that are being used as boom
22 cranes. We call them boom cranes. That's really not
23 the technical name for them, but you will see some
24 regulations coming out next year.

2 COUNCIL MEMBER AVILES: Okay. I look
3 forward to that.

4 COMMISSIONER ULRICH: We will keep you
5 posted.

6 COUNCIL MEMBER AVILES: Hopefully, there
7 aren't any more near-misses or fatal accidents
8 because we're trying to catch.

9 COMMISSIONER ULRICH: They should not be
10 used as cranes. They're cheaper to rent, but that
11 doesn't mean that we should be using them
12 inappropriately.

13 COUNCIL MEMBER AVILES: Yeah, and if our
14 message to the industry is that it will be
15 unacceptable and we will enforce it to the highest
16 possibility, I think the industry will also shift its
17 practice, but a lack of enforcement tells them they
18 can do what they want, which they are currently doing
19 and putting New Yorkers and workers at risk so I look
20 forward to very stringent, rigorous safety standards.

21 COMMISSIONER ULRICH: We will follow up
22 with you, and Guillermo, hopefully soon, will be able
23 to give you a better timeline, but we are working on
24 it. I've sat in on some of those meetings.

2 CHAIRPERSON SANCHEZ: Thank you. Thank
3 you, Council Member. Just a quick followup, just for
4 clarification purposes, because we don't have the
5 rules today, does that mean that in the incidences
6 that happened there was no action by the City against
7 the folks who were running those construction sites?

8 COMMISSIONER ULRICH: Oh, no. Nothing
9 could be further from the truth. They received the
10 most stringent violations and the strongest possible
11 limitations that we could put on a job site and also
12 the number of violations that they've received. In
13 some cases, we issue violations to the property or
14 building owner and the contractor and sometimes the
15 operator of that equipment if they are using it
16 inappropriately and they're not supposed to be using
17 it so tens of thousands of..

18 CHAIRPERSON SANCHEZ: What are some
19 examples of some of those violations?

20 COMMISSIONER ULRICH: If they're
21 aggravated, they could trigger a multiplier effect
22 that you could see 100,000, I'm just throwing a
23 generic number out there, it could be 100,000 dollars
24 in fine and a full stop work order. For the
25 contractors and the developers, time is money. They

2 don't want to be shut down. It takes them sometimes
3 weeks to get reopened, especially if there's an
4 investigation involved and DOI and the District
5 Attorney's Office if there was a fatality for
6 instance so it's in their best interest to act
7 safely. They want to follow the code, they want to be
8 compliant, but, when they're not, we hold them
9 accountable. We never look the other way. We never
10 look the other way, and we have some pretty hefty
11 fines that are at our disposal.

12 COUNCIL MEMBER AVILES: Thank you, Council
13 Member. Council Member Dinowitz, you have questions?

14 COUNCIL MEMBER DINOWITZ: That was my
15 question is what are those fines look like. I mean we
16 see it all over the city with city agencies levying
17 fines on developers, and, in many cases, it's just
18 the cost of doing business for them, that it would
19 still be cheaper for them to, in this instance, use
20 articulated booms and pay the fine than actually do
21 the right thing so do you have more details about
22 what those fines are and if they actually serve as
23 disincentives for these operations to happen?

24 COMMISSIONER ULRICH: What I think would
25 be helpful is we should provide you a list of the

2 most common violations that we issue, the section of
3 the code or Local Law that they are related to or
4 emanating from, and then the fine brackets, the
5 range. It's 2,500 to 12,500 if it's an aggravated
6 condition so our inspectors from Construction Safety
7 Compliance and Construction Safety Enforcement teams
8 and also ERT, our Emergency Response Team, they issue
9 these fines at these job sites and, if you receive
10 seven aggravated violations, for instance, that could
11 be 80,000 dollars in fines in one day, and now the
12 job is shut down. You're losing time, you're losing
13 money, you have financing on the line, you may have
14 business partners involved that are concerned about
15 the financial impact so it's not only the fines that
16 we levy and the violations that we issue, it's also
17 the amount of time that you will lose because all
18 work must cease at that moment.

19 COUNCIL MEMBER DINOWITZ: Right. I would
20 love if you can share those numbers and then what
21 those fines actually are because for, I guess it's
22 the importance of sharing the data, right, for all
23 the times that they might get a stop work order, if
24 they're skirting to get things done more quickly and
25 the fines are just a couple of bucks but they're

2 getting the job done more quickly, they might be
3 saving money by breaking the law and we don't want
4 them to do that.

5 COMMISSIONER ULRICH: I wish I could give
6 you a different answer, but the reality is that these
7 fines are not a couple of bucks. Some of them are so
8 hefty. For instance, work without a permit, we don't
9 issue those to one- and two-family homeowners now. We
10 used to, and I think we need to adopt more of is a
11 progressive scale, and I've said this to folks at
12 City Hall that how we hold a homeowner accountable
13 for putting a sink in the basement without a permit
14 as opposed to a contractor that's building a luxury
15 condo building should not be the same. Those folks
16 who are just trying to better optimize their home,
17 which is the biggest investment they've ever made in
18 their lives, shouldn't receive a 6,000 dollar work
19 without a permit violation the same way a contractor
20 who's trying to do work without a permit would
21 receive one so, even though the violation is
22 technically the same, so starting last year we
23 stopped issuing work without a permit violations. We
24 give letters of notice of violation, people have to
25 correct it within a certain amount of days, get the

2 proper permits filed, the plans, what have you, and
3 we give the homeowners the ability to actually be
4 code compliant without banging them over the head
5 with a 6,000 dollar fine so that's just one example.
6 The work without a permit is a 6,000-dollar
7 violation. That's just one violation. In most cases,
8 we're finding there are four, five, six, seven,
9 eight, nine violations. Some of them can go up to 12,
10 15,000, 25,000 dollars.

11 COUNCIL MEMBER DINOWITZ: Again, I would
12 love those brackets or those numbers because
13 proportionally 6,000-dollar fine for a homeowner is
14 way worse than a 12,000-dollar fine for a luxury
15 condo. You mention you'd like to see more progressive
16 scaling and, again, the importance of the fines isn't
17 so the City can make money, it's to disincentivize
18 bad behavior, so you want to see that progressive
19 scaling. Is that something the administration is
20 taking seriously, and is there any pressure from
21 anyone anywhere given that we need to build more
22 housing and houses need to go up to maybe look the
23 other way or forgive some of the things so that more
24 housing can be built, so those are two questions.

2 COMMISSIONER ULRICH: Looking the other
3 way is never an option.

4 COUNCIL MEMBER DINOWITZ: That was the
5 right answer. Okay, cool.

6 COMMISSIONER ULRICH: We would never do
7 that. It would be illegal for us to do that. We have
8 to follow the code and the laws that are passed and
9 the laws that are in the Charter so we would never
10 look the other way. We would always enforce safety
11 regulations fairly and equitably across the city. It
12 doesn't matter if you're a big developer or you're
13 building affordable housing, little homes as part of
14 an affordable housing project so my point is that we
15 on the development side try to make it as easy as
16 possible with our project advocates, with our Borough
17 Commissioners, and our Chief Plan Examiners and the
18 Plan Exam Team to help people get on the path to
19 compliance and code compliant construction, but, if
20 people are going to break the code, not follow the
21 law, and engage in any type of illegal construction
22 we will hold them accountable and some of the fines
23 that we issue are quite hefty, they are significant
24 in the dollar amount.

2 COUNCIL MEMBER DINOWITZ: Thank you. The
3 other part of my question which is while you'd like
4 to see a progressive scale, is that something that's
5 being seriously considered by the administration or
6 is that something that you're...

7 COMMISSIONER ULRICH: That's something
8 that the 90-day Commission is focusing on now and the
9 administration is a part of that and our friends in
10 the Mayor's Office are participating and helping us
11 facilitate this process, and I think that the Mayor
12 wants to be tough but fair in every way possible with
13 every agency. We can't turn a blind eye to illegal
14 construction. It could be deadly, and so we have to
15 take this seriously, but, again, the type of
16 enforcement that we might provide for a one-family
17 house in your district in the Bronx, in Pelham Bay,
18 or one- or two-family houses is not the same
19 enforcement that we would provide for a high rise
20 going up in Manhattan. They're two different, very
21 complex constructions, bigger development, more
22 involved there so the law has to treat everybody the
23 same, but the schedule of fines and the penalties
24 doesn't necessarily have to be the same. Most of the
25 people that live in homes and in the outer boroughs

2 are new New Yorkers, immigrants, people of color,
3 people that might have language barrier access so we
4 have to be as helpful as possible when it comes to
5 getting them on the path to compliance. We're there
6 to help; we're not there to hurt.

7 COUNCIL MEMBER DINOWITZ: From Wakefield
8 to Riverdale in my District, we have single-, two-,
9 three-family homes, and I would like to see them, as
10 you said, be treated more equitably than I think
11 they're currently being treated and would love to
12 keep our community safe. Thank you, Chair. Thank you.

13 CHAIRPERSON SANCHEZ: Thank you, Council
14 Member Dinowitz. I want to also acknowledge that
15 Council Member Caban has joined. We were also joined
16 by Council Member Carr and Council Member Feliz.

17 Council Member Aviles, you have a
18 followup?

19 COUNCIL MEMBER AVILES: Yes. Just a quick
20 followup on articulating the situation in terms of
21 enforcement. In the situation that happened in my
22 District, it was a School Construction Authority
23 project, and the operators of the boom were like a
24 subcontract of a subcontractor. How far does the

2 regulation go to addressing the situation of
3 subcontracted out entities along the chain?

4 COMMISSIONER ULRICH: The permits are
5 issued to the contractor or to the developer, and the
6 GC on the job, just to be sort of colloquial, the GC
7 has to assume most of the responsibility for the work
8 that's taking place with the exception of electrical
9 and plumbing and elevator which requires those
10 specific contractors to basically put their license
11 on the lines so to speak and accept responsibility,
12 God forbid, there's an accident. Aside from some of
13 the some of the subcontracting work that takes place,
14 that's common in the industry, those workers have to
15 have the same level of safety training that any
16 worker would have. They have to have OSHA cards, they
17 have to have the 40-hour site safety training, and
18 there are other folks on the job site that are
19 supposed to be responsible for maintaining a certain
20 level of safety that people are operating certain
21 types of construction equipment are actually skilled
22 in knowing how to operate them. We really make it so
23 that it's in the owner's best interest to be
24 compliant and to follow the rules and to operate
25 machinery properly and safely because if things go

2 wrong it will result in tens of thousands of dollars
3 in fines, violations, a full stop work order, an
4 investigation, delays, so, even if they're only
5 concerned about profits, it is in their financial
6 best interests to follow the rules and to follow the
7 code. I think that's an important point to make.

8 COUNCIL MEMBER AVILES: Great. I'd just
9 love to follow up and understand fully what the
10 enforcement on that particular project was.

11 COMMISSIONER ULRICH: We can get you a
12 full report. Guillermo will follow up with your
13 office.

14 COUNCIL MEMBER AVILES: Thank you. Thank
15 you, Chair.

16 CHAIRPERSON SANCHEZ: Thank you, Council
17 Member Aviles. Continuing that thread, general
18 contractors, what exactly does it take to obtain a
19 general contracting license in the State of New York
20 and what is the City's role, what is DOB's role in
21 that licensing?

22 COMMISSIONER ULRICH: On our website, we
23 detail the 24 or 25-odd licenses that we issue as a
24 Department, everything from licensed plumbers,
25 licensed mechanical engineers, licensed electricians,

2 licensed general contractors, licensed sign hangers,
3 there's so many different types of licenses that we
4 issue, site safety manager, site safety coordinator,
5 etc. All of those categories and all of those job
6 titles have very specific criteria that we require.
7 Generally speaking, there's a background
8 investigation, there is insurance verification, there
9 are several forms of attestation making sure that
10 people have the proper safety training. In some
11 cases, if it's for a crane operator, for instance,
12 it's much more extensive and they have to provide
13 proof that they received certain training from
14 certain accredited schools and that they have a
15 number of years of experience. There might be
16 affidavits involved from previous employers to attest
17 to them having a certain amount of years of
18 experience on the job doing that job or using that
19 equipment so the general contractor's license is not
20 an easy license to get. We don't give these out like
21 candy. We make it difficult for a reason, so that we
22 are vetting out and removing people who don't know
23 anything about construction, who pose a risk to
24 themselves and others so it's a rigorous process.
25 It's on our website, if you got to Licensing, and

2 it'll show you exactly what requirements are there.

3 The members of the public can go and see that, but we
4 don't give it out like candy, and we do that for a
5 reason. We take this very seriously. If we're giving
6 someone a general contracting license, they're going
7 to be using equipment and machinery that could hurt
8 somebody, and we want to make sure that they know
9 what they're doing, they have the proper experience,
10 they have the proper training, and that they're not
11 posing a risk or a threat to them or to anybody else
12 on the job site.

13 CHAIRPERSON SANCHEZ: Right. Under what
14 circumstances does DOB rescind a general contractor
15 license?

16 COMMISSIONER ULRICH: Very good question.
17 Through our Administrative Enforcement Unit, if we
18 received a referral or a complaint or through our
19 inspectors observe equipment being used improperly by
20 a contractor or by an individual and we conduct an
21 investigation, it's generally speaking very swift. We
22 could rescind someone's license within a couple of
23 weeks if we have sufficient evidence, and we do that.
24 We do it more often than I think people think, and
25 it's not just the general contractors, but we also

2 review the plans that are being filed by engineers
3 and architects to make sure that they're following
4 all the right rules, that their plans are code
5 compliant, and that they're not doing anything
6 illegal or nefarious and in cases where that is
7 happening we refer those cases to DOI and the local
8 District Attorney's Office. It's not uncommon. It
9 happens throughout the year. It's a very active unit,
10 and we do now hold accountable those contractors who
11 are not following the laws and the code.

12 CHAIRPERSON SANCHEZ: Got it. Thank you.
13 What are the most common violations when an accident,
14 injury, or death occurs at a construction job site?
15 What does DOB find are the problems that are
16 occurring on these job sites?

17 COMMISSIONER ULRICH: Oh, it depends.
18 Every accident is different. It depends what type of
19 accident is involved. To just give you an example,
20 there was a case several years ago where an
21 individual was working in a pit and the proper
22 bracing was not in place and the walls had collapsed
23 on that individual, and, when they tried to dig out
24 the dirt to try to save him, they actually
25 decapitated that worker. It was all over the news. It

2 was a terrible situation. Several weeks ago, someone
3 had fallen through an empty elevator shaft. They
4 weren't wearing the proper safety harness or the
5 railing was not in place where it should have been so
6 in cases like that where there's slip and fall which
7 represents the majority of construction-related
8 incidents, I don't want to say that it's human error,
9 but in some cases that is the case. If they're not
10 wearing the proper harness or in other cases if it's
11 the contractor or the developer's fault where they
12 are not putting the proper railing in place or not
13 maintaining the proper signage for instance, we hold
14 multiple people accountable and the fines, as was
15 mentioned previously, are significant. It all depends
16 on the type of accident or incident. Sometimes they
17 are deadly.

18 CHAIRPERSON SANCHEZ: Got it. Thank you.

19 Turning to Local Law 196, compliance, very good to
20 hear that DOB is at 100 percent compliance but just
21 drilling into what exactly that means. The State
22 Comptroller released a report last year that sized
23 the construction workforce in New York City at
24 375,000 workers so, to date, how many construction
25 workers have completed, how many unique construction

2 workers have completed the site safety training
3 requirements?

4 COMMISSIONER ULRICH: I'm going to allow
5 Guillermo to address that.

6 DEPUTY COMMISSIONER PATINO: Sure. Thank
7 you. To date, we've issued 191,000 training cards to
8 workers, but, just to clarify, site safety training
9 is required for larger construction sites so there's
10 many, many construction workers who don't require the
11 training so you only need generally speaking the site
12 safety training at sites that are larger than 10
13 stories or at sites where you're constructing a new
14 building or demolishing an existing building so the
15 191,000 cards represents the workers that are working
16 at the larger sites, not at sites like one- and two-
17 family homes.

18 CHAIRPERSON SANCHEZ: Got it. Thank you.
19 That's helpful. To date, how many construction
20 workers has DOB found that did not complete the site
21 safety training requirements, that are specifically
22 working on a worksite without that card on a worksite
23 that requires the card?

24 COMMISSIONER ULRICH: We can try to get
25 that number for you, but I think that that number

2 might be hard to determine because if I'm a smaller
3 contractor and I make a living by just replacing
4 roofs on people's garages in their backyard in
5 Queens, maybe I have a GC license but it's just me
6 and my son or me and my brother-in-law that do that
7 type of work, it may not be required because these
8 smaller contractors that do that type of work would
9 not be required to have the same level of training
10 because they're doing smaller projects and
11 neighborhood jobs. They used to call them handymen.
12 It's not an appropriate term anymore. I don't think
13 people use it, but the neighborhood handyman, for
14 instance, or handyperson is not the type of person
15 that would fall into that category.

16 CHAIRPERSON SANCHEZ: That makes sense,
17 but are there no incidences of DOB going onto a
18 worksite and finding that workers categorically just
19 don't have the cards.

20 COMMISSIONER ULRICH: If they don't have
21 the card and they're on the job site, if they don't
22 have their OSHA or they don't have the proper safety
23 training, they're going to receive a violation. There
24 could be a stop work order issued too, a partial or a
25

2 full, depending on the other type of violations that
3 we find.

4 DEPUTY COMMISSIONER PATINO: Since the
5 requirement took effect in 2018, that's the same year
6 we launched our Construction Safety Compliance Unit,
7 we've found about 1,500 sites where workers didn't
8 have the required training and total it's been about
9 13,000 workers that didn't have their training. As a
10 result of that finding, we've issued about 39,000
11 violations. Just to clarify, whenever we find an
12 untrained worker, we issue three separate violations.
13 One violation goes to the general contractor for the
14 construction site, another violation goes to the
15 owner of the site, and then the third violation goes
16 to the employer of the worker if that's different
17 from the contractor, and they're about 5,000 dollars
18 a piece so it is a pretty hefty penalty when we find
19 an untrained worker and in order to cure that
20 violation they also have to demonstrate that they
21 paid for the worker to receive the training, but,
22 again, those 13,000 workers have been since 2018 when
23 we started enforcing the requirement.

24 COMMISSIONER ULRICH: We've expanded the
25 number of course providers too. It is important, I

2 think, and noteworthy that it's much easier now to
3 get that training than it was two or three years ago
4 for instance so there really is no excuse for a
5 general contractor or for any major project manager
6 not to make sure that their workers are provided with
7 the proper safety training.

8 CHAIRPERSON SANCHEZ: That's helpful. In
9 the past, fake OSHA cards were an issue at
10 construction sites. Is this still happening? Does DOB
11 have rates of fake cards at sites?

12 COMMISSIONER ULRICH: Any time we uncover
13 illegal or, you're using the term fake but in some
14 cases the workers don't even know that they're fake,
15 they think that if I pay somebody 500 dollars, my
16 friend on jobsite, he's going to get me a card so I
17 can show up to work the next day, they're being taken
18 advantage of, those workers are being exploited.
19 They're paying for a card that is not valid, that
20 obviously was not issued as a result of them taking a
21 safety course that is required, and, in cases like
22 that, we just referred one to the District Attorney
23 several months ago. It was a major case and can't go
24 into the details but actually there was a school that
25 was a legitimate school but they were not a course

2 provider for the type of safety training but they
3 were selling the cards to people, and so we
4 immediately worked with our friends and our partners
5 in the Department of Investigation and law
6 enforcement and the local DAs, and they pursued
7 criminal charges. It's not uncommon. At any time when
8 workers are being exploited or taken advantage of in
9 any way that we believe any type of criminal action
10 is taking place, we refer it immediately to the
11 District Attorney's Office and to DOI for a more
12 thorough investment and hopefully a swift
13 prosecution.

14 CHAIRPERSON SANCHEZ: Thank you for that.
15 You mentioned that the number of trainers or course
16 providers has grown, so how many do we have by
17 borough?

18 COMMISSIONER ULRICH: Guillermo is the
19 numbers guy today. He can look up that. Aside from
20 that, I want to make a previous point that I forgot
21 to mention about those workers who are being
22 exploited. We also give them a period of time to get
23 the training because we don't want to affect their
24 ability to provide for them and their families so we
25 say your card is fake, you may or may not know that

2 this card is not a real card, we proved that you did
3 not receive the proper training, and you have X
4 amount of days to receive this training and your
5 employer has to pay for it so we, in every way
6 possible, make sure that the workers receive the
7 training, that's the most important thing.

8 CHAIRPERSON SANCHEZ: How are the rates of
9 curing those violations?

10 COMMISSIONER ULRICH: They're very high
11 because the job is shut down almost immediately, most
12 cases immediately, and they can't be reopened until
13 they cure that, and, as part of the curing process,
14 they have to provide the real training, validated,
15 real training that we make sure that they actually
16 get it.

17 DEPUTY COMMISSIONER PATINO: Also, just to
18 add to the illegitimate OSHA cards that you mentioned
19 earlier. I think the first and second training
20 milestones were a little challenging in that the
21 first milestone, an OSHA 10 card proved that you had
22 the required training, the second milestone, an OSHA
23 30 card, proved that you had the required training,
24 but now that we fully implemented the law everyone
25 has to have a site safety training card so those are

2 not issued by OSHA. Those are issued by DOB-approved
3 course providers so now we have a universal card that
4 all the workers have on construction sites so the
5 fraud that we were seeing initially is getting better
6 because of that.

7 In terms of the number of course
8 providers that we have offering site safety training
9 courses, it's 130 total now.

10 CHAIRPERSON SANCHEZ: What's the breakdown
11 by borough?

12 DEPUTY COMMISSIONER PATINO: I can follow
13 up with the breakdown by borough. I don't have that.

14 CHAIRPERSON SANCHEZ: Okay. In order to
15 get your site safety training card, you're also
16 checking off boxes for OSHA requirements, like
17 they're subsumed within what DOB is requiring in
18 these trainings?

19 DEPUTY COMMISSIONER PATINO: Yeah, they
20 could include an OSHA 10 or an OSHA 30.

21 CHAIRPERSON SANCHEZ: Okay.

22 COMMISSIONER ULRICH: If it's a 40-hour
23 course, it's above the OSHA requirement so it's
24 actually in addition to, it's above and beyond what
25 would normally be required by OSHA.

2 DEPUTY COMMISSIONER PATINO: Yeah. If you
3 have an OSHA 30 then to complete your 40 hours,
4 you're getting eight hours of fall prevention and
5 then two hours of drug and alcohol awareness as well,
6 and then there's about two dozen different training
7 topics that a worker can choose from if they have the
8 OSHA 10 and they have to make up their 40 hours so
9 they can choose topics that are more relevant to the
10 work that they conduct.

11 COMMISSIONER ULRICH: Four hours
12 scaffolding, etc. There are different, more
13 specialized safety training they can receive in
14 addition to that.

15 CHAIRPERSON SANCHEZ: Got it. These 130
16 providers, is it in person, is it virtual, what are
17 you seeing in terms of how folks are accessing the
18 courses?

19 COMMISSIONER ULRICH: I think it's a
20 hybrid of both. COVID obviously people had to get the
21 site safety training certification so it was a
22 challenge during COVID, and they had transitioned to
23 digital lesson plan and then virtual, live virtual
24 training, but then there's a hybrid version and then
25 there are folks who don't want to do anything on Zoom

2 or Teams and they want to come in and sit in a
3 classroom and do it the old-fashioned way so it
4 really is depending on your level of comfort and the
5 access that you have to a course provider and how
6 they want to do it.

7 DEPUTY COMMISSIONER ESPOSITO: As
8 Guillermo said, it's 130 course providers. Over 50
9 give live virtual training if they need it. Again,
10 it's done in 14 different languages also.

11 CHAIRPERSON SANCHEZ: That's great. Does
12 DOB audit the course providers after licensing them?

13 COMMISSIONER ULRICH: Local Law 196 does
14 require that we audit course providers so to date
15 we've audited all course providers and some multiple
16 times already. We perform two types of audits. One is
17 sort of a desk audit where we're checking their
18 records, making sure that they're compliant with
19 recordkeeping requirements, and then the second type
20 of audit that we conduct is that we sit in the
21 classroom and observe the training, make sure they're
22 covering required topics, that the training is
23 appropriate and it complies with our course provider
24 requirements so we've all audited all of our course
25 providers to date.

2 CHAIRPERSON SANCHEZ: All right. What is
3 the process for the cards actually to be released?
4 Are the course providers the ones that are issuing
5 the cards or is it the worksites? How does that work?

6 COMMISSIONER ULRICH: It's the course
7 providers that are issuing the card.

8 CHAIRPERSON SANCHEZ: Okay. I've heard
9 concerns that there are delays in course providers
10 and then, in turn, workers receiving those cards. Can
11 you talk about what might be some of the causes of
12 those delays? Has DOB heard these concerns as well?

13 COMMISSIONER ULRICH: Initially when we
14 started requiring the site safety training cards,
15 every course provider was doing it a little
16 differently. There wasn't a central system so to
17 speak to get the cards issued, but now we have a
18 third party provider that all the course providers
19 are using so it's a central place for a course
20 provider to check what training a worker has
21 received, if they've received the required training
22 to complete their site safety training card, and then
23 the cards are issued through that system as well, and
24 we moved to that system this year.

2 CHAIRPERSON SANCHEZ: Okay. With respect
3 to Intro 267, what information does the City, I know
4 you said, Commissioner, that every day might be too
5 often to provide that information to workers, but
6 what information does the City currently require an
7 employer to provide to construction workers and how
8 often?

9 COMMISSIONER ULRICH: Most of the
10 information that the bill is requiring is already
11 publicly on the construction site, for example, on
12 the construction fence. That includes information
13 about the contractor, the work being conducted at the
14 site, the site safety professional, and also on the
15 permits that are issued at construction sites, that
16 information is available, but we share the concern
17 that workers don't have something to walk away with
18 when they're leaving a construction site,
19 particularly when it comes to the day laborer
20 community that might only work at a site for one or
21 two days or a few weeks. We think it's helpful for
22 them to walk away with this information but not
23 necessarily before every shift. For example, when a
24 worker arrives at a construction site, they're
25 required to receive a site safety orientation so

2 maybe that's a good opportunity to do this or just
3 when they're stepping on a worksite for the first
4 time, but before every shift might be too often.

5 CHAIRPERSON SANCHEZ: Got it. Okay. All
6 right, those were actually my questions so with that,
7 I think there are a number of followup items that my
8 Colleagues have asked around so look forward to the
9 followup on that, but I want to thank you so much for
10 your testimony and look forward to the next hearing.

11 COMMISSIONER ULRICH: Thank you, Chair.

12 COMMITTEE COUNSEL: We will now turn to
13 testimony from members of the public who have
14 registered to testify, both in-person and via Zoom.

15 Please listen for your name to be called
16 if you care joining via Zoom. At that point, you will
17 receive a prompt to unmute yourself. Please accept
18 the prompt and begin.

19 In the interest of time, public testimony
20 will be limited to two minutes. We will begin with
21 Charlene Obernauer followed by G. Lafayette.

22 SERGEANT-AT-ARMS: Starting time.

23 CHARLENE OBERNAUER: Hey. Sorry. That
24 happened fast. My name is Charlene Obernauer. I'm the
25 Executive Director of NYCOSH, the New York Committee

2 for Occupational Safety and Health, and I am
3 testifying today in support of the proposed
4 legislation. If you don't know who we are and what we
5 do, one of the most notable things that we do in
6 terms of this industry is issue an annual report
7 called Deadly Skyline, and that report talks about
8 the construction fatalities that have occurred and
9 makes note of why our agency feels that those
10 construction fatalities have occurred. We know that
11 more needs to be done to create safer construction
12 sites. Data has shown that there are high levels of
13 worker fatalities in New York State and New York
14 City, and NYCOSH has found that non-union
15 construction sites are more dangerous and also that
16 LatinX workers are disproportionately impacted by
17 unsafe worker conditions.

18 Intro 267 would require the distribution
19 of employer identification cards, and we feel this
20 legislation is important because so many workers who
21 are victims of wage theft, mostly day laborers, don't
22 have accurate information about their employers, and
23 it makes it difficult to reclaim wages and makes it
24 difficult for inspectors to find out who's

2 responsible in case of worker safety and health
3 issues.

4 Intro 268 is also important, and we
5 support it. The inspections would be where there are
6 stop work orders at least every two weeks there would
7 be coinciding inspections, and I want to raise the
8 name of a worker whose life might have been saved if
9 this legislation had been in effect. Holger Molino,
10 age 45, died in April of 2022. He was working on a
11 17-story development that will be the tallest
12 building in Ridgewood once it's built. He was moving
13 material when he slipped and fell 20 feet from the
14 ground to the basement below, and the deadly fall
15 followed an incident at the site in February 2022
16 where a fence gate fell and hit a worker and a stop
17 work order was issued. I feel that if..

18 SERGEANT-AT-ARMS: Time expired.

19 CHARLENE OBERNAUER: If Intro 268 had been
20 in effect, the site would have had regular
21 inspections after the stop work order had been
22 issued, potentially saving Mr. Molino's life. Thank
23 you.

24 CHAIRPERSON SANCHEZ: Thank you so much. A
25 quick followup question. You head the

2 administration's critique that each day might be too
3 often to share this information. What do you think
4 about that critique?

5 CHARLENE OBERNAUER: It's interesting.
6 Obviously, I support the perspective of the DOB.
7 They're the ones doing the work, they're the ones
8 doing the inspections, but there does need to be some
9 kind of regular followup with these stop work order
10 sites because if there isn't we know the construction
11 continues on the low, kind of no one knows about it
12 but people in the community then make reports that
13 construction has continued, and, if you actually look
14 at that particular example on that site where Holger
15 Molino lost his life, there were numerous calls from
16 the community to DOB about work continuing despite
17 the stop worker order having been issued. Now, I
18 assume and I'm sure that DOB continued to do
19 inspections because of these calls, but we shouldn't
20 be relying on the public to make these reports to
21 DOB. We really should be relying on DOB to
22 proactively investigate when there are stop work
23 orders issues to ensure that they're not doing the
24 work anyway.

2 CHAIRPERSON SANCHEZ: Great. Thank you so
3 much. Appreciate your testimony.

4 CHARLENE OBERNAUER: Thank you.

5 COMMITTEE COUNSEL: We will now turn to G.
6 Lafayette followed by the individual from the Bronx
7 Community Board 8.

8 SERGEANT-AT-ARMS: Starting time.

9 G. LAFAYETTE: Good afternoon. My name is
10 G. Lafayette. I am a native New Yorker. I am here
11 today not to speak necessarily about the building
12 regulations in construction but more so to speak
13 about the inadequate services that are being afforded
14 to average New Yorkers such as myself. I'm seeing a
15 lot of affordable housing that is being displayed and
16 put up, I'm seeing a lot of new buildings that are
17 being constructed, and the preface is that this is
18 supposed to be affordable housing for average New
19 Yorkers. However, this is not to be the case. What
20 tends to be happening is that housing is asking for
21 40 times the income of the person applying or a
22 credit score that is out of reach of most people who
23 have credit debt, college debt, student loans, and
24 other things that prevent them from being able to
25 afford this. I feels as though this is not

2 incentivizing people who want to have independent
3 living or want to afford living in the city, and this
4 is detrimental to people who show up every day at
5 jobs to service other people who come here, and it is
6 disadvantageous for us all as a people in the sense
7 that it is preventing us all from being stable and
8 getting everyone progressively together. It is also
9 contributing to some of the issues that are happening
10 in our neighborhoods and our communities when it
11 deals with poverty or lack of resources and lack of
12 equitable income or services to us all so I'm here
13 today to speak up and advocate for this and to ask
14 that the people that are serving our communities do
15 more than just say that we are working on these
16 issues and create actual solutions to further
17 progress all of us as a community. Thank you.

18 CHAIRPERSON SANCHEZ: Thank you so much.
19 Really appreciate that. It's certainly a hot button
20 issue in my community because almost essentially
21 nothing that is constructed is affordable to our
22 folks with a median income of 17,000 per worker so I
23 want to appreciate you. I don't want to say that
24 we're working on because you just said that's not
25 what you want to here, but it's absolutely, what I

2 can say, there's different levels of government that
3 need to get involved here. The federal government
4 doesn't give us enough money because of the way that
5 they define affordability. Like you said, you go and
6 you apply for this housing and next thing you know
7 it's like your income is not enough but it's supposed
8 to be affordable for you. Part of that is because of
9 the way that the federal government defines something
10 called the area median income so it's something that
11 we're fighting to have the feds change so that it can
12 change the way that we can then finance more housing
13 here, but we have to do more on our own at the same
14 that we push for others. Thank you so much for
15 testify.

16 G. LAFAYETTE: Thank you.

17 COMMITTEE COUNSEL: Thank you. We will now
18 hear from Bronx Community Board 8. Could you please
19 for the record state your name before you begin?

20 Okay, I believe this individual is no
21 longer on Zoom.

22 If there is anyone else who has joined
23 via Zoom who would like to testify and has not yet
24 been called on, please use the Zoom raise hand
25 function, and we will call on you now.

2 Seeing no hands, I will turn it back over
3 to the Chair to conclude the hearing.

4 CHAIRPERSON SANCHEZ: Great. I'd like to
5 thank my Colleagues who joined me today, the staff
6 who helped in preparing this hearing, and all of the
7 public who testified on this important topic as well
8 as the admission. Thank you all for your
9 participation today. [GAVEL]

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C E R T I F I C A T E

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



Date October 30, 2022