



November 16, 2020

Testimony of Chief Kevin Brennan, Deputy Assistant Chief, Bureau of Fire Prevention, FDNY
COVID Inspections

Good morning Chair Borelli and all of the Council Members present. My name is Kevin Brennan and I am the Deputy Assistant Chief of the Bureau of Fire Prevention at the Fire Department. Thank you for the opportunity to speak with you today about the Bureau of Fire Prevention's efforts in promoting safe COVID-19 re-opening across New York City.

The Bureau of Fire Prevention (BFP) primarily enhances the safety of the public by providing certifications and permits and by conducting inspections designed to reduce the loss of life and property from fires and explosions. For instance, in connection with the COVID pandemic, the Bureau mobilized a group of inspectors who facilitated the establishment of temporary hospital and field hospital units. By putting a priority on these inspections, we were able to support efforts to open these facilities in remarkably short time periods. We also provided inspections to facilities as part of the Department of Education's Learning Bridges program, which provides free child care options for children of essential workers.

However, the Fire Department is also frequently called upon to assist with safety efforts that are outside of the Department's core mission. Our members take pride in serving the people of New York in these scenarios as well. During the Coronavirus pandemic, BFP members have regularly

been deployed to support efforts by the administration and fellow agencies in combatting the virus and ensuring that individuals and businesses are acting with appropriate precaution.

Throughout the course of the pandemic, BFP inspectors have served as part of COVID-related efforts involving a variety of issues. In the spring, our members helped to enforce social distancing requirements, visiting locations under the direction of the Mayor's office to educate individuals and business owners about the importance of staying six feet apart, distributing masks, and enforcing other spacing protocols. As restrictions evolved and the city began to reopen, the Department began participating in phased reopening fire safety inspections in tandem with inspections related to COVID universal reopening requirements. These reopening inspections matched ones being conducted by our fellow city agencies and incorporated New York State universal reopening guidelines. This involved working through a reopening checklist, ensuring that locations were operating within appropriate universal reopening guidelines, providing education and, where necessary, enforcement of those guidelines. Simultaneously, other BFP inspectors joined counterparts from fellow agencies to provide assistance with outdoor dining configurations, helping the Department of Transportation ensure that dining set ups met DOT regulations.

More recently, the Mayor's office requested 90 BFP personnel to assist with its COVID "hot zone" efforts. Under this working group, inspectors from the Fire Department and other agencies were deployed to neighborhoods in the city that were experiencing spikes in positive COVID tests to help emphasize the importance of following safety protocols and getting tested. Since rates in

those hot zones have decreased, about a third of those inspectors have been able to return to their normal Bureau of Fire Prevention duties.

The Fire Department has also been tasked - under legislation passed by the Council after our hearing a few weeks ago - to provide support for comfort heating in outdoor dining areas. The legislation temporarily authorized the use of portable, propane-fueled heaters for comfort heating which otherwise remain unlawful under the New York City Fire Code. The Bureau has dedicated a team of inspectors to visit restaurants to verify that propane heaters are being used appropriately.

Taken together, these efforts require a great deal of resources. However, the Fire Department recognizes that it is important for the city to re-open in a safe manner that allows businesses to get back on track.

Introduction 1891

Introduction 1891 would amend the New York City Fire Code to exempt ice resurfacing machines – known as Zambonis – from existing requirements that prohibit certain powered industrial machines from utilizing more than one container of propane and instead allow a Zamboni to utilize two containers of propane. As you know from our testimony a few weeks ago on the topic of heaters, propane is a flammable substance. The Fire Code strictly regulates the storage, handling, and use of propane because of the significant hazard it poses. Propane is flammable

and can be readily ignited by a spark. If confined or exposed to fire, it poses an explosion hazard. Before amending the Code to include a “Zamboni exemption” from a general rule, we would be curious to know more about the necessity for such an exemption and what factors might distinguish this type of industrial propane use from other types of industrial propane use. I will now answer any questions that you have.

Oren Barzilay , President

Openings remarks and introductions

2807..Union heroes

EMTs

Paramedics

Fire Protection Inspectors have helped to dramatically reduce fires in New York over the last 10 years. They have helped reduce injuries, fire-related deaths and property loss.

They maintain and enforce the fire codes and fire suppression systems and standards for all New Yorkers.

They keep the city safe and many years of data supports this.

Introductions:

Darryl Chalmers, expert witnesses

Major professional experience, 28 years (examples, Deutsche Bank, Happyland etc.) will discuss the proposed changes and privatization of Fire Prevention and Inspection services.

Mike Reardon, expert witnesses,

Major professional experience, 27 years (examples, refineries, oil storage, etc.)
Will discuss the Covid-19 Task Force.

Testimony: Darryl Chalmers

Dear Committee Members,

Overview

*****Policy : **Third party reporting and privatization of inspection services**

We call your urgent attention to potentially dangerous, fire protection policy changes that will put New Yorker's at risk of life, injury, property and revenue loss by the city.

My testimony concerns the FDNY's attempt at the privatization of fire suppression services under the auspices of a small, unknown private company called BRYCERS.

BRYCERS is a privately owned company comprised of small- town fire chiefs, who are members of the Western Fire Chiefs Association. The biggest town they represent is Missoula Montana, with a population of less than 75000 people; they have no relevant big city fire suppression experience, particularly in an urban environment as large and complex as New York with its hundreds of thousands of diverse residential, commercial, industrial, office and high- rise buildings across all the Boroughs.

The Chief of Fire Prevention, Joseph Jardin who has no background or expertise in Fire Prevention in tandem with FDNY plan to have BRYCERS use independent 3rd- party contractors, and property owners for self-certification who are supposed to provide affidavits that fire codes are being observed and fire suppression systems are meeting standards, in an attempt to replace our proven expert Fire Protection Inspectors (FPIs).

This proposal would dangerously eliminate the five- year hydrostatic, flow and pressure, dry valve trip test and residential sprinkler flow test. Chief Jardin unilaterally is claiming, without evidence, that there is no need for these inspections.

Jardin and the FDNY want FPIs, the vast majority of whom who are African Americans and people of color, to become marginalized auditors, with no enforcement powers, merely checking a percentage of reports and no longer witnessing critically important tests, thus minimizing the duties of Inspectors assigned to the Suppression unit.

This puts citizens, firefighters, workers, students and businesses owners at perilous risk.

Alarmingly, this plan is being put forward in the absence of a risk assessment, data analysis and with no proven relevant company experience or proven methodology. BRYCERS has been selected with no public review, or transparency and without any rational justification that can withstand scrutiny. Simply look at their publicly available information on their website to view that they are void of client lists, detailed pool of skills and ownership details.

This fundamental change in the FPI's work endangers the public and undermines city fire codes and enforcement. Even the Contractors association has notified the FDNY of the business association's strong objection to this senseless policy change.

(Letter exhibit)

This change, as a trial, will set the stage and slippery slope for potentially large- scale injury, death and property loss.

This is dangerous and will irresponsibly abolish over 40 years of FDNY Fire Prevention practice. They're trying to fix something that's not broken.

This plan makes absolutely no sense and the FDNY should be embarrassed and ashamed by this scheme.

Worse yet, this policy change will also result in the loss of tens of millions in revenue for the city at the worst possible time.

Inspectors generate over \$100 million dollars annually, netting an income of approximately 70 million, after accounting for wages paid to the Inspectors.

Contractors are not permitted to write-up violations. Therefore, this policy would create a public safety issue as violations issued by FPIs have traditionally forced compliance with the city's safety standards and fire codes.

FPIs examine the entire premises during inspections and report violations. In contrast, Contractors only look at a single issue or a system since other violations and safety issues aren't their concern or expertise.

This is also a major revenue loss issue as fines from violations will dramatically decrease without enforcement, if contractors take over certifications.

We urge you to block these proposed radical changes that are fundamentally against the public interest.

The following are key safety, financial and administrative problems with the FDNY's and Jardin's half-baked policy idea:

- 1) It violates the NYC Fire Code (Chapter 9) regarding expert Inspectors witnessing testing of all Suppression systems.

- 2) There are over 55,000+ systems listed on the FDNY FPIMS system. Not all of these systems follow the NFPA 25 standards which is the third-party private company's admitted method of testing.

18,000 systems are listed as residential sprinklers which do follow NFPA 25 standards. Under the FDNY and Chief Jardin's proposal, the Certificate of Fitness holder can be the owner of the premises. Monthly record keeping of visual inspections can be done by the owners. This is unworkable and dangerous for obvious reasons as they have neither the expertise or incentive to be in charge of public safety.

- 3) The third- party private company claims they will not charge the owners of the establishments and will pass inspection costs to the contractors to conduct the testing and filling out forms to submit to the FDNY where a fee would be implemented.

Does Chief Jardin and the FDNY's brass think that licensed contractors will be doing this work for free?

Who will bond the contractors for large commercial properties worth hundreds of millions of dollars and put tenants and owners at risk with unregulated and parochial contractors?

How much revenue will be lost by the city and FDNY under this scheme?

4) We all remember the Vandalia Fire where Firefighters perished. The sprinkler system was shut off on the first floor, where the shut off valves were located above the drop ceiling. At that time, HPD was in charge of inspections.

5) At a recent tragic Greene Avenue in Brooklyn where two young children died, our Inspectors found the valves for the sprinkler system were shut off in the street but the plumbing contractor sent a false affidavit to HPD that the system was working for the past five years.

6) These two events (4 & 5) forced the City Council and Mayor's office to pass local law 10 in 1999. This law removed the responsibility of these sprinkler system inspections from HPD to the FDNY. Currently and importantly, the FDNY physically witnesses these tests and issues violations as needed, and we testify in court proceedings, as needed.

7) By not having Inspectors witness testing you are opening the likelihood of corruption by some unscrupulous contractors. Unless this third-party private company physically witnesses these tests, contractors will take shortcuts and send false affidavits of testing to this company. Neither the contractors or the proposed private company have the knowledge, expertise or incentive to perform these inspections.

If all of the licensed contractors could be relied upon to always do the right thing there would be no need for a licensing board that sets standards and meets out reprimands for wrongdoing by contractors. Fire Protection Inspectors have been seated on the licensing board for decades, serving and overseeing in the public interest.

NYCHA is an example of contractor's abuse. The larger housing complexes have one gravity tank feeding three buildings. Underground piping is essential to distribute firefighting water to all of the buildings that are sectioned off by PIV valves (post indicating valve).

When testing contractors (even good ones) like to shut the PIV's to pump up each individual building to save them time. When the pressure passes due to the isolation of the valves the Inspector tells the contractor to open the valves and watch the pressure drop due to underground leaking. Often, contractors claim the building passes the test. FDNY Inspectors who witnessed the system tests let contractors know on the spot that not all of the piping is interconnected so the system failed.

This happens in over 50% of NYCHA complexes, notwithstanding that underground piping for NYCHA repair work goes through the capital project expenses (FEDS) and takes years to make the repairs.

8) The NYC Department of Buildings approves all new water-based suppression systems. These systems are sent to FDNY suppression unit for five- year testing (maintenance testing). Many of these systems are failing their first five- year tests. Our research shows that, typically, the system was self-certified. Presently, approximately 10% of new systems are failing the pressure test and another 5% were installed incorrectly (e.g. FDC connected above Dry Valve).

9) When fully staffed, the Suppression Unit can handle all of the systems listed on FPIMS for their five year test and in the NYC Fire Code the owner is responsible to maintain the suppression systems (whether it's the NFPA 25 or Monthly record keeping). There is absolutely no need to have an out-of-town, third- party private company involved in the City of New York's fire protection services.

This ill-considered policy can only benefit a private, untested, corporate interest, while putting the public at immediate risk while draining the public coffers of much needed revenue.

Demobilization and diminution of FPIs, whom are experts and heroes helping to dramatically reduce the incidence of fires in New York City, who are saving lives and preserving property, makes no absolutely sense and violates the most basic public interest in safety.

We also think this is a violation of the public trust and undermines proven successful fire prevention practices and personnel.

Michael Reardon testimony
Covid-19 task force assignment.

As Fire Protection Inspectors, we are the only members of FDNY assigned to community Covid-19 hot spots.

We have not been issued the highest standard of PPE especially because we're working in Hot Zones with the newly issued masks that firefighters and EMTs are being issued to protect against the virus.

Unlike other FDNY units who get free coronavirus testing on the second floor of the Metro Tech headquarters, we are not offered the same basic health service.

2fl testing

Get students, clerical workers hand out masks, temps, unskilled.volunteers

Hire brycers hand masks

Covid task force and hot spots.

On September 29th, 2020 Chief of Fire Prevention Jardin gave the order to cancel all Fire Department testing of Suppression systems to deal with COVID-19 hot spots.

The manpower for this Covid-19 effort was

a) the entire Fire Suppression unit's field personnel

b) 75% of the Rangehood unit that prevents restaurant fires

c) 75% of the CDA unit that prevents construction and demolition accidents

d) 10 or more members from the Hazardous Control Unit that protects the city's air, water and land.

e) members of the Bulk Fuel Safety and Laboratory Units

107 inspectors' names were submitted for reassignment to provide approximately 90 Inspectors per day to participate primarily in handing out face masks at a minimum 500 masks per Inspector. Secondly, they were also tasked with checking on establishments that are supposed to be closed in the red zones, and to enforce compliance with lesser restrictions in the orange and yellow zones.

As a result of this reassignment over 640 fire suppression tests were canceled, which were previously "temporarily " delayed from March and April of this year.

In total, over 1500 field inspections were canceled including reinspections, complaints, referrals, investigations of system failure due to fire operations.

The scale and suddenness of this reassignment is an obvious danger to public safety, the danger from the coronavirus notwithstanding.

We understand that all hands must be on deck to fight the pandemic. However, this must be measured by balancing risks and resources. Handing out masks is absolutely not the best use of our Fire Prevention Inspectors knowledge and skills from the standpoint of public safety.

There are also adverse economic consequences in delaying the issuance of both construction and new restaurant permits that should be a policy priority given the city's fiscal crisis.

After consultation, the Mayor's office agreed to reduce the number of inspectors to 54: 20 from Suppression, 20 from Rangehood, 10 from CDA and 4 from Hazardous Control.

To date, the FPI task force has distributed over 700,000 face coverings.

Our participation in this important effort should maximize our expertise in service of the public.

We suggest that community groups, students, volunteers or part time clerical workers be used to distribute masks so that FPIs can focus on code and safety enforcement.