

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ECONOMIC DEVELOPMENT

----- X

October 2, 2014
Start: 01:12 p.m.
Recess: 04:02 p.m.

HELD AT: Committee Room - City Hall

B E F O R E:
DANIEL R. GARODNICK
Chairperson

COUNCIL MEMBERS:

DONOVAN J. RICHARDS
I. DANEEK MILLER
INEZ D. BARRON
JULISSA FERRERAS
KAREN KOSLOWITZ
MARK S. WEPRIN
RUBEN WILLS
VINCENT J. GENTILE

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

[gavel]

CHAIRPERSON GARODNICK: Good afternoon everyone. Welcome to the Economic Development Committee of the New York City Council. Today's date is Thursday, October 2nd. My name is Dan Garodnick and I have the privilege of chairing this committee. I am joined by Council Member Ruben Wills and we expect other members of the committee to be joining us shortly. But we wanted to start this in at least somewhat of a timely fashion. Today we will be taking a closer look at the work of the Economic Development Corporation or EDC and the New York City Industrial Development Agency or IDA and the way that they offer tax incentives and tax exempt financing to private entities. There is a place for such activity obviously. We do want to have tools for the city to promote economic development and to encourage businesses to succeed here. But they can't be gifts. There must be standards. And EDC needs to stay on top of its allocations to ensure a clear benefit to the public. The incentive programs are typically issued under contract between EDC or IDA and a private entity with the expectation that the project will

result in the creation of new jobs, the expansion of affordable housing, the improvement of the quality of the city's neighborhoods, or the refurbishing of sites of cultural or historic significance among other benefits. Unfortunately we have seen some examples where a private company fails to deliver on these goals. By way of example in fiscal year 2009 according to an audit from comptroller John Lou who happens to be here with us today EDC granted 497 million dollars in tax breaks via IDA funds. 318 million went to 334 companies which failed to fulfil their obligation under their contracts. Within that 318 million dollars roughly 16 million was granted to companies that defaulted on their agreements and IDA did not recover the funds. One particularly difficult example occurred in the Bronx at Yankee Stadium. The IDA reached an agreement with the Yankees to expand parking access at Yankee Stadium by using city owned parkland to construct six parking lots and five parking garages intended to create 25 full time and 70 part time parking garage jobs. The agreement was partially funded by a 237 million dollar tax exempt municipal bond agreement issued to the Bronx Parking

Development Company and around 40 million dollars in public funds. An audit by again Comptroller Lou in 2010 found that the IDA feasibility studies for the project relied on attendance capacity for original Yankee Stadium attendance rather than the new Yankee Stadium which seats 20 thousand fewer people. He also concluded that there had been a misjudgment of the competitive pricing rates for parking during the games and did not account for the likely offset need for parking because of the new Metro North train station that opened near Yankee Stadium in 2009. By 2012 the occupancy rate of the parking facilities reached only 43 percent on the days when the Yankees played and just 12 percent the rest of the year. In October 2012 BPDC which is the Bronx Parking Development Company defaulted on the bond obligations. There's been discussion over the possibility of a Major League Soccer Stadium in its place though those conversations appear to have stalled. In addition to the 237 million dollars owned, owed to bond holders EDC has yet to recover its 40 million dollars. In the recent Fresh Direct deal 128 million dollars in public subsidies were offered to

keep Fresh Direct in the Bronx with a commitment to keep 2,000 jobs here in New York and to create another 1,000 jobs. Putting aside the many community issues that have been articulated a core issue here is how do we defend the deal? What is the basis for an allocation of that size and scale? What is our metric? What happens if Fresh Direct were to set up but then decide to keep only a skeletal operation at the end of the day? EDC needs to set specific goals for its incentives, ensure that those goals are mandated in any contract with a private entity, include necessary claw back provisions so that the city can reclaim funds if a project fails to meet its goals and engage in consistent and aggressive oversight. While they are very useful we shouldn't always need to rely on comptroller audits to spot misuse of funds. And so on that note I wanted to again welcome the former comptroller John Lou and his MPA class from Columbia University who have joined us today. John was a very aggressive watchdog over many things including EDC and he was very active in raising concerns about many of the problems that we are going to discuss today. I want to note that we've

1 been joined by Council Member Donovan Richards of
2 Queens. And we're now going to call our first panel
3 which will include Jeffrey Lee who is representing
4 EDC and IDA, Robert LaPalme EDC, and Joe Coletti of
5 EDC. So gentleman welcome and Mr. Lee I know you're
6 going to kick it off so whenever you are ready. Be
7 our guest.

9 JEFFREY LEE: Good afternoon Chairman
10 Garodnick and members of the Committee on Economic
11 Development. My name is Jeffrey Lee and I'm a
12 Senior Vice President of the Strategic Investments
13 Group at EDC. I also serve as the Executive
14 Director of the New York City Industrial
15 Development Agency and Build NYC Resource
16 Corporation, two entities that are administered by
17 EDC pursuant to EDC's contract with New York City.
18 I'm pleased to be here to discuss the IDA and build
19 NYC programs that provide certain discretionary tax
20 incentives to help encourage economic development
21 throughout the five boroughs. And after my remarks
22 I'd be happy to take questions. First I'd like to
23 start by giving you a brief overview of who we are
24 at the IDA and what we do and who we work to help.
25 The IDA is a public benefit corporation formed by

state law in the 1970s. It's administered by EDC employees but it has a separate legal existence, an independent board, and authority independent of EDC. The IDA helps a wide range of small and medium sized industrial businesses. From the family run HVAC systems fabricator in Queens to the 20 person growing mill workshop in the Bronx to the immigrant-owned metal worker company in Brooklyn. The IDA can help companies invest in growth, build skills and capacity, and capture market share. We're helping TV and film prop manufacturers invest in a new facility in Queens. We're helping solar energy systems companies in the Bronx go from 60 to 160 jobs. And we've moved the direction of what we do from big companies in Manhattan to small companies in neighborhoods across the boroughs. And we do this in a rigorous process oriented way that is consistent with our role as a steward of public tax dollars, a role that we take very seriously. Our metrics... this out. Only years prior to 2002 commercial incentive projects, these are the kind that have gone to large financial services companies for example, represented over 11 percent of all IDA projects. This percentage has since

fallen to just little over three percent since that time. 90 percent of our IDA projects that closed this past fiscal year were for projects outside of Manhattan. And 45 percent of IDA projects involve companies with fewer than 50 employees and over one-fifth of our projects are for very small companies that have 20 employees or less. But we're not stopping there. We're looking to find new ways to better help small and medium sized businesses throughout the five boroughs to grow and hire more New Yorkers. To give you feel of the impact of our work I want to share just a few examples of recent projects that we've authorized. Cubit Power which is an MWBE owned father and son team in which we're helping them build their green manufacturing and electrical facility in Staten Island, a project that's projected to create 19 jobs manufacturing dry ice and generating electrical power while cutting CO2 emissions by 100 tons every day relative to standard technologies. Falcon Builder which is an immigrant owned company and a seven person metal working company. The company purchased a 5,000 square foot shop in Red Hook for metal railing and staircase fabrication allowing it to

add seven more jobs and increasing its ability to do contract work for agencies like the MTA, the School Construction Authority, or the Parks Department. AKAs enter, AKS International, a mechanical contractor based in Astoria, they'll be building an additional 18 thousand square feet to allow their employees, all of whom are members of whom are members of Steamfitters Local 638 to keep working on public and private jobs like the New York Public Library and NYU Hospital. The specialist, a high-tech fabrication factory specializing in replica weapons. They were able to purchase a Maspeth facility to allow them to keep manufacturing these replica weapons for movie productions such as 'Noah', 'Boardwalk Empire', 'The Amazing Spiderman 2', and 'Men in Black 3'. So the next time you see Tom Cruise or Will Smith blowing up stuff in the next movie you have the IDA to thank.

[laughter]

JEFFREY LEE: Another one, Bogota LIC which is a local grocery store operator which is renovating a supermarket in Western Queens it will be utilizing Fresh Program incentives. The

nationally acclaimed Fresh Program uses IDA benefits to incentivize the development of supermarkets that have limited, in communities that have limited access to fresh foods. These companies, most of them located in the, in the Bronx, Brooklyn, Queens, and Staten Island face constant pressure from escalating real estate prices and high cost of construction compared to the competitors in other jurisdictions. If a company can demonstrate that it needs IDA incentives in order to expand its factory floor or buy a larger distribution facility. And without these incentives they would have to scale back and not grow their capacity and add jobs. Then we at the IDA want to assist them. We require all companies to demonstrate that IDA benefits are necessary and will provide good returns on investment including creating new jobs. IDA benefits are simply not available to any old company that comes asking. We want to help these, these businesses to expand and grow and so to that end we make our process fairly straight forward. Companies often find out about the IDA through word of mouth or through the local economic development

community. We meet with the company and we get a sense of whether its project meets city policy goals of quality job creation and capital investment. Many proposed projects, over 50 percent of the projects that are pitched to us are denied at this stage. Since just on their face they failed to meet our core policy goals. So assuming the project concept passes muster the company then submits an application. Our economic research and analysis team evaluates the economic aspects of the deal to ensure that the city is getting a healthy return on our investment. We present this project to our independent board of directors and if they approve it the company can move forward on their project. They can buy their new equipment or fit out their new space all at a lower cost than otherwise would be available. So I've given you a brief overview of the types of projects that we support and where we do those projects and what our process is like. Now I'll spend a couple of minutes explaining how the IDA makes a difference for these companies. In other words what is the benefit that they're getting? So to incentivize these companies to make significant capital investments and

1 industrial facilities the IDA can provide three
2 kinds of tax incentives. Real estate tax benefits,
3 sales tax benefits, and mortgage recording tax
4 benefits. I'll go into details about each of them
5 but the big picture is that these benefits were
6 designed to reduce companies' transactional cost
7 and operating cost helping them to move forward on
8 building new industrial facilities, purchasing new
9 equipment, and renovating and upgrading to remain
10 competitive in today's economy. The highest value
11 IDA benefit is the real estate tax benefit. This
12 benefit allows the company after having built a new
13 facility or after making improvements to an
14 existing building to essentially be taxed at
15 today's levels. Without the IDA these building
16 taxes would shoot up dramatically. So these
17 building taxes instead stay where they are today
18 rather than going up. In addition real estate taxes
19 can also be partially reduced depending on the
20 number of employees they maintain on site and
21 whether the project is located within an industrial
22 business zone or IBZ. As you know IBZs exist in
23 communities across the city including in areas like
24 Maspeth, North Brooklyn, and East New York. And
25

they provide services to support and bolster the city's industrial firms. Another tax benefit provided by the IDA is an exemption from sales tax. IDA project companies can make purchases of building materials and non-movable equipment on a sales tax free basis to be used in connection with the project. This benefit exempts not only the city portion of the sales tax but the state portion as well. And the third tax benefit that the IDA can offer is the mortgage recording tax benefit. As you know every mortgage loan in New York City above 500 thousand is subject to a 2.8 percent tax. And the IDA has the ability to exempt or defer that tax allowing industrial and manufacturing companies to obtain financing with fewer transactional costs. And again just like the sales tax benefit there's both a state and a city component to the tax and to the benefit. So as I mentioned these are the three types of benefits that are offered through the IDA. There are other city level insensitive, incentives that are available to New York companies such as Relocation Employment Assistance Program also known as REAP or Commercial Expansion Program, Commercial Revitalization Program. Most of these are

administered by the Department of Finance not by EDC or IDA. For example the industrial commercial abatement program also known as ICAP, this is a program which provides a real estate tax abatement for commercial industrial project this is one of the incentive programs administered by the tarp, Department of Finance. Some energy programs like the energy cost savings program area administered by the Department of Small Business Services. One energy program, the Business Incentive Rate Program is jointly administered by Con Edison and EDC. And through this program Con Edison directly provides an electricity discount to, to eligible businesses in exchange for certain job requirements. So while I can speak generally on some of these incentive programs that are offered at other levels of city government the questions on these might be best addressed to the Department of Finance or Department of Small Business Services or the other relevant administrating agencies. So how does a company go about securing benefits through the IDA? The application process is fairly straight forward for the company but we at the IDA then undertake a comprehensive and thorough due diligence process.

Applicants will submit a basic seven page application as well as other background materials. And our economic research and analysis group helps analyze the economic benefits while our staff vets projects and performs due diligence to assess whether the project is indeed creating quality jobs. For example paying a living wage, providing paid sick leave, and health care benefits. If a company's application passes this analysis the proposals are subject to a public hearing before being presented to our board of directors which generally meets on the second Tuesday of every month. We now webcast these hearings and make the transcripts available on our website. Following board approval and subsequent closing the approved tax benefits are available to the company, subject to the restrictions of the particular agreement. And at this point our role with the project shifts to one of compliance or reporting. Our Compliance Department is devoted full time to monitoring and compliance and when necessary enforcing these agreements. We consistently collect, review, and analyze an extensive list of financial and other supporting data for our projects actively

monitoring over 600 projects at a time. This work involves producing documents required under state and local laws by collecting annual employment and benefits information for disclosure, numerous audits, staff field visits and close coordination with the city's Department of Finance and the state's Department of Taxation and Finance. And I know Chairman Garodnick that there may be several historical IDA deals you might like to address. We look forward to addressing those and, and as well talking about new measures that we've taken to further improve our oversight. The IDA isn't the only incentive program administered by EDC. Besides the IDA another discretionary program administered by EDC is Build NYC Resource Corporation. Build NYC was formed in late 2011 at the direction of the mayor. It was created in order to create a vehicle that gives nonprofit organizations access to tax exempt bond financing. Its administration and its application process is similar to that of the IDA. Build NYC serves non proset [sic] not, sorry Build NYC serves non-profits of various types from large institutions to small community based organizations which provide vital services and create local jobs.

Build NYC is a conduit bond issuer that provides tax exempt and taxable bond financing to eligible projects. And through Build we have issued tax exempt bonds for a wide range of non-profits including household names like the YMCA or high education institutions such as CUNY's Queens College campus as well as Pre-K, primary, and secondary schools such as the Bronx Early Learning Center, or the Trey Whitfield School in East New York. We've also financed eligible public private partnerships, public private infrastructure projects such as Pratt Paper based on Staten Island, the only paper mill in New York City. By financing through Build NYC borrowers benefit from a lower cost of capital and in some cases they can receive a mortgage recording tax benefit. Over the past few years we have taken important steps to improve both the ITA and Build NYC processes and establish guidelines for greater transparency and accessibility. This includes more rigorous job reporting and compliance requirements incorporating public review and comments into our overall approval process, broadcasting of public hearings and board meetings and dissemination of project

information to the public prior to hearings. In fact this past March we announced three new transparency initiatives that are now in effect; the creation of an interactive map of active deals on EDC's website, the transition from audio casting to full video casting over the internet of our board meetings, and transcription of public hearings. In addition we post copies of all our applications on our website and we distribute them at public hearings. We also publish bi-monthly reports showing whether any IDA or Build NYC projects are in default. And every January we publish a report on the status of all active projects and that includes data on job recreation and it will also includes some information on the wages. These reforms are part of a continuous and ongoing review of policies and procedures to make the IDA more open and efficient. In fact good government groups have praised the IDA for a model for increased transparency that should be replicated by other IDAs throughout the state. Still we welcome feedback from the city council and this committee and the public at large on ways that we can more easily share information about the work

1 that we do. The small industrial business of today
2 and tomorrow, the art supply fabricator based in
3 sunset park employing 12 people, the 40 person
4 electrical supply wholesaler moving to the Bronx,
5 these businesses need some, not much, but some help
6 to get over the top and make critical investments
7 that can have enormous catalytic effects on their
8 business and on the city and neighborhood
9 economies. We're looking forward to continuing to
10 help these kinds of businesses while continuing to
11 think strategically about how to best serve these
12 small businesses that are the lynch pin of New York
13 City's industrial economy. Thank you very much and
14 we're happy to take questions.

16 CHAIRPERSON GARODNICK: Thank you very
17 much Mr. Lee. And before we jump into questions I
18 just wanted to not the presence of two more members
19 of the committee, Council Members Karen Koslowitz
20 and Mark Weprin both from Queens. There's obviously
21 a lot of, a lot of interest in economic development
22 among the Queens delegation to the council. We
23 thank them all for their presence here today. Mr.
24 Lee I, I, I thought your testimony was very
25 informative about the work of IDA and we thank you.

Also congratulations on a number of transparency initiatives that have been put in place. I think those are extremely helpful and there are probably many other agencies that could follow that example and do what you are doing. So thank you for that.

And I also will note as you, as you pointed out in your testimony that some of the issues that we're going to talk about today predate this administration, predate some of you guys, and we are trying to get a handle on precisely where and when the city is and should be offering benefits to private enterprise for the purpose of economic development and make sure that we have the right posture in place moving forward. So I just wanted to say that at the outset. Just to start with a couple things in your testimony you, you noted that there were... and you cited a whole bunch of things, entities including the specialist and that was the, you, Mark Weprin hates to miss a good joke and he walked in just as you, you talked about Tom Cruise and Will Smith blowing things up. But the, those entities such as specialist A, AKS International, Cubit Power, Falcon Builder... for each of those you didn't cite specifically what the benefit was that

IDA had offered. Is it, is it fair to conclude that it was one of the tax benefits that you had noted in your testimony because those were the ones that IDA had the direct control over?

JEFFREY LEE: That's correct.

CHAIRPERSON GARODNICK: And because they are not tax exempt entities therefore there were not tax exempt bonds available there under Build NYC?

JEFFREY LEE: Yes absolutely, yeah. That is correct. So for the IDA projects that I mentioned they are receiving one or more of the three types of tax incentives that the IDA provides.

CHAIRPERSON GARODNICK: Also you noted that the commercial incentive was down from 11.3 percent to 3.3 percent. What are we talking about when you say that?

JEFFREY LEE: So I think this goes to the big picture of how economic development and specifically the use of incentives has changed, has changed in the past few years and continues to change under this administration. But what I'm pointed to there is drawing a distinction and, and

1 looking at some of the large commercial deals which
2 generally mean commercial office buildings, large
3 financial services corporations that back in the
4 Julinet [sic] Julianne administration received
5 generous benefits and did a larger proportion of
6 products. And so what I was pointing to in my
7 testimony is the market trend showing that in the
8 past few years we have instead shifted to do more
9 small industrial projects while doing far fewer
10 commercial projects. And as you, I'm sure will be
11 aware under the current administration that will
12 only continue to be the case as we think very
13 carefully about the proper use of incentives.

14 CHAIPERSON GARODNICK: Okay. So somebody
15 listening to your testimony would say okay... well
16 that's somebody, this council member listening to
17 your testimony would say that the various benefits
18 that you described, the waiver of sales tax or
19 mortgage recording tax or real estate tax does not
20 really jive with our thinking of these big numbers
21 that we sometime see the city offering as an
22 incentive for one entity or another. Whether we're
23 thinking about the parking garages or we're
24 thinking about Fresh Directs, we're thinking about
25

any of these other private entities what are, what are we seeing in those situations when we're talking about much bigger dollars and much more direct subsidies?

JEFFREY LEE: Yeah so I, I think first of all part of what, what's in your question goes to the types of projects that we're doing. And, and I want to emphasize that, under the current administration as I mentioned and some of the stats are baring this out that we are indeed focusing on projects that are in the outer boroughs that are smaller. A number of them have fewer than 50 employees and a number of them have fewer than 20 employees. So, so the current administration believes that that is a worthy effort to focus on doing more projects that are small and that are in the communities and our neighborhoods. So, which is to, and, and by contrast the previous administration was let's just say less hesitant to do big projects contrary to our direction that we're taking now.

CHAIRPERSON GARODNICK: But the 39 million dollars that was given and I, I, you can give me clarity as to whether that was a direct

JEFFREY LEE: Let me, let me pass
comments to Bob LaPalme.

CHAIRPERSON GARODNICK: Okay. So because it was not a direct allocation to the, the parking garage it falls into a separate category?

ROBERT LAPALME: It's a city capital project.

CHAIRPERSON GARODNICK: It's a city capital project which happened to have been done in connection with the development of those parking garages but it was not allocated to them?

ROBERT LAPALME: Correct. And it's not leased to them either. The, the city retains sole control of the park land that was built above the parking garage and the retaining wall is obviously a city owned, city capital project.

CHAIRPERSON GARODNICK: Okay. There was also... There were also 237 million dollars in tax exempt bonds that were issued in connection with that...

ROBERT LAPALME: Correct.

CHAIRPERSON GARODNICK: ...proposal or that project. The process for that, can you, can you help us understand how that comes to be?

ROBERT LAPALME: Sure. These are tax exempt bonds that are, that were privately placed with, in this case one qualified institutional investor, a private investor. They are not backed in any way by the city of New York. They don't

involve the city of New York spending a single cent nor are they backed other than with revenues from the project itself by IDA. What there are, it's a special category of tax exempt 501C3 bonds that are available to 501C3 entities. Bronx Parking Development Company LLC is actually a disregarded entity that is a subsidiary in effect of a not-for-profit corporation that sponsored the project.

CHAIRPERSON GARODNICK: Okay so tax exempt bonds therefore authorized by IDA because it was to a not-for-profit of which the Bronx parking garages, garage was a for profit subsidiary? Is it a...

ROBERT LAPALME: Yeah, no the Bronx Parking itself has the benefit of the 501C3 status of the entity that created it. So Bronx parking leases the site from the city of New York. It, it is the entity that is the lessee under the lease with the Parks Department. It is the borrower for purposes of paying back the bonds. The bonds again were sold to one qualified institutional investor. It's a completely private deal. The internal revenue code has provisions in it that provide that when you have a, a tax exempt entity like BPDC that

1 is the borrower and the sponsor of a project that
2 those bonds can be issued on a tax exempt basis
3 which essentially means that those owners of those
4 bonds do not pay federal, state, or local income
5 tax on the interest that is payable to them under
6 the bonds.
7

8 CHAIRPERSON GARODNICK: And the
9 authority for that entity to, to benefit from that
10 is granted by IDA? Is that...

11 ROBERT LAPALME: Well...

12 CHAIRPERSON GARODNICK: ...correct?

13 ROBERT LAPALME: ...the, the IDA
14 authorized the project. The IDA authorizes 501C3
15 bonds and now Build NYC authorizes 501C3 bonds for
16 any number of institutions. They are a qualified
17 institution. They have a 501C3 letter from the IRS
18 so they're eligible to apply and they in fact
19 applied to the IDA for this purpose. And bonds were
20 issued. There was an underwriter involved. There
21 were private feasibility studies done. There was
22 one qualified institutional buyer that evaluated
23 the credit.

24 CHAIRPERSON GARODNICK: Fire of the
25 bonds?

ROBERT LAPALME: Yes there was... [cross-talk]

CHAIRPERSON GARODNICK: Okay. I, I understand. I think now I see. Because when I was thinking about the tools of IDA and saw one of them that was the one for tax exempt bonds for not-for-profits or 501C3s I was not thinking that the Bronx parking garages were a not-for-profit as recognized by the Internal Revenue Code. But what you're telling me is that in fact those parking garages are able to take advantage of this and IDA is able to authorize it because it is 501C3 status?

ROBERT LAPALME: That's correct.

CHAIRPERSON GARODNICK: Okay. So let's talk about... And by the way we've been joined by Council Member Vincent Gentile of Brooklyn so we have a little bit of more geographic balance on our panel now. Let's talk about the standards for the moment. And Mr. Lee you mentioned that there are applications that are issued and that you know any old company will not be able to benefit from the, the tools that you have and that somebody seeking this opportunity would have to submit to IDA and EDC's core policy goals. Help this committee

understand how we measure or articulate those core policy goals and how you proceed in the agency in making a determination that one project is worthy while another project is not.

JEFFREY LEE: Sure sure. So I guess I would like to start by answering that on a higher level and then we can go into some sort of specifics of our process. But again in terms of a higher level I did mention that just on their face there are a huge portion of project proposals that don't even get to an application because they come in and they say I'm thinking of applying to you guys and I build something, I want to develop something and we say that's not something that really meshes with our goal so... We are a discretionary body and we're telling you that that's not a wise use of our resources. So that's just to say that again the administration's policy goals here are, we're looking to support companies that are going to create quality jobs. And we like to see that those companies having a catalytic positive economic impact in the neighborhoods in which they're located by again employing residents, employing local resident. So, so that's a big part

of how we analyze and make these decisions in terms of these companies that want to receive benefits. And that gets boiled down to discreet aspects and questions and due diligence items that are collected and captured through application process. We ask them about their wages. We ask them to back that up. We, we get a range of wages. We collect tax returns. We find out what kind of health care, benefits packages, or other forms of compensation, or retirement plans they may be offering to their employees or job training opportunities. Again we are tremendously interested and invested in, in companies that are making a real effort to create quality jobs. So that's, that, that, that philosophy exists on a high level and it's implemented by the sort of specific piece of due diligence that really act as gate keepers. And if they're not, if they're not able to check those boxes so to speak then that raises questions internally as to whether we would want to do that kind of project.

CHAIRPERSON GARODNICK: So I appreciate what you're saying. And let me just welcome Council Member Daneek Miller also from Queens I would note.

1 The, the point about you want to create quality
2 jobs that are paying an appropriate wage, good. I
3 don't think anybody could disagree with that. But
4 the question of how to measure whether it is of the
5 right quality or you are generating the proper
6 number of jobs...

8 JEFFREY LEE: Mm-hmm.

9 CHAIRPERSON GARODNICK: ...or... That is
10 still an elusive point to me. How, how do you all
11 make those sorts of determinations.

12 JEFFREY LEE: So when we collect project
13 information that's part of an application we, we
14 take that information and give it to our Economic
15 Resources and Analysis Group which essentially
16 performs an economic analysis to look at two
17 different things. And, and essentially we call it a
18 cost benefit analysis. One is what is the cost of
19 the city incentives, what are forgoing in terms of
20 this, this tax revenue? And then on the flip side
21 what is the city gaining in terms of tax revenue,
22 in terms of sort of increased receipts into the,
23 the, the tax base. We're looking to see a healthy
24 positive fiscal impact, a healthy positive return
25 on these projects. And so that's a huge part of the

1 analysis. And, and I apologize for not mentioning
2 before. I did mention that we post all of our
3 application materials on our website. And so you
4 know I welcome you essentially at any time leading
5 up to a board meeting you know within a couple
6 weeks before the board meeting or the public
7 hearing you'll see materials that describe exactly
8 that. They'll present the numbers, here's the cost
9 of the benefits, here are the anticipated economic
10 fiscal positive impacts, and that's a huge part of
11 our decision making process. We want to see
12 companies, we want to see projects that are, are
13 health, show a healthy sort of excess of positive
14 return relative to the cost of benefits. So we
15 really want to see a healthy return there. So I
16 guess I just want to say that that's, that's a
17 metrics based, sort of numbers based analysis and
18 it's one that we share with the public as well.

19
20 CHAIRPERSON GARODNICK: In a moment I'm
21 going to just ask one more question. I have many
22 more but I want to go to several colleagues who,
23 who have questions for you. But let, let me fast
24 forward to the end of that... Does IDA do a, a, a
25 measurement and evaluation at the end and say okay

1 well here's what we anticipated to be the positive
2 impacts at the outset when we you know checked the
3 box and we gave somebody a sales tax or mortgage
4 recording tax exemption or even allowed for the
5 floating of bonds and then at the end say oh well
6 we really missed the mark on that one or wow that
7 far exceeded our expectations? Do you, is that
8 incorporated, is that baked into your process and
9 how so.

11 JEFFREY LEE: So, so two things. One I
12 just want to mention that there are the required
13 reporting, annual reports through local law 62 that
14 track our entire portfolio on a year over year
15 basis. And so they track the, the sort of annual
16 expenditures and the cost of these benefits on a
17 regular basis. That's a publically accessible
18 document. That is again the product of our
19 rigorous, the rigorous work of our Compliance
20 Department in collecting this, in tabulating it, in
21 working with Department of Finance. So that's,
22 that's one effort that we do. Additionally the,
23 there's a New York state law that went into effect.
24 The Public Authorities Accountability Act in which
25 the IDA's required to adopt certain performance

metrics. And so included in those metrics are looking at and, and comparing what our job projections were on current sort of live operating deals compared to... I'm sorry what job numbers are on current deals compared to what they're project to be as well as the other sort of key financial metrics looking at where they are today comparing to what we thought that they would be in the past. So that's something that is required. It's sort of a metric's reporting piece. It's part of our P triple A reporting requirements and we share that with the authorities budget office up in Albany.

CHAIRPERSON GARODNICK: Okay thank you. I'm going to now turn to my colleagues and we'll certainly come back when they're done. But Council Member Wills is first up on the list and Council Member Weprin.

COUNCIL MEMBER WILLS: Thank you Mr. Chair. Good afternoon. I want to apologize to Comptroller Lou, I didn't see you when you first walked in. We thank you for your, you being here today. One of the things I wanted to ask just to get out of the way before the rest of the

questions, the Cubic Power that you mentioned earlier...

JEFFREY LEE: Mm-hmm.

COUNCIL MEMBER WILLS: You said that you're helping to build their green manufacturing electrical facility. Are you helping to build a new facility or is that to expand the facility or a business they already had?

JEFFREY LEE: There's a new facility so they're taking what is partly vacant land, partly dilapidated unutilized industrial property doing some demolition and building a brand new facility there that will be state of the art.

COUNCIL MEMBER WILLS: And have they had this business prior to this? [cross-talk]

JEFFREY LEE: They have done power generating projects in other jurisdictions...

COUNCIL MEMBER WILLS: Okay.

JEFFREY LEE: ...so yes.

COUNCIL MEMBER WILLS: So the 19 jobs would be distinctly created by this particular project?

JEFFREY LEE: Correct.

COUNCIL MEMBER WILLIS: Okay. The CO2 emissions then, that means just to be clear that they will cut down by 100 tons of a different, from comparable to another type of business?

JEFFREY LEE: Correct, exactly. So it's, it's a really sort of novel thing that they're doing. They're not only manufacturing a project but they're also simultaneously capturing some of that what would otherwise be waste energy and then putting it back into the public's power grid. So it's part of that process, they are just cutting down on the number of emissions...

COUNCIL MEMBER WILLIS: Mm-hmm.

JEFFREY LEE: ...that another company that, that had sort of 1990s technology or older technology would be employing.

COUNCIL MEMBER WILLIS: Okay. So the next question I have is when you discussed the IDA incentives in order to expand its factory floor or buy a larger distribution facility when, and you discussed that they faced constant pressure from escalating real estate prices or high cost of construction... If a business did not have the ability to purchase their own space to expand...

Let's say you had a factory and then next door you had another factory the secondary owner would not want to sell but would lease to them and it was necessary for the expansion, would the owner of the second factory receive real estate incentives?

JEFFREY LEE: They would only receive them with the understanding and the clear sort of legal documentation that those benefits would all have to be passed through to the operating company. So let's imagine that you've got industrial company, they lease space next door, through that lease all the real estate tax benefits would pass through to the tenant that's leasing the building not to the owner.

COUNCIL MEMBER WILLS: And how would that, how would that being measured to construction equipment or anything else that they bought through the capital that were capital eligible? Like if they had to buy something that stayed there...

JEFFREY LEE: Mm-hmm.

COUNCIL MEMBER WILLS: ...and then the factory decided to move what would happen to that?

JEFFREY LEE: Right. Well the, the IDA benefits are, are pretty broad. So the important

1 thing that we're looking to is that what they're
2 looking to purchase whether it's building,
3 construction materials, or equipment is this used
4 in connection with the operation of that industrial
5 facility. Is it sort of a welding machine or is it
6 you know something that they need and, and
7 logically makes sense as part of their operation?
8 So I think we just think about it logically what,
9 what is part of their operation as well as fit out
10 of their space.

12 COUNCIL MEMBER WILLS: Right. Okay. My
13 next couple of questions would be about the IDC
14 deal. The metrics that were looked at and have
15 become in question with the economic feasibility
16 studies dealing with the Bronx parking structure,
17 what I wanted to know was taking into view of the
18 online presence that Fresh Direct has were the
19 metrics looked at, performance metrics with this
20 deal looked at with the possibility of, of new
21 competitors that they may have coming online?

22 ROBERT LAPALMA: Well just to, point of
23 clarification the feasibility study for Bronx
24 Parking was done by a private consultant Desmond
25 Consulting. It was not commissioned by the agency.

It's typically something that the underwriter will work together with the potential buyer of the bonds and commission that study so that they can get comfortable that the project is in fact feasible from a financial point of view.

COUNCIL MEMBER WILLS: Mm-hmm.

ROBERT LAPALMA: So that was done in his case. The study itself was attached to the bond offering document that was given to the investor so there was full disclosure on, on the analysis that was done by a, a consultant that has expertise in parking related matters. So as it turns out the feasibility study, the projections contained in the feasibility study were not... out once the project was implemented but that's something that is, is strictly not an agency procurement but it, it's something that's done by the investors in cooperation with the underwriter.

COUNCIL MEMBER WILLS: So in the case of Fresh Direct?

ROBERT LAPALMA: I'm sorry I was just addressing Bronx Parking.

COUNCIL MEMBER WILLS: Oh okay I'm sorry. ...in the case of Fresh Direct my question is

when the deal was structured did we take into account the possibility of future competitors and is there clear delineation of goals for the project, do these goals mandate the fresh, in the, in the Fresh Direct contract what happens if these goals are not met? Are there claw back provisions considering with those?

JEFFREY LEE: So I guess first of all just want to emphasize that, that's, that's a project that was closed under the previous administration but, but I guess you know specific to your, your questions about you know claw back and recapture those are requirements that are built into every IDA agreement, every IDA has recapture, has claw back. And you know as I touched upon our Compliance Department stays on top of our projects, very diligently making sure that they're abiding by the terms of the agreement. If they fail to abide by them and, and then, then there are enforcement mechanisms like claw back for us to, to go and recoup the value of those benefits if they're not doing what they spelled out in the agreement.

COUNCIL MEMBER WILLS: Okay so the explicit provisions in the claw backs that we're talking about that are in this deal?

JEFFREY LEE: They're... sorry what's your question?

COUNCIL MEMBER WILLS: Claw back provisions are explicit to the performance with this deal?

JEFFREY LEE: The, the claw back provisions in IDA deals...

COUNCIL MEMBER WILLS: Talking about just the Fresh Direct deal.

JEFFREY LEE: Right. So, so the Fresh Direct Project, the, is, has the same types of claw back provisions that are in any other IDA project which is that a company has to operate the project as intended, as described to us and to our board. If they're doing that then it's business as usual. If they fail to do that then there, there can be ramifications which are in the claw back provisions of the agreement.

COUNCIL MEMBER WILLS: Thank you Mr. Chair.

CHAIRPERSON GARODNICK: Thank you and...

Council Member Weprin I'm just going to ask for one second because I, I wanted to follow up on, on that point. They have to operate as intended otherwise there are potential opportunities for claw back? You said it's a rather standard provision in the IDA contracts? So what exactly goes into that claw back provision? And give us a sense as to how that would be applicable in the Fresh Direct deal by way of an example.

JEFFREY LEE: Sure. So, and again like I said it's something that is standard. So for example one of the, the, the standard language in terms of claw back is that... Let's imagine that a company is doing a, you know a big distribution facility but in year five we find out that they have shuttered their operations and decided that they're you know no longer doing, they're not operating there. Once we confirm that reality then our claw back enforcement mechanism would kick in and we would say the benefits that you have been, have received you have to repay them. So that's how that would work.

CHAIRPERSON GARODNICK: I'm sorry you said year five is that a, is that a term of... [cross-talk] Is that actually the, a specific provision that's written into these agreements, yeah five, or is that just a hypothetical?

JEFFREY LEE: No, year five is just an example. But to be specific it is standard for agreements so that the, the project must continue to operate as described, as intended for at least ten years. And within that time period if they do not operate as intended then we can exercise our claw back power.

CHAIRPERSON GARODNICK: Has EDC exercised its claw back power? I'm aware of one example but can you give us a sense of how common an experience that is so that we know how... [cross-talk]

JEFFREY LEE: Sure. [cross-talk]

CHAIRPERSON GARODNICK: ...how serious a tool that is for you?

JEFFREY LEE: Yep, absolutely. Just to give you a feel of the sort of recapture scenarios that we've encountered over the past 10, 10 plus years; since 2003 we have clawed back or done

recapture on approximately 115 IDA projects. And through that mechanism we've actually recaptured a little over 96 million dollars' worth of, of benefits. So it's something that happens every year. And like I said our Compliance Department actively monitors these projects over the full life. When we do see that there is a recapture scenario we aggressively pursue and the 96 million dollar figures is evidence to that.

CHAIRPERSON GARODNICK: Okay thank you.

Council Member Weprin.

COUNCIL MEMBER WEPRIN: Thank you Chair Garodnick. I don't, you know some of my questions were already sort of brought up here today and, and discussed. But I want to first preface the, the similar questions with the idea of you know there's always a lot of skepticism, a lot of asceticism about any of the tax benefits that you offer. Now I love the mind that we need to do this and we need to do it what, do it well. One thing that people always see is they see them as giveaways, they see them as corporate welfare. They, they come around and they, they, they feel like you're just giving away money. Now I know that's not true and I, I

1 think it, is it fair to say that you generally give
2 as much benefit as you feel, as you feel you have
3 to give and try not to give a penny more if you
4 can?
5

6 JEFFREY LEE: That, that's a, that's a
7 great question. It, that's absolutely correct. And
8 in fact underlying everything that the IDA does is
9 this concept of an inducement argument. And it's
10 actually baked into the, the law that created the
11 IDA. What the inducement argument concept is is
12 that we need to, we need to be comfortable that
13 without our incentives the project either wouldn't
14 be able to move forward or would have to be scaled
15 back and thus not delivering what would otherwise
16 be the sort of full economic impact to the
17 community and to the city. So, so yes as a sort of
18 correlator [sic] to that you know we, we do look to
19 see that our benefits amounts are appropriate..

20 COUNCIL MEMBER WEPRIN: Mm-hmm.

21 JEFFREY LEE: ...and we do our due
22 diligence to see that the company actually needs
23 it. So that is a big part of our decision making
24 process.
25

COUNCIL MEMBER WEPRIN: Well that's good. And note that's a point I often make with people where I try to explain to them listen it's a bit of a poker game where you don't know exactly what they need in order to, to stay in business, to increase their business, to come to New York City, whatever the benefit is we're trying to get to keep them in New York City. So you don't know exactly what's the, what their, what hand they have but you're sort of guessing and they're playing a game with you. And probably on occasion you give more than you probably needed to but not intentionally as much as you didn't know exactly what their hand was. Is that fair to say?

JEFFREY LEE: Well I, I would like to point out that, and without going too far into the level of detail of what we collect but like I said you know we collect tax returns, we look at audited financials and for, for applicant companies. And the point of all that is to understand how healthy from a financial perspective is this company? Do they have, are they sufficiently capitalized? How much in debt service can they, can they cover? In other words what's the delta for us to provide that

1 will just be enough to get them to undertake the,
2 the project? Now, now granted you know there may be
3 some situations that where, that might be, that
4 amount might be little higher or lower than, than,
5 than it you know precisely is but, but I think it's
6 safe to say that we are doing and asking the right
7 hard questions and performing the right kind of
8 analysis to understand what is nature of what they
9 need. And really if they need it at all.

11 COUNCIL MEMBER WEPRIN: Mm-hmm.

12 JEFFREY LEE: So we ask those questions
13 and, and that's really what informs our decision to
14 move forward or not move forward.

15 COUNCIL MEMBER WEPRIN: Right and I, and
16 I think that's right and I think these are
17 necessary very often. As a matter of fact I've
18 argued the fact that you know, and I'm, I'm for
19 increasing living wage on companies but people like
20 oh well they gave away all this money, you've
21 accepted this benefit, you should pay living wage.
22 There is a problem in my mind that you start paying
23 more money it's going to cost more money to do
24 business, we're going to have to give more of a tax
25

incentive to certain businesses because of that. Do you think that's true?

JEFFREY LEE: Well I guess what you're asking is, is... let me make sure I understand your question. I guess sort of economic impact... [cross-talk] of living wage on, on sort of the impacting the relative necessity of incentives?

COUNCIL MEMBER WEPRIN: Yeah.

JEFFREY LEE: Well you know I think that... I think it, it goes to a philosophy question.

COUNCIL MEMBER WEPRIN: I'm not, I'm not asking discuss right or wrong, I really am not. I...

JEFFREY LEE: Mm-hmm.

COUNCIL MEMBER WEPRIN: ...I'm all for it.

JEFFREY LEE: right right. Well I, you know so maybe I could tell you that, that...

COUNCIL MEMBER WEPRIN: I mean is that logical, a logical assumption?

JEFFREY LEE: Yeah. So...

COUNCIL MEMBER WEPRIN: ...get you in trouble with anybody upstairs but... I'm just saying it's a logical assumption that costs go up the amount of incentive we might have to give a company if indeed we're working you know remember the, the

premise was that we're, we're playing here hypothetically we're giving exactly what they need to get in order to do this, and keep these jobs here. If we increase how much they have to spend to keep these jobs here they might need a little more incentive.

JEFFREY LEE: Mm-hmm.

COUNCIL MEMBER WEPRIN: That's not my major point I'm just saying you know it is an argument. I'm trying to help you with saying you know these are benefits that are necessary. I don't believe you guys purposely give away more than you have to. But here's the problem, and this is, and it's come up with the other questions, it's the credibility you know. And you know we, we give incentives to what, create a certain amount of jobs. We give incentive in order to keep a business from going to New Jersey and they go to the Bronx instead of Queens. We give incentives in order to build a new stadium and to keep a, a baseball team in New York even though they may never have left. Whatever the reason you know people are very cynical you know. And Chair Garodnick and Chair, and Council Member wills talked about you know

delineating the goals, like this is what we want, these are the jobs we want created. And then if you don't meet those goals we need the public and us and, and all of, and for your sake too I mean really I know you laid out here what you do whether it's claw back provisions for, we need to like make that clearer to the public and to the advocates and everybody else you know this is what happens if they don't meet it and this is what we can do to, to make sure they meet whatever those goals are. I mean is there discussions about trying to come up with new ways? Because you talked about the claw back provisions and you do due diligence but it's not something that's used often it sounds like. And it does sound to me like while these provisions are there they're not used that often and we give the money, they're staying, yay we had a party, but you don't necessarily follow-up to make sure they make good on their agreement. And I just feel for your sake, for our sake, and for the public's sake that's the assurance that we need.

JEFFREY LEE: So, so I guess... respond in two ways. One is that when we do encounter a situation where the companies fail to perform in

1 their agreement and claw back and recapture is
2 triggered this is something we take very seriously.
3 And, and our, and our numbers back that up. So I, I
4 guess I just want to go on the record of saying
5 we're here to see that they're carrying out their,
6 their end of their bargain, they're doing their
7 project. If they don't do it we go after them and
8 we get those benefits back. And those, that money
9 goes back into city and government coffers. So, so
10 we do take action there and it happens a lot. And
11 secondly but, and this is I think the more
12 important theme and, and issue which is that this
13 administration like I said does... think about what
14 is the smartest use of incentives and how can we
15 continue to improve our process. And so, so by all
16 means you know I think we're always happy to have a
17 dialogue and receive input on ways to not just
18 increase transparency but just think about you know
19 ways that we can do better at what we're doing, so
20 by all means...

22 COUNCIL MEMBER WEPRIN: I would just...
23 want to add something?

24 JOE COLETTI: Sorry I just, yeah I just
25 wanted to add one thing. I'll just have Joe Coletti

EDC, just add one thing... it, it, you know I think he talked a little bit about the trend especially in recent years of who ID, IDA's been serving and trying to focus on and think that will only get stronger under this administration. There's also you know in, in the transparency area like we've definitely tried to find additional ways to be more transparent. And you know there's always more you can do and I think he's alluded to it. We're certainly welcome to working with the Chair and others to continue that process and find other ways. Because some of this stuff is also complex and not always easy to explain or to show, or if you find the documents easy. So that's another thing where we can certainly work together to find more that we can do together. But the other thing I want to just raise so that the committee understands is you know we talk about over 600 projects, you know many of them IDA that are tracked. ...keep in mind is some of these projects are 20 years old or two three administrations ago. And so what happens is sometimes one of them may, may have been done a certain way where recapture was done differently 20 years ago.

COUNCIL MEMBER WEPRIN: Mm-hmm.

JOE COLETTIE: But it's being scrutinized in the modern time. And so that also puts I think you know Jeff and IDA in a difficult situation because we're subject to whatever was in that agreement at that time whereas we've learned a lot since then. And what we do now is certainly much more aggressive and, you know and I think much better and we will continue to work to do that.

COUNCIL MEMBER WEPRIN: Great and... that's a very good point. And but you know my only recommendation is as we move forward with tax benefits, whatever, is to lay out you know this is what we expect to get. And then you mentioned you have annual reports. Maybe... semi-annual reports especially on big projects that people know about and hear about to give them a more up to date one. Like, a six month update, a three month, a six month, whatever the first year a few times a year and then after that go back to one every year just so the public can feel some sort of confidence that we're getting what we bargained for. Thank you.

CHAIRPERSON GARODNICK: Thank you Council Member Weprin. And I, I certainly share

those, those views. And whether we've, we've made the transparency progress as described before or not if the public does not have an appreciation or an understanding for or buy in to how we're spending our public funds then we have at least failed at some level. So I think that, those points are, are right. And before we go to Council Member Richards I just wanted to probe a little bit more on the subject of that Bronx parking garage because you know as I sit here thinking about my understanding of not-for-profit law and charitable purposes and things like that parking garages affiliated with Yankee Stadium would not have been among them. This may be an IRS question but if that is being used as the tool for IDA to allow for the issuance of tax exempt bonds more generally I think we need to discuss it. Because Mr. Lee you talked about the Build, Build NYC.

JEFFREY LEE: Right.

CHAIRPERSON GARODNICK: The Build NYC Program as the tool to do that for not-for-profit organizations. What would surprise us if we were to learn that IDA was issuing or allowing the issuance of tax exempt bonds for a 501C3 which might not

look or feel like a charitable purpose, are there things that you know of as you sit here today that you believe that this committee should be aware of?

JEFFREY LEE: No I'm not. I think it's just maybe worth taking a step back and, and pointing out that as you mentioned this is tax code driven and so you know no one in this city decides whether entity is 501C3 tax exempt or not. But, but stepping back our bond program can offer tax exempt bond financing for classes of projects that are defined in the federal tax code. And so one of those classes are 501C3 bond projects. I, you know most of those, and I think I mentioned some of them in my testimony they're, you know they are places like the YMCA, they're places like the Bronx Early Learning Center. There's the Trey Whitfield School in East New York. And then you have again as permitted and defined in the federal tax code you have places like Pratt Paper which is a privately owned facility and, and it is receiving tax exempt bond financing not because it's 501C3 but just because the tax code creates different classes, projects that are able to receive tax exempt bond financing. So I just want to point out it's bond

financing on a tax exempt basis, has, has a sort of broad applicability and that's all spelled out in the tax code.

CHAIRPERSON GARODNICK: ...my only response to that is, with the Ys, with the schools, that's intuitive at least to me. And the fact that we can in some circumstances here does not mean that we should. And on the Bronx parking issue obviously that was, and perhaps continues to be a mess so I thought I would give you a chance to talk about that a little bit as to how the current IDA and EDC has plans to get that not-for-profit corporation and the city out of the mess that it is in and what is currently on the table and being discussed.

JEFFREY LEE: Well I do want to mention the idea of what's occurring on table I think again goes to, goes to what we want to see happen and the concept projects that we want to see happen. So again this administration has a very different vision for how economic development as implemented by Build NYC, as implemented by IDA how that should, what that should look like and how that should be carried out. So we want to, we want to

1 think smarter about the kinds of projects that we
2 do. So I think that's just sort of the message I'd
3 like to, you know in, in response to what are we
4 doing now. We want to see projects that the
5 community will support that will benefit our city
6 economy. And, and so, so that's the kind of... and
7 I've alluded to some, you know some of the other
8 good quality jobs in the community positive effects
9 as well. We are looking for those kinds of
10 projects. So in, in response to your question of
11 how this informs what projects are coming down the
12 pipe we want to think in an intelligent strategic
13 way going forward.

14
15 CHAIRPERSON GARODNICK: Did you want to
16 add something?

17 JOE COLETTI: No just, I just, you know
18 just to, just to supplement to Jeff and, and sort
19 of to your point you know just because we can
20 doesn't mean we should. And I think we recognize
21 that, I think this administration especially
22 recognizes that and as we've said earlier you know
23 how we manage IDA is, you know is going to be
24 consistent with the economic priorities and goals
25 of the administration. And you know that is the

lens with which we view this and the lens with which we will continue to view it as we move forward through the administration.

CHAIRPERSON GARODNICK: I, I appreciate that and, and I also appreciate the philosophy and the goals and what you hope to achieve but I wanted to just push a little bit on the specifics as to what actually is happening with that garage problem. My understanding is there were RFPs issued. I, I don't know if there's RFPs that are currently, that are currently on your desk, what is the status of the conversation... And I would also ask is it part of any consideration of this administration that the public dollars that were committed there capital or not be repaid to the city as part of whatever resolution is contemplated.

ROBERT LAPALME: Again to address the issue of public funding there was approximately 41 million dollars that was funded but not to BPDC for the purposes of operating garages. It was funded for parks and for a retaining wall. So we have no agreement with BPDC and nor should we expect an agreement with BPDC to repay those dollars, they

1 don't have any interest in those particular
2 improvements. The parkland is, is managed by Parks
3 and the retaining wall is, is, is city owned and
4 it's not part of the lease with BPDC. So there's no
5 obligation on BPDC to repay that money and nor
6 should there be.
7

8 CHAIRPERSON GARODNICK: It's not even a
9 legal question... [cross-talk]

10 ROBERT LAPALME: Right.

11 CHAIRPERSON GARODNICK: ...that I'm
12 asking.

13 ROBERT LAPALME: Right.

14 CHAIRPERSON GARODNICK: I'm asking real
15 more of a question of if the city is going to
16 negotiate something which will bail out the folks
17 who are, the debtors in this case, I guess that is
18 BPC will it also include the, or should it include,
19 not as a legal matter, but perhaps as a public
20 policy matter, a repayment to the city of funds to
21 repair retaining walls which the city might never
22 have done but for this commercial enterprise.

23 ROBERT LAPALME: Just to correct one
24 thing. The city has no intention of bailing out the
25 bond holders. As with all of the bond deals that we

do we're, we're a conduit issuer. The, the credit risk is entirely with the entities that make the, the credit decision to buy the bonds in the first place. In this particular case there are institutional bond holders that went into the secondary market and, and have bought BPDC bonds at a discount. There is no plan and it, it's been discussed at length, there's no plan for the city to step in and bail out bond holders here.

CHAIRPERSON GARODNICK: Okay so then the, the use of the term bailout is... and I appreciate, I'm, I'm a lawyer too. So you're, you're hanging on the words that I'm saying and that's fair. Really what I'm asking is any newly negotiated deal which would have the effect of allowing BPC to repay the debt that it owes, negotiated by, with, or in conjunction with the city of New York. Should we anticipate that this would potentially be in the mix?

ROBERT LAPALME: I'm, I'm not sure, what, what would you anticipate is in the mix?

CHAIRPERSON GARODNICK: Repayment of funds that the city has allocated to enable a

commercial enterprise that it might otherwise might have done.

ROBERT LAPALME: Again I, I... [cross-talk]

CHAIRPERSON GARODNICK: And monies that by the way could be respent [sic] to more parkland in the Bronx.

ROBERT LAPALME: again I don't know how I can be clearer on this point. But the funds that were expended by the city were for parkland that is not leased to BPDC and for a retaining wall which is not leased to BPDC. It was part of the overall project that has to do with the construction of Yankee Stadium and the replacement of parkland that was displaced by the new stadium. One of the places to put parkland was on top of one of the new garages. So they don't lease that area above the, the roof of the garage that's retained by the city parks department. And therefore there's no, there's nothing in our documentation which would ever trigger a recapture of benefits that were not realized by Bronx Parking Development Company...

CHAIRPERSON GARODNICK: Okay well then let's just go to the substance. What is under consideration presently for that site?

ROBERT LAPALME: Currently there is a forbearance agreement that was negotiated by BPDC and its bond holders. That is to allow a period of time until the end of 2015 to see if additional revenues can be generated through various means including operational improvements with the operation of the garages. There, there was also, obviously in the press there's some discussion of MLS, Major League Soccer. I'm not privy to the details of those negotiations but the bond holders were aware of that possibility and so they wanted to let it play out. Sometime in 2015 I think negotiations will resume and the bond holders will consider various proposals to restructure the bonds in a way that makes sense. It's a negotiation that involves really a direct negotiation between the bond holders and their representatives and BPDC. The city and EDC of course are, are available to help in whatever way we can but the city and EDC and IDA are clear that we bear no responsibility for repayment of the debt.

CHAIRPERSON GARODNICK: No responsibility but surely not a neutral party here.

ROBERT LAPALME: No it's a, you know the, the project is on city owned land. We have a long term interest in making sure that, that the project is financially viable and so we're, you know we've been involved in discussions with and will continue to be involved.

CHAIRPERSON GARODNICK: Good I, I would expect that and I, I recognize you're giving me a technical answer to the question that in reality that the negotiation is between the debtors and the creditors in that situation that does not include the city in either case but it is on city land as you pointed out. So we would hope and expect that IDA and EDC and this council and the local representatives and everybody else be part of the conversation as to what is the right solution there. With that I'm going to turn over to Council Member Richards to be followed by Council Member Miller.

COUNCIL MEMBER RICHARDS: Good afternoon. Thank you for being here and testifying. I'm going to take a slightly different angle today

1 COMMITTEE ON ECONOMIC DEVELOPMENT 65
2 in my questions. I want to raise the question of
3 local hiring when we're giving these incentives
4 out. So I know we spoke of several projects
5 including the solar project and what a green
6 manufacturing project in Staten Island. How do you
7 guys account for the jobs at these particular
8 places when we're giving these incentives out and
9 how you tracking to ensure that while we give
10 incentives that local people are being hired in
11 those particular communities?

12 JEFFREY LEE: Sure. So I think it's...
13 here to talk about oh the EDC Hire NYC Program
14 which is a workforce development program in
15 conjunction with other city agencies. It's been in
16 place on many high profile projects. It's been very
17 effective at tying in, tapping into the, the sort
18 of citywide network of workforce providers and
19 workforce service entities both government and non-
20 profit. And, and resulting in targeted hiring you
21 know on certain projects. So, so Hire NYC has been
22 a very successful on certain projects and that's
23 certainly something that we hope to build off of
24 and hope to see that program in more use so that
25

more job opportunities are, are going to local residents.

COUNCIL MEMBER RICHARDS: So, so with the 19 jobs coming into Staten Island how many of those are, are slated to engage or hire local jobs or, or do you guys set a benchmark or... when, when you're giving these incentives to developers and other people?

JEFFREY LEE: So for that specific project there is no sort of bench mark in terms of where those jobs will come from and, and we expect that many of these jobs just by virtue of, of sort of commuting and local workforce issues they will come for the local community. For that project we don't have a, a sort of local hiring component. But I think the bigger picture here is that through Hire NYC again I think you'll see that an increasing number of IDA projects are going to be making use of Hire NYC in the ramp up when they, for example for this project in a, in the case of a company that is starting up and is potentially building a new facility or moving to a new location and therefore needs hire a bunch of workers. We will be seeing a more concerted push to have Hire

1
2 NYC our workforce program cover those kinds of job
3 opportunities.

4 COUNCIL MEMBER RICHARDS: So it's Hire
5 NYC, that's a new program or how long has it, this
6 program been in existence?

7 JOE COLETTI: Joe Coletti from EDC so
8 hire NY, hire NYC was something that actually
9 Council Member Brad Lander was one of the
10 originators of the idea. It's something that, I
11 don't know how many years it's been around for now,
12 maybe five or six years and I think in the last,
13 last couple of years and you know under this
14 administration I think the commitment is, is much
15 stronger and I don't have to tell you that it's
16 going to be a big priority under Mayor de Blasio.
17 The, the program has been initially used on a lot
18 of development projects. And so Hire NYC is for
19 permanent jobs. So a lot of these projects that it
20 was initially, initially being put into are, are
21 just starting to come online. So a lot of these
22 efforts are just going to start. Places like Coney
23 Island are places where it has been successfully
24 implemented and we see a lot of local hiring. But
25 moving past that I think that, you know in, in the

IDA you know right now we, we connect anybody that goes through, to Hire NYC resources as well as other SBS resources and you know it's something that we will be looking to do more especially under this administration. You know other example of a Hire NYC success I think is forthcoming. I think we have to see how it plays out on some larger projects now that they're actually done and we're entering that permanent hire phase. But in addition to this you know as we talk about the trend to, to trying to serve and making sure that we're serving more of these smaller industrial companies and not-for-profits you know one of, you know one of the reasons that it's so important is that a lot of these companies also hire people from the neighborhood already. A lot of people you know walk to work at some of these smaller industrial companies. And so they're exactly the type of clientele that fosters that naturally so what, what, what we can do and what we can continue to do to build upon that will hopefully just help and I think this administration just made it clearly a major priority for, for us.

COUNCIL MEMBER RICHARDS: So I, I didn't get the answer that I was looking for but I would hope that if we're giving incentives to companies that we're holding them accountable with some sort of percentage you know of, of local hiring counts. And you know if we're going to give out taxpayer dollars or bonds or whatever it is from this city local people must be hired. Not if ands or buts. And I know the mayor has a, a, another ambitious plan which I'm, I'm supportive of to pump in a billion dollars you know towards green jobs. And I would hope that you know as we look to invest this amount of money over the next ten years that local hiring is at the center and training at that for people. So, so can these, can these particular incentives go towards training people? Because a lot of times for instance I'm sure that we'll, we'll run into the same issue with this company. People in the local communities may not have been trained in these particular industries. So that's something EDC would, would look into doing?

JOE COLETTI: Well and I... this one so...

[cross-talk]

COUNCIL MEMBER RICHARDS: In New York City Hire or whatever. Or maybe that can be a component. But I'm, I, I hear what you're saying you work with workforce but so far and I don't want to speak...

JOE COLETTI: Mm-hmm.

COUNCIL MEMBER RICHARDS: ...against this administration because you're new but in the past we all know that whenever incentives were given out there's very little return in the local communities.

JOE COLETTI: I guess two things. One the, the types of incentives that flow through the IDA and then other incentives that may be specific to workforce development and training. So you know the IDA incentives are for capital investment for the small and medium size industrial businesses to you know to move forward on, on catalytic projects. But at the same time and you know without being... you know obviously we are here from EDC and not from... NC but the Department of Small Business Services really is the city... to look to in terms of programs that incentivize and provide real financial benefits to companies for training and

workforce development. So there are real incentives that are out there and, you know we certainly encourage companies to take advantage of them because we think that, that each of these projects presents a real opportunity to as you said to, to create local jobs and, and build skills at the same time.

COUNCIL MEMBER RICHARDS: And you guys are tracking this is my, is my, is my question. How much are you holding these companies accountable?

JOE COLETTI: So just to be clear... so if, if a company or projects that are participating in Hire NYC there are goals attached to that and there is tracking attached to that. So if they're not participating in that it's obviously a slightly different situation. And some of the things that Jeff has talked about are a little bit different than, than are related to Hire NYC. But I just wanted to be clear that there are hard goals when Hire NYC, when a company is participating in a Hire NYC program and that's you know a program that we obviously want to see more of and this administration wants to see more of as we do more projects.

COUNCIL MEMBER RICHARDS: Mr. Chairman

if I can respectfully request that the committee look for information from these particular individuals on the local hiring numbers that go with these jobs. And if I can just raise two, two last questions. I'm sorry I'm taking up a little bit of time. I know you brought up the energy savings program which you're working with on I, I believe. How are local non-profits being contacted or engaged with to, to know that this program exists? So I, what I, the real question is how is outreach being done to promote this particular program?

JEFFREY LEE: Sure. I believe you're referring to the Business Incentive Rate Program through, through Con Edison. And is your question what are some of the local non-profit organizations to... do they know about the program? I guess actually if... the question and Bob... know the answer is whether this is... non-profits... So my understanding is that the Business Incentive Rate Program is not applicable to non-profit organizations.

COUNCIL MEMBER RICHARDS: I didn't mean, I mean businesses. I apologize for not, for saying non-profits, businesses.

JEFFREY LEE: Mm-hmm. Sure. So when we talk to companies we, within the strategic investments group of EDC you know we have a good understanding of, of a wide variety of incentives even ones that aren't necessarily under our, our control. But, but in the case of Business Incentive Rate it is a tool that we, again sort of thinking carefully and strategically just as we do any other incentive it is one that we have at our disposal and so when we are out there talking to companies it is a part of the dialogue.

COUNCIL MEMBER RICHARDS: Okay I would hope that you guys are doing outreach like in Southern Queens, in the Rockaways on this particular program...

JEFFREY LEE: One thing, I mean one thing I do want to add is you know I think we recognize that the IDA exists in an interesting space that, you know the general public doesn't always know about. And you know so another way that I think we need to work together with the council

1 is making sure that this type of information is
2 sitting in all of your offices, is available
3 because you have the most interaction with these
4 constituents. You know we do our best to, to get
5 around and to make sure the word is out and to
6 produce materials to make sure people know that
7 these incentives are available but you guys are the
8 ones that are really on the ground and have more
9 direct contact on the daily basis and so we really
10 need to work together to I think you know
11 continually increase awareness of these programs?

12 COUNCIL MEMBER RICHARDS: So if I can
13 recommend that we do outreach days, we like to
14 share work. [cross-talk]

15 JEFFREY LEE: You invite us, we'll be
16 there.

17 COUNCIL MEMBER RICHARDS: Alrighty
18 [sic], great. And then the last question is, so I
19 know you mentioned the Fresh Initiative. And I'm
20 very grateful, thank you guys. I think we finally
21 have some movement on a Fresh site in the Rockaways
22 finally so I'm very grateful to you guys on that.
23 And I just wanted to know... So the, the... So through
24 the Fresh Initiative and I know the mayor made his
25

living wage announcement, the other day, the executive order through this incentive these particular businesses will have to pay a living wage...

JEFFREY LEE: Are you talking about how Fresh Program projects...

COUNCIL MEMBER RICHARDS: Yeah. So, so for instance I know that they're going to receive this incentive and we're going to build a great supermarket as their requirement for the supermarket. It's basically paid at 13 dollars an hour.

JEFFREY LEE: So Fresh Program projects are exempt from living wage and exempt under the executive order as well.

COUNCIL MEMBER RICHARDS: Really? Okay. That's something we should look at Mr. Chairman. Thank you.

CHAIRPERSON GARODNICK: Thank you Council Member Richards. Now Council Member Miller. And I'd like to note that we've been joined by Council Member Inez Barron, Brooklyn, welcome.

COUNCIL MEMBER MILLER: Okay. Thank you Chair Garodnick. Thank you for your leadership on

1 this impravinous [sic] important hearing and
2 welcome to the panel. I really want to just say
3 that I too was excited about the administration's
4 goals of equitably advancing economic development
5 throughout the city. But I was a little
6 disenchanted by some of those last answers that I
7 heard that quite frankly that, that almost sounds
8 like business as usual. So with that being said a
9 lot we've heard about what's being done now in the
10 current administration but we know that these, a
11 lot of the stuff that we're evaluating now are
12 programs that were put in place from, as you
13 mentioned, from past administrations. What have we
14 done to affect impact oversight and enforcement on
15 those projects and programs that currently exist?
16 What changes have been made in terms of policy with
17 this administration because the numbers preceding
18 this administration have been pretty dismal in
19 terms of being able to recruit and/or just
20 oversight to make sure, ensure that, that these
21 businesses are meeting their contractual
22 obligations?

24 JEFFREY LEE: So and I, I touched a
25 little bit upon our Compliance Department role and

I, I also mentioned that we do have some sort of annual metric where we look at how, how our compliance role is performing in terms of the number of site visits that go out to, in terms of the percentage of projects that are in default or in good standing. And those are just sort of... they point to the fact that our Compliance Department as I mentioned is, is active on the project once its closed and these projects can go out over a couple of decades. Our compliance team continues to monitor them, continues to make sure that they're adhering to the letter of the agreement and delivering exactly what they're supposed to deliver and do onto their agreement whether it's maintain the manufacturing facility, maintain the distribution facility, and keep the operations you know going. And in that sense really delivering a benefit to, to the community and to the city. So we continue to monitor regularly, rigorously, and as I mentioned we have reports, we just within the past year started publishing on a bi-monthly basis the enforcement, enforcement action report which details what IDA projects or Build NYC projects are in default. And we do that just as a transparency

measure to make sure that the, the public can see you know what, what issues have come up. And we also spell out what we're doing about them in that report.

COUNCIL MEMBER MILLER: Wow that, that was next question. So I'm glad you answered that back... but when, when evaluating whether or not a business is going to make its way into the program and receive these subsidies of some form do we weigh the, the, the impact on communities aside from the economic impacts on communities environment or another such impacts in, in going in when... and, and obviously taking over land that could be used for other things and/or whether or not the projects are going to have some unintended consequences health or whatever... you know obviously when we start to deal with industry...

JEFFREY LEE: So I guess I'd like to address that in a couple of ways. One is that we've, our projects have to comply with the backdrop of, of other laws that are out there. And whether it's environmental laws, clean air laws, zoning, not to mention the, the state and environmental review law that, that we are all

1 subject to which is... These laws provide a backdrop
2 and, and ultimately requirements and potential
3 enforcement to make sure that what they're doing is
4 legal, does not have a, a sort of adverse
5 environmental affect, community affect, sort of
6 pollutive [sic] affect. And that is built into our
7 process and we are mandated to do that through the
8 State Environmental Quality Review Act.
9

10 COUNCIL MEMBER MILLER: So... and just
11 bear with me a moment. So, so, and say for instance
12 in my district we, we hold 27 percent of the
13 garbage in, in all of New York City alright. And
14 legally it's okay but it's just not right, right?
15 So what are the unintended consequences, do, are we
16 looking at the fact that we may be supporting a
17 business that may be legally within, fit within the
18 criteria but you know is, is just not good for
19 business in the community there? And so ultimately
20 what I'm saying is what type of community
21 involvement exists in the process in determining
22 whether or not these people, these businesses come
23 into the, is it the community board, zoning, local
24 elected, local... you know how is that done, what
25

kind of input aside from your organizations are involved?

JEFFREY LEE: Well it's important to keep in mind here that for the, in the overwhelming majority of cases we're not talking about city owned properties. This is privately owned land here. And so as such it, it, the private land holder and the person who's buying it, as long as it complies with zoning and again the backdrop of existing laws like you know environmental, if it's as of right and permitted in other words they're permitted to do that. So I just want to point that out that if it's privately owned land there are those, those protections in place by law but you, essentially have a transaction that's between two private individuals, one privately owned land being sold to, to somebody else.

COUNCIL MEMBER MILLER: Okay. So I, I don't want to belabor that but these are city dollars that we're talking about, often dollars or incentives that, that really make that happen so... I would think that if tax dollars are involved that we would have mo0re say so and that would certainly

be something that I would employ this committee to
move forward and... [cross-talk]

JEFFREY LEE: And just, just to, just to
build on something... [cross-talk]

COUNCIL MEMBER MILLER: I'm talking.

JEFFREY LEE: Sorry.

COUNCIL MEMBER MILLER: Okay so I, I
would, I would really implore that we look forward
into how we spend... I mean that's what this is
about. And at the end of the day we want to know
whether or not that we're getting the bang for the
buck that in fact that we're impacting communities
in the way that we set out to do so by providing
these incentives. And if that's not the case then
we need to reevaluate the policy and I think that's
what we're doing here today. And so I'm, I'm just
wondering and, and I'm, I'm going to leave it
there. And, and I think that's plenty to think
about. But I do have a question and, and as we
start talking about local hiring and providing jobs
and, and impact on communities and it was a
question of living wages and, and, and so my
question is when we evaluate the value of these
businesses on communities as well as the city

overall but the communities that they exist in and job creation. Do you think that jobs that don't pay living wages have real value to those communities?

JEFFREY LEE: Well one thing I want to point out is that the IDA, the sort of, the demographic of the businesses that the IDA serves, you've got, you've got manufactures, you've got industrial companies. That picks up a huge, huge portion of what we do. By in large those industrial companies are subject to living wage. And, and overwhelmingly as well the manufacturers are paying a, a salary and providing healthcare benefits that in the area are, are as well way above the living wage levels. So, so I think you'll see that on the overwhelming portfolio of ongoing new IDA projects that we're doing, either they'll be subject to the living wage law and therefore if they want benefits have to comply or they'll be manufacturers which by definition they, people with skills have to get paid more and they'll be getting paid by receiving benefits above the living wage. And that's, and that's not just something that I'm saying speculatively. We do diligence on that before they get in the door to make sure that that's the case.

COUNCIL MEMBER MILLER: And, and I'm, that I am really glad to hear. And I'm certainly... getting somewhere where we can find this information as well right? You have... this information... was also on the website or you can get back to the committee... [cross-talk]

JEFFREY LEE: We can, we can get back to you.

COUNCIL MEMBER MILLER: Okay thank you so much. Appreciate you guys coming out... thank you.

CHAIRPERSON GARODNICK: Thank you Council Member Miller. Let me jump in with a couple of questions here. I wanted to talk a little bit more about Fresh Direct. A couple of questions off the bat. My information is that there's an overall incentive package of 128 million dollars including 90 million dollars from EDC and IDA. Can you, now that we have a common understanding of what sorts of incentives exist and how they are offered can you put that into the context that we have discussed?

JEFFREY LEE: Sure. So that was a project where what, what they agreed to do and have agreed to do is to build an industrial facility,

you know distribution facility. And so specifically I mentioned the three types of IDA benefits. They're, they're in play here as well which are real estate tax benefits, sales tax benefits and mortgage recording tax benefits the, to the, to the tune of the amount that you mentioned. So those benefits are indeed in effect here... [cross-talk]

CHARIPERSON GARODNICK: I'm sorry is it the 90 or the, the 128?

JEFFREY LEE: I'm not sure whether, so the 128 is not, that does not represent the, the amount here.

CHAIRPERSON GARODNICK: What, what number do you recognize, tell me what you have there as to...

JEFFREY LEE: Yeah... so bear with me one second here. So you've got, you've got a couple of things here. You have IDA benefits and that represents in the aggregate a little over 82 million dollars. And then you additionally have an EDC benefit which is an asset purchase of a little over 10 million dollars getting you to about 93 million. And I want to just also keep, you know keep in the back of your mind that... and this is

1 something that I think is always relevant when
2 talking about the real estate tax benefits through
3 the IDA which is that companies doing these kinds
4 of projects are always eligible for ICAP, the
5 Industrial Commercial Abatement Program through the
6 Department of Finance. And that real estate tax
7 abatement often exceeds more than half of what our
8 real estate tax benefit would be, so which is to
9 say that a huge part of the, in this case you know
10 74 million in real estate tax benefits, a huge
11 portion of that is as of right. So if the IDA went
12 away and this company instead decided to apply to
13 Department of Finance for real estate tax benefits
14 a huge portion of that would be, would be given
15 just by virtue of them being eligible and filling
16 out the paperwork.

18 CHAIRPERSON GARODNICK: Okay so if I, if
19 I understand you correctly the IDA benefits total
20 82 million dollars, 74 million of which is the real
21 estate tax exemption. Eight million is one of the
22 other two?

23 JEFFREY LEE: Yes so you got about 1.7
24 which is MRT and then seven million is the sales
25 tax benefit.

CHAIRPERSON GARODNICK: And then there's an additional 10 million dollars of EDC benefits which was a, an asset buy back?

JEFFREY LEE: It was an asset purchase where EDC agreed that it would purchase some large pieces of non-movable equipment and then it would be available for use by the company but it would be owned by EDC.

CHAIRPERSON GARODNICK: Okay so let's go, go back to the initial conversation about how this would not be of, this sort of benefit would not be available to any old company and that it has to be consistent with the core policy goals of the agency in recognizing the players have changed and all that stuff. Make, make the argument here for 93 million dollars in public benefit for fresh direct in this context. What, what does the conversation look like at IDA, what, how would you make the case here?

JEFFREY LEE: What, you know what I, I don't think I can make that argument because that was an argument that was made by the previous administration who felt that this was a good project. We are in a different, we have a different

1 mayor, we have a different deputy mayor that we
2 report to. And so quite frankly we have a very
3 different set of priorities. So, so clearly someone
4 made that argument a couple years ago... [cross-talk]

5 CHAIRPERSON GARODNICK: So what would
6 be, what, then let me just, let me make it easier...
7 what would be your argument against it, why do you
8 believe that a 93 million dollar public subsidy in
9 this context is not appropriate?

10 JEFFREY LEE: Well there, there's lots
11 of, there's lots of opinion both ways, people who
12 felt that it's a good project and, and a bad
13 project. And ultimately I think it's just you know,
14 it's worth pointing out that again this is a
15 project that was, was gestated and born and, and
16 closed all under the previous administration.
17 December of last year is when, when the documents
18 were signed. And so, so here we are in 2014
19 obviously dealing with the legacy of this project
20 but we just want to be clear that, that we don't
21 really have anything to say in support of doing a
22 project like this. In the future it was something
23 that is it really a legacy of the prior
24 administration.
25

CHAIRPERSON GARODNICK: Okay. You raise an interesting question about, you raised for me an interesting question about the contracts that are preexisting. There are 600 outstanding projects that your compliance team is regularly tracking. There're probably separate contractual provisions although I'm sure there're a lot of similarities in, in each. Are there opportunities for the city to go back and revisit contractual terms in any or all of those agreements and what are the circumstances that would allow for that?

JEFFREY LEE: Just want to make sure I understand. When you say revisit the contractual terms are you suggesting sort of trying to renegotiate the terms?

CHAIRPERSON GARODNICK: Only if it's permissible under the contract agreement. And what I'm trying to figure out is whether in the contract which allows for these benefits whether the city rights in opportunities for itself to reinvigorate the conversation if circumstances change or if we just don't do that as a, as a matter of course. Or what would be our opportunities if the city wanted

to reopen a conversation in any of those 600 outstanding contracts?

JEFFREY LEE: Mm-hmm.

CHAIRPERSON GARODNICK: Does such an opportunity exist?

JEFFREY LEE: So... I mean just, just to sort of analogize you know I think what, what we've got here again are contracts and to, to make a really simple analogy if you know I was buying a car and, and I agreed on contract you know signed and said I'm buying it for 2,000 dollars, great. I'm driving my car down the road and the seller comes back and says why don't you pay me 2,500 dollars instead... you know I think it's, I think it's a situation where for the most part these agreements, and maybe not even for the most part but these agreements are essentially binding, there's nothing that I'm aware of that sort of allows you to open it up. Now if there's a company that wanted to do a new project and in that sense enter into a new agreement with the city for you know potentially new incentives that might present an opportunity and possibly some leverage to, to revisit some older issues. That would be, that

would be one type of a situation that might present that opportunity.

CHAIRPERSON GARODNICK: Okay I think you've answered it that there's nothing that you know of that allows the city to reopen existing contracts. There's no provision in there which invites... I, I agree with you a contract that is a final contract without a provision for that would not allow for a car buyer or seller to demand more money for the sale of the car. But in some circumstances there are contracts which would allow based on changed circumstances or something of that nature for one party or the other to invoke a provision to renegotiate. That does not appear to be the case here from what I'm hearing from you. Let me pose one more question before we go to Council Member Barron and then I, and we'll have a couple of additional ones. The standards of the claw back provisions that you described. You, you gave, it was not an insignificant sum. I think 96 million dollars over 115 projects since 2003 that IDA has clawed back over that period of time. Now something we have not talked about really at all today is EDC. And IDA and EDC are technically

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

13
14
15
16
17
18
19
20
21
22
23
24
25

1 technical assistance which we've certainly have
2 done. But it, if you're asking in terms of
3 financial incentives it is really limited what
4 we've described at IDA Build NYC.
5

6 CHAIRPERSON GARODNICK: Plus that asset
7 buy back option that you described in the Fresh
8 Direct deal. I mean to me to the extent that EDC
9 could buy something and then offer it to a private
10 entity is a rather significant loophole to allow
11 for many, many things. Am I understand... can you
12 help me understand what the limitations are of that
13 and if there's anything else like that that may
14 exist because that one does not, at least as far as
15 I understand it, fall into the categories of, of
16 the I, the things that IDA ordinarily would do.

17 JOE COLETTI: Mm-hmm. And, and to
18 clarify on that point... So I think that's a, that's
19 a rare case. I can't think of another instance
20 where that has, that has happened recently. And I
21 think that you know that was very specific to that
22 specific deal so like I said we can't necessarily
23 speak to the motivations and decisions the previous
24 administration and previous leadership but at the
25

1 same time. Like that's not, that's certainly not
2 something that's used widespread.

3
4 CHAIRPERSON GARODNICK: I understand but
5 it's, but it is a tool? It's, it's something that
6 can be used unless this administration believes
7 that that is not a legal mechanism for EDC to be
8 using as a general matter.

9 JOE COLETTI: It has been used so it
10 could be used but it certainly I think from a
11 larger EDC perspective not something that you're
12 going to see if at all, very rare.

13 CHAIRPERSON GARODNICK: Do you, do you
14 agree with me in the way that I'm perceiving it,
15 that it is a rather significant loophole to the
16 many limited uses that you have described for the
17 ways that the IDA or EDC can otherwise operate?

18 JEFFREY LEE: I think there are a lot
19 of, lot of anomalous characteristics to that
20 project.

21 CHAIRPERSON GARODNICK: Mm-hmm.

22 JEFFREY LEE: Which again is why we feel
23 that it's best to think of that as, as a project
24 that was conceived of under different
25 administration. So, so I agree with you but I'd say

1 it is anomalous and that, that kind of project I
2 think you'll see is, is anomalous especially in the
3 thinking of the current administration.
4

5 JOE COLETTI: And I, and I don't know if
6 I'd characterize it as a loophole so much as back
7 to your, your earlier point when we're talking
8 about Build NYC and bond eligibility is just
9 because you can do it should you do it. I think
10 it's more of a policy question.

11 CHAIRPERSON GARDODNICK: I'm sort of
12 surprised that EDC can do it to be honest with you.
13 But it, it sounds like it is not something that we
14 will see and it's not something that has been
15 challenged at least to date as far as I have heard.
16 So with that let me go to Council Member Barron for
17 questions.

18 COUNCIL MEMBER BARRON: Thank you Mr.
19 Chair. I wasn't here for much of your testimony and
20 so if my questions are repetitive of what's been
21 asked please just bear with me. In looking at the
22 briefing paper from the committee it talks about
23 the city controller's findings in many of the
24 projects for which EDC was responsible. And in
25 terms of the Bronx Parking Development Project it

sights the failure or very poor economic feasibility study that you didn't take into account what was adjoining in terms of parking facilities and the increased public transportation. So how did you miss that?

ROBERT LAPALME: We addressed this a little bit earlier in the hearing but just want to clarify the, the study was actually commissioned not by the IDA but by the placement agent on the deal for the benefit of the institutional investor that bought the bonds. So the study was conducted by a private firm with expertise in parking matters. It was a very comprehensive study. It was over 50 pages long analyzing the project... [cross-talk]

COUNCIL MEMBER BARRON: So how did they miss it?

ROBERT LAPALME: Well that's, I think that's a question more appropriately directed at the consultant. The staff at the IDA, we are not parking experts. It's not our role as a conduit issuer to analyze every aspect of the financial feasibility of the projects that come before the IDA board. We are essentially as a conduit relying

on the credit judgment of the investor who buys the bonds.

COUNCIL MEMBER BARRON: Okay so who, who vetted that, the company that did this study?

ROBERT LAPALME: Well the company that did the study, the choice of that company was really a choice that was made by the investor who bought the bonds in, in conjunction with the placement agent.

COUNCIL MEMBER BARRON: By the investors who bought the bonds?

ROBERT LAPALME: Right.

COUNCIL MEMBER BARRON: The investors who bought the bonds who knew they were going to get their money back even though the city would get the short end of the stick?

JOE COLETTI: And I think, you know I think what you're getting at is, is a little bit difficult... to answer because we're operating, you know it was a previous administration and so we weren't involved in the, other decision making processes or motivations for doing certain things.

COUNCIL MEMBER BARRON: EDC was not involved?

JOE COLETTI: No, well we didn't do this study but I mean at the time there was obviously other decision makers and so when we're talking about things in previous administration it's difficult for us to kind of channel motivations or decisions for why or why not they may have done things at that time. So hope you can appreciate that. We're doing the best that we can to, to clarify some of the facts as we understand them now. But you know I think that's... [cross-talk]

COUNCIL MEMBER BARRON: So what's changed?

JOE COLETTI: I think that's something that... [cross-talk]

COUNCIL MEMBER BARRON: That we won't get in that same predicament of being owed what is it 90 million dollars and not knowing how it's going to be recouped? What's changed? [cross-talk]

JOE COLETTI: Well I think the position we're in now, besides the fact that we're in a new administration that has different priorities that I think views philosophically differently than previous administration. The other advantage that we have at least in the place that we're starting

1 from now is that we can see you know past mistakes
2 or errors and learn from them. And, and that's you
3 know what we aim to do in any scenario. But I think
4 especially under this administration you know
5 that's something that is been emphasized to us and
6 that we're going to focus on moving forward.

8 COUNCIL MEMBER BARRON: So what do you
9 now have in place that would help you to monitor
10 what's going on going forward because it cites the
11 fact that there was no records that were being kept
12 in terms of logs, failure to, failure on the part
13 of the EDC to monitor compliance with its
14 contracts, lack of written policies. So do you now
15 have written policies that spell out the
16 administrative and oversight responsibilities of
17 the EDC?

18 JOE COLETTI: EDC has a very robust, and
19 especially in the last couple years more aggressive
20 Compliance Department and compliance measures in
21 place. Just to give you an example over the last
22 couple of years... there's essentially if you think
23 about it as a tool box. There's a, there's many
24 different tools we have at our disposal to ensure
25 that you know those that we have leases and other

agreements with that we administer on behalf of the city are doing what they're supposed to be doing.

You know one is obviously we have a Compliance Department. You know we've already talked about over 600 different deals which includes leases and other agreements that are consistently reported on.

We receive all kinds of information that we have to disclose on an annual basis both at the city and the state level. You know but in addition to that other things that we've been, we've sort of

deployed more in the last couple of years has been more aggressive use of sort of 3rd party auditing of leases in addition to adding sort of an internal EDC audit. And, and this is something that we

hadn't done necessarily. As far back we, may have happened at some point in past years. But it's something especially I think since 2012 especially that we're doing much more of. You know and it's

important because it's an important piece of I think a larger compliance puzzle. You know you're not going to find everything through one of these tools. We have to deploy aggressively all these

tools. And we take our job very seriously as a lease administrator, we do it on behalf of the

city. You know we have no other incentive than to make sure that whoever's on the other side of that agreement are doing what they said they would do and if they're not we have an obligation to the city to take the appropriate actions that are outlined within that agreement and are within our purview to do... [cross-talk]

COUNCIL MEMBER BARRON: And, and what, what is your, what are your plans in terms of helping the city to reach its goals in terms of contracts to so called minority businesses.

JOE COLETTI: Well EDC, EDC has had a very aggressive MWBE program in place for some time. In addition an initiative which I'll, which I'll mention briefly to help MWBE contractors build their capacity and understand you know what, what they'll need to get certain contracts and we've actually awarded contracts to many MWBE contractors that have gone through some of our training programs. It's called a blueprint to success, something we're happy to provide additional information to you on if you learn more about. Essentially what it is is you know there's a class or so of 15 to 20 MWBE businesses. And what we do

1 is put them sort of through a training so that they
2 you know understand all the elements of a
3 contracts, dealing with us you know essentially and
4 the city. And, and through that you know they're
5 much more prepared and much more able to access
6 these contracts and bid for them and we've had
7 some, some great successes through this program and
8 we want to continue that program and hopefully
9 there'll be opportunities to do more of this and to
10 share what we've done on this program you know with
11 other parts of the city and we're certainly looking
12 to do that. But in addition just EDC on its own,
13 you know from its own procurement we have
14 consistently exceeded our goals in the past. We've
15 talked about them at the council every year at, at
16 budget hearings. And you know at, I think that's
17 only going to be more of a focus as this
18 administration made, made it a priority so we will,
19 we will continue to hold up our end of the bargain
20 and look for ways that you know we can do a better
21 job of doing it or certainly our president Kyle
22 Kimball has made commitments in front of the
23 council before and certainly himself has been you
24 know personally committed and involved and making
25

sure that we're doing everything we can to support those businesses.

COUNCIL MEMBER BARRON: So finally in, in terms of the program that you described you said you've had success, how do you evaluate that or how do you define that success, how do you know that it's been successful? What's your measurement?

JOE COLETTI: I mean for this program and, and again you know we're talking somewhere in the range of 15 to 20 that have gone through these classes that we've done which was originally launched you know essentially as a pilot to see if this could work. I think in the context of that program we measure success by these MWBE businesses and contractors being able to get access to work. You know and I think that's ultimately the goal for all of us.

COUNCIL MEMBER BARRON: So access to work. Were they, did they actually, were they actually awarded... [cross-talk]

JOE COLETTI: Yeah, yes not every single one but some of them were able to get awarded contracts after they... [cross-talk]

COUNCIL MEMBER BARRON: You could get me the numbers. I'd appreciate it. [cross-talk]

JOE COLETTI: Absolutely. Absolutely.

COUNCIL MEMBER BARRON: Thank you.

JOE COLETTI: We can.

COUNCIL MEMBER BARRON: Thank you Mr. Chair.

CHAIRPERSON GARODNICK: Thank you Council Member. And I'm going to just finish up with a few last questions and then thank you for your, your time. We have a, a couple of more panels that wish to be heard today. On the subject of measuring our own success here on these initiatives. I understand from the initial testimony that there a couple of reporting tools that were mandated, one through the annual reports of Local Law 62 and the other through the Public Authorities Accountability Act. My question for you all. And I, I'm sorry that I don't myself know the answer to the local law 62 question is are the evaluations done on the performance measures on a project by project basis for the Public Authorities Accountability Act or is it just in the aggregate? EDC hoped to create 5,000 jobs, they're creating 49

hundred jobs. Or is it done... here at Fresh Direct they were planning 1,000 they're at 922? At you know the parking garages they're here they should have been there? How is it broken down?

JEFFREY LEE: So I guess there are a couple ways for the public to, to get at those numbers and to get at ways of comparing what was described at the outset of the project and, and where it is today. Local Law 62 does capture annual information. And so to the extent that our, our initial sort of project description is probably available compared with the Local Law 62 annual updates and... annual information, that can be one vital source for comparisons and understanding relative performance. So I think that that is, is one potential source in terms of evaluating and doing some comparisons.

CHAIRPERSON GARODNICK: So should I take your answer to mean that the Public Authorities Accountability does not require that you do it on a, on a project by project basis?

JEFFREY LEE: The, the, so the Public Authorities and Accountability Act asks us to adopt metrics that we think will be indicative of our

performance as a whole and generally they're, they're kept to about 10 sort of metric points, sort of big picture. On our last performance report they were captured in the aggregate. But we are looking into whether it's possible to sort of break that out and to see if we have the data on that, that's something that we're looking into.

CHAIRPERSON GARODNICK: I would suspect, although I don't, I don't know it for certain that it might be a little more difficult for the, for a member of the public to look at your initial goals and to look at an annual report and Local Law 62 would say with ease they're doing well or they're not doing so well. Is that a fair... I have not tried to do that, I'm, I'm speculating here...

JOE COLETTI: Right. Well the Local Law 62 is, is voluminous and...

CHAIRPERSON GARODNICK: Okay.

JOE COLETTI: And...

CHAIRPERSON GARODNICK: I got it. Okay well then, then we should talk about that because I think that there may be opportunities for us to work together here to find ways for more ease and setting the metrics and allowing the public to have

more information in, in making conclusions here.

And it may be a useful tool for IDA and EDC to, you know to self-check how well you're doing on the various initiatives that you have...

JOE COLETTI: Yeah were certainly... we're certainly interested in having a dialogue. I know at the time of Local Law 62 there was a dialogue and you know as you can imagine... you know another challenge that we actually face in this reporting is because the state reporting is so different than the city that's a lot of time, a lot of staff time, a lot of work that has to go into... you know reporting the same thing two very different ways and that's, that's certainly something just from an administrative standpoint has also been challenging.

CHAIRPERSON GARODNICK: Okay well we should, we should follow up on that as to whether or not Local Law 62 itself is getting us what we should be asking for and whether there're ways to best satisfy it. Okay my last small group of questions here relates to EDC's ability to ensure compliance with commitments and we've talked about that somewhat. I know that there are 600 projects

now that are outstanding. I know you have a compliance team that is now working much more aggressively than it once was, how big is that compliance team that is overseeing the 600 projects that...

JEFFREY LEE: About, it's about 17, a 17 member team of...

CHAIRPERSON GARODNICK: 17...

JEFFREY LEE: [cross-talk] of people that have... at at its head.

JOE COLETTI: Also... that, that, that won't include legal department efforts involved in compliance. That also would not include asset management efforts in compliance because asset management also manages obviously like a number of leases for us as well. So it's... yeah and City Law Department is also involved. So it, you know we a Compliance Department that's at the core of this but that's not the only department that involves itself in compliance matters. I just don't want you think there's only 17 people just doing that.

CHAIRPERSON GARODNICK: I hear your point. I got it. Okay so in some of the, the Comptroller Lou audits there were questions about

oversight on Turner Construction or the MDO Development at the Water Club, contracts that were being changed multiple times in a short period of and you know getting much larger. Or as in the case of the Water Club as Comptroller Lou described it you know where the city shared in the upside of the success of the restaurant that he alleged that his auditors showed that there were no sale transactions being rung up with some regularity. And the recommendation there was stronger internal controls by EDC to monitor what's going on out there in the world. Now I know you have a not just 17 person Compliance Department but it's got a you know a, a team of people at a variety of different levels but can you give us a sense as to how they operate, and how they operate, and particularly if it's not just 17 as a compliance team but if they're across maybe even multiple agencies how do they work in concert, how do they work to make sure that these sorts of violations are not happening?

JOE COLETTI: We may have touched on some of it already and if you, you know if you want a deeper dive into compliance we're certainly happy to do that. I may not be the person to do, to do

1 that every level. But just to, to stake, take a
2 step back and sort of the larger picture you know
3 we've talked about public reporting benefit
4 summaries, things that will have to be submitted to
5 us that we'll have to review for a number of, of
6 folks on the other side of lease agreements. I've
7 talked a little bit about the audits, and the 3rd
8 party audits that were more aggressive... but also
9 you know EDC internal audit which is something
10 that's very important. And you know going through
11 this you know not being subject to a comptroller
12 audit this is another internal way for us to make
13 sure that things are not slipping through the crap,
14 cracks.

16 CHAIRPERSON GARODNICK: Can I, can I
17 stop you on that one for a sec because that was
18 something that I had not been aware of previously
19 and that sounds like a very good thing. How
20 frequently are you going to be doing those internal
21 audits. That can't, I assume you're not doing it
22 every year on every one of your outstanding 600
23 projects, what is your goal, what is your
24 aspirations?

JOE COLETTI: Those, those happen annually now.

CHAIRPERSON GARODNICK: Annually for every outstanding contract?

JEFFREY LEE: No I can, I can mention a little bit. So, so the internal audit department doesn't have the capacity to do 600 internal audits per year but... [cross-talk]

CHAIRPERSON GARODNICK: That's a, that's a lot of audits yeah.

JEFFREY LEE: But, but does collect and perform a rigorous internal audit on a handful of projects per year that are chosen because they seem like good, good, they're a good profile on which to make sure that we are catching issues before they arise and they may be potentially complex where learning from the situations would inform other projects of ours.

CHAIRPERSON GARODNICK: Okay that, that makes sense and, and I would be surprised if you were able to do it for a lot more than that. But in the example that the comptroller, the past comptroller had identified of a, of a restaurant that was not, allegedly not ringing up receipts in

the way that would have inured to the benefit of the city... how is EDC or IDA... this is, this is EDC compliance team now we're talking about right, yes? How does, how does EDC's team identify that violation? How, how are you going to learn that that is a problem?

JOE COLETTI: Well I, I wasn't around for that specific instance... [cross-talk]

CHAIRPERSON GARODNICK: I, I understand... I'm not even asking about that one... [cross-talk] I'm just asking as a general matter.

JOE COLETTI: And I think that was also an instance where we weren't necessarily receiving those, there was another entity receiving them directly. And I believe in the course of that audit you know we agreed that we want, we, they need to do a better job and that we're going to work with them to ensure that they were doing a better job. But putting that aside you know I think it goes back to talking about there's, there's no one, there's no one easy way to do it. I think that you have to employ a series of different tactics that we discussed in order to uncover things like this and you know there's no, there's no one way to do

1 it. You know I think it's a combination of the
2 audits requiring, reporting, you know reviewing
3 these documents, having specific project managers
4 understand you know what the requirements are for
5 the leases they're in charge of. You know we also
6 do high level as we mentioned of like interagency
7 and interdepartmental coordination which is just as
8 important because sometimes you can uncover things
9 from other agencies. But the bigger picture is even
10 beyond that we can go so far but then in addition
11 you know we also need the public and the council
12 and others to also be holding them accountable and
13 to be helping us identify areas where maybe we
14 haven't noticed yet or maybe we're not aware of. So
15 if you think, if you put all those things together
16 you're going to have the best compliance
17 environment you can possibly have but I don't think
18 it's a just do this and you're going to fix the
19 problem. I think you have to keep doing everything,
20 you also need the public to be a check on that as
21 well.
22

23 CHAIRPERSON GARODNICK: Okay well I
24 think maybe we should save that conversation for
25 further dive as you say. Because I, I'm not sure I

1 have a clear picture as to how exactly it's done
2 but one thing I will ask is if you think that the
3 public should be part of helping EDC to find issues
4 of you know fraud inefficiencies or whatever how
5 would you recommend that they do that. How would
6 you recommend that I or any of my colleagues tell
7 our constituents that they can be useful in helping
8 compliance in that way?

10 JOE COLETTI: I, I think it's been done
11 in some ways already. You know a, good, you know
12 it's easier to point to, to better examples on
13 larger projects you know where there's, there's
14 commitments that developers make or commitments
15 that certain businesses make as they go through
16 certain processes, you know public processes with
17 the council that you know I think it's clearly
18 outlined the things that they're supposed to be
19 doing. You know you're not going to have the public
20 be involved in some of the more maneusha [sp?]
21 obviously, at least as that's our responsibility
22 and our job on behalf of the city and the public to
23 do that. And we have to be allowed to do that to a
24 large extent. But I think that you know those
25 public commitments that are made and, and the

1 projects that are happening we need to, we need to
2 hear if people feel like certain commitments are
3 not being kept through some of the public dialogue
4 that has gone on because in many cases a lot of our
5 projects there's obviously been long discussions at
6 the community board, long discussions at the
7 council, and with elected officials. And, and many
8 times you know it's your offices that are coming to
9 us and asking what's going on with certain projects
10 or certain issues. And you know and there may be
11 times where maybe there is something that we
12 uncover that you know wasn't noticed the year
13 before. So you know again I may not be explaining
14 it most clearly but you know it's a check just like
15 we have a check in the system and that's why you
16 know obviously the legislative branch we have to
17 work with on, on many, many items that go through
18 public approvals. But there's a difference between
19 you know the very fine print in a lease and some of
20 those larger commitments and public benefits that
21 are supposed to be recognized by a community. So
22 I'm trying to differentiate between that. There's
23 no perfect way to do it. We're always happy to
24 continue the conversations on compliance and
25

1 discuss with you other ideas of ways that we can
2 make sure that we're doing our jobs to the full...
3 possible because as I said we have no incentive
4 otherwise than to make sure that people are
5 complying with these agreements.

6
7 CHAIRPERSON GARODNICK: We'll, we'll let
8 that be the last word then from EDC and IDA and we
9 thank you very much for your testimony and your
10 time today. And we look forward to following up. We
11 have a few, a few outstanding items and we will,
12 we'll connect with you. So thank you very much.

13 JEFFREY LEE: Thank you.

14 CHAIRPERSON GARODNICK: And I'm going to
15 call the next panel. We have Gavin Kearney of New
16 York Lawyers for the Public Interest, Adrian
17 Weibgen from the Urban Justice Center, I'm sorry
18 Adrian if I'm doing damage to your name, and Bruce
19 Rosen United for Action. And thank you again. And
20 we're going to put, we're going to put you guys on
21 a three minute clock so forgive, forgive my having
22 to do that but... Thank you. Welcome everybody and
23 thank you for your patience here and why don't we
24 get started. You want to kick it off? Just state
25 your name and make sure that microphone is on. I'm

going to ask the Sergeant to put the three minute clock on, when she begins.

MELISSA BARBARA: Hi, my name is Melissa Barbara and I will be reading the testimony of Gavin Kearney who had to leave. I'm from New York Lawyers for the Public Interest on the effectiveness of New York City economic development practices. Good afternoon Chairperson Garodnick and members of the council. Thank you for the opportunity to provide testimony today. My name is Gavin Kearney and I direct the Environmental Justice Program at New York Lawyers for the Public Interest. NLPI has worked for more than two years with South Bronx Unite a coalition of hundreds of residents and dozens of community based organizations committed to improving and protecting the social environmental and economic future of the South Bronx. The primary focus of our work with SBU has been to prevent the proposed relocation of Fresh Direct to the Port Morris and Mott Haven areas of the South Bronx, a massively subsidized move that would inundate the local community with diesel truck traffic. I would like to focus my testimony to date on the Fresh Direct project

because it starkly illustrates the need for reform of New York City Economic Development Policy. The proposed relocation of Fresh Direct from Long Island City Queens to the South Bronx was first publically noticed on January 30th to 2012. At the time it was revealed that under threat of relocation to New Jersey Fresh Direct was seeking 127 million in state and local subsidies. At that time Fresh Direct's own low ball estimate was that it would introduce 2,000 vehicle trips including 936 diesel truck trips to the local community every day. The notice provided by the New York City industrial development agency, IDA indicated that there would be a public hearing on the proposed local subsidy package 10 days later on February 9th, 2012. This hearing held in the morning on a work day in downtown Manhattan with 10 days' notice is the only opportunity the city has provided to date for public engagement around this controversial plan. On February 7th, 2012, two days before the IDA hearing the city issued a press release titled Governor Cuomo, Mayor Bloomberg, and Borough President Dies announced Fresh Direct to open new headquarters in the Bronx. Given its

1 timing the press release sent a clear message to
2 community members with concern about the project.
3 Don't bother this is a done deal. None the less
4 South Bronx residents turned out at the hearing on
5 the 9th and expressed their opposition to the deal.
6 Five days later on February 14th, 2012 the IDA
7 board adopted an inducement resolution approving 81
8 million in local subsidies for Fresh Direct. This
9 figure has since increased to 95 million for
10 reasons unknown. This vote was a surprise to no one
11 giving the composition of the IDA board. 15
12 members, 13 of whom are appointed by the mayor. At
13 the same time the IDA board also adopted a
14 resolution concluding that there was no need to
15 prepare an environment impact statement for the
16 project. The Board upon...

18 CHAIRPERSON GARODNICK: So that's the
19 clock. I'll tell you what, why don't you... if you
20 want to just do a quick summary of the rest or I'll
21 throw a question or two at you after your
22 colleagues do your testimony which will give you a
23 chance, would you prefer that?

24 MELISSA BARBARA: Yes.
25

CHAIRPERSON GARODNICK: Okay so why
don't you hang tight for...

MELISSA BARBARA: Okay.

CHAIRPERSON GARODNICK: ...for a moment
we'll let them go and we'll, we'll see what
happens. Go ahead sir.

BRUCE ROSEN: [off mic] Hi, I'm Bruce
Rosen and I'm, I'm using the, the... oh sorry... Bruce
Rosen I'm using the banner of United for Action
which is one of the Fractivist groups. Initially I
was going to speak specifically regarding fresh
direct but I think having heard the testimony of
EDC I'd like to focus more broadly because I think
the wool was pulled over your eyes. Fresh Direct is
a company that has never made any real money. It
could never follow through on moving to New Jersey
because its market is here. It's a similar
situation of other companies that we have faced
that have claimed that they will go somewhere else
if we don't give them all of the goods in our
house. We had one case, only one, and it's a
profound one, of a corporate headquarters which we
kept, it was built, this was a bank headquarters of
a major regional bank now absorbed into a global

1 bank. That was Republic New York and they were
2 seeking large tax exemptions from the city to build
3 their headquarters on 5th Avenue across the street
4 across the street from the public library. They
5 came and said we'll go elsewhere. I was in a
6 position of being an advisor to person the board,
7 the ICIP then, on that and said they spent several
8 years proclaiming that they're going to build this
9 headquarters and how they'd assemble that and
10 they're going nowhere. They were denied and they
11 built their headquarters. But we've never had
12 similar kinds of things with other corporations.
13 EDC started as PDC. It was originally created in
14 the 50s to build and operate modern industrial
15 parks for the city of New York, a job that it
16 failed dismally and totally at. The... structure was
17 reinvented as a lot of other things were during the
18 Koch administration which was looking for anyway
19 they could to regenerate the city's economic
20 activity as you know a city, a period in time of
21 great stress. And they were very small at that
22 time. One of the... projects that they, they did
23 early on was Pier 17 on the South Street Seaport.
24 They went through the approval process, through the
25

1 Department of City Planning, the City Planning
2 Commission... then... Development Company and they
3 delivered a structure that's 20 thousand square
4 feet more than the zoning allows. So their
5 adherence to zoning, their adherence to any of the...
6 is always, has always been spacious. I'm not sure
7 if you're familiar with the concept of Moral
8 Obligation Bonds... Okay, that was developed by John
9 Mitchell when he was an advisor to governor Nelson
10 Rockefeller and basically they... to get around the
11 legal limits. Those were... at the time by the city's
12 then Comptroller Abe Beame. He was told to take a
13 walk by the New York Times. We now know the history
14 of that. I would in close and suggest that you look
15 at the structure of this advisory agency. It has
16 three boards of directors. If you've ever come
17 across another entity for a not-for-profit that has
18 three boards of directors that are identical. When
19 they wear their hats is not clear, all appointed by
20 the same person, never having any tension, never
21 asking any serious questions...

23 CHAIRPERSON GARODNICK: Okay.

24 BRUCE ROSEN: ...no fiduciary
25 responsibility. Thank you.

CHAIRPERSON GARODNICK: Thank you.

BRUCE ROSE: I appreciate it. Go ahead.

ADRIAN WEIBGEN: My name is Adrian Weibgen and I'm a staff attorney for the Community Development Project of the Urban Justice Center. CDP urges the EDC to adopt a participatory approach to economic development that involves low income communities as partners in growth and change. Under the Bloomberg administration the EDC was often seen as an advisory to poor communities not their advocate. In the Bronx, Coney Island, and elsewhere poor people of color have come to feel that the EDC does not listen to them, does not support their interest and does not prioritize their needs. But CDP believes that a better way is possible. Our experience has shown us that city funding can be a powerful tool to promote economic growth in partnership with impacted communities and that communities will eagerly support development projects that meet local needs. We encourage the EDC to focus more of its resources on the small businesses that have helped make New York City what it is today that will ensure that the city retains its vibrant diverse economy for

generations to come. Several years ago when the city announced plans to redevelop the Kingsbridge armory in the North West Bronx, a coalition of 27 community based organizations came together to ensure that local residents would benefit from the project. With CDP's assistance the Armory Redevelopment Alliance negotiated a community benefits agreement with the developer of the new project which is expected to generate over 260 permanent jobs. The historic C,CBA guarantees that hiring preference will be given to Bronx residents that workers will be paid a living wage and that local children and community groups will have significant amount of access to the, to the ice rink for free. Where other EDC supported projects have been the subject of protest and legal challenges this project was embraced and the ice center is now poised to become part of a, the fabric of the community. Right now the EDC it, has another opportunity to support an innovative local initiative. This time a cooperative of small business owners and workers in the automotive business from Willets Point Queens. When Mayor Bloomberg announced plans to redevelop the area in

2007 many wondered what would become of the small local businesses that stood to be displaced by the planned project many of which are operated by working-class Latino immigrants. Hoping to protect the thriving businesses that they had spent years establishing a group of residents in the automobile industry approached the EDC to craft a plan for relocation from Willets Point. With the assistance of CDC this group united as the Sunrise Cooperated formerly incorporated and secured a new space in the Bronx that will allow them to keep their businesses close together while growing as a collective enterprise. After seven years of negotiations we are close to reaching an agreement with the EDC but we're at a critical moment. Our clients have waited years to reach a deal with the city and as the pressure to relocate continues to count they will not be able to hold out for a solution very much longer. But the EDC has the power to write a happy ending for the Sunrise Cooperative and to be, to rewrite the tale of two cities. With this project the EDC can help to secure the futures of these 50 businesses and the hundreds of workers who depend on them. Nearly

every major development project in the city benefits from city subsidies. The EDC can and should leverage these subsidies to require the developers to create local jobs and other benefits that will ecru directly to impacted communities. Thank you.

CHAIRPERSON GARODNICK: So let me pose one question and you're all welcome to, to answer it if you wish. EDC's definition of how they make a determination of what is a worth project was that it meets their overall policy objectives and it includes good wages and good jobs and things like that... make your recommendation to EDC as to how you think they should be evaluating and deciding whether or not they should be giving tax incentives or other incentives to private entities to operate New York... I'm going to start with you since, I'm sorry that I cut you off first.

MELISSA BARBARA: Well I think my argument to EDC would be to look at the, the, the pass record and the history of this company. Right now Fresh Direct is actually in a lawsuit because they owe their workers over 24 million dollars. And they also have a record of actually exposing the,

1 their immigrant workers that were actually trying
2 to organize. Since this deal actually came into
3 play all of the, the, the jobs that actually are
4 put out there on the market are still \$8.25 to
5 \$8.75. So if we're going to actually give
6 exemptions to companies like Fresh Direct they
7 should not be exempt from a living wage situation
8 or a living wage law at all. They should actually
9 be paying their workers.
10

11 BRUCE ROSEN: What was just said... this
12 is a new initiative because they've never done it
13 before. The Council has asked for it in the past.
14 The previous two mayors did not want to hear from
15 it. And the, the corporate community, the real
16 estate board and the citizen's... commission most
17 specifically did not want anything like that. So it
18 is a good idea. I mean it should not be there. You
19 use an incentive to make something happen that has
20 a public purpose that otherwise would not happen.
21 And it's to open the doors so that you don't need
22 for future things. You've created an area where
23 there's risk. The public is baring some of the
24 risk. They want something to happen. But the public
25 has to get a benefit. They should be the, the

living wage jobs. They should be environmentally appropriate. They should be using whatever sourcing that they can do in the city and the state or the region. And that has not been the rule at all for, for EDC or its predecessor agencies that combined.

CHAIRPERSON GARODNICK: Thank you.

Anything to add?

ADRIAN WEIBGEN: Yes I mean I agree with those statements. I think that in addition to looking at the history of, of the company in terms of who it has employed it's also important to consider the consequences of the project in terms of who, who will they put out in business. I think that's a common problem with both the fresh direct project as well as the project that I spoke of in Willet's point. And the case of Fresh Direct, Fresh Direct is a corporation whose purpose essentially is to drive other grocery stores that are locally owned out of business. It's a little unclear to me why the EDC would support that sort of project just per say. In the case of Willets Point the businesses that I spoke of, the Sunrise Cooperative it's 50 locally owned businesses. Again it's primarily working class Latino immigrants who

1 employ hundreds of employees who are also working
2 class Latino immigrants. The EDC had many years to,
3 has had many years to consider how to both proceed
4 with the development that it envisions and to
5 figure out a way to continue to support those
6 businesses and enable them to thrive elsewhere and
7 that, that ladder thing is, is still a challenge
8 that we're hoping that will be met under the
9 current administration more. Finally I would
10 suggest that a large problem that the EDC has, that
11 to a great extent is a burden that it bears from
12 the actions of the previous administration is that
13 many communities view the EDC as essentially not
14 wanting to involve them in the planning process. I
15 think that communities that have been disfranchised
16 for a very long time and need economic opportunity
17 know very well what it is that they need and that
18 EDC as, as a general matter could do much better at
19 involving them in the, in a process of creating
20 solutions so that people feel that the solutions
21 are happening with them and not merely for them.

23 CHAIRPERSON GARODNICK: Thank you. And
24 thanks to all of you for your testimony today. I
25 appreciate it. Let me call the next panel. Josh

1 Kellerman from ALIGN, Elizabeth Bird of Good Jobs
2 New York, and Prudence Katz... you're all here right?
3 While they're coming up let me just see if any of
4 the following people are still here. Harry Bubbins
5 [sp?], alright Mr. Bubbins. Lilly Kessleman are you
6 here? Yes, great. A. Michael Johnson, yeah Mr.
7 Johnson great. And Christina Austria, are you here?
8 She's gone, okay. Alright so she'll... Alright folks
9 welcome, thank you for your patience. I appreciate
10 it a lot. Do you want to kick it off.

12 ELIZABETH BIRD: [off mic] Good
13 afternoon Chairman Garodnick. Thank you for the
14 opportunity to testify today. My name's Elizabeth
15 Bird, I'm project coordinator for Good Jobs New
16 York. We're a project of, of Good Jobs First...

17 CHAIRPERSON GARODNICK: Double check for
18 me that your mic is on would ya [sic]? Do it again.

19 ELIZABETH BIRD: Is that better?

20 CHAIRPERSON GARODNICK: Perfect.

21 ELIZABETH BIRD: Good Jobs First is
22 based in Washington DC and part, and we are also in
23 partnership with the fiscal policy institute. Good
24 Jobs New York promotes accountability to tax payers
25 and the use of economic development subsidies.

Since our launch in 2000 we have worked to improve public participation in and transparency of these subsidy programs including an online database of over 40 thousand subsidies which is available on our website. Jeff Lee spoke about this administration's interest in improving the process of distributing benefits through the IDA. And in your review of the effectiveness of the EDC I, I would like to offer three main points to consider. One is to review the EDC's contract with the Department of Small Business Services. We recognize that the Economic Development Corporation has limited oversight from the New York City Council. But we would urge this committee to work closely with the City Council Committee on Small Businesses to oversee the EDC's contract with the Department of Small Business Services. This contract defines EDC's resources to undertake such massive development projects that provides the best leverage point to require greater accountability from the EDC. Number two, require a more inclusive decision making process for how EDC selects projects to promote. As a system exists today a community's concerns about a development project

and the incomes or outcomes it will, it will have are a mere afterthought. A more inclusive process should include a Board of Directors at both IDA and EDC that have a voice representing the needs of low income communities and other stakeholders affected by large economic development proposals. EDC's projects effect neighborhoods throughout the city and yet its Board of Directors does not reflect a diversity of incomes in the city. A more socially responsible cooperate board structuring that reflects the communities that need economic development would enable a more informed conversation about how developments may impact a community. Also while IDA has a board appointee from the Comptroller's Office the EDC Board of Directors does not. Community boards could play a greater role in reviewing EDC projects before they're authorized by the board. And also in, in terms of making a more inclusive decision making process economic development proposals should have them more, should be more transparent to communities. Communities should be given access to a, a project cost benefits analysis at least 30 days in advance... require public hearings. The bet

example of this, the problem with the way it's happening now is the Fresh Direct proposal where the community was never informed. Environmental concerns were, were never addressed. And the community, the community board wasn't even notified or consulted before the project was noticed. Finally we think that another way to make the EDC more effective is to establish stronger requirements for the outcomes of subsidies. Thanks to a stronger reporting standards at the IDA we have a decent idea of how many jobs are reported at firms that receive IDA subjects and some details that imply what kind of jobs they are. For example the New York Yankees at the new Yankee Stadium reports just six percent full time permanent jobs at that location, at that subsidized location. The majority are low wage, part-time, and seasonal work. So that's... [cross-talk]

CHAIRPERSON GARODNICK: Thank you.

ELIZABETH BIRD: ...example... Thank you.

CHAIRPERSON GARODNICK: Thanks very much. And there's a lot for us to follow up on too with that...

ELIZABETH BIRD: Sure, yeah.

CHAIRPERSON GARODNICK: ...so thank you.

Okay next.

PRUDENCE KATZ: Can you guys hear me?

Great. Good afternoon my name is Prudence Katz and I am the Policy Coordinator for Reinvent Albany which co-chairs the New York City Transparency Working Group. Thanks to the tenacity of Good Jobs New York and other advocates the EDC has made major strides towards making its activities more transparent. However the overall goal is to make it as easy as possible for the public and the city council to see what the EDC and IDA are doing with public property and funds. A clear and transparent process allows us to better understand how well EDC subsidies are working and ensure that investments are not at risk for corruption. We have four basic requests for improving EDC online transparency. One, create a unified database of deals facilitated by the EDC and the IDA which includes all forms of subsidies to a business or project. It is still murky how subsidies are distributed and to what entities they go to. The EDC needs to create a single database which includes all forms of subsidies provided by the EDC and the IDA and it's

downloadable on a CSV or other machine readable format. This database should have a bottom line total subsidy value which includes the full market value of land sales, land leases, discretionary funding distribution etcetera. Currently some of this information is published online in separate spread sheets which is not re, machine readable. And some information like operating subsidies are not publically viewable at all. Two, fully share EDC and IDA data with NYC Comptroller's Checkbook NYC website. We commend the EDC for the initial step of sharing its data with the Comptroller's Checkbook NYC site. However we would also like to see IDA data representatives well. Checkbook NYC is a important repository because it is equipped with an API which allows data to stream immediately into websites maintained by watchdog groups. We'd also like to see the actual vendor names in Checkbook NYC to which payments and contracts are made to. As of today there are 387 spending transactions listed under the EDC section of Checkbook NYC and 198 are under to be announced. That means that offer, that over half of the vendors are anonymous. Three, release EDC and IDA data on NYC's open data portal.

Real estate listings, economic snap shot data and other tabular data available in a spreadsheet form should be published on the city's open data portal to ensure its maximum availability and use. Four, webcast EDC board meetings as the IDA started doing as of this year. We believe that a cultural transparency is best fostered by example on the leadership level. We request that EDC board and committee meetings be webcast live and archived for later viewing. As of this year the ED, the IDA started to webcast and archive their board meetings while the EDC meetings are currently only archived via PDF media minutes. Thank you.

CHAIRPERSON GARODNICK: Perfect, thanks.

JOSH KELLERMAN: Good afternoon. My name is Josh Kellerman. I work at ALIGN, the Alliance for a Greater New York. We're a labor community coalition here in the city and we have also for the last seven years coordinated to getting our money's worth coalition, a statewide coalition to reform and improve on the economic development system particularly for workers in the environment. I'm going to be very specific in my recommendations and just kind of get to, to the brass tacks here. The

EDC should have a mandatory claw back policy for all subsidy recipients. Currently the way that the UTEP is written, the Uniform Tax Exemption Policy is splits manufacturing and commercial projects. Manufacturing has a very specific claw back policy and it specifically says this for commercial growth projects. For commercial growth projects the staff in its sole discretion upon approval by the board shall determine the nature of recapture events. That is a discretionary policy around claw backs. There is of course like the basic contractual language around fraud and things like that that are included in there and I think that's what the EDC was getting at about how they have claw backs in every policy, they do not have to have a claw back policy in commercial projects. Project reporting should be expanded. There are two reports that mention the PARIS report which is the Public Authorities Reporting Information System report as well as the Local Law 62 report. The PARIS report covers EDC projects. Local Law 62 report only covers IDA projects. The Local Law 62 report is much more specific which means we lack enormous details on EDC projects and that, so Local Law 62

should cover EDC projects as well as IDA projects. Also there should be much more information including the Local Law 62 report including links to the cost benefit analysis, links to the project description, links to the financial assistance agreement. Right now you have to foil for most of that information. And there should be clear annual benchmarking and reporting and the Local Law 62 report so that we can see what they promise to do in the given year and whether they met that. The land Use, or the land sale spread sheets and land lease spreadsheets only list the, the sale and lease prices not the actual market value so we can't determine the value of the, that was actually granted to businesses in sales and leases. So that should be expanded. I'll also note that for the board membership that was, that's been mentioned by several people currently in the bylaws of the EDC, the partnership for New York City you know and... business backed entity here in New York City must be consulted prior to the appointing of the chair of the EDC. We think that's a, it gives an unfair advantage to a particular group with a particular interest in composition of the board. That should

1 be changed. And also around the cost benefit
2 analysis the EDC currently uses the rims to, cost
3 benefit model which fails to account for many costs
4 that are important for determining economic
5 development value. They should do a more complete
6 fiscal impact analysis which includes a triple
7 bottom line analysis. The city has many ways, the
8 council has many ways it can get at this through
9 oversight hearings, through the speaker appointing
10 five members to the EDC board as well as few other
11 means that I'd be glad to talk about at a later
12 time.
13

14 CHAIRPERSON GARODNICK: I think it's
15 great. And I thank you all for some very serious
16 and achievable changes that we can consider. And I
17 can assure you that we will be looking very closely
18 at how we can implement some of them. So thank you
19 for that and we'll definitely be following up. Our
20 next panel... okay Mr. Johnson you're up. Ms.
21 Kessleman and Mr. Bubbins you will finish us out
22 for the day. And I'm sorry to keep you waiting so
23 long but we appreciate your patience and your
24 commitment here. So alright. So Mr. Johnson do you
25 want to kick off the, the last panel?

MICHAEL JOHNSON: I guess I shall. Thank you.

CHAIRPERSON GARODNICK: Alright. Go ahead.

MICHAEL JOHNSON: Well first of all I have written testimony that we're circulating right now. I think you've heard quite a bit about some of the issues that have, are related to this project. My name is Michael Johnson. I am a member of South Bronx Unite. I'm also a resident of Mott Haven/Port Morris. When this project was announced, the Fresh Direct project I was... the community board. But because of my fierce advocacy against this project I was no longer, I was removed as a community board member. I just want to mention or state you know this project has grown like you, you asking questions of the EDC board members here or members here today. And the subsidy amounts have grown. And we note that if in fact the subsidy amounts have grown why doesn't hold them within living wage legislation, why are they not paying a living wage for the, for the 127 million dollars initially initiated and now it seems to be almost 140 million dollars of subsidies. There not, it's not being

done in the light of day by way of... where are these additional funds coming from. And, and why, why aren't they being held within living wage. I do know they just got a new contract but it does not apply to the workers in their warehouse which is 50 percent of their workforce. They also relying upon professional consultation from the people who are actually going after the... so EDC's relying on Fresh Direct to hire consultants for environmental reviews and... exact information from those environmental clients is, is being true. And as it pertains to their reliance on an environmental impact statement is 21 years old to say that bringing 1,000 more truck trips to the South Bronx where we has asthma rates eight times the national average and one in five of our children have asthma. That wasn't 20 years ago, that's today. Right, science is changed, the population has changed but they're basing their EIS or the E, Environmental Impact Analysis of of a statement that's 21 years old and, and they're relying upon Fresh Direct's own environmental analysis subcontractor to say it's okay. And they just take that for granted. So I, I think we heard from them

1 saying that they don't do professionally analysis
2 they rely upon the vendors. But when it pertains to
3 the children, our children's lives in our, in the
4 health and... wellbeing of our, and the quality of
5 life for our residents I don't think that's
6 acceptable that they can rely upon others to say
7 it's alright. It's almost asking a fox to watch the
8 hen hut, the chicken coop. And it, we're not
9 getting the, the proper type of protection we
10 should. I also just want to note that this is not a
11 done deal. They keep telling us since 2012... and,
12 and this EDC you know committee sat here and they
13 said well it was done from the last administration
14 and it was signed December 19th, right before
15 Bloomberg ran out of office. It's not right they
16 can say what happened the last administration. But
17 they worked during that last administration for
18 that last administration as a EDC or IDA employee.
19 So we can't, I just want wrap up and say this is
20 not a done deal... your assistance... the assistance of
21 this committee and the city council with oversight
22 ability, there needs to be oversight ability over
23 I, EDC. They should not just be able to write blank
24 checks that we pay for and that our children are
25

paying for with their health and their lives. Thank you.

LILLY KESSELMAN: Hi, my name is Lilly Kesselman and I'm a member of South Bronx Unite and a co-founder of the South Bronx Farmer's Market. I just deleted my entire testimony from my phone. I've never done this before and I'm really nervous so... [cross-talk]

CHAIRPERSON GARODNICK: I'm sure you memorized it though so you'll be fine.

LILLY KESSELMAN: Oh I'm a little nervous but anyway...

CHAIRPERSON GARODNICK: Don't worry we're okay.

LILLY KESSELMAN: I've been working, I've been opposed from this project, about this project from the beginning. And you know one of the things I wanted to say is one our Farmer's Market was started with zero subsidies from the EDC thank you very much. And we supply our community with hundreds of pounds of fresh fruits and vegetables from our local providers. That, you know what's interesting when they were talking earlier about what... quality jobs and metrics. And you know

quality jobs are those that have run by quality employers. Quality jobs pay for a living wage. Quality jobs support a family. Quality jobs have health insurance. And maybe even retirement and 401K and they are family supporters. Quality jobs are not those that are, such as this that make employees get a second job waiting in line for welfare. People who work at Fresh Direct are forced to receive additional subsidies for food, for housing, and for health care. And those are all... our taxpayer dollars as well. And you know if Fresh Direct is so sure of their success why don't they get their money from a bank like all of the other small businesses. They also... you know the Mr. Lee at NY, at the EDC was stating that their job is to help the, these businesses capture market share but this is a local business providing services locally. So every dollar of that is paid to fresh direct by clients is taken away from higher tax bracketed small businesses. They even use a slogan called forget your local baker trying to get people to buy their fresh baked bread. They offer poor paying jobs in 30 degree temperatures, very tough labor. And you know I don't understand why this

administration cannot undo what the previous administration that we voted out did. That is why we voted them out. So I think it's absolutely possible for the NYC EDC to make a change. It's not said anywhere that I have found that they cannot made the, make those changes. The ground has not been broken thanks to our efforts and NYLPI, the New York Lawyers for Public Interest. And once again I, I what, did go to an NYC EDC hearing where we were really weren't welcome. And they didn't give us time to speak and they didn't go to our community board and they didn't even have to go to our community board to get a letter of support for this project so I'd like you to pull the funding thanks.

HARRY BUBBINS: Well I'll make it unanimous then. I've never been at a hearing where the agency itself was put on the spot in such a manor by you. And so I just want to thank you Council Member also for the sentiment that independent legislature from the executive is quite important and I always shared that sentiment. So what can we do to kill this deal? Well the mayor just killed an 82 million dollar contract as Juan

Gonzalez reported with the Maramont food company. And seven days ago he reported a previous contract signed and everything due to unpaid wages or some wage problem. As you heard before there's a class action suit against Fresh Direct for unpaid wages. That alone shows the mayor can kill the deal. That said you know they don't have a Vendex, they have a Vendex from 2007. I've been down there two times and that's another thing that should be online since you're taking recommendations, the Vendex should be online. You have to go down here during work days anyway I've gone there twice over the last four years, they don't have one. That's an elementary aspect of negotiating a contract. They got 40 million dollar project subsidies in 1999 to stay in Long Island City up to 2025. Where's the claw back on that? They already got subsidies to be where they are. How can they just violate that? What kind of precedent would that set for the commitments that the city makes. You heard before the money keeps changing, the inducement resolution... how long is an inducement resolution allowed to last? It seems to me the reading was on year. It's been since 2012 that the inducement was

passed. The project has changed due to our lawsuit. They've changed the, the actual footprint of the project by at least an acre if not more. The footprint has changed. The subsidies have changed. In your report, which was great to see the report by the committee, what a great staff you have. They're worse... and it's obviously not due to you, it's due to Fresh Direct. They are also trying to get subsidies from Empire State Development. Your, you state that Fresh Direct will commit a 112 million dollars of their own money and yet last month at empire state development they say 40 million dollars of their own money, a third less than what they committed to New York City two years ago. They also claimed in their report rightfully so based EDC's claims that they want to create 1,000 jobs on top of the 2,000 employees they have. In ESD last month they claimed they have 27 hundred employees now. So those 700 jobs have already been created. What, do we need the same package of subsidies? You heard about the living wage. I don't know how... and, and the executive order also says the Deputy Mayor can say you don't have to pay a living wage, I mean that's quite preposterous. None

1 the less the, the law you all passed last year
2 clearly applies to them. The inducement is, even if
3 they were hitting everything on this previous
4 inducement it's obviously invalid, it's old, the
5 projects change. And finally these subsidies are
6 supposed to be for businesses that need it. Fresh
7 Direct was founded by Peter Ackerman a multi
8 billionaire. Just Aple [sp?] according to SEC files
9 they raised 10 million more dollars from their
10 hedge fund investors who on their board
11 collectively manage billions of dollars. And as you
12 saw from the, the post card in my final remark one
13 of the main guys bought the screen for 120 million
14 dollars. So this is not a business that actually
15 even needs the subsidies and hopefully with your
16 support will create perhaps an international
17 competition like they did on Roosevelt Island or
18 the Kingsbridge Armory, read the community input to
19 have a better economic development plan.

21 CHAIRPERSON GARODNICK: Well thank you.
22 We're going to let that be the, the last word. And
23 I, I appreciate it. It was a, a good strong final
24 panel. We appreciate you very much and you, you
25 made some important points and the, the one about

the previous incentives is not one that I had looked at before and will. And I don't know the answer sitting here today as to whether there's any basis for reopening any prior agreements but as you point out it has been done before and I don't know what the basis would be here, as I sit here. But we'll certainly take a look at that and consider options. And lastly I just wanted to say that one thing that has been, became very clear in the hearing today is that we can do a lot more things in our process with EDC to ensure that we have clear and publically articulable cost benefit analysis that allow for the public to make its own conclusions on what is happening. And also a, the ability to oversee the way our public dollars are being spent. And that's certainly something that's a priority for me and ill therefore be a priority of this committee. So look forward to seeing you again and we thank you for being here today. And with that we are adjourned.

[gavel]

C E R T I F I C A T E

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



Date October 14, 2014