

1 COMMITTEE ON HOUSING AND BUILDINGS JOINTLY WITH THE
2 COMMITTEE ON PUBLIC HOUSING, COMMITTEE ON EDUCATION
3 AND THE COMMITTEE ON HEALTH 1

4 CITY COUNCIL
5 CITY OF NEW YORK

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7 TRANSCRIPT OF THE MINUTES

8 Of the

9 COMMITTEE ON HOUSING AND BUILDINGS
10 JOINTLY WITH THE COMMITTEE ON PUBLIC
11 HOUSING, COMMITTEE ON EDUCATION AND
12 THE COMMITTEE ON HEALTH

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17 HELD AT: Council Chambers - City Hall

18 B E F O R E: Robert E. Cornegy, Jr.,
19 Chairperson for the Committee on
20 Housing and Buildings

21 Mark Levine,
22 Chairperson for the Committee on
23 Health

24 Mark Treyger,
25 Chairperson for the Committee on
Education

Alicka Ampry-Samuel
Chairperson for the Committee on
Public Housing

COUNCIL MEMBERS:

- Speaker Corey Johnson
- Fernando Cabrera
- Margaret S. Chin
- Rafael L. Espinal, Jr.
- Mark Gjonaj
- Barry S. Grodenchik
- Farah N. Louis

1 COMMITTEE ON HOUSING AND BUILDINGS JOINTLY WITH THE
2 COMMITTEE ON PUBLIC HOUSING, COMMITTEE ON EDUCATION
AND THE COMMITTEE ON HEALTH 2

3 COUNCIL MEMBERS (CONT.):

4 Bill Perkins
5 Carlina Rivera
6 Helen K. Rosenthal
7 Ritchie J. Torres

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A P P E A R A N C E S

Kathryn Garcia
Senior Advisory for Citywide Lead Prevention

Corinne Schiff
Deputy Commissioner for Environmental Health

Louise Carroll
Commissioner for the New York City Department of
Housing Preservation and Development

Ann Marie Santiago
Deputy Commissioner for Enforcement and
Neighborhood Services

Dr. Oxiris Barbot
New York City Health Commissioner

Liam Kavanagh
First Deputy Commissioner for New York City Parks
and Recreation

Rana Khan
Deputy Chief of School Operations, DOE

Steve Lawlis; Executive Vice President of the New
York City School Construction Authority

Dan Greene
Acting Chief Compliance Officer at NYCHA

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2 SPEAKER COREY JOHNSON: [GAVEL] Good morning
3 everyone. Welcome to this joint hearing of the
4 Committees on Housing and Buildings, Health, Public
5 Housing and Education.

6 I am Council Member Corey Johnson, Speaker of the
7 New York City Council. I'd like to start by thanking
8 my colleagues, Council Committee Chair's Cornegy,
9 Levine, Ampry-Samuel and Treyger for agreeing to hold
10 this joint hearing.

11 Today, we will be hearing from key city agencies
12 and advocates about the enforcement of the city's
13 Lead Laws. We'll also have an opportunity to learn
14 more about the implementation of the Administrations
15 LeadFreeNYC plan which was announced in January.

16 Our last hearing on this topic was just over one
17 year ago, occurred after extensive media reports of
18 the city's failure to address lead hazards. During
19 that hearing, we heard testimony about the disturbing
20 fact that over 4,000 children had elevated blood lead
21 levels in 2017 including over a 1,000 children living
22 in NYCHA apartments.

23 We also heard testimony about the devastating long
24 term implications of childhood lead poisoning and its
25 lasting effects on families. Most disheartening, we

1
2 heard testimony confirming our suspicions that the
3 Childhood Lead Poisoning Prevention Act enacted in
4 2004 with the goal of eliminating childhood lead
5 poisoning by 2010 would need additional amendments to
6 strengthen its impact and its reach.

7 At that hearing, we demanded answers about the
8 Administrations role in this continued crisis as we
9 sought to determine how legislation could hopefully
10 finally end it. And since then, the Council has
11 passed ten pieces of legislation that would require
12 more robust agency efforts to help prevent lead
13 poisoning, which is a great step.

14 However, there are still gaps in enforcement and
15 new young people are being identified with elevated
16 blood lead levels which compels us to revisit this
17 topic today.

18 On January 28th the Administration released
19 LeadFreeNYC outlining the Administration's new plan
20 to eliminate childhood lead exposure. These apparent
21 efforts combined with the Council's ongoing work to
22 pass lead related legislation led to a feeling of
23 optimism and progress. Unfortunately, this optimism
24 was dashed as additional reporting of Administrative
25 failures emerged.

1
2 In May, NYCHA's Federal Monitor, who was
3 installed pursuant to a January settlement agreement,
4 wrote a letter to Interim NYCHA Chair Kathryn Garcia;
5 thank you for joining us Kathryn, alleging that the
6 agency had failed to properly investigate and
7 remediate lead hazards.

8 The Federal Monitors first quarterly report
9 expanded upon these allegations detailing admissions
10 by NYCHA that they had among other things, failed to
11 comply with basic lead hazard assessment
12 requirements, failed to use lead safe work practices,
13 and falsely certified to HUD that they were in
14 compliance with Federal Lead Paint Safety
15 Regulations.

16 In June, it was reported that four elementary
17 schools had elevated lead levels in dust and in
18 paint. Subsequent inspections of classrooms where
19 young children are regularly present, had uncovered
20 nearly 2,000 lead hazards that required remediation.

21 Initially, these inspections had not been
22 expanded to common spaces where children also spend
23 time such as cafeterias and libraries. Ongoing
24 scrutiny of the city's housing stock has found the
25 city did not inspect the homes of roughly 12,000

1 children with elevated blood lead levels. And that
2 lead paint complaints made by NYCHA residents through
3 N1 were not adequately addressed.

4
5 It has been alleged that the city has failed
6 outright to enforce existing lead laws with zero
7 violations issued for critical remediation
8 requirements.

9 In short, our work is far from done which is what
10 brings us here today. There is no value in passing
11 laws to protect them from lead poisoning if the city
12 does not adequately enforce those laws. Our laws are
13 only as good as the enforcement necessary to make
14 them work. Advocates have repeatedly said that our
15 laws should be enough, but the lack of enforcement is
16 in part, the reason why over 26,000 children had
17 elevated blood lead levels between 2013 and 2018.

18 While the situation may have improved since the
19 lead laws fast in 2004, this will continue to be a
20 crisis until lead poisoning is eradicated from
21 sources in our city.

22 I want to thank many in the advocate community
23 for being here today. Your work has been
24 instrumental in passage of the current lead laws and
25 we look forward to continuing to work with you and

1
2 stakeholders to ensure that children in the city are
3 not exposed to lead in their environments. We must
4 continue to work together until all of New York City
5 is a place where children and their families can
6 learn, love, and grow knowing that they are safe.

7 And with that, I want to turn it over to the
8 Chair of our Health Committee; Chair Mark Levine.

9 CHAIRPERSON LEVINE: Thank you so much Mr.
10 Speaker for your leadership on this issue and for
11 ensuring that the Council remains active on this
12 critical issue. I want to thank my Co-Chairs as
13 well.

14 Today, we will be hearing testimony from the
15 agencies charged with enforcing our city's lead laws
16 and regulations. And from tenant advocates and other
17 interested members of the public who can speak to the
18 enforcement of our existing lead laws.

19 Let's be clear about one thing, there is no safe
20 level of lead in the blood. Even trace amounts, can
21 have serious implications on the development and
22 wellbeing of young children. That's why when the
23 city enacted its landmark legislation in 2004, the
24 Childhood Lead Poisoning Prevention Act, the bill
25 text explicitly said that we would eliminate,

1
2 eliminate lead poisoning in children in this city by
3 the year 2010.

4 That is in the text of the law that we passed a
5 decade and a half ago. Nine years after that
6 commitment should have been fulfilled, we have
7 clearly not lived up to that promise. Yes,
8 thankfully we continued to achieve dramatic year on
9 year reductions in the number of children who are
10 poisoned. But in 2018, the number of children in New
11 York City under age six, found to have elevated blood
12 lead levels was 3,866, I will say that again. In
13 2018, 3,866 children were found to have elevated
14 levels of lead in their blood.

15 These are children who will face increased risk
16 of delayed development, learning disabilities,
17 challenges in their schooling and career and more.
18 This is tragic and unacceptable. And lead poisoning
19 as we know disproportionately effects low income
20 families of color living in substandard housing. To
21 state the obvious, if this were a problem primarily
22 facing White wealthy kids, we would almost have
23 certainly solved it decades ago.

24 We must work harder to protect every child in
25 this city and to ensure that our lead laws are fully

1
2 and consistently enforced. That is the only way we
3 will reach our goal of finally eliminating once and
4 for all the hazards of lead exposure for children in
5 this city. Thank you.

6 Okay, we're going to pass it off to Co-Chair of
7 this hearing, Chair Cornegy.

8 CO-CHAIR CORNEGY: Thank you so much Co-Chair.
9 Good morning everyone, I'm Council Member Robert E.
10 Cornegy, Jr.; Chair of the Committee on Housing and
11 Buildings and representatives of the vibrant
12 neighborhoods of Bed Stuy in Northern Crown Heights.

13 I want to say thank you to the Speaker for
14 joining us today as well as for his support and
15 attention to this critical issue. I also want to
16 thank the other Chairs for agreeing to hold this
17 joint hearing.

18 Today, we will hear testimony from the various
19 city agencies charged with enforcing the city's lead
20 laws, members of the real estate industry, tenant
21 advocates and other interested members of the public
22 regarding the city's enforcement of the current lead
23 laws and regulations.

We'll also have a chance to learn more about the Administrations plan to eliminate childhood lead exposure through LeadFreeNYC.

As the Speaker noted, thousands of children in the city experience lead poisoning every year and the long term implications can be devastating. The city is taking steps to address this health crisis, but countless children remain at risk of lead exposure in their daily lives. We can no longer make excuses.

I want to thank the advocates by helping to shape our current lead laws and working with us to make them even stronger. I look forward to collaborating further as we work to end this health crisis once and for all. Thank you.

We're going to hear from Chair Mark Treyger.

CO-CHAIR MARK TREYGER: Thank you, thank you to the Speaker, to the Chairs. Good morning, I am Council Member Mark Treyger; Chair of the Education Committee. I'd like to thank Speaker Johnson for joining us today as well as Chairs Cornegy and Levine and Chair Ampry-Samuel for holding this critical hearing on LeadFreeNYC and the city's enforcement of existing lead laws.

1
2 While the Department of Education's fundamental
3 mission is to provide students with a quality
4 education, protecting the health of students is also
5 a primary responsibility. For that reason, at the
6 Education Committee's 2018 Budget hearings, let me
7 repeat. 2018 Budget hearings, a year before this is
8 all going on, I raised questions and concerns with
9 DOE and SCA about lead paint in schools and at the
10 time, my Committee was assured that there were robust
11 testing protocols in place. That they were in
12 compliance and they were following the rules and kids
13 are safe, everything is fine.

14 But recent reports suggest these protocols were
15 inadequate and certainly DOE was not transparent. A
16 June 2019 WNYC investigation revealed high levels of
17 lead paint contamination in four New York City
18 schools. In response to these findings, DOE
19 announced accelerated summer inspections of
20 classrooms occupied by 3K, PreK, Kindergarten and
21 first grade students in schools built prior to 1985
22 and promised that lead remediation would be completed
23 in all of those classrooms before the first day of
24 school. Subsequently DOE inspections found lead base
25

1 paint in more than 1,800 classrooms serving children
2 age six and under that required remediation.

3
4 In August of this year, Speaker Johnson and I
5 sent a letter to Chancellor Carranza calling on the
6 DOE to test and remediate common spaces in schools,
7 including stairwells, resource rooms for special
8 education services, art rooms, libraries, bathrooms,
9 cafeterias, gymnasiums, and auditoriums.

10 I also want to note that I personally was very
11 disappointed and insulted that the Mayor of New York
12 at a press conference made a mockery of our request
13 about testing common spaces suggesting that kids
14 don't get lead poisoning in hallways or in some of
15 the common spaces. I remind the Mayor that because
16 of overcrowding in New York City schools, some of our
17 hallways and common spaces are used as instructional
18 spaces.

19 He should visit schools more often and see that
20 for himself. On September 3rd, the DOE and SCA
21 announced completion of the remediation in effected
22 classrooms and also stated that by the start of the
23 20-21 school year, independent contractors would
24 inspect, test and remediate cafeteria's and libraries
25 serving 3K, kindergarten and 1st grade students.

DOE has also announced plans to increase visual inspections for lead paint from once per year to three times per year and to develop a centralized database to monitor lead based paint hazards in schools. While these expanded inspection protocols and monitoring efforts are certainly welcome and much needed, they are not sufficient. Testing for remediating lead based paint in cafeteria's and libraries is essential but what about stairways, bathrooms, art rooms, other common spaces like gymnasiums, auditoriums, and I think we're hearing that they might include some more but we need to push for all common spaces.

Children spend a considerable amount of time in these spaces and many are used for daily instruction particularly in schools that are overcrowded like I mentioned. What about resource rooms where special education services are provided to some of our most vulnerable and medically fragile students.

What's also incredibly troubling is the lack of information regarding DOE's past lead inspection procedures and records of inspection results. I am also concerned about a seeming lack of communication and coordination among DOE and other agencies

including DOHMH on lead poisoning in children and
lead contamination in schools.

Who is responsible for conducting regular lead
inspections in schools? What type of training is
provided to these staff members? Does DOE inspect
for lead in dust as well as chipped paint? How does
DOE communicate with parents when lead based paint is
found in a school? How many city school children
have been poisoned by lead found in their schools?
What is the DOE and City Hall doing when they find
cases in schools? What is the response? Does DOHMH
tell DOE when our students have lead poisoning? Has
DOE set up a protocol for when a child has lead
poisoning?

We have learned in our briefings; I want to thank
the Speaker and his staff and the central staff and
my staff who has been very, very helpful because we
learned in our briefings that if a child under six
years old is found to have lead poisoning, DOHMH will
inspect areas where that child spends more than five
hours of their time in a day except at the school
house gate.

They test all areas, but their service stops at
the schoolhouse gate, why? Why is there such a

1
2 discontinuation of service from DOHMH at the
3 schoolhouse gait?

4 These are just some of the questions I have for
5 DOE and other agencies today and I want to make it
6 very, very clear that I am not happy. I think you've
7 already heard that in my voice today. The Council
8 has not been told the full record and the full truth
9 on this very serious issue about lead contamination
10 in schools. Clearly, this is a topic that we have a
11 lot to examine today about children's exposure to
12 lead in schools.

13 Today's hearing will provide an opportunity for
14 the Administration to address these concerns. It
15 will also provide an opportunity for students,
16 educators, parents and experts to share their
17 concerns and provide recommendations regarding ways
18 to prevent childrens exposure to lead in schools.

19 I want to thank everyone who's testifying today.
20 I want to thank the Education Committee staff for
21 their work, Malcom Butehorn, Jan Atwell, Kalima
22 Johnson, Chelsea Baytemur. I also want to thank my
23 Chief of Staff Anna Scaife and my Policy Director
24 Venessa Ogle. I will now turn the mic over to my Co-
25 Chair Council Member Ampry-Samuel.

CO-CHAIR AMPRY-SAMUEL: Good morning everyone, I am Council Member Alicka Ampry-Samuel and I Chair the Committee on Public Housing and I just want to also recognize members of the Public Housing Committee who are here today. Council Member Diaz, Council Member Van Bramer and Council Member Richards.

The Speaker of the Council as well as the Chairs of the Committees on Housing and Buildings, Education, and Health have all spoken today about lead and the detrimental impact on the development of children.

We've been speaking about lead for a long time. It was December of 2017, when the Public Housing Committee held a very alarming hearing on lead based paint conditions at NYCHA apartments and as a reminder, this is 40 years after the federal government banned the use of lead based paint in residential buildings. And 15 years ago, the City Council passed a Childhood Lead Poisoning Prevention Act which requires landlords to investigate and remediate. Simply stated, find it and fix it. Over the past two years this Council has made strides in pushing for the reduction of childhood lead poisoning in the city, but we have not eliminated lead

1 poisoning. And the question remains how far have we
2 come? Thousands of children, one of our most
3 vulnerable populations, are still living in
4 apartments with lead based paint on the walls and
5 going to schools with lead contaminated water
6 fountains.
7

8 Our homes and schools should be safe for
9 children, not put their health at risk. We have a
10 responsibility to make sure these are places where
11 children have the opportunity to grow, develop,
12 learn, and thrive. The starting place to become a
13 productive healthy adult who is able to contribute to
14 society. The starting point in our children's lives
15 should not also be the developmental stopping point.
16 Childhood lead poisoning is a preventable problem.
17 Again, simply stated, find it and fix it.

18 So, today, I look forward to hearing from the
19 Administration about its preventive efforts. Hearing
20 about your response to the Federal Monitor's Second
21 Quarterly Report findings and I also look forward to
22 discussing how we can strengthen the enforcement and
23 improve remediation today, so that our children have
24 a better tomorrow. Thank you, Mr. Speaker.
25

1
2 SPEAKER JOHNSON: Thank you Chair Ampry-Samuel.
3 The Chair just mentioned some of the members that are
4 here, but I want to mention all the members that are
5 joining us today. We have Council Member Diaz Sr.,
6 we have Council Member Richards, Chairs Treyger,
7 Cornegy, Levine, Ampry-Samuel, Council Member
8 Grodenchik, Council Member Brannan, Council Member
9 Van Bramer, Council Member Lander, Council Member
10 Rivera, Council Member Holden, and Council Member
11 Powers.

12 I'm going to ask the Committee Council to swear
13 in the witnesses that are before us today and then
14 they may begin.

15 COUNCIL CLERK: Thank you. Right hands up. Do
16 you affirm to tell the truth and nothing but the
17 truth and to respond honestly to Council Member
18 questions?

19 PANEL: I do.

20 COUNCIL CLERK: Great.

21 SPEAKER JOHNSON: Thank you.

22 KATHRYN GARCIA: Thank you. Good morning Speaker
23 Johnson, Chairs Levine, Treyger, Ampry-Samuel and
24 Cornegy and Members of the Committee on Health,
25 Education, Public Housing and Housing and Buildings.

I am Kathryn Garcia and I am testifying before you in my capacity as Senior Advisory for Citywide Lead Prevention.

I would like to thank you on behalf of the de Blasio Administration for the opportunity to provide updates on LeadFreeNYC and the enforcement of New York City's lead laws. I am joined by Dr. Barbot; Commissioner for the New York City Department of Health and Mental Hygiene. Corinne Schiff; Deputy Commissioner for Environmental Health. Louise Carroll; Commissioner for the New York City Department of Housing Preservation and Development and Ann Marie Santiago; Deputy Commissioner for Enforcement and Neighborhood Services.

Also, here today, are colleagues from the Department of Education, the School Construction Authority, the New York City Housing Authority, the Department of Parks and Recreation, the Department of Buildings and the Department of Environmental Protection.

Mayor de Blasio appointed me as the Special Advisor for Citywide Lead Prevention in October of 2018 and since that time, I have worked with elected officials, advocates, and my administration

colleagues to develop and launch LeadFreeNYC, a comprehensive program to eliminate lead exposure for New York City children.

In developing this program, we employed a two fold approach. One, proactively prevent lead exposure, exposure to lead hazards and two, respond quickly and comprehensively when a child has an elevated blood lead level.

Through the groundbreaking initiatives that comprise LeadFreeNYC, we are increasing screening and support services for children working to eliminate lead paint hazards and exposure to dangerous consumer products, managing water and soil hazards despite their low risk and conducting expansive public outreach.

I look forward to discussing the LeadFreeNYC plan and progress we have made. I would like to thank this Council and you personally, Speaker Johnson for your dedication to strengthening the protections and procedures of our city's local lead laws.

In LeadFreeNYC we committed to lowering the threshold for the amount of lead and paint and dust that triggers remediation and abatement and legislation spearheaded under your leadership

1
2 codified these more protective standards, the
3 strongest in the nation.

4 These new thresholds empower city agencies to go
5 further to protect children from even lower levels of
6 exposure. Every day with the full force of our city
7 agencies we are recommitting ourselves to finding
8 every child who has been exposed to a lead hazard and
9 to identifying every potential source of that child's
10 exposure. We're doing more to educate parents and
11 everyone who cares for our city's children.

12 We are unwavering in our commitment to [**INAUDIBLE**
13 **35:40**] lead exposure in New York City and are using
14 every resource at our disposal to make that goal a
15 reality.

16 New York City has long been a national leader of
17 protective policies to reduce childhood lead
18 exposure. In 2004, the New York City Council enacted
19 Local Law 1, granting the city expansive powers to
20 hold landlords accountable for addressing lead paint
21 hazards. The new legislative power spread dramatic
22 declines in childhood lead exposure in New York City.

23 Since 2005, the city has seen a 90 percent
24 decline in children with elevated blood lead levels
25 of 5 micrograms per deciliter or above. I am pleased

1
2 to report that in the first half of 2019, New York
3 City witnessed a further 10 percent citywide decline
4 in the number of children with elevated blood lead
5 levels when compared to the same period the year
6 before.

7 But we know that the only acceptable number of
8 children exposed to lead in our city is zero.

9 Elevated blood lead levels can cause irreversible
10 developmental effects in children, including
11 adversely affecting physical and mental growth and
12 causing learning and behavioral problems.

13 Fortunately, lead exposure is preventable and through
14 LeadFreeNYC, we have the resources and the policies
15 in place to identify and eradicate lead health risks
16 at their source. We will continue to engage all
17 stakeholders until no child is exposed to lead
18 hazards in our city.

19 Lead paint constitutes the most commonly
20 identified source of childhood lead exposure in New
21 York City. When lead paint deteriorates, young
22 children who explore the world with their hands and
23 mouth, can ingest lead paint or the dust it turns
24 into. Local Law 1 requires landlords to determine if
25 a child under the age of six resides in an apartment

and if so, to inspect for and fix any lead paint hazards.

The law also requires landlords to ensure that apartments are free of lead paint hazards upon turnover. Because landlords are the first line of defense in ensuring that lead based paint stays intact in their building and remains safe for children. HPD has conducted extensive outreach to property owners.

HPD is ramping up these efforts as we approach January 2020, when owners conduct their annual notice and annual inspections including the Get A Head of Lead Campaign, which started at the beginning of November.

Under LeadFreeNYC, we committed to increasing the enforcement and scope of Local Law 1 in order to address lead hazards in more places and at lower levels of lead. As previously mentioned, through our partnership with this Council, we successfully lowered the definition of lead paint and lead dust. The change has enabled to help the Department to take additional enforcement actions in places that would previously have been outside our reach. And HPD will

1 expand its work once the XRF machine technology is
2 certified.

3
4 HPD and the Health Department work to create a
5 building lead index in order to prioritize, audit
6 proactive inspections and outreach efforts. HPD's
7 rules go into effect in December and HPD will
8 immediately begin demanding building records. The
9 criteria for selection including testing positive for
10 lead paint and receiving violations for deteriorated
11 sub surfaces such as mold and leaks. HPD will also
12 randomly select buildings based geographic areas with
13 a prevalence of children with elevated blood lead
14 levels.

15 As part of these audits, HPD will begin issuing
16 violations for turnover and failure to conduct the
17 annual notice and annual inspection processes. HPD
18 is clarifying that landlords can apply to receive
19 exemptions from Local Law 1 requirements as either
20 lead safe or lead free.

21 Exemptions can be granted for individual
22 dwellings or for an entire building. The lead free
23 exemption requires submission of testing and
24 documentation that the unit or building no longer
25 contains lead based paint. The lead save exemption

requires submission of testing and documentation that lead paint surfaces have been contained or encapsulated.

Under LeadFreeNYC, we committed to an aggressive increase in our oversight of construction work to ensure it is being done safely. Common renovation activities such as sanding, cutting and demolition can create lead dust and paint chips that can be a hazard if not controlled using safe work practices.

In March 2019, the Health Department, the Department of Buildings, began sending inspectors to conduct surprise joint inspections of construction sites. Sometimes accompanied by the Federal Environmental Protection Agency in order to identify work that poses a lead dust hazard.

To date, the agencies have conducted 63 joint inspections identifying unsafe work practices at 11 of the sites and issuing 39 violations and 10 stop work orders. Ensuring that lead paint hazards are addressed in public housing and city housing programs constitutes another vital component of LeadFreeNYC.

More than 400,000 New Yorkers live in public housing and the city has developed a robust plan to

inspect these homes and address identified lead paint hazards.

NYCHA has launched an unprecedented \$101 million initiative to test more than 134,000 apartments for the presence of lead based paint using high-tech XRF analyzers by the end of 2020.

Testing began this spring at Harlem River Houses and as of November 12th, nearly 21,000 apartments across all five boroughs have been tested. About 16 percent of the total goal. Residents are receiving test results for their apartments and results are being posted on the NYCHA website.

Protecting the health and safety of our youngest New Yorkers is a core principle of our LeadFreeNYC work. This commitment to child welfare has informed the Department of Education's enhanced protocols and increased transparency around lead paint inspections. Over the summer custodians and independent inspectors retained by the School Construction Authority conducted visual inspections in 8,438 rooms across all five boroughs and successfully remediated 1,860 rooms.

This year, independent contractors will inspect XRF test and remediate cafeteria's and libraries

1 serving 3K, PreK, kindergarten, and 1st grade
2 students.
3

4 As of October 5th, SCA consultants and contractors
5 visually inspected and as necessary XRF tested and
6 stabilized any deteriorated lead based paint in
7 cafeteria's and libraries of all 880 school buildings
8 that were built before 1985 and are attended by
9 children under the age of 6.

10 As part of the DOE's enhanced protocols,
11 inspections will now include gymnasiums, auditoriums,
12 and bathrooms. Inspection stabilization and
13 remediation of these additional spaces will begin
14 next month. In an effort to increase oversight and
15 transparency of this important work, DOE has taken
16 proactive steps to closely track and clearly
17 communicate remediation effort with staff and
18 families including logging paint findings in
19 applicable rooms three times throughout the year and
20 posting the results online. In addition, Ernst and
21 Young is conducting a review of DOE's protocols and
22 procedures to ensure they are as strong as possible.
23 The review will be completed by the end of the
24 calendar year.
25

As part of the Health Departments lead prevention work, the agency monitors all blood lead test results for the city's children and conducts an environmental investigation for all children with an elevated blood lead level. The investigation includes a comprehensive risk assessment interview with the child's family designed to identify potential sources of lead exposure, so that all plausible sources can be addressed.

To ensure that children with EBLL's receive timely follow up blood lead tests and developmental and nutritional assessments and services, every family is connected with a department nurse to coordinate care.

By reducing the threshold for investigation and care coordination's to 5 micrograms per deciliter, the department is now protecting thousands more children. New York City has a very high testing rate but under LeadFreeNYC we are working to drive the number even higher. Multiple new initiatives aimed at encouraging blood lead testing have already shown success. The Health Department is now matching birth records and blood lead testing information to identify children who miss their one year old or two

1 year old test and is sending those families reminder
2 letters as well as phone calls.
3

4 Data from the first eight months of the program
5 show an approximately 1,800 additional children
6 tested. To promote the importance of blood lead
7 testing for children under age three, the Health
8 Department launched a citywide media campaign earlier
9 this year and thanks to new local laws enacted by the
10 Council, multiple agencies now have health department
11 educational material to distribute to the families
12 they serve.

13 As of April 2019, when an HPD inspector
14 identifies a lead paint hazard in an apartment with a
15 child under six, the inspector helps the tenant
16 immediately contact the Health Department to check
17 the child's testing history and refer to a healthcare
18 provider as needed. The Health Department speaks to
19 about 200 New Yorkers a month through these on the
20 spot referrals.

21 Unsafe consumer products including certain
22 ceramics, jewelry, cosmetics, toys and spices sourced
23 from other countries constitute the second most
24 frequently identified source of lead exposure for
25 children in New York City behind paint.

1
2 Through LeadFreeNYC, we committed to increasing
3 regulations in raising awareness about lead levels in
4 consumer products. In addition to creating a lead
5 product index to educate business owners and shoppers
6 about products that may contain lead and our ban from
7 sale, the Health Department is developing a consumer
8 products awareness training expanding its proactive
9 consumer product sweeps and last spring, launched a
10 media campaign to educate the public about
11 contaminated products that resulted in approximately
12 28,000 monthly visits to the Department of Health's
13 Hazardous Lead Products website.

14 Health Department data shows that even with the
15 lower lead level for intervention, lead paint and
16 consumer products remain by far the most commonly
17 identified source of childhood lead exposure. The
18 Health Departments most recent analysis of data from
19 investigations of approximately 1,500 children under
20 the age of 18 with elevated blood lead levels
21 demonstrates that 64 percent of these children were
22 exposed to lead based paint hazards and 10 percent
23 were identified as at risk for exposure to detectable
24 lead in consumer products such as food, spices, toys,
25 pottery, cosmetics or medications.

Crucially the data indicates that less one percent of children in the analysis were potentially exposed to lead in soil or water and for all of these cases, there were other risk factors and/or lead based paint hazard also identified.

We are confident that the Health Departments risk based approach to investigating lead exposure sources coupled with coordinated care for families and children with elevated blood lead levels will enable us to continue to reduce the number of children with elevated blood lead levels in New York City.

As the data from the Health Department and the Department of Environmental Protection confirms New York City's water supply is safe and delivered virtually to lead free to buildings. Our water is tested over 600,000 times each year at various points throughout the system. However, in order to address the small risk posed by privately owned water service lines and internal building plumbing and fixtures that contain lead, LeadFreeNYC implemented a lead service line map and pilot service line replacement program for low income homeowners.

This map, which is available on the LeadFreeNYC website, promotes greater transparency and clarifies

1
2 for owners and tenants whether their building uses a
3 lead service line.

4 DEP also provides free water testing kits for
5 residents that are concerned about lead. DEP is
6 currently developing a pilot program in partnership
7 with the State Department of Health to leverage grant
8 funding to replace lead service lines for low income
9 single family homeowners. About 300 homeowners have
10 applied to the program and DEP is securing a vendor
11 to begin replacement work next month.

12 The Department of Parks and Recreation tested all
13 of its approximately 3,500 water fountains and
14 fixtures in park facilities citywide. Fountains with
15 lead exceedances were immediately taken offline and
16 scheduled to be remediated and the agency posted a
17 publicly accessible online map with found locations
18 and testing results.

19 After this process, fewer than ten fountains
20 remain offline for long-term lead related repairs.
21 Parks will test one fifth of it's fountain each year
22 moving forward.

23 As I stated, soil is rarely identified as a
24 potential source of lead exposure for children with
25 elevated blood lead levels. To mitigate soil risk

1 there are simple steps parents can take including
2 hand washing after planting in soil or gardening.
3 Leaving dirty toys or tools outside, mulching garden
4 paths and growing fruits and vegetables in raised
5 beds. LeadFree worked with Community Gardens to
6 develop signage about these strategies.
7

8 Through our continued partnership and the
9 implementation of strong laws, policies, and
10 programs, I am confident that New York City will
11 remain at the forefront of protecting children from
12 lead exposure. With your help, we will continue to
13 educate New Yorkers about lead hazards and prevention
14 strategies as we work to make a lead free New York
15 City a reality.

16 Thank you, we are happy to take your questions.

17 SPEAKER JOHNSON: Thank you Commissioner, thank
18 you all for being here. I appreciate all of the work
19 that you have put in and I know that you've been
20 doing double duty in doing this job and you were
21 filling in at NYCHA and you were being Commissioner
22 of the Department of Sanitation, so I really
23 appreciate the dedication that you've shown to the
24 City of New York and doing a really great job on all
25 of those things.

1
2 So, I want to thank you for your tremendous work
3 and commitment on these issues. I want to start off
4 by saying that I'm of course grateful of all of the
5 things that you all are doing and that you've done
6 since we had this hearing a year ago. There are two
7 things that I find a little concerning. Number one,
8 one of the things that was not in your testimony was
9 sort of the explicit number of children who have been
10 poisoned in the last year. And I think it's
11 important for us to be very honest, transparent, open
12 about that. Not to just talk about percentages of
13 the decrease but actually say that in 2018, the
14 Department of Health identified 3,866 children who
15 were poisoned.

16 KATHRYN GARCIA: And I'm happy to say that of
17 which 3,754 lived in private housing and 112 lived in
18 public housing. In this first six months of this
19 year, 1,794 children had an elevated blood lead level
20 above five micrograms per deciliter. Of which, 49
21 lived in public housing, so I'm happy to provide you
22 with the data.

23 SPEAKER JOHNSON: Thank you. If Local Law 1 and
24 the Administrations efforts to mitigate childhood
25 lead exposure are so effective, why are thousands of

1 children in the city still being exposed to lead
2 every year?

3
4 KATHRYN GARCIA: So, I mean, I think that this is
5 going to be an ongoing challenge. This is about
6 ensuring that we are reducing those hazards, and I
7 think that what you did last year in terms of
8 strengthening Local Law 1 will be very important
9 moving forward. But as the Health Department data
10 continues to show failing lead based paint consumer
11 products are the primary exposure pathways for young
12 children. And so, holding landlords accountable for
13 maintenance in their buildings is still a primary
14 piece of this.

15 One of the things that we'll be doing with the
16 next round of property registrations is that HPD is
17 making changes to their system, so that landlords
18 will have to affirmatively say, not just hold on to
19 the paper but affirmatively tell the system that they
20 have done their visuals and they have done their
21 appropriate abatement in lead hazard mitigation upon
22 turnover. And in addition, we are going to be doing
23 a lot more enforcement through the building lead
24 index to bring up sort of, focused on areas where we
25 know that there have been challenges to try and

1 really target enforcement, to where we think the bad
2 landlords are.
3

4 SPEAKER JOHNSON: I just want to – he's going to
5 testify later but Matthew Chachere from the Northern
6 Manhattan Improvement Corporation is here, and he has
7 a pretty lengthy testimony given his history on
8 working on this issue for over 25 years and I just
9 want to read an excerpt of his testimony that he's
10 going to be reading later today.

11 He says over a year ago at the last oversight
12 hearing on September 27, 2019, I and a number of my
13 fellow advocates shared a detailed report on the
14 failures of the Administration to enforce the city's
15 lead poisoning prevention laws.

16 That report titled Lead Loopholes, identified
17 numerous areas where the intentions and mandates of
18 Local Law 1 were ignored. And the consequences to
19 those affected families.

20 The conclusions of that report were not seriously
21 tested by anyone. Indeed, in response to questions
22 from the Speaker of the City Council and other
23 members of the Council during that oversight hearing,
24 administration officials essentially admitted that
25 the city had failed to place any violations against

1 landlords for failing to comply with their
2 obligations to permanently abate lead paint on the
3 highest areas of apartments at turnover of vacant
4 apartments and to perform annual inspections of child
5 occupied apartments for lead hazards. He goes on and
6 he says, in the ensuing year, I along with other
7 advocates have worked closely with Council staff to
8 help refine some of the many pending legislative
9 proposals to cure some of the problems identified in
10 our report.
11

12 Some of these were adopted in the ten bills
13 enacted in April as Local Law 64 and 73 of 2019. But
14 significant areas remain unresolved. As I indicated
15 earlier, our data last year indicated that in the 14
16 years since Local Law 1 of 2004 went into effect, the
17 city had failed to issue a single violation against
18 any landlord for failing to perform the mandated
19 annual inspections. Not one in just one violation
20 for failing to do the turnover abatement in a case
21 that he litigated in 2010.

22 He writes, last night, I ran an analysis of all
23 HPD lead violations issued since 1982, that's 37
24 years ago. Using the city's open data portal. A
25

1 tabulation of which appears at the end of my
2
3 testimony.

4 The good news is that after 15 years, the City
5 Council has now for the first time, the City has
6 issued now for the first time two violations, two
7 violations for failure to conduct inspections. It
8 has now doubled the number of violations to two. The
9 bad news is, these violations were issued only after
10 I Matthew Chachere, took both the landlord and HPD to
11 court. None of this took place by the city's own
12 proactive elision of going in and doing enforcement.
13 And tragically, in both of these case where now
14 violations have been issued, my clients children have
15 already been poisoned. And in one instance,
16 repoisoned because of the lack of enforcement.

17 So, I just want to hear today again, we passed
18 the laws and we worked collaboratively together
19 earlier this year to enact stronger laws, the
20 strongest laws in the country. But what I still have
21 very significant concerns about, especially hearing
22 this testimony today on the lack of enforcement, what
23 is going to change now with LeadFreeNYC to ensure
24 that there's not one enforcement action taken or two
25 enforcement actions taken, but what are we going to

1 do to ensure that the thousands of children, over
2 3,000 that were poisoned in 2018, that we are going
3 in and proactively enforcing to again, as you said in
4 your testimony get that number down to zero.
5

6 KATHRYN GARCIA: Thank you, thank you Speaker and
7 I want to thank Matthew Chachere; he's been part of
8 our advisory work with LeadFreeNYC and we certainly
9 look the lead loopholes very seriously as we were
10 developing the report.

11 I think that in their lead loopholes, they called
12 on us to do a hundred audits a year. We committed to
13 do 200 audits a year and that's starting in December
14 when HPD's rules are finalized through CAPA process.

15 You know, we want to make sure that we are being
16 proactive. We also want to make sure that we are
17 being very public in our enforcement. And so, I
18 think that you're going to see much more enforcement
19 going forward. So, not only will people be
20 certifying into the system but also, they're going to
21 go and pull the records and demand all of the
22 records.

23 In this instance as well and in instances where
24 they already do for anytime there is a CODA. So,
25 there is both going to be sort of a random you know,

1 based on an algorithm, random pulling of buildings.

2 But anytime there is a child with an elevated blood
3 lead level, that information is passed to HPD for
4 them to do records pulls.
5

6 So, I'm going to ask if the Commissioner has
7 anything else to add?

8 LOUISE CARROLL: Thank you, Commissioner Garcia.

9 So, HPD cares deeply and it is a priority for us.

10 The safety and quality of our buildings and our
11 children. Our work has been primarily prevention.

12 Our work in prevention has been that when our
13 inspectors go to a unit, they ask if a child under
14 six resides there.

15 If they find conditions that they believe will
16 affect a child's health, pursuant to lead, they will
17 make sure that there is a handoff to the Department
18 of Health so that that family gets ongoing services.

19 All of our prevention efforts, we believe, with
20 us and our partners at this table, have resulted in
21 that 90 percent decrease in elevated blood lead
22 levels. In the past year, there was also a 10
23 percent additional decrease.

24 As Commissioner Garcia said, you know recognizing
25 that we're now on the right path for prevention and

1
2 that we have the right tools as part of LeadFreeNYC,
3 we spent the last ten months putting together the
4 rules that we have put out in the public, which will
5 become effective in December to let owners know what
6 the requirements are for these laws.

7 We have started an aggressive campaign, we sent
8 bulletins and flyers to every owners building and
9 unit, informing them of what the requirements are.

10 SPEAKER JOHNSON: How many violations have been
11 issued this year by HPD, since we had the hearing a
12 year ago, how many active violations have been issued
13 against landlords that are not complying with the
14 law?

15 LOUISE CARROLL: So, before I let my Deputy
16 Commissioner step in to add any further information,
17 we are committed to doing the turnover audits and
18 violations. We committed to do 200 instead of the
19 100 and we've laid the groundwork in the last ten
20 months to do -

21 SPEAKER JOHNSON: But I don't want to conflate
22 these things. It's important for us to separate.
23 The audits are great and I'm glad that the
24 Administration agreed to do more than what the
25 advocates were even asking for when we had this

1 hearing nearly a year ago. But the audits are
2 different than issuing violations. They are separate
3 things, so let's not put those two things in the same
4 bucket. I want to know how many active violations
5 has been issued in the last year.
6

7 ANN MARIE SANTIAGO: Thank you Council Member for
8 that question. The audits and the violation issuance
9 are actually one in the same process. So, as part of
10 the audit process, we ask the property owners for all
11 of their documentation on which we would base the
12 issuance of those violations.

13 So, for the past year, what we've tried to do, as
14 the Commissioner alluded to, is remind property
15 owners about what their responsibilities are. To
16 that end, we try and develop new tools for them to
17 make sure that they can come into compliance. Most
18 owners well maintain their buildings and we trust
19 that with more guidance they will be able to meet the
20 requirements of Local Law 1, which include
21 documenting their annual notice, documenting their
22 annual inspection.

23 We've put those documents up on the website. We
24 plan to provide bullets into them next week on that
25 and we also plan to make calls to all of the property

1 owners who are registered in very early January to
2 remind them about the time period in which they are
3 supposed to do these things.

4
5 SPEAKER JOHNSON: How many violations have been
6 issued in the last year?

7 ANN MARIE SANTIAGO: We've been trying to provide
8 the education, so that when it comes time to do the
9 audits and we request the documents, the landlords
10 will have that information. Our goal is to bring the
11 owners into compliance.

12 SPEAKER JOHNSON: How many violations have been
13 issued in the past year?

14 KATHRYN GARCIA: Yes, we've issued over 13,000
15 violations for peeling paint conditions, that our
16 inspectors see as Commissioner Carrol said. Those
17 are in many cases proactive because the tenant is not
18 complaining about lead based paint but when we go
19 into the apartment, our inspectors do that visual
20 surface by surface inspection and find those
21 conditions and issue those violations. That is the
22 most proactive that we can be in protecting the
23 children that we see at the time of the inspections.

24 SPEAKER JOHNSON: Commissioner Barbot, what can
25 happen after a child is exposed to lead? Could you

1 walk me through what the effect is on a child that is
2 poisoned by lead?

3
4 DR. OXIRIS BARBOT: Sure Mr. Speaker, I think as
5 was stated during Commissioner Garcia's testimony, we
6 through LeadFreeNYC and through the work that the
7 Health Department has done since New York City became
8 a leader in lead prevention, is to ensure that we
9 minimize the number of children that are exposed to
10 lead in New York City.

11 The effects of lead exposure can be varied. Each
12 individual will have different responses but
13 typically, the important thing to note is that
14 children can have symptoms that relate to their
15 development, such as language development. Such as
16 behavior to varying degrees. The important thing to
17 note here is that especially with the new measures
18 that have been put in place with LeadFreeNYC, there
19 are services to help link these kids to the care that
20 they would need moving forward, such as for example,
21 early intervention.

22 I want to emphasize that again, the degree of
23 symptoms is varied. We follow children until their
24 lead goes below five, to make sure that if there are
25 symptoms that we haven't seen, to make sure that if

1
2 children are not linked to medical care, we get them
3 linked to proper ongoing pediatric care and provide
4 support with our nurse care management services.

5 SPEAKER JOHNSON: The road map to eliminate any
6 childhood lead exposure states that the city has
7 adopted a "new goal" of reducing childhood lead
8 exposure to zero. That's what the report states.
9 What was the previous goal? It was zero, right?

10 KATHRYN GARCIA: It was zero in Local Law 1 of
11 2004.

12 SPEAKER JOHNSON: Studies have shown that
13 eradicating lead paint hazards would save billions of
14 dollars in future healthcare and education costs.
15 Further, we have heard estimates that lead poisoned
16 children in the city will collectively lose over a
17 billion dollars per year in future earning and with
18 these economic considerations, why hasn't the city
19 been more proactive in devoting resources to the
20 elimination of childhood lead poisoning before you
21 became Lead-zar[SP?], why was the city not being
22 proactive before that?

23 I mean, as I said at the beginning of this, a
24 tremendous amount of work has been done over the past
25 year and I think your testimony outlines that work

1
2 that's been done with advocates, with the Council,
3 passing legislation but it just feels like this issue
4 has been ignored for so long. Even with the
5 reductions, knowing the effect it has on children and
6 the future affect it has on our city.

7 It feels like it was not getting the requisite
8 and appropriate level of resources and leadership to
9 getting the number down to zero, since that was the
10 goal in Local Law 1 of 2004.

11 KATHRYN GARCIA: And thank you for that question
12 Mr. Speaker. You know, obviously I can't speak to
13 exactly what the resource allocation was prior to my
14 involvement but I will say that everyone that I have
15 engaged with on the Administration side, who works on
16 this issue has been totally committed to these
17 children and to driving this number down. No one
18 wants to see anyone get exposed to a lead hazard and
19 have it impact them developmentally.

20 We are trying to make a renewed effort and I
21 think one of the things is, was Local Law 1 of 2004
22 enough? I think that both you and the Administration
23 feel that there was more to do, and we needed to make
24 a renewed commitment to driving the number down.

1
2 But I honestly can't really speak to what
3 happened after 2004 to when I became involved.

4 SPEAKER JOHNSON: I have a question for both
5 DOHMH and HPD. When DOHMH finds that one, two, three
6 children have been poisoned in the same building,
7 does HPD then go proactively inspect other units in
8 that building with children under six?

9 DR. OXIRIS BARBOT: So, Mr. Speaker, let me begin
10 and I'll have Corinne Schiff add as well.

11 So, our process when we find that a child has
12 elevated blood lead levels and we then do an
13 assessment and an environmental investigation, we
14 then look at our records to determine whether there
15 are children below the age of six months to do
16 proactive investigations. Because our posture here
17 is to do as much as possible to prevent ongoing
18 exposures.

19 And so, in that process, we then communicate with
20 HPD to ensure that again, not only the initial child
21 that was identified but any other children in that
22 building who are below six months of age, have the
23 environmental investigations that are needed.

24 SPEAKER JOHNSON: So, does HPD go in and inspect
25 other units proactively in that building?

1
2 CORINNE SCHIFF: So, I will add, the work that
3 Commissioner Barbot just described is the work that
4 the Health Department does looking in the rest of
5 that building for very, very young children, for
6 babies to prepare that apartment for when those
7 babies start to crawl.

8 In addition, what Local Law 1 does is have us
9 refer those apartments where we have found a lead
10 paint hazard in a child under six, to HPD, to do the
11 work that you describe. And one of the really
12 important things that the Council did with the
13 legislation that was enacted last spring is change
14 that intervention level. So, that work, that sort of
15 loop that is in Local Law 1, which requires
16 prevention was effective for children with a blood
17 lead level of 15 micrograms per deciliter in Local
18 Law 1.

19 With the change that you made, that loop, now
20 happens with children at a blood lead level of 5
21 micrograms per deciliter and I think that's going to
22 be a tremendously affective way to address lead and
23 to do prevention. And HPD can describe the
24 activities that they take when we refer that to them.

1
2 LOUISE CARROLL: Just before I turn it over to my
3 Deputy Commissioner, I just want to say that you
4 know, we get the handoff from the Department of
5 Health after they inspect. But you know, we have the
6 hand off going the other way around too.

7 So, when we inspect a property and we find that
8 there are conditions where a child under six lives,
9 we also do a hand off to DOHMH and that hand off is
10 occurring at that lower level of five milligrams per
11 deciliter, not at the higher level that was in the
12 prior law.

13 ANN MARIE SANTIAGO: Thank you. The handoff from
14 HPD to DOHMH happens whenever we issue a violation.
15 So, it's regardless of whether there is any affect on
16 the child that is existing. But when HPD does
17 receive a referral on a Commissioner's order for a
18 privately owned multiple dwelling, we attempt two
19 inspections for every apartment in that building to
20 try and identify which apartments have children under
21 six. And if they do, we do our regular room by room
22 surface by surface inspection. Conduct testing is
23 necessary and issue violations -

24 SPEAKER JOHNSON: Since when, when did that
25 begin?

ANN MARIE SANTIAGO: We've always done that.

SPEAKER JOHNSON: So, the Comptroller who is
testifying later today, his report noted, that HPD
does not do this.

KATHRYN GARCIA: No, so, there are two things.
So, in the Comptrollers report for the time period
that they were looking at, HPD did not have the
authority to go between 5 micrograms and 15
micrograms. So, there weren't Commissioners orders
because there wasn't - DOHMH wasn't doing
environmental investigations. They did outreach and
provided notice but until the law changed and gave
HPD authority to go in. And the other thing that I
think is in there that is different is that HPD still
to this day does not have authority to go into one
and two family homes. And about 50 percent of the
buildings identified were one and two family homes.

This is something I think we want to work with
the Council on, to close that loophole. But I think
that you know, we have talked to the Comptroller and
we take a lot of what they said very seriously. And
think that it gives us what we were really trying to
build into the building lead index of how to use all
the information that we have out there, to ensure

1
2 that we are pinpointing ahead of time, where we have
3 landlords that are not doing their job and that are
4 allowing children to be exposed to a lead paint
5 hazard.

6 SPEAKER JOHNSON: So, the number you gave earlier
7 Commissioner, which is in Fiscal Year 2019, the
8 number of children poisoned under the age of 18 was
9 1,462. Was that the number?

10 KATHRYN GARCIA: For in 2019? So, yes.

11 SPEAKER JOHNSON: In Fiscal Year 2019.

12 KATHRYN GARCIA: These are our calendar years,
13 I'm sorry, I was talking about calendar years.

14 SPEAKER JOHNSON: How many completed inspections
15 took place in Fiscal Year 2019?

16 KATHRYN GARCIA: Hold on, I have that right here.
17 I don't want to misstated it.

18 SPEAKER JOHNSON: 1,462 is the number of
19 completed investigations. The reason why I ask that
20 is I want to know how many investigations were not
21 completed?

22 CORINNE SCHIFF: So, the number that you're
23 looking at is the number that we provided to you
24 where we were doing a close examination of cases in
25 Fiscal Year 2019 and that was for 1,462. And as you

1
2 note, those were completed investigations. The
3 investigations, it is a constantly changing number
4 because of outside of the data that we cut for you
5 because information is coming in all the time.

6 So, for example, we didn't include, because the
7 question that you were asking, we wanted to give you
8 a complete picture. So, there could be cases where
9 for example, we are still waiting for the lab report
10 back on contaminated products. I don't have the
11 number for what in Fiscal 2019 is sort of still in
12 progress.

13 SPEAKER JOHNSON: That's what we need.

14 CORINNE SCHIFF: Okay, we can look for that
15 number for you.

16 SPEAKER JOHNSON: How long does it typically take
17 to complete an investigation on average?

18 CORINNE SCHIFF: Right, so it varies, and I'll
19 tell you why. It is because when we go in and do the
20 investigation, as I think you've heard in some of the
21 earlier testimony, we're doing a very, very thorough
22 risk assessment. The goal of that is to identify all
23 possible sources of exposure for that child and
24 that's different in every case.

1
2 If we hear from a child from a parent really or
3 caregiver, that that child – there are a lot of
4 products that they use in that household, spices,
5 they use pottery from another country, we're going to
6 test all of that. That's going to take us longer
7 than in a household where they don't report that kind
8 of activity.

9 If there is a supplemental address, we're going
10 to do that investigation. There might be multiple
11 supplemental addresses. These are places where I
12 think you noted in your opening comments, where a
13 child spends five hours a week or more and we're
14 going to go and look there to.

15 So, we can see if we can come up with a sort of
16 typical number, but I think there is a lot of
17 variability and that's because every family is
18 different.

19 SPEAKER JOHNSON: In the data that cited
20 regarding the 1,400 poisoned children, how many cases
21 were soil samples taken? I believe the answer is 29
22 cases. In 29 out of those 1,400 cases, that's where
23 soil was taken.

24 CORINNE SCHIFF: We'll confirm that number and
25 what we do in that risk assessment, is we are asking

1
2 about the child's time in soil and I think you'll see
3 in that data, we sampled in playgrounds, we sampled
4 in parks, I think we sampled in a potted plant. So,
5 there must have been a family that told us about a
6 child, maybe a child who is a gardener or likes to
7 play with a plant.

8 And so, we sample all of those places because we
9 take a really conservative approach and I think the
10 important thing that you will also see in the data is
11 that for only seven of those children did we find
12 elevated soil levels and for all of those children,
13 we also found other sources of exposure. All of them
14 had lead paint hazards in their homes.

15 So, I think that that reflects both a very
16 conservative approach that we take in trying to find
17 all possible sources of exposure and also confirms
18 what we are seeing when we look at the population as
19 a whole, which is that lead paint followed by
20 consumer products are the most commonly identified
21 sources of exposure.

22 SPEAKER JOHNSON: And the number of water testing
23 kits DOHMH received after investigations, my
24 understanding is that it's less than 30 percent.

1
2 CORINNE SCHIFF: So, it's about 30 percent. So,
3 let me tell you about our process. So, different
4 from soil. For soil, we are asking about that
5 child's experience with soil and that's when we're
6 testing for water. Everyone's using water, so we are
7 working with that family to order the DEP test kit
8 for every family.

9 You are right, we're seeing about a 30 percent
10 return rate on those test kits. I want to say a
11 couple things about that. First of all, those
12 returned kits, just like with soil, we had very, very
13 few elevations. Out of all of those cases, we saw
14 six kits with elevations all on the first draw and
15 for all six of those children, we had identified
16 other sources or risk factors.

17 We want that 30 percent number to go up and we're
18 piloting a couple of different ways to do that. We
19 are placing calls to families if we're not seeing
20 that test kit come back. We're calling them, maybe
21 they can't find it, maybe they never got it. We're
22 ordering them another one. We're about to place a
23 flyer in the DEP test kit that's going specifically
24 to our cases to remind that family.

1
2 Remember this is what the Health Department
3 talked to you about. It's really important that you
4 return that test kit. We're going to have inspectors
5 drop off the test kits, so we're trying a lot of
6 different things. We'd love that number to go up,
7 but I think it is also consistent with what DEP is
8 seeing citywide because we know that New York City
9 water is virtually lead free and we are seeing those
10 outcome in our tests.

11 SPEAKER JOHNSON: The reason why I ask about soil
12 and lead, is because how can we be so confident that
13 water and soil aren't a source of poisoning for
14 children. And you are talking about the context of
15 conducting a thorough investigation, interviewing the
16 family, understanding the daily habits of a child and
17 what that may look like to understand that.

18 But I think if we want to go back to the big
19 picture here, the big picture is, if we want to be a
20 lead free city, if we want to drive that number down
21 to zero, we know that there are still other potential
22 places for contamination and poisoning even though
23 it's primarily lead paint and consumer products. We
24 know that in some instances it is water, and, in some
25 instances, it is soil.

1
2 And what I think we are trying to figure out
3 together, today is not about legislation, today's an
4 oversight hearing on trying to inform future
5 legislation that we heard but didn't pass last year,
6 and I think one of the primary deltas that we're
7 trying to get over together is, we want to do more on
8 water and on soil to ensure that if we are going to
9 be a lead free city, we are proactively figuring out
10 where the potential hot spots are. Whether it is a
11 park next to a major highway. Where because of
12 diesel gas that park has soil with lead in it.

13 There was a report that came out that community
14 gardens across New York City have a significant
15 amount of lead in the soil there, a dangerous amount.
16 What are we doing in that way? And that is what I
17 think we need to figure out. Of course we want to
18 continue to talk about dwelling units, public
19 housing, lead paint, construction and the
20 coordination between DOB and DOHMH and HPD, but the
21 other thing that we want to figure out is if we are
22 going to really get to zero, what do we need to do as
23 a city on water and on soil in a thoughtful,
24 strategic, proactive way? And I think my
25 understanding is, the Administration has had concerns

1 about the cost associated with actually doing
2 something more proactive and far ranging as it
3 relates to water and soil.
4

5 DR.OXIRIS BARBOT: So, Mr. Speaker, let me begin
6 and I'll let my colleagues add. I think you bring up
7 an incredibly important point that we don't want to
8 lose site of and that is that this is a partnership
9 between the agencies that you see before you and City
10 Council, because we have the shared goal of
11 eliminating lead exposure in New York City.

12 I also want to remind us of the fact that as a
13 result of Local Law 1, we have seen a 90 percent
14 decrease in the number of children with elevated
15 blood levels. And so, when we think about the fact
16 as Corinne mentioned earlier, that all of these
17 children drink water. All of these children play
18 outdoors, and you couple that with the fact that we
19 continue to follow children even before Local Law 1
20 until their lead levels go below five. That if
21 indeed, water and soil are significant sources, we
22 would see that.

23 SPEAKER JOHNSON: But it's not about being a
24 significant source, it's about being any type. The
25 stated goal in this report is to get to zero.

1
2 DR. OXIRIS BARBOT: Well, the reality is that
3 we're talking about potential exposure levels that we
4 see here in New York City. As was stated by
5 Commissioner Garcia, we have ongoing introduction of
6 lead from consumer products and that will be
7 something that will continue to affect the
8 individuals -

9 SPEAKER JOHNSON: So, you're not worried about
10 water and soil?

11 DR. OXIRIS BARBOT: So, I'm concerned about
12 drawing resources and attention to the ongoing
13 primary sources of lead exposure, which are lead in
14 homes and lead in consumer products.

15 SPEAKER JOHNSON: In how many cases is a source
16 not identified?

17 DR. OXIRIS BARBOT: I'm going to defer to Corinne
18 on this.

19 SPEAKER JOHNSON: How many cases, a percentage or
20 a raw number is a source not identified?

21 CORINNE SCHIFF: So, let me say that when we talk
22 about sources, we would also look for risk factors,
23 environmental risk factors or behavioral risk
24 factors. And when we put those together, I believe
25 it's 99 percent. In almost every case do we have

1 kind of theory of the case and the reason why it's
2 important for us to consider other environmental
3 factors or behavior factors, is that we're not always
4 able to find something at our inspection.
5

6 So, let me give you an example, I was on an
7 inspection where the family told us that there had
8 been water damage in their bathroom and that ceiling
9 had collapsed. And it was at a time when that bare
10 little guy was crawling around very actively.

11 It took the landlord a few days to fix it. The
12 landlord fixed it, but it took a while, and they
13 reported that there was paint and dust all over the
14 floor. When we got there, there was nothing for us
15 to measure, but we know from our cases, that that's a
16 pretty common story. That there could have been a
17 construction problem, damage in the apartment, and
18 then we see an elevated blood lead level.

19 I can't tell you that that construction, that
20 that collapse, was related to that child's elevated
21 blood lead level.

22 SPEAKER JOHNSON: How many instances are there
23 like that? What percentage of them are resulted in a
24 theory but not a source, a proven source?
25

CORINNE SCHIFF: Right, I don't have that number at my fingertips but that's in our data. Let's look at it together and we can find it.

SPEAKER JOHNSON: So, my understanding is that there were 458 cases, where neither paint nor consumer products were identified as a source of lead poisoning, but soil was not sampled or tested to see whether it was a source.

Soil was sampled in eight cases where neither paint nor consumer products were identified as a source.

The point I'm trying to make here is if the goal is to get down to zero, we need to I think be a little more proactive. It is not realistic, and the City Council is not saying that we're going to go out and test every particle of soil in the City of New York. We're going to go out and test every water source in the City of New York, but we have to I think do more than we are potentially doing now, which is why some of the bills that were heard and that were drafted actually asked the Health Department.

Based on a variety of factors, to identify places across New York City, where there may be a greater

1 elevation of soil. Is it next to a highway? Was
2 there a manufacturing facility that was located next
3 to a park? What are the other environmental factors
4 that may cause this? And there was some push back on
5 you all wanting to do that because of cost associated
6 with it, but again, if the goal is to get to zero, I
7 think we may need to do some of these things.

9 KATHRYN GARCIA: May I just add to that? So, I
10 think obviously we want to take a very scientific
11 approach to where we are putting our resources, in
12 terms of where are children getting exposed. But the
13 other thing that I would say both about water and
14 soil is there are some basic things that parents can
15 do that is protective for children.

16 One, I would encourage anyone who is concerned
17 about water to get it tested. The second is to run
18 the water before you drink it right away. You should
19 run your water for 30 or 40 seconds. We are
20 experimenting with what it will take to change outlet
21 service lines and that work is going to start next
22 month.

23 So, I think that we actually are trying to take a
24 proactive approach to water even though we think
25 there is very little risk.

1
2 SPEAKER JOHNSON: We think there is very little
3 risk of course, our water, some of the best water.

4 KATHRYN GARCIA: It's the best water, yeah.

5 SPEAKER JOHNSON: But the issue is not the water,
6 the issue is potentially the pipes that are affecting
7 the water.

8 KATHRYN GARCIA: Right.

9 SPEAKER JOHNSON: That are coming in that are
10 potentially older and that that could be affecting
11 it. That's what we've seen in schools, that's what
12 we've seen in parks. It's not the water itself, it's
13 what the water is being filtered through.

14 KATHRYN GARCIA: Absolutely, you are completely
15 correct, which is why the Department of Environmental
16 Protection add orthophosphate to the water system to
17 prevent pipes from leaching lead that may be in your
18 service line or in sawder and it was even permitted
19 in fixtures up through the 2000's. I mean the
20 federal government did not take an aggressive stance
21 on that for a very long time.

22 SPEAKER JOHNSON: I want to finish because there
23 is a lot of members that have questions. I want to
24 just sort of end with this, just as a point.

1
2 So, I was talking about enforcement earlier,
3 there is story from Gothamist, and it says, on
4 Tuesday a group of five advocacy organizations
5 including New York Lawyers for Public Interest and
6 Cooper Square Committee issued an analysis of city
7 finds assessed in the wake of Local Law 1, a 2004
8 statute which mandated the use of safe work practices
9 to protect tenants and workers in buildings built
10 before 1960.

11 Using data that's publicly available as well as
12 obtained through freedom of information the law
13 requests, the report claims that although the city
14 imposed nearly \$2 million in violations since the law
15 was passed, only \$10,190, 0.5 percent of the amount
16 owed has actually been paid to the City of New York
17 in the \$2 million in fines.

18 My concern here again, to go back to it and I do
19 not mean this in a disrespectful way to any of you
20 which I think are deeply committed to this issue, but
21 I still do not feel confident with the testimony
22 today, with the report, even with the answers of some
23 of the questions that I've asked and my colleagues
24 will ask more questions on, are we doing enough
25 proactively to enforce, to get in there? Because you

1
2 can have the strongest laws in the books, you could
3 have the most historic blood lead level number and if
4 you are not doing the proactive enforcement, if you
5 are not levying the fines against the bad landlords.
6 If you are not collecting those fines in a
7 significant way, children will continue to get
8 poisoned over and over and over again.

9 And so, I still feel very concerned that a year
10 later since we had the hearing and I wasn't happy
11 with a lot of the answers that were given at that
12 hearing, that a year later, in the wake of a new
13 report that's issued by you all and another set of
14 testimony and analysis by the advocates that they're
15 going to read later today. They are still pointing
16 to case after case after case. Individual cases,
17 where they go chapter and verse of here is what the
18 failure was on enforcement. Here is where the city
19 screwed up on enforcement and they give all of the
20 context.

21 You all should read Matthew Chachere's testimony,
22 because he goes through and he says, this client of
23 mine, Blanca was poisoned because of the lack of
24 enforcement and then re-poisoned because even when
25 there was enforcement, because he brought litigation,

1 this has happened and he is claiming, as of the other
2 advocates, and I don't dispute their claims, that
3 this is emblematic of what happens every day in the
4 city.
5

6 And so, I admire and I'm grateful for all the
7 work that you all have done in preparing this, but I
8 think we need to and there will be specific questions
9 from the different Chairs on the number of inspectors
10 that we have on, do we have enough inspectors? Are
11 we using them appropriately?

12 I still do not feel confident that if the goal is
13 to get to zero, even with a 90 percent reduction,
14 cumulatively, if 3,000 children are being poisoned
15 still every single year, over the course of four
16 years that's 12,000 children that are poisoned. And
17 we are never going to get that number significantly
18 down.

19 They always say the hardest part is the final 10
20 percent and this final 10 percent is the hardest part
21 and I think the way to do it is to proactively go in
22 there and to make sure that we are requiring the work
23 get done upon vacancy or when we think that there is
24 paint that's peeling. We've heard of other factors
25 and then separately, if there is a landlord that is

1 not doing this, we need to come down on them with a
2 ton of bricks, because this irreparably harms, not
3 just that individual child, but it irreparably harms
4 and damages that family and it has an impact on the
5 future of New York City. On the cost of education,
6 on the cost of healthcare, on the cost to take care
7 of these children and I still don't feel like we are
8 doing an adequate job at enforcing this in the way
9 that we need.
10

11 And I'm sure there are going to be more questions
12 but that is what I really want us to continue to hone
13 in on and focus on in the wake of this hearing and as
14 we're discussing refining other legislation, what can
15 we do to ensure we're enforcing in the best way
16 possible.

17 And I want to turn it over to Chair Levine.
18 Thank you.

19 CO-CHAIR LEVINE: Thank you so much Mr. Speaker
20 and thank you for that outstanding line of
21 questioning.

22 I want to follow up on the very important last
23 point that you made which is not only are we under
24 investigating, not only are we undefining, we are
25 actually under collecting and this report from

1
2 Gothamist which was based on work by these five
3 advocacy groups the Speaker mentioned, I think it's
4 worth naming them. It's the New York Lawyers for the
5 Public Interest, Cooper Square Committee, Northern
6 Manhattan Improvement Corporation, New York League of
7 Conservation Voters and We Act. Groups that have
8 been on this case for decades.

9 This report compare the roughly \$10,000 we've
10 collected over the period since 2004 to the amount
11 that we have collected on fines to street vendors,
12 which the report calculated at \$5 million. So again,
13 according to the report, \$5 million collected from
14 violations to street vendors, \$10,000 for landlords
15 who are endangering kids by breaking the law.

16 Could you explain the process by which these
17 fines are adjudicated and how it is that 99.5 percent
18 are going unpaid?

19 KATHRYN GARCIA: Well, I'm going to start and
20 then I'm going to turn it over to the Health
21 Department, but one, the report is wrong, and they
22 will discuss why in a second.

23 And two, I'm a little disturbed that every single
24 person you mentioned is sitting on our lead advisory
25 board and did not actually sort of raise this as

1 something or actually check in to find out how the
2 data they had pulled might not actually be correct.

3
4 In addition, the fines that DOHMH actually levies
5 is not the only thing that we're doing and it's I
6 think much more coordinated across the different
7 agencies that it's ever been before, but we certainly
8 can talk about what we can do jointly about getting
9 fines paid. Violations go unpaid across many
10 agencies and that would be something we could work
11 together legislatively but I'm going to ask the
12 Health Department to talk to the specifics of how
13 this works.

14 CORINNE SCHIFF: Thank you. I do want to say
15 that the report was wrong, is wrong because it
16 ignores a second collection approach that we have.
17 You know violations can be an effective tool to
18 promote compliance.

19 The Health Department is not responsible for
20 collecting when OATH, the Officer Administrative
21 Trials and Hearings sustains a violation, but we
22 observed several years ago that the compliance rate
23 was poor. And so, we worked with OATH and with the
24 Law Department to set up a second approach. When
25 OATH is not able to collect on those violations,

1
2 those violations now go to the Law Department and the
3 Law Department files an action. And my understanding
4 is we launched that in 2013. Since 2013, there has
5 been almost a 20 fold increase in the collection of
6 those fines.

7 But I also want to say that the report ignores
8 the other enforcement tools that we have. Violations
9 and fines are important but what we really want to do
10 is when we see unsafe work, we want to stop it when
11 it's happening. Because as you pointed out, that's
12 when there can be a risk to children.

13 So, when we go out and we observe unsafe work, we
14 order it to stop. We monitor that that order is
15 being complied with and only when it's not being
16 complied with do, we issue those violations. For the
17 most part, we see compliance and that's what's
18 important to families.

19 In terms of being proactive, under LeadFreeNYC,
20 we are doing some new things. Since I think it's
21 March, we have been working with DOB to go out
22 monthly together. Sometimes accompanied by EPA to
23 make surprised visits to worksites. We're finding
24 those to be very effective. We're starting to see
25 better compliance. We think that the word is getting

1 out that, you never know when we're going to show up
2 and stop work.

3 I think we can all probably agree that that
4 stopping work at a construction site, even when
5 you're just talking about money is a very powerful
6 incentive to the industry.

7 We're also when we observe unsafe work and dust,
8 uncontrolled dust, we're making an automatic referral
9 to EPA.

10 SPEAKER JOHNSON: Chair Levine, I apologize, I
11 mean, I can't stay for the hearing but I just, before
12 I leave, I'm a little confused. I feel like what's
13 happening here - I have a little bit of cognitive
14 dissonance.

15 What's happening here is you all are sort of
16 patting yourselves on the back for the good work that
17 you're doing, and I want to acknowledge some of the
18 good work, but I don't see any level of self-
19 criticism. I don't see any level of, here is where
20 we are screwing up. Here is why over 3,000 children
21 are still being poisoned here. I keep hearing 90
22 percent reduction, yes, we hear it over and over
23 again, but what I'm not hearing is here's where there
24 are the loopholes. Here's where there are the
25

1
2 deficiencies. Here's where we need to do a better
3 job at enforcement.

4 It feels very defensive, it feels very like, I
5 want to wave all the good things that we're doing and
6 not say, you know what, it is horrific, wrong and
7 unacceptable that children are being poisoned in New
8 York City and that here are the problems that have
9 existed for a long time. And there are still
10 problems that exist even from a year ago and we want
11 to be self-reflective on that because we don't want
12 any children poisoned. I'm not hearing that today.

13 When the panel came up a year ago, of families
14 who said, you all are sitting up here saying you are
15 doing all this and I am telling you that in my
16 building, there is lead dust under my door every
17 single day and I call 3-1-1. I call the Department
18 of Buildings; I ask for the stop work order
19 violation, and nothing happens. And they talk about
20 the health effects on their children.

21 It just - it doesn't seem like there is a level
22 of you all saying, we know there are still screw ups
23 here. And that's confusing I think to us, the
24 advocates.

1
2 You know, even if that report was wrong because
3 they didn't have the secondary method of collection
4 with the Law Department bringing violations, you
5 don't dispute the fact that the total number was \$2
6 million and the number that we're levying against
7 street vendors is \$5 million, which shows like, what
8 are we doing? If people are poisoning children
9 across New York City. It just seems very strange to
10 me.

11 That is sort of the — I think we should say you
12 know; we're screwing up. It's problem, we know we
13 need to do better. We've taken all these steps as
14 you've outlined, which I am grateful for and we've
15 worked with you on all of those but when you hear
16 from advocates, even if they got this particular
17 thing wrong, we hear about the individual cases of
18 their clients being re-poisoned after they've called
19 the city and brought litigation. Because they feel
20 like the city is not doing it's job and that child is
21 re-poisoned.

22 I would sit up there and say, I am so sorry that
23 that child got re-poisoned and that this organization
24 had to relitigate it because this is what's going on.

1 I'm not hearing that. That's not the tone of what
2 we're hearing today.

3
4 It just seems strange to me. It feels like a
5 significant disconnect and maybe those groups should
6 have come to you since they're on your advisory board
7 and said, is this real before we issue this. But I
8 think, I haven't spoken to them about this, I think
9 there's probably a deep level of distrust in some
10 ways. After decades of the city falling down on its
11 promises and not doing level enforcement.

12 And sitting here today, not coming forward kind
13 of on a knee saying, we really keep screwing in some
14 ways and it's wrong and unacceptable. It just seems
15 weird to me and it's not personal against any of you.
16 All of you, I think, are fine public servants that
17 care about the job you do and all of you over the
18 last year, I think, have worked collectively with the
19 advocates and with us to try to figure this out.

20 But the tone of this feels very strange to me
21 given the fact that last year, there are still
22 thousands of children that are being poisoned
23 throughout New York City. That number wasn't given
24 in the testimony and it doesn't seem to be — it just
25 doesn't seem to be the primary focus of what we're

1 talking about today, which is deeply disappointing
2 and disturbing in fact.

3
4 CO-CHAIR LEVINE: Thank you Mr. Speaker. I do
5 want to get the facts on this question to the fines.

6 We agree that \$2 million is the amount that was
7 levied over this period or are you disputing that as
8 well?

9 CORINNE SCHIFF: I don't know, I'm not sure where
10 they got the numbers from.

11 CO-CHAIR LEVINE: Okay, and as for the collection
12 rate, that portion which has been collected by the
13 Department of Health, which you are not disputing is
14 \$10,000 but you are identifying additional collection
15 by the Law Department correct?

16 CORINNE SCHIFF: No, the Health Department
17 doesn't collect fines and I can't verify that number.

18 CO-CHAIR LEVINE: Sorry, through OATH.

19 CORINNE SCHIFF: So, we would have to go to OATH
20 and the Law Department to get the numbers. I wanted
21 to flag in part, because we need, in order to
22 understand how to solve this, we need to understand
23 how the system operates.

1
2 So, I wanted to make sure that we know that there
3 is an additional collection method that we
4 established in 2013.

5 CO-CHAIR LEVINE: Okay, you said that there has
6 been a 20 fold increase in the collection rate, is
7 that correct?

8 CORINNE SCHIFF: Approximately, that's my
9 understanding from the Law Department.

10 CO-CHAIR LEVINE: So, that means we're at
11 approximately 10 cents on the dollar being collected.

12 CORINNE SCHIFF: I would like to have the Law
13 Department get back to you.

14 CO-CHAIR LEVINE: Are they here? This is a
15 pretty key point. There is no one here who can speak
16 to this?

17 CORINNE SCHIFF: To what the actual numbers are?

18 CO-CHAIR LEVINE: The flexion rate on the fines.
19 If it's not as the report stated.

20 KATHRYN GARCIA: I think that considering that the
21 report got given to us I think late yesterday, I
22 don't think we anticipated having the Law Department
23 here today, but we can certainly provide any
24 information on that that you may need.
25

1
2 CO-CHAIR LEVINE: Right. This is such a key
3 point. We need to prevent lead poisoning before it
4 happens. The way you do that is by incentivizing
5 landlords to do the right thing. If they believe
6 that they can skirt the law and in the unlikely event
7 that they are caught and the unlikely event that they
8 get fined, they'll pay whether it's 10 cents on the
9 dollar or another amount. Then many of them are
10 going to calculate, it's just better not to invest in
11 complying with the law.

12 KATHRYN GARCIA: And I'm going to also turn it
13 over to HPD to talk a little bit about their fine
14 structure. But before I do that, I think that you
15 are absolutely correct in terms of what can we do to
16 make sure the rules and the fines that are levied
17 usually through legislation of this body are actually
18 getting collected. And what should be the tools we
19 have or the OATH or the Department of Finance have.
20 Because agencies don't do the collections themselves.
21 To make sure that those fines are getting collected
22 but it would something I'd really like to work
23 jointly with you. Because just having fines on the
24 books isn't helpful if they're not also being
25 collected.

1
2 But I will let HPD talk a little bit about how
3 their violations – that's a whole different structure
4 of violations goes through.

5 LOUISE CARROLL: Thank you Commissioner. So,
6 HPD's focus is on fixing the condition. So, when
7 we're alerted to a condition, we issue a violation,
8 we make sure the landlord cures the condition. If
9 they don't cure the condition, we do it ourselves.

10 So, that is our real focus. Having said that, we
11 have issued \$25 million in fines in the past ten
12 years and they are our emergency repair program and
13 you know, what we do is when we do the work, we bill
14 the owner for it. But our focus and you know the
15 focus in the city amongst our agencies is
16 multipronged, right. We do different things and we
17 come at the problem from different angles, but our
18 angle is, it does not exist. If it exists, somebody
19 has to fix it. If the landlord doesn't fix it, we
20 do.

21 CO-CHAIR LEVINE: Okay, please, as soon as
22 possible we need to clarify this. The most important
23 number as far as I'm concerned that's been stated
24 today is 3,866. That's the number of children who
25 were identified with elevated lead levels last year.

1
2 But that's only the number of children who were
3 newly identified in the calendar year. There were
4 4,000 plus who were identified in 2017 with elevated
5 lead levels and part of the reason why we're so upset
6 about this, all of us, it's a very difficult
7 condition to remedy. It's not like you just take a
8 pill and all of a sudden, your lead level goes back
9 to zero.

10 How many children who had been identified in
11 previous years continue to test with lead levels that
12 are above the indicated amount? That's got to be
13 more than the 3,866.

14 DR. OXIRIS BARBOT: So, a number of things, first
15 of all, that 3,866 includes children who may have
16 been tested in multiple years.

17 CO-CHAIR LEVINE: Correct, yeah.

18 DR. OXIRIS BARBOT: We, as I mentioned earlier,
19 each child is affected by lead differently.
20 Similarly, each child excretes lead at different
21 rates. And so, the important thing here is that when
22 we identify a child has an elevated blood lead level,
23 we link them to nurse care management and that's
24 something new that has happened as a result of the
25

1
2 collaboration with Council under LeadFreeNYC and we
3 link them to appropriate services.

4 We continue to follow those children until their
5 lead goes below five.

6 CO-CHAIR LEVINE: So, how many children in the
7 city today have lead above five? Not just new cases,
8 how many children overall have lead above five.

9 KATHRYN GARCIA: So, if they had a test in 2018,
10 it is included in that number. So, if they had had a
11 15 the year before and they get tested next year and
12 they had a 10, they would be in that number.

13 CO-CHAIR LEVINE: Understood and that brings me
14 to my next question which is the testing rate. I'll
15 put it in the form a question. How many children are
16 still going without testing?

17 DR. OXIRIS BARBOT: So, this is an issue that we
18 have again, as a result of the collaboration with
19 Council under LeadFreeNYC intensified our efforts
20 around. We initiated matches with birth certificates
21 to ensure that from the very beginning, we were
22 providing information with birth certificates to
23 remind parents of the importance of getting lead
24 tested.

1
2 We also did the birth match to see who are the
3 kids that should have been tested by age one or two,
4 that haven't yet been tested. And we've done direct
5 mailings to those families. And as a result of that,
6 in the last over eight months an additional 1,800
7 children above what would have been expected have now
8 been tested for lead.

9 Now that doesn't get to the exact nature of your
10 nature of your question, because I think it's a hard
11 question to kind of get to the essence of. Because
12 we don't have a good way to monitor who are the
13 children within that age group that have left the
14 city and similarly, who are the children in that age
15 group who are entering the city.

16 And so, what are plans now are to work with City
17 Planning to see if we can get a better sense of what
18 that influx and egress could be. The important thing
19 also to note is that we're not just relying on those
20 birth certificate matches. We're working with
21 managed care organizations. We're working with
22 healthcare providers; we're working with community
23 based organizations to remind them of the law that
24 New York State has requiring lead testing at one and
25 two years of age.

1
2 CO-CHAIR LEVINE: And that's all great, but my
3 question is an estimate on the percentage that go
4 untested. I've heard, not from advocates, but I
5 believe from the department an estimate understanding
6 the challenges of a precise figure of 20 percent of
7 going untested.

8 DR. OXIRIS BARBOT: Yeah, that is -

9 CO-CHAIR LEVINE: So, against that, the margin of
10 advancement in the last year, it sounds like maybe
11 we're up one percent, but - or this is got be one of
12 the top priorities. You get every tested and we're
13 not closing that gap very fast.

14 DR. OXIRIS BARBOT: It is but to what I'm trying
15 to convey is that we're trying to get to a better
16 estimate, because I think that 20 percent, we want to
17 have a greater data foundation for if, in reality
18 it's the right -

19 CO-CHAIR LEVINE: Why don't we just require
20 testing for every child entering PreK?

21 DR. OXIRIS BARBOT: We do.

22 CO-CHAIR LEVINE: We now require vaccines, right.

23 DR. OXIRIS BARBOT: Yeah, we do, we do.
24
25

1
2 CO-CHAIR LEVINE: But there are kids – there is
3 no children enrolled in the city's pre-K who are
4 untested or in city kindergartens who are untested.

5 DR. OXIRIS BARBOT: I'm going to defer to Corinne
6 on that one, but we do require it.

7 CORINNE SCHIFF: So, there are multiple
8 strategies that we use to try to increase testing.
9 Obviously, 100 percent testing is the goal and to
10 your point about making it a top priority; it is one
11 of our top priorities.

12 Having a blood lead test is a requirement and the
13 medical forms that are required for entry into both
14 childcare and to schools.

15 And so, that's another point for a check. There
16 are multiple moments when there's an opportunity to
17 check that a child has gotten that test. You heard
18 from Dr. Barbot some of the other things that we're
19 doing; matching birth records with our blood lead
20 testing records. You heard from HPD that we've
21 started a new initiative where when HPD is in a home
22 and finds a child under six and peeling lead paint,
23 they contact us and that's an opportunity for us to
24 talk immediately with that family. We check that
25 families record; has that child been tested? Does

1
2 that child need a provider? We provide guidance and
3 we can connect that family to make sure that if
4 testing is appropriate that testing happens.

5 We would like your help to. A couple of the
6 bills that the Council enacted last spring I think
7 sort of brought the whole city to be engaged in
8 encouraging children to get blood lead testing. Our
9 materials are now out to other agencies in compliance
10 with a couple of those local laws, so that those
11 agencies can distribute our materials.

12 You may have seen our adds out all over the city.
13 We'd love to get this material out to you, so you can
14 have it in your district offices to get to your
15 constituents. It is absolutely a high priority. It
16 is challenging. We are constantly trying to come up
17 with new ways to promote testing.

18 CO-CHAIR LEVINE: Right, I understand. Look, we
19 now have a law thankfully that requires every child
20 enrolling in schools in our city, actually in our
21 state, to have a vaccination for an MMR vaccination
22 unless there's a medical exemption.

23 I see no reason why we couldn't have just as
24 rigorous regime in place for lead testing, which is a
25

1 less invasive medical procedure. There is not any
2 risk or side effects.
3

4 I don't want to take more time on that, perhaps
5 Chair Treyger could pursue that if he wishes. I do
6 want to ask about lead dust. We talked a lot about
7 lead paint, but when older buildings are undergoing
8 major construction, it can kick up a lot of dust and
9 we've seen this particularly in neighborhoods with a
10 lot of older buildings, like the lower east side and
11 other concentrations where there is a lot of
12 renovation work done in some buildings where you have
13 one apartment being renovated while other people live
14 in the building.

15 This is sometimes done - a topic for another
16 hearing but as really a strategy to harass in place
17 tenants. But regardless of the motivation, it can
18 kick up lead dust and that is dangerous, I think the
19 science is pretty clear on that.

20 And this was a big topic of a hearing a year ago
21 and we've had some good legislation on that. My
22 question I guess for you Commissioner is, what
23 enforcement actions have been taken in the ensuing
24 year? Have there been any violations issued or any
25

1 developers or owners who are carelessly exposing
2 residents to lead dust?

3
4 KATHRYN GARCIA: So, yes, we coordinated with the
5 Department of Buildings, actually with our federal
6 partners in some cases with the EPA because they also
7 have their own standards. And more significant
8 penalties in the federal code, as well as with the
9 Department of Health and Mental Hygiene.

10 So, those have been ongoing joint since this
11 spring and what we have found we have done, stop work
12 orders. We have had 10 stop work orders and there
13 have been violations involved in all of that work.
14 One of the things we're seeing is that as we've moved
15 through the months of doing this, we're seeing better
16 compliance.

17 And this is in addition to the work that the
18 Department of Buildings is doing around the
19 additional inspectors they got for ensuring that the
20 tenant protection documents are actually being
21 complied with. So, they have a lot of inspectors out
22 and they are looking at those very same things.

23 So, it's not just complaint driven, but really
24 being proactive. Like, we may be out there at any
25 time to check and make sure that lead safe practices

1
2 are being followed. We think that this is very
3 important and the fact that you lowered the dust
4 standard is also I think a big part of this. We do
5 not want – well, we don't want anyone to get exposed
6 to lead dust and we certainly don't want it to be
7 used as a tool against tenants to harass them
8 particularly in fast gentrifying neighborhoods. I
9 don't know if the Health Department has anything else
10 to add.

11 CORINNE SCHIFF: I can provide some numbers.
12 From the Health Department for our unsafe work
13 inspections, and again, we would love to encourage
14 Council Members to be sure that your constituents
15 know to call 3-1-1. We want to hear from New Yorkers
16 when they see work being done unsafely in their
17 buildings. We will go out and we will inspect. We
18 will order work to stop and to restart only using
19 safe work practices. We will be launching our media
20 campaign again in the spring, but we have many of
21 these postcards. We can get them out to you, so that
22 you can have those in your district offices.

23 In Fiscal 2019, we issued 325 orders to stop work
24 regarding specific work locations and an additional
25 20 stop work orders to stop work in the entire

1 building and we know that these are really powerful
2 and building owners don't want to stop that work.
3 So, we think that's pretty effective. You've heard
4 about the joint inspections we've been doing with
5 DOB. Another benefit of the enhanced relationship
6 between the Health Department and DOB is when we're
7 not seeing compliance with our orders. We're now
8 referring those DOB and they have some additional
9 enforcement powers that they can take.
10

11 CO-CHAIR LEVINE: Okay, I just have one final
12 question for the Parks Department. I don't know if
13 Deputy Commissioner Kavanagh or someone else is
14 ready.

15 If that would be okay, and we just need to do the
16 affirmation for you.

17 COUNCIL CLERK: Raise your right hand. Do you
18 affirm to tell the truth and nothing but the truth
19 and to respond honestly to Council Member questions.

20 LIAM KAVANAGH: Yes.

21 COUNCIL CLERK: Great.

22 CO-CHAIR LEVINE: As you are aware, so many of
23 our playgrounds date from the Robert Mosses era. A
24 time when there was very little awareness of the risk
25 of lead for kids. And so, we passed a bill in the

1 previous round that required inspections of water
2 fountains in parks properties.
3

4 Okay, you are doing this without having to be
5 pushed by the legislation, so kudos to you for that.

6 I understand you have now completed inspections
7 of the city water fountains. I wonder if you could
8 update us on what you found and what steps you've
9 taken to remediate any problems.

10 LIAM KAVANAGH: Yes, good morning members of the
11 Council. I am Liam Kavanagh; First Deputy
12 Commissioner for Parks and Recreation and yes, as
13 part of LeadFreeNYC, the Parks Department launched a
14 campaign to inspect all of our drinking fountains and
15 fixtures that were open and available to the public
16 during this last summer in fact.

17 We inspected 3,461 fountains or fixtures. 91
18 percent I'm happy to report met the federal standards
19 of 15 parts per billion of lead or less on both an
20 initial draw sample and a flush sample.

21 So, we're pleased with those results but the 9
22 percent that did not pass, they were closed
23 immediately. The public did not have access to them.
24 They were mediated using a filter and replacing all
25 of the internal plumbing for the fountain and were

1
2 not put back in service until they passed a retest
3 that was conducted by an independent environmental
4 engineering firm and the lab samples were handled by
5 again, independent laboratories that were certified
6 by the State of New York to perform that work.

7 CO-CHAIR LEVINE: Okay, so, are you not going to
8 reopen any of the others. I had understood maybe
9 there are filters in place for some to allow them to
10 be back in service.

11 LIAM KAVANAGH: Oh, yes, all of the 294 fountains
12 or fixtures that did not pass the initial inspection,
13 they were all remediated using the methods that I
14 described in varying degrees and of those 294, I
15 think 288 passed a retest and were put back in
16 service. There were only six fountains that we could
17 not pass the retest and we have not put them back in
18 service yet.

19 CO-CHAIR LEVINE: But some have required
20 filtering to pass the test?

21 LIAM KAVANAGH: Yes, they have.

22 CO-CHAIR LEVINE: And filters need to be
23 maintained.

24 LIAM KAVANAGH: Yes, they do.
25

1
2 CO-CHAIR LEVINE: And they can go bad over time.
3 So, do you have a system in place to now check and
4 maintain if needed, replace the filters?

5 LIAM KAVANAGH: We're going to replace them on a
6 regular basis. You know, the manufacturer recommends
7 replacing them after 6,000 gallons of use. We have a
8 hard time measuring use in that way.

9 So, we're going to replace them on a systematic
10 basis to make sure that we are not exceeding the
11 manufacturers recommendations.

12 CO-CHAIR LEVINE: Okay. Thank you for that
13 update. It's very important for the public health of
14 the city that people feel comfortable drinking tap
15 water including in the park. It's important for
16 kids. All sorts of health and environmental benefits
17 and we need people to be absolutely certain that
18 there is no lead contamination in their playground
19 fountains.

20 It sounds like you've made really good progress
21 towards that. So, I appreciate the update and please
22 keep us posted.

23 LIAM KAVANAGH: Well, thank you but that is
24 clearly one of the proactive steps that we're taking
25 under LeadFreeNYC to address exactly what you

1 mentioned. We want people to drink more water and we
2 want them to be confident that the water in the parks
3 and playgrounds are safe.

4 CO-CHAIR LEVINE: Okay.

5 KATHRYN GARCIA: And the only thing I would just
6 add is all of the results are on the Parks Department
7 website because we wanted to make sure it was
8 transparent.

9 CO-CHAIR LEVINE: Thank you. I'm going to pass
10 it off to Chair Cornegy to continue questioning,
11 thank you to everybody.

12 CO-CHAIR CORNEGY: Thank you Chair Levine. I'm
13 going to limit my questions to specifically questions
14 that relate to enforcement. Good morning actually,
15 right at good afternoon. Thank you for joining us.

16 One of the goals of Local Law 1 was to eliminate
17 lead paint or certain high risk areas in apartments
18 by requiring this work once apartments became vacant.
19 What type of enforcement or audits has the city done
20 to confirm that property owners are removing these
21 hazards when an apartment becomes vacant?

22 KATHRYN GARCIA: So, I'm going to briefly start
23 and then I'm going to turn it over to HPD. As you
24 know, in LeadFreeNYC, we did just create a building
25

1 lead index, so that we can go in and audit to make
2 sure that people are abating the friction surfaces,
3 those services like windows and doors that were
4 required under Local Law 1 of 2004. With a real
5 focus on areas where we've seen in prior places that
6 there are children with elevated blood lead levels or
7 that they have a history of lead paint or
8 noncompliance.
9

10 But I will let HPD speak that, but our intention
11 is as soon as those rules are in effect in December,
12 we are planning to do at least 20 a month. They are
13 very intensive and require an extensive amount of
14 documentation.

15 LOUISE CARROLL: Thank you Commissioner. So, as
16 stated earlier, our priority at HPD has been for many
17 years finding violations, issuing violations, making
18 sure people do the work or doing the work ourselves.

19 For example, in Fiscal Year 2019, as my Deputy
20 Commissioner said, we had issued over 13,000
21 violations.

22 Now, since the start of LeadFreeNYC, we have
23 spent the past 10 months putting together forms for
24 people to report to us on turnover. Putting together
25 bulletins and sending it to every owner so that they

1
2 know what the requirements are. We are this month,
3 going on a citywide education and outreach to prepare
4 people for our audits which we have extended from 100
5 to 200 audits in order to now make sure that people
6 are either complying with these turnover
7 requirements. And if they are not, that we would
8 issue violations and if they aren't cured that we
9 would prosecute them.

10 I would like to ask my Deputy Commissioner if she
11 would like to add anything further.

12 ANN MARIE SANTIAGO: Thank you. I think that is
13 a pretty comprehensive explanation. We have prepared
14 the Building Lead Index methodology with the
15 Department of Health. We have prepared our documents
16 to request - to really clearly request from property
17 owners what our expectations are. We have brought on
18 staff to do these audits and train them about what
19 they are looking for and we will be prepared starting
20 in December to generate those audits. And following
21 that, based on our inspections, to issue turnover
22 violations. And as the Commissioner said, in cases
23 where the owner is clearly not compliant to go ahead
24 and bring some litigation.

1
2 So, we will be reporting that back to the Council
3 as those activities unfold.

4 CO-CHAIR CORNEGY: So, while I'm really excited
5 about the ability going forward, I'm just wondering
6 if to date you have the numbers of landlords who have
7 gone through that process and actually have been
8 prosecuted or in the process of being prosecuted,
9 that you could share with the Council today.

10 LOUISE CARROLL: So, to date, we have done some
11 litigation on owners who failed to provide the
12 records and we've done that over the past two fiscal
13 years. So, we can certainly provide those numbers to
14 you.

15 CO-CHAIR CORNEGY: So, unfortunately, the Speaker
16 is gone, but I think that this is where his distaste
17 maybe coming from, because I think what we're seeing
18 is that you guys are doing a tremendous amount of
19 work up front. It's in the enforcement portion that
20 there seems to be some issues. I'm wondering if it's
21 an issue of capacity as it relates to enforcement.

22 LOUISE CARROLL: You know, Council Member, I
23 appreciate the question. So, we felt that our
24 efforts in order to reduce the number of children
25 that are exposed to lead, that our efforts had to be

1
2 prevention. They had to be getting our inspectors
3 into the apartments, making sure that any violations
4 were cured by actually doing the work.

5 We appreciate and recognize that we should be
6 doing turnover work and we spent the last ten months
7 preparing to do just that. And so, we will be
8 getting the records from owners. We're preparing
9 them so that they know what the requirements are, so
10 they can't say that they don't know it. When we
11 finally get the records and we issues violations and
12 prosecute when they don't comply.

13 CO-CHAIR CORNEGY: I mean, so I know that the
14 Speaker said he didn't feel good about what was
15 happening. I'm sure that hearing that would not
16 alleviate what his concerns are but make him feel a
17 little bit better and the Council at large feel a
18 little bit better about the efforts, if that is the
19 course of action going forward.

20 Under Local Law 1, the property owners also
21 required to provide tenants with an annual child
22 inquiry notice, provide pamphlet information, to
23 tenants about lead paint hazards, conduct annual
24 inspections, provide written reports of those
25 inspections and maintain those records for ten years.

1
2 Has HPD conducted any audits on whether property
3 owners are complying with these legal obligations?

4 CORINNE SCHIFF: And just to clarify. The one
5 audit is going to include all of this that you are
6 referring to right now. It requests about six
7 different types of documentation for a long period of
8 time for the owner to submit, which is why the audits
9 are very intensive for our staff to review.

10 CO-CHAIR CORNEGY: Thank you, that's all I have.
11 I'm going to pass it to Chair Treyger.

12 CO-CHAIR TREYGER: Thank you. I have been very
13 patient, and I appreciate everyone's patience. This
14 is very, very serious and important hearing. I do
15 have some questions as well.

16 In 2018, I just want to be clear what my
17 Committee was told with regards to lead testing in
18 schools. In 2018, we were told that there is a
19 requirement for annual testing in schools. And I was
20 told "information is public somewhere on a facility
21 site." Is that accurate?

22 KATHRYN GARCIA: I'm going to ask the Department
23 of Education to come up and speak to something that
24 happened in 2018, because I can't speak to that.

1
2 COUNCIL CLERK: Can you raise your right hand.
3 Do you affirm to tell the truth and nothing but the
4 truth and to respond honestly to Council Member
5 questions? Great.

6 RANA KHAN: Sorry, could you repeat the question.

7 CO-CHAIR TREYGER: Yes, in 2018 at a hearing that
8 I Chaired, I was told that the DOE SCA tests schools
9 on an annual basis for lead and that the information
10 is public somewhere on a facility site. Is that
11 accurate?

12 RANA KHAN: I can speak to – thank you for the
13 question. I can speak to our current data that's
14 available. I think I would need a little bit more
15 information about what specific data, but I know that
16 as SCA is going in and doing capital work in our
17 buildings, their following certain protocols.

18 CO-CHAIR TREYGER: So, respectfully, that was not
19 my question. My question was, I asked a year ago
20 about testing for lead in schools, lead based paint
21 and I was told that the information is public
22 somewhere on a facility site. Is that accurate?

23 RANA KHAN: Again, I can only speak to our
24 current data that is available on the public website.
25 I apologize.

1
2 CO-CHAIR TREYGER: I think I understand why you
3 could only speak to the current data, because I'm not
4 sure if it existed but we're going to keep at this,
5 because this is very important.

6 I read in the opening statement that the
7 Administration now, has hired Ernst & Young to review
8 DOE protocols with regards to lead testing lead based
9 paint. Can you explain to me why you have hired
10 Ernst & Young, an accounting firm to tell you that
11 you are doing an inadequate job?

12 KATHRYN GARCIA: Well, I think that we want to
13 make sure that we are confirming that we are
14 following all of the regulations that we are required
15 to follow. Particularly as schools expand the
16 population of very young children in them, and so,
17 while we know from the Health Department data that
18 schools are not viewed as a source of exposure
19 particularly. But we want to make sure we are doing
20 everything we can. Like, I completely respect the
21 work that you've done in terms of focusing on the
22 schools and focusing on making sure that we are being
23 as protective as we can be of every single student
24 and especially as we expand to younger and younger
25 students in our schools.

1
2 And so, we ask for an outside perspective to make
3 sure that everything that we were doing and how we're
4 doing it, the logistics of it and how we are being
5 transparent about it was at the cutting edge. And
6 so, we anticipate getting that information back from
7 them at the end of this calendar year.

8 CO-CHAIR TREYGER: Right, just respectfully, six
9 year old's in school is not a new phenomenon.

10 We have expanded 3K, PreK to more sites, but this
11 is not new information that we're serving six year
12 old's and kids under.

13 I do just want to follow up; what lead inspection
14 technique was used this past summer in schools?

15 KATHRYN GARCIA: So, I'm going to let - I'll
16 briefly summarize. So, they brought in their
17 environmental consulting firms and their
18 environmental contractors. And so, they did visuals
19 and then they XRF tested the paint and then they
20 remediated that paint in the 800 - they did 855. DOE
21 did the other five prior to the start of school.

22 CO-CHAIR TREYGER: I want to be very clear about
23 this. Are you stating on the record that in every
24 school that they tested, they used the paint chip
25 technique.

1
2 KATHRYN GARCIA: No, that's not what I'm saying.

3 CO-CHAIR TREYGER: And the XRF machine?

4 KATHRYN GARCIA: They used the XRF machine.

5 CO-CHAIR TREYGER: In all public schools?

6 KATHRYN GARCIA: I'm going to let Steve Lawitts
7 speak to that but yes that is my understanding.

8 CO-CHAIR TREYGER: I'd like to just get folks on
9 the record please, thank you.

10 COUNCIL CLERK: Do you affirm to tell the truth
11 and nothing but the truth and to respond honestly to
12 Council Member questions?

13 STEVE LAWITTS: Yes. Good afternoon Chair
14 Treyger and other members. I'm Steve Lawitts;
15 Executive Vice President of the New York City School
16 Construction Authority and as Commissioner Garcia
17 stated, during this summer, we remediated lead based
18 paint in 1,860 classrooms in 452 school buildings
19 where children under six years of age are going to
20 school.

21 Approximately half of the rooms that were
22 remediated were previously tested by the Department
23 of Ed using a combination of visual inspection and
24 XRF testing.

25

1
2 CO-CHAIR TREYGER: When did XRF testing begin in
3 schools?

4 STEVE LAWITTS: I'm told the Department of Ed has
5 records going back to 2004.

6 CO-CHAIR TREYGER: Where are those records?

7 RANA KHAN: We can provide those records to you.

8 CO-CHAIR TREYGER: I have asked for this
9 previously and we have not been provided those
10 records. I am formally again requesting all
11 information be turned over to this Committee. This
12 is a serious matter. I question where these records
13 exist because I've learned in my briefings that DSF
14 did not even have records of which classrooms were
15 painted. And they only had to come together to
16 realize that recently because of this recent news
17 coverage. So, I question the existence of these
18 records and, where are they?

19 Also, I'm still unclear why - first of all, let
20 me back track. In the guidance that you issued to
21 school custodians over the summer, can you confirm
22 that there was a letter sent to school custodians
23 over the summer about testing lead in schools, is
24 that accurate?

25 RANA KHAN: That is correct.

1
2 CO-CHAIR TREYGER: And in the letter to the
3 custodians, did you ask them to conduct XRF testing?

4 RANA KHAN: Our XRF testing is actually done by a
5 third party vendor.

6 CO-CHAIR TREYGER: Right, but in the guidance to
7 custodians, you relied on custodians and their staff
8 to do visual inspections, is that correct?

9 RANA KHAN: That is correct.

10 CO-CHAIR TREYGER: Correct and were they using
11 what's called the paint or the chipped paint
12 technique, is that correct?

13 RANA KHAN: In our guidance we provided visual
14 pictures of different types of deteriorated paint and
15 what they should be looking for. So, there were
16 multiple sample types of photos -

17 CO-CHAIR TREYGER: But just confirm. Did you ask
18 custodians and their staff to conduct lead
19 inspections using the paint chip technique?

20 RANA KHAN: I don't believe so.

21 CO-CHAIR TREYGER: You did. You asked them to
22 look for evidence of chipped paint.

23 RANA KHAN: Oh, sorry, deteriorated paint, yes.

24 CO-CHAIR TREYGER: Right. Now, there was a
25 person by the name of Brian Clark, who is a former

1
2 NYCHA lead detection coordinator and in a sworn
3 affidavit he said, the city should not be using the
4 paint chip technique because it provides false
5 negatives.

6 It is not accurate. Why are we still using a
7 technique that we know does not provide accurate
8 testing results?

9 KATHRYN GARCIA: May I just interrupt? So, the
10 custodians were only asked to look at deteriorated
11 paint. They were not asked to make a determination
12 of lead content from that paint.

13 I think that what you might be referring to is
14 that at NYCHA, they had taken paint chips off the
15 wall and sent them to labs. Without reviewing both
16 testimony's I can't be sure, but we may be missing
17 and matching this. But I think that it might be
18 useful to have - so, we asked the custodians to look
19 and see whether the wall were damaged.

20 You know, do you see any damage on the walls?
21 That then passed to SCA to manage and I want to ask
22 Steve Lawitts to just talk through what their process
23 was to determine lead content and then to remediate.

24 STEVE LAWITTS: Thank you Commissioner. Thank
25 you Chair Treyger. Just to continue where I left

1 off, approximately half of the rooms that SCA and DOE
2 remediated, had been previously visually inspected
3 and XRF tested by the Department of Ed.

4 The remaining half were done completely by SCA,
5 that is SCA did the visual inspection, performed the
6 XRF testing and conducted the remediation of any
7 damaged lead based paint in the 1,860 classrooms this
8 summer.

9
10 CO-CHAIR TREYGER: My question again is does the
11 DOE proactively, prior to this past summer,
12 proactively test for lead in classrooms and in school
13 spaces using XRF. Not just in reaction to what just
14 happened this past summer. Because in guidance that
15 we have reviewed to school based staffed, that's
16 governed by DSF, I don't think I saw an XRF and I
17 think, and correct me if I'm wrong, you rely on
18 custodians and school cleaners and school maintenance
19 staff to provide data to you or to SCA and to DOE if
20 they find deteriorating paint, is that correct?

21 STEVE LAWITTS: That's how it was done prior to
22 this summer.

23 CO-CHAIR TREYGER: Thank you for confirming that
24 and what I'm just adding to is that they were using
25

1 an incorrect, an inaccurate way of testing for lead
2 in schools prior to this summer for many years.

3
4 KATHRYN GARCIA: So, I really just want to go
5 back because I think we are mixing and matching.
6 They were not asked to decide whether or not the
7 paint was lead. If they were in a building that was
8 pre-1985, they were instructed that if it was over
9 two square feet, they needed to send that out to a
10 contractor. And so, they were not asked to make a
11 determination on lead content, the custodial staff,
12 they were just asked, do you have a wall that's
13 failing, or do you not have a wall that's failing?

14 And so, there were other department of school
15 facility staff who did do XRF testing which we have
16 data for, but the only thing the custodians had been
17 asked to do was, do you have a failing wall or do you
18 not.

19 And I'm going to let DSF concur with that or
20 correct me if I've made an error.

21 CO-CHAIR TREYGER: And just, my question is, at
22 what point is DOHMH involved in all this and why
23 aren't they involved in all of this? Why is it just
24 DOE and DSF, SCA? Is the Health Department somehow
25 not allowed to enter a public school?

1
2 DR. OXIRIS BARBOT: So, there are a couple of
3 ways that the Health Department is involved in this
4 process. First, when there is a child with an
5 elevated blood lead level as I mentioned earlier, our
6 risk assessment seeks to identify all possible
7 sources of lead exposure and to eliminate all
8 possible sources.

9 So, we will refer when we have a child who spends
10 five hours a week elsewhere, we want an inspection to
11 happen in that other location. So, when we have a
12 school aged child or child enrolled in school at DOE,
13 we refer that case to DOE.

14 One of the important things that has happened
15 since we lowered the blood level for intervention, is
16 we are now referring more cases to DOE.

17 CO-CHAIR TREYGER: And how many referral cases
18 have DOE received from DOHMH within the last year or
19 do you have any data, just give me the last year.

20 DR. OXIRIS BARBOT: We have that number. While
21 we're looking for it, I can talk about the other way
22 that the Health Department is involved.

23 So, those are our inspections, or investigations
24 for children with elevated blood lead levels. We're
25 also involved as a matter of childcare for the very

1
2 young children that are enrolled in DOE and thanks to
3 some of the legislation that was passed in the
4 spring, some of the new requirements will be that the
5 Health Department will make available on our website
6 the results of the annual surveys that all childcare
7 providers including here, DOE is a childcare provider
8 for our purposes the results of those so that parents
9 will be able to find that information. That
10 information is already on DOE and it will be
11 available for DOHMH as well.

12 CO-CHAIR TREYGER: Is there any legal requirement
13 that bars the Health Department from entering a
14 public school to do an inspection of its own?

15 DR. OXIRIS BARBOT: I'm not aware of a legal
16 requirement that would bar

17 CO-CHAIR TREYGER: So, why isn't it happening?

18 DR. OXIRIS BARBOT: The Health Department really
19 as a matter of efficiency. We work with the DOE to
20 make sure to have the DOE do inspections of its own.

21 CO-CHAIR TREYGER: Respectfully, we just heard
22 that for years they were using poor, inaccurate
23 methods of testing for lead in schools. Does the
24 Health Department use the lead chipped paint method
25 when you visit homes and apartments around the city?

1
2 Do you currently use that, that's my question. Do
3 have someone just look for chipped paint on the wall?

4 DR. OXIRIS BARBOT: So, there are two different
5 things here and I think Commissioner Garcia is right.
6 That I think there are a couple of different issues
7 that maybe getting emerged into one.

8 CO-CHAIR TREYGER: I am not confused. I know
9 what I'm reading.

10 DR. OXIRIS BARBOT: Okay, when the Health
11 Department conducts an inspection of a child home,
12 when we're investigating a case of an elevated blood
13 lead level, the first thing we do is a visual
14 inspection to look for peeling paint.

15 That's because if paint is intact, it does not
16 pose a risk. When we observe peeling paint, we then
17 use an XRF machine to determine whether that paint is
18 lead based paint.

19 In our childcare program, which is a different
20 program at the Health Department, when we conduct
21 inspections of childcare programs, we are looking for
22 peeling paint and that's a violation to have peeling
23 paint.

24
25

1
2 So, those are visual observations. So, there are
3 different techniques that are used depending on the
4 setting.

5 CO-CHAIR TREYGER: Now, you said you have data on
6 how many referrals you've given to DOE. Can you
7 share that with us?

8 RANA KHAN: So, from June 21, 2019 to present, we
9 have received 140 cases.

10 CO-CHAIR TREYGER: Say that again.

11 RANA KHAN: 140 cases from the Department of
12 Health.

13 CO-CHAIR TREYGER: From what time period?

14 RANA KHAN: June 21, 2019.

15 CO-CHAIR TREYGER: 2019 to now. How about prior
16 to June 2019?

17 RANA KHAN: Sure, so from June 21, 2018 to June
18 20, 2019, we had received 136 cases.

19 CO-CHAIR TREYGER: And what is the DOE's protocol
20 when they receive these referrals from DOHMH? What
21 is DOE required to do?

22 RANA KHAN: So, as soon as the Department of
23 Health sends us the referrals that a child test
24 positive for elevated blood lead levels and that
25 child attended one of our public schools, the DOE

1 inspects all of the rooms that child is in. We
2 inspect, test and remediate as necessary.

3
4 CO-CHAIR TREYGER: When you say all the rooms
5 that the child goes in, does that include hallways,
6 libraries, does that include all of those common
7 spaces as well.

8 RANA KHAN: We inspect the rooms where the
9 children are spending the most amount of time.

10 CO-CHAIR TREYGER: So, you do not test the common
11 spaces, is that correct?

12 RANA KHAN: Correct.

13 CO-CHAIR TREYGER: Is there a legal requirement
14 for example that NYCHA tests common spaces in NYCHA
15 property?

16 KATHRYN GARCIA: So, testing or presuming is two
17 different things. They are supposed to check for
18 failing paint in the way that you were talking about.
19 Look for failing, chipping paint and I'm going to ask
20 Dan Green to talk about any of their procedures but
21 that is actually a HUD requirement that they check
22 the common areas.

23 CO-CHAIR TREYGER: Ah, so the federal government
24 which obviously I don't look to as like the grand bar
25 these days. It actually does require testing of the

1
2 common spaces and I remind the Administration that
3 there are children who spend a lot of time in common
4 spaces because they lack adequate space in their
5 schools.

6 And so, cluster rooms, common spaces are often
7 times used as instructional spaces throughout the
8 day. Can the DOE at least confirm that?

9 KATHRYN GARCIA: So, may I just step in here -

10 CO-CHAIR TREYGER: I would really appreciate just
11 an acknowledge from DOE that there are schools that
12 have to use their common spaces for instructional
13 classes.

14 RANA KHAN: There are some schools that do use
15 their common spaces for instructional spaces.

16 CO-CHAIR TREYGER: I do appreciate that
17 acknowledgement because the Mayor seems to have
18 forgotten that. Yes, please.

19 KATHRYN GARCIA: But the one thing that I do want
20 to stress is that we did work very hard to make sure
21 that any classroom where a child under six was going
22 to spend time, was investigated and remediated if
23 required and that principals are not allowed to put
24 the small children in any other space right now,
25 unless that has now been gone back and looked at.

1
2 CO-CHAIR TREYGER: I also am not sure if I heard
3 communication with the school community and parents
4 in school. Is that a part of that protocol as well?
5 Do you inform the parents? Do you inform the school
6 community? Is the principal aware, the chapter
7 leader aware, is everyone aware if a child is tested
8 positive for lead in the school?

9 Dr. OXIRIS BARBOT: No.

10 KATHRYN GARCIA: I'm going to let the Health
11 Department, but I think that is a violation of their
12 privacy.

13 DR. OXIRIS BARBOT: Yeah, at the end of draw
14 level, that's protected health information, we don't
15 share it.

16 CO-CHAIR TREYGER: No, no, I'm saying if - let me
17 clear. If a child tests positive for lead and you
18 test the school because I'm hearing is that you test
19 some of the classrooms that the child spends and you
20 find evidence of lead, do you inform the school
21 community then?

22 RANA KHAN: No, we do not.

23 CO-CHAIR TREYGER: No, you do not. That's a
24 problem. That's a problem and that has to change.
25 Now, does the DOE, first of all in the findings that

1 we got reported, first, it was I think 900 classrooms
2 than it jumped to 1,800 and so forth. Was district
3 75 including in the findings?
4

5 RANA KHAN: They were.

6 CO-CHAIR TREYGER: They were?

7 RANA KHAN: In the total amount of classrooms
8 that were tested, yes, District 75 was included or
9 the District 75 programs serving students under the
10 age of -

11 CO-CHAIR TREYGER: District 75 classrooms were
12 included, is that what you're saying?

13 RANA KHAN: Correct.

14 CO-CHAIR TREYGER: Because we were told by
15 advocates otherwise. We will circle back on that.
16 Did the DOE also test - do you have something to add?
17 Yes, please.

18 STEVE LAWITTS: I just wanted to confirm that of
19 the 1,860 rooms that we remediated this summer, 33
20 were in District 75 classrooms and that was out of a
21 total of 141 classrooms inspected.

22 CO-CHAIR TREYGER: Do you have it broken down by
23 school districts?

24 STEVE LAWITTS: Not with me.
25

1
2 CO-CHAIR TREYGER: If you can give me that
3 information, I'd appreciate it. I also note that
4 when you sent the memo out to custodians, is that
5 correct? This summer, to do visual inspections, that
6 was sent to custodians, is that correct?

7 STEVE LAWITTS: Yes.

8 CO-CHAIR TREYGER: Right, and what happens if
9 custodians God forbid are on vacation over the
10 summer? Because that happened. How did you make
11 sure that that still went forward.

12 RANA KHAN: So, thank you for that. The
13 custodians are obviously one of many staff, not just
14 at the school level but also our central division of
15 school facilities level. And that messaging went out
16 to all of our directors of facilities and our Deputy
17 Directors of facilities. They would have followed up
18 if a custodian was not at the school.

19 CO-CHAIR TREYGER: I'm just telling you
20 anecdotally, I found cases in Southern Brooklyn, that
21 the custodian was on vacation. They asked school
22 maintenance staff that actually - I don't think they
23 knew how to really test for this stuff. I'm not
24 sure, are old DOE maintenance staff trained,

1
2 credentialed to conduct visual inspections for this
3 type of work. Can someone speak to that?

4 RANA KHAN: So, as of the summer, our custodians
5 are P Certified but other staff are not.

6 CO-CHAIR TREYGER: So, as of this summer is that
7 correct?

8 RANA KHAN: Correct.

9 CO-CHAIR TREYGER: So, in prior years they were
10 not certified, is that correct?

11 RANA KHAN: Correct, but that was not required.

12 CO-CHAIR TREYGER: Did the DOE test as well for
13 dust, lead in dust in classrooms in addition to
14 looking for evidence of deteriorating paint?

15 STEVE LAWITTS: If I may Chair Treyger?

16 CO-CHAIR TREYGER: Yes.

17 STEVE LAWITTS: So, part of the remediation
18 process; once the chipped lead based paint is removed
19 and covered and painted, the last steps are a
20 cleaning of the room and lead dust testing.

21 So, the lead dust wipe testing occurred in all
22 instances in the 1,860 rooms that were remediated
23 this summer and once we are notified by the
24 independent certified laboratory that the dust wipe
25 clearance testing has been passed, we issue

1
2 reoccupancy letters that are in conformance with EPA
3 and City Health regulations indicating that the
4 classroom is safe for occupancy by young children.

5 CO-CHAIR TREYGER: I guess my question is, did
6 you proactively test for dust prior to the actions in
7 the recent months?

8 RANA KHAN: So, thank you for the question.
9 Where there was remediation performed, after an XRF
10 test was done in a classroom from prior years, the
11 certified contracted vendor would have gone in and
12 done a dust wipe sample.

13 CO-CHAIR TREYGER: But there was no proactive
14 testing. It's only when you did some remediation
15 work, is that right?

16 RANA KHAN: That is correct.

17 CO-CHAIR TREYGER: I mentioned before about the
18 common spaces. I read this morning that the DOE is
19 expanding to more common spaces. Can you explain the
20 sudden shift in the decision to include common
21 spaces?

22 STEVE LAWITTS: Yes, Mr. Chair. As soon as we
23 completed the remediation of the 1,860 classrooms, we
24 looked to the set of spaces that we believe children
25 occupy, next most frequently, next to classrooms.

1
2 And so, those were libraries and cafeteria's and we
3 began at the end of the first week in school, we
4 began a program to inspect, test, stabilize and
5 remediate all libraries and cafeterias used by young
6 children in a target school building population of
7 880 school buildings.

8 CO-CHAIR TREYGER: Right, can you explain to me
9 now the current set of common spaces that you are now
10 testing?

11 KATHRYN GARCIA: So, may I, I don't view it as a
12 sudden change. This was one of the things that we
13 wanted to get a handle on, is one, what would be the
14 requirements and how disruptive during the school
15 year would it be but we had held off on doing gyms
16 and auditoriums next because many of those are double
17 height. And so, those are going to require
18 scaffolding to actually do the work in and we were
19 trying to make it so it would as little disruption
20 happening within the schools as we possibly can.
21 It's a long planning, more challenging work as well.

22 So, this is sort of a rolling amount of work that
23 we are moving through to make sure that we are
24 protecting children but I'll let Executing Vice
25 President talk about it.

1
2 CO-CHAIR TREYGER: Respectfully, that's not the
3 answer I was told initially. The DOE felt that they
4 just wanted to focus on classroom space. And the
5 Mayor made public remarks as well to that affect and
6 I just want to make clear that there are children in
7 our schools that spend a considerable about of time
8 in common spaces because the schools are overcrowded
9 and they've had to convert them into instructional
10 spaces.

11 I also note for the record, that in my review for
12 example, of the scathing reports with regards to
13 NYCHA and lead testing. Is it accurate to say that
14 there are children in NYCHA who got lead poisoning
15 from staircases and hallways, is that correct?

16 KATHRYN GARCIA: I do not have any evidence to
17 that affect, but I mean I'll defer to the Health
18 Department on what they saw in terms of what the
19 exposure route was for them.

20 CO-CHAIR TREYGER: Did any children in NYCHA get
21 poisoned by lead in common spaces in NYCHA?

22 LOUISE CARROLL: When we conduct our
23 investigations, we look for all possible sources of
24 exposure and we would not - there's no way for us to
25 match a particular source with a child's exposure.

1
2 When we do an investigation, we ask that those care
3 givers about time that the child might spend in a
4 common area and if that child spends a lot of time in
5 the common area, then we would test there.

6 So, the way you are asking your question is not
7 really the way that we think about our cases.

8 CO-CHAIR TREYGER: Was there evidence of lead in
9 common spaces in NYCHA? Did you find evidence of
10 lead in common spaces in NYCHA? That's a very I
11 think, a simple question.

12 LOUISE CARROLL: If that question is to the
13 Department of Health in terms of in our
14 investigations of a child with an elevated blood lead
15 level, did we ever identify lead, is that the
16 question? So, I will have to get back to you about
17 that, I don't have that individual case

18 CO-CHAIR TREYGER: Oh, I think there have been
19 reports that have said you have, and that there has
20 been found in common spaces in public housing and
21 that's why I think we need a uniform common approach
22 across all spaces.

23 I also remind folks that even during a fire
24 drill, students gather outside a hallway. Sometimes
25 it could be a half hour, sometimes even more. I

1 think we've all been through a fire drill and
2 sometimes children will stay along a staircase or it
3 could be a shelter drill and they could stay there
4 for a half hour to an hour and young children get
5 curious, they are kids and they might look for visual
6 inspections of chipped paint and they get curious.
7 And all it takes is one curious child to peel off
8 that chip and that's it.
9

10 And we can never take that back and what I'm
11 hearing today is that I'm not sure if there has been
12 any record keeping prior to this summer. Is that
13 correct? Are there any records that the DOE can
14 provide to this Committee or DOHMH as far as the
15 number of referrals, for the last five years for
16 example of lead tests in our schools? Where can we
17 get that?

18 DR. OXIRIS BARBOT: So, Chair Treyger if I may,
19 we definitely provide you those records after the
20 hearing.

21 CO-CHAIR TREYGER: Now, the last thing I will say
22 and I'll turn it over to my colleagues, DOHMH
23 mentioned in the testimony we heard about relying on
24 DOHMH nurse to follow up on cases for children who
25

1 are impacted. How many DOHMH nurses do we have in
2 our schools?
3

4 DR. OXIRIS BARBOT: So, the nurses that we're
5 talking about that are providing care management for
6 children with elevated blood lead levels are separate
7 and apart from the nurses that we have through the
8 office of school health. Through this new initiative
9 under LeadFreeNYC, we now have twelve nurses that
10 provide care management and again, those nurses are
11 independent of the office of school health.

12 CO-CHAIR TREYGER: But do those nurses
13 communicate with one another if they're serving the
14 same child?

15 DR. OXIRIS BARBOT: So, the nurses that are
16 providing the care management for the children with
17 elevated blood lead levels, their primary focus is
18 working with the children and the families in the
19 event where there is and I will let Corinne talk in
20 more detail.

21 In the event that there are concerns about other
22 areas of exposure, those nurses will coordinate with
23 whoever it is that's the primary giver. So, for
24 example, they will do ongoing care management with
25 pediatricians and with nurses in their offices if

1
2 there are concerns about childcare facilities. They
3 will do that ongoing coordination.

4 CO-CHAIR TREYGER: But how many nurses do you have
5 in the school health for example, working in school
6 health?

7 DR. OXIRIS BARBOT: So, the Office of School
8 Health, I don't have that number off the top of my
9 head, but we can get you that number.

10 CO-CHAIR TREYGER: Yes, because I am still not
11 clear why service ends at the schoolhouse gate for
12 DOHMH. I believe that DOHMH probably had now with
13 XRF testing and more modern testing, probably some
14 better trained experts at dealing with this issue
15 than agencies we just heard, do not have capacity to
16 deal with these issues.

17 So, DOHMH should not be barred from entering
18 schoolhouse gates or entering schools and conducting
19 this type of very, very important work. I also think
20 there's an inadequate number of nurses in our schools
21 and this relates to this issue because my question is
22 to DOE, when you have a child that tests positive for
23 lead, from schools that have lead, what do you do as
24 far as services? The child might require additional
25 accommodations. Is there a protocol action plan as

1 far as making sure that services might have to be
2 definitely provided to the child to meet their needs.

3 DR. OXIRIS BARBOT: So, let me begin and my
4 colleagues from DOE can augment. When children have
5 been identified as having lead levels above five, we,
6 through the Health Department for all children make
7 automatic referrals to the early intervention
8 program. Now that program, as you may be aware, goes
9 up until three years of age.

10 Beyond, or as the children go from three and
11 beyond, if their development has not progressed or
12 their level is still above five, we then work with
13 the families to make a referral to the early - I'm
14 sorry, I'm blanking - the Committee on Special
15 Education, sorry.

16 So, they will make that referral. It's a warm
17 handoff and then from there, the Department of
18 Education again, depending on the childrens
19 individual needs will determine to what extent that
20 child will need ongoing special education supports or
21 not. So, we try to make it as seamless as possible
22 for the family. I'm certain that there are
23 opportunities to make that even tighter and we'd be
24

1
2 open to working with you on how to make that even
3 tighter.

4 CO-CHAIR TREYGER: So, do we even have data on
5 how many IEP's have been informed by the process that
6 was just laid out?

7 CORINNE SCHIFF: We will look into it. I would
8 want to go back to the number of referrals that came
9 over to Department of Health and correlate that with
10 the number of students that have IEP's.

11 CO-CHAIR TREYGER: Yeah, this is again about
12 transparency and accountability and is lead a danger
13 to a seven year old's?

14 DR. OXIRIS BARBOT: So, the primary concerns
15 about the effects of lead are in the younger age
16 group because that's when their development is
17 fastest. That's when we want to take more preventive
18 efforts.

19 I'm not sure that there have been sufficient
20 studies, we would have to look into that to see what
21 the effects of lead are in a seven year old who had
22 previously been unexposed to be able to answer that
23 question accurately. We can get back to you on that.

24 CO-CHAIR TREYGER: In your professional opinion,
25 do you think lead is safe for seven year old's?

1
2 DR. OXIRIS BARBOT: You know, as we have said
3 before, there is no safe level of lead exposure and
4 that's the really the driving force here for
5 LeadFreeNYC.

6 CO-CHAIR TREYGER: I appreciate that and I think
7 that's the answer that we're looking for. And last
8 question and I'll turn it to my colleagues. What was
9 the cost over this past summer to DOE, SCA and all
10 the agencies involved to do inspection, remediation?
11 And what is the estimate cost to remove all lead from
12 all public schools?

13 STEVEN LAWITTS: Thank you Chair Treyger. For
14 the work that was done this summer on the 1,860
15 classrooms, it cost an average of \$5,000 per
16 classroom making the total for the summer work around
17 \$9.5 million.

18 CO-CHAIR TREYGER: \$9.5 million and that was just
19 for the classrooms?

20 STEVE LAWITTS: Correct.

21 CO-CHAIR TREYGER: How about for the common
22 spaces that you are now adding?

23 STEVE LAWITTS: So, we began the work on
24 cafeterias and libraries the first weekend in
25 September. Even though our contractors have been

1
2 working very hard on this, they've not rendered any
3 invoices to us yet, they are just working.

4 So, we don't have an estimate for what the
5 cafeterias and libraries will cost.

6 CO-CHAIR TREYGER: And you are adding now
7 bathrooms, gymnasiums, auditoriums, is that correct?
8 Do you have an estimate on that?

9 STEVE LAWITTS: It's the same answer as I just
10 gave.

11 CO-CHAIR TREYGER: And I'd like an estimate of
12 how much it would cost total to remove all lead in
13 New York City schools.

14 STEVE LAWITTS: Okay, that would involve a years
15 long years. Many years long process which would also
16 require that we construct many new schools to just
17 house students displaced from schools where we would
18 remediate what.

19 CO-CHAIR TREYGER: I just would like an estimate
20 of how much it would cost. I just want to note for
21 the record that in the past couple of budgets, we've
22 been pushing for more transparency on school support
23 services to provide more resources to our custodians
24 and maintenance staff. And the DOE Administration
25 actually has been cutting their budget almost year

1 after year. Saying that they enough to maintain
2 their buildings.
3

4 I actually think that if you provided custodians
5 and school maintenance staff the adequate resources,
6 they could actually do this work and wouldn't have to
7 play a game of catch up. I also think that you need
8 to definitely have people trained to do this work and
9 I believe you need better coordination and I still
10 don't understand why the Health Department, who I
11 think does have capacity, we need to increase their
12 personnel but I question this division of
13 responsibility, which to me, it's a major area of
14 concern for us. There are many, many cooks to this
15 pot and I think you need a point person overseeing
16 this with the capacity and expertise to make sure
17 that we're doing this right.

18 And with that, I will turn it back to the Chair
19 and my colleagues for their questions.

20 CO-CHAIR AMPRY-SAMUEL: Good evening everyone.
21 I'm joking, it's still afternoon. I do have several
22 questions just based on just referrals and
23 notification, but before I go there, just a point of
24 clarification.
25

1
2 Chair Levine asked about testing of water
3 fountains in public parks and First Deputy
4 Commissioner Kavanagh has said, 91 percent met
5 federal safety standards of 15 PPB's. But that
6 standard was established in the 1990's and many
7 health experts say it's outdated.

8 So, the question is and this based on social
9 media reports that are coming in from this hearing.
10 Analysis found that around 18 percent of public
11 drinking fountains tested above five PPB and more
12 than half tested above one. Which is what the
13 American Academy of Pediatrics has recommended as a
14 safety standard for drinking fountains in schools.

15 And so, the question is, can you just elaborate a
16 little more on those numbers and just kind of give us
17 a sense of are the standards that we're using really
18 outdated based on what experts are saying the numbers
19 should be?

20 Again, you mentioned 91 percent met federal
21 safety standards at 15, but the American Academy at
22 Pediatrics has recommended a safety standard that's
23 lower than that. So, are we using standards that are
24 outdated?

1
2 STEVE LAWITTS: We are using the current EPA of
3 New York State Department of Health Standards. I
4 cannot speak to whether or not they are the best or
5 the most protective standards, that's not my area of
6 expertise.

7 CO-CHAIR AMPRY-SAMUEL: Can anyone speak to that?

8 STEVE LAWITTS: But I can answer your further
9 questions about the you know, fountains in fell into
10 the range between 5 and 15 as you note. There were
11 approximately 291 fountains or another 8 percent of
12 the fountains tested that fell between 5 parts per
13 billion and 15 parts per billion on either the first
14 draw or the flush sample that was taken.

15 So, approximately 16 percent of the fountains or
16 fixtures that were tested over the course of the
17 summer exceeded the five parts per billion standard.

18 CO-CHAIR AMPRY-SAMUEL: Okay, medical doctor.

19 DR. OXIRIS BARBOT: You know, I'm not familiar
20 with the AAP recommendations and I would be surprised
21 if they were making recommendations about the water
22 triggers. So, we'll have to look more deeply into
23 that. The thing about the 15 parts per billion, it's
24 to measure of how effective the organophosphates are
25

1 in terms of coating the pipes to make sure that lead
2 isn't leaching.

3
4 So, it's a different measure of action as
5 compared to an elevated blood lead level in a child
6 which triggers different actions. So, I suspect that
7 social media might be sort of mixing apples and
8 oranges but we'll look into that and get back to you.

9 CO-CHAIR AMPRY-SAMUEL: Okay, alright, thank you
10 so much. So, just jumping right into it. We did
11 talk about - Council Member Treyger had some
12 questions based on referrals and I just want to go to
13 - I'm kind of all over the place right now.

14 In your testimony, Ms. Garcia, on page 3 under
15 the NYCHA XRF testing section, you stated that NYCHA
16 has launched an unprecedented \$101 million initiative
17 to test more than 134,000 apartments for the presence
18 of lead based paint using the XRF by end of 2020.

19 Testing began in the spring and you've tested
20 nearly 21,000. So, of course I'm not a mathematician
21 but that seems a little low when you look at the
22 percentages less than 25 percent. And when you go
23 the Federal Monitors report.

24 KATHRYN GARCIA: I don't have that in front of
25 me.

1
2 CO-CHAIR AMPRY-SAMUEL: So, I'll read it. The
3 second quarterly report on page 24, just for the
4 record it says, we have publicly reported and
5 continue to believe that inadequate resources are
6 being applied to the XRF testing and that NYCHA must
7 use better methods to identify locations where
8 children under six reside or regularly visit.

9 And so, you know, he said a lot clearly in the
10 report but can you just speak to those numbers and
11 explain you know, we are already at the end of 2019
12 and if we're talking about the end of 2020, what are
13 you doing to make sure that we actually get to that
14 number in a realistic way. Because it just seems
15 like we might be lagging right now.

16 KATHRYN GARCIA: So, there are two things I'm
17 going to say about that is one, NYCHA did add
18 additional contracts at their last board meeting to
19 the initial contractors for XRF to make sure that
20 they can meet the 2020 deadline, the end of 2020.

21 The other thing is that it will go faster as you
22 get to areas where the buildings are not testing
23 positive. Where they are testing negative for lead,
24 because when they test positive, they are also taking
25 lead chip, this is not a visualization, this is where

1 they physically take a chip of paint for analysis as
2 well.
3

4 So, there's more work in some place where they
5 are finding positive result than in building where
6 they are finding negative results and we anticipate
7 that that will continue to speed up. And they have
8 been willing to add resources as required to make
9 sure the XRF initiative is successful and I believe
10 that is continuously evaluated to make sure that they
11 are meeting that requirement.

12 I don't know if you had a specific question about
13 children under six?

14 CO-CHAIR AMPRY-SAMUEL: You can explain if you
15 care to.

16 KATHRYN GARCIA: So, NYCHA has expanded beyond
17 just using the tenant data. Which it means, the
18 lease says there's a kid that's under six on the
19 lease. That has been the primary method for figuring
20 out where children six are. But due to some of the
21 work that the Council did in the last round on the
22 lead bills, if a child spends ten hours a week in an
23 apartment, NYCHA is also asking about that as part of
24 their obligations also under Local Law 1.
25

1
2 So, you don't have to spend the night, you can
3 just be there because you're visiting grandma ten
4 hours a week or you have a babysitter ten hours a
5 week but we want to make sure we're getting into
6 those apartments as well.

7 I'm just going to ask Dan Green if he has
8 anything else to add on some of the work that NYCHA
9 has been doing.

10 CO-CHAIR AMPRY-SAMUEL: Okay, and one quick
11 question. I see all the Chairs here, why isn't NYCHA
12 Chair not here?

13 KATHRYN GARCIA: Well, as you can see there are
14 lots of people here from lots of agencies but Dan is
15 an expert on what is happening with lead at NYCHA and
16 felt he was most appropriate. The Chair today is
17 also dealing with the fact that we're in a heat
18 emergency today and making sure that he is fulfilling
19 his obligations on that front as well.

20 CO-CHAIR AMPRY-SAMUEL: Okay.

21 COUNCIL CLERK: Can you raise your right hand.
22 Do you affirm to tell the truth and nothing but the
23 truth and to respond honestly to Council Member
24 questions.

1
2 DAN GREENE: I do. Yeah, just to – I think
3 everything on the XRF initiative. I agree with what
4 Commissioner Garcia has said. On the child under six
5 identification issue, if you look at the monitors
6 report on page 30, we are currently actively working
7 with the monitor on a plan to more robustly identify
8 children under six.

9 We're working on a lead action plan right now
10 directly with the monitor and we are going to have
11 more affirmative to do that outreach and that
12 identification as part of that plan that we'll work
13 with the monitor and also our federal regulators but
14 we heard the monitors concern and we're working on
15 ways to address that.

16 CO-CHAIR AMPRY-SAMUEL: Okay, my next question.
17 And this is related to just notification in how the
18 agencies are working together. How does DOHMH notify
19 HPD and when you look at the actual monitors report
20 again on page 31 and 32, it goes into detail. You
21 know, just for the record, I'll read it quickly and I
22 know that we are way over two hours into this hearing
23 and we still have questions from the Chairs, but I
24 will read it quickly.

1
2 During the quarter, we received notice of 28
3 notifications sent by NYCHA to HUD of children who
4 live in NYCHA developments detected with elevated
5 blood lead levels. According to the 12 email notices
6 we received, talking about the monitors report on
7 September 10th. Nine informed recipients that the
8 elevated blood lead levels in question occurred prior
9 to the memorandum of understanding on April 1st and
10 NYCHA received notification from DOHMH on September
11 4th.

12 Three contained the same notice but referred to
13 the MOU dated August 20, 2019. And it goes on to
14 state, in any event it appears that the department
15 DOHMH did not provide timely notice to NYCHA of the
16 elevated blood lead levels.

17 And so, I know that it was mentioned earlier
18 about notification between HPD and DOHMH and so, very
19 similar question related to how are you working
20 together with NYCHA residents?

21 CORINNE SCHIFF: Sure, I can take the first
22 question about the report in the federal monitor.
23 So, the Health Department under the federal monitor,
24 the Health Department and NYCHA have entered into a
25 couple of agreements that are referred to in that

1
2 report. Those agreements set a timeline for the date
3 going forward when we would be providing information.
4 We've really said to NYCHA, you tell us what you need
5 from us and we'll get it to you.

6 When NYCHA and the Health Department learned that
7 the start date essentially, should have been earlier,
8 then we provided that earlier information.

9 DAN GREENE: Yes, so we have two MOU's that are
10 part of our agreement with the federal government.
11 We had to enter into MOU's with the Health Department
12 of this data sharing and moving forward, we're going
13 to continue that. So, this issue should not happen
14 again. This was a product of the first MOU being
15 signed this year.

16 CO-CHAIR AMPRY-SAMUEL: Okay, so you feel as
17 though are on a good track to get to the numbers that
18 you need to get to and the residents will be
19 notified. Is there an opportunity for residents to
20 request an investigation on their own?

21 CORINNE SCHIFF: So, I also wan to clarify that
22 the notification that we provide to NYCHA is
23 different from the work that we do with the family.
24 So, when we receive information, as I think we said
25 at the beginning, the Health Department receives

1
2 everyday blood lead test results and we review those
3 every day. When we identify a child with an elevated
4 blood lead level, which as of last July, is five
5 micrograms per deciliter, we follow up very quickly
6 with that family and we do an investigation with that
7 family to try to identify sources of lead exposure.

8 So, the communication with the family, that's
9 happening very quickly and is different from the
10 notification that we are providing to NYCHA. And our
11 findings from those investigations with that family,
12 that is something we share with that family.

13 CO-CHAIR AMPRY-SAMUEL: So, does it make it
14 difficult if you are notifying the family and not
15 necessarily at the same time notifying NYCHA, does it
16 create like a back log or just an untimely response
17 to being able to address the issues inside of the
18 units with NYCHA?

19 CORINNE SCHIFF: So, we have timelines set up
20 with NYCHA for when we provide that information to
21 them. Those are dictated by first by what NYCHA is
22 required to do under its federal requirements and
23 those are set out in these MOU's that were just
24 referred to. There is no backlog, we're complying
25 with the reporting requirements to NYCHA and also, we

1
2 have our own best practices in working with families
3 and making sure that we are in their apartments as
4 soon as we can.

5 CO-CHAIR AMPRY-SAMUEL: So, it's not a situation
6 where like there's a lag of maybe six months between
7 the time that the family is notified?

8 CORINNE SCHIFF: No, no, and in fact, one of the
9 things that we like to talk about in our inspections,
10 is we are frequently before the family has even heard
11 from their pediatrician. We're there very, very
12 quickly and when we go to the apartment, because we
13 sometimes find the information about the blood lead
14 level before the family has even had a chance to talk
15 with their doctor, part of the time we spend is
16 talking with the family about what do these results
17 mean?

18 We know that families are worried and so, our
19 inspectors are really well trained to answer all
20 their questions to say that we're going to be with
21 them throughout this process as we identify possible
22 sources of exposure and work together to remediate
23 those and then we will have a nurse who will be
24 working with you and will be monitoring your follow
25

1
2 up blood tests until that blood lead test drops below
3 five.

4 CO-CHAIR AMPRY-SAMUEL: Okay, going back to
5 NYCHA, you wanted to say something.

6 DAN GREENE: No.

7 CO-CHAIR AMPRY-SAMUEL: You did and I cut you
8 off. Going back to the question about the residents
9 being able to request an inspection and
10 investigation, what's that process like?

11 DAN GREENE: So, first of all, let me just
12 introduce who I am. So, my name is Dan Greene; I'm
13 the Acting Chief Compliance Officer at NYCHA.

14 So, my job is to make sure that NYCHA is
15 compliant with federal and really on lead, is federal
16 and local regulations that mainly apply.

17 So, I've already issued two reports on lead, one
18 in May one in July about where NYCHA is complying
19 where their falling short. The process right now for
20 reporting, as you indicated, for reporting conditions
21 and having them corrected on like an as request basis
22 is definitely something that NYCHA needs to develop
23 more to get into compliance.

24 I can say that the compliance department under
25 the terms of our HUD agreement has launched a

1
2 complaint form where residence can submit concerns on
3 any number of issue including lead paint and those
4 concerns come directly to the compliance department
5 and are referred to our EHS department.

6 CO-CHAIR AMPRY-SAMUEL: How is that recorded and
7 maintained?

8 DAN GREENE: That's done online and then recorded
9 in SEBUL[SP?] database, it's portal. So, it's all
10 recorded. The monitor has reviewed it. It's
11 actually mentioned, that system is mentioned at
12 length in the monitor second quarterly report.
13 They've been walked through it a number of times.
14 They have access to it and so, that system which just
15 came online and launched. You can do directly to
16 NYCHA's home page, you'll see a submit a concern tab
17 that will take you directly to a portal where you can
18 submit a concern in a resident or any stakeholder or
19 anybody, a member of the public, elected officials,
20 whomever, can submit a concern to NYCHA. Which then
21 the compliance department has to then review and
22 refer to the appropriate department.

23 The department that we have also established
24 under the agreement is our environmental health and
25 safety department. So, if we get a concern about

1 chipping or peeling paint in a unit, I'm going to
2 refer it to that department and then we're going to
3 make sure that that issue gets addressed.
4

5 Now, historically, I you know, would say I don't
6 this is an area where NYCHA has been compliant in the
7 past and we need to get better. That's the whole
8 purpose of our agreement and we're continuously
9 reviewing and disclosing where we are not in
10 compliance with these regulations and then it's my
11 job to build out the controls necessary to bring us
12 into compliance.

13 So, on this one, I would say right now, if a
14 resident has a concern about a peeling paint
15 condition and they want NYCHA to look into it, I
16 would say in addition you can contact the CCC
17 obviously, but you can also submit a concern to our
18 complaint portal and we will look into it to see if
19 that actually is a concern or if it might not be and
20 we'll work with them to get them that information.

21 CO-CHAIR AMPRY-SAMUEL: Okay, so going back to
22 the ramp up of the workers after the board meeting,
23 how many new individuals working in the unit and
24 going out and doing the actual inspections. What was
25

1 the need, like, how many people were needed and how
2 many folks were actually hired?

3 KATHRYN GARCIA: I'm going to see if Dan has the
4 data. They're all - they are not internal. They are
5 all contracts.

6 DAN GREENE: Yeah, so there was three vendors
7 added to increase the capacity. I don't have the
8 total number of new staff that the vendors have
9 added, but we can get that information to you.

10 CO-CHAIR AMPRY-SAMUEL: Okay, okay. Right now,
11 today, how many children who live in NYCHA have an
12 elevated blood lead level and pulling from the 3,866
13 number can you just give us a picture?

14 KATHRYN GARCIA: So, for children under six of
15 the 3,866, 112 had addresses associated with NYCHA.

16 CO-CHAIR AMPRY-SAMUEL: 112 out of -

17 KATHRYN GARCIA: 3,866.

18 CO-CHAIR AMPRY-SAMUEL: And the other 3,000-

19 KATHRYN GARCIA: The 3,754 because it's right in
20 front of me. I didn't have to do it in my head.

21 CO-CHAIR AMPRY-SAMUEL: They live in what type of
22 development?

23 KATHRYN GARCIA: They live in private housing, a
24 variety of private housing.
25

1
2 CO-CHAIR AMPRY-SAMUEL: Okay, and there was a
3 mention of 50 percent – the possibility of 50 percent
4 living in one to two family homes?

5 KATHRYN GARCIA: No, that number refers to in the
6 Comptrollers report, they identified about 8,000
7 buildings and of those about half, were one and two
8 family homes.

9 So, in the way that you asked your question, I'd
10 have to go back and parse the data.

11 CO-CHAIR AMPRY-SAMUEL: Okay.

12 KATHRYN GARCIA: But yes, I think that we can go
13 back and try and figure out of with this date is put
14 together of the private housing stock, is there any
15 way that we could parse that. What was the one and
16 two family out of it. I'm not positive, I think it
17 probably can be done.

18 But this was a particular group of buildings that
19 the Comptroller had looked at, about half are one and
20 two family.

21 CO-CHAIR AMPRY-SAMUEL: Okay, thank you for that
22 clarification and when you look at the investigations
23 of lead hazards in NYCHA developments and I know
24 Chair Treyger mentioned the common areas, do you see
25 a pattern at all from the children who had the

1 elevated levels. Do you see a pattern based on the
2 developments where they live, in any concentrated
3 areas throughout the city? And I ask that question
4 because Commissioner Garcia, you mentioned targeted
5 enforcement. And I just wanted to know, do you track
6 lead poisoning by borough or neighborhood and if
7 there are any concentrated areas? And if there are
8 any concentrated areas, I was trying to see if we see
9 or notice a pattern at all?

11 KATHRYN GARCIA: So, I mean, one thing having
12 looked at some of the NYCHA data and I'd have to go
13 back and really think about - because I've seen a lot
14 of the historic data for NYCHA, is that it wasn't
15 concentrated. It was actually somewhat surprising
16 because there are also certain developments that we
17 either had historical information and I think now
18 NYCHA has actual information from the XRF testing
19 that they have a lot of lead paint.

20 But we didn't necessarily see like more kids
21 there than we did in other places. But I think that
22 the highest concentration of children with elevated
23 blood lead levels more generally is in the
24 Williamsburg, North Brooklyn area.

25

1
2 And that's been pretty consistently true if you
3 look at where the most sort of per capita number of
4 children, it's through that central Brooklyn spine.
5 And then there's some other pockets and other
6 locations but it's been Williamsburg that's the has
7 the most children with elevated blood lead levels.
8 And I don't think that that's changed.

9 DR. OXIRIS BARBOT: No and what I would add is in
10 our quarterly reports, we give a break down by
11 borough in terms of the distribution of children with
12 elevated blood lead levels. And then within that, we
13 break out children that are in NYCHA and we'd be
14 happy to share that with you.

15 CO-CHAIR AMPRY-SAMUEL: Okay, thank you and my
16 last question to NYCHA. Does NYCHA temporarily
17 relocate residents where a unit is undergoing
18 remediation?

19 DAN GREENE: No, we are not currently doing that.

20 CO-CHAIR AMPRY-SAMUEL: Okay, have residents
21 requested that at all?

22 DAN GREENE: No, not to my knowledge, not to my
23 knowledge.

24 CO-CHAIR AMPRY-SAMUEL: Okay, alright. So, I'll
25 stop there.

1
2 CO-CHAIR TREYGER: Thank you, thank you Chair.
3 Next, we'll hear from Council Member Gjonaj.

4 COUNCIL MEMBER GJONAJ: Thank you so much Chairs.
5 Do we have an estimated number of children that have
6 been exposed to lead paint in 2018 citywide?
7 Exposed, not tested positive of lead levels above
8 five.

9 KATHRYN GARCIA: We do not have an estimate of
10 the number of children who have been exposed to
11 either deteriorated or intact lead paint.

12 COUNCIL MEMBER GJONAJ: Would it be shocking for
13 you to come up with a number of in the millions?
14 Would that be a shocking number?

15 KATHRYN GARCIA: So, I mean, it is very
16 challenging to really put together a number like that
17 because there's no way. If you are saying we're not
18 basing on blood tests, that we would know whether or
19 not a child had been exposed to lead paint.

20 COUNCIL MEMBER GJONAJ: Well, if we're referring
21 to a lead free New York City, do we know how many
22 children under the age of six live in New York City?

23 KATHRYN GARCIA: I do not know that off the top
24 of my head but I am sure that someone knows that.

25 COUNCIL MEMBER GJONAJ: I'm sure someone knows.

1
2 KATHRYN GARCIA: It's a knowable number.

3 COUNCIL MEMBER GJONAJ: What is the number?

4 KATHRYN GARCIA: I said it is a knowable number,
5 I do not know it.

6 COUNCIL MEMBER GJONAJ: Great, so if that number,
7 whatever it may be of children under six that live in
8 New York City have been exposed to lead paint,
9 whether through air, water, soil, classrooms, NYCHA,
10 that would be an exposure, correct?

11 Each and every one of these children has been
12 exposed to a source of lead in New York City.

13 KATHRYN GARCIA: Yeah, I'm not exactly
14 understanding how you are thinking about the data or
15 like any way to figure your how to quantify that -

16 COUNCIL MEMBER GJONAJ: The point I'm trying to
17 make is, it wasn't too long ago that Flint Michigan
18 was national news. And at that point, the estimated
19 number was between 6,000 and 12,000 children that
20 were exposed to lead paint and it received national
21 coverage. New York City has allowed millions of
22 children to be exposed to lead paint and we have not
23 been held accountable for it.

24

25

1
2 And so many great questions were asked and I wish
3 I had the time to go through a list of my own
4 questions.

5 When it comes to our schools, how many, if any,
6 have been deemed lead safe or lead free using the
7 same program of exemption requirements that we offer
8 private landlords?

9 KATHRYN GARCIA: I'm going to ask DOE whether or
10 not they have the total number that are deemed lead
11 free. Obviously, that is anything after 1985 and so,
12 this exemption process just finalized, so I think
13 your still printing forms in terms of that but let me
14 pass this to DOE to provide you that that
15 information.

16 COUNCIL MEMBER GJONAJ: Thank you.

17 RANA KHAN: Thank you. I apologize I didn't
18 introduce myself before. I'm Rana Khan from the DOE;
19 I'm the Deputy Chief of School Operations. I don't
20 have that number with me, I will get that information
21 for you.

22 COUNCIL MEMBER GJONAJ: Wouldn't it have been
23 important to say to say that we've lead certified
24 lead free, this many schools that have been built
25 before 1985, that's called preparation for this

1 hearing. This is a multi-Committee hearing. At a
2 minimum we can come here prepared. Don't you think
3 the people that are listening and the 1.1 million
4 children and their families should know how many
5 schools are lead free?
6

7 And I will never get that answer from and when I
8 do, I won't have the opportunity to make it public
9 for all of those that are viewing this hearing. How
10 many of our NYCHA buildings built before 1985 have
11 been certified lead free or lead safe?

12 KATHRYN GARCIA: I'm going to let NYCHA provide
13 you with that information. They use a slightly
14 different way of calculating based on the rules that
15 they are required to follow. But one of the things I
16 will say is they are under their rules, which are
17 complicated, are allowed to get building wide
18 exemptions for sample sizes within the buildings.
19 This is why they are going through and doing the XRF
20 testing to get definitive information to make sure
21 they are going through the process and getting lead
22 free exemptions on their units.

23 It's actually something they really want to do
24 and I will let Dan Greene speak more to it.

1
2 DAN GREENE: Okay, so, I'm not sure the 1985
3 number but the federal standard is 1978. That's the
4 -

5 COUNCIL MEMBER GJONAJ: And I agree, that's the
6 number I know but I seen 1985.

7 DAN GREENE: Right, so, 35 of our buildings were
8 built after 1978. The remainder were built before
9 that date. So, under federal law that would make
10 them target housing. Meaning that they either have
11 known or presumed lead paint. In them, we have 92
12 developments where we have known or presumed lead
13 pain in our apartments which are the first apartments
14 are going to be XRF tested through the Mayor's and
15 through our initiative with the city. And then we
16 have 277 developments that could have known or
17 presumed lead paint in their common areas.

18 COUNCIL MEMBER GJONAJ: So, the question is, are
19 we in par to meet the 2020 expectation of all of
20 these units to be tested?

21 You only tested 16 percent of the existing units
22 are we on par for 2020?

23 DAN GREENE: We definitely and not to give you a
24 long answer but we definitely need to increase our
25 capacity if we're going to make that. So, we've

1
2 added three vendors, we're going to have to greatly
3 increase our capacity if we're going to meet that
4 goal.

5 COUNCIL MEMBER GJONAJ: We are going to meet that
6 goal. We are?

7 DAN GREENE: No, I said, we're going to need to
8 greatly increase our capacity.

9 COUNCIL MEMBER GJONAJ: So, my only question is
10 going to be, because we started this a year ago. If
11 we don't meet that goal, who is going to be fired or
12 who will resign after promising and assuring that
13 we're going to meet this commitment of just testing?
14 And the answer to that is probably going to be
15 nobody.

16 Is Local Law 1 applied to all city owned building
17 schools and at NYCHA properties, city owned land? Is
18 there any exclusion? Okay, so would you be surprised
19 to know that we hold private sectors to one standard
20 and we hold the city to a different standard? Isn't
21 that surprising to you? Because what we're
22 describing today and all the questions and the
23 answers that we received, we have a separate
24 standard.

One that we're asking for the private industry,
private property owners to be held accountable and no
one ever talks about the accountability of NYCHA and
public schools and publicly owned building and lands.

We seem to always give them an exception and yet,
we know that there is 1.1 million children spending
eight hours a day in our public school system.

My last point, it's the re-poisoning that we're
allowing to happen and government should be held to a
higher standard and be the standard. So, although we
may be taken care of lead poisoning in privately
owned properties, we're allowing those same children
to be exposed to lead in publicly owned buildings in
particular schools. The liability that we've exposed
ourselves to and the tens of millions of dollars'
worth of lawsuits should rather be spent on
preventing lead poisoning then payouts for damage
that could never fully repay the damage that was done
to those families or those children.

It's an embarrassment, it will continue to be an
embarrassment to this city and to this administration
in particular because in 2004, when these laws were
enacted, this Mayor was in the City Council. He
served in the City Council from 2001 through 2009.

1
2 From 2010 through 2013, he served as Public Advocate
3 and is Mayor since 2014. He knew of these issues.
4 He passed and voted on Local Law 1 and when he had
5 the power and the ability to put the resources behind
6 us, he failed every New Yorkers. Thank you.

7 CO-CHAIR CORNEGY: Okay, next, we're going to
8 hear from Council Member Holden.

9 COUNCIL MEMBER HOLDEN: Thank you Chair. I don't
10 trust the DOE. That was quick. I don't trust the DOE
11 to handle the abatement of lead in their schools.
12 They were certainly late the game. I had gone into
13 some of my schools, the older schools especially and
14 witnessed crumbling walls in the classrooms. Not in
15 the hallways, in the classrooms, dust and there is
16 lead dust because this building is 116 years old.
17 Lead dust on the keyboards of the computers. And it
18 is a special needs school, that adds insult to
19 injury.

20 And the children, many of the special needs
21 students are putting their fingers in their mouth
22 constantly during the day. And I alerted DOE in
23 April of 2018 of the situation. It took them over a
24 year to address the problem and they painted every
25 single classroom in that school in August of 2019

1 because every single classroom had lead paint. And
2 these children were exposed to it. They even painted
3 the hallways, the stairwells, because they knew that
4 there was lead throughout this building.
5

6 Yet, it took them over a year to even address it
7 and I have the photographic evidence. I brought the
8 city attention of the Chancellor at a hearing,
9 education hearing in 2018 and these students were
10 exposed for that long and I asked for testing of
11 these children in the school because the photographic
12 evidence and what I witnessed was so compelling that
13 I knew these children had to be exposed to this lead.

14 So, I asked when DOE sought this summer, painting
15 over and doing abatement, I asked that these children
16 be tested. And then they released a statement on
17 their website DOE, that the parents can call a 3-1-1
18 number. And so, we called 3-1-1 to ask about free
19 lead testing and every operator that we called, and
20 there were probably about ten did not know about free
21 lead testing. Every operator, and then journalists
22 called and they learned none of the operators knew at
23 that time.

24 This September of this year knew about free lead
25 testing. And the parents were told, go to the

1 emergency room or go to your doctor and get tested.
2
3 But it's not free and then finally, we called the
4 Health Department and they didn't know about it
5 either. Until they came up with the healthy homes
6 program and then said you know, now we've educated
7 the 3-1-1 operators.

8 But you see, this is what goes on in the City of
9 New York and especially about lead. That the
10 information doesn't trickle down and I had - in a DDC
11 project, a sewer project, I had lead dumped across
12 from a school for over a year. Lead based soil,
13 dumped right across from a PSIS for over a year.
14 With obviously during the summer uncovered mind you,
15 uncovered. So, the pile of lead based soil was not
16 covered.

17 And again, I asked the Department of Health to
18 test the children in that school. And again, I was
19 denied or at least put out an advisory to the
20 population of that school, the parents about lead in
21 soil. And again, it wasn't under Commissioner Barbot
22 but again, I was told that we're not offering that.

23 So, this is what we're considering here in the
24 City Council because we're at a point where the
25 information is not being brought to the attention of

1 the parents. There should be automatic testing, when
2 children are exposed to levels like that I saw and
3 witnessed in these classrooms, there should be
4 mandatory testing or at least there should be an
5 advisory to every parent in that school, a special
6 letter to their homes. And I don't think that's
7 being done. Has something changed, is that being
8 done now since we tried to abate the schools but
9 we're still not there.
10

11 And I'm not even sure that just painting over. I
12 was trying to get the information as to how the
13 abatement was done in the schools and I still haven't
14 gotten that information. Like what paint was used,
15 was there an adhesive applied to the walls and again,
16 I wasn't really informed and I wrote several letters
17 about this. I wasn't informed as to how the
18 abatement was done, but could somebody just address
19 some of these comments?

20 RANA KHAN: Thank you Councilman Holden. So, you
21 are correct. We out of abundance of caution, we
22 remediated all of the classrooms in PS9. We did
23 paint them all this summer. There is extensive work
24 as you know going on in that building. We did
25 backpack letters to the parents and on the public

1
2 website have made the information about calling 3-1-1
3 available and in addition to getting our parents
4 notified, we're also working with our principals and
5 superintendents to also educate them on our
6 processes, because I think that goes a long way with
7 the local communities. Using our principals to
8 really get these messages out. I know it's a lot of
9 information for parents to consume, so we're trying
10 to educate our school populations as well. Not just
11 our custodial staff but again, our parents, our
12 superintendents, and our executive superintendents as
13 well.

14 COUNCIL MEMBER HOLDEN: So, how many students
15 were tested in PS 9 for lead levels?

16 RANA KHAN: Actually, I have the last time a
17 student was referred from the Department of Health
18 that attended PS 9 and that was actually in 2015.

19 COUNCIL MEMBER HOLDEN: I'm sorry?

20 RANA KHAN: The last time we got a referral for a
21 student that was attending PS 9 in Queens was in
22 2015.

23 COUNCIL MEMBER HOLDEN: 2015, but how many
24 students were tested after 2019? Because I asked for
25 the students to be tested there. Because I gave the

1
2 photographs to the Chancellor and that was definitely
3 lead sitting on the keyboards because there was
4 crumbling walls. There was water leakage throughout
5 that building and there was lead all over that
6 building.

7 CORRINE SCHIFF: So, information about individual
8 children is private, so we're not going to be able to
9 reveal testing information about individuals.

10 COUNCIL MEMBER HOLDEN: Could DOE provide me with
11 the letters that was sent to the parents of PS 9?

12 RANA KHAN: We can do that yes.

13 COUNCIL MEMBER HOLDEN: Okay, but again, even
14 though I exposed it April of 2018, it was not
15 actually worked on completely until 2019, which is
16 over a year, probably 14 months after which is
17 alarming and there is still issues with that
18 building. But I've seen that in other buildings
19 also. The older buildings throughout my district,
20 which is alarming.

21 So, that's why I don't trust DOE and I think the
22 Department of Health should actually work with DOE
23 and actually oversee them and make sure that these
24 students are protected. And I don't buy that the
25 younger children, that we should only abate the

1
2 classes with younger children. I think we have to do
3 the whole school, all the schools like was mentioned
4 by Council Member Treyger and I would love for the
5 Department of Health get involved again with DOE and
6 the School Construction Authority to oversee the
7 abatement because I don't think we're doing enough on
8 that, not nearly enough.

9 But again, if it wasn't for me going into the
10 schools and exposing this in the press, because the
11 letters didn't work. I didn't get an answer to my
12 letter even to the Chancellor. So, if we didn't go
13 to the press, nothing would have been done and that's
14 what it takes apparently. In 2019, to really address
15 lead, we have to go to the press to get the
16 administration to move. Thank you, thank you Chair.

17 CO-CHAIR TREYGER: Next is Council Member Levine.

18 COUNCIL MEMBER LEVINE: Thank you Chair. So, I'm
19 going to ask a few questions. I'm going to jump
20 around, so I'd appreciate just kind of assisting to
21 responses as possible.

22 Sir, you testified before that in order to be on
23 track for completion of XRF-ing all of the suspected
24 or potential buildings in NYCHA containing lead, we
25

would need to greatly increase our capacity with the
XRF machines in terms of contracting.

What's the hold up there? Why can't we increase
our capacity? What is our limitation there? Is it a
cost limitation?

DAN GREENE: No, we did, actually our last board
meeting, we approved three new contracts to up that.

COUNCIL MEMBER LEVINE: You said greatly
increase, is three new contracts greatly increasing
it?

DAN GREENE: So, right now, we're looking at
about 8,500 tests done per month. So, if you just
give me a second to consult -

COUNCIL MEMBER LEVINE: Okay, sure. We laid out
publicly that we want to complete this by 2020, is
that true?

DAN GREENE: Yeah, this has been a public
commitment to complete it by the end of -

COUNCIL MEMBER LEVINE: If it's a matter of
capacity, then we should hire every licensed EPA
licensed contractor that has an XRF machine to do the
work right.

KATHRYN GARCIA: That's basically what they've
done.

1
2 COUNCIL MEMBER LEVINE: Okay, so in a years'
3 time, this should be complete.

4 DAN GREENE: The goal is to complete it. We have
5 to monitor it at a consistent basis. You know, these
6 are complicated projects. You have to get access to
7 the units. We were doing a lot of work you know, to
8 make sure that we're getting consistent access to the
9 units because we have to be there with a responsible
10 adult to do the testing.

11 So, we're really trying to work hard at doing
12 that.

13 COUNCIL MEMBER LEVINE: I'm just referring to
14 your testimony before where you said, that in order
15 to do that, in order to complete it by 2020, end of
16 2020, we need to greatly increase our capacity.

17 So, I was just wondering why we can't - what
18 obstacles are there to greatly increasing our
19 capacity?

20 DAN GREENE: Well, one of the obstacles is market
21 capacity because this is a huge amount of work. So,
22 we've tried to hire all the vendors that we can to do
23 this work.

1
2 COUNCIL MEMBER LEVINE: There are more than three
3 vendors that aren't currently in the contract out
4 there in New York City.

5 DAN GREENE: We have ten vendors totally. So, we
6 had seven, so we added an additional three and
7 really, there's only so many of these first of all
8 XRF machines that are out there. Number two, only so
9 many certified lead inspectors who are actually
10 qualified to do -

11 COUNCIL MEMBER LEVINE: I don't know how many,
12 the Health Department knows. How many certified
13 inspectors are there in New York City with XRF
14 machines? There's dozens.

15 DR. OXIRIS BARBOT: We actually don't know but
16 there aren't enough. The amount of work that's been
17 generated through LeadFreeNYC is significant.

18 COUNCIL MEMBER LEVINE: Okay, but there's a list.
19 I mean, I ran a lead safe house program in 2004,
20 2005, 2006 and we had a list of contractors that we
21 knew.

22 DAN GREENE: We want to bring on as many
23 contractors as many contractors as we can to complete
24 this. We feel that we are really at the capacity of
25 what we can get through our procurements with

1
2 qualified vendors who can do this work, who had the
3 certifications, who had the proper equipment to do
4 it.

5 As I said, we're trying to up our monthly
6 bandwidth to meet the goal. And that's going to be
7 something that we're going to have to monitor on a
8 monthly basis and one of the advantages that we have
9 with our federal agreement is our monitor as was
10 mentioned is really watching our progress here and
11 making sure that we're being you know, careful in how
12 we're explaining it because this is a -

13 COUNCIL MEMBER LEVINE: How many units do we want
14 to inspect?

15 DAN GREENE: It's 134,000.

16 COUNCIL MEMBER LEVINE: Okay, so that should be,
17 8,500 per month for the next twelve months is
18 102,000. So, add a month to that, thirteen months is
19 like 110,000. So, we won't likely, if we're doing
20 8,500 a month, we won't hit 130,000.

21 KATHRYN GARCIA: We've done 21,000.

22 DAN GREENE: 21,000, sorry, we've completed
23 21,000.

24

25

1
2 COUNCIL MEMBER LEVINE: Oh, okay, so it's 130,000
3 in total. Okay, so then if we do 8,500 a month, we
4 will complete it in twelve months.

5 DAN GREENE: That is very much the hope sir.

6 COUNCIL MEMBER LEVINE: Okay, and how many did we
7 do this month?

8 DAN GREENE: I don't have that information at my
9 fingertips.

10 COUNCIL MEMBER LEVINE: Okay, in the past 30
11 days. We should be getting a monthly update as to
12 how many apartments are inspected.

13 DAN GREENE: Yeah, we have a public website where
14 we're giving updates already. Where the information
15 is updated every two weeks.

16 COUNCIL MEMBER LEVINE: Okay, why does NYCHA not
17 relocate families? As I said, I ran a lead safe
18 house program fifteen years ago. I know that at the
19 time we were a state funded program. I know that
20 northern Manhattan was a state funded program.

21 [INAUDIBLE 5:04:26] still has a lead safe house
22 program. And at some point, there was a city funded
23 program. Before I got there, I think there was a
24 city funded program.

1
2 Why I mean, NYCHA has empty apartments that they
3 can use as a safe house. I mean, why is NYCHA not
4 doing that? Especially when there is work going on,
5 remediation work that might cause lead dust.

6 DAN GREENE: So, it's a good question.

7 COUNCIL MEMBER LEVINE: Go ahead, sorry.

8 DAN GREENE: So, I think the first point that I
9 want to make is, we've been talking about this issue
10 with our monitor and with the federal regulators.
11 So, I definitely understand the concern. I think our
12 issue is about the number of projects that we're
13 doing on a daily basis. So, if you were to follow -
14 it would be the amount of relocation would be
15 significant where it would exceed the number of
16 hospitality. And there would be, since we're doing
17 upwards to 100 to 150 projects a day and that's a
18 rough number. That amount of relocation could be
19 very -

20 COUNCIL MEMBER LEVINE: You're doing 150 lead
21 remediation projects a day?

22 DAN GREENE: 100 to 150 yeah. We have a daily
23 throughput that we are trying to correct paint
24 deficiencies that we've identified through a visual
25 assessment.

2 So, we have a very high number -

3 COUNCIL MEMBER LEVINE: In units?

4 DAN GREENE: That's correct, yes, that's correct.

5 And so, I will say that we've been working - we
6 understand the worksite protection issue, so during
7 the work we certified our workers, 93 percent of them
8 now which is a high percentage because there is
9 turnover are RRP certified.

10 So, they are having to employ lead safe
11 protections at the site and then my job as a
12 Compliance monitor in number one, we're building a
13 field monitoring program to make sure that work is
14 done with the proper containment and done safely.

15 Number two, we have to make sure that they clean
16 using lead safe practices, using both the EPA, and
17 I'm sorry to give you a long answer.

18 COUNCIL MEMBER LEVINE: That's okay, yeah.

19 DAN GREENE: And then also, and so, we have to
20 keep all the records and everything.

21 COUNCIL MEMBER LEVINE: Got it, okay. I just
22 want to ask a couple more data points here. Moving
23 on just really quickly Chair, thanks for your
24 graciousness.

25

1
2 How many children, this is for Health Department
3 or DOE. How many children have been identified has
4 having an elevated blood lead level from schools,
5 from exposure at school?

6 CORINNE SCHIFF: So, we don't make a match.
7 There is no way to make a match of a particular
8 child's elevated blood lead level and the source of
9 exposure.

10 So, what we do is during our risk assessment
11 interview, our goal is to identify all possible
12 sources of exposure to seek to remediate those and
13 then to watch that child's follow up blood tests and
14 make sure that that blood lead level declines.

15 COUNCIL MEMBER LEVINE: How many children have
16 school as a suspected exposure.

17 CORINNE SCHIFF: So, we wouldn't even use that
18 language. What we would do is if a child spends five
19 hours or more at a second address other than their
20 home, then we will have an inspection done at that
21 address.

22 We provided the data for the number of referrals
23 we made to DOE, so those would be children where we
24 had done an investigation and that child was in a DOE
25 school.

1
2 COUNCIL MEMBER LEVINE: Right, I think that - but
3 who is us to try to figure out where the exposure is
4 happening. If a child has an elevated lead level,
5 the home is inspected and it's lead free.
6 Grandparents home is inspected and it's lead free,
7 and then the school is inspected and it contains
8 lead. How many instances of that, where there is no
9 home exposure identified or home risk identified.
10 Secondary home risk identified but school risk
11 identified.

12 CORINNE SCHIFF: I understand your question. So,
13 your question is for how many children have we not
14 been able to identify any source of exposure or any
15 risk factor except that we see a positive. I don't
16 have a number; I suspect that number is going to be
17 minuscule but I don't have a number with me. We'll
18 take a look at the data and we'll get back to you
19 about that.

20 COUNCIL MEMBER LEVINE: Okay, and then my last
21 question. How many children in New York City that
22 have elevated lead levels have we identified as from
23 a source other than paint related. So, other than
24 chips or dust? So, this could be water, this could
25 be soil.

1
2 LOUISE CARROLL: Let me just start by saying that
3 as a result of our collaboration with Council, we
4 have done a more exhaustive look at potential source
5 data and Corinne will go into the details of it, but
6 I think the important take home message, the punch
7 line is that our focus on lead based paint and
8 consumer products remains sort of the main focus.
9 Meaning that this additional data analysis hasn't
10 sort of you know, enlightened any of the potential
11 sources that we haven't already focused on.

12 COUNCIL MEMBER LEVINE: Right, and the reason I
13 ask is that there is this considerable amount of
14 alarm among parents, families. I have young kids;
15 they're you know drinking out of water fountains and
16 playing in the soil.

17 I think it's important for the public to
18 understand where the risk is. Have we identified any
19 kids other than consumer products. So, you're saying
20 like you know, toys that made overseas or spices,
21 that kind of thing. Other than that, or kind of
22 legacy paint products. Where are we, are we
23 identifying like the water fountain lines in schools
24 and soil as the exposure?

25

1
2 CORINNE SCHIFF: So, this analysis Dr. Barbot is
3 referring to, we took a look at the completed cases
4 for FY'19 and what was especially interesting about
5 that is that that means that we're taking a look at a
6 years' worth of completed cases. Once we lowered the
7 blood lead level intervention to five micrograms per
8 deciliter.

9 So, that was a group of 1,462 children.

10 COUNCIL MEMBER LEVINE: Okay.

11 CORINNE SCHIFF: In 64 percent of those cases, we
12 identified a lead paint hazard.

13 COUNCIL MEMBER LEVINE: Okay.

14 CORINNE SCHIFF: And these could be multiple
15 factors.

16 COUNCIL MEMBER LEVINE: Yeah, sure.

17 CORINNE SCHIFF: In 10 percent, we identified
18 products and that's why we say that paint and
19 products are the most commonly identified sources.

20 COUNCIL MEMBER LEVINE: So, that counts for about
21 three quarters.

22 CORINNE SCHIFF: Right, but remember these are -

23 COUNCIL MEMBER LEVINE: Sure, right, right,
24 right. Possibly a little less than three quarters,
25 yeah.

1
2 CORINNE SCHIFF: Water, we found six test kits
3 with an elevated water level. Those were all on the
4 first draw and for three of those children we had
5 also identified a lead paint hazard in the home and
6 for three of the children, we identified other kinds
7 of risk factors.

8 So, to your point, the message we really want
9 families to hear, is that New York has excellent
10 water, virtually lead free. It's the best beverage
11 for your health; the Health Commissioner would want
12 me to say. We want New Yorkers to be confident in
13 our water and we want them to chose water.

14 COUNCIL MEMBER LEVINE: And that includes
15 schools?

16 CORINNE SCHIFF: So, we would have to - this
17 analysis that we did was about water in the home.
18 So, as part of our routine practice and doing our
19 investigations we order a DEP test kit. We encourage
20 all families to order this test kit. It's a good way
21 to get confidence in your own water, so that you will
22 make water your choice of beverage.

23 To your soil question, when we do our risk
24 investigation, we are asking families about childrens
25 exposure, possible exposure to soil. If they tell us

1 that the child does play in soil, then we will test
2 that area. So, when we did those tests out of our
3 1,462 children in this study that we did, there were
4 seven children where we found elevated soil. That
5 was five apartments because some of those children
6 were siblings and all seven also had lead paint
7 hazards in the home.

8
9 COUNCIL MEMBER LEVINE: Okay.

10 CORINNE SCHIFF: And even though we would
11 investigate if they said that the child is playing in
12 the dirt in the park, in the playground, we tested
13 all those areas. These seven were in front or back
14 yards but all seven also had lead paint hazards.

15 COUNCIL MEMBER LEVINE: Okay, and back to the
16 water really quickly. So, the water, there were
17 three that had lead paint. Of the children who have
18 elevated lead levels that had the EPA test run on
19 their water that showed an elevated lead amount in
20 the water, three had also lead paint hazards in the
21 home. And then how many didn't have - what was the
22 total universe of that cohort?

23 CORINNE SCHIFF: I understand your question. So,
24 there were six where we got a positive test result
25 back. All first draw, so as the Commissioner noted

1 before, or one of the Commissioners, I'm not sure.
2 Run that water for 30 second you are going to clear
3 that out right.
4

5 DR. OXIRIS BARBOT: All the second draws were
6 negative.

7 COUNCIL MEMBER LEVINE: Yeah.

8 CORINNE SCHIFF: Second draws were negative and
9 for those children, three had lead paint hazards and
10 three had other kinds of risks.

11 COUNCIL MEMBER LEVINE: Okay, and none had no
12 other risk.

13 CO-CHAIR TREYGER: Council Member this will be
14 your last question.

15 COUNCIL MEMBER LEVINE: Yeah, I just want to make
16 it clear.

17 CORINNE SCHIFF: Correct, that's right.

18 COUNCIL MEMBER LEVINE: Zero had no other risks.

19 CORINNE SCHIFF: There were zero where we were
20 just mystery. That's right, all six, we had found
21 some other cause for -

22 COUNCIL MEMBER LEVINE: But all the numbers that
23 you just cited, does not equal 100. So, there still
24 are children that are coming up with an elevated lead
25

1 level that are exposed through some type of
2 undetermined method.

3
4 CORINNE SCHIFF: So, as part of these
5 investigations, we are asking families to identify
6 all possible sources and we are continuing to
7 investigate that. Now that we have nurses attached
8 to every family, we're having even more success
9 helping families remember as we continue to work with
10 them overtime. Remember all possible sources,
11 perhaps they remember that there had been damage in
12 the home and so there had been some possible dust
13 exposure.

14 There could be toys that a parent remembers later
15 that they had purchased. The other thing that we are
16 doing as you know; is we are watching those follow up
17 blood tests and what we want to see is those numbers
18 trending down. The blood lead test running down.
19 So, we identify possible sources of exposure. We
20 address those and then we watch that child.

21 COUNCIL MEMBER LEVINE: Got it. Okay, thank you
22 so much. Thanks.

23 CO-CHAIR TREYGER: Okay, thank you Council Member
24 and just to kind of wrap up with the panel just for
25 my own and then we'll hear from folks in the public.

1
2 What I have taken notes from my questions from others
3 is that from with regards to DOE, it's unclear to us
4 if there were any prior records prior to this summer
5 about lead inspections where they are. I guess their
6 on some site somewhere. It's also clear to me that
7 DOE -----

8
9 UNIDENTIFIED: ___ the identified products, and
10 that's why we say that paint and products are the
11 most commonly identified sources of...

12 COUNCIL MEMBER LEVIN: So that counts for about
13 three-quarters.

14 UNIDENTIFIED: Right, but remember, these are...

15 COUNCIL MEMBER LEVIN: Sure, right, right.

16 UNIDENTIFIED: ... [inaudible] we don't want to...

17 COUNCIL MEMBER LEVIN: Possibly a little less
18 than three-quarters, yeah.

19 UNIDENTIFIED: Um, water, um, we found six, ah,
20 test kits with an elevated water level. Those were
21 all on the first draw and for, ah, three of those
22 children we had also identified a lead paint hazard
23 in the home and for three of the children we
24 identified other kinds of risk factors. So, to your
25 point, the message we really want families to hear is

1
2 that New York has, ah, excellent water, virtually
3 lead-free. It's the best beverage for your health,
4 the health commissioner would want me to say. We
5 want New Yorkers to be confident in our water and we
6 want them to choose water.

7 COUNCIL MEMBER LEVIN: And that includes schools?

8 UNIDENTIFIED: So we would have to, this analysis
9 that we did was about water in the home, so as part
10 of our practice in doing our investigations we order
11 a DEP test kit and we encourage all families to order
12 this test kit. It's a good way to get confidence in
13 your water so you will make water your, your choice
14 of, um, of beverage. To your soil question, we, when
15 we do our risk investigation we are asking families
16 about children's exposure, possible exposure to soil.
17 If they tell us that that child, um, does play in
18 soil then we will test that area. So when we did
19 those tests out of our 1462 children in this study
20 that we did, um, there were seven children where we
21 found, ah, elevated soil. That was five apartments,
22 because some of those children were siblings and all
23 seven also had lead paint hazards in the home.

24 COUNCIL MEMBER LEVIN: OK. Oh, no, I said OK.

1
2 UNIDENTIFIED: In their home. Um, and even though
3 we would investigate if they said that the child is
4 playing the dirt in a park, in a playground, we
5 tested all those areas. These seven, um, were in
6 front or back yards, but all seven also had lead
7 paint hazards.

8 COUNCIL MEMBER LEVIN: OK, and back to the, the
9 water really quickly. So the water, there were three
10 that had, um, ah, lead paint. Of, of the children
11 who have elevated lead levels that had, um, that had,
12 ah, the EPA test run on their water that showed an
13 elevated lead amount in the water, um, three had also
14 lead hazard, lead paint hazards in the home, and then
15 how many didn't have, what was the total universe of
16 that, of that, ah, that cohort?

17 UNIDENTIFIED: If I understand your question, so
18 there were six...

19 COUNCIL MEMBER LEVIN: Six.

20 UNIDENTIFIED: ...children where we got a positive
21 test result back.

22 COUNCIL MEMBER LEVIN: OK.

23 UNIDENTIFIED: All, all first draws. So as the
24 commissioner noted before, one of the commissioners,
25 I'm not sure...

2 COUNCIL MEMBER LEVIN: Run.

3 UNIDENTIFIED: Um, run that water for 30 seconds
4 and you're gonna clear that out, right?

5 COUNCIL MEMBER LEVIN: I always do.

6 UNIDENTIFIED 2: All the second draws were
7 negative.

8 COUNCIL MEMBER LEVIN: Yep.

9 UNIDENTIFIED: Second draws were negative and for
10 those children three had, ah, lead paint hazards and
11 three had other kinds of risks.

12 COUNCIL MEMBER LEVIN: OK.

13 UNIDENTIFIED: So we, we note...

14 COUNCIL MEMBER LEVIN: And none had no, none had
15 no other risk?

16 CHAIR TREYGER: Council Member, this will be your
17 last question.

18 COUNCIL MEMBER LEVIN: Yeah.

19 CHAIR TREYGER: We have to move on.

20 COUNCIL MEMBER LEVIN: I just want to make it
21 clear with the...

22 UNIDENTIFIED: Correct.

23 COUNCIL MEMBER LEVIN: Yes.

24 UNIDENTIFIED: That's right.

25

1
2 COUNCIL MEMBER LEVIN: Zero had no other risks.
3 There were six in...

4 UNIDENTIFIED: There were zero, there were zero
5 where we just, mystery, that's all six we had found
6 some other cause for [inaudible].

7 COUNCIL MEMBER LEVIN: But all the numbers that
8 you just cited didn't, does not equal a hundred. So
9 there still are children that are coming up with an
10 elevated lead level that are exposed through some
11 type of undetermined methods.

12 UNIDENTIFIED: So as part of these investigations,
13 ah, we are asking families to identify all possible
14 sources and we're continuing to investigate that.
15 Now that we have nurses, um, attached to every family
16 we're having even more success helping families
17 remember as we continue to work with them over time,
18 remember other possible sources. Perhaps they
19 remember that there had been damage in the home and
20 there had been, um, some, some, ah, dust, possible
21 dust exposure.

22 COUNCIL MEMBER LEVIN: Um-hmm.

23 UNIDENTIFIED: There could be, um, toys that a
24 parent remember later that they had purchased. The
25 other thing that we are doing, as you know, is we are

1 watching those follow-up building tests, and what we
2 want to see is...

3
4 COUNCIL MEMBER LEVIN: Is a good end.

5 UNIDENTIFIED: ...those numbers trending down, the
6 blood lead tests trending down. So we identify
7 possible sources of exposure. We address those. And
8 then we watch that child.

9 COUNCIL MEMBER LEVIN: Got it, OK. Thank you so
10 much.

11 CHAIRPERSON TREYGER: OK, um, thank you, Council
12 Member, and just to kind of wrap up with the panel,
13 ah, just for, for my own and then we'll hear from
14 folks in the public. Um, what I have taken down
15 notes from, from my, from my questions from others,
16 is that from as far as the DOE, um, it's, it's
17 unclear to us if there were any prior resources prior
18 to this summer about, ah, lead inspections, where,
19 where they are. I guess they're on some site
20 somewhere. Um, it's also clear to me that DOE staff
21 was not certified to conduct a lot of these lead
22 inspections. They were using ineffective, flawed
23 methods to conduct lead. Ah, they did not test the
24 dust. They did not test all common spaces. Even
25 with today's announcement this morning they are still

1 not agreeing to test all common spaces. And, ah,
2 we've also heard that DOE does not notify parents and
3 the school community when there are confirmed, ah,
4 cases of, of lead in the school. And still not clear
5 to us why the health department is somehow limited in
6 terms of service and operations at the schoolhouse
7 gate going beyond into the schools. I think it
8 really calls into question the level of coordination
9 or the lack of level of coordination, ah, with city
10 agencies, especially after hearing today that DOE did
11 not have trained certified staff conduct, conducting
12 these inspections and tests. I think the health
13 department should be alarmed. And we trust the
14 health department to look out for our health, and
15 that should not limit us, ah, as far not, to go into
16 a school, too. Children spend more than five hours
17 of their day in a school and that's a fact. And so
18 there's a lot of alarming things we, we learned and
19 did not learn here today at, at this hearing. All
20 options are on the table for us. Legislation will
21 definitely be drafted, requiring a lot more
22 information and data and requiring better
23 coordination because today, quite frankly, this is,
24 this is just not acceptable. And I remind the public
25

1 that a year ago we were told really all is fine. And
2 I want to thank the, the media, I want to thank my
3 colleagues and all those who have been very, ah,
4 instrumental working to increase accountability and
5 transparency. But it is clear to me we have a lot
6 more work to do. We have a lot more work to do. And
7 I thank the panel for their time. Ah, next I'd like
8 to please welcome the Comptroller of the City of New
9 York, Scott Stringer, to testify. OK. Welcome,
10 Comptroller. I think that the council just has their
11 protocol.
12

13 COMMITTEE COUNSEL: I'm going to administer an
14 oath. Can you raise your right hand? Do you affirm
15 to tell the truth, nothing but the truth, and to
16 respond honestly to Council Member question?

17 COMPTROLLER STRINGER: Always.

18 COMMITTEE COUNSEL: Great.

19 CHAIRPERSON TREYGER: Thank you, Comptroller, and
20 I welcome you today, and I also, ah, certainly
21 commend you and your office and your team for their
22 report on, on lead tests in schools, which has also
23 been very informative, or should I say not
24 informative because they don't have a lot of
25 information to give us, and I think that's what we

1
2 are continuing to learn. This hearing further
3 validated that. But I appreciate your leadership as
4 well and, ah, you have the floor. Thank you, Mr.
5 Comptroller.

6 COMPROLLER STRINGER: Well, thank you very much
7 and I want to thank you, Chair Treyger, and Chair
8 Ampry-Samuel for not just leading on such a critical
9 issue, but actually waiting for me to testify.
10 That's usually not the case during budget time. So
11 when you're here I really want to shout you out. And
12 yes, you too, Bob Holden, because you could be on
13 your way back to Queens, but you knew it was
14 important to be here. So thank you very much, and it
15 really is, all kidding aside, an honor to be here
16 with all of you, talking about this critical issue.
17 So I'll get right to the point. In September I issued
18 an investigative report that revealed how a systemic
19 breakdown in the city's bureaucracy allowed thousands
20 of buildings to go uninspected for lead paint
21 hazards, even though the city knew those buildings
22 were home to lead-exposed children. The core of this
23 breakdown involved two agencies, the Department of
24 Health and Mental Hygiene and the Department of
25 Housing Preservation and Development. By law, the

1 health department receives and reviews thousands of
2 blood tests every year, showing the exact location of
3 children suffering from lead exposure. Yet for years
4 DOHMH didn't share most of this information with HPD,
5 the agency responsible for actually inspecting
6 private buildings to prevent lead exposure. One hand
7 didn't know what the other knew. The result is that
8 some 9671 buildings were not visited by HPD lead
9 inspectors, even though DOHMH had blood test data
10 showing that those buildings were home to 11,972
11 children with elevated blood lead levels. These
12 included 503 buildings where at least three children
13 with elevated blood lead levels lived, 503 buildings.
14 It is nothing short of tragic. The city had all the
15 information it needed to target resources at lead
16 exposure hot spots, but instead HPD waited for
17 resident complaints to be phone in before launching
18 an inspection. Because the city's approach to lead
19 inspection was often flat-footed and almost always
20 reactive, instead of being proactive, HPD never
21 inspected as many as two-thirds of the buildings that
22 were under its jurisdiction and associated with a
23 case of child lead exposure. It was an approach that
24 left us ill-equipped to protect New Yorkers. Our
25

1
2 report revealed this massive failure. It should be a
3 road map for meaningful reform. Because the agency
4 that is supposed to turn over every stone and follow
5 every lead to root out lead paint was instead
6 searching for the light switch in the dark. They
7 were never notified of the blood lead tests of
8 children and therefore missed two-thirds of the
9 buildings that were home to kids who had been exposed
10 to lead. Our findings exposed how crucial it is for
11 city agencies to take a coordinated, proactive, and
12 aggressive approach if we truly want to eliminate
13 childhood lead poisoning in our city. Our
14 investigation provided the city with a road map to
15 reform. And I'm glad to report that because of this
16 investigation and the work of the various committees
17 the city has now committed to begin proactively
18 reaching out to the residents of over 8000 previously
19 uninspected buildings we identified in our report.
20 That includes inspections and audits of hundreds of
21 buildings my office identified as being tragically
22 associated with multiple cases of lead exposure.
23 Previously the city had only committed to target
24 about 200 buildings a year. There is still much more
25 we can be doing to protect our children from lead in

1 their homes, their schools, their playgrounds, and
2 their daycare centers. But by heeding the
3 recommendations of this investigation the city is
4 taking a positive step forward. Last week my office
5 met with many of the officials that testified today.
6 And I look forward to receiving updates on the
7 progress they are making towards the goal of a city
8 where no child is made to suffer from lead exposure.
9 I want to reiterate the critical reforms that we must
10 embrace for the city to achieve this goal. I want to
11 start with real enforcement. Our investigation found
12 buildings that were home to 15, 16, 17 lead-exposed
13 children. But in the five-year period we studied the
14 city didn't issue a single fine or penalty to any
15 landlord for failing to follow two key provisions of
16 the law. And this is critical. First, requiring
17 landlords to remove lead paint hazards from
18 apartments at turnover, and second, to check
19 apartments where young children live at least once a
20 year for lead hazards. That's gotta change. These
21 laws exist to remediate lead in homes. The city must
22 hold landlords accountable to following them. I
23 believe that what you heard today about inspections
24 do not address these two criteria, these two
25

1
2 elements. I urge you to follow up with your work and
3 make sure that part of the testimony gets rooted out
4 today, or in the future weeks. Now, last week I
5 requested documents from the Department of Education
6 to find out whether and how effectively that agency
7 has been inspecting its classrooms and other areas of
8 our schools that serve young children, those who
9 need, ah, the city's protection from lead exposure.
10 And Council Member, I want to say thank you to you in
11 your capacity as chair of the Education Committee,
12 because you have been relentless, and you know what I
13 know, which is that upwards of 20% of pre-K to first
14 grade classrooms tested positive for lead conditions
15 in the past few months and required remediation. And
16 parents deserve to know how serious DOE has been
17 about protecting children. As a public school parent
18 of a second-grader and a first-grader, this is
19 critical work. Because lead exposure is basically
20 poison and children that are exposed have a very
21 different life trajectory, and I appeal to you as a
22 parent to make sure that we hold these bureaucrats
23 accountable and get this job done. There is nothing
24 more important than this work. There is nothing that
25 I, there is nothing that for me I can say that has

1 not been brought out in the hearing about documenting
2 the way in which these lead inspections occur, the
3 follow-up, the documentation. I came here today, I
4 usually don't come to council hearings unless it's
5 budget time, when I am compelled to tell you the
6 city's finances. But I wanted to come here today
7 because we all have to work on this issue. We have
8 seen too much stumbling, too much fumbling, and the
9 consequences unfortunately for children aren't
10 reversible, and that is why we're all here. So I
11 want to thank all the committee chairs. I want to
12 recognize Mark Levine. I know once you heard I
13 testifying he came running back and whispered and I,
14 and I want to thank you after your long day for being
15 here as well. But to all of you, let's see what we
16 could to work together and I'm very glad that you did
17 this hearing today. And I commend the council, the
18 entire council, for the work on lead paint.

20 CHAIRPERSON LEVINE: Just very briefly, I want to
21 thank you, Mr. Comptroller, for being here, first of
22 all, and, ah, of course I had to run back, and more
23 importantly for publishing your report, your
24 investigation....

25 COMPTROLLER STRINGER: Thank you.

1
2 CHAIRPERSON LEVINE: ...at the time that we
3 needed it. Actually, it was referred to a number of
4 times in the hearing today, um, you might have heard.
5 Ah, you, you have keyed in on the difference between
6 proactive prevention and stepping in after the fact.
7 And there's a sense that we've just been perpetually
8 stepping in after the fact in a piecemeal way without
9 a comprehensive proactive approach to make sure that
10 kids don't get lead poisoning to begin with, and I
11 wonder if you could expand on the difference between
12 those two philosophies.

13 COMPTROLLER STRINGER: So this is, this is
14 actually, I think, the core of the report, and I
15 neglected to introduce, and I apologize, Marjorie
16 Landau, our deputy comptroller for investigations,
17 who does so much of our critical work. And I want to
18 thank Marjorie.

19 CHAIRPERSON LEVINE: Sorry, sorry for the
20 bureaucracy here, but could we just do the
21 affirmation for you, Ms. Deputy Comptroller? OK.

22 COMPTROLLER STRINGER: I thought I had taken care
23 of that.

24
25

1
2 COMMITTEE COUNSEL: Do you affirm to tell the
3 truth and nothing but the truth and to respond
4 honestly to Council Member questions?

5 DEPUTY COMPTROLLER LANDAU: I do.

6 COMMITTEE COUNSEL: Great.

7 CHAIR TORRES: All right, now that we cleared
8 that up. Um, so the, the heart of the report really
9 is about an ounce prevention is worth a pound of
10 cure. We knew, DOH, Department of Health, knew where
11 the children with lead paint existed in buildings.
12 They knew and they didn't share that information with
13 HPD. Instead, they relied on, or they hoped, that
14 people would call in complaints and then they would
15 chase those complaints. Which is why I think the
16 city could be satisfied with 200 inspections a year.
17 When we released the report and showed the sheer
18 magnitude of what we were dealing with, ah, in
19 residential buildings, I think it was clear that a
20 proactive approach is the only way we can fully
21 eradicate lead paint in our city buildings. Catch-
22 as-catch-can can be used in other inspection
23 protocols. This protocol has such dire consequences
24 that we cannot be passive. I do want to thank the
25 administration. They looked at the report. They

1 reviewed the report and now they are changing the way
2 they do this, much more in line to my office and the
3 City Council. And I think that's all for the good.
4 And I do want to say we've met with agency heads,
5 with, with the agencies, we're gonna work with the
6 agency heads, ah, to really see what we can do
7 collectively to remediate and then have the necessary
8 oversight to see whether that mediation, remediation,
9 is working.
10

11 COUNCIL MEMBER LEVIN: Mr. Comptroller. Please,
12 chair.

13 CHAIRPERSON TREYGER: So thank you to the
14 Comptroller as well and your office. I just want to
15 note, I heard, you know, I know you requested these
16 documents from, from the DOE and I, I wish you luck
17 getting them. Um, we are, we're gonna draft
18 legislation to require some reports, because, quite
19 frankly, what we heard today is even more chilling.
20 Ah, and even if they give you something that they've
21 put together, they acknowledge that in prior testing,
22 prior to this summer, they had folks that were not
23 even certified to conduct lead testing, doing that in
24 schools. They also were using methods that other
25 city officials acknowledged were ineffective and

1
2 flawed. So if you have folks that don't know what
3 they're doing, not knowing what to look for, using
4 methods that other officials have said are
5 ineffective, not, not, I mean, it's, it's really,
6 it's alarming and, um, we also learned that for
7 whatever reason DOHMH stops their work at the
8 schoolhouse gate. It's not clear if, what type of
9 work happens between them all. They only today gave
10 us some information about the number of referrals
11 they gave us within, within the last year. But DOE
12 acknowledged that once they get a referral from DOHMH
13 and they confirm lead in the school they don't notify
14 anybody. So they don't notify the parents.

15 COMPROLLER STRINGER: Sounds familiar.

16 CHAIRPERSON TREYGER: Right.

17 COMPROLLER STRINGER: So let me...

18 CHAIRPERSON TREYGER: Yes, please.

19 COMPROLLER STRINGER: So, so here's how this is
20 gonna go down. We send them a letter. You made a
21 public request under oath today. They said they
22 would give you the data. We're gonna subpoena it and
23 we're gonna get it. And so I want to make that very
24 clear. If they don't give it voluntarily we're going
25 to issue a subpoena, we're gonna track every bit of

1 data and we will work with this council and the
2 chairs, ah, to make sure that we are on the same page
3 because we must have the transparency of remediation.
4 It does, it makes no sense to conceal this from other
5 city agencies, as our report found, and how can you
6 not tell a parent, ah, immediately that there is even
7 a hint, ah, that a child may be in harm's way in a
8 school, on a playground, in their apartment building.
9 Ah, it is something that none of us should want to
10 have the responsibility, ah, for not doing everything
11 in our power to do it. So they can get ready. We'll
12 subpoena happily and I'll do it sooner rather than
13 later.
14

15 CHAIRPERSON TREYGER: I, I greatly appreciate
16 that. They also acknowledged that they didn't
17 proactively in the past test, ah, dust for lead. They
18 acknowledged that they didn't test common spaces,
19 after finally acknowledging that children do spend a
20 lot of time in common spaces. Mr. Comptroller, the
21 mayor forgets, you know, I know he's been, he's been
22 visiting Iowa and other states, but he forgets that
23 children spend a considerable amount of time in
24 common spaces because of overcrowding in our school
25 system. And I am a former teacher. You can't fool

1 me on that. I know that for a fact. I taught in
2 District 20, one of the most overcrowded school
3 districts in the City of New York, where they had to
4 use common spaces and hallways at instructional time,
5 for instructional time. So let's get the facts
6 clear.
7

8 COMPROLLER STRINGER: Well, look...

9 CHAIRPERSON TREYGER: And I appreciate your role
10 as the watchdog here to kind of keep folks honest.

11 COMPROLLER STRINGER: When, when I drop my two
12 little guys at their public school there is a compact
13 I make with that school. And it's not just a compact
14 with the teachers and the principals. I actually
15 make a compact with the structure, right? I know
16 when I drop the kids off they are in a safe space.
17 In fact, I would argue that parents today worry more
18 about the safe space than they do about some of their
19 instruction, right? You want them to come home. But
20 you also want to come home as healthier, as healthy
21 as they went in. And that is very troubling to me
22 when that data is not forthcoming. It signals a
23 concern, and we've been told for many years now
24 different stories at different times. Think about
25 the wonderful children in public housing, and, and I

1 think Alicka knows this as well, the fact that well,
2 the kids are safe until they're not. And I don't
3 think we should take anyone at their word. We need
4 to see documents and data, and we need to see it now,
5 because this is something that has been, has become
6 much better, ah, than we were led to believe, and we
7 should not, and I don't mean to disrespect any agency
8 person, bureaucrat, elected official, but it's all
9 hands on deck until we really make sure there is no
10 chance a child could contract lead paint poisoning.

12 CHAIRPERSON TREYGER: Well, Mr. Comptroller, I, I
13 appreciate that. I, I will go as far as to say I do
14 hold this mayor accountable. Because when I asked
15 and this council asked, the speaker and others sent a
16 letter to the DOE about testing for common spaces, at
17 a press conference he almost made a joke about it,
18 saying you, you don't get lead maybe from a hallway.
19 I remind him to read some of the DOI reports about
20 NYCHA where children got poisoned from staircases and
21 from hallways. He has to read some of the stuff his
22 agencies are producing. And so I do take, and I
23 appreciate you, I do take this stuff very serious.
24 They were on the record. We were told in the past
25 all was fine. I had a deputy mayor a year ago tell

1 me that we are a national leader on this issue. No,
2 we're not. Far from it.

3
4 COMPTRROLLER STRINGER: Sure.

5 CHAIRPERSON TREYGER: So I, again, I, I
6 definitely appreciate your, your leadership and your
7 important role. Do any of my other chairs, ah,
8 Council Member Chair Alicka, have any questions? Any
9 of my colleagues? Ah, Council Member Holden.

10 COUNCIL MEMBER HOLDEN: Thank you, Comptroller.
11 Thank you so much for your work. Ah, just, ah, a
12 couple of things. Um, I, I wrote a letter to DOE
13 about, I wanted to know about the stairwells because
14 in one school, um, PS-9, a 160-year-old building, had
15 lead in every, every part of the building. Um, and a
16 lot of peeling paint. So I asked him a question.
17 Ah, they painted the entire building. I wanted to
18 know how they did. They sent me a letter, um, a
19 month later. And then I asked about the stairwells.
20 And I said because you painted the stairwells, did
21 you also find lead on the floor of the painted
22 stairwell. We painted these, here's the answer I
23 got. We painted these areas as part of our regular
24 maintenance of school buildings that occurs in
25 preparation for the school year. They didn't answer

1 the question whether they found lead in the
2 stairwell. And, you know, in doing research you
3 can't, you have to, you can't just paint over a
4 stairwell with paint, because it's going to wear out.
5 And there was lead on that stairwell back in the '50s
6 and '60s, lead-based paint. And I wanted to know a
7 simple question, did they remove it the right way or
8 painted over? They painted over it, but they didn't
9 answer my question was the lead, the, ah, the
10 stairwell tested. And this is the kind of, and these
11 are the answers they were getting to, many of the
12 questions, about the building crumbling paint. I
13 found, um, crumbling plaster from a lead painted
14 wall, lead-based paint wall, on the keyboards of the
15 computers. And this was special needs, and the
16 children, the children were putting their fingers in
17 their mouth a lot in that classroom. And I brought
18 this to the attention of DOE for over a year and
19 never got an answer, and finally, um, had to go to
20 the press to get any action on that building, and
21 that's why the whole building was painted, stairwells
22 and all. So this is what we're facing with this
23 administration, that's what Council Member Treyger
24 was saying. I blame the mayor for not, um, moving
25

1 faster on this. Um, and again, I said in my
2 testimony, or in my questions to DOE, they were very
3 late to the game in the lead, ah, problem in the city
4 and schools, very late. DOE was so late that they
5 rushed it this summer and released a statement, I
6 think it was July or August, um, where were they?
7 And, and again, so I don't, like I said, I don't
8 trust DOE to handle the lead problem in the schools
9 and, um, I don't think you should either because
10 given their track record. Thank you.

12 COMPROLLER STRINGER: Let me just reiterate
13 again that, um, we, you know, I come here today
14 because I do think this is an issue that we all are
15 concerned about. Every kid in every district, ah, in
16 every borough, and the only way we're gonna hold
17 agencies accountable is through this public discourse
18 and the investigative reports and coordinate. One
19 thing I would say is that we did see a turnaround
20 after our report was released from the perspective
21 of, you know, from an inspection perspective. I take
22 that with the glass half full and I think we all
23 should. But we also should double down on a lot of
24 the issues, as Councilman Treyger and you are doing
25 on the whole issue of the children and the schools.

1
2 But let me just say one thing. As much as you want
3 to, rightfully, look at DOE, one of the things that,
4 the way we started or constructed this audit was
5 through the lens of, you know, a lot of time in city
6 government we focus on one agency, right? But we
7 tend to not realize that multiple agencies have
8 different protocols, and I'm always kind of amazed
9 that one agency never talks to the other. So we have
10 to also bring in Department of Health and HPD and
11 DOE, because we're dealing with multiple agencies
12 that are simply not coordinating and they're
13 operating in silos. And while I think this report
14 lends, will give you some ideas for legislation, we
15 also have to think about how we better understand the
16 interrelationships between these agencies. As Mark
17 said, the councilman said, you know, one agency stops
18 at the doorstep. But there are other agencies that
19 are in the building. So we have to better understand
20 that to solve a problem.

21 CHAIRPERSON TREYGER: It's true. NYCHA requires
22 them to test common spaces. DOE doesn't. It's,
23 it's, it's unbelievable the lack of coordination and
24 communication.

1
2 COMPTRROLLER STRINGER: And, listen, we can't let,
3 on this issue, we can't let the bureaucracy run us.

4 CHAIRPERSON TREYGER: I agree.

5 COMPTRROLLER STRINGER: We got to run the
6 bureaucracy, because a lot of this is old ways of
7 doing business, not taking advantage of data,
8 technology, new health protocols. That's why we are
9 behind other parts of the country. This is our
10 opportunity now to, to level the playing field for
11 the kids and the people in these buildings.

12 CHAIRPERSON TREYGER: Thank you. Thank you
13 very...

14 COMPTRROLLER STRINGER: Thank you all very much.

15 CHAIRPERSON LEVINE: Thank you, Mr. Comptroller.
16 All right. We have a panel of advocates up next,
17 including Matthew Shashare, Jacqueline Ciofola, Ruth
18 Lezemby, Sonal Jusal, and Adriana Espinosa. Thank
19 you to this panel of experts for sticking with the
20 hearing, which is now in its fifth hour. Ah, I think
21 you will agree these were really important
22 discussions that we had to have.

23 UNIDENTIFIED: Yes.

24 CHAIRPERSON LEVINE: And, um, but your
25 perspective is absolutely unique and critical and,

1 um, we are probably going to have to use the clock
2 because we technically lose the room at 3, but we
3 want to hear from you all in full and there certainly
4 will be time for Q&A. So, ah, Matt, you want to kick
5 us off?
6

7 MATTHEW SHASHARE: Thank you. Um, I had the, ah,
8 privilege of actually have the speaker read the
9 salient parts of my testimony into the record, which
10 stole some of my thunder. But having said that, I
11 mean, I've been working on this issue with the City
12 Council for over a quarter of a century, and we
13 worked closely with the council in 2004 to craft a
14 very detailed law based upon all the things that we
15 saw as advocates go wrong for the families. So the
16 original lead law was five paragraphs. Local Law 1
17 is page after page of detail. We come back here 15
18 years later and I can report to you that despite
19 holding the city's hand and writing all those details
20 into the law, it's still not enforced. And the key
21 things that we talked about is it's gotta be
22 landlords who inspect their own apartments. And it's
23 not happening. It's a failure that the city is
24 writing 13,000 peeling pain violations a year. That
25 shows something is wrong. It doesn't show that

1 they're doing a good job. It's a failure that in all
2 those 15 years only two times has the city ever
3 issued a violation to a landlord for not getting rid
4 of the lead paint before the family moved in and
5 doing the annual inspections, and that only happened
6 this year because I took the city and the landlord to
7 court and got the city in there kicking and screaming
8 to finally issue a violation. And you know what?
9 They still haven't even figured out how they're gonna
10 enforce that violation. And I want to talk about one
11 of those cases. It's in your district, Council
12 Member Levine. Ah, it's, it's a client named Blancas
13 Gibanumbi. She moved into her apartment in 2005, um,
14 and since Local Law 1 was in effect that apartment
15 should have been abated before she moved in. We now
16 know that that didn't happen. In June of 2016 her
17 son, Axel, was born and four months later he was lead
18 poisoned. And the city came in and they found lead
19 paint on the doorframes, which should have been an
20 indication that this apartment was not abated before
21 they moved in. But they didn't test the rest of the
22 apartment. They did some work. They then told the
23 tenant it's fine, you can move back in, it's safe.
24 And then two years later, guess what happened? Axel

1 was poisoned again. And the city came in and they
2 found more lead paint in other locations. So this is
3 what happens when the city doesn't enforce the law is
4 that kids get poisoned and re-poisoned, and I've never
5 heard an explanation from anyone in HPD why it is
6 that they refuse to enforce the law. Because I have
7 shown it's possible, you know, I have taken them by
8 the hand and say you write the violation, you found
9 the lead paint, obviously they didn't do this before
10 the family moved in. Obviously they haven't been
11 doing the annual inspections. Why is it so hard?
12 All we hear is oh, we're gonna be doing this one of
13 these days. By the way, we also discovered in the
14 case of Ms. Gibanumbi that the city had audited this,
15 had issued an audit demand to this landlord back in
16 2008 because another kid was lead poisoned in the
17 building, and all the city has ever done with those
18 audit notices is ask the landlord do you have the
19 records, and if they don't provide the records they
20 just write a violation, so you didn't provide the
21 records and it sits there. You can see on the data
22 that I produced, they wrote 2000 violations for
23 audits and 1700 are still open. Do they then go back
24 and say we've got a problem here, we're going to
25

1 inspect and make sure that the apartment is now safe?
2
3 No. So it's time to change this. It's, and, and if
4 the laws are not working, even though they're
5 detailed, we need to go back and revise those laws
6 and put in exacting detail all the baby steps that
7 need to be taken by these agencies, lead them by the
8 hand and tell them how to do their job. We thought
9 they were going to do. It's obvious that they refuse
10 to do so.

11 CHAIRPERSON TREYGER: Thank you.

12 JACQUELINE CIOFOLO: Hi, my name is Jacqueline
13 Ciofolo. I'm the director of policy, research, and
14 analysis in the Institute for Family Health, a
15 network of 35 federally qualified health centers that
16 serve the Bronx, Brooklyn, and Manhattan. Um, since
17 its inception in 1983 the institute has been
18 committed to addressing health injustices. Ah, we
19 are still lead by our founder and president, Dr. Neil
20 Kalman. The institute provides primary care,
21 behavioral health, and dental health. Um, over 30%
22 of our patients have private insurance. Um, I mean
23 only 30% of our patients have private insurance. The
24 majority of our patients identify as a race other
25 than white. Um, thank you for inviting me to testify

1 for the enforcement of the city's lead laws. Um,
2 when local housing advocates approached the institute
3 regarding potential excess levels of lead being
4 present in NYCHA housing we decided to look at our
5 center's health data, ah, to see if we would better
6 understand this problem in our patient population.
7 Our paper, Pediatric Blood Lead Levels within New
8 York City Public Versus Private Housing, 2003-2017,
9 was published in the June issue of the American
10 Journal for Public Health. As you know, even trace
11 amounts of lead have devastating health impacts to
12 children, including lower I.Q. [clears throat], um,
13 sorry, ah, delinquent [inaudible] activity, and poor
14 academic performance. Given these adverse events and
15 consequences of the elevated lead levels [clears
16 throat], apologies, um, it's really important for us
17 to understand the sources of exposure and remediate,
18 given these lifelong, ah, health impacts. Um, we
19 know that our health centers would have the lead
20 levels for children. Community health centers also
21 track patients' addresses, allowing us to identify
22 where the patients were living at the time of lead
23 testing. So what we did was we, ah, mapped the data
24 and coded the data to understand who had elevated
25

1 levels, ah, of blood, elevated lead, lead levels of
2 blood. Um, over 14 years of data. After cleaning
3 the data and identifying [inaudible] addresses, we
4 identified 4693 children receiving care at the
5 institute with a lead, lead level result and valid
6 address. Our results were mainly based in the Bronx
7 and Manhattan, where a majority of our New York City
8 health centers are located. We identified 3881
9 patients in private housing, non-NYCHA housing, and
10 812 in NYCHA housing, reflecting an oversampling of
11 NYCHA resident, residing children compared to the
12 overall New York City population. Among the children
13 in NYCHA housing, 59.8% lived in developments built
14 before 1960 and 96.5 lived in developments completed
15 before 1978. We coded results to determine if a
16 child had a lead level over or under 5 mcg/dL, the
17 current CDC of recommended level of concern. We also
18 examined average blood lead level by subgroup, as
19 seen in table one. Of the 3881 children in private
20 housing, the average blood lead level was 2.1 mcg/dL
21 with 2.76% of children with blood levels greater than
22 or equal to 5 mcg/dL. Of the 812 children in NYCHA
23 housing the average blood level was 1.92 with only
24 0.2% with blood level greater or equal than 5 mcg/dL.
25

1
2 Um, overall, we found that the children living in
3 private housing had significantly greater odds of
4 having elevated lead levels compared to the children
5 living in private housing. These results were
6 statistically significant and underwent sensitivity
7 analysis [inaudible] shifting the data to 2011 to
8 2017, as well as the second model examining children
9 age less than 6, ah, to adjust for any outliers. We
10 found statistically significant results with similar
11 results. Um, our results showed that public housing
12 efforts have been successful, though more needs to be
13 done and immediate efforts should focus immediately
14 on private housing. We urge the City Council to
15 ensure that laws are equitable and focus on the
16 city's most vulnerable. Punitive landlords could
17 increase the number of individuals with unstable
18 housing situations, um, but we applaud the City
19 Council for the package of bills passed in the spring
20 to expand the scope of the city's lead contamination
21 efforts and support any policies and legislation that
22 allowed children to lead happy and healthier lives.

23 ADRIANA ESPINOSA: Good afternoon. My name is
24 Adriana Espinosa. I'm the New York City program
25 director at the New York League of Conservation

1
2 Voters. Thank you to Chairs Ampry-Samuel, Cornegy,
3 Treyger, and Levine for allowing me to testify at
4 this committee hearing today. Um, while the number
5 of children with very high, ah, building lead levels
6 has dropped significantly since 2004, we remain far
7 from eliminating childhood lead poisoning. Last
8 September NYLCV, along with most of the groups here
9 at the table, released a report, Lead Loopholes,
10 highlighting how lax enforcement of Local Law 1 has
11 prevented the city's most ambitious lead poisoning
12 prevention law in the country from eliminating this
13 public health issue by the city's then-stated goal of
14 2010. And despite the commendable efforts laid out
15 in the lead-free road map last year there's still
16 much more to be done on fully enforcing our existing
17 lead poisoning prevention laws. Um, Local Law 1 was
18 designed to hold landlords accountable for
19 proactively finding and abating lead paint hazards
20 before children become poisoned. Yet the data still
21 shows in 2019 that the city is not enforcing the
22 primary prevention measures of Local Law 1.
23 Specifically, that is, ah, the annual inspections,
24 that is abatement of [inaudible] services at
25 turnover, and that is the [inaudible] practices. Ah,

1 so, ah, last year's Lead Loophole report focused on
2 mainly those first two points. Our report that, um,
3 out today, Collecting Dust, focuses a lot more
4 heavily on point three, which I think others on the
5 panel will get, um, deeper into, but I will submit
6 the full written version, ah, in my testimony. Um,
7 we cannot keep functioning on a complaint-driven
8 system and we must be proactive. That starts with
9 making sure landlords are abating at turnover and
10 annually inspecting all pre-60, pre-1960, each
11 [inaudible] occupied dwellings. Commissioner Garcia
12 said today that the city plans to take more, ah, more
13 strongly go after landlords on these primary
14 prevention measures, um, and, and Matt Shashare
15 testified earlier to how you do that and it's, it's
16 pretty simple. Whenever you go in and you have a
17 child who is lead poisoned you don't just, are you
18 doing an audit, you don't just ask them for their 10
19 years of resources on the annual inspection, um, and
20 that they did the abatement at turnover. And then if
21 they don't have you fine them for not having the
22 paperwork. That's not far enough. You need to
23 presume that if they don't have the paperwork to
24 prove they did the work then they did not do the
25

1 work, and it's going after them that harshly that's
2 going to get us where we need to be. And I wanted to
3 quickly, um, also respond to, um, the administration,
4 ah, on their response to our new report. Um, their
5 response earlier is just further proof that the
6 enforcement process, ah, for lead is opaque. We
7 explicitly say in our report that one of the study's
8 limitations is the availability of public data and,
9 and, um, I would prefer, I would refer you all to
10 page 18 of our report that recommended that all data
11 on lead enforcement be made publicly available.
12 Thank you.

14 SONAL JESSAL: Hi, ah, thank you for holding this
15 hearing today and for the opportunity to testify
16 regarding New York City's lead laws. Ah, I'm Sonal
17 Jessal. I'm the policy and advocacy coordinator at We
18 Act for Environmental Justice. Ah, for the past 30
19 years We Act has been combatting environmental racism
20 in northern Manhattan. Ah, We Act was part of the
21 advocacy team led by Matt Shashare in drafting and
22 fighting for the passage of Local Law 1 in 2004. Ah,
23 I am here as a member of the New York City Coalition
24 to End Lead Poisoning, NYCCELP, and a contributor of
25 the Collecting Dust report. I myself have received

1 my master in public health from Columbia University.

2 As many others will testify today, New York City,

3 HPD, and DOH have failed to enforce all aspects of

4 Local Law 1. The passage of the law was exciting

5 because it shifted the burden of lead mitigation from

6 tenants to the landlords. The law made it possible

7 to have systematic benefits for all tenants across

8 the city. Yesterday NYCCELP published our report on

9 lead violations and found that only about \$10,000 of

10 fines had been collected since the law was enacted.

11 In contrast, we found that collections from street

12 vendor health code violations amounted to 5 million

13 dollars over the past 15 years. Why does the city

14 impose and collect more penalties for street vending

15 but not for lead poisoning? There is no excuse for

16 failing to enforce a law when landlords endanger a

17 tenant's health. As a public health worker I'm

18 deeply concerned about the city's failure to end lead

19 poisoning. Lead poisoning causes serious harm to

20 children's health, damaging the brain and nervous

21 system, leading to developmental delays, behavioral

22 problems, and more. That information is from the

23 CDC. These harms are not treatable with simple

24 medication. They have impacts that last through a

1
2 lifespan. Studies of adults who have elevated blood
3 lead levels in childhood demonstrated also negative
4 impacts on the brain and nervous system and had more
5 risk of becoming hypertensive adults. Lead can also
6 cause pregnancy complications. That information is
7 from the American Academy of Pediatrics. Lead
8 poisoning is 100% preventable and there is no excuse
9 for this still being an issue. So I join other
10 advocates, experts, and community members to urge the
11 city to enforce all parts of Local Law 1 by
12 increasing penalties for landlords, adding additional
13 measures for fine collections, coordinating more
14 between agencies, and improving enforcement for safe
15 work practices. Thank you.

16 RUTHIE LAZENBY: Good afternoon, council members,
17 and thank you to the chairs for giving me the
18 opportunity to share my testimony today. My name is
19 Ruthie Lazenby. I am the healthy housing fellow with
20 New York Lawyers for the Public Interest. Our
21 organization has engaged in legal campaigns to
22 protect children from toxic exposures where they
23 live, learn, and play for over a decade. Today New
24 York City landlords may reasonably believe that they
25 will face little to no consequence for violating the

1
2 city's lead laws. Without both proactive measures by
3 the city to prevent lead exposure in the first place
4 and aggressive enforcement for landlords and others
5 that violate the law, the promise of Local Law 1 of
6 2004 to eliminate childhood lead poisoning will not
7 be achieved. The task is even more critical because
8 lead does not impact all people equally in New York
9 City. Children and pregnant women are most
10 susceptible to the harmful effects and Asian, black,
11 and Latinx children represent 84% of the children
12 under the age of 6 with building levels of 15 mcg/dL
13 or greater. One example of where the city has fallen
14 short is enforcement of the crucial provisions of
15 Local Law 1 of 2004, um, in the enforcement of, ah,
16 Local Law 1 of 2004 is requiring safe work practices
17 that protect children from lead paint that is
18 disturbed, whether for abatement or any other
19 renovation. As has been discussed, our report today
20 found that DOHMH sent, ah, work, work, safe work
21 practice violation cases to OATH, resulting in the
22 imposition of 2212 individual penalties, for a total
23 of about 2 million dollars in fines, but only about
24 \$10,000 was collected. So, um, to, to, also to
25 respond, um, to the administration's comments

1 earlier, we're really, you know, glad to hear about
2 the addition of the law department and the fact that
3 more is being collected. That is, of course a good
4 thing. Um, but as was indicated earlier, you know,
5 this also points to the lack of transparency in the
6 enforcement process. Um, we spent a lot of time
7 scouring, scouring the DOHMH website and of course
8 the regulations and found no mention of the law
9 department, um, and we would be happy to update our
10 analysis if the city is willing to share that, that
11 data with us. Um, the point remains, though, that
12 even, um, if, if the, um, the law department, um,
13 collections data that they mentioned shows a twenty-
14 fold increase that that's still only a collection
15 rate of about 10%, um, which just isn't enough. You
16 know, what, what we're finding is that the good
17 landlords are going to follow the law and that's, you
18 know, hopefully, that, that even could be the
19 majority. But the bad ones are not, you know, the
20 bad ones know the law. They're not going to follow
21 it, and they need to be held accountable. Um, and so
22 even at 10% that's just not enough, um, of a
23 collection rate to really make any impact. City
24 agencies, including DOHMH, HPD, and DOB can take
25

1
2 concrete steps to improve enforcement and impose
3 meaningful consequences for failure to comply with
4 the law. The lead-free NYC road map to eliminating,
5 um, to eliminating childhood lead exposure, published
6 by the city earlier this year, acknowledged that
7 Local Law 1 enforcement has thus far been primarily
8 driven by complaints from tenants and proposed
9 several targeted enforcement measures, including
10 proactively auditing lead-related resources kept by
11 landlords and aggressively increasing oversight for
12 construction work that proposes, that poses the risk,
13 a risk of lead dust. The road map also committed to
14 increasing resources and staff for enforcement.
15 These are absolutely necessary changes and this
16 hearing is critical to holding the city accountable
17 to these promises, but they are not adequate on their
18 own. Um, as has been said, um, the city really needs
19 to scale up collection of fines and imposes structure
20 of escalating fines for repeat violators, and we also
21 really need to get rid of these agency silos and
22 connect agencies with one another so that, um, ah,
23 for example, a DOHMH stop work order also triggers a
24 DOB stop work order. Um, we look forward to
25 continuing to work with the council and with the city

1 to improve the enforcement of the city's lead laws
2 and to strengthen them where needed to ensue that
3 agencies have the full set of tools to prevent lead
4 exposure and to impose meaningful consequences where
5 the law is violated. Thank you.

7 CHAIRPERSON TREYGER: Thank you all for your, ah,
8 very powerful testimony, and, quite frankly, the
9 stuff, I think we're just as alarmed and disturbed by
10 things that we've heard and have not heard. Just
11 curious, I guess, from the education perspective for
12 a second, I'm not sure if, um, I know a lot of
13 rightful attention is, is, is protecting folks in
14 home, which is absolutely, absolutely paramount. Um,
15 any thoughts on the city structure not permitting or
16 somehow stopping DOHMH at the schoolhouse gate, and
17 then transferring responsibility to people that they
18 acknowledged did not even know what they were doing.
19 Um, any thoughts on that?

20 MARK SHASHARE: Um, Council Member, I'd like to
21 make an observation or two, and unfortunately I heard
22 a lot today when the administration was testifying of
23 non-answers to very specific questions. And
24 essentially what I understand that the administration
25 is saying is that when there's a child who's been

1
2 reported with an elevated blood level there's a
3 referral to the Department of Education to do its own
4 visual inspection.

5 CHAIRPERSON TREYGER: Right.

6 MARK SHASHARE: And, and to me that's an inherent
7 conflict of interest. And let's, let's try to frame
8 this in, in a hypothetical. Suppose a landlord, ah,
9 suppose there is a child with an elevated level of
10 blood and the health department went to the landlord
11 and said we have a report that a child is lead
12 poisoned. We will let you do a visual inspection of
13 your apartment. I don't think anybody would accept
14 that paradigm, and so I think, Council Member, you're
15 right on point. There's really no functional
16 difference and we also don't actually know is going
17 on in the schools in terms of what the actual lead
18 is. They're looking for peeling paint. I got that.
19 But what we don't seem to be getting is data on what
20 the contents of that paint is and the only way you're
21 going to be able to do that is to do an x-ray
22 fluorescence examination, which believe me, the
23 custodians are not equipped to do...

24 CHAIRPERSON TREYGER: I'm well aware.
25

1
2 MARK SHASHARE: ...and trained to do and certified
3 to do.

4 CHAIRPERSON TREYGER: Well aware, and thank you,
5 I mean, that's exactly it. They sent, guidance, ah,
6 and a letter to custodians over the summer, ah,
7 asking them to check for classrooms that serve
8 children under 6, 6 and under...

9 MARK SHASHARE: And, and, let me just add one,
10 one other comment...

11 CHAIRPERSON TREYGER: Yeah, please.

12 MARK SHASHARE: ...that I think you have every
13 reason to be paranoid about this, and I don't use
14 that in a pejorative sense.

15 CHAIRPERSON TREYGER: Yeah.

16 MARK SHASHARE: New York City in 1960, when the
17 Board of Health enacted, um, 173.13 of the health
18 code, that's when the city banned the use, the sale
19 of lead paint and its application not only in homes
20 but in schools. And notwithstanding the city's own
21 ban on that, the then Board of Education in its
22 wisdom continued to use industrial grade lead-based
23 paint until the early 1980s. Why? Because it's
24 really durable paint. So that was their decision.
25 So we have this history of absolutely lawlessness

1
2 when it comes to the, the Board of Education, now the
3 Department of Education, in making sure the schools
4 are lead safe. There's no reason to take them on
5 face value that they've, they've now gotten religion
6 and they're doing the right thing.

7 CHAIRPERSON TREYGER: School custodial staff is
8 required to paint a certain percentage of schools
9 every year. They didn't even have tabs information
10 on that. You ask people that not only are not
11 certified to conduct lead inspection to have these
12 visual inspections. Then at the same time you have
13 city officials from other agencies saying on the
14 record that is not an effective way to even test for
15 lead. We need to move towards more the XRF route.
16 Um, and then we heard that they're, they're, now we
17 heard that there's referrals, there's no requirement
18 to notify parents and the school community. Um, but
19 I, I really appreciate your validation of our, of my
20 concern at least, in the sense that I don't
21 understand why, now I understand why, they wanted to
22 avoid liability and to keep the DOE free from any
23 type of accountability [inaudible], but the paramount
24 issue should be the safety of our kids and staff, not
25 about passing the buck. And so we will continue to

1 do all that we can within our power, ah, to hold this
2 administration accountable and to make sure that
3 there is a coherent, cohesive, and effective form
4 [inaudible] to test for lead and to remediate lead in
5 our public schools as well. And I really, yeah, you
6 [inaudible].

7
8 MARK SHASHARE: And I just want to make other
9 point that you're raising.

10 CHAIRPERSON TREYGER: Please.

11 MARK SHASHARE: I mean, it's, the, the health
12 department, as I understand it, has never been in the
13 business of assigning liability. They don't, they
14 will, they are supposed to be trying to figure out
15 where this, where in this child's environment is
16 there lead. They're not there to say, well, the
17 lead, the child was poisoned because of the lead in
18 the home, in the child's regular home versus the
19 child's grandparents. They're just gonna look for
20 it. But, but, you know, so necessarily even testing
21 the schools doesn't establish that that's where the
22 child was poisoned. However, um, it would, I think
23 it would behoove, um, the city to have a regimen
24 where they start actually testing the schools. It
25 doesn't cost much to go through and just do a

1
2 baseline XRF of the, of the hallways, the classrooms,
3 the libraries, find out where the lead and where it's
4 not. Then we know where, what we need to be worried
5 about and what we don't need to be worried.

6 CHAIRPERSON TREYGER: And that's all, that's all
7 we've been asking.

8 MARK SHASHARE: They're just closing their eyes.

9 CHAIRPERSON TREYGER: That's all we've been
10 asking. I, I really do appreciate that and I thank
11 the entire panel for your time. Thank you so much,
12 appreciate it. OK, last panel. Ah, Christine
13 Ritchie, Sandy Mayer, Ed Rudick, and Jody, ah, from
14 Cooper Square Committee. You may begin, whoever is
15 ready. Make sure the mic is on please, thanks.

16 UNIDENTIFIED: Hello? Thank you. Um, I'm gonna
17 read, sorry, I'm nervous. I'm once again before the
18 council telling my story. In spring 2017, without my
19 knowledge, lead dust and other toxins were seeping
20 into my apartment. Construction was taking place in
21 a neighboring apartment, but with the approval of the
22 building's management it had been taking place
23 without proper permits or a proper protection plan in
24 place. They did not cover the walls or safeguard my
25 apartment as according to standard practices required

1
2 by tenants' protection plan and Local Law 1. All
3 that separated my apartment from the neighboring
4 apartment was a quarter inch of wood panel. Lead
5 dust became trapped in the walls and floors and
6 seeped into all the cloth furnishings as well. In
7 2017 I reported issues, um, and had multiple filings
8 with HPD and Department of Health and Mental Hygiene.
9 The Department of Health and HPD inspectors visited
10 the apartment for over a five-month period and
11 declared it tested high levels of lead. This was
12 many months after being in court, I want to add. It
13 took court orders, fines, and major cleanups and
14 repairs to seal up the toxic walls and floors. My
15 son and I could then return home to normal life.
16 Even in April of 2019, this year, additional repairs
17 had to be made due to the poor job done the year
18 before by the same contractor, due to continued
19 unsanitary conditions. I have spent the past two
20 years constantly sick with unexplained symptoms,
21 because, by the way, lead does not discriminate just
22 to children, I'd like to add. I became so bad that
23 my son could no longer live in our home. Both my son
24 and I suffered with rashes and skin irritations. I
25 have suffered with severe joint aches and pains,

1
2 hypertension, anxiety, which studies have shown in
3 women over 40 who are exposed to any level of lead
4 have, settles inside the bone and is re-released into
5 the body as estrogen levels drop. Each time my body
6 is being re-poisoned. Even my pets became ill. One
7 died and the veterinarians believe that exposure to
8 toxins released during construction was a
9 contributing factor. I have been to multiple
10 specialists. I've been hospitalized looking for
11 answers to my debilitating health. To date no
12 organic reason for my health complaints has been
13 elicited and my doctors have concluded that there is
14 a time coincidence between the construction and my
15 subjective ill health and suspect that exposure to
16 lead from construction dust caused these symptoms.
17 I'm also a cancer survivor. So my health is a factor
18 that I watch very closely and monitor. By telling
19 this story again to the council I hope that others
20 will be able to know their rights. Know how to
21 report these issues and to highlight issues with the
22 enforcement of Local Law 1. I support all of the
23 laws in the package and it is my hope that the
24 Department of Health and Mental Hygiene, the HPD
25 Department of Buildings streamline communications and

1 actually hold these contractors, landlords, and
2 management companies legally accountable so that this
3 never happens to anyone. And while there is nothing
4 that can reverse what has happened to me, you can do
5 something by strengthening and enforcing these laws.
6 And I'd like to add one other thing. There are no
7 mentions in anybody's testimony and I'm very sad that
8 the Department of Health and Mental Hygiene, this is
9 not in my testimony, left early 'cause they never
10 actually listen to any of us that speak. They leave
11 as soon as their testimony is done, with a lot of
12 unanswered questions. And I shook my head and rolled
13 my eyes so much tonight because a lot of the stuff
14 that they said is not even accurate, in my opinion.
15 But there are no services or mention of people that
16 have illnesses or people over a certain age, and I
17 don't think that lead discriminates a child over the
18 age of 3 or 7. Lead is lead and it is a poison.
19 Thank you.

20 SANDRA MAYER: Hello. My name is Sandra Mayer.
21 I'm a tenant living on East Fifth Street in the East
22 Village. This building was bought by Rafael Tolodono
23 and defaulted to Madison Realty Capital. I'm a
24 member of the tenant coalition called Tenants Taking
25

1 Control, working together with Cooper Square
2 Committee. I'm also a member of Lead Dust Free NYC.
3 I [inaudible] I hope it's OK. As a tenant who's
4 experienced lead dust episodes in my building, I'm
5 here today to make a plea for the proper enforcement
6 of penalties to the landlords in this city who ignore
7 Local Law 1 of 2004. In the East Village hyper-
8 gentrification has lead to an abundance of real
9 estate transactions, resulting in number gut
10 renovations. These renovations often release very
11 high levels of lead dust in apartment buildings,
12 exposing families to this dangerous neurotoxin. This
13 commonly occurs in rent stabilized housing where
14 landlords have an incentive to remove tenants. So my
15 story began in March of 2016 when my new landlord,
16 Rafael Tolodono gut renovated two units in our
17 building. There was no warning. There were no
18 tenant protections. This happened three and a half
19 years ago, but I remember the event quite clearly
20 because it caused me a great deal of fear and stress,
21 resulting in a feeling of utter helplessness. For
22 one whole day workers pounded away at units 6 and 10.
23 There were no plastic covers on doors, no mops or
24 HEPA vacuums, no tightly sealed bags for carrying out
25

1 debris. The noise was intense. Workers stomped up
2 and down the stairs, tracking dust throughout the
3 stairwell. I called our building manager, but his
4 answering machine was full. I then called 311, which
5 forwarded me to the Healthy Homes division. Their
6 answering machine actually worked, but it was still
7 just a machine. The next day upon opening my door I
8 saw the hallway was coated with a light gray powder.
9 No one had cleaned the mess from the previous day's
10 work. Our building dates from 1876, so we knew that
11 this dust was anything but benign. I managed to
12 reach Mr. Tolodono on his phone. He listened to my
13 complaints, but did not seem terribly concerned. He
14 mumbled something about getting his super to clean
15 up. His response was neither reassuring nor
16 convincing. I should not have been shocked that
17 Rafael Tolodono, a 20-something year old convicted
18 felon, would turn our building into a lead dust snow
19 globe, knowing full well that he was potentially a
20 young family with two toddlers, a second family with
21 three teenagers and a frail grandmother, a third
22 family with a young teen. Mr. Tolodono did not seem
23 to care. Perhaps the building mattered to him, but
24 the tenants did not seem to matter at all. Now
25

1 knowing that I was on my own to deal with this mess,
2 I purchased a mop and pail and started cleaning the
3 hallway and stairs myself. It took many pails of
4 water to feel somewhat safer in my own home. Each
5 time I spilled water out onto the sidewalk I felt a
6 certain outrage that these lead particles would now
7 be out in the environment, most likely forever. The
8 mop itself was contaminated. I did not dare bring it
9 into my apartment. I even needed to damp mop my
10 shoes each time I entered my own home. Healthy Homes
11 did eventually respond. My building tested positive
12 for lead 16 times above the allowable limit. A year
13 later there was a repeat of scenario when Madison
14 Realty Capital decided to empty one of Rafael
15 Tolodono's leftover dumpster apartments, again
16 without following Local Law 1. Again, dust was
17 spread throughout the common areas. In conclusion, I
18 would like to state that construction harassment and
19 illegal lead dust release takes away peace of mind.
20 It obliterates all sense of home and safety. My
21 experiences of construction harassment were like an
22 echo of 9/11, another moment in time where I felt
23 like I had no city, no home, when the air around me
24 was turned to poison. And like a terror attack, lead
25

1 dust released by a predatory landlord is often 100%
2 deliberate. It's designed to harm. It's designed to
3 drive people from their homes. It's designed to
4 remove affordable housing from New York City. We
5 need to enforce Local Law 1 of 2004 and enact tougher
6 lead laws with hefty fines for these lead offenders
7 and to see to it that these fines are paid in full.
8 For the worst repeat offenders their should be jail
9 time. Harming a child for life deserves severe
10 punishment, the end, like no questions. On the other
11 hand it's outrageous that New York City's hard-
12 working, often immigrant street vendors are severely
13 punished by the DOH while landlords with deep pockets
14 are getting off with barely a slap on the wrist for
15 poisoning in [inaudible] apartments. This is
16 unacceptable. Lead Dust Free NYC will not back down
17 until this imbalance is properly addressed. Thank
18 you for the opportunity of speaking at this hearing.
19 This really matters to me on a very deep level. I
20 hope we all work together to really address it and
21 fix it in the future.

22
23 CHAIRPERSON TREYGER: Thank you very much, I
24 appreciate your very powerful testimony today. Thank
25 you.

1
2 JODY LIDECKER: Hello. I'm Jody Lidecker. I
3 work with Cooper Square Committee, and as Sandy, um,
4 and Christine just went over their testimony, we
5 started Lead Dust Free NYC to fight the repeated lead
6 dust exposure our tenants have faced when landlords
7 didn't do renovations, and that's because New Yorkers
8 rightly do not understand how a system that is
9 designed to protect them has so routinely failed to
10 do so. The report we released yesterday with our
11 community partners grew out of us trying to
12 understand why landlords were unfazed by the city's
13 enforcement around lead safety. This seems
14 especially true when it comes to lead dust
15 contamination and lack of safe work practices. The
16 buildings featured in our report all face more than
17 one episode of lead dust. So one of the things this
18 report chronicles is that even when DOH has had
19 opportunities to issue fines and penalties they
20 routinely choose not to do so. Ah, DOH typically
21 only sends a polite letter, a commissioner, or asking
22 landlords to clean up the lead contamination, and no
23 fine is issued with that order. The penalties issued
24 now are incredibly small. They're not issued often
25 enough and they get completely minimized or remain

1 uncollected. Since Local Law 1 was enacted OATH has
2 processed less than 3000 lead paint violations, which
3 is a pittance, since the vast majority of New York
4 City's housing stock was built before 1960, and
5 therefore has the presumed presence of lead, and this
6 law has been in effect for 15 years. So there have
7 only about two million in fines issued, um, and even
8 if almost \$200,000 has been collected it is still a
9 minimal rate of collection and does not appear to
10 have deterred bad actors. Ah, Cooper Square has
11 reached out repeatedly to Department of Health and
12 Department of Buildings, higher level contacts, to
13 clarify this process and, ah, this process of
14 assessing and issuing fines and penalties and gotten
15 very little response. We were glad to see the city's
16 recent announcement about doing outreach to families
17 that have been exposed to lead, but again we do not
18 think this outreach alone will solve the problem.
19 [phone ringing] landlords that truly motivate them
20 [inaudible]. We encourage the city to [inaudible]
21 fines at a steeper level and in an escalating
22 fashion, and also fix the collection process,
23 including making the data publicly available. This
24
25

1 will have the power to force landlords to comply.

2 Thank you.

3
4 CHAIRPERSON LEVINE: Thank you so much, and, ah,
5 I'm not sure if you were hear earlier when I pointed
6 that dust is often a forgotten, um, means of
7 transmission of lead poisoning, but research is
8 established at this point that together with paint it
9 really is the main vehicle and I know that you are
10 from a community where you've just been under assault
11 by landlords who are, you know, willfully or
12 carelessly endangering the families who live amidst
13 these renovations and the city has to do more to
14 protect you and I do think this is a powerful way to
15 end our hearing. Ah, I want to thank you for
16 sticking it out. You'll be on the record, ah, and
17 we're gonna make sure the administration has heard
18 your remarks and responds, and I want to really thank
19 my co-chairs. Um, Chair Treyger, you were
20 outstanding today, as you always are, and I know
21 Chair Ampry-Samuel, I believe had to leave. She was
22 wonderful, as was Chair Cornegy and, and Speaker
23 Johnson, who has prioritized this and I think you
24 heard his passion. So I think we have shone a light
25 on the city's continued shortcomings in tackling this

2 crisis, and this fight is far from over. Um, I'm
3 pleased that the council, ah, continues to advocate
4 on behalf of you, on children, and everyone who's
5 vulnerable in the city, and this will conclude our
6 hearing. Thank you. [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 April 1, 2018