

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS  
COMMITTEE ON FIRE AND CRIMINAL JUSTICE SERVICES

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June 7, 2011  
Start: 1:03 pm  
Recess: 4:29 pm

HELD AT: Committee Room  
250 Broadway, 16th Fl.

B E F O R E:

ERIK MARTIN DILAN  
ELIZABETH CROWLEY  
Chairpersons

COUNCIL MEMBERS:

Erik Martin Dilan  
Elizabeth Crowley  
Christine C. Quinn  
Gale A. Brewer  
Leroy G. Comrie, Jr.  
Lewis A. Fidler  
Vincent J. Gentile  
Sara M. Gonzalez  
Daniel J. Halloran  
Robert Jackson  
Letitia James  
G. Oliver Koppell  
Brad Lander  
Melissa Mark-Viverito  
Rosie Mendez

## A P P E A R A N C E S

## COUNCIL MEMBERS:

James S. Oddo  
Diana Reyna  
Joel Rivera  
Ydanis Rodriguez  
Eric Ulrich  
Peter F. Vallone, Jr.  
Jumaane D. Williams  
Ruben Wills

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

Robert LiMandri  
Commissioner  
NYC Department of Buildings

Thomas Jensen  
Chief of Fire Prevention  
NYC Fire Department

Vito Mustaciuolo  
Deputy Commissioner of Enforcement and Neighborhood  
Preservation  
NYC Department of Housing Preservation and Development

Edward Boles  
Treasurer/Legislative Chair  
Uniformed Fire Officers Association

Tanya Kessler  
Staff Attorney  
MFY Legal Services

Samuel Biele-Fisher  
Industrial Business Assistance Coordinator  
Pratt Center for Community Development

Shafaq Islam  
Attorney  
Community Development Project  
Urban Justice Center

Patrick Siconolfi  
Executive Director  
Community Housing Improvement Program

Roberta Bernstein  
President  
Small Property Owners of New York

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

David Whitmore  
Small Property Owners of New York

Seema Agnani  
Executive Director  
Chhaya Community Development Corporation

Larry Wood  
Community Organizer  
Goddard Riverside Community Center

Jill Hamberg  
Faculty Member  
Empire State College

Marika Dias  
Supervising Attorney  
Make the Road New York

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2 CHAIRPERSON DILAN: At this time,  
3 I'd like to ask everyone to turn their cell phones  
4 onto silent mode, or shut them off. Once the  
5 committee gavels in, we'd like all private  
6 conversations to take place outside of the  
7 committee room.

8 Anyone that has not filled out an  
9 appearance card that wants to testify on today's  
10 items, please see the sergeant-at-arms. The  
11 sergeant-at-arms can provide you with an  
12 appearance card so that you can weigh in on  
13 today's item. We will begin in about two minutes.

14 [Pause]

15 CHAIRPERSON DILAN: Sergeant, are  
16 you ready?

17 [Pause]

18 CHAIRPERSON DILAN: Good afternoon.  
19 I'd like to convene this committee to order. My  
20 name is Erik Martin Dilan, and I am the chair of  
21 the City Council's Housing and Buildings  
22 Committee. Today, the committee will convene  
23 jointly with the Committee on Fire and Criminal  
24 Justice, chaired by my colleague, Council Member  
25 Elizabeth Crowley of Queens, in conducting an

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2 oversight hearing on how the city responds to  
3 illegal use and illegal conversion complaints.

4           Additionally, we are also hearing  
5 two legislative items in relation to the illegal  
6 conversion problem. The first, Intro 240, which  
7 will be a local law to amend the Administrative  
8 Code of the City of New York in relation to  
9 illegal residential conversions. Intro 368-A,  
10 another local law to amend the Administrative Code  
11 of the City of New York in relation to inspections  
12 conducted by the New York City Department of  
13 Buildings.

14           Both committees are interested in  
15 exploring what obstacles exist for city agencies  
16 when seeking to address illegal use and conversion  
17 complaints, how effective the city is in  
18 overcoming the obstacles and how the city can  
19 improve its response to illegal use and illegal  
20 conversion complaints.

21           Two recent fires have brought this  
22 issue to light. In April, a two-alarm fire broke  
23 out in the early morning hours in the Bronx,  
24 killing a family of three. This particular  
25 building did not have accessible fire escapes due

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to an illegal conversion.

Just last month, a three-alarm fire tore through an illegally subdivided house in my district, resulting in the deaths of two individuals. In addition, four firefighters were injured at this fire in my Council district.

The city received three illegal conversion complaints related to the building in October, November and December of last calendar year. DOB inspectors attempted to gain access to the building six times but were unsuccessful.

That begin said, there are two legislative items before us. Intro 240 would allow the Department of Buildings or other city agencies who can enforce Building Code, to issue a violation for circumstantial evidence such as a number of mailboxes or mail receptacles, operational utility meters or doorbells servicing an apartment greater than the number of legally authorized apartments in the building.

The bill also provides that a violation for an illegal residential conversion based on circumstantial evidence may not be considered corrected until an inspection is

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2 undertaken by the Department of Buildings.

3           Additionally, when a criminal  
4 proceeding is brought for an illegal conversion,  
5 the bill would establish a minimum criminal fine  
6 of \$1,000. This fine may be issued in lieu or in  
7 conjunction with imprisonment or civil penalty.

8           Intro 368 would require the  
9 Department of Buildings to respond and inspect  
10 every unit for which a complaint of an illegal  
11 residential conversion has been received. If the  
12 department is unable to gain access after two  
13 attempts, they must notify the property owner that  
14 an illegal conversion complaint has been filed and  
15 an inspection will be scheduled.

16           Where the owner of the property  
17 does not respond to the notice within ten business  
18 days of the request, the Department of Buildings  
19 must prepare an affidavit. After reviewing the  
20 affidavit, the commissioner must determine whether  
21 allegations in the complaint if observed would be  
22 immediately hazardous or a major violation. If  
23 that is the case, then DOB must seek an access  
24 order from a court and promptly execute the order  
25 if it is granted by the court.

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2           The bill also provides that persons  
3 seeking to gain access using a court order tell  
4 this to any occupant of the building upon request  
5 and show the occupant a copy of the access warrant  
6 or the original warrant.

7           The committee expects to hear  
8 testimony today from the commissioner of the  
9 Department of Buildings as well as representatives  
10 from HPD, the Fire Department, Law Department and  
11 representatives from the Allied Building  
12 Inspectors, the UFA/UFOA, housing advocates and  
13 representatives of the real estate industry as  
14 well as other persons interested in this topic.

15           At this time, I'd like to state  
16 again if you want to testify on this item, please  
17 see the sergeant-at-arms. I will turn it over to  
18 my co-chair, Council Member Elizabeth Crowley.

19           CHAIRPERSON CROWLEY: Good  
20 afternoon. My name is Elizabeth Crowley and I am  
21 the chair of the Fire and Criminal Justice  
22 Services Committee. I'd like to thank Housing and  
23 Buildings Chair Erik Dilan for hearing today's  
24 proposed bills and for addressing problems on  
25 illegal conversions.

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2                   Illegal conversions are a problem  
3 that has plagued our city for decades. It has  
4 become increasingly dangerous as the city  
5 population grows. Illegal conversions are  
6 dangerous not only for the city's residents but  
7 also for the city's firefighters. Tragically, we  
8 know what could happen when illegally altered  
9 apartments don't adhere to the code and block  
10 necessary exits.

11                   In the infamous "Black Sunday"  
12 fire, in the Bronx, several years ago, six  
13 firefighters were forced to jump out of a burning  
14 building, 50 feet above the ground. That day,  
15 when our firefighters could not access a fire  
16 escape because of illegal alterations, two of our  
17 bravest died and four other firefighters were  
18 seriously injured, because they could not find the  
19 fire escape.

20                   Fires across the city over the past  
21 few months, in which residents were killed and  
22 firefighters were injured in illegal conversion  
23 apartments are painful reminders of what could  
24 happen when fires break out within these death  
25 traps.

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2 We're here today to examine the  
3 city's response to complaints of illegal  
4 conversions, which by all accounts, is in dire  
5 need of improvement. I look forward to working  
6 with my colleagues, the Speaker and the  
7 administration to identify and implement ways to  
8 make those improvements. The DOB, the HPD and the  
9 FDNY can all do more to address this problem.

10 As we learn more about the new task  
11 force that the Mayor and the Speaker announced  
12 today, it is critically important that the Fire  
13 Department, in being asked to expand its role in  
14 enforcing provisions of the Building Code,  
15 adequately train our firefighters and our fire  
16 officers for this job, and ensure that these  
17 duties don't negatively impact the department's  
18 emergency response operations. All of this  
19 highlights the need for more funding for the Fire  
20 Department budget, despite our fiscal climate.

21 We are expecting to hear from many  
22 witnesses today, so I will conclude my remarks and  
23 turn back over to my co-chair, Erik Dilan.

24 CHAIRPERSON CROWLEY: Thank you,  
25 Council Member Crowley. I'd like to turn to the

1  
2 first bill sponsor, the sponsor of Intro 240,  
3 Council Member Vallone, for the purpose of a brief  
4 opening statement. Council Member Vallone?

5 COUNCIL MEMBER VALLONE: Thank you,  
6 Chairs. Thank you for holding this important  
7 hearing so quickly. As usual, one of hearings  
8 gets some response, as we were at a press  
9 conference about a task force, which I think is a  
10 great idea.

11 I have a letter here from a couple  
12 in their late 70s who bought a house in 1979, with  
13 a finished basement, and then received a summons  
14 for an illegal bathroom, which was there when they  
15 bought the house. They asked for hearing. They  
16 went in. The judge asked for documents. They  
17 brought the documents on another day. The second  
18 judge found them guilty. Now they're going to be  
19 fined \$6,000. This matter is affecting their  
20 health and their marriage, this letter says. They  
21 wrote personally to Commissioner LiMandri. I'll  
22 give you a copy of this without all of my writing  
23 on it, and they CC'd me.

24 Up until now, up until this task  
25 force, the Buildings Department's priorities have

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2 been all wrong. They have been wasting time going  
3 after cases like this, looking for somebody's  
4 grandmother in a basement or a house with a toilet  
5 that shouldn't be there, while ignoring death  
6 traps. Knocking twice and going away isn't a  
7 policy; that's a complete abdication of the  
8 responsibility that the city has to keep its  
9 residents safe and its firefighters safe.

10 Lives are at stake here. We can no  
11 longer have these priorities as skewed as they  
12 have been. We can't waste time going after  
13 taxpayers for money while we have illegal  
14 dwellings with 20 people living in a two-family  
15 dwelling and firefighters are at risk. It needs  
16 to be stopped.

17 I want to commend the Commissioner  
18 and the Mayor for this new task force, which  
19 apparently is finally going to get the priorities  
20 in order. My bill, which will make it easier to  
21 give violations without actually gaining access,  
22 it is part of, I think, a lot of things that need  
23 to be done that this hearing is going to look  
24 into. Again, I'm glad that the chairs convened  
25 this so quickly, and I commend you both.

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2 CHAIRPERSON DILAN: Thank you,  
3 Council Member Vallone. Now, we'll hear from the  
4 sponsor of Intro 368, Council Member Oliver  
5 Koppell.

6 COUNCIL MEMBER KOPPELL: Thank you,  
7 Mr. Chairman. This legislation arose out of an  
8 experience that I had, which I believe is close to  
9 incredible, but apparently exists in the city.

10 I represent, in part of my  
11 district, the Woodlawn area. Woodlawn is an area  
12 that has a large number of single and two-family  
13 homes and there are many illegal conversions we  
14 believe have taken place in Woodlawn over the  
15 years.

16 I had complaints from neighbors of  
17 one particular building that the owner of that  
18 building was doing considerable construction work  
19 and it was believe on significant evidence by  
20 these neighbors that this was an illegal  
21 conversion without permit. However, after  
22 numerous requests for the Building Department to  
23 inspect, nothing happened. So they came to me and  
24 I went to see the Bronx Building Commissioner.  
25 This goes back a couple of years. So I can't say

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2 for sure exactly what the procedures have been  
3 recently.

4 I went to see the Bronx Building  
5 Commissioner and I said you know there have been  
6 these complaints about this building and nothing  
7 seems to be being done. He said, well, we don't  
8 have the manpower to do much of anything if we  
9 can't get access. If we can't get access, we  
10 can't show that there's an illegal conversion, so  
11 there's no way we can place a violation.

12 I said, well what do you do to try  
13 and gain access? He said, we go there twice and  
14 if we get no answer at the door, we file a  
15 complaint. I said, that's impossible, how can  
16 government act this way? I mean regardless of the  
17 circumstance, you go there twice and if you can't  
18 get in, you do nothing? You don't seek a warrant,  
19 you don't do anything further? No, we don't do  
20 anything further.

21 So then I introduced this  
22 legislation. As a result of the recent disastrous  
23 fires in buildings that were illegally converted,  
24 the Daily News has written a serious of articles  
25 which basically confirms my experience. It's

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2 totally unacceptable, totally unacceptable and has  
3 led to loss of life.

4 Now, I'm glad that the Mayor has  
5 convened this task force and that they're  
6 beginning to do more than just visit twice and  
7 then leave. In my opinion, there is an obligation  
8 to pursue these complaints. Certainly there can  
9 be priorities and you go after the more serious  
10 complaints first and then go after less serious.

11 There are obviously due process  
12 issues. Under my bill, it would require that,  
13 obviously, notice be given to the property owner,  
14 that a hearing be convened. I believe,  
15 incidentally, that if a property owner gets a  
16 legal notice of a hearing, in 95 percent of the  
17 cases they won't have to go further. They'll get  
18 access, because nobody wants to hire a lawyer and  
19 go to court and respond. So the fact is that if  
20 we change the procedures and don't just give up  
21 after two attempts, I think we'll gain access  
22 without a lot of extra effort in most cases.

23 So, something like the bill that  
24 I'm introducing, I think, is absolutely essential.  
25 It's a sad thing, I might say, that it has taken

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2 fatalities to bring us to the point of having this  
3 hearing. It's essential that the city not only do  
4 what the Mayor is doing with the task force and  
5 the Fire Department but proceed where they can't  
6 get in to go to court and get a warrant. I refuse  
7 to accept the fact that the Fourth Amendment will  
8 not, in appropriate cases, permit an inspection to  
9 take place.

10 Thank you, Mr. Chairman. I look  
11 forward to testimony.

12 CHAIRPERSON DILAN: Thank you,  
13 Council Member Koppell. At this time, we will be  
14 joined by our Speaker, Christine Quinn, who is  
15 very concerned about this issue as well. She will  
16 take a moment to get seated and then weigh in with  
17 her statement. We welcome you, Madame Speaker.

18 SPEAKER QUINN: Thank you, Erik.  
19 Thank you very much. Sorry for being a little bit  
20 late.

21 First, let me start by thanking the  
22 chairs of our committees, Chair Dilan and Chair  
23 Crowley, for holding this oversight hearing. I  
24 want to thank Council Members Koppell and Vallone  
25 for their work on this issue before the hearing.

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2 I also really want to thank our staff as well as  
3 the Mayor's staff for their work on this matter.

4           Once again, tragic events in our  
5 city cost New Yorkers their lives in fires. The  
6 question is why? In this case, because the  
7 buildings they were living in had been illegally  
8 altered to create more apartments than the law  
9 allowed. These alterations had been done in a way  
10 that almost assured a tragedy would, at some  
11 point, occur.

12           The two recent fires in the Bronx  
13 and Brooklyn that took the lives of five people  
14 demonstrate clearly just how dangerous and life-  
15 threatening illegal residential conversions are to  
16 emergency responders and the New Yorkers who,  
17 sometimes with no knowledge of these conversions,  
18 reside in these apartments.

19           When we look at these two  
20 buildings, there is a common thread to both. One:  
21 a history of complaints and an inability of the  
22 city to effectively and thoroughly respond to  
23 those complaints. The problem of illegal  
24 conversions must be dealt with, therefore, at all  
25 levels of government. From how we receive illegal

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2 conversion complaints to investigating the  
3 complaints and seeking access, from enforcing  
4 access warrants to preventing illegal conversions  
5 in the first place.

6 This morning, the Council and the  
7 Mayor's Office announced the results of a new  
8 inspection task force and the creation of a new  
9 inspection task force that will prioritize  
10 inspections based on metrics to identify high risk  
11 illegal conversions. The initial results of this  
12 new pilot and task force are encouraging and the  
13 first step in addressing this problem in our city.

14 There is more that needs to be  
15 done. We know that today's oversight hearing will  
16 move us towards that more that needs to be done.  
17 I actually want to say I think the scheduling of  
18 this oversight hearing helped compel the  
19 announcements that were made today.

20 I just want to thank a moment to  
21 thank everyone in the Mayor's Office and the  
22 agencies, DOB, Fire, HPD, who worked on developing  
23 the announcements today, but in particular Sherry  
24 Hyman from the Criminal Justice Coordinator's  
25 Office. Did I get your office right, Sherry? Who

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2 is one of those New Yorkers--I said this earlier--  
3 who most people will never meet and a lot of the  
4 solutions that come out of city government come  
5 from Sherry and she doesn't really ever get the  
6 credit for it. So thank you very much for your  
7 work.

8 As I said, Sherry, there's more to  
9 be done. Let me be clear about that. The city  
10 should, among other things, develop a plan that  
11 tiers all illegal conversions after those that are  
12 the highest priority. All illegal conversions  
13 complaints, as well as institutes a protocol for  
14 responding to these based on priority level. This  
15 plan should begin at the point of intake--and this  
16 is what the task force will be looking at--with  
17 311 operators, who are ready with questions  
18 specifically for a caller that would allow a  
19 complaint to be appropriately evaluated, as it  
20 relates to illegal conversions.

21 Importantly, this plan should  
22 include a formal process by which agencies,  
23 particular HPD and the FDNY, coordinate with and  
24 refer illegal conversion complaints to DOB,  
25 ensuring that complaints are counted and receive

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2 appropriate follow-up. The lack of coordination  
3 among agencies historically, and that's where the  
4 idea of the task force comes from is a recognition  
5 of that, represents a serious weakness in the  
6 city's ability to historically respond effectively  
7 to combat these problems. That's why this task  
8 force is a very good step forward in addressing  
9 that.

10 This plan must also include formal  
11 protocols to guide agencies regarding when to seek  
12 access warrants. The city must develop a better  
13 list of proxies that can be used--this is  
14 something the Council Members have been looking at  
15 legislatively--develop a better list of proxies  
16 that can be used to support the contention that a  
17 building has been illegally converted when seeking  
18 a warrant.

19 What do the water bills look like?  
20 How many mailboxes are there? How many doorbells  
21 are there? Are there separate entrances or  
22 separate gas and electric meters? How many gas  
23 and electric meters are there?

24 Some fixes are just common sense.  
25 It isn't necessarily enough to knock on the door

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2 at 10:00 in the morning when a lot of people are  
3 at work. You may have to come back at 6:00 at  
4 night. Now the Council recognizes that we are  
5 dealing with this issue in difficult economic  
6 times, and coming back at 6:00 or 7:00 at night  
7 may have an impact on the budget. We're trying as  
8 much as we can to come up with ways that focus  
9 limited resources and that don't need more  
10 resources and can use the resources we already  
11 have.

12 We do challenge the agency, the  
13 Department of Buildings in particular, which said  
14 in their budget hearing that they were cutting  
15 back on overtime, to find other places in the  
16 agency where cuts can come from to not erase  
17 overtime that may in fact be needed to have  
18 inspectors have the ability to go back after  
19 hours. We would work in the weeks ahead, before  
20 budget adoption, with the commissioner and others  
21 to find those other places we could cut back on  
22 that are less life sustaining than the overtime as  
23 it relates to these inspectors.

24 I want to thank, again, the chairs  
25 of this committee for holding this oversight

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2 hearing very, very quickly. I know that was a  
3 particular big ask because the Housing Committee  
4 has a lot on its agenda. So I want to thank both  
5 of you. In addition to thanking the members of  
6 the Mayor's staff I want to thank the members of  
7 our staff who worked on this, in particular Laura  
8 Popa, who really led a team of Council staff  
9 people on this effort.

10                   Look, this is simple in its end, in  
11 the cut of the bottom line. People have broken  
12 the law, and they have had a situation where,  
13 really, experience showed them it was unlikely  
14 they were going to get caught. That breaking of  
15 the law and that small likelihood of getting  
16 caught put them in a situation where they could  
17 make money they were not by law allowed to make.  
18 That put people's lives at risk and people died.

19                   We're here today in this oversight  
20 hearing to hear every idea that's been created, to  
21 thank everyone who's created it, but to say we're  
22 going to do more to send a message that we're not  
23 going to let people die because other people have  
24 decided to break the law to make money and because  
25 our city government has not yet found the way to

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2 hit the nail on the head to break down and stop  
3 this lawless activity.

4 So I thank everybody who takes an  
5 important step on this road today in our ongoing  
6 efforts to focus our resources in a prioritized  
7 way on this problem. Thank you, again, Mister and  
8 Madame Chair.

9 CHAIRPERSON DILAN: Thank you.  
10 I'll briefly introduce the members of the  
11 committee who are present. Starting to my right  
12 is Council Member James, who is a member of the  
13 Housing and Building Committee; Council Member  
14 Ulrich, a member of the Housing and Buildings  
15 Committee; Council Member Comrie, a member of the  
16 Housing and Buildings Committee. In the

17 In the front row, to my left, is  
18 the Republican Leader Jimmy Oddo, who is also a  
19 member of the committee; Council Member Gale  
20 Brewer of Manhattan is a member of the Housing and  
21 Buildings Committee; Council Member Rivera, who is  
22 also a member of the Housing and Buildings  
23 Committee. I believe Council Member Crowley would  
24 like to take the opportunity to do the same for  
25 her committee.

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2 CHAIRPERSON CROWLEY: Members of  
3 the Fire and Criminal Justice Committee: to my  
4 left is Peter Vallone, Jr. To my right is Dan  
5 Halloran, in the front row, and Vincent Gentile.

6 CHAIRPERSON DILAN: We've also been  
7 joined by Council Members Reyna and Gonzalez. I  
8 believe that covers everybody.

9 At this point, we'd like to turn it  
10 over to the administration. From what I  
11 understand, the Buildings Department will take the  
12 lead in the presentation for the administration,  
13 with Fire and HPD playing supportive roles. So,  
14 with that Commissioner LiMandri, welcome.

15 ROBERT LIMANDRI: Thank you. Thank  
16 you, Madame Speaker. Thank you, Chairs Dilan and  
17 Crowley. I am Robert LiMandri. I am the  
18 Commissioner of the Department of Buildings. I  
19 have with me, to my right, Chief of Fire  
20 Prevention, Chief Jensen of the Fire Department,  
21 and to my left, Deputy Commissioner of Enforcement  
22 and Neighborhood Preservation, Vito Mustaciuolo  
23 from HPD.

24 SPEAKER QUINN: Yay, we love Vito.

25 ROBERT LIMANDRI: Everybody has a

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fan club.

[Pause]

ROBERT LIMANDRI: Then certainly we have other agencies here for the topic at hand, sort of behind me and to my left. Thank you for allowing me to be here today. We certainly agree, this administration, myself included, the Fire Department and Housing and Preservation, we realize that we need to do more, perhaps with the same or less.

Whether it is to provide a new living space to accommodate a family member who may require assistance or it is a homeowner who feels he or she may lose their property without additional income to cover a mortgage, personal circumstances may require people to make difficult decisions. These difficult decisions can have a direct impact on the affordable housing market and result in the creation of substandard and unsafe living conditions in the form of an illegal conversion.

Illegally converted dwellings typically consist of a homeowner who converts a garage, basement, or attic to an apartment without

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2 getting the proper permits. It can be an owner or  
3 a tenant who sublets a room or rooms within his  
4 apartment or house to another family. Sometimes  
5 it's a basement apartment in a one-family home for  
6 a member of the family, as some of you talked  
7 about.

8           The worrisome situation is  
9 apartments and rooms that are illegally subdivided  
10 into smaller rooms or cubicles, as we call them.  
11 Any of these scenarios represent serious  
12 violations of the New York City Building Code and  
13 the Fire Code, and any one of them can result in a  
14 dangerous situation and have tragic consequences,  
15 as we've talked about today already.

16           Illegal construction often creates  
17 substandard and potentially dangerous housing  
18 without regard to basic safety measures such as a  
19 smoke detector, proper egress, or sprinkler  
20 systems. In addition, illegally converted  
21 dwellings put a strain on electrical wiring, and  
22 are often accompanied by illegal extension cords  
23 and space heaters. Creating an illegal apartment  
24 can include construction work or almost no work.  
25 Just by adding bunk beds, or locking a couple of

1  
2 doors, a property owner can significantly change  
3 the use of his building and make it unsafe.

4 In Fiscal Year 2011 the Department  
5 of Buildings, received approximately 86,000 total  
6 complaints, and of that 18,000 of them were  
7 related to illegal conversions alleged, and 13,000  
8 unique properties in the City. Illegal conversion  
9 complaints are down, about 27 percent from the  
10 combined average of the last three fiscal years.

11 In Fiscal Year to date 2011, the  
12 Department issued more than 3,800 violations for  
13 illegal conversions and 783 vacate orders. All of  
14 our construction inspectors can issue violations  
15 or request a vacate order for an illegal  
16 conversion. As you know, these violations are  
17 adjudicated at ECB.

18 Over the last four fiscal years,  
19 ECB violations issued for illegal conversions are  
20 upheld at a slightly lower rate, 75 percent, than  
21 other violations that we go to court with, at 82  
22 percent.

23 When the Department receives a  
24 complaint relating to an illegal conversion it is  
25 our policy to have our inspectors make multiple

1  
2 inspection attempts at the location. If access is  
3 not granted or if it's denied, the inspector  
4 leaves a form we call an LS-4 form, and it advises  
5 the property owner to call the department to  
6 schedule an inspection. The Department also mails  
7 this form to the registered property owner. It  
8 increases our chances of gaining access to  
9 properties, but more importantly, it puts an owner  
10 on notice that an inspector can and will return.  
11 Certainly, we know that some of the people who  
12 perhaps play in this space don't want to return  
13 our phone calls.

14 One issue we have to keep in mind  
15 when trying to gain access to someone's private  
16 home and property is the protection provided under  
17 the Fourth Amendment to the Constitution and how  
18 this impacts our inspection protocols.

19 The Fourth Amendment provides: the  
20 right of the people to be secure in their persons,  
21 houses, papers, and effects, against unreasonable  
22 searches and seizures, shall not be violated, and  
23 no warrants shall issue, but upon probable cause,  
24 supported by oath or affirmation, and particularly  
25 describing the place to be searched, and the

1  
2 persons or things to be seized. This protection  
3 prohibits unreasonable searches and seizures and  
4 safeguards the privacy and security of individuals  
5 against arbitrary invasions by governmental  
6 officials.

7           When inspectors are unable to enter  
8 a property, Section 398 of the New York City  
9 Charter provides that an agency can request the  
10 Corporation Counsel to make an application for a  
11 court order directing the entry and inspection of  
12 a premise in order to abate any nuisance therein.  
13 The legal threshold that must be met to justify  
14 such an access warrant must constitute a  
15 significant standard.

16           In the City's case, before DOB asks  
17 the Law Department to seek such an access warrant  
18 from the courts, DOB makes at least two efforts to  
19 gain access to the property in question, one of  
20 which occurs either after business hours or on the  
21 weekend.

22           So let me explain how the process  
23 works on the day-to-day. If the inspector cannot  
24 gain access to the property, yet suspects that  
25 there is sufficient evidence of an illegal

1  
2 conversion from the exterior inspection, the  
3 inspector will gather evidence of those  
4 conditions. He will report those findings to his  
5 supervisor and the department may seek the court-  
6 ordered access warrant. This process is highly  
7 resource intensive. Once the Inspector and  
8 Supervisor review the evidence, they will sit with  
9 a Borough Enforcement Attorney, who reviews the  
10 facts. The attorney will apply the Court's  
11 standards to the evidence and prepare an  
12 affidavit, complete with evidence in the form of  
13 sworn affidavits from inspectors or concerned  
14 citizens, to be reviewed by their supervisors and  
15 then sent to the Law Department. The Law  
16 Department does a review, and perhaps sends it  
17 back to the Department for more evidence, and then  
18 go to Court in the hopes of obtaining a warrant.

19           Obtaining access warrants has  
20 become a priority for this enforcement agency over  
21 the last few years. In Fiscal Year 2011, we have  
22 obtained 11 access warrants with 10 pending. In  
23 Fiscal Year 2010, we obtained 68. These 168  
24 access warrants have more than doubled the total  
25 amount obtained in the prior seven fiscal years

1  
2 combined. Over the last two years, we've done 168  
3 access warrants, which is more than double than  
4 the total obtained by this department over the  
5 prior seven fiscal years.

6 The standards I have outlined  
7 present both an operational and constitutional  
8 challenge to proposed Intro 368, sponsored by  
9 Council Member Koppell. This bill would mandate  
10 an attempt to obtain an access warrant based upon  
11 inspections where an inspector did not gain, or  
12 was denied, access. It is important to note that  
13 of the residential illegal conversion complaints  
14 where the Department does gain access, 55 percent  
15 of the time no violation is written.

16 In those cases where the inspector  
17 does not gain access, he/she may not find enough  
18 evidence of an illegal conversion or any evidence  
19 at all, to meet the constitutional standard that  
20 the Court would expect. Remember, these guys get  
21 smart. They know what they go for and they change  
22 their behavior.

23 Further complicating the matter is  
24 that 311 allows any member of the public to enter  
25 hearsay complaints, perhaps based in little or no

1  
2 fact. Seeking access warrants in potentially  
3 thousands of instances where insufficient evidence  
4 of wrongdoing exists is not an efficient use of  
5 City and Court resources. However, we're open to  
6 listen and perhaps change our methods.

7 In order to determine whether there  
8 is probable cause to issue a warrant, our  
9 inspectors will document evidence of the suspected  
10 illegal conversion. This prima facia evidence  
11 would allow us to seek an access warrant, because  
12 it shows probable cause to conduct an inspection,  
13 not probable cause to believe that there is either  
14 a crime or regulatory violation has occurred, as  
15 suggested in Intro 240, sponsored by Council  
16 Member Vallone.

17 This circumstantial evidence is  
18 just a presumption of an illegal conversion, when  
19 the actual illegal condition has not been  
20 witnessed. In fact, the worry is that this bill  
21 would drive this evidence even further underground  
22 and hamper other investigations of enforcement.  
23 In other words, if you kind of tell them what  
24 you're looking for and make it law, they'll stop  
25 doing it and they change their tactics.

1  
2 In Fiscal Year 2011, DOB inspectors  
3 gained access to the premises on illegal  
4 conversion complaints approximately 42 percent of  
5 the time. In Fiscal Year 2009, we began to track  
6 the statistic of access denied by an occupant of  
7 the premises. So far in Fiscal Year 2011, DOB was  
8 denied access 26.7 percent of the time. It is  
9 important to remember that DOB inspectors, HPD  
10 inspectors and firefighters do not have the  
11 authority to force entry into any premise where  
12 they are denied access.

13 A more effective way of uncovering  
14 dangerous illegally converted units is leveraging  
15 inspections done by our sister agencies, and  
16 coordinating referrals of complaints based on  
17 those inspections, as you suggest. As all of you  
18 know, housing complaints received by 311 are  
19 routed to HPD Office of Enforcement and  
20 Neighborhood Preservation.

21 Since complaints for illegal  
22 conversions are routed directly to the Department  
23 of Buildings, HPD inspectors will be dispatched  
24 for standard housing complaints such as lack of  
25 heat and hot water, mold or vermin infestation.

1  
2 When an inspector is dispatched to a residence, he  
3 or she is legally required to issue violations for  
4 any breaches of the Housing Maintenance Code that  
5 are in the line of site of the inspector.

6 Accordingly, should an HPD inspector view  
7 violations such as illegal occupancy like  
8 existence of an unlawful cooking space, or  
9 unlawful overcrowding, he or she will issue  
10 violations and potentially a vacate order when the  
11 inspector observes inadequate egress.

12 HPD also has the ability, through  
13 the interagency MOU between us, to issue DOB ECB  
14 violations for occupancy contrary to the  
15 certificate of occupancy should there be evidence.  
16 Similarly, should an HPD inspector witness  
17 structural damages he or she makes a direct  
18 referral to the DOB through 311. Once the unit or  
19 building is vacated, HPD if necessary will seal  
20 the apartment or building to prevent re-occupancy.

21 In Fiscal Year 10, HPD issued 183  
22 vacate orders for illegal occupancy. HPD also  
23 issued 242 related violations. In the Fiscal Year  
24 11, we received 485 official referrals from HPD.  
25 Of those, 144 resulted in violations written by

1 the Department with 12 vacates.

2 Our partnership with FDNY has also  
3 been strengthened in recent years, and our  
4 agencies work closer together than ever before.  
5 In March 2007 we initiated a pilot program, named  
6 the A8 Referral Program. A8 being a form that the  
7 Fire Department uses. This new protocol enables  
8 FDNY to transfer field observations directly to  
9 the Department of Buildings. Battalion commanders  
10 or Fire Prevention Officers can call direct to  
11 Buildings, or enter a complaint directly into our  
12 information system.  
13

14 In 2008 we provided formal  
15 training sessions and training materials to the  
16 FDNY, including full standard operating procedure  
17 of these programs and they were institutionalized.  
18 The A8 program enables FDNY to transfer field  
19 observations directly to DOB. Currently, FDNY and  
20 DOB have increased the program to include three  
21 types of referrals: High Priority, a regular  
22 referral and a joint inspection. The total number  
23 of referrals from FDNY in Fiscal Year 11 is 3,454.

24 Over these last three fiscal years,  
25 these referrals have resulted in 4,237 violations

1  
2 and 796 full or partial vacate orders. While  
3 vacates are issued in order to protect the tenants  
4 of illegal apartments from the hidden dangers they  
5 may face, it still takes a human toll on the  
6 families who are forced to leave their homes. Our  
7 inspectors call the American Red Cross, who will  
8 offer relocation services to these tenants, to  
9 make sure that the tenants have a place to go.

10 FDNY inspectors enforce the Fire  
11 Code and certain provisions of the Building Code.  
12 If a violation is found by FDNY, they can take the  
13 following enforcement actions. They can issue a  
14 Violation Order, a Commissioner's Order  
15 identifying a violation and ordering it to be  
16 remedied, an issuance of a violation, a Notice of  
17 Violation, an order similarly identifying a  
18 violation and ordering it remedied, but in  
19 addition requiring an appearance at a hearing  
20 before the ECB. And then three is to issue a  
21 criminal court summons, and four, issue a vacate  
22 order. And five, issue a vacate order, with a  
23 seal order.

24 Depending on the circumstances, a  
25 member or inspector can take a combination of

1  
2 these actions. The BISP Manual, which is an  
3 acronym that the Fire Department uses, provides  
4 direction to members and the inspectors in this  
5 regard.

6 We're certainly always looking for  
7 more aggressive and creative solutions, as well  
8 as, more partnerships to help tackle the issue of  
9 illegal conversions. All of these programs, we  
10 hope, will have an exponential affect on building.  
11 Targeted enforcement raises awareness about the  
12 consequences that these illegal dwellings can  
13 present for tenants, neighbors and first  
14 responders.

15 In the spring of 2010, we launched  
16 a new enforcement approach to combating illegal  
17 conversions. Our investigators researched rental  
18 apartments on Craigslist and posed as tenants in  
19 order to gain access. From May to September we  
20 accessed 62 buildings throughout the City.  
21 Illegal conditions were found in 54 of the  
22 apartments for rent. Vacate orders were issued  
23 for 33, where conditions posed an immediate threat  
24 to public safety.

25 As a result, the Department issued

1  
2 104 violations to property owners who created  
3 there illegal conditions, including fire safety  
4 hazards such as inadequate egress, illegal gas,  
5 electrical and plumbing work. We have continued  
6 to conduct the same undercover program and since  
7 March our investigators inspected 40 new  
8 apartments advertised for rent on Craigslist. In  
9 those inspections, 32 sites had violating  
10 conditions, resulting in 64 violations written and  
11 22 vacates.

12 This undercover investigation has  
13 exposed how landlords and realtors are becoming  
14 more and more savvy on how to advertise these  
15 apartments and advise the would be tenants how to  
16 list their address, how to get the mail delivery,  
17 how to explain unique living arrangements like  
18 attics and dormers, and which questions to avoid  
19 from neighbors and inspectors, and how to avoid  
20 illegal conversions being identified in the first  
21 place. In other words, they're getting smarter.  
22 So we definitely need to do more and change our  
23 tactics.

24 In response to the most recent  
25 fires, the City once again sought new ways to

1  
2 evaluate, diagnose and combat the problem of  
3 illegal conversions. Working with the Criminal  
4 Justice Coordinator, FDNY, HPD and DOB, we used a  
5 different set of data points. I'd like to just  
6 quickly go through it with you. We used lis  
7 pendens, tax liens, and not just limiting  
8 ourselves to illegal conversion complaints or  
9 violations, to create these new risk-metrics to  
10 help proactively identify buildings at risk or  
11 higher risk.

12 For example, the site of the fire  
13 in the Bronx on April 25th had been in foreclosure  
14 proceedings just months before the fire occurred.  
15 Joint inspections by FDNY, DOB and HPD were  
16 conducted and overall, the results were very  
17 encouraging. There was a high rate of access  
18 gained, and we are pleased to report that many of  
19 the sites with active vacate orders are still in  
20 compliance. We are studying these results to  
21 determine useful ways to move forward with this  
22 multi-agency data-driven approach.

23 Through 311 we receive referrals  
24 from many other agencies as well: NYPD, community  
25 boards, OEM. We offer community boards the

1  
2 opportunity to submit locations to the Department  
3 and inspect once a month. We have an active  
4 Community Affairs Unit, taking complaints from you  
5 and your colleagues and since November 2009, and  
6 DOB volunteers and sometimes elected officials to  
7 distribute more than 150,000 informational flyers  
8 to explain the dangers of living in illegal  
9 dwellings. We printed these in 11 languages and  
10 are downloadable from our website. Our website  
11 also contains a page with the Top 10 Tips for  
12 renters to learn to avoid illegally converted  
13 apartments. So it is also about education.

14 We have taken lessons from past  
15 experiences as well. The 2008 New York City  
16 Construction Code mandates sprinklers in more  
17 buildings than ever before in our City's history,  
18 including all new housing with three or more  
19 families, all attached 2 family homes, and all one  
20 and two-family homes over three stories.

21 The Code also requires  
22 interconnected, hard-wired smoke alarms in both  
23 new and renovated residential units. Installing  
24 more sprinklers in more areas, will make buildings  
25 safer, and hard-wired smoke detectors are a

1  
2 significant improvement over the more common  
3 battery-operated detector that most of us are  
4 accustomed to.

5 In addition to the ongoing  
6 activities, a long term approach is necessary to  
7 address the real problem, which is a variety of  
8 solutions that we've talked about today.

9 Certainly, we need to not only talk about  
10 enforcement and education, but changes to the  
11 various codes and zoning to allow for more places  
12 for people to live and more affordable. Even with  
13 increased vigilance, there is no practical way to  
14 completely end the practice of illegal  
15 conversions.

16 As a city we must continue to work  
17 together. I am here to work with you. Thank you.

18 CHAIRPERSON DILAN: I would like to  
19 thank you, Commissioner, for your testimony. I'd  
20 like to take the privilege in starting off. Just  
21 as a note in your testimony, I happened to do a  
22 leafleting campaign, along with members of your  
23 staff, Donald Ranshte, in particular, about  
24 alerting tenants about the dangers of illegal  
25 conversions and notifying people if they live in

1  
2 illegally converted units. That also happened  
3 after another death in my district on Elders Lane  
4 earlier this calendar year. So I'm glad that your  
5 staff at least took the initiative to come to my  
6 district and leaflet at that point.

7           Clearly, as the Speaker has  
8 indicated, this is a broader citywide problem.  
9 Your testimony stated that you've seen a  
10 tremendous percent increase over the past fiscal  
11 years from the amount of access warrants that you  
12 have sought.

13           Just generally speaking, what do  
14 you believe led to the increase?

15           ROBERT LIMANDRI: Well, we  
16 certainly realize that we needed to do more, and  
17 we continue to believe that we need to do more.

18           CHAIRPERSON DILAN: Yeah, just--

19           ROBERT LIMANDRI: [interposing] Did  
20 I miss that?

21           CHAIRPERSON DILAN: What conditions  
22 do you believe led to the increase in access  
23 warrants that your agency has sought?

24           ROBERT LIMANDRI: What we did was  
25 we went through the details of what we would

1  
2 require from an inspector to see, wrote that down  
3 and made sure that they had training so that they  
4 could actually get those warrants. We provided  
5 that information to the Law Department.

6 CHAIRPERSON DILAN: Nothing  
7 external of your department that your inspectors  
8 saw or the reports that your agency was receiving  
9 that triggered your staff to seek extra warrants  
10 over the past couple of years?

11 ROBERT LIMANDRI: I'm sorry.

12 SPEAKER QUINN: So, like, did the  
13 downturn in the economy, did that lead more people  
14 to illegally convert? Was there some change in  
15 something outside that led to you seeing a change  
16 in external conditions that brought more work to  
17 the department or caused you to have to respond  
18 more aggressively? Or was there just kind of an  
19 aha moment within the department that you hadn't  
20 been taking this seriously enough from a  
21 managerial perspective and you began to take it  
22 more seriously which then increased things?

23 I mean either is possible. I think  
24 I kind of agree with the chair. I might have  
25 assumed that it had something to do with the

1  
2 economy or something external, but perhaps not.  
3 Perhaps you just had a managerial insight that  
4 your department hadn't been doing what it should  
5 have been.

6 ROBERT LIMANDRI: You know,  
7 frankly, I mean the Council Members and their  
8 staffs, the Community Boards, have really been  
9 pushing us to focus more on this. In particular  
10 districts as people started to renovate what they  
11 were doing is--and I'm sorry that I didn't follow  
12 the line of questioning--is that the construction  
13 boom also led people to buy buildings, renovate  
14 them, flip the, but use them as illegal  
15 occupancies to--ability to pay the mortgage.

16 So the most recent several years,  
17 many people probably got into a home they couldn't  
18 afford to begin with. Then they realized that  
19 they needed to do something. Perhaps someone  
20 showed them the way. They either did illegal work  
21 or they ended up just sharing their space with  
22 others. That's what we think has been primarily  
23 the driver.

24 CHAIRPERSON DILAN: My next  
25 question and I think I have some further follow-up

1  
2 questions that will lead to the answer that I seek  
3 to achieve. Once an access warrant is obtained by  
4 your agency, how frequently does an inspector  
5 obtain access after it's obtained?

6 ROBERT LIMANDRI: After we get an  
7 access warrant, we generally get a 90 percent  
8 ability to get in. As you know, we still can be  
9 stopped at the door, even though we have an access  
10 warrant. But 90 percent of the time we can get  
11 in.

12 CHAIRPERSON DILAN: So what happens  
13 to the other 10 percent? Are they considered in  
14 contempt of the court order and the court deals  
15 with it at that point? What happens to those? I  
16 mean 90 percent is a great rate, don't get me  
17 wrong, but I just want to know what happens with  
18 the outstanding balance.

19 If you don't know the answer, you  
20 can get back to me at some point. I just would  
21 like to know if they're in contempt of a court  
22 order.

23 ROBERT LIMANDRI: Okay.

24 SPEAKER QUINN: Can I ask a  
25 question?

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CHAIRPERSON DILAN: Sure.

SPEAKER QUINN: I'm sorry. I'm going to have to leave in a minute. In the answer to the first question, you mentioned some issues related to mortgage issues and people being in risk of foreclosure. Have you guys included in your conversations the Center for NYC Neighborhoods, which the Mayor and the Council created, who do a lot of the fraud work out there--I mean, not the fraud work, the foreclosure work out there and the network of nonprofits that they're working with to assist homeowners to get the info out there that this is illegal activity, notwithstanding how desperate they may be, cannot engage in?

ROBERT LIMANDRI: We haven't but we certainly could.

SPEAKER QUINN: I mean, one, it would be useful from the outreach perspective. Two, I think it would be useful to better confirm your belief that that is what is, in part, spurring this increase in illegal conversions. They may have data. So I would ask that you do that and then report back to the committee.

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ROBERT LIMANDRI: Okay.

SPEAKER QUINN: Thank you.

CHAIRPERSON DILAN: Commissioner, have you at all heard of the term three quarter housing or three quarter of the houses, or any member of the panel? Do you believe that has been an external force leading to the increase in your numbers in terms of achieving access warrants?

ROBERT LIMANDRI: I'll speak for myself and then I'll turn it over to my colleagues. I don't have any data that supports or suggests either way. I don't think we've ever had any insight into details of that type of the amount of times when we haven't been able to track it in that sort of way.

CHAIRPERSON DILAN: I know at least on two occasions, through my normal constituent service work, we have tried to push your agency to get access warrants because the common conditions that we see around this three quarter housing, first there's men coming home from parole or other services, where at least 20 beds are being joined together in a residential building. We know when they come because automatically we start receiving

1  
2 complaints of harassment from women on the block.  
3 And they come, and as soon as they come in and how  
4 they complain, we already know in my office that  
5 there's a three quarter house.

6 ROBERT LIMANDRI: We certainly know  
7 that it is occurring in different districts.  
8 Primarily, most likely, you're hearing about it  
9 immediately because of the complaints in the  
10 neighborhood, but I don't have any statistics on  
11 that.

12 CHAIRPERSON DILAN: Because there's  
13 no statistics, I would respectfully request that  
14 under the list of criteria that your task force  
15 will be looking at is to take a look at the impact  
16 on three quarter housing with the criteria.  
17 Include the number of beds that are being shipped  
18 into buildings late at night which are common  
19 conditions in my district, into your criteria. I  
20 believe that has been a major factor in the jump  
21 of the numbers. Obviously, these people have to  
22 go somewhere and they have to live somewhere, so I  
23 don't disagree with that. But it's being done in  
24 a way where homeowners are blatantly violating  
25 Building Code for profit. The money is attached

1  
2 to the individual and not a contract. Where there  
3 are state contracts, we found those to be  
4 following Building Code and Housing Maintenance  
5 Code. Then other that are non-contracted, we've  
6 generally found that they did not follow city  
7 Building Code or City Housing Maintenance Code.  
8 So I just ask that your office look into that.

9 ROBERT LIMANDRI: Sure.

10 CHAIRPERSON DILAN: So how often  
11 has DOB referred illegal conversion conditions for  
12 criminal prosecution, if at all?

13 ROBERT LIMANDRI: The most  
14 significant was something that I think your  
15 colleague identified, which was the Bronx fire.  
16 That's where the Bronx DA went forward on a  
17 criminal case against the landlord and the tenants  
18 for illegally converting that building.

19 CHAIRPERSON DILAN: Is that the  
20 only incident? Have there been others? How  
21 frequent is it?

22 ROBERT LIMANDRI: It's very  
23 limited. That's the one I know of at the moment.  
24 Not to talk but just to give some background, I do  
25 think that the court system has recognized that

1  
2 there is culpability of landlords in a way today  
3 that perhaps they didn't see in the past. I do  
4 see recognition from the district attorneys with  
5 regard to flouting Building Code and Law but I  
6 don't have any statistics.

7 CHAIRPERSON DILAN: I guess, again,  
8 if you could provide us, post-hearing, on the  
9 frequency, I would seem to think it would be not  
10 that many occasions because it hasn't reached your  
11 level of attention. I'm pretty sure if it was  
12 often, you would know about it.

13 You spoke in your testimony about  
14 the Fourth Amendment and Council Member Koppell  
15 spoke about the Fourth Amendment as it relates to  
16 this subject in his brief opening. I respect the  
17 Fourth Amendment and everything that it tries to  
18 protect. I ask this loosely, acknowledging that  
19 you're not an attorney, is there room for us to  
20 take further legislative steps that would help us  
21 solve our problem but also be in compliance with  
22 the Fourth Amendment.

23 ROBERT LIMANDRI: Certainly, as I  
24 stated before, we want to be more aggressive and  
25 we want to be able to petition for more access

1  
2 warrants. We have to do it judiciously so that  
3 the average New Yorker doesn't feel like they're  
4 being harassed. But certainly that's something  
5 that we'd like to do and we'd be open to  
6 suggestions that are similar to that.

7           The types of things that we think  
8 of at the Building Department, remember as an  
9 administrative agency the kinds of things I look  
10 to, to solve a problem, are how can I either  
11 retroactively or change the housing use, instead  
12 of talking about enforcement data to present as a  
13 legislative solution.

14           So for example, is there a  
15 technology that we could import on those buildings  
16 as opposed to suggesting specifics in a criteria?

17           CHAIRPERSON DILAN: I have just a  
18 few more questions and then I'll turn it over to  
19 my co-chair.

20           Just generally speaking, within the  
21 Building Code in general, and I'm not aware at  
22 this time the particular section of the code, but  
23 in the code there are parts that deal with family  
24 composition or the number of--say it again.

25           ROBERT LIMANDRI: The number of

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unrelated people.

CHAIRPERSON DILAN: The number of unrelated people in a dwelling. How often do you find that those conditions persist?

ROBERT LIMANDRI: The way we live is different. I mean what's unfortunate is that the codes don't recognize that today. So, for example, three students wanting to share an apartment or three unrelated people seems to make sense and actually the multiple dwelling law, which identifies that, puts that out.

But we know that there are opportunities where families are merged. A lot more people want to reside in those buildings. We do think that there are opportunities to look at different codes to make changes there.

CHAIRPERSON DILAN: Can I tell you, I'm very sensitive to that. There are a lot of people that live in my district that can't afford to live on their own and they need to have roommates and they need to maybe take in a family member because a family member has lost an apartment or lost a job. So I'm sensitive to that.

1  
2                   But when you have conditions of 20  
3 different unrelated individuals living in one  
4 residential unit or one residential building,  
5 depending on the size of the building--and I'm  
6 talking normally here three-family homes--I  
7 consider that to be a clear violation of the code.  
8 I'm hopeful we can use that also as another  
9 criterion to gain an access warrant.

10                   ROBERT LIMANDRI: Well, certainly  
11 when we come upon these buildings that are clearly  
12 being, I'll call them, overused, you know the Fire  
13 Department and this department, we aggressively go  
14 after these in a difficult way.

15                   So when we look at the risks,  
16 certainly those that are being used that were not  
17 originally designed that way, we are working on  
18 those differently.

19                   CHAIRPERSON DILAN: I want to shift  
20 to HPD for a second. I have two questions for HPD  
21 and then I'm done. First, I just wanted to get  
22 your answer on three quarter houses. I believe  
23 the Commissioner was about to defer to you but I  
24 kind of interrupted. How often do you get  
25 complaints on those conditions?

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2 VITO MUSTACIUOLO: Actually, again,  
3 we don't receive complaints directly for illegal  
4 occupancies.

5 CHAIRPERSON DILAN: If you can  
6 introduce yourself for the record.

7 VITO MUSTACIUOLO: Sorry. My name  
8 is Vito Mustaciuolo, Deputy Commissioner for  
9 Enforcement and Neighborhood Services at HPD. So  
10 HPD, as Commissioner LiMandri had mentioned in his  
11 testimony, we do not receive complaints directly  
12 for illegal occupancies. So we may receive a  
13 complaint for lack of heat or hot water, which  
14 would bring us into a building. It is rare that  
15 we have seen conditions that you're referring to.

16 CHAIRPERSON DILAN: Most often, at  
17 least in my office, we direct them to Buildings.

18 VITO MUSTACIUOLO: Correct.

19 CHAIRPERSON DILAN: I wanted to see  
20 if people did it differently outside of my office.  
21 So normally, do HPD inspectors check a building's  
22 unit occupancy standard prior to responding to an  
23 illegal conversion complaint?

24 VITO MUSTACIUOLO: Again, we do not  
25 respond to illegal conversion complaints.

1  
2 CHAIRPERSON DILAN: You do not  
3 respond to them.

4 VITO MUSTACIUOLO: We do, as the  
5 Commissioner indicated, have an MOU with the  
6 Department of Buildings, so we can issue  
7 Department of Buildings' violations, they're ECB  
8 violations. This fiscal year we have issued 663  
9 of those ECB violations. That would be for  
10 occupancy contrary to C of O. It's made on a line  
11 of sight observation. We also make a referral to  
12 the Buildings Department in those situations as  
13 well. It is possible that the owner may have  
14 filed for plans or permits to legalize the  
15 conditions. When our inspectors are out there,  
16 they're not seeing that.

17 CHAIRPERSON DILAN: What I would  
18 do, and if you don't have the answer now, you can  
19 certainly get back to us, but if you can just give  
20 to the committee how many referrals of illegal  
21 conversation complaints you have referred to the  
22 Department of Buildings, I would like to know the  
23 answer to that as well. The Buildings  
24 Commissioner may well have it

25 VITO MUSTACIUOLO: I actually have

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that.

CHAIRPERSON DILAN: Okay.

VITO MUSTACIUOLO: In total, for this fiscal year--I'm sorry, I apologize, it's 668 Environmental Control Board violations that we've issued. So, each of those resulted in a referral. In addition, there were an additional 485 referrals. They're not all for illegal conditions. Some of those referrals may have been for a structural defect. So if our inspectors observed a sagging floor--we don't differentiate between the types of conditions when we make referrals to DOB.

CHAIRPERSON DILAN: What was the number again?

VITO MUSTACIUOLO: Again, 668 violations were issued on behalf of DOB for illegal occupancy. An additional 485 referrals were made to DOB, not exclusively for illegal occupancy. So if we saw a condition where--we saw a sagging floor, we would make a referral to DOB for that as well.

CHAIRPERSON DILAN: Okay. At this time, I'll turn it over to the Co-chair of this

1 hearing, Council Member Elizabeth Crowley.

2  
3 CHAIRPERSON CROWLEY: Thank you,  
4 Co-chair Dilan. Good afternoon. Commissioner, I  
5 have a question that relates to the number of  
6 access, or your rate in terms of percentage wise.  
7 In Fiscal Year '06, I see that the DOB had a 60  
8 percent success rate in gaining access to  
9 buildings with complaints. That number has fallen  
10 significantly. In Fiscal Year 2010, you only were  
11 able to get 45 percent. Is that true?

12 ROBERT LIMANDRI: I don't have that  
13 particular stat from '06 in front of me, but  
14 access rates depend on many conditions. One of  
15 them, I think we talked about it earlier, was the  
16 time of day. The time of day, weekends, you know  
17 certainly those play a huge role of is someone  
18 home. That's certainly an opportunity where we've  
19 cut back on overtime over the last several years.  
20 So we haven't been out maybe perhaps always at the  
21 time when someone's home, which may be one of the  
22 reasons why the numbers that you're looking at,  
23 the access rate has gone down.

24 CHAIRPERSON CROWLEY: So budget  
25 cuts--

1  
2 ROBERT LIMANDRI: [interposing]

3 Certainly that's one. I'm sorry to jump on you  
4 for a second. The other is we know that we have  
5 done some increased enforcement; people know that  
6 we are out there. They don't answer the door as  
7 often. The indicia that we talk about, what do  
8 you see on the outside of the building, it's gone.  
9 Even when we did the Craigslist undercover  
10 investigation, we were being asked to show up on a  
11 corner to go meet someone to go look at a house.  
12 They wouldn't give us the address.

13 So I think that the recent economy  
14 and certainly the focus has been a problem--

15 CHAIRPERSON CROWLEY: [interposing]

16 I can see that. Word catches on and neighbors  
17 talk, and people stop letting DOB people in. But  
18 just in terms of having people not on staff in the  
19 evening time, maybe it's a better idea to have  
20 fulltime employees that only work on those hours.  
21 This way it's not a budgetary issue and you're  
22 able to gain access and have people out there in  
23 the times when people are home.

24 ROBERT LIMANDRI: Certainly, the  
25 300 inspectors, approximately, that I have, you

1  
2 know that becomes problematic for us. But that's  
3 certainly an option.

4 CHAIRPERSON CROWLEY: The folks who  
5 you're trying to gain access to their homes, are  
6 they more likely to open up for a DOB official as  
7 opposed to an FDNY official?

8 ROBERT LIMANDRI: What we found in  
9 this joint task force that we've done over the  
10 last couple of weeks with Fire and with HPD, is  
11 that uniform personnel--and when we say uniform,  
12 we mean a fireman--we've gotten a tremendous  
13 amount of access. So when we looked at the most  
14 egregious conditions, based on the Mayor's office  
15 special enforcement, looking at those different  
16 layers of data, not just our own data, but using  
17 those other metrics and then showing up with  
18 firemen, in a fire truck, or with a fire inspector  
19 and an HPD inspector, we got a 90 percent access  
20 rate.

21 CHAIRPERSON CROWLEY: Wow, that's  
22 significant.

23 ROBERT LIMANDRI: Versus 45  
24 percent.

25 CHAIRPERSON CROWLEY: Right.

1  
2 ROBERT LIMANDRI: Clearly, I can  
3 tell you that that's certainly very encouraging.  
4 But we both know that people learn over time what  
5 works and what their rights are.

6 CHAIRPERSON CROWLEY: Right. Now  
7 we all hear about the fires that are caused by  
8 illegal conversions and there are deaths. I'm  
9 curious to know what percentage of fires because,  
10 you know, of conditions like extension cords or  
11 other issues that will come about from having an  
12 illegally converted apartment are causing the  
13 fires in the City of New York. Do you have  
14 statistics like that?

15 THOMAS JENSEN: I don't have those  
16 statistics.

17 CHAIRPERSON CROWLEY: If you could  
18 introduce yourself for the record.

19 THOMAS JENSEN: Sorry. Chief Tom  
20 Jensen, Chief of Fire Prevention. I don't have  
21 those statistics. We could probably get some of  
22 them through the fire marshals who investigate the  
23 fires. I'm sure it's a fair percentage of fires  
24 that are caused by these illegal conversions or  
25 the conditions that the illegal conversions

1  
2 provide, such as the extension cords and the  
3 illegal heaters and so forth.

4 CHAIRPERSON CROWLEY: So you have  
5 those statistics somewhere probably.

6 THOMAS JENSEN: I'm sure some of  
7 those--

8 CHAIRPERSON CROWLEY: Because you  
9 do investigations of the fire.

10 THOMAS JENSEN: Yes. Yes, all  
11 fires are investigated one way or the other, yes.

12 CHAIRPERSON CROWLEY: Good to know.  
13 Could you walk us through what happens when  
14 emergency--you have a fire and the Fire Department  
15 responds and you're responding to a situation  
16 where there are illegal conversions.

17 THOMAS JENSEN: That's how the Fire  
18 Department actually comes upon many of these  
19 illegal conversions. A few are through complaints  
20 but many through operations, whether it's a gas  
21 leak, water leak, a medical emergency or a fire.  
22 We're in the building and we discover the illegal  
23 conversion and the dangerous conditions. That's  
24 usually how we either institute a vacate or a  
25 violation orders or maybe call HPD or DOB in to

1  
2 assist us. That's usually how we come upon these  
3 conditions.

4 CHAIRPERSON CROWLEY: Now, your  
5 success rate is 90 percent in gaining access--

6 THOMAS JENSEN: [interposing] That  
7 was a small sample of the pilot recently, yes.

8 CHAIRPERSON CROWLEY: A small  
9 sampling. Then the Mayor is probably having plans  
10 to increase the number of visits the Fire  
11 Department does. If you're gaining access, it  
12 makes sense to do so.

13 THOMAS JENSEN: Yes.

14 CHAIRPERSON CROWLEY: How is that  
15 going to impact the overall operations? Are our  
16 firefighters or fire officers really trained on  
17 the Building Code so that when they go in they can  
18 pick up all the code violations?

19 THOMAS JENSEN: Well, I don't think  
20 they're totally trained in all the code  
21 violations. We do have an inspection manual that  
22 helps out. We do call in HPD and DOB on occasions  
23 to assist us. I'd like to point out that it's not  
24 just the initial inspection and visit to vacate,  
25 it's the follow up, it's the surveillance, because

1  
2 many of these, if you don't surveil them, they'll  
3 go right back to the illegal conversion. So, it  
4 would be an impact on the Fire Department as these  
5 increase on the surveillance end also, which takes  
6 time away from our other activities.

7 CHAIRPERSON CROWLEY: So that's all  
8 part of the task force. Now, do you know if the  
9 Fire Department will get additional funds put into  
10 their budget to work on access?

11 THOMAS JENSEN: I have no idea  
12 about that. I would hope we would. I would hope  
13 that people would see the extra stress we've put  
14 on the department and would realize that.

15 CHAIRPERSON CROWLEY: So there  
16 would be extra stress?

17 THOMAS JENSEN: Without a doubt.  
18 There'd be extra time involved in inspections--

19 CHAIRPERSON CROWLEY: [interposing]  
20 How would that impact responding to emergency and  
21 life-threatening situations?

22 THOMAS JENSEN: If the companies  
23 are out doing surveillance and doing inspections,  
24 it would clearly slow down response times.

25 CHAIRPERSON CROWLEY: How about for

1  
2 the other city agencies, what type of stress would  
3 this new response team that the Mayor was talking  
4 about put on your department?

5 ROBERT LIMANDRI: One of the  
6 benefits of using--there are two things. One of  
7 the benefits of using this protocol is to look at  
8 the most egregious cases. So we're not talking  
9 about thousands or hundreds, we're talking about  
10 the most egregious cases. So we're thinking that  
11 on a regular basis, that the impact may be not as  
12 great because we can distribute that across the  
13 city.

14 But certainly, any program that we  
15 institute means for any one of us that you're  
16 doing that versus something else. Certainly, the  
17 Mayor made it clear today that we need to know and  
18 learn how to do more with less or with the same  
19 amount. In this case, the idea is to focus our  
20 resources. When you think about 18,000  
21 complaints, and I think someone made the comment  
22 about knocking on a door and looking at a bathroom  
23 in a basement. You know, those are the types of  
24 things that people get annoyed about, but we don't  
25 know that when we show up at the door.

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2                   So, one of the good parts of this  
3 program is to use this layering effect to sort of  
4 focus the effort on the most egregious cases.

5                   CHAIRPERSON CROWLEY: Right. It's  
6 clear that people will be more receptive to the  
7 Fire Department coming in. Now, I imagine with  
8 the gaining of access, you'll be able to issue  
9 more fines for violations and then therefore  
10 increase some type of funds coming into the city  
11 budget. Now, would they be earmarked since it's  
12 the Fire Department that's increasing?

13                  ROBERT LIMANDRI: Well, all the ECB  
14 fines that I issue and actually collect for the  
15 city are not part of my budget. So this--

16                  CHAIRPERSON CROWLEY: [interposing]  
17 In terms of the current fiscal climate, with the  
18 Mayor threatening to close 20 fire companies, it's  
19 important that if we're spreading the resources  
20 even thinner than they're already spread, that if  
21 we're gaining some type of monetary value to the  
22 city budget that it could be earmarked and then  
23 baselined at least.

24                  ROBERT LIMANDRI: I think it's a  
25 matter of proportions. When you look at agencies

1  
2 and the size and what their responsibilities are,  
3 certainly you have to engage the amount of time  
4 that you'll allow for one thing versus another.  
5 I'm sure that the Commissioner of Fire will sort  
6 of evaluate that and let us know how much that  
7 they can do.

8 CHAIRPERSON CROWLEY: Chief Jensen  
9 did say that response times would increase with  
10 more firefighters out there doing inspections. So  
11 we have to think about the safety of the people of  
12 New York. We always should make sure that we have  
13 enough firefighters to fight the life-threatening  
14 emergencies and also inspect these potential  
15 deadly hazards as well. Thanks. I have no  
16 further questions.

17 CHAIRPERSON DILAN: I just want to  
18 acknowledge some of the members of the committee  
19 who have joined us. Council Member Lander of the  
20 Housing and Buildings Committee has joined us.  
21 Council Member Mendez of Manhattan, who is also a  
22 member of the committee, had joined us, as well  
23 as, briefly, Council Member Melissa Mark-Viverito,  
24 as well as Council Member Jumaane Williams.

25 So I have Council Member Vallone.

1 He'll be followed by Council Member Lander.

2 Council Member Vallone?

3 COUNCIL MEMBER VALLONE: Thank you.

4 It was me who mentioned grandma in the basement.

5 Yes, you don't know that when you show up at the

6 door, but you do know what doors you show up at.

7 You're showing up at the wrong ones. A 12-year-

8 old on a bike could tell you which house has the

9 20 illegal people living in it. But you're not

10 showing up at that door, you're showing up at the

11 one with the grandmother in the basement. So

12 there is a problem here with your priorities.

13 That needs to be ended right away.

14 I think this task force is going to

15 do that. I'm not saying ignore that. I'm the

16 Public Safety chair; I never say ignore things.

17 I'm just saying get your arms around the problem

18 which is endangering the lives of our residents

19 first. Then we can worry about grandma in the

20 basement. That's not what's happening.

21 In fact, I'm amazed that in seven

22 years you did 79 warrants, based on your own

23 testimony. It was before your time. Seven years,

24 79 warrants, that's 11 per year. We've got 8

1  
2 million people in New York City and you guys did  
3 11 warrants a year. Completely proof of what I  
4 said in my opening statement which is that you  
5 completely abdicated your responsibility to keep  
6 New Yorkers safe from illegal conversions. Eleven  
7 warrants per year, ridiculous.

8           You're getting better in the last  
9 two years since you've been there, and you deserve  
10 credit for that. I'm blown away by that  
11 statistics.

12           It seems that the biggest  
13 improvement you've made with this task force so  
14 far is having a uniform firefighter show up. I  
15 think that's great. But as you admitted, that  
16 will not last. Landlords will learn, soon, as  
17 they do all the time, that this is the new tactic  
18 and won't open the doors to firefighters either.

19           As our chair has pointed out, we  
20 may have fewer firefighters soon, who are already  
21 overworked. So that's not a strategy which is  
22 going to be a long-term one. We've got to come up  
23 with better ones, which is why Oliver and I and  
24 the City Council as a whole are trying to look at  
25 laws that will help you.

1  
2                   You guys haven't proposed any that  
3 I've seen. I'd love to see some laws that you  
4 guys have proposed that might help you. You've  
5 knocked ours, so let's start with mine. On page  
6 five you say that my law would give you prima  
7 facia evidence to seek a warrant but not probable  
8 cause to believe either a crime or regulatory  
9 violation has occurred. That may be true. I  
10 understand that you're up against some very  
11 difficult constitutional standards here. Again,  
12 we're trying to work together to get something  
13 legal that will help you.

14                   I think it might rise to probable  
15 cause under certain circumstances. You don't.  
16 What if the law that we're writing created a  
17 rebuttal presumption which would say something  
18 like if five of these ten things are present, a  
19 rebuttable presumption would arise that there was  
20 a violation which can be rebutted by access to the  
21 home?

22                   ROBERT LIMANDRI: Listen, we  
23 certainly would love to have the ability to push  
24 back. If you think that that can help us,  
25 certainly we would support that.

1  
2 COUNCIL MEMBER VALLONE: Again, I'd  
3 like to work with you and your attorneys. I don't  
4 have attorneys on my staff and I'm sure you do. I  
5 know we have some great attorneys working on the  
6 Council committees but the individual Council  
7 Members don't have attorneys. We would love to  
8 work together with you to amend my bill, take a  
9 look at Oliver's bill and see what we can do to  
10 help you because the status quo isn't working.

11 Again, we applaud the task force.  
12 It's long overdue. Good minds thinking about a  
13 problem, like is happening now, is always going to  
14 be helpful. You've made some great strides  
15 already but we need to find some long-term  
16 answers.

17 When it comes to the firefighter  
18 situation, Chief, I visited firefighters and we  
19 all did; we've visited our firehouses, so many  
20 times. For years they've been telling me that  
21 they've been doing these inspections and they are  
22 stretched to their limit at the inspections right  
23 now. Approximately how many inspections does your  
24 basic firehouse do? How many more would be  
25 expected under this new task force?

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2 THOMAS JENSEN: Well, each fire  
3 company is scheduled nine hours of inspection each  
4 week on a normal basis. Many of the inspections  
5 that we're talking about here are inspections that  
6 are done on other times: in the evenings, on the  
7 weekends. So that will be in addition to their  
8 required nine hours. Depending on certain areas  
9 of the city where these illegal conversions are  
10 prevalent, the companies could be quite taxed in  
11 those areas.

12 COUNCIL MEMBER VALLONE: Obviously,  
13 if 20 fire companies were closed, that would  
14 seriously hinder those efforts.

15 THOMAS JENSEN: There's no doubt  
16 about that.

17 COUNCIL MEMBER VALLONE: I'm a  
18 little confused--this is not my area of expertise--  
19 -how you work in conjunction with the Buildings  
20 Department. They do inspections; you do  
21 inspections. Can you just flesh that out for us a  
22 little bit?

23 THOMAS JENSEN: Well, we have been  
24 on some limited task forces before with building  
25 inspectors and HPD inspectors, speaking about the

1  
2 three quarter houses. But many times if we come  
3 upon an illegal conversion, we will either call  
4 the Building Department to the scene if we think  
5 it's a serious matter, or we have a good method of  
6 referral where we refer the problem to the  
7 Building Department and then they will follow up.  
8 Depending on the severity, it could be--well, if  
9 it's very severe, we would not leave. We would  
10 wait for them and we'd take care of it. If it's  
11 moderate severity, they come within 35 hours to  
12 inspect it.

13 COUNCIL MEMBER VALLONE: So when  
14 you're out doing these nine hours of inspections,  
15 a fire company, are you knocking on doors and  
16 getting access to these buildings? Or are you  
17 just observing the outside and calling the  
18 Buildings Department?

19 THOMAS JENSEN: These inspections  
20 are normally commercial or multiple dwellings. We  
21 do not inspect the private dwellings or the two-  
22 family dwellings that are the focus of this  
23 hearing, in most cases, these illegal conversions.  
24 We inspect the larger multiple dwellings and  
25 commercial. So we don't normally inspect the PDs,

1  
2 but when we find these conditions, we're there for  
3 an emergency usually.

4 COUNCIL MEMBER VALLONE: Under this  
5 new program, you are going into some of the  
6 smaller houses with HPD.

7 THOMAS JENSEN: Yeah.

8 COUNCIL MEMBER VALLONE: Buildings  
9 Department, I'm sorry.

10 THOMAS JENSEN: Yes.

11 COUNCIL MEMBER VALLONE: Okay. All  
12 right, I know there are a lot of other questions,  
13 so I'll end here. I'm an attorney and Oliver's an  
14 attorney, so we understand what you're up against.  
15 This is not easy. But as difficult as it is,  
16 let's work together to come up with ways that we  
17 can pass laws that will help you or somehow work  
18 together with you, even if it's just keeping as  
19 many firefighters as we can, to get to the bottom  
20 of this problem. We can't allow the status quo to  
21 continue.

22 I commend the work you've done,  
23 Commissioner, since you've been there and this new  
24 task force. Anything we can do to help, we're  
25 here. Thank you.

1  
2 CHAIRPERSON DILAN: Thank you,  
3 Council Member Vallone. Council Member Lander,  
4 followed by Koppell.

5 COUNCIL MEMBER LANDER: Thank you,  
6 Mr. Chairman. Thank you, Commissioner and other  
7 members of the panel for being here. This is  
8 obviously a sensitive and absolutely critical  
9 issue to get right and to do so in thoughtful ways  
10 that really target our resources to try to address  
11 the problem so we can save lives going forward.

12 I want to come back in a minute to  
13 Council Member Vallone's question about the  
14 footprint of the 20 companies. But let me ask a  
15 few other broader questions first.

16 Do you have any estimate of how  
17 many illegal units or undocumented or unaccounted  
18 for units there are in the city?

19 ROBERT LIMANDRI: No, I don't.

20 COUNCIL MEMBER LANDER: So, you  
21 know, my prior role as director of the Pratt  
22 Center for Community Development, we actually  
23 worked on a study, we used the methodology  
24 developed by Citizens Housing and Planning  
25 Council, we partnered with Chhaya CDC who are

1  
2 here. We estimated--it may not be a perfect  
3 estimate--there were 114,000 of these units. This  
4 was a couple of years ago. What we did to get  
5 there, it was a real interesting methodology  
6 developed by Frank Braconi, looking at the census  
7 change from 1990 to 2000, and how many more units  
8 were appearing in the Census than you could find  
9 Building Department permits for. We then mapped  
10 that and it overlaid pretty well with the  
11 neighborhoods that you would have reason to think.

12 I want to start there because I  
13 guess what I'd say is if there are something like  
14 114,000 of these units in the city, that really  
15 has to shape our thinking about how to address the  
16 problem. There is no way that simply kind of  
17 ramping up enforcement and hoping we get to all of  
18 them is a smart way of saving the lives of the  
19 people that live in those buildings or the  
20 firefighters that might get there.

21 Even leaving aside the 100,000  
22 families we might make homeless and the collateral  
23 problem that would cause us on our housing side,  
24 leaving that totally aside for a minute, and just  
25 thinking about safety of both the residents and

1  
2 firefighters, it'd be a very foolish way to think  
3 about things like this entire unit of 114,000  
4 units. So I'm encouraged to hear that you're  
5 thinking about more targeted approaches. I guess  
6 I want to explore that a little bit more.

7 My first question, it sounds like  
8 your answer to this is no, from your testimony.  
9 Do you believe that complaints are a good proxy  
10 for dangerous conditions amongst the illegal  
11 units?

12 ROBERT LIMANDRI: We certainly have  
13 always used that in the past to direct our  
14 enforcement efforts at the Buildings Department.  
15 What's different today is we're using other  
16 metrics, as you've heard the Mayor speak about  
17 this morning: foreclosure proceedings and those  
18 types of things as well.

19 COUNCIL MEMBER LANDER: So I'm  
20 encouraged to hear that. Part of the reason I'm  
21 encouraged to hear it is I believe there's  
22 actually a pretty significant mismatch between  
23 where complaints come from and where the problem  
24 lies. Now that's not to say people aren't  
25 complaining about real conditions.

1  
2 In the same study that I'm  
3 referring that we did together, Pratt Center and  
4 Chhaya CDC, we found the top ten neighborhoods  
5 with these unaccounted for units, and the top two  
6 neighborhoods were Castle Hill/Soundview in the  
7 Bronx and East Chester/Woodlawn in the Bronx which  
8 actually I think have more of the subdivided type  
9 of units that we saw the tragic situation earlier  
10 this spring. Those two neighborhoods don't appear  
11 anywhere in the top ten neighborhoods where  
12 complaints come from, nine of the ten of which are  
13 in Queens and the tenth out of ten is in Brooklyn.

14 If we're organizing ourselves  
15 around a complaint-driven system, it seems to me  
16 we're actually unlikely to find a lot of the  
17 illegal units. And I would guess especially  
18 unlikely to find the ones where the most dangerous  
19 conditions are. Does that make sense?

20 ROBERT LIMANDRI: It certainly  
21 sounds like you're on to something. We certainly  
22 know that, for example, HPD go into units that  
23 have nothing to do with illegal conversion  
24 complaints and they're there for heat and hot  
25 water as a source of those types of issues. But

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certainly, you're on to something, yeah.

COUNCIL MEMBER LANDER: So tell me a little more about the new data-driven system and how it's designed out of those 114,000 units on the one hand, out of the nearly 30,000 complaint calls you get in a year, out of the information you're getting from those FDNY companies in the field and from HPD. What's it looking like in this targeted or proactive system to try to prioritize data to figure out where the most risk is and really focus our enforcement there?

ROBERT LIMANDRI: Well, I'm glad you brought it up because one of the thoughts is what we're using today is not necessarily what we're going to be using four or six months from now or a year from now.

So, for example, I think the Speaker suggested the amount of water that someone's using in a building. But today, we're using when it was constructed, meaning prior to 1938, those are buildings that were built before what we'll consider a modern building code. Was there a high risk of fire in that? So we use the Fire Department data to push us. So it's not

1  
2 about complaints from the Buildings Department  
3 first. Is there a foreclosure proceeding? You  
4 know, lots of those in that neighborhood. Then,  
5 of course, have we gotten calls in that  
6 neighborhood or for that building.

7 But I do think that the thought is  
8 once we exhaust this metric and algorithm, the  
9 next step is to go and say well what else can we  
10 use as a predictor? So, maybe it's the housing  
11 study you talk about, maybe it's water bills.  
12 There are lots of things that the department  
13 doesn't have at their disposal, but because we've  
14 built this sort of warehouse of data and throwing  
15 it in there and sort of coming up with a list is  
16 to be an early predictor. This is what we're  
17 going with right now.

18 Again, we are fishing. We are  
19 looking in a different way than we've ever done  
20 before. Everyone wants us to say well the guy got  
21 12 complaints so therefore he's the worst  
22 offender. We know that that's not the case. It  
23 could just be that the guy next door hates him. I  
24 mean, and it happens every day. Or they don't  
25 like the people next door.

1  
2 COUNCIL MEMBER LANDER: I didn't  
3 get to hear the Mayor this morning, and maybe he  
4 said this, I don't know, but have you thought at  
5 all about combining the two solutions that are  
6 sort of being explored here: a more targeted  
7 strategic way of figuring out where to go with a  
8 new legal framework to enable you to compel  
9 admission to the buildings if you're not able to  
10 get it.

11 It sounds like the numbers are up  
12 with the FDNY, but still, obviously those  
13 buildings we've targeted as problems, we want to  
14 be able to get into.

15 ROBERT LIMANDRI: I certainly  
16 support any ability to have more power to push  
17 people to do something differently. The Council  
18 was very supportive of this department when we  
19 needed to make sure that contractors understand  
20 who was in charge. We've made a tremendous amount  
21 of progress. I think we can do the same thing  
22 here. This Council has been very good at showing  
23 us the way to do that. Certainly, we'd love to  
24 hear it. The two bills, the way they're  
25 constructed today, we think are problematic, but

1  
2 we certainly are willing to listen and make  
3 changes.

4 COUNCIL MEMBER LANDER: What I'd  
5 like to think about is a way to combine the  
6 additional access framework offered in these bills  
7 with the more targeted approach that you guys are  
8 outlining so that we can know we're getting into  
9 the buildings where there is a higher risk and not  
10 just going by a complaint-driven system.

11 Just two more questions. First,  
12 for the Deputy Chief, do you know whether any  
13 attention was given to the units where there's a  
14 significant number of likely illegal conversions  
15 and the list of the 20 companies that the Mayor  
16 has slated for closure.

17 THOMAS JENSEN: I believe that list  
18 was not generated that way at all. I think it was  
19 generated on previous vacancies and so forth. It  
20 had nothing to do with that as far as I know.

21 COUNCIL MEMBER LANDER: I  
22 appreciate your being honest. You know, I don't  
23 see how we could possibly, as we could go into  
24 deliberation and thinking about closed fire  
25 companies and then sitting here today, thinking

1  
2 about what the risks are in our communities and  
3 knowing that the Mayor in suggesting those  
4 companies hadn't even thought about whether we're  
5 increasing the risk that future people will die as  
6 a result of illegal conversions because we  
7 impinged the companies' ability to do exactly the  
8 kind of targeted outreach we're talking about and  
9 we didn't even look at whether the capacity we  
10 were reducing was in the neighborhoods at most  
11 risk. I thank you for your candor on that.

12 My last question goes to the more  
13 proactive side of things. It seems to me, and  
14 Commissioner I think you suggested this slightly  
15 at the end of your testimony in talking about  
16 looking at the Zoning Code and the Building Code,  
17 if we're right that there's 100,000 plus of these  
18 units, then on the one hand, we've got to try to  
19 find those amongst them that are really the most  
20 dangerous and focus our enforcement there to save  
21 lives.

22 I think we also need to be  
23 realistic that quite a lot of those units are not  
24 dangerous to people's lives and that we need some  
25 different approach than enforcement. I wonder if

1  
2 any of you have looked at the model that folks use  
3 in other cities that has accessory dwelling unit  
4 frameworks. Or something where if what we're  
5 talking about is the bottom floor unit and there  
6 is light and air and there are means of egress but  
7 it doesn't exactly meet a building code that was  
8 written long ago and without reference to where we  
9 are now, that at the same time that we're  
10 increasing targeted enforcement of the most  
11 dangerous situations, we provide a path to  
12 regularize many of those units which really don't  
13 pose a safety risk or even a health risk.

14 We could let HPD then inspect those  
15 units and ensure they met code and bring them up  
16 to code, helping landlords and tenants without  
17 risk of vacate, without over deploying Fire  
18 Department resources to the less risky situations.  
19 I wonder whether you've looked at this at all and  
20 see any opportunities for us.

21 ROBERT LIMANDRI: I mentioned it  
22 just at the tail at the end because I realize we  
23 were talking about enforcement. The three main  
24 themes, as you suggest are enforcement, making  
25 sure people understand, so training people to

1  
2 understand how to sort of protect yourself. And  
3 the third is to create new housing units by  
4 changing zoning and multiple dwelling housing  
5 maintenance code and our building code. I think  
6 you're spot on, because this is about a housing  
7 problem and this is a symptom of a larger problem.  
8 Although we've made tremendous strides, we realize  
9 that we need to do more.

10           So there are probably some limited  
11 opportunities that you suggest. There are  
12 probably some more global things that should be  
13 done that are bigger and far reaching, because  
14 we're talking about not adding 10,000 or 20,000  
15 units, we're talking hundreds of thousands of  
16 units, and they have to be affordable, which is  
17 the key.

18           So if you look at certain  
19 neighborhoods that now actually don't allow, based  
20 on zoning, don't allow them to be denser on that  
21 lot and you layer that with codes and sort of the  
22 way people believe people should live together,  
23 all of the sudden you a constriction on what you  
24 can do with that property. But I do think that  
25 that's something that we're hoping that HPD and

1  
2 certainly the Mayor's Office are going to look at.

3 COUNCIL MEMBER LANDER: It sounds  
4 like you think that this can be done not only I a  
5 way that separates dangerous conditions from those  
6 things which are not currently allowed under  
7 regulations but which might not be dangerous and  
8 which in fact could help make the entire system  
9 safer by enabling us to focus enforcement in the  
10 risky places and expand regularized housing in  
11 those places where is may already exist and is not  
12 putting people's lives at risk. That's obviously  
13 complicated, but it sounds like the administration  
14 believes there is some opportunity to move in that  
15 direction. Thank you very much, Mr. Chairman.

16 CHAIRPERSON DILAN: Thank you very  
17 much, Council Member Lander. Council Member  
18 Koppell, followed by Williams. We've also been  
19 joined by Council Members Robert Jackson, who was  
20 here, and Council Member Lew Fidler and Council  
21 Member Ydanis Rodriguez. Council Member Koppell?

22 COUNCIL MEMBER KOPPELL: I notice  
23 you sort of hide behind the Fourth Amendment, but  
24 how do you reconcile--

25 ROBERT LIMANDRI: [interposing] I'm

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not hiding. I'm right here, okay.

COUNCIL MEMBER KOPPELL: You're  
hiding. You're hiding--

ROBERT LIMANDRI: [interposing] I'm  
not hiding; I'm right here.

COUNCIL MEMBER KOPPELL: I know  
you're here, but you're claiming that you can't  
get access because of the Fourth Amendment. So  
your statement is trying to use the Fourth  
Amendment to defend your lack of gaining access to  
these apartments. I want to know how you  
reconcile your concern over the Fourth Amendment  
with your Craigslist initiative.

ROBERT LIMANDRI: Can you answer  
the question? I mean can you--

COUNCIL MEMBER KOPPELL:  
[interposing] No, I want to ask you the question.

ROBERT LIMANDRI: So, can you  
rephrase the question?

COUNCIL MEMBER KOPPELL: The  
question is how is it that you can use inspectors  
secretly with Craigslist to get into people's  
apartments without violating the Fourth Amendment.

ROBERT LIMANDRI: You're

1  
2 advertising on Craigslist. You're inviting me  
3 into those apartments. You are trying to rent  
4 those apartments. I have the ability to go in  
5 those apartments and look to see what's there.

6 COUNCIL MEMBER KOPPELL: So you  
7 think that the Fourth Amendment permits you to  
8 secretly, the government to secretly enter into  
9 people's apartments under the guise of fraudulent  
10 contention that they are going to rent the  
11 apartment.

12 ROBERT LIMANDRI: What we are  
13 trying to do is look to innovative ways to get to  
14 the heart of the problem, which is what you would  
15 like us to do. And this is--

16 COUNCIL MEMBER KOPPELL:  
17 [interposing] Yes, that's correct. And I think  
18 that you--I'm not objecting to the Craigslist.  
19 I'm objecting to the fact that you claim that you  
20 can't get access warrants based on complaints that  
21 people make about illegal conversions.

22 ROBERT LIMANDRI: Listen, if you  
23 come into my world, if I tell you that 50 percent  
24 of the time when I show up and I actually do get  
25 in, so clearly someone is allowing me to come in,

1  
2 50 percent of the time there is no violation.  
3 There is harassment going on, on the ground, and  
4 you have to be careful about how to use your  
5 enforcement. Just as you had stated, you want to  
6 make sure that you are doing the right things for  
7 the citizens of New York. I understand that we  
8 have a housing crisis and we want to protect  
9 citizens. But they are taking some responsibility  
10 too. So if we knock on the door and they deny us  
11 access 27 percent of the time, they know that they  
12 don't want us in their home.

13           So I do think that there's a fine  
14 link about suggesting we should ask for an access  
15 warrant every time there's a complaint. Or every  
16 time we see, for example, I'll give you an  
17 example. Three meters on a two-family house is  
18 not necessarily an illegal conversion. I just  
19 want to just give you this one example. The third  
20 meter is allowed to be installed by Con Ed for  
21 common area. So, sometimes people think that if I  
22 see an extra, and dare I say it, satellite dish,  
23 that there's an illegal conversion. It's not that  
24 simple.

25           So what we have to do, the

1  
2 threshold to get an access warrant, we have to be  
3 clear with the Law Department that we will be  
4 successful because it takes a lot of time to do  
5 it, and we're not going to be using it  
6 frivolously. So I'm not standing behind it; I'm  
7 trying to uphold it. What we're trying to do is  
8 to do it constructively.

9           So if there's some way that you can  
10 help us creatively, give us a little more power to  
11 push, I'm all for it. But I just want you to  
12 understand that we have to be careful about making  
13 these sweeping generalizations about how we're  
14 using our power.

15           COUNCIL MEMBER KOPPELL: First of  
16 all, I think that actually Council Member Vallone,  
17 even though there may be instances where three  
18 meters is not a sign of improper occupancy, I  
19 think the Vallone bill actually offers us some  
20 opportunity to discriminate between what may well  
21 be violations and what may not be.

22           The Speaker has suggested the  
23 creation of a special panel, including the  
24 judiciary, to discuss this issue of access that  
25 I'm hoping will go forward. But just to

1  
2 understand, right now if you're denied access and  
3 you go twice, do you send a letter to the landlord  
4 asking for access?

5 ROBERT LIMANDRI: We do two things.  
6 I brought a copy. Many of you probably actually  
7 don't live in an illegal conversion. We actually  
8 post this, and this goes up on the wall. It's  
9 called a notice for inspection. Most of the time,  
10 if they don't want to cooperate they won't  
11 actually use it, but this is one way that we talk  
12 to them. The second way is we do send them a  
13 letter that describes to them that we have a  
14 complaint and we want to come in and we want to  
15 seek access.

16 So, at the end of the day, you're  
17 right, there is notice. But, you know,  
18 essentially going forward we need to figure out  
19 how to do it. Certainly, the judges in the  
20 different boroughs have recognized that they need  
21 to be supportive of what we're trying to do. We  
22 have seen a tremendous amount of support from  
23 this. We are pushing more, like I said--now, I  
24 know it seems paltry in your estimation, but we  
25 have been pushing for more. We have gotten some

1  
2 agreement that they will focus their efforts and  
3 allow us to go to several judges on a regular  
4 basis, so that they understand our issues and they  
5 understand the details and they know how we  
6 operate.

7 I would love the opportunity to sit  
8 with you and the people of the Speaker's office to  
9 see if we can figure out a different way, because  
10 we certainly could use your help.

11 COUNCIL MEMBER KOPPELL: Let me  
12 understand something. Do you, in each instance  
13 where you don't gain access, send a letter?

14 ROBERT LIMANDRI: When we go twice-

15 COUNCIL MEMBER KOPPELL:  
16 [interposing] Yes.

17 ROBERT LIMANDRI: --post the  
18 notice, then we send the letter.

19 COUNCIL MEMBER KOPPELL: In every  
20 instance?

21 ROBERT LIMANDRI: Yes.

22 COUNCIL MEMBER KOPPELL: Nobody has  
23 ever told me that before. You're telling me this  
24 right now. We've been in touch with the Bronx  
25 office and they never told me that. But you're

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saying that you post the notice and you always send the letter?

ROBERT LIMANDRI: It comes actually automated out of that beautiful thing called the Building Information System. It's sent out automatically, yes.

COUNCIL MEMBER KOPPELL: Okay, I still--

ROBERT LIMANDRI: [interposing] I mean, you know, you could say it doesn't get to them, we don't know--

COUNCIL MEMBER KOPPELL:  
[interposing] No, nobody has told me you send a letter. It's good to know. We do have the bill. I'm perfectly willing to adjust the bill. I understand there's some request to adjust the bill to have some sort of priority scheduling so that it wouldn't be every case you'd have to go to get a warrant. I'm certainly willing to consider that.

I think that the response I got is not an acceptable response and we've got to get further than that.

ROBERT LIMANDRI: Unfortunately, we

1  
2 haven't spoken, but we have been going through a  
3 process of separating the agency into two pieces.  
4 One of them is in the enforcement piece. We have  
5 a new head of enforcement, Gene Corcoran, who has  
6 30 years of law enforcement experience. It is a  
7 different place than it was several years ago. I  
8 think that we would be really, really glad if you  
9 could show us some opportunities in this area for  
10 enforcement. That would be great.

11 COUNCIL MEMBER KOPPELL: I look  
12 forward to doing that. As I say, I don't think it  
13 should delay consideration of the legislation, but  
14 looking forward to this legal task force that the  
15 Speaker has asked to convene with the judiciary.  
16 The courts, by the way, as you know, have become  
17 much more permissive, if you want to call it that,  
18 some of the civil libertarians may not like this,  
19 but the fact is they've become much more  
20 permissive in permitting inspections. It should  
21 not be an obstacle in my view.

22 ROBERT LIMANDRI: Well, it should  
23 not be. But when you get down on the brass tacks  
24 of doing business we both know that we're talking  
25 about volume and we're talking about priorities.

1  
2 So just like we all talk about priorities and the  
3 Fire Department talks about it, the courts do as  
4 well.

5 COUNCIL MEMBER KOPPELL: What  
6 you're going to find is that once you get access  
7 reasonably easily, or reasonably frequently,  
8 you're not going to have to try so hard because  
9 people will realize they're not going to win in  
10 court. That's what we have to show. That they're  
11 not going to win in court and then they'll grant  
12 access because they won't want to spend all the  
13 money to defend a case that they're almost certain  
14 to lose.

15 ROBERT LIMANDRI: We can talk about  
16 it.

17 COUNCIL MEMBER KOPPELL: Okay.

18 CHAIRPERSON DILAN: We have Council  
19 Member Williams, followed by Brewer.

20 COUNCIL MEMBER WILLIAMS: Thank  
21 you, Mr. Chair. Thank you to the panel. First, I  
22 just wanted to clear one thing in your testimony.  
23 I think you misspoke into the record. On page  
24 four, for Fiscal Year 11, you've obtained 100  
25 access warrants. I think you accidentally said

1  
2 11. So I just wanted to clarify that, on page  
3 four. It is 100 access warrants, correct?

4 ROBERT LIMANDRI: It's 100.

5 COUNCIL MEMBER WILLIAMS: Thank  
6 you. Then I wanted to underscore some of the  
7 things my colleagues and Brad Lander said, just  
8 about prioritizing where we do this. I represent  
9 a district and an area of Brooklyn that this  
10 happens a lot, illegal conversions. Illegal is  
11 illegal, but usually not of the highest priority,  
12 usually basement ones. I worked a lot in Flatbush  
13 Development Corporation, even Victorian homes and  
14 people who did this. A lot of time, I find it was  
15 neighbors calling neighbors. When I informed them  
16 that what they actually had was an illegal  
17 conversion, they were taken much aback. So I just  
18 want to make sure that we are somehow prioritizing  
19 where we're putting our efforts in and I'm not  
20 sure we're doing that.

21 ROBERT LIMANDRI: I just want to  
22 make the point, and I think someone suggested it  
23 earlier. If you're in a--and I technically call  
24 it a cellar, which is in our sort of building  
25 speak, it means that you can't walk in to the

1  
2 first floor. You know, in Brooklyn they have the  
3 first floor and then you walk up the steps and the  
4 second and third. But in many homes in Queens,  
5 for example, what we call a cellar is very  
6 dangerous. So even though there's only one person  
7 living there or two people living there, it can be  
8 just as serious. I'm not suggesting that that is  
9 the end all to be all on that.

10 Even simply locking the doors,  
11 sometimes people lock a door to a room which is  
12 actually the only other way out of a second floor  
13 or a third floor story in a building. And it  
14 doesn't require any construction. So sometimes  
15 even something as simple as that.

16 In one of the fires, we found that  
17 the tenants actually used a piece of furniture  
18 that blocked access. So those are the kids of  
19 things that a mere rearrangement of furniture to  
20 their liking actually created a real hazard for  
21 them.

22 COUNCIL MEMBER WILLIAMS: I agree  
23 with that. My focus is making sure we are  
24 prioritizing the most egregious of what's  
25 happening. I know for sometime, I don't know if

1  
2 it was official, but actually when I was working,  
3 they had either stopped taking the calls on 311,  
4 they had adjusted something because there were  
5 just so many neighbors calling neighbors. It was  
6 some adjustment that happened.

7 ROBERT LIMANDRI: I will tell you,  
8 and I don't think the Councilman is here, but we  
9 had a district in Queens where someone decided  
10 that they were going to create a lot of work for  
11 themselves. In Brooklyn, we had some inkling that  
12 they were trying to call in complaints to actually  
13 break a block open, you know block busting. So  
14 not everyone has the most safety at hand; they  
15 have other ulterior motives.

16 COUNCIL MEMBER WILLIAMS: So, just  
17 a couple of questions. Do you know which areas  
18 you have that this is the most prevalent? Do you  
19 have that?

20 ROBERT LIMANDRI: I'm sorry; the  
21 areas?

22 COUNCIL MEMBER WILLIAMS: The areas  
23 in the city.

24 ROBERT LIMANDRI: We can get that  
25 for you. We have it by CB. I think to the point

1  
2 of your colleague, which is just because there are  
3 a lot of complaints doesn't necessary mean there's  
4 a lot of conversions. But we certainly can layer  
5 it to show you where the most complaints are,  
6 online, we certainly have that, but we can give  
7 that to you.

8 COUNCIL MEMBER WILLIAMS: Are there  
9 priority codes with respect to how quickly you  
10 respond to the illegal conversion?

11 ROBERT LIMANDRI: Today, we respond  
12 to illegal conversions within 40 days. That is  
13 our standard. The idea is that by using this task  
14 force and creating these new layers, we would  
15 respond within 48 hours.

16 COUNCIL MEMBER WILLIAMS: Is there  
17 any difference in the types of illegal conversions  
18 that are called in that would make you say I have  
19 to go here because it's one apartment with 30  
20 rooms or not go here?

21 ROBERT LIMANDRI: Well, I think as  
22 the Speaker suggested earlier, the more  
23 information we have from the caller, the better.  
24 So certainly, if we have some indication that  
25 there are 20 or 30 people living in what I'll call

1  
2 a rack room on bunk beds, we consider that a high  
3 priority, a higher priority than another  
4 complaint. But many times we don't have the  
5 detail, so we have to go and we have to try to  
6 ascertain what it is. We do understand that it is  
7 difficult, but we try.

8 Now certainly, when we get in,  
9 sometimes we don't vacate. We write violations,  
10 but it's not enough to push somebody out onto the  
11 street. So there are times where it's illegally  
12 converted gut it's okay, but they still need to do  
13 some things. So there are times where it doesn't  
14 happen that we have to immediately vacate and we  
15 have to push people out on the street. What we're  
16 trying to do is just to alert the landlord of  
17 here, fix these three or four things. Even if  
18 you're violating the zoning resolution, you can  
19 stay but you've got to fix these things.

20 COUNCIL MEMBER WILLIAMS: I wasn't  
21 clear if this question was answered. Did you find  
22 that affordability was a reason that some of this  
23 has spiked up?

24 ROBERT LIMANDRI: Well, one of the  
25 layers that we used in this task force was to look

1  
2 at income levels by neighborhood. We did see some  
3 correlation to that.

4 COUNCIL MEMBER WILLIAMS: All  
5 right. Just to wrap, just to underscore what my  
6 colleague was saying. On behalf of many of my  
7 constituents, many homeowners in my constituency  
8 and in Brooklyn, if we can find a way of help  
9 legitimize the ones that can be legitimized in a  
10 way that it's not cost prohibitive so people would  
11 actually do it, I think would be very good to add  
12 to this task force list of agenda items.

13 ROBERT LIMANDRI: I think one of  
14 the things that you just mentioned is  
15 affordability. So what we're finding now, and I  
16 think the Speaker had mentioned it earlier, is  
17 that we're in a point in time where people are  
18 holding it together by a shoestring and they need  
19 this income. Suggesting that they want to go  
20 ahead and legalize it or to do something to make  
21 it safe may actually not even be an option for  
22 those people. They may actually even be  
23 underwater from their financial perspective. So  
24 we certainly would love to hear some options.

25 COUNCIL MEMBER WILLIAMS: Thank

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you.

CHAIRPERSON DILAN: Thank you, Council Member Williams. If I understand correctly, Council Member Brewer has agreed to defer to Council Member Fidler.

COUNCIL MEMBER BREWER: Yes.

CHAIRPERSON DILAN: Council Member Fidler, followed by Brewer.

COUNCIL MEMBER FIDLER: Thank you, Mr. Chairman. Thank you, Council Member Brewer. Commissioner, this is a very frustrating conversation for me. In the early 1980s, I chaired a community board in East Flatbush, now Council Member Williams' district. I woke up one morning to find that there had been a fire; I think it was one East 49th Street and Beverley Road, between Beverley and Clarendon. Five people died in that fire.

They found that the house had been divided up into cubicles with plywood. People were running electrical wires through plug monsters. The rooms were being rented out in eight hour shifts.

As chairman of the community board,

1  
2 I convened an investment of our own. We found  
3 that both the Buildings and Fire Department had  
4 been in the premises, had both issued violations  
5 and no one had considered it an immediately  
6 hazardous condition and cleared the building.

7 As a matter of fact, it was the  
8 lead story on Channel 4 news. So I think it was  
9 the first time I had ever made a TV appearance, so  
10 I remember it very, very well. It was, I think,  
11 the night a mafia chieftain had been killed, so  
12 obviously somebody considered it to be a pretty  
13 important story. I think it was the Koch  
14 administration swore it would never happen again.  
15 Here we are almost 30 years later discussing the  
16 same thing.

17 I guess what I wanted to say to you  
18 is understand the problem that you're facing. I  
19 have personal experience with your department,  
20 with constituents who have called my office and  
21 made complaints about illegal conversions that  
22 were total fabrications, simply to harass their  
23 neighbor. That's a waste of your time and it's a  
24 waste of taxpayer money.

25 This is not an issue for me of

1  
2 someone who has converted an apartment in their  
3 basement illegally and turned two into three or  
4 one into two. I want to focus on the priority of  
5 these cubicle living arrangements. I want to  
6 suggest to you that I'm glad to see you getting  
7 warrants and I think you need to do more of that.

8           When you get a complaint of this  
9 nature at all, reach out to the community boards.  
10 Make it systematic. Community boards know the  
11 people in the neighborhoods, where they can be  
12 your eyes and ears and tell you, maybe buttress  
13 your warrant. Everybody knows if one of these is  
14 on their block. You have to be deaf, dumb and  
15 blind not to notice the traffic into a private  
16 home for people who are coming in and out at that  
17 volume. If they don't know, then they know  
18 somebody who does.

19           I think you ought to incorporate  
20 that into your procedures and use the community  
21 boards and the civic associations and the block  
22 associations as your resource so that you can get  
23 those warrants. I think in terms of Council  
24 Member Koppell's bill that if you considered this  
25 the top priority amongst illegal conversions, I

1  
2 think the courts would understand that, in fact,  
3 every one of these is an immediately hazardous  
4 condition. We have seen people die way too many  
5 times for a problem that we are aware of and have  
6 done nothing to solve.

7 ROBERT LIMANDRI: I would like to  
8 respond because you bring up a very good point.  
9 Many people don't perhaps realize this but we have  
10 always considered the community boards our eyes  
11 and ears. You know that we have a tremendous  
12 amount of complaints and sifting through and  
13 trying to figure out what's most important many  
14 times comes down to the district manager focusing  
15 and pushing us in the right direction.

16 We did start an affidavit program  
17 where actually two Council Members on the City  
18 Council have actually used this where they  
19 actually certified an affidavit to us where we  
20 used it in court to get an access warrant.

21 This is something that we have  
22 certainly pushed for, for community boards and  
23 district managers, and I don't think she's here  
24 right now, but people have used it. If there's a  
25 neighborhood community board, you know if we want

1  
2 to talk about this more generally so that people  
3 understand how to do it. We have used it and it  
4 has been successful and I'd love to--you know, if  
5 there's something we want to normalize it so that  
6 people feel like they can use it.

7 I know that residents in the  
8 neighborhood do not want to do this. They're  
9 afraid of retaliation and they're concerned for  
10 themselves and their safety and I agree. But  
11 public officials certainly should be able to stand  
12 up and do it.

13 COUNCIL MEMBER FIDLER: Absolutely.  
14 I'm suggesting that you do it proactively. I  
15 understand that people are frequently afraid to  
16 put their name on it. In order for you to drill  
17 down on exactly where you need to be directing  
18 those resources and what the priority should be,  
19 that's how you can find out. You'll figure out a  
20 way to get the warrant after that, I mean, you  
21 know, whether it's the elected official, the  
22 community board or some brave soul on the block.  
23 I don't want you wasting your time chasing  
24 nothing.

25 If it's the first thing you do when

1  
2 you get a complaint of an allegation of this type  
3 should be to contact the community board and ask  
4 them if they know if it's substantiated, if they  
5 believe that it's actually one of these cubicle  
6 living arrangements. I think that's where you  
7 should prioritize your resources.

8 I apologize for having to run to  
9 the Democratic Caucus and coming late and then  
10 leaving early, but this is a very important issue  
11 to me and I look forward to working with the chair  
12 and the sponsors and the Buildings Department and  
13 the Fire Department.

14 CHAIRPERSON DILAN: Cubicle living  
15 arrangements, similar to the three quarter houses,  
16 in a nutshell.

17 COUNCIL MEMBER FIDLER: The name's  
18 changed.

19 CHAIRPERSON DILAN: Yeah. Okay,  
20 Council Member Brewer?

21 COUNCIL MEMBER BREWER: Thank you.  
22 I actually was going to say exactly the same  
23 thing, having served on my community board, as  
24 many of us have for many years. I guess my  
25 question would be in addition to talking to them,

1  
2 I would suggest that you go immediately to the  
3 borough boards where there are community boards.  
4 I know you go there regularly but I would say that  
5 this is a priority and that you would like them to  
6 help.

7                   The community boards work with  
8 Local Law 47, which is DoITT, meet regularly with  
9 DoITT to talk about technology issues. If there  
10 was some way of working with CUNY grad center and  
11 Steve Romaneski [phonetic] and the community  
12 boards and DoITT to do the GIS mapping that I know  
13 you can do, but you could get some community  
14 input. This could happen much more quickly.

15                   I mean I know in my neighborhood  
16 the district manager has been there 25 years, like  
17 a lot of district managers, and she can tell you  
18 exactly, in our case, where the single room  
19 occupancy and every single person who lives in  
20 them. That's the kind of information that we  
21 have.

22                   Second, what happens to the people  
23 when there is a vacate order? I know you  
24 mentioned the Red Cross, but actually what does  
25 happen? They could all move into my illegal

1  
2 hotels. I would welcome them. You just need to  
3 give an abatement to the owner so he can afford  
4 the rent that the renters will not pay much of.  
5 That's the only little problem.

6 VITO MUSTACIUOLO: As you know, the  
7 Red Cross is actually on contract to HPD, so they  
8 do provide for a short term stay.

9 COUNCIL MEMBER BREWER: But what  
10 happens after the short term stay, which is not  
11 very long, from my experience?

12 VITO MUSTACIUOLO: The families  
13 that were vacated can register with HPD and seek  
14 relocation assistance from HPD. As a matter of  
15 fact, in the Commissioner's executive budget  
16 testimony, we did talk about the rules changes  
17 that we need to make with respect to relocation  
18 and some of the legislative ideas that we'd like  
19 to work with the Council on to actually increase  
20 the civil penalties on vacates that we enforce.  
21 And also, put more responsibility on owners for  
22 relocation, converting their liens actually into  
23 tax liens.

24 COUNCIL MEMBER BREWER: Most of  
25 these owners are absentee or not absentee or do

1  
2 you know? Of the cubicle type or where you're  
3 getting your orders? In other words, does it seem  
4 like the owners are living in the building or  
5 they're all absentee or it's hard to know?

6 VITO MUSTACIUOLO: Certainly, for  
7 the smaller buildings, the PDs, the one and two-  
8 family homes, it's more difficult to find the  
9 owners. For the larger buildings, the multiple  
10 dwellings, we do refer to the multiple dwelling  
11 registration system. We also have other data that  
12 we can look at. So it is a little bit more  
13 difficult to find the owners of the smaller  
14 buildings.

15 COUNCIL MEMBER BREWER: Then just  
16 finally, obviously, I have a lot of friends who  
17 are airline pilots. Are they considered safe,  
18 because they're all breaking the law, left, right  
19 and sideways? They all stay in illegal places,  
20 all my friends. Are they considered part of this  
21 challenge too or you just sort of let them go?  
22 What do you do with all of my pilots?

23 ROBERT LIMANDRI: Why don't you  
24 give me their names?

25 COUNCIL MEMBER BREWER: No, I'm not

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going to give you their names.

ROBERT LIMANDRI: All right, tell me where they stay.

COUNCIL MEMBER BREWER: I think they all stay right near LaGuardia, like everybody else. But I even have friends who own the damn buildings, it's horrible. Go ahead.

ROBERT LIMANDRI: Could you rephrase the question?

COUNCIL MEMBER BREWER: I hardly talk to them.

ROBERT LIMANDRI: We don't discriminate of who it is.

COUNCIL MEMBER BREWER: I was going to say, those pilots are unbelievably illegal where they stay. Are you looking at them? Really, it's incredible what goes on around LaGuardia.

ROBERT LIMANDRI: We certainly have been using this new paradigm and we certainly can look at that. I don't know if that's part of--

COUNCIL MEMBER BREWER:  
[interposing] They need affordable housing just like everybody else, or a place to stay. I'm just

1  
2 saying if you're looking at economics that should  
3 be more Seth Pinsky. But it's dangerous I feel.

4 ROBERT LIMANDRI: How much do  
5 pilots make a year?

6 COUNCIL MEMBER BREWER: Very little  
7 on the small airlines.

8 ROBERT LIMANDRI: Oh, is that  
9 right?

10 COUNCIL MEMBER BREWER: Yes.  
11 Believe me, I listen to it. So they make a  
12 little; they stay for a short period of time. Of  
13 course, we worry that they're awake. I just think  
14 in general that would be a Seth Pinsky kind of  
15 issue. They're all staying in illegal cubicles  
16 just FYI. Thank you. I don't want them in my  
17 illegal hotels, those pilots.

18 CHAIRPERSON DILAN: Thank you. We  
19 certainly appreciate the time and effort and  
20 attention to detail. I would suggest that as soon  
21 as possible on any outstanding responses that are  
22 due to the committee, if the agencies could  
23 respectfully get back to the committee as soon as  
24 possible.

25 I certainly look forward to working

1  
2 with all agencies involved, including the Fire  
3 Department on this issue. I believe the fire in  
4 my district was from a three quarter house. I  
5 don't think any other person in this city should  
6 have to die because their housing doesn't comply  
7 with laws that are already on the books. So we  
8 need to work hard to get our arms around this  
9 issue and see how we can work with the court  
10 system to make the city a safer place to live.

11 So with that, I thank you all.

12 ROBERT LIMANDRI: Thank you.

13 CHAIRPERSON DILAN: Next, we'll  
14 start to hear from the public. First, we'll call  
15 up the Uniformed Fire Officers Association and  
16 Lieutenant Eddie Boles. They'll be followed by  
17 Tanya Kessler, Samuel Biele-Fisher and it looks  
18 like Shafaq Islam.

19 I'd like at this time thank you  
20 for--and you'll identify yourself for the record  
21 obviously--but thank you for the information you  
22 provided me the night of the fire in my district.  
23 I'd certainly like to say we're certainly sorry  
24 for the injuries that firefighters faced at that  
25 incident. So with that, you could identify

1  
2 yourself and get into your testimony.

3 EDWARD BOLES: I appreciate that.  
4 Good afternoon. My name is Lieutenant Eddie  
5 Boles, Treasurer and Legislation Chair of the  
6 Uniformed Fire Officers Association, testifying on  
7 behalf of President Alexander Hagan and the 2,500  
8 members that we represent.

9 I want to extend an apology to  
10 Chairperson Dilan for not including your name and  
11 committee. Certainly, this is what we feel a  
12 very, very important issue and want to just  
13 provide some comments on.

14 I appreciate the opportunity to  
15 speak on this very serious issue and I send my  
16 compliments to the Mayor, Speaker Quinn, Committee  
17 Chair Dilan, Committee Chair Crowley, all  
18 committee members and agencies for addressing a  
19 problem that has been festering for years.

20 Throughout my years in the  
21 Department, I can recall both civilian and  
22 firefighter fatalities that was the result of an  
23 illegal residential conversion. Black Sunday, in  
24 the Bronx, which was in earlier testimony, which  
25 occurred on January 23, 2005, when I was still

1 fighting fires as a lieutenant in the South Bronx,  
2 is still etched deep within my soul. That  
3 horrific fire, which resulted in six firefighters  
4 jumping from the fourth floor, killing two of our  
5 members, Lieutenant Curt Meyren and Firefighter  
6 John Bellew, who was promoted posthumously to  
7 lieutenant, were the result of an apartment that  
8 was illegally converted to a rooming house.

10 I can also recall a fire in  
11 Woodside in 2009, where two young immigrant men  
12 were trapped in an illegally converted basement in  
13 a two family home. As our units arrived on the  
14 scene, a Lieutenant who responded said he could  
15 hear the screams of one of the men trapped in the  
16 basement. Despite the efforts of our members,  
17 both men died in that building fire.

18 I worked with Speaker Quinn. She  
19 was here earlier and I wanted to mention this. I  
20 worked with Speaker Quinn and with many of the  
21 Council Members. Anytime there's a fire, I  
22 usually let them know, especially if it's  
23 horrific. Sometimes we even go visit. We had a  
24 fire up in the Bronx where Lieutenant Harvey  
25 Karpluck [phonetic] and probationary firefighter

1  
2 Mike Reilly [phonetic] got killed in an illegally  
3 renovated store.

4 The City Council, under the  
5 leadership of Speaker Quinn, was able to put  
6 legislation where we addressed that issue. So I'm  
7 hoping that what you're doing today doesn't fall  
8 on deaf ears. But again, there are concerns that  
9 I want to express to try to minimize the  
10 tragedies.

11 I can tell you firsthand, being an  
12 officer, I've been out of the field since 2005,  
13 but I can tell you during all my times as a  
14 lieutenant and a firefighter, most problems that  
15 we encountered at fires, most fatalities that we  
16 found were generally in illegally converted  
17 buildings. So it is a huge problem. It's a  
18 problem that's very, very difficult to tackle that  
19 you've heard all afternoon.

20 But having said that, let me just  
21 talk about some concerns we have from our  
22 perspective. First of all, they expand the power  
23 of the FDNY to issue Building Code violations for  
24 illegal conversions. We have a question, how is  
25 this going to be accomplished? What is the make-

1  
2 up of the proposed task force? Those answers  
3 weren't there and we would like to know what the  
4 answers are. We have a proposal.

5 We propose the task force--one of  
6 the things they talked about was having separate  
7 units, which was mentioned earlier. Our units  
8 that are in service to respond to calls are  
9 actually doing the inspections. So it's the way  
10 the system is set up right now is not effective.  
11 It's just not effective. What happens is you go  
12 in, our units go in and they do an inspection and  
13 then they've got to run. Last year was the  
14 busiest in the history of the Fire Department.

15 So if you've got to run, you might  
16 get a second run and you might not get back to  
17 that dwelling. In fact, you might not get back to  
18 that dwelling until the following week. When you  
19 get back the following week, you might not have  
20 access.

21 So there's a whole scope of  
22 problems that are attached with our units that are  
23 in service in order to effectively do building  
24 inspections. If you close 20 fire companies, well  
25 you could throw that right out the window. Chief

1  
2 Jensen, who I have a great deal of respect for was  
3 very, very honest, and candid in his insight. He  
4 told you straight out that inspections aren't  
5 going to be done, access is not going to be done  
6 and if you increase the amount of inspections we  
7 do already with the units we have, then response  
8 times are going to go up, which is going to  
9 endanger people. It's a very complex issue that  
10 we would like to be a part of.

11           However, a solution, we would like  
12 to see a task force. One deputy chief for overall  
13 supervision of the entire program; five battalion  
14 chiefs, one assigned to each borough; nine  
15 captains, one for each divisions; and 45  
16 lieutenants, five for each division as a task  
17 force to help alleviate the complexity that will  
18 occur with increased access and increased  
19 inspections to these sites. It doesn't have to be  
20 just for illegal conversions. You can expand it  
21 to many things.

22           We also talk about training. What  
23 training is going to be provided? It needs to be  
24 comprehensive like we suggested in our Training  
25 Bill that was passed last year by the City Council

1  
2 that would provide 80 hours of training to our  
3 members because our members are not properly  
4 trained. Yes, I'll say that again, our members  
5 are not properly trained in order to do building  
6 inspections. In fact, I have 18 years on this  
7 job. I still don't know how to write a summons.  
8 That's being honest and frank.

9 So we need to do a better job of  
10 training. If you're going to provide more things  
11 for our members to do, you have to provide the  
12 training.

13 What resources are going to be  
14 provided? Where is the financial support for this  
15 initiative? Of course, keeping all fire companies  
16 is the priority of the UFOA and money used for  
17 this program should not be in lieu of money used  
18 to keep firehouses open. So I'm hoping that  
19 keeping fire companies is a priority. But if you  
20 want to address both, it's going to cost money, of  
21 course. There may be productivity issues and  
22 expansion of responsibilities to our officers that  
23 need to be addressed.

24 The other thing is access issues.  
25 We are fully aware that access to these

1 occupancies is difficult and limited. How is  
2 access improvement going to be accomplished? What  
3 protections can be assured for our members from a  
4 safety, liability and legal perspective? Our  
5 officers, just to let everyone know, are trained  
6 Peace Officers. We do not possess the ability to  
7 get warrants and we don't have a gun like police  
8 officers. How can we be assured that the  
9 credibility and excellent relationship of our  
10 officers with the public can be maintained? Our  
11 primary role is to assist those in trouble not  
12 enforcement.  
13

14 So if you use the Fire Department  
15 just for access purposes what's going to happen is  
16 when there's a real emergency, we may not be able  
17 to get the access we did in the past. What we're  
18 afraid is a sort of distrust to firefighters and  
19 fire officers. Right now we have a very good  
20 rapport with just about every citizen in the city,  
21 who will provide us with access. I'd hate to see  
22 that diminished.

23 However, saying all that, there are  
24 countless issues and ideas that we would like to  
25 discuss with the Administration and the Speaker

1  
2 and the Council but I don't think that this is the  
3 most productive forum to accomplish that task. We  
4 welcome the opportunity to meet with all the  
5 parties to ensure the success of this initiative  
6 and we are open to the dialogue. We feel our  
7 members can play an integral part in this program  
8 and we look forward to future discussions.

9 I appreciate the opportunity to  
10 speak today and I'm here for any questions.

11 CHAIRPERSON CROWLEY: Thank you,  
12 Lieutenant Eddie Boles for being here today and  
13 testifying and giving us the opinion of the  
14 Uniformed Fire Officers on this proposal, these  
15 proposed laws, the new proposed task force.

16 Your recommendations are  
17 interesting. I'm curious to know what the price  
18 tag would be for the city if they were to hire  
19 many more battalion chiefs and lieutenants and all  
20 the officers that you mentioned in your testimony.

21 EDWARD BOLES: To be honest, I  
22 don't know. I haven't done that analysis. I'm  
23 sure if you call Steve Rush, in the Fire  
24 Department, he will give you an estimate. It  
25 depends on how serious they want to be.

1  
2 Just to let everyone know, I didn't  
3 know about the press conference today. I would  
4 have appreciated some inclusion in the process.  
5 But we'll try to get those numbers for you.

6 CHAIRPERSON CROWLEY: Right. The  
7 press conference came together rather quickly. It  
8 was news to many Council Members that this new  
9 task force was coming together. However, welcome  
10 news because we needed the access issue addressed.  
11 It's pretty impressive that Chief Jensen said the  
12 Fire Department has an access rate of 90 percent.

13 Regardless of whether a fire  
14 official gains access or not in a regular routine  
15 type of visit on call due to a complaint, if there  
16 is an emergency, they're getting into the  
17 facility, regardless of whether the person at the  
18 door welcomes the fire officers or not.

19 So in terms of the public opinion  
20 audience when it comes to public safety, I think  
21 that if it works with the Fire Department then the  
22 city has to strengthen the ability of the  
23 department to do what it currently does for life  
24 saving emergencies but also supplement and give  
25 the department the ability to do these types of

1  
2 routine visits to prevent serious accidents from  
3 happening.

4 I had a question for you and now  
5 it's slipping my mind. It'll come back to me.  
6 Yeah, you jump in Erik.

7 CHAIRPERSON DILAN: So I'll jump  
8 in. I just want to get data. I would imagine,  
9 and I'm not sure if this was asked of the last  
10 panel, and it was probably appropriate of the last  
11 panel to give the answer to this question. I  
12 believe you may be able to get the data.

13 I would imagine that buildings that  
14 are illegally converted that we've seen in the  
15 past years, I would imagine that, you know, any  
16 fire is dangerous, but I would imagine that's the  
17 most hazardous condition for a firefighter to walk  
18 into. Do you agree?

19 EDWARD BOLES: Absolutely. Just to  
20 give you some insight, when we do inspections, we  
21 don't inspect single family homes. We don't  
22 inspect two-family homes. We go into apartment  
23 buildings but we don't go into the individual  
24 apartments. So really, where we see these illegal  
25 conversions is when we go to an emergency, to a

1  
2 gas leak, to an electrical emergency, a water  
3 emergency, to a medical emergency. That's when we  
4 get access to these apartments or into a two-  
5 family home or single family home. Then we look  
6 around and we say, whoa, what do we have here?

7 CHAIRPERSON DILAN: You want into  
8 it.

9 EDWARD BOLES: Then we walk into  
10 it. Unfortunately, too many times in the past, we  
11 see it after the fact. Meaning, we never got  
12 access to it because there was no emergency or any  
13 need to be in there. Then unfortunately, like the  
14 fire in the Bronx and many other fires, when they  
15 start putting up these illegal partitions in the  
16 apartments, we know pretty much through experience  
17 you know the layout.

18 Pretty much, layouts of apartments  
19 you know. The people that got killed that day  
20 were very experienced officers. They know that  
21 you go through a certain building, go through a  
22 certain room that they've got access to a fire  
23 escape. Well, if you put up illegal partitions,  
24 it will a lot of times deny access to that fire  
25 escape, which endangers both civilians and

1  
2 firefighters going in to help put the fire out.

3 CHAIRPERSON DILAN: That leads into  
4 the question that I want to get to. You have data  
5 on firefighter injuries and deaths as the result  
6 of illegally converted buildings over the past  
7 several years?

8 EDWARD BOLES: No, I don't.

9 CHAIRPERSON DILAN: So what we'll  
10 do is I'll direct my staff and maybe Council  
11 Member Crowley's staff could reach out to the Fire  
12 Department and ask that specific question in  
13 writing. I'd like to know the answer to that.

14 CHAIRPERSON CROWLEY: Co-chair  
15 Dilan, also when we spoke and asked Chief Jensen  
16 about the number of fires, you know we hear about  
17 the fires when there's a death related to the  
18 fire, whether it be a firefighter or a civilian.  
19 However, I imagine that many fires, regular fires  
20 happen because of illegal conversions, because of  
21 the extension cords or dangerous hazards that are  
22 set forth, with ovens in the wrong place, the  
23 various different hazards that could have been  
24 avoided. So that's another statistic that we're  
25 going to look to get, in addition to how many

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people get--

EDWARD BOLES: [interposing] You probably want to tap into the Bureau of Fire Investigation or Fire Marshals and Supervising Fire Marshals. If you have a joint agency task force to put together however you're going to implement these resolutions, you should probably include them because they do the investigation of fires and they can let you know why certain fires were caused, by electrical or whatever, things that they did.

CHAIRPERSON CROWLEY: You brought up the fact that fire officers are not trained well enough in accordance with the Fire Code in the city. That's alarming. It's disturbing. I'm curious to know when you go into a building to inspect, you're a fire officer. What are the firefighters doing with you? Are they with you, the regular firefighters?

EDWARD BOLES: Yes.

CHAIRPERSON CROWLEY: Are they looking and are they trained as well?

EDWARD BOLES: No. Both have limited training. Most of the training that

1  
2 firefighters get is in probationary school and  
3 self learning. Most of the training that the fire  
4 officers get is through self learning, meaning  
5 studying to get promoted and then some limited  
6 training. When they get promoted they go through  
7 school. They go through a five-week program.

8 But fire prevention is only a small  
9 component of the training we get. Whereas, our  
10 counterparts get much more training, like our  
11 civilian inspectors get much more training. Even  
12 state firefighters get a minimum of 120 hours of  
13 training, where we get about, I think, 16-20  
14 hours. That's why we had the bill last year.

15 CHAIRPERSON CROWLEY: I agree. If  
16 we're going to expect fire officers to be going  
17 into dangerous situations, we need to make sure  
18 that they find all the violations. In order to do  
19 that, they need to know the code. It's a waste of  
20 time if they don't. I agree that more training  
21 hours need to be set aside and ultimately more  
22 funding into the department.

23 I'm glad that you brought up the  
24 Woodside fire. That particular building was a  
25 basement conversion where three residents passed

1  
2 away. Part of that reason was because there was a  
3 mistake with the UCT, but of course there was an  
4 illegal conversion.

5 EDWARD BOLES: I was there. I saw  
6 the building. I talked to the lieutenant that  
7 responded. The guy was at the window and was  
8 screaming but--

9 CHAIRPERSON CROWLEY: [interposing]  
10 He couldn't get to him.

11 EDWARD BOLES: --he couldn't get to  
12 home. Unfortunately, it was too late because of  
13 the UCT problem of getting access, because  
14 literally the firehouse was down the block.

15 CHAIRPERSON CROWLEY: No further  
16 questions. I recognize Council Member Vallone for  
17 questions.

18 COUNCIL MEMBER VALLONE: Thank you.  
19 I just wanted to thank you for waiting around and  
20 giving us the testimony. We've been working hard  
21 on this. Is there anything else you can recommend  
22 to us that we should do from our end?

23 EDWARD BOLES: Again, I applaud the  
24 efforts that you're really addressing this  
25 problem. The Black Sunday fire was five years

1  
2 ago. Council Member Fidler brought up a fire 30  
3 years ago. I think there needs to be some sort of  
4 joint agency committee where you have members of  
5 the City Council, you have members of each of the  
6 agencies, you have members of the various unions,  
7 the Fire Officers Union and the Firefighters  
8 Union, and whatever other groups to get together  
9 and come to some sort of helpful resolutions.  
10 You're on the right track. It's a very complex  
11 issue. Especially any time there's a financial  
12 crisis in the city, housing becomes very limited  
13 and people are going to do things to try to get  
14 by.

15 COUNCIL MEMBER VALLONE: Thank you,  
16 Lieutenant.

17 CHAIRPERSON DILAN: Thank you,  
18 Lieutenant.

19 EDWARD BOLES: I just want to thank  
20 all the Council Members for your consistent  
21 support on keeping the fire companies open.  
22 Thanks so much, each one of you.

23 CHAIRPERSON DILAN: Yet again, we  
24 are here. Next, we'll have Tanya Kessler, Samuel  
25 Biele-Fisher and Shafaq Islam. They'll be

1  
2 followed by Patrick Siconolfi, Roberta Bernstein  
3 and David Whitmore.

4 So the three individuals, the three  
5 ladies that I just mentioned, the three  
6 individuals that I mentioned can come forward and  
7 provide testimony. If you have written testimony,  
8 you can submit it to the sergeant-at-arms and  
9 she'll get it to the committee members. So why  
10 don't we go MFY, Pratt and then the Urban Justice  
11 Center, if we could do it in that order. Just  
12 state your name for the record and you can get  
13 into your testimony. The mic is off. If you  
14 could, push the button and turn the mic on.

15 TANYA KESSLER: Good afternoon. My  
16 name is Tanya Kessler. I'm from MFY Legal  
17 Services. Thank you for the opportunity to  
18 testify today. I'll give a somewhat shortened  
19 version of the testimony that I submitted.

20 MFY Legal Services provides legal  
21 assistance to 7,500 New Yorkers each year. Our  
22 practice focuses special attention on our city's  
23 most vulnerable residents, including people with  
24 mental disabilities, SRO tenants, adult home  
25 residents and the elderly.

1  
2 I work on MFY's Three-quarter House  
3 Project. We provide assistance and representation  
4 to tenants of three-quarter houses, which are also  
5 known as illegal boarding houses, sober houses, or  
6 transitional houses. Our representation focuses  
7 on Brooklyn, where we see the largest  
8 concentration of houses.

9 This is an underground industry,  
10 whose growth has been fed by the severe shortage  
11 of decent affordable housing for very low-income  
12 individuals in the city. Many three-quarter  
13 houses, in fact probably almost all of them, have  
14 been illegally converted and it is common for  
15 three-quarter house operators to deny access to  
16 Department of Buildings' inspectors. Many of the  
17 tenants in three-quarter houses have been referred  
18 to them by city agencies. I want to talk more  
19 about that a little bit later.

20 I first want to briefly describe  
21 what three-quarter houses are. They are buildings  
22 that falsely hold themselves out as some kind of  
23 supportive housing program, having no contract and  
24 no license from any government agency to operate a  
25 residential service program of any kind. They

1  
2 recruit people a variety of settings, including  
3 hospitals, substance abuse programs, prisons,  
4 jails, soup kitchens, and other service systems  
5 that interact with people who are homeless, on the  
6 verge of homelessness, or otherwise desperate for  
7 housing.

8                   We don't know the origin of the  
9 term; we're often asked what "three-quarter house"  
10 means. But it seems to capitalize on the  
11 familiarity with the halfway house concept. The  
12 term is used to imply that people who are  
13 struggling to overcome setbacks in their lives,  
14 who are often coming from institutional settings  
15 will get all manner of services and assistance  
16 they need to reintegrate into the community.  
17 Unfortunately, in three-quarter houses, usually  
18 the opposite is true and there are, in fact, no  
19 services available onsite.

20                   After arriving and signing on the  
21 dotted line, being asked to waive the most basic  
22 rights of tenancy in New York City, here is what  
23 three-quarter house residents discover: They are  
24 packed in rooms in illegally converted buildings,  
25 sometimes with as many as eight people in a room

1  
2 in bunk beds. There are rarely sprinklers or  
3 sufficient means of egress.

4 In addition to extreme  
5 overcrowding, typical conditions include jury-  
6 rigged electrical wiring, a lack of heat and hot  
7 water in the winter, and vermin, especially  
8 bedbugs. Severe harassment, unlawful evictions,  
9 and retaliation for complaints are commonplace.

10 Over three years ago, the Coalition  
11 for the Homeless issued a report documenting this  
12 problem and particular the unsafe conditions, the  
13 stream of referrals from city shelters, and a good  
14 number of vacate orders.

15 We've seen some changes in the  
16 industry since that report. The three main  
17 changes that we've seen is that the operators have  
18 diversified their outreach and recruitment  
19 targets, far beyond the New York City shelter  
20 system to the soup kitchens and substance abuse  
21 programs and other settings I described earlier.  
22 Many three-quarter houses have developed  
23 questionable ties with outpatient substance abuse  
24 programs, which appear to provide a new lucrative  
25 source of income and a new incentive to create

1  
2 more three-quarter houses. Finally, they are  
3 increasingly operating out of larger, rent-  
4 stabilized buildings, in addition to the two and  
5 three-family houses where they started out.

6 They're denying tenants their  
7 rights under rent stabilization and effectively  
8 removing regulated housing from the market. We  
9 have filed lawsuits against two such operators,  
10 but the practice continues in other buildings.

11 I want to talk a little bit about  
12 Building Code enforcement in three-quarter houses.  
13 You heard a little bit about the abject conditions  
14 that three-quarter house tenants endure.

15 Tenants frequently report that they  
16 are told by the operators of their houses and the  
17 staff not to contact city agencies about building  
18 conditions on pain of immediate "discharge." This  
19 is the three-quarter house euphemism for illegal  
20 eviction. The house managers working in the  
21 houses who are usually tenants who are paid a  
22 pittance, tell us that the operators instruct them  
23 not to give access to inspectors: Department of  
24 Buildings inspectors, HPD inspectors. This is  
25 usually on pain of immediate discharge. Tenants

1 who allow inspectors in face great retaliation.

2 So it's not surprising that the  
3 Department of Buildings records that can be  
4 accessed publicly online frequently show  
5 complaints for illegal conversions, and that  
6 inspectors are frequently denied access. We know  
7 of over 200 addresses that are three-quarter  
8 houses in Brooklyn alone. We know of over 350  
9 citywide. We know that the list we have is very  
10 small compared to what actually exists, because  
11 it's only what we happen to hear about when  
12 tenants contact us.

13 In those 350 buildings citywide,  
14 there have been 151 occupancy complaints  
15 documented on the DOB website. So almost half of  
16 them have complaints related to illegal occupancy.  
17 Ninety-two of those 151, access was denied to  
18 inspectors, according to the records on the  
19 Department of Buildings website. So inspectors  
20 are very frequently not getting into three-quarter  
21 houses.

22 I want to talk about three-quarter  
23 house tenants' perspective on Building Code  
24 enforcement. MFY works with a group of three-

1  
2 quarter house tenants who have formed the Three-  
3 quarter House Organizing Project which is also  
4 called TOP. TOP members were very much saddened  
5 by the death of two individuals on Covert Street  
6 recently in a fire.

7 They are concerned about their own  
8 safety and that of all tenants and the surrounding  
9 communities. To that end, they want to see better  
10 enforcement of the Housing Maintenance Code and  
11 Building Code in three-quarter houses. However,  
12 at the same time, they are deeply concerned about  
13 the effect such stepped-up enforcement would have  
14 on their lives, given the lack of alternative  
15 housing.

16 Intro 240 we think is unlikely to  
17 have much effect on enforcement in three-quarter  
18 houses because the kind of readily observable  
19 circumstantial evidence that inspectors might look  
20 for doesn't tend to exist with three-quarter  
21 houses. Tenants there don't have their own  
22 doorbells, their own mailboxes, their own utility  
23 meters.

24 We see pluses and minuses to Intro  
25 368. On the plus side, there would probably be

1  
2 some increased protection to residents and  
3 communities from dangerous conditions in three-  
4 quarter houses. With improved access, more  
5 violations would probably be placed. There would  
6 also probably be an increased number of vacate  
7 orders.

8           We're not taking a position on the  
9 bill because our clients, and the members of TOP,  
10 are in constant fear of winding up on the street  
11 following a DOB or Fire Department vacate order.  
12 Three-quarter house residents feel they have two,  
13 only two dangerous options: living in an  
14 overcrowded illegally converted three-quarter  
15 house, or becoming homeless again, which is also  
16 hazardous to their health and safety. Neither is  
17 acceptable to them and neither should be  
18 acceptable to any of us.

19           The overriding question we hear  
20 from three-quarter house tenants is and then where  
21 do we go? The official answer is: if there's a  
22 vacate order, occupants are entitled to relocation  
23 services. The real life answer is possibly the  
24 street. It's proven difficult for three-quarter  
25 house tenants to access HPD's relocation services.

1  
2 HPD requires three-quarter house tenants, it  
3 requires all tenants to show a great deal of  
4 documentation to prove their occupancy, and three-  
5 quarter house tenants usually don't have utility  
6 bills, leases, and the other documents that would  
7 satisfy HPD.

8           So we have some suggestions for  
9 what should be done. First, HPD should reconsider  
10 its documentation requirements for relocation  
11 services and promulgate new requirements that are  
12 consistent with the type of documentation three-  
13 quarter house residents can reasonably be expected  
14 to have, such as records of their address on file  
15 with HRA and other government agencies.

16           Two is unsafe housing referrals by  
17 city agencies is a real problem that needs to be  
18 addressed. Those are not the agencies that were  
19 present at today's hearing. Single adults  
20 desperate for a place to live continue to be  
21 referred to three-quarter houses by city and state  
22 agencies. These referrals are the very reason  
23 three-quarter houses are proliferating.

24           So long as the practice of city  
25 agencies referring individuals to unsafe housing

1  
2 continues on the front end, yet other city  
3 agencies will struggle to enforce the buildings  
4 code and maintain public safety with regard to  
5 three-quarter houses on the back end. So a  
6 coordinated response is very much needed. Every  
7 city agency that's involved with referrals to  
8 housing should prohibit unsafe placements.

9           The Department of Homeless has  
10 adopted a regulation last July and also did a  
11 pilot project at the same time. Those appear to  
12 have significantly decreased the number of  
13 referrals from city shelters to three-quarter  
14 houses. Other agencies should do the same or  
15 should adopt something very similar. These  
16 include the Human Resources Administration, the  
17 Health and Hospitals Corporation, the Department  
18 of Health and Mental Hygiene. Every agency and  
19 every organization that receives city funding  
20 should at a minimum be required to screen housing  
21 placements.

22           There's publicly available  
23 information that they can review. The following  
24 referrals should be prohibited: to all buildings  
25 that have a DOB, HPD or Fire Department vacate

1  
2 order in effect, that show uncorrected violations  
3 related to unlawful occupancy or conversion on the  
4 Department of Buildings website, that show  
5 complaints related to unlawful occupancy or  
6 conversion, even where no violation has been  
7 placed and no summons served, where inspectors  
8 have been denied access.

9           So if the inspectors can't get in,  
10 there's not going to be a violation or a summons.  
11 There shouldn't be a referral if the inspectors  
12 can't get in. That information is publicly  
13 available. Referrals should also be prohibited to  
14 buildings that have pending litigation with HPD or  
15 are in the HPD alternative enforcement program.

16           There is some additional criteria  
17 that would provide sorely-needed protection to  
18 clients of city programs. One is my written  
19 testimony--I didn't get into it just now--talks  
20 about the kind of recruitment and outreach that  
21 these three-quarter houses are doing, in a variety  
22 of social service settings.

23           CHAIRPERSON DILAN: If I could ask  
24 you, and as you could tell, I'm very interested in  
25 your testimony because it led into the questioning

1  
2 that I asked of the administration, but if I could  
3 ask you to summarize because there are some people  
4 that still wish to testify. Then I would, if you  
5 would permit me, like to have a meeting with you  
6 outside of the hearing setting, so I can further  
7 discuss this issue. I obviously have a great  
8 interest.

9 TANYA KESSLER: Sure, we would  
10 welcome that Council Member Dilan.

11 CHAIRPERSON DILAN: If you could  
12 summarize, that'd be great.

13 TANYA KESSLER: Overall, what we  
14 are looking for is a change in the way tenants  
15 show their eligibility for relocation services  
16 following a vacate order, but especially, a  
17 prohibition on referrals to unsafe housing by all  
18 city agencies, not just the Department of Homeless  
19 Services. We believe the problem of three-quarter  
20 houses requires a coordinated response. Thank you  
21 very much.

22 CHAIRPERSON DILAN: Thank you. We  
23 have Samuel Biele-Fisher from Pratt.

24 SAMUEL BIELE-FISHER: Good  
25 afternoon and thank you for the correct

1  
2 pronunciation.

3 CHAIRPERSON DILAN: I got lucky  
4 there. I won't get lucky the rest of the day.  
5 I'm sure I'll mess up one. Please correct me, for  
6 anyone who I mispronounce. Even though I said it  
7 correctly, you do have to say it in your own  
8 voice, and then you can get into your testimony.

9 SAMUEL BIELE-FISHER: Samuel Biele-  
10 Fisher, Pratt Center and New York Industrial  
11 Retention Network. Thank you to Chair Crowley and  
12 Chair Dilan. Thank you for the opportunity to  
13 testify here this afternoon.

14 Understand that addressing the  
15 public health and safety issues raised by illegal  
16 conversions, while respecting New Yorker's rights  
17 to due process, and to privacy in their own homes,  
18 is a complex challenge, and we commend the Council  
19 and these committees for taking it on.

20 We are here to discuss the specific  
21 problem of illegal conversions of commercial and  
22 industrial space for residential use. Such  
23 conversions often create health and safety  
24 hazards.

25 When manufacturing buildings are

1  
2 illegally converted for residential usage, they  
3 pose a dangerous problem for tenants, for adjacent  
4 businesses and especially to the health and safety  
5 of officers responding to emergencies.

6 In addition, they undermine the  
7 industrial character of New York's remaining  
8 manufacturing neighborhoods, and accelerate the  
9 displacement of small businesses and the loss of  
10 manufacturing jobs. That displacement may begin  
11 with illegal residential occupancy of "work only"  
12 loft spaces, gather momentum as landlords seek  
13 special permits to legalize conversions, and  
14 culminate in re-zonings that ultimately force land  
15 prices and rents up to levels that manufacturers  
16 can no longer afford to pay.

17 In 2004 the New York Industrial  
18 Retention Network collaborated with the East  
19 Williamsburg Valley Industrial Development  
20 Corporation, EWVIDCO, and manufacturers in the  
21 East Williamsburg In-Place Industrial Park to  
22 document conversions of industrial space to  
23 residential usage. Together, we recorded 30  
24 locations within the industrial park containing  
25 illegal conversions. Ninety percent, or 27 of 30

1 conversions, were illegal. These residential  
2 conversions, and those in subsequent years  
3 negatively impact industrial businesses by  
4 decreasing the amount of available space for  
5 industrial uses. By removing space from the  
6 market these illegal conversions help drive up  
7 real estate costs, a major issue for a sector  
8 where two-thirds of businesses lease their space.  
9

10 As the number of residents in  
11 industrial neighborhoods rise, the potential for  
12 complaints and harassment of businesses increases  
13 as well. Rising rents and complaints from  
14 residents in illegally converted buildings add to  
15 pressures on industrial businesses to consider  
16 relocating out of New York City, further hurting  
17 our industrial sector.

18 Enforcement of code and zoning  
19 provisions prohibiting residential uses in  
20 industrial areas should be more straightforward  
21 and less intrusive than identifying illegal  
22 subdivision of existing residential buildings.  
23 Inspections during business hours should find  
24 business premises open and accessible, in contrast  
25 with the challenges of gaining access to

1 residential buildings and units. If a space is  
2 identified in agency records as a commercial or  
3 industrial occupancy and it is not accessible  
4 during business hours, the process proposed in  
5 Intro 368 should begin.

6  
7 We would like to note for the  
8 committees that, while enforcing occupancy  
9 regulations and thus penalizing illegal  
10 conversions of industrial space is good public  
11 policy, and is in the long-term and collective  
12 interest of businesses located in industrial  
13 districts and buildings, all small businesses  
14 experience complying with New York City's myriad  
15 agencies and regulations to be a real burden.

16 In the course of normal yearly  
17 operations, a small manufacturing company may have  
18 to provide routine filings with and be visited by  
19 inspectors from the Department of Environmental  
20 Protection, the Fire Department, the Department of  
21 Health, the Department of Sanitation, and the  
22 Department of Buildings and its several divisions,  
23 not to mention New York State agencies. So we  
24 would urge you to adopt measures that will  
25 streamline the inspection process and increase the

1  
2 certainty of enforcement against building owners  
3 who now violate the law with relative impunity but  
4 which will not impose additional time and money  
5 costs on business owners.

6 We look forward to working with the  
7 committees as these bills move forward, to  
8 identify ways that they can strengthen protections  
9 on public health, safety, and as well, on the  
10 vitality of New York's manufacturing sector.

11 Thank you.

12 CHAIRPERSON DILAN: Thank you. Mr.  
13 Islam, you can go next.

14 SHAFaq ISLAM: Good afternoon. My  
15 name is Shafaq Islam. I'm an attorney at the  
16 Community Development Project of the Urban Justice  
17 Center.

18 The Urban Justice Center is a  
19 project-based umbrella legal services and advocacy  
20 organization serving New York City residents. In  
21 the past 25 years, the Urban Justice Center has  
22 provided direct legal assistance, systemic  
23 advocacy and community education to low and  
24 moderate income rent regulated tenants in New York  
25 City.

1  
2                   The Community Development Project,  
3 CDP, of the Urban Justice Center formed in  
4 September 2001 to provide legal, technical,  
5 research and policy assistance to grassroots  
6 community groups engaged in a wide range of  
7 community development efforts throughout New York  
8 City. Our work is informed by the belief that  
9 real and lasting change in low-income, urban  
10 neighborhoods is often rooted in the empowerment  
11 of grassroots, community institutions.

12                   I am here today to urge the Council  
13 to oppose both legislations Intro 240 and 368.  
14 The negative effects of both pieces of  
15 legislation, if passed, far outweigh any positive  
16 impact they might have on New York City  
17 communities. We, at the Urban Justice Center,  
18 oppose any regulations that impede the growth of  
19 affordable housing.

20                   First, the proposed revisions to  
21 Intro 240 are open to abuse and exploitation  
22 because of the overly broad language. Section 28-  
23 210.1b states that a violation can be issued  
24 "based on readily observable circumstantial  
25 evidence," including a mailbox or doorbell in

1  
2 excess of the number of units authorized in a  
3 particular dwelling. Section 28-210.1 says that a  
4 dwelling shall be inspected when "the department  
5 has received a complaint of a condition which, if  
6 observed, would be identified by the department as  
7 an illegal residential conversion."

8           Such broad language may invite  
9 neighbors to place complaints with the Department  
10 of Buildings based on antagonism to a residence's  
11 occupants rather than on actual evidence. Many of  
12 the occupants of basement apartments in Queens and  
13 eastern Brooklyn are recent immigrants and  
14 therefore more vulnerable to prejudice and  
15 discrimination.

16           With the amendments, there is  
17 potential for an increase in violations issued and  
18 inspections ordered by the court based on  
19 frivolous complaints, even in legal apartments.  
20 Accordingly, DOB inspectors would waste  
21 unnecessary resources going on wild goose chases  
22 and unnecessarily impede the lives of innocent  
23 families. This will hardly develop the trust and  
24 respect inspectors need to work successfully in  
25 the communities.

1  
2                   It is undeniably important to  
3 protect tenants from dangerous conditions in  
4 apartments. However, not every illegal apartment  
5 is dangerous. With a few modifications, many of  
6 the presently illegal basement apartments could,  
7 in fact, become legal dwellings.

8                   A process to legalize these types  
9 of apartments would incentivize such conversions  
10 for homeowners by offering, for example, J-51 tax  
11 credits. This would simultaneously increase the  
12 stock of affordable, rent-stabilized housing in  
13 New York City while reducing homeowners'  
14 vulnerability to the foreclosure crisis.

15                   The proposed revisions, however,  
16 could dampen homeowners' willingness to modify  
17 existing illegal apartments to meet legal  
18 standards. They may fear that applying for a  
19 permit to conduct modifications would open them to  
20 inspection, violations, and penalties for an  
21 existing illegal apartment.

22                   The penalties for an illegal  
23 conversion are excessively harsh. They include:  
24 being reported to the IRS, the New York State  
25 Department of Finance and Taxation, the New York

1  
2 City Department of Finance, as well as a criminal  
3 misdemeanor punishable by a fine of up to \$25,00  
4 or a year's imprisonment.

5           These penalties do nothing to  
6 encourage homeowners or landlords to modify  
7 existing illegal apartments for increased safety.  
8 Instead, landlords may force their tenants to keep  
9 a yet lower profile and leave conditions  
10 unaddressed. They may remove the extra doorbell  
11 and the extra mailbox to avoid detection but the  
12 underlying issue, a lack of affordable housing,  
13 will still remain.

14           Lastly, Section 28-210.1 says that  
15 it is unlawful to convert a dwelling to be  
16 occupied by more than the legally authorized  
17 number of families as well as "to assist, take  
18 part in, maintain or permit the maintenance of  
19 such conversion." Under this section, it could be  
20 possible for supers and tenants to be subject to  
21 penalties as well as landlords. As it is, the  
22 language of this code does more to threaten  
23 tenants than to protect them from unsafe housing  
24 conditions. Thank you.

25           CHAIRPERSON DILAN: Thank you all

1  
2 for your time and testimony. I just have one  
3 question and that's for Ms. Kessler. Just in your  
4 general knowledge of how individual tenants make  
5 it into a three-quarter home, how is their tenancy  
6 generally funded?

7 TANYA KESSLER: Many of the tenants  
8 receive public assistance. So they direct their  
9 benefits to pay their rent to the landlord at the  
10 three-quarter house. There are also tenants who  
11 are on disability, unemployment and who have wages  
12 and who pay out of those sources of income.

13 CHAIRPERSON DILAN: To your  
14 knowledge, when a referral comes, say from the  
15 homeless shelters or from probation or from any  
16 city service, are any of these tenants contracted  
17 in some way, shape or form? Do they receive any  
18 contracts with the city or the owner of the  
19 buildings? Does any of that happen to your  
20 knowledge?

21 TANYA KESSLER: The operators of  
22 the buildings often have residency agreements that  
23 purport to waive tenants' rights--you know, basic  
24 right to court process prior to eviction. So  
25 there is that kind of contract.

1  
2 CHAIRPERSON DILAN: No, I mean with  
3 the city. I'm sorry.

4 TANYA KESSLER: With the city?

5 CHAIRPERSON DILAN: Yeah.

6 TANYA KESSLER: No. Generally,  
7 three-quarter houses are not under contract with a  
8 city agency.

9 CHAIRPERSON DILAN: Are any of the  
10 individuals, do they receive any rent subsidy from  
11 a city agency?

12 TANYA KESSLER: Subsidy, no. I  
13 mean some are receiving public benefits like  
14 public assistance. But generally we don't see  
15 them having additional subsidies.

16 CHAIRPERSON DILAN: Thanks. Thank  
17 you all for your time and testimony. Next, we  
18 have Patrick Siconolfi, Roberta Bernstein, and  
19 David Whitmore. They'll be followed by Seema  
20 Agnani, Larry Wood and Jill Hamberg.

21 CHAIRPERSON CROWLEY: If each of  
22 those who are here today to testify could limit  
23 your testimony to less than three minutes, we'd  
24 appreciate that. The sergeant-at-arms, if you  
25 could, start the clock.

[Pause]

CHAIRPERSON DILAN: Patrick, why don't you lead us off?

PATRICK SICONOLFI: Good afternoon, I am Patrick Siconolfi, Executive Director of the Community Housing Improvement Program, or CHIP. I want to thank you, Council Members, for the opportunity to make these remarks.

CHIP is a trade association representing 5,000 multi-family owners in the City, and one of CHIP's core missions is to educate its members about the regulatory requirements of government.

Access has three aspects which need to be addressed separately. They are: access when a tenant makes a complaint, access when a third party makes a complaint, and access when the building owner must inspect to make repairs. It is crucial to recognize these three aspects because each has a different remedy.

The first is the easiest to address. In situations where a tenant makes a complaint about an apartment condition, the key to access must be the tenant. There are two reasons

1  
2 for this. First, in the great majority of cases,  
3 the tenant has not shared a key with the owner, so  
4 access can only be provided by the tenant.

5 Second, it is the tenant who has sought some kind  
6 of intervention. If the tenant abandons the  
7 complaint, there is no feasible manner in which to  
8 continue.

9           There is significant precedent over  
10 an extended period of time for this type of  
11 action. The State Division of Housing and  
12 Community Renewal uses the same procedure for  
13 tenant complaints of reduction in services. It  
14 provides something called a no-access inspection,  
15 whereby an agency schedules an inspection at which  
16 time a State inspector, the tenant and the owner's  
17 rep are all present.

18           The second aspect presents greater  
19 difficulty because the person with direct access,  
20 that is the tenant, is not the person raising the  
21 complaint. Here it is useful to look at the  
22 city's social service agencies for a more  
23 successful model. The Department for the Aging,  
24 the Department of Health, and the Human Resources  
25 Administration have a record of successfully

1  
2 obtaining access. Those agencies tend to use a  
3 team approach and have access to services which  
4 can be useful in gaining access such as  
5 multilingual case workers, and a case management  
6 model.

7 For a program of government access  
8 to achieve its aims, coordination among agencies  
9 is required. HPD, DOB, FDNY, DOH, HRA and DFTA  
10 should redeploy staff to create an agency task  
11 force. Its mission would be specific and limited  
12 to aggregate complaints of illegal housing units,  
13 to seek access for inspection and follow up, to  
14 determine which complaints need court warrants and  
15 to provide support and guidance to DOB in  
16 providing such warrants.

17 I think there's a time issue here,  
18 so I'm just going to move on. The third aspect of  
19 access which needs to be addressed is access by  
20 the owner for inspection and repair. An owner  
21 needs access to inspect for tenant-installed  
22 illegal partitions--and please recall that the  
23 Black Sunday, that infamous incident, was  
24 decisively caused by tenant installed situations--  
25 but the owner can't get in to inspect. This is a

1  
2 big problem.

3           The owner needs to be in there to  
4 make inspections, to make repairs, to ensure the  
5 safety of the building's residents. Not only to  
6 ensure the safety of that tenant but to ensure the  
7 safety--that's a very annoying bell--to ensure the  
8 safety of other tenants in the building. So I  
9 think it's critical that this aspect be addressed.

10           The failure of a tenant to grant  
11 access places other tenants in jeopardy. Illegal  
12 partitions are examples and the most obviously  
13 here. An owner can't remove an illegal structure  
14 unless he or she knows about them. They can't  
15 know about that without access. So we would ask  
16 you as a public policy, the question at hand is  
17 how to enable willing owners to gain access to do  
18 the work that the City Council correctly believes  
19 is important.

20           We recommend a two part access  
21 process where health, safety, or building  
22 infrastructure is at issue. In step one the owner  
23 would request written access. If that was denied,  
24 the owner could then go to an expedited court  
25 proceeding which would grant next day access.

1  
2 I'm out of time. I will leave the  
3 comments there. I'd be happy to take any  
4 questions you might have.

5 CHAIRPERSON CROWLEY: Thank you.  
6 Patrick, we're going to wait until everybody  
7 testifies on the panel.

8 PATRICK SICONOLFI: Sure.

9 CHAIRPERSON CROWLEY: Then we'll  
10 ask questions.

11 ROBERTA BERNSTEIN: Good afternoon.  
12 I'm Roberta Bernstein, President of the Small  
13 Property Owners of New York. We own the smaller  
14 buildings in the five boroughs. Our owners  
15 frequently live in the buildings that they own.  
16 We're the backbones of our neighborhoods.

17 I have been saying for years that  
18 there has been a secret supply of affordable safe  
19 housing. That supply really is what you're  
20 focusing on today. Specifically, it was really  
21 news to me and shocking to find out about the  
22 three-quarter buildings, but I have something I  
23 want to say about that a little bit later.

24 I specifically want to address  
25 third dwelling units in a two-family property and

1  
2 basement apartments. We do have some members in  
3 Queens that have converted illegally and they're  
4 living in fear. In two cases, the owner uses it  
5 as storage or for family and the Fire Department  
6 and the Buildings Department have come down very  
7 heavily on them and keep making repeated  
8 inspections. I found out why a little earlier.  
9 They've not been using it and they've taken away  
10 the cooking facility and so forth, but it hasn't  
11 stopped the visits.

12           It would be a very simple matter to  
13 legalize these. A lot of them are illegal simply  
14 because of zoning. The zoning for that area says  
15 two-family and they've got a three-family, when in  
16 fact these are quite viable apartments. So in  
17 this case, a simple amendment of the zoning would  
18 legalize these units.

19           In the case of basement apartments,  
20 a lot of them are really not fire hazards and are  
21 used, in fact, for superintendents. The tenants  
22 benefit by having a super on the premises that  
23 they can call at any time. If they fit the fire  
24 code and safety regulations and the building code  
25 regulations, should be allowed to be legalized.

1  
2 You have a great supply of affordable housing  
3 here. New construction is at an all-time low. I  
4 think if we just tweak the system a little bit,  
5 they could be made viable.

6 Now, those three-quarter buildings  
7 I was really troubled by the thought of 20 beds.  
8 I mean it's horrendous. Yet, it serves a purpose,  
9 like the SROS used to serve a purpose for those  
10 who were borderline homeless. So perhaps those  
11 owners, instead of--the bottom line is inspect  
12 them, make them safe and usable. We need that  
13 housing.

14 Now, Intro 240 doesn't address the  
15 problem of the tenants who create those illegal  
16 partitions and deny us access. They should be  
17 included in such a bill, there's no question,  
18 because they really affect the safety and health  
19 of others, not only in the apartment but in the  
20 building and the firefighters.

21 Now, circumstantial evidence such  
22 as an additional mailbox should not be considered.  
23 In my building I have one for tenant comments,  
24 landlord mail or superintendent's use. To use  
25 this as a means of determining illegal apartments

1  
2 or to make an extra mailbox illegal is unwise,  
3 unfair, and doesn't make a lot of sense.

4 Access, I'll be very brief here.  
5 The city now know how it feels when it can't get  
6 access to a building for inspection, how an owner  
7 feels when they can't get access to an apartment.

8 Now legally we're entitled to have  
9 keys to all units. Tenants often change the locks  
10 when they move in and don't give us a set of keys.  
11 So I have a solution, which I think was really  
12 touched on. We have to go to court and spend  
13 money that we could really spend maintaining our  
14 property on attorneys and getting access if DHR is  
15 not involved, if it's something that we need to  
16 inspect.

17 A possible solution might be a  
18 quick access form promulgated by the regulating  
19 agency or housing court. It would do the  
20 following: declare that a state of emergency  
21 exists after two requests for inspection have been  
22 sent by certified mail and by phone calls, for the  
23 purpose of making repairs or to make an illegal  
24 use inspection. Pursuant to the emergency, the  
25 owner would have permission to change the locks

1  
2 for specifically that purpose. It would mandate  
3 that a new set of keys be given the very same day  
4 to the tenant and it would also allow for a  
5 marshal, a city marshal, policeman, or licensed  
6 locksmith to sign an affidavit that no personal  
7 belongings were taken or damaged, all of this  
8 after due notification to the owner and the  
9 tenant.

10 Now, at present, owners are very  
11 reluctant to enter an apartment even with  
12 cascading water coming out under the front door  
13 because they're afraid of legal ramifications.  
14 But allowing an owner to have quick access in  
15 emergencies would mitigate that problem.

16 I agree that having no compliance  
17 by the owner when the Fire Department or the  
18 Buildings Department want to make an inspection is  
19 a definite problem. But perhaps if the owners  
20 knew they were being treated fairly that would  
21 change.

22 Perhaps it's not such a bad thing  
23 to tell the owner this is what we're looking for  
24 and by the way, this is what you've got to do to  
25 cure it. It should be a transparent process.

1  
2 Make friends of owners; don't treat us like  
3 enemies. The legislation 240 is extraordinarily  
4 punitive. It calls for reporting us to the IRS,  
5 my God, to the City and State Finance Departments.  
6 That is strictly punitive. Let's change this  
7 attitude, let's change is 180 degrees from  
8 treating owners like they're criminals to trying  
9 to help us do what's right. Most of us want to do  
10 what's right and we have no compassion for those  
11 who do illegal things.

12 I think it's critical that this  
13 committee have the necessary information and  
14 different viewpoints essential to making the  
15 informed decision you need that's so essential for  
16 New York City housing. I truly thank you from the  
17 bottom of my heart for the opportunity to present  
18 our viewpoint and hope that what I've said will  
19 have some impact on your determinations. Thank  
20 you.

21 CHAIRPERSON DILAN: Thank you.

22 DAVID WHITMORE: Good afternoon,  
23 Council Members. My name is David Whitmore. I'm  
24 a small property owner as well.

25 It is my belief that Intro 240 has

1  
2 been written without any real consideration given  
3 to the other side of the problem here. And that  
4 is those who reside in the apartments.

5 I have been a small property and a  
6 property manager for numerous other small property  
7 owners in the City of New York for over 25 years.  
8 I have firsthand experience of new tenants moving  
9 into an apartment under my care and/or my  
10 responsibility only to find out that other family  
11 members related to the family on the lease have  
12 moved into the same apartment without my knowledge  
13 or consent, to share or save on living expenses.

14 I have also witnessed divided walls  
15 erected in apartment rooms for privacy for  
16 additional family members who were not listed as  
17 occupants in the lease paperwork when the  
18 apartment was rented out. Granted, there are  
19 owners who probably willingly skirt the law for an  
20 extra buck, but they are by no means alone or the  
21 majority owners in these tragic situations waiting  
22 to happen.

23 The way that this law is written  
24 only identifies and penalizes the property owner,  
25 and does not even consider that the residing

1  
2 tenant could be the problem without the property  
3 owner's knowledge or consent. To have a law  
4 written pre-determining that a property owner  
5 created an illegal residential conversion without  
6 any penalty or consideration of a severe penalty  
7 given to the resident who could have created the  
8 overcrowding will only empower that resident to  
9 either do it again elsewhere or communicate it to  
10 others knowing that there is zero chance of being  
11 penalized. This law must be written for both  
12 sides to take serious notice of the consequences,  
13 not just one side.

14           It is very difficult for a small  
15 property owner who may not live at the multiple  
16 dwelling owned to be able to constantly determine  
17 the amount of new additional family members that  
18 have moved into an apartment. The vast majority  
19 of small owners that I have ever come into contact  
20 with all have regular jobs that they must go to on  
21 a daily basis that doesn't allow for them to be a  
22 constant watch dog over who is residing at their  
23 property. A tenant knowing this and also knowing  
24 that they cannot be penalized for creating an  
25 overcrowding situation will not stop what this law

1 is trying to prevent.

2  
3 With the continuing housing  
4 shortage that never seems to abate, with new  
5 construction housing funds that have either dried  
6 up or are very tough to obtain in this economic  
7 climate and/or with new housing starts that cannot  
8 meet the demand for people who want to live here,  
9 this city would be better at serving its  
10 constituents if it were to develop a strategy to  
11 re-zone those neighborhoods where the illegal  
12 conversions are most prevalent to allow for said  
13 conversions to take place under strict guidelines.

14 Some of which should include the  
15 following: greatly assist the property owner in  
16 properly obtaining the needed paperwork to  
17 increase the building's unit size, if feasible.  
18 If it is determined or found that the property  
19 owner didn't have any knowledge of, or consented  
20 to overcrowding in one or more of his units, and  
21 it is discovered, then create a fast track system  
22 in housing court to easily and expeditiously  
23 remove the law breaking tenants from the dwelling.  
24 Set up a viable lending program--

25 CHAIRPERSON DILAN: [interposing]

1  
2 Excuse me a second. Ma'am, if the conversation  
3 happens, it needs to happen outside of the  
4 chambers. I'd like to ask if you can put the  
5 phone on silent mode for the remainder of the  
6 proceeding. Thank you. You can continue and  
7 we'll allow you some extra time.

8 DAVID WHITMORE: Thank you. If it  
9 is determined or found that the property owner  
10 didn't have any knowledge of, or consented to  
11 overcrowding in one or more of his units, and it  
12 is discovered, then create a fast track system in  
13 housing court to easily and expeditiously remove  
14 the law breaking tenants from the dwelling. Set  
15 up a viable lending program to allow for the  
16 property owner to draw from, to legally increase  
17 his building's units, and only allow for periodic  
18 withdrawals as each required step is completed and  
19 verified.

20 By making these simple changes it  
21 will greatly assist the property owner by allowing  
22 him or her to legally increase his rent roll, it  
23 will allow for new residents desiring to live at  
24 said location with others of their liking, and it  
25 will also allow the City of New York to benefit

1  
2 from increased real estate taxes for the newly  
3 zoned property.

4 We the Small Property Owners of New  
5 York only support safe housing for all our  
6 property owners and residents. We strive to get  
7 out information and have informative meetings for  
8 our members that would allow for them to operate  
9 their property in a safe manner.

10 But, we also recognize that only  
11 the property owner is penalized when a condition  
12 is found to be unsafe at our property, when many  
13 times we had no knowledge of it nor created the  
14 unsafe condition. When a devious or unscrupulous  
15 tenant creates a hazardous condition, he or she is  
16 doing so that affects their neighboring law  
17 abiding resident. Are said law abiding neighbor's  
18 lives not to be considered in this bill?

19 I believe that the purpose of this  
20 hearing is to allow for input from those affected  
21 by this bill, to give additional reasoning that  
22 might have been overlooked when the bill was  
23 drafted. Please give strong consideration to what  
24 I have communicated here today to provide for a  
25 more well rounded and better bill which will serve

1  
2 all sides more equally, judiciously and will  
3 probably save more lives, which I believe is the  
4 intent of this bill. Thank you.

5 CHAIRPERSON DILAN: Thank you.

6 Some of the things that you guys mentioned--this  
7 is not really a question but a statement--some of  
8 the things that you guys have mentioned in your  
9 testimony regarding the basement units is  
10 something that I have been trying to work with the  
11 administration on for some period of time. It's  
12 just proven to be a lot more difficult from a  
13 legal standpoint to get that accomplished than I  
14 would have liked.

15 Patrick, if I could meet with you  
16 guys, I'd love to explore the issue. There  
17 appears to be, and I want to say this carefully  
18 because I'm not sure, but there appears to be that  
19 it's not an urgent matter for the current  
20 administration. That may be different but last I  
21 checked it wasn't an urgent matter to try to bring  
22 these apartments up to code where they can  
23 actually be used. I hope I'm wrong and I would  
24 like to continue to work with the Bloomberg  
25 administration on this.

1  
2 But there are some legal hurdles  
3 that they just cannot get around, which I  
4 understand. I'll answer them offline. I can see  
5 you chomping at the bit--what are they--which is  
6 why I would request a meeting.

7 PATRICK SICONOLFI: Sure.

8 CHAIRPERSON DILAN: Then we can  
9 discuss it at that time. As it relates to the  
10 bills in general, you know obviously I like to  
11 pass bills that come out of this committee that  
12 are balanced. Should these bills go forward they  
13 will be, because we recognize that there are some  
14 actions that your tenants may take without your  
15 knowledge that could lead to this illegal  
16 conversion. So, we recognize that, and whether  
17 the legislation passes or not, we will recommend  
18 to the task force that that be taken into  
19 consideration.

20 So I have no questions, but I just  
21 did want to state that to you guys for the record.  
22 I'm not sure if my colleague has any questions.

23 PATRICK SICONOLFI: Just one thing,  
24 we would be very happy to have those meetings.  
25 There are a lot of ideas that the three of us have

1  
2 and certainly that I didn't get a chance to go to  
3 because of time limitations. I think there are  
4 ways that the bill could be made more robust and  
5 probably have more of the targeted effects that  
6 you're looking for.

7 CHAIRPERSON DILAN: Myself and the  
8 committee staff are open to alternative ideas, so  
9 we're happy to take those under consideration.

10 CHAIRPERSON CROWLEY: I'm glad that  
11 you three testified today. Your perspective was  
12 not heard much throughout the hearing in terms of  
13 the landlord and not being able to control what  
14 the tenant does and the tenant being the one that  
15 actually breaks the laws and changes an apartment  
16 into a single room occupancy. I am aware of how  
17 difficult that situation is and how dangerous it  
18 is and how that also needs to be addressed.

19 PATRICK SICONOLFI: Thank you for  
20 that comment. There's a larger problem here,  
21 which if it could be reflected in an ultimate  
22 solution would be helpful. The Council, for  
23 meritorious purposes, ends up giving the owner  
24 responsibilities. These are publicly wise  
25 responsibilities. But then it doesn't give the

1  
2 owner the tools that he or she needs to do those  
3 things. So you give a legal responsibility and  
4 you have a stick over the head but they're not  
5 allowed to actually do anything that would make it  
6 work. Then we wonder as a society why it doesn't  
7 work but that's why it doesn't work. So we'd like  
8 to get beyond that.

9 ROBERTA BERNSTEIN: The first bill  
10 is extraordinarily punitive.

11 CHAIRPERSON CROWLEY: Can you speak  
12 into the microphone?

13 ROBERTA BERNSTEIN: The first bill  
14 is extraordinarily punitive. It's almost like a  
15 vendetta and that I find very troubling.

16 CHAIRPERSON CROWLEY: Ready for the  
17 next panel.

18 ROBERTA BERNSTEIN: Thank you.

19 CHAIRPERSON DILAN: Thank you all.  
20 So we have Seema Agnani, Larry Wood and Jill  
21 Hamberg. They'll be followed by the final panel  
22 which will be Darlene Vecchio and Marika Dias.  
23 That's the final panel.

24 [Pause]

25 CHAIRPERSON DILAN: We'll start

1  
2 with Seema. If I said it incorrectly, please  
3 correct me.

4 SEEMA AGNANI: No problem. Seema  
5 Agnani is my name. Good afternoon. I'm with  
6 Chhaya CDC. We are based in Jackson Heights  
7 Queens and work with both owners and tenants:  
8 tenants on eviction prevention issues and repairs,  
9 and owners on foreclosure prevention and home  
10 ownership issues.

11 I'm going to keep my testimony  
12 brief. I'm submitting it in writing. I want to  
13 note that some of the testimony got cut off, so  
14 I'll make sure I cover what I wanted to verbally.

15 Thank you for this opportunity to  
16 speak on this pervasive issue that's really  
17 impacting predominately the outer boroughs of New  
18 York City in terms of the single and multifamily  
19 homes.

20 I think a lot of what I wanted to  
21 say has been said. We're here opposing the  
22 proposed legislation. While we agree a lot of the  
23 unsafe housing really needs to be addressed, we  
24 think that these proposals really focus on the  
25 wrong issue. Just simply focusing on enforcement

1  
2 measures won't necessarily address this problem  
3 that's been around for a really long time. We  
4 need a more sustainable and long-term solution.  
5 We think that that should be the priority of where  
6 the city focuses its resources right now.

7           It needs to be acknowledged first  
8 and foremost that the reason that this issue even  
9 exists is that there's a lack of decent and  
10 affordable housing in much of the city. The  
11 people that are living in these units are those  
12 that are sort of the workforce behind our thriving  
13 economy.

14           Secondly, that one solution to the  
15 issue of illegal conversions simply won't work.  
16 There are those units that are unsafe and  
17 overcrowded such as the divided up apartments and  
18 there are also those that are safe and decent  
19 apartments. We've seen many of them in single and  
20 two-family homes that, like other people have  
21 noted, really should be brought up to code.

22           Some of those also happen to be  
23 cellars in the current definition. We've seen  
24 many apartments that are defined as cellars that  
25 could definitely be legalized and brought to code.

1  
2                   These are a viable source of  
3 affordable housing and we want to encourage the  
4 Council to look at the creation of an Accessory  
5 Dwelling Unit code or a similar code. These codes  
6 have been used in municipalities across the  
7 country. It's a really viable solution and I  
8 think articulates what a lot of people have been  
9 talking about. Providing a way for owners to  
10 streamline the process, legalize the units, bring  
11 them up to code, and it's a win/win situation.  
12 This way the tenant has rights as well as the  
13 owner.

14                   We estimate that it will cost about  
15 \$10,000-\$15,000 to bring the majority of these  
16 units up to code. That's about the same amount  
17 that an owner pays in fines. So why not divert  
18 those resources into bringing these units into  
19 compliance.

20                   We did a door to door survey. I  
21 have attached the summary of our findings. We  
22 spoke to more than 300 across Queens and most of  
23 them we found were owner occupied homes and also  
24 the majority of them really wanted to bring their  
25 units up to compliance, and more than willing to

1  
2 put fire and safety measures to their homes.

3           So I think that right now we are in  
4 a recession. It's a time to think about bold  
5 changes, not necessarily continue what we've been  
6 doing. We think that this is a potential way to  
7 really bring this issue to light and find a long-  
8 term solution.

9           So I'll end there, and please do  
10 take a moment to review our recommendations in the  
11 written testimony when you have a moment. Thank  
12 you.

13           CHAIRPERSON DILAN: Thank you.  
14 What we'll certainly do is make sure that the  
15 testimony that you have submitted in writing gets  
16 entered into the record in its entirety. Mr.  
17 Wood?

18           LARRY WOOD: Thank you. Thank you  
19 for the opportunity to testify. I've worked 25  
20 years as a community organizer at Goddard  
21 Riverside Community Center and specifically with  
22 the SRO law projects. I've worked in many SROs  
23 for more than two decades.

24           I guess my issue I want to raise is  
25 can we safely and affordably legalize new SRO

1  
2 housing. Initially I thought this would be beyond  
3 the scope of this hearing, but hearing Councilman  
4 Brad Lander, Jumaane Williams and a number of  
5 other folks, including SPONY all saying is there a  
6 way we can safely legalize these units, I think  
7 that really gets to the heart of this matter.

8           Clearly, the city needs to make  
9 inspections and they must have access and you must  
10 enforce fire and safety regulations to eliminate  
11 firetraps and other unsafe and hazardous  
12 conditions. But as long as we have an acute  
13 shortage of affordable housing, particularly for  
14 one and two member households, this problem is not  
15 going away and enforcement will only go so far.

16           I remember sitting at a similar  
17 hearing 20 years ago, the same issues, the same  
18 type of testimony and the same call for legalizing  
19 SRO housing and it didn't go very far. But there  
20 was a lot of work done, which we've brought these  
21 reports. We don't have to reinvent the wheel.

22           City Council and advocates have  
23 attempted to address this issue. You could say  
24 we've come almost full circle with SRO housing.  
25 It was banned in 1954. You couldn't construct new

1  
2 SRO housing. SRO housing was seen as substandard  
3 so there were incentives to demolish and convert  
4 the housing. Then, in the late 70s/early 80s, we  
5 realized with the spike in homelessness, we needed  
6 to preserve this low income housing. But we've  
7 only three quarters way, we haven't come full  
8 circle, and that's why you have so many illegal  
9 three-quarter housing out there because there's  
10 such a need for this type of housing and it's not  
11 being produced.

12 One of the documents I've submitted  
13 to you is just excerpts but it's called  
14 "Desperately Need Now: An SRO Housing Revolution."  
15 This was produced 20 years ago by a visionary  
16 urban planner. It became the catalyst for others  
17 to look into this issue, look at the impediments  
18 in zoning, housing maintenance and codes that were  
19 in the way of new construction, particularly for  
20 for-profit landlords. Nonprofits could still do  
21 SRO construction but there are still many  
22 impediments that make it much more expensive than  
23 it need be. Jill Hamberg, who you'll be hearing  
24 from next, has a much more extensive report on  
25 this issue.

1  
2 I want to point out, the other memo  
3 I gave you is a memorandum that the City Council  
4 itself produced from the Infrastructure Division.

5 CHAIRPERSON DILAN: We were looking  
6 at some of the names on there.

7 LARRY WOOD: Yeah, it's memory lane  
8 for me too.

9 CHAIRPERSON DILAN: I happen to  
10 know those two individuals that did the report.

11 LARRY WOOD: We'd be very  
12 interested to go over that because a lot of work  
13 was done previously about what was needed to  
14 balance the need for safety and good conditions  
15 with affordability and how could we construct this  
16 housing and remove some of the obstacles. So this  
17 work was done.

18 In my mind, I'm reminded of a Tale  
19 of Two Cities by Dickens. This was the best of  
20 reports and it was the worst of reports. It was  
21 the best of reports because it laid out what  
22 needed to be done. It was the worst of reports  
23 because it was dead on arrival. The City Council,  
24 there was just no stomach for moving this issue  
25 forward. The pushback by homeowners and others

1  
2 who said we don't want rooming houses, we don't  
3 want the homeless moving into our communities.  
4 This was viewed as housing and shelters and people  
5 didn't want it.

6 I know at Goddard Riverside, just  
7 for us to build Section 202 housing for seniors  
8 and disabled, we had to overcome lawsuits. So  
9 there's a big pushback against creating new SRO  
10 housing. It's necessary, it's needed and we're  
11 going to have to get around to it some day or else  
12 homelessness is never going to go away.

13 If you really only dealt with  
14 enforcement, the shelter population would totally  
15 spike. Some of these reports also give you  
16 estimates on how many illegal units are out there.  
17 There are only about 40,000 legal SRO units. It  
18 sounds like there are almost twice as many illegal  
19 SRO units this current day. We've got to do  
20 something to legalize the ones that we can.

21 CHAIRPERSON DILAN: Thank you.

22 JILL HAMBERG: I come before you to  
23 general support greater targeted enforcement  
24 against--

25 CHAIRPERSON DILAN: [interposing]

1  
2 If you could move the mic closer to you, and then  
3 also identify yourself in your own voice for the  
4 record.

5 JILL HAMBERG: My name is Jill  
6 Hamberg. I'm a facility member at Empire State  
7 College, part of the State University of New York.

8 I come before you to generally  
9 support greater targeted enforcement against  
10 dangerous illegal conversions, although not  
11 necessarily the specifics of the bills before you.

12 However, if stepped up enforcement  
13 is the only strategy to stem the tide of illegal  
14 occupancies it is doomed to fail. This assertion  
15 is based on my involvement as an urban planner in  
16 writing about illegal conversions and code issues  
17 in the past and participating in drafting--I was  
18 part of the committee that drafted the memorandum  
19 that Larry referred to, we met for a year and a  
20 half--proposed legislation to partially address  
21 this issue.

22 Housing advocates have long called  
23 for building and preserving housing for low and  
24 moderate-income households to tackle the city's  
25 severe affordability and overcrowding issues. But

1  
2 my argument goes further. It consists of five  
3 points. First, illegal occupancies represent the  
4 main source of newly created units for low and  
5 moderate-income residents in the city for the last  
6 several decades. I've got the details if you're  
7 interested.

8           Second, illegal occupancies consist  
9 of full apartments and those that are the code  
10 equivalents of SROs, rooming houses and lodging  
11 houses, which I refer to collectively as SROs.  
12 Only a few can be legalized or fully legalized  
13 according to current building and zoning  
14 regulations. Indeed, since 1955 it has been  
15 virtually impossible to legally create any kind of  
16 SRO, except for nonprofits.

17           Third, stepped up enforcement,  
18 evictions and vacates of illegal occupancies,  
19 while removing residents from dangerous conditions  
20 in the short run, force many households further  
21 into the informal housing market to perhaps even  
22 more unsafe conditions.

23           Fourth, only by taking measures to  
24 make most illegal occupancies both safe and legal,  
25 or at least semi-legal or temporarily legal, will

1  
2 the effort to stem the tide of death and  
3 destruction from fires begin to bear fruit.  
4 Possible approaches to such legalization are  
5 outlined in a report I co-authored in the 1990s  
6 and you've got excerpts from it in the packet  
7 there. Since then, there have been changes in  
8 building codes and zoning and tragically many  
9 fire-related deaths. But the general approaches  
10 are still valid.

11 Finally, to those who believe we  
12 should never reduce housing standards, even  
13 temporarily: history is full of examples of codes  
14 and enforcement practices adapting to market  
15 conditions, in some cases partially or  
16 temporarily. In fact, regarding basements,  
17 between 1953 and 1967 there was a temporary permit  
18 system that legalized basement and cellar  
19 occupancies to address the needs of returning  
20 servicemen and the housing shortage.

21 Anyway, rather than relaxing  
22 standards, revised rules concerning illegal  
23 occupancies would actually improve housing  
24 conditions in practice by requiring these units to  
25 meet at least some minimal standards and provide

1  
2 some legal protection to tenants and landlords.

3           Therefore, I urge both of your  
4 committee to study the broader context of illegal  
5 conversions and develop legislation to make many  
6 of them affordably safe and legal by building on  
7 the past proposals of Infrastructure Division  
8 staff, that's the memorandum, and involving other  
9 public agencies and interested organizations.

10           I've been contacted in the last  
11 several years by the counsels of the Department of  
12 Buildings and HPD. I know there's interest in the  
13 departments but it's just never gone anywhere.

14           Well, I shouldn't say it's never  
15 gone anywhere. In 1988, I met several times with  
16 a committee of lawyers from all the different  
17 departments who had been tasked to deal with this  
18 issue. That was a result of the Blackburn report  
19 which I worked on; I wrote the code section of  
20 that. It first raised the issues of illegal SROs.  
21 Thank you.

22           CHAIRPERSON DILAN: Thank you.  
23 Thank you all for your time and testimony here  
24 today. Thank you all.

25           Next we have Marika Dias and

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Darlene Vecchio. Are you miss?

MARIKA DIAS: I'm Ms. Dias. I think Darlene Vecchio gave up.

CHAIRPERSON DILAN: Okay. How are you? Good to see you again.

MARIKA DIAS: Yes, thank you very much. Good afternoon, Chairpersons. My name is Marika Dias and I am the Supervising Attorney for Make the Road New York. We're a nonprofit organization based in Bushwick in Brooklyn. We also have offices in Jackson Heights in Queens; and Port Richmond in Staten Island.

We work with working class and immigrant communities to achieve dignity and justice through organizing and policy innovation and education and survival services. We have about 9,000 members at the moment. Many of those are immigrants who live in substandard housing. We also have member committees that meet regularly ever week about housing related issues and our legal services department routinely represents low income tenants.

We've been concerned with this issue of illegal conversions for some time. Our

1  
2 offices in Brooklyn and Queens hear reports of  
3 this issue time and time again from our members,  
4 either because they themselves are living in  
5 illegal conversion or because they're living in  
6 buildings where there are illegal conversions.

7           It's motivated by these experiences  
8 that Make the Road has been a member of the New  
9 York Immigrant Housing Collective's task force on  
10 Accessory Dwelling Units, which is basically the  
11 term used to describe additional units that are  
12 created illegally, whether it's by subdividing  
13 existing units or in the cellars or the basements  
14 of buildings.

15           I think we all know that illegal  
16 conversions are a problem for tenants. They  
17 create dangerous and unhealthy conditions, and the  
18 tenants themselves are very vulnerable to  
19 displacement, either by their landlords or by the  
20 Department of Buildings. For tenants in  
21 surrounding apartments it can be also a problem  
22 because it really puts a strain on the services in  
23 buildings and creates a sort of over crowding  
24 effect. Then for neighborhoods, it can be a  
25 problem because you have this unplanned growth.

1  
2 So it's a drain on the resources of neighborhoods,  
3 over crowding in schools, sanitation services are  
4 insufficient, all those kinds of things.

5 I think it's very important that we  
6 really recognize why tenants live in these illegal  
7 conversions. It's really a combination of a lack  
8 of affordable alternatives and the increasing  
9 population that we have in New York City that  
10 makes it very difficult for low-income tenants to  
11 find viable housing. Plus, many of the tenants  
12 living in these illegal conversions are low-income  
13 immigrants who are particularly vulnerable and  
14 often they'll live in less than desirable  
15 accommodations just as a way of making ends meet.

16 I have seen many cases of tenants  
17 living--you know, as a housing lawyer--seen many  
18 cases of tenants living in illegal conversions or  
19 with illegal alterations. Oftentimes they have no  
20 idea that a particular wall or a particular  
21 doorway is an illegal alteration. Sometimes it's  
22 the building's superintendent that does the work  
23 at the request of the landlord.

24 Sometimes the tenants themselves  
25 actually pay to have this stuff done, not

1 realizing that it's something illegal that they're  
2 paying for. Then sadly, these same tenants will  
3 later on see themselves involved in eviction  
4 proceedings and being accused of illegal  
5 occupancy.  
6

7 We also see a lot of profiteering  
8 by landlords, who make these illegal conversions  
9 and then charge unregulated and vulnerable tenants  
10 excessive rents.

11 I've mentioned other things in the  
12 written material, but one concern that I do have  
13 about Intro 240, which wasn't raised by other  
14 people, so I will mention it now, is that it  
15 actually permits this issuance of a notice of  
16 violation based merely on circumstantial evidence.

17 Now, a notice of violation actually  
18 potentially could impact quite greatly on tenants.  
19 So under current case law, if a landlord wants to  
20 evict a tenant for illegal occupancy, a city  
21 violation is generally required. So if a city  
22 violation can be issued without actually there  
23 being a violation in existence, then this could  
24 potentially facilitate the eviction of tenants  
25 unnecessarily. You know, we heard from the

1  
2 Department of Buildings that in 55 percent of  
3 cases I think they said, they get access and no  
4 violation is issued. So if you combine those two  
5 things, it really can potentially be something  
6 that can be detrimental to tenants.

7 Now, you know, we approve of  
8 measures to discourage landlords from making  
9 illegal conversions. We approve of measures that  
10 would penalize those landlords who do take  
11 advantage of low-income tenants, who they place at  
12 risk for the sake of their own profits. But we're  
13 particularly concerned with the preservation of  
14 affordable housing and protecting vulnerable  
15 immigrant communities.

16 New York's crisis of affordable  
17 housing, which disproportionately affects low-  
18 income, immigrant tenants, is really a critical  
19 factor in the proliferation of these illegal  
20 conversions in New York. So it's therefore really  
21 imperative, we think, that any legislative  
22 response actually enhances the protections for  
23 tenants who are living in the illegal conversions  
24 and promotes the creation of more legal,  
25 affordable units.

1  
2 This might involve financial  
3 incentives for owners to legalize units and we've  
4 heard other people talk about that this afternoon.  
5 It might involve technical assistance for owners  
6 to legalize. It might involve protections for  
7 existing tenants so they can stay in the units and  
8 so that rents will be affordable going forward.

9 But certainly I think, just to  
10 close, really what we're trying to emphasize is  
11 that any response to illegal conversions, whether  
12 it's facilitating inspection as provided for by  
13 Intro 368 or whether it's enhanced penalties as  
14 provided for by Intro 240, should also actually  
15 also include protections for tenants and some sort  
16 of mechanism for legalization. This is really the  
17 only way you're going to protect vulnerable New  
18 Yorkers and at the same time avoid depleting the  
19 affordable housing stock.

20 CHAIRPERSON DILAN: Thank you for  
21 your time and testimony.

22 MARIKA DIAS: No problem. Thank  
23 you very much.

24 CHAIRPERSON DILAN: I at this time  
25 would like to, on behalf of the members of the

1  
2 Housing and Buildings Committee, thank the staff  
3 for putting this together. I'm pretty sure that  
4 Council Member Crowley feels the same about her  
5 staff of the Fire and Criminal Justice Committee.

6 CHAIRPERSON CROWLEY: Absolutely,  
7 thank you.

8 CHAIRPERSON DILAN: So I'd like to  
9 thank the staff for all the hard work that they've  
10 done on this issue and for what it sounds like,  
11 the hard work that's still to come on this issue.

12 I do have some items that have to  
13 be entered in for the record from the Uniformed  
14 Firefighters Association, testimony from Steven  
15 Cassidy that will be submitted for the record.

16 Testimony also from the Allied  
17 Building Inspectors Union, which will also be  
18 submitted for the record, from Mr. Joseph Corzo  
19 [phonetic] will be submitted for the record.

20 Testimony submitted by the Coalition for the  
21 Homeless for Ms. Giselle Routhier. That will be  
22 submitted also for the record.

23 As well as testimony from the Rent  
24 Stabilization Association who has testimony that  
25 will be submitted for the record. From SPONY,

1 testimony for the record from Mr. Christopher  
2 Anthineos; that will be submitted for the record.  
3 Is this all one package? As well as testimony for  
4 the record from the Queens Civic Congress by their  
5 President Patricia Dolan; that will be entered  
6 into the record.  
7

8 At this time, all legislative items  
9 before the Housing and Buildings Committee are  
10 laid aside. That will conclude this hearing.

C E R T I F I C A T E

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

Signature Donna Hintze

Date July 8, 2011