

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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HELD AT: 250 Broadway - Committee Rm.
4th Fl.

B E F O R E: BEN KALLOS
Chairperson

COUNCIL MEMBERS: David G. Greenfield
Carlos Menchaca
Antonio Reynoso
Ritchie J. Torres
Joseph C. Borelli

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

Jeffrey Shear, Deputy Commissioner
Treasury and Payment Services
NYC Department of Finance

Patrick Wehle, Assistant Commissioner
NYC Department of Buildings

Thomas Miller, Director
Environmental Police
Department of Sanitation

Casey Adams, Deputy Director
City Legislative Affairs Appearing for:
Mary Cooley, Director
City Legislative Affairs
Department of Consumer Affairs

Corinne Schiff, Deputy Commissioner
Environmental Health
Department of Health and Mental Hygiene

Jason Shelly, Director
Legislative and Intergovernmental Affairs
Fire Department of New York

Nicole Patterson

[sound check, pause] [gavel]

CHAIRPERSON KALLOS: Good afternoon, and welcome to this hearing of the Committee on governmental Operations. I'm Council Member Ben Kallos, Chair of the committee. As always, you can Tweet me at Ben Kallos, particularly folks who are watching the live stream or watching live on TV. If it's not September 28th, you are watching a re-run, but otherwise, you can Tweet me with some questions. We'll be trying to pay attention and pass those along. Before we begin, I'd like to acknowledge the members of the committee who are present, and that would be Carlos Menchaca, who was actually here early. So, we can just thank him for that. I'd also like to acknowledge the huge number of people from city agencies in the audience today as well as our folks who have joined us from the public. So, I want to take a moment. You may see a bunch of other people sitting here, and wondering who they are. They're the Committee staff who do a lot of the great work that help us as a City Council oversee and investigate our other branches in the system of checks and balances we call democracy. Our committee counsel Brad Reed, our Policy Analyst Elizabeth

Brown, our Finance Analyst Zachary Harris, and my Legislative Director Paul Westrick. I'd like to thank them all for their work on the committee in putting together today's hearing, which came together over this one was—it took several, it's several years in the making.

On April 21st of last year, the Mayor signed into law Introduction 810 creating the Local Law 47 of 2016. Local Law 47 was meant to stem the tide of what we saw in the city, which was an increase in—in the perception of a decline in quality of life when people are doing surveys and clinic PIAC (sic) polls and other others—people all over the city kept saying quality of life was going down. And so, we were trying to look at what was happening around them, and at the time we saw that we were writing violations, but not necessarily collecting on them, and so this Administration in particular I know that the Mayor agrees with this, too, we're not about just trying to write violations to make money. The purpose of writing violations is actually to correct behavior, and as we looked at it, we were trying to come up with a solution, and so the two items that we looked at is you might get a—get a violation in one

place. Let's say you left your trash out. Maybe you didn't recycle. There are many different way you can a violation. There's quite a lot of laws here in the city of New York, and another agency might give you a license when perhaps they shouldn't if they knew that you always left your trash out in Albany because you're angry about it. So, passed Introduction 810, which gives city agencies the power to say, you know, what, even though we're a separate agency, it looks like you owe the city money, or you have this habit of every single day you leave out your trash, and the Department of Sanitation writes you a violation. You pay it, but that might be cheaper than having a garbage hauler pick it up or what have you. And so, the idea is how do we actually get them to change that behavior? So, Local Law 47 specifically gave authority to city agencies to suspend, revoke or deny permits or licenses from individuals and business entities with unpaid fines resulting from the Environmental Control Board, and those are quality-of-life violations. When this law was created, the city of New York was owed \$1.8 billion in outstanding ECB or quality-of-life debt. Through an amnesty program and other collection efforts, the ECB debt

collection has increased 22%. However, there still remains \$981 million in outstanding debt according to the Department of Finance, and we will hopefully get an updated number very soon. Local Law 47 was crated to give the agencies the tools to compel scofflaws to pay the money they owe the city. This nearly billion dollars of money that could be spent on school lunches, which we now have Universal School Lunch. So, there's—here's hoping for supper and snacks, senior centers, building affordable housing and some of the other priorities that this administration might hold it dear. Unfortunately, 17 months after it was signed by the Mayor not a single agency has complied with the law. Eleven of the 13 did not even bother to submit a required report. All 13 did not promulgate rules through which they would revoke or suspend licenses and permits. We're hear today to discuss with representatives of these agencies why they ignored the requirements of Local Law 47, and how they can compel scofflaws to pay their fines and change their behaviors or risk not receiving licenses to continue doing business, and with that, our—we will be receiving testimony from Jeff Shear, the Deputy Commissioner for the Department of Finance

with whom we worked very closely on the Amnesty Program, and this legislative Patrick-package as well as Patrick Wehle, who is the Assistant Commissioner for the Department of Buildings. Though we have 13 agencies that issue ECB violations on quality of life, there are two that lead the pack with the most violations or the-the highest amount in violations, and DOB leads in the highest amount. When you get a violation with DOB, it can be quite costly. So, we will now swear both in.

LEGAL COUNSEL: Do you affirm to tell the truth, the whole truth, and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

DEPUTY COMMISSIONER SHEAR: I do.

ASSISTANT COMMISSIONER WEHLE: I do.

LEGAL COUNSEL: Thank you.

CHAIRPERSON KALLOS: Jeffrey, if you'd like to begin.

DEPUTY COMMISSIONER SHEAR: Yes. Good afternoon, Chairman Kallos and members of the Committee on Governmental Operations. I am Jeffrey Shear, Deputy Commissioner for Treasury and Payment Services for the Department of Finance. Thank you

for the opportunity to present on the collection of debt resulting from violations adjudicated by the Environmental Control Board, which now refers to an adjudication process within the Office of Administrative Trials and Hearings, OATH. ECB summonses are issued by many city agencies for safety and environmental infractions such as Building Code and sanitation violations. The primary purpose of the summonses is to change behavior so that we may all live in safer, cleaner city. Collecting past due debt on these violations provides incentive for this behavior, and has the additional benefit of generating revenue for essential city services. There are over 20 city agencies that issue summons that are adjudicated by OATH. Upon issuance, summonses are stored in a computer system maintained by OATH. Respondents to such summonses can address them either by paying or disputing them at an OATH ECB hearing. As the Council is aware, OATH is an independent administrative tribunal-tribunal. As part of the city's Administrative Law Court, OATH ECB's function is to provide due process in cases that originate from the city's many enforcement agencies in a form that is unbiased and neutral. In 2014,

approximately 60% of city agency summonses were paid in full, and an additional 9% were dismissed for various reasons for full referral to DOF. OATH files judgments for the unpaid remaining balances, and then transfers the judgments to the New York City Department of Finance for collection. This in turn means DOF is working hard to collect on approximately 30% of the remaining summonses. Thanks to support from the City Council the Department of Finance administered forgiving fines, the ECB Amnesty Program for judgment summonses, a 90-day program, which ran from September 12th through December 12, 2016, forgave interest and 100% of default penalties for debtors who complied with the program's terms and conditions. More than \$100 million in default penalties and interest were waived during the program, and as a result, DOF was able to collect \$45 million associated with 128,000 paid violations. As a result of forgiving fines, total ECB judgement revenue in Fiscal Year '17 was \$91.7 million, a 50% increase over the \$60.9 million collected in Fiscal Year 16, and more than double the \$42 million collected as recently as Fiscal Year 14, when DOF began ramping up its collection efforts. I'd like to

thank Chairman Kallos, Council Finance Chair Ferreras-Copeland and Council Member Peter Koo in particular for helping us spread the word to raise awareness about the program. I also would like to thank city summons issuing agencies for handling an increased number of inquiries from respondents needing to address underlying conditions for compliance summonses in order to qualify for amnesty. Now that the Amnesty Program is over, DOF is ramping up enforcement for unpaid and untested violations issued by the city enforcement agencies. Enforcement efforts for violations and judgment debt include referrals to the city marshals, and the city sheriff to make onsite visits and, if necessary, seize assets to collect. For example, in FY 16, DOF issued 1,464 execution referrals and in FY 17, DOT issued 1,511 execution referrals, a 3% increase despite the fact that DOF did not issue executions for the first half of Fiscal Year 17 due to our preparation for and implementation of the Amnesty Program. In Fiscal Year 18, we expect a much higher number of legal executions since we will be issuing them throughout the entire year. Also, pursuant to Local Law 45 of 2016, which established the Amnesty Program, we have

modified settlements offered to respondents and other seeking to pay a reduced amount for ECB OATH judgments in return for and admission of liability.

We now offer settlement that will be one-half of default penalties with no abatement of interest.

Borrowing from the success of Amnesty, however, we now offer settlements online at a836-citypay.nyc.gov/citypay/ecb.

This is a faster more convenient process than paper submission of settlement

agreements. In response to Local Law 47, DOF took a close look at our own internal processes even though we do not issue licenses and permits. We identified

one opportunity where it would make sense to check for OATH ECB judgment debt. The merger and

apportionment that is subdivision of property

parcels. Since most OATH/ECB violations are issued against property owners, we want to make sure owners requesting such changes are properly maintaining

their buildings and land. This could have

significant impact. In 2016, DOF received 1,071

requests from mergers and apportionments on property

parcels. On February 10, 2017, DOF published Draft

Rules pertaining to the merger and apportionment

process including a requirement to resolve

outstanding OATH/ECB judgments. Owners could resolve the judgments by either making full payment or entering into a payment plan prior to DOF completing the requested action. A public hearing was held on March 28, 2017. DOF has just finished making revisions to the Draft Rules in response to public comment, and has submitted them to the Law Department for review before they are finally promulgated. By its own actions, DOF is supportive of the concept that agencies should suspend, revoke and deny licenses and permits for certain reasons. While city agencies may seek information and assistance from either OATH or DOF from making OATH/ECB debt a required step in the licensing or permitting process, we at DOF welcome all inquiries and referrals. We also regularly share OATH/ECB judgement inventory statistics with other agencies so that they may better understand the nature of the outstanding debt. However, since the provisions of Local Law 47 are clearly aimed at agencies that issues licenses, permits and registrations, there is little additional action we can take other than the aforementioned merger apportionment rule promulgation and supporting any agency that chooses to issue rules to reflect its

current or expanded practices. The Department of Finance appreciates the attention the Council has brought to this issues, and our ongoing work to improve our collection efforts. I welcome any questions you may have.

CHAIRPERSON KALLOS: Thank you. I'd like to acknowledge that we've been joined by Council Member Antonio Reynoso and Council Member Joe Borelli, and we will go onto the Department of Buildings.

Good afternoon, Chair Kallos and Members of the Governmental Operations Committee. I am Patrick Wehle, Assistant Commissioner for External Affairs of the New York City Department of Buildings. I am pleased to hear—I am pleased to be here to offer testimony concerning the implementation of Local Law 56 of 2016. Local 47, rather. Local Law 47 authorizes agencies that issue licenses, permits or registrations to adopt a rule enabling them to deny, suspend or revokes their licenses, permits or registrations based on unpaid debt resulting from violations adjudicated by your Office of Administrative Trials and Hearings, and exceptions provided for agencies that are in substantial

compliance through law upon its enactment.

Furthermore, when choosing to exercise its authority the law requires agencies to consider the risks withholding licenses, permits and registrations can have on unlicensed, unpermitted and unregistered activity. Finally, an annual report is required of those agencies, but adopts into rule in response to this law. The department issues license and registrations to more than 33,000 individuals in 38 different trades, and last year issued over 165,000 building permits to perform construction work ranging from minor renovations to new building construction. As part of the code revision process that culminated with the adoption of the 2008 Building Code, the department included provision that allows us to deny, suspend or revoke license and registration renewals based upon unpaid penalties, which were subsequently expanded to include requests for new licenses and registrations. The department is taking full advantage of this authority, and will not issue or renew any licenses or registrations unless all penalties resulting from violations issued by any agency are paid. In 2016, the department issued 2,764 new licenses and registrations and 5,773

license and registration renewals for which nearly \$1.4 million in penalties was collected. Given our work with holding licenses and registrations until penalties are paid, the department determined that it is in substantial compliance with Local Law 47 prior to its enactment. The department looks forward to continuing our work assisting the Department of Finance in their efforts to collect unpaid debt to the city. Thank you for your attention, and the opportunity to testify before you today, and I welcome any questions you may have. [pause]

CHAIRPERSON KALLOS: Thank you. I want to thank the first two agencies for their testimony, and ask the sergeant-at-arms if we can lower my mic a little bit. I'd also like to invite four other agencies to join the panel for the Q&A if possible, if we can bring up enough chairs. With the Department of Sanitation we have Thomas Killeen (sic), Director of Environmental Police. For DCA we have Mary Cooley, Director of City Legislative for—I think we'll bring those two agencies up, as well as DOHMH, Corinne Schiff, Deputy Commissioner for Environmental Health, and we do have the—we'll also bring Fire Department of New York, Jason Shelly,

Director of Legislative and Intergovernmental Affairs, and we will swear you in just so we can get that all taken care of at once. [background comments, pause]

CHAIRPERSON KALLOS: Okay, we will have Casey Adams from the Department of Consumer Affairs instead of Mary Cooley.

LEGAL COUNSEL: Raise your right hands. Do you affirm to tell the truth, the whole truth, and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

PANEL MEMBERS: [in unison] I do.

LEGAL COUNSEL: Thank you

CHAIRPERSON KALLOS: Thank you.

Typically the chair asks questions first, however, in my committee we—I—I tend to give deference to some of our members. We have—as Council Members we often have to be place—in more than one place at a time. So, I would like to turn it over to Council Member Joe Borelli who has a quick question.

COUNCIL MEMBER BORELLI: Thank you, thank you Assistant Commissioner. I appreciate you being here. A quick question about the relationship

between OATH and DOB violations. I've seen cases where OATH hearings have been adjourned for whatever reason OATH decides to adjourn cases or to delay cases or give them new hearing dates, but people are still faced—people still get the DOB violations for the violations that are not adjudicated yet. What—why does that happen with the DOB and OATH system or why is not better correlation?

ASSISTANT COMMISSIONER WEHLE: I'm not quite sure I understand your question. The violation obviously is issued prior to the hearing as is the normal process.

COUNCIL MEMBER BORELLI: So—so DOB issues the penalty associated with the— So, somebody gets a violation for, you know, illegal construction, or whatever they get violations for. They get a violation with an OATH hearing date. Now, if those people follow the instructions on the violation, they hire an architect and do what they generally—generally do to follow the—the violation, their hearing date gets moved. Why do they still often get a DOB violation with a penalty imposed in the mail?

ASSISTANT COMMISSIONER WEHLE: If they correct the conditions on or before the date of that

hearing and at the hearing they demonstrate that they've corrected it, that satisfies our need.

COUNCIL MEMBER BORELLI: And then those violations automatically get dismissed?

ASSISTANT COMMISSIONER WEHLE: The violation is dismissed upon correction of the violation. That's correct.

COUNCIL MEMBER BORELLI: Okay. That—that was the question of a constituent, and I really had no honest answer. I couldn't figure it out, and then thank you very much.

ASSISTANT COMMISSIONER WEHLE: You're welcome.

CHAIRPERSON KALLOS: [pause] Thank you Council Member Borelli. So, we'll start off with a series of questions. I just want to thank the Department of Finance for leading by example. We did not believe that you were covered by the law, but we're glad that you voluntarily complied with it and did so and we would love it if you would also include any voluntary reports and if you could send a copy of the rules you adopted. So, thank you.

DEPUTY COMMISSIONER SHEAR: Yes, and the city—we'll—we'll send a copy of the Draft Rules. The

rules have not yet been adopted. They—we expect them to be issued shortly after the Law Department's review. So, we'll—we'll share them once they are adopted, and once they are adopted we will keep statistics and share those as well.

CHAIRPERSON KALLOS: I also happen to be a little bit of—I—I-I like evidence based governance believing thins like global warming it's a problem, and so is it possible for the Department of Finance to help us whether internally? It doesn't need to be an official report, but test the difference between agencies that are using Local Law 47 for enforcement and change in behavior and collection versus agencies that aren't so that we can see what the actual financial impact of the law is.

DEPUTY COMMISSIONER SHEAR: So, we really are dependent on—on those other agencies to understand the impact. So, when we look in our database and there is a payment on the violation, we don't know necessarily if the payment came in as a result of one of our letters or an enforcement action or an agency checking as part of the licensing or permitting process. So, we—we can't—we're available to work with the agencies to help them get that

information, but we really are dependent on them to sort of call out when that—when the payments come in as a result of that process.

CHAIRPERSON KALLOS: I—so I guess then the question is so—so is there somebody between Department of Finance and the Mayor who is charged with maintaining quality of life for—who—who has the charge and authority to say to the agencies: Can you work with Department of Finance to report on when you're using this power, and it's resulting in collections, and when you're not, and it isn't whether or not we're seeing that ultimate change in behavior?

DEPUTY COMMISSIONER SHEAR: I don't know if I can answer that. I—I think each agency has the responsibility of adhering to the law and reporting on it.

CHAIRPERSON KALLOS: Thank you. So, at the bill signing ceremony for Local Law 47, our Mayor de Blasio described the bill by saying: "This bill means that if you don't pay your fines it may impact your application for a license or registration or whether you get to keep that license or registration." And he described it as part of a

package of bills that "Will give us important tools to collect money owed to the City meaning to the people of the New York City." So, my question is this: The Council and Mayor have given an important tool to use to collect money owed to the people of New York City. Have any of your agencies used that tool? So, we will start from left to right, and we will omit DOF.

ASSISTANT COMMISSIONER WEHLE: So the Buildings Department has not exercised the tools, as you call it, in-within Local Law 47. The law provides--these agencies I'd say have the obligation of adopting a rule and, therefore, performing the reporting if they are in substantial compliance with the law. And as discussed in my testimony, the department is in substantial compliance with the law because prior to its enactment we've had processes in place to ensure that for every license that we issue upon the issuance of a new license or upon the renewal of a license, we track across all agencies to see if there's outstanding debt or we don't renew a license or issue a new license if there is any.

CHAIRPERSON KALLOS: So, I-I-I took the liberty of--first I just want to acknowledge for those

just tuning in, agencies and council members engage in ongoing conversations around many different issues in the district so we've had conversations ahead of this. I—I took a moment—I'll need this back, but I took a moment to print out Local Law 47, and if you can go to Section B. I marked it, and we will read this section together and decide. But, do you happen to have it with you?

ASSISTANT COMMISSIONER WEHLE: I do.

CHAIRPERSON KALLOS: Okay. Could you read Section—Section B?

ASSISTANT COMMISSIONER WEHLE: Sure thing.

CHAIRPERSON KALLOS: And you can stop at 'such rules.'

ASSISTANT COMMISSIONER WEHLE: Any agency that issues notices of violation returnable to ECB or the—or to OATH shall promulgate rules to implement the authority granted by Subdivision (a) of this section. Except that any such agency as of the effective date of the law has adopted a rule or policy that substantially meets the requirements of this section, shall not be required to promulgate such rules.

CHAIRPERSON KALLOS: And just--and if you can continue through the--the four items that the rules have to address.

ASSISTANT COMMISSIONER WEHLE: You'd like me to read all four item?

CHAIRPERSON KALLOS: Yes.

ASSISTANT COMMISSIONER WEHLE: Okay. Such rules shall include, but need not be limited to factors to be considered in the agency's determination whether to--whether to deny, suspend, terminate or revoke including:

1. Whether such applicant, licensed permittee or registrant has other unpaid penalties, taxes or a debt owed the city.

2. The amount of the unpaid civil penalties imposed by ECB or OATH where the violation underlying the unpaid penalties imposed by ECB, or OATH was issued by such agency; or

3. Whether such agency is one of a series of violations returnable to such board or tribunal and the nature of the underlying violation; and

4. And then number 4 finally. Whether the unpaid civil penalties imposed by ECB or OATH

were imposed pursuant to a finding of default that was subsequently vacated or when the applicant, licensee, permittee or registrant has made a request to vacate such default or obtain new hearing pursuant to the rules of such boards or tribunal.

CHAIRPERSON KALLOS: Okay. So, in-in layman's terms the agencies shall promulgate rules. However, if you already have rules that meet 1 thought 4, you're-you're good. Right, you don't have to adopt new rules. Is that your--?

ASSISTANT COMMISSIONER WEHLE: You-you do not need to adopt rules if you are in substantial compliance with this section.

CHAIRPERSON KALLOS: Okay. So, the question for you would be what rules do you already have in place that meet the four requirements here?

ASSISTANT COMMISSIONER WEHLE: We are in substantial-we're in substantial compliance with this section because currently we have a process in place that allows us to not issue or not renew licenses and registrations based on outstanding debt.

CHAIRPERSON KALLOS: And would you be willing to-do you know offhand, because you seem very prepared, which is great. I love when agencies are

prepared. Do you have these sections of the New York City Rules and Regulations that meet these rules?

ASSISTANT COMMISSIONER WEHLE: I do.

CHAIRPERSON KALLOS: Awesome. I am very impressed. Thank you, and that should be normal.

ASSISTANT COMMISSIONER WEHLE: 28-28.41.19 speaks to our ability to revoke and suspend licenses and registrations. In addition to that, Rules of the City of New York 104-01 provides us with the authority to not issue a license or registration based on outstanding debt.

CHAIRPERSON KALLOS: And is that ECB debt only relating to DOB violations or if somebody has a violation from DSNY does that also apply?

ASSISTANT COMMISSIONER WEHLE: Yes, it applies to all agencies. That way you collect—we-I should say we hold off licenses and registration based on data across all agencies. So, it's not limited to DOB debt based on the issuance of DOB violations.

CHAIRPERSON KALLOS: And so, how many have used that authority? How many times have you used that authority last year?

ASSISTANT COMMISSIONER WEHLE: So, every time we receive an application for a new license or an application to renew a license, we perform this check, and so as I write in my testimony we issued 2,764 new licenses, and renewals were 5,773. So, now perform that check for everyone. In 2016, through that process there was \$1.4 million in penalties that were collected by the city. So, because of this sort of—the value of our licenses that we issue they're quite valuable, everybody pays up.

CHAIRPERSON KALLOS: So, you've given us the number in terms of the big scope on \$.4 million. Would you be willing to further comply with the law and give us the breakdown of which licenses and how many of them were held up, and to result in that big final number so you can see the—the—as you go back to the first big Math Quest, will you show me your work?

ASSISTANT COMMISSIONER WEHLE: I—I don't have the work to show, but I'm happy to show it to you.

CHAIRPERSON KALLOS: That—that—that is very helpful, and I guess one other piece that I just want to go highlight right now, and we'll—we'll let other folks get to their first question because we

kind of dove right in here, but number 3 is whether such violation is on of a series of violations returnable to such board or tribunal and the nature of the underlying violation. Is there a exception of the rules and regs that speaks to people who—people, persons or organizations or companies made up of those same people who have repeat violations over and over and over again.

ASSISTANT COMMISSIONER WEHLE: So as part of our check for a licensee, the licensee may have incurred multiple violations for which there are multiple penalties associate with, and so that's captured by our review as well.

CHAIRPERSON KALLOS: So, is—is there a situation where somebody has hundreds of violations and you just say, you know, what you don't get to do this any more because you're not going to follow the law?

ASSISTANT COMMISSIONER WEHLE: So as a general matter, yes, it's—but isn't—it wouldn't be as a result of the penalties. It would be as a result of—of the particular violations. So, if a licensee is engaging in illegal work repeatedly that's putting the safety of New Yorkers at risk, certainly we would

move forward with the process revoke their license, but it wouldn't per se be a result of the penalties that they've accumulated.

CHAIRPERSON KALLOS: Would--would you--how many times did that happen last year?

ASSISTANT COMMISSIONER WEHLE: I'd have to get back to you on a specific number. I don't know off hand. It certainly happens regularly.

CHAIRPERSON KALLOS: Okay. So, in--
[pause] Give me one minute, sir. So, I--I think we're on the same page that, and just to correct me, if an operator has dozens of safety violations or doesn't work without a permit quite often, you would consider withholding permits, registrations and licenses from them and perhaps even revoking?

ASSISTANT COMMISSIONER WEHLE: Certainly.

CHAIRPERSON KALLOS: And--and you believe there is a link between the number of violations issued, and the overall safety on a site.

ASSISTANT COMMISSIONER WEHLE: Absolutely.

CHAIRPERSON KALLOS: So, I guess one of the concerns and--and hopefully as we move forward with different construction safety legislation, but last Thursday two construction workers died on two

1 separate sites. The operator of the site a 161
2 Maiden Lane had been cited at least 15 times for
3 violations returnable to OATH. So the question there
4 is just was--was that site in question a safe site?
5

6 ASSISTANT COMMISSIONER WEHLE: So, those
7 fatalities we're going--it happened on Friday. Your
8 question is a good one, and someone in the Department
9 is looking into it as part of our investigation
10 that's ongoing.

11 CHAIRPERSON KALLOS: And so, I guess the
12 question being that if the DOB were to exercise
13 additional powers granted under Local Law 47 or
14 expand on the rules that we're currently pulling to
15 review during the hearing, that perhaps these 15
16 violations would have automatically been caught by
17 new rules you could promulgate that says if somebody
18 has a over ten violations for not having or having, I
19 would say three strikes from that. If you--you get
20 cited three times for not having guardrails, that
21 that is enough is say listen, you're--you're not an
22 operator that we want in this city. We want you to
23 keep our construction workers safe, and like we're
24 sorry to tell you, but like you need to find a
25

different job because you're not doing your job right here.

ASSISTANT COMMISSIONER WEHLE: I tend to agree and that authority already exists. I think the one question that I'd give you is, you know, there are just about 300 different types of conditions for which we can issue violations. Some are, you know, terribly egregious, and some are, you know, relatively administrative. I don't think we should focus so much on the number of violations, but actually those specific types of violations. If those violations are failure to safeguard, guardrails, things like that, certainly that raises a flag with the department currently, and based on that we'll perform an investigation and take appropriate action.

CHAIRPERSON KALLOS: So-so I think-so that's really good to hear. It would be helpful-so will you-will you share whether it's through this report of voluntarily and-and just on an ongoing basis how many [phone ringing] licenses, permits, registrations are being revoked or suspended in response to these types of situations?

ASSISTANT COMMISSIONER WEHLE: Certainly.

CHAIRPERSON KALLOS: And I think the other piece here is just we're going to look at the Rules and Regulations and again we're doing it as we speak, but the reason we had asked your agencies and all the agencies to promulgate your own rules and regulations is because I do not have as much expertise as somebody at the Department of Buildings does, and so we were hoping that in the intervening 18 months that DOB would adopt and say if a person has this class of violation relating to this piece that in the aggregate we can say that this is not a safe site, and we are going to take action. And so, I would ask that we go over the rules and regs together. If those are not there, and was not clearly painted that way, that either DOB sets forth a plan for adopting rules and regulations or know that the Council is-is willing to come back and do it for you, and our preference is to have the experts do it. Okay.

ASSISTANT COMMISSIONER WEHLE:

Understood.

CHAIRPERSON KALLOS: Perfect. We-we-we did not expect to jump right in there. Otherwise, we

wouldn't have invited everyone up. So, everyone give me one moment. [pause] [background comments]

COUNCIL MEMBER REYNOSO: It was actually answered in the great testimony by Department of Buildings, but the fact that the rules are being considered across the board or for-to some degree already in writing, I feel satisfied with the answer. So, I'm good.

CHAIRPERSON KALLOS: Okay, I'm-okay I will continue with the questions. So, if we can keep going. So, let's just go to Sanitation. So-so the initial question, which I asked, which is just have your agencies used this new tool?

THOMAS MILLER: Yeah, good afternoon, Council Member, Tom Miller, New York City Department of Sanitation. Sanitation issues permits for solid waste transfer stations, and we issue permits for full material operations. To the extent that that is probably about 61 transfer stations permits and maybe 9 to 10 fill material operation permits a year, it is in our rules that applicant provide us with an Environmental Control Board clearance letter prior to getting their permit renewed. So, we will not renew a permit unless we receive one.

CHAIRPERSON KALLOS: If a permittee for a transfer station is--so what types of violations does the Department of Sanitation write to waste transfer stations?

THOMAS MILLER: They vary. Failure to control dust, failure to control odors, failure to clean their tipping floor and stuff like that, tracking outside of the facility.

CHAIRPERSON KALLOS: And so, I guess one question is do you have occasion to issue more than one, more than a dozen, more than 100? What is the average number of violations that would be normal? What would be outside normal?

THOMAS MILLER: Quite frankly, the salvage transfer stations from 19--in 1990 there were 153 facilities. In 1996, there were approximately 95. We are down to 61. That's through intensive regulations by the Department of Sanitation, and the Business Integrity Commission. So, the--they keep--the facilities who are around now tend to operate better, but the NOVAS that we do issue are the minimum violation is \$2,500 and they increase to \$10,000. We issue probably 30 to 50 a year in those categories, but facilities are usually responsive.

If facilities did not comply, and they continued to violate we would therefore revoke permits, which was done from '96 going forward, and that's why that you see the reduction in the amount of the facilities.

CHAIRPERSON KALLOS: And my-my colleague who is the Sanitation Chair has-has brought up concern about transfer stations in his district, as have some of my colleagues in-in their districts in the Bronx, and do I think there's the feeling that the dust spreads, that there are concerns about sell and also the speed of vehicles going to and from the transfer stations, and a whole litany of safety concerns relating to them. Can we use Local Law 47 to say listen all your trucks keep speeding through the neighborhood or there's too much dust or you're-you're releasing smells in the neighborhood, and say if-if you aren't able to correct these behaviors, we're not going to allow you to continue to do business here.

THOMAS MILLER: Well that that become evident through violations we issue. We have 22 inspectors who inspect on a 24/7 basis. I think it's safe to say that for the most part at this time, facilities know what they need to do. If we get

facilities where we find there's—we're—we're issuing violations to 18-wheelers who frequent the facility, we will let the facility know that hey this certain tractor trailer driver they're not cooperating. The violations are not working. Please do not use them any more. So, there's—there's a give and take. We try to be proactive. When we receive complaints from citizens we try to get out there within an hour or two hours.

CHAIRPERSON KALLOS: And what is—do—do you happen to have the rule on hand that you've already been using?

THOMAS MILLER: I'm sorry. I do not.

CHAIRPERSON KALLOS: Okay, would you be willing to send it or you may have it.

THOMAS MILLER: I do have it.

CHAIRPERSON KALLOS: Okay.

THOMAS MILLER: It's 16 RCNY 4-05-B, Section 6, 4-07-B Section 6; 4-14-B Section 3 and 4-4 Section 0.

CHAIRPERSON KALLOS: This is the—the—I just want to thank City Hall, but this—I—I wish this had been provided months ago when we initially asked but as panels go, the—the agencies so far have been

very prepared. So, I appreciate you having that on hand. Would Department of Sanitation also provide a list of the violations you do issue along with how many of them?

THOMAS MILLER: Sure.

CHAIRPERSON KALLOS: I think one of the reasons we are most interested in having Department of Sanitation here is one of the complaints we get in the district, which I think you already know, is people who leave their trash, and then the trash spills onto the sidewalk and then they don't clean their sidewalk or they don't clean 18 inches from their sidewalk especially in residential districts throughout the city like mine where you have a--the densest possible residential district under Zoning Law one of the densest districts on the planet--in--in the United States under the Census tracks, and then we have that overlaid with commercial districts where you end up with like 20 million people walking down a block every year and you've got somebody who leaves their trash out, and what have you. So, I guess one of the questions is just from a quality of life standpoint, what can we do when there is a--a restaurant or a bar or some other commercial

establishment that is not being a good neighbor, that they're leaving their trash out for many hours beforehand. You write violations to them all the time, but they keep up the bad behavior?

THOMAS MILLER: Well, we try to assess as many violations as we can. The assumption is that they're—they're getting paid. You know, we have a field force. We go out and we try to clean the areas where we believe there are cleanliness issues. You know, I'm fairly happy to say that our score card on street level cleanliness remains very significantly high, but it's the highest it's been in—in many years. So, I think we're—we're affected in what we do. From an enforcement we try to be as responsible as we can to the community board, the district manager and certainly the politicians.

CHAIRPERSON KALLOS: Do you have any specific sites or do you have the ability to create reports that show the—the top offenders for sanitation in terms of people who aren't taking care of their trash, they're putting it out early. They're not doing the recycling and things like that?

THOMAS MILLER: We would only know through NOVAS if somebody is a repeat offender and

the violation would, therefore, get progressively higher.

CHAIRPERSON KALLOS: You would only through--?

THOMAS MILLER: In issuing the violation, if-if we've issued to it before to show that the-the penalty should be increased.

CHAIRPERSON KALLOS: And what's the system?

THOMAS MILLER: NOVAS.

CHAIRPERSON KALLOS: NOVAS, and so is the NOVAS data shared with other agencies because I-or has Sanitation ever reached out to DCA and said hey, we can't get them to follow. We've issued them dozens of violations, and we-we recommend that they not get their permit renewed or their license or their registration?

THOMAS MILLER: No, I don't think that's a part. No. I don't-we-we-as I said, we stringently monitor community cleanliness and that's done through a score card on street cleanliness. It's not what's-we have very high numbers. If we find a-just a problem with a certain location--

CHAIRPERSON KALLOS: [interposing] Uh-hm.

THOMAS MILLER: --the inspectors will go out as frequently as necessary.

CHAIRPERSON KALLOS: So, I-I-and so do agencies ever reach out to you, and say hey we looked at this and-and-and this business has over 100 violations that have been issued here, and-and should we reissue a permit to them?

THOMAS MILLER: No, we work cooperatively-cooperatively with other agencies about certain locations. That are problems generally for the city. I don't know if it's gets granular enough to say it's-it's about excessive summonses now.

CHAIRPERSON KALLOS: Would-would the Department of Sanitation consider figuring out what the metrics are for the number of violations where somebody-even if they're paying it as a cost of doing business, probably shouldn't continue to get to accrue those violations.

THOMAS MILLER: We're continuing to work with those federal agencies to-to tighten those up.

CHAIRPERSON KALLOS: Okay, and the same-same as to DOB for Sanitation. I will say we are working on starting a Business Improvement District in my district. We're-we're very close, but again

and again the neighborhood says to me: Why do we have to pay more to supplement services that the city should be granting, and at the same time, a lot of these services are necessary because the businesses—some of them are great. Some of them have bad neighbors and then when the bad neighbor leaves their trash out, it gets tracked all over the sidewalk, and then we have to use Cleanup NYC—NYC Cleanup funding to give it to you to sweep up extra whatever when we just need that one business to either become a good neighbor or no longer do business. So, what type of timeline—when—when could the Department of Sanitation get back to us with either a timeline for promulgating rules to ensure that if a business had repeat violations that they will no longer be able to continue, or just let us know so that we can make a law.

THOMAS MILLER: Well, I don't think that it's within our purview to say that a business could continue to operate. That's why we're working together cooperatively with DCA and—and everyone else to promote a—maybe a tighter system.

CHAIRPERSON KALLOS: I appreciate that.
Let's—let's go to DCA. I don't know if we have to
play music. Oh, perfect. Okay.

CASEY ADAMS: Not here.

CHAIRPERSON KALLOS: So—so the same
question: Have your agencies used this new tool?

CASEY ADAMS: So, we issue licenses to a
variety of businesses and individuals, and we
automatically suspend those license for failure to
pay fines. So, we have some numbers to share with
you today that we—in this year so far, we've
suspended 539 licenses. We have revoked at an
additional 28 licenses, and we have denied 107
applications for either a new license or to renew a
license, and we are in the process of drafting a rule
to think about how we best implement the tools that
the Council has given us. And we do—I wanted to say
that we appreciate the thoughtful and flexible
approach that you have taken in drafting the
legislation because as you highlighted, there are
things that are very particular about different
licenses. Our licenses cover everything from ticket
sellers to general vendors, and many other different
types of businesses, some of them to companies, some

of them to individuals. So, the calculus for which violations and in what circumstances should affect someone's ability to get and maintain a license is very particular to the category, and as you recognized and so we do appreciate that and I think to touch on something that you asked the Sanitation Department all of our violations are on open data. So, if folks are interested in what businesses are licensed by DCA in a neighborhood or what violation—what violations have been issued, they can always go on and check that out, and I know that's also as a result of thoughtful legislation by the Council.

CHAIRPERSON KALLOS: You—you made me very happy. I'm—I'm just I guess where there challenges for DCA in terms of getting us the report on Septembers 1st as far as I've been advised by our Council that we—we didn't get it on September 1st and I'm not sure. I'm really happy to get these numbers about the 579, but I guess is there a way to have gotten this information without having had to have a hearing?

CASEY ADAMS: So, I think that we—we're happy to get you whatever information we can to be helpful. We will, as I said, be crafting a rule and

certainly we will consult with all of our sister agencies and with the Council as well to make sure that that rule accomplishes all of our shared policy goals, and again, we have--I think it's a very robust open data set that covers a lot of different things on our--on our denial. So, for instance all of these denials are--are updated weekly. So that you can see who's been denied. So, we will--we'll work with you to make sure that this information is duly heard in the most timely fashion in the future.

CHAIRPERSON KALLOS: Yeah, the denial is going to be on open data, too or--?

CASEY ADAMS: We are currently on open data.

CHAIRPERSON KALLOS: Okay. So--so one might argue that all these reports should be on open data anyway. So, that's great. I just would have loved to even gotten an email with a link saying here--here's--here is the data set, and so--

CASEY ADAMS: [interposing] We send you that, you know, right after this hearing, Council Member.

CHAIRPERSON KALLOS: You can even send it to me during this hearing so--[laughter]

CASEY ADAMS: Sure.

CHAIRPERSON KALLOS: That—that is helpful. So, I think one of the things that you heard me ask the Department of Sanitation and even with DOB I don't—does DCA have any overlap in terms—do—do you—does DCA have licenses that are granted to businesses that receive violations from DOB or Department of Sanitation?

CASEY ADAMS: We do.

CHAIRPERSON KALLOS: Okay. Would and as well as DOHMH?

CASEY ADAMS: We do.

CHAIRPERSON KALLOS: Okay. We'll—we'll and—Okay. Will all of the agencies agree under oath to work together to provide recommendations of violations that put thresholds for either outstanding debt or just repeat violations that they would recommend to DCA that they might suspend, revoke or not provide additional—additional licenses, permits or registrations. DOB?

ASSISTANT COMMISSIONER WEHLE: I'm sorry. I'm not—I'm not sure I understand the question.

CHAIRPERSON KALLOS: Sorry. Will—will you agree to provide a list of violations to DCA as

2 they are working on promulgating rules for which they
3 should consider them as repeat offenses that would
4 warrant them not granting or suspending or—or
5 revoking a license or registration or permit?

6 ASSISTANT COMMISSIONER WEHLE: Happy to
7 discuss that further with DCA, yes.

8 CHAIRPERSON: And just keep—keep us in
9 the loop, too. Sanitation.

10 THOMAS MILLER: Yeah, we certainly will
11 be going to provide the information.

12 CHAIRPERSON JOHNSON: DOHMH.

13 DEPUTY COMMISSIONER SCHIFF: [off mic]
14 We can share that additional information with the
15 others.

16 CHAIRPERSON KALLOS: We need you to—we
17 need you to say so.

18 DEPUTY COMMISSIONER SCHIFF: [off mic]
19 That other information--

20 CHAIRPERSON KALLOS: Oh, he's going to—
21 it's bad. (sic)

22 DEPUTY COMMISSIONER SCHIFF: The Health
23 Department can provide violation information to DCA.

24 CHAIRPERSON KALLOS: And will you also
25 provide recommendations on the types of violations

that if they are repeat in nature that suggests a larger issue for which a permit, registration or license holder might be suspended, revoked or not renewed?

DEPUTY COMMISSIONER SCHIFF: We can share our views about which of those sort of more egregious public health concerns.

CHAIRPERSON KALLOS: Great.

DEPUTY COMMISSIONER SCHIFF: Is that what you mean?

CHAIRPERSON KALLOS: Yeah, and--and you'll include the Council in--in that conversation?

DEPUTY COMMISSIONER SCHIFF: Sure.

CHAIRPERSON KALLOS: Great. That is--I'm making progress. [laughs] Sorry, this--I feel like this could have all been avoided a couple of years ago, but I'm glad that we're doing so now after the hearing. So, if I may continue with-- Okay, so actually DOHMH I think it was your turn. So, have you used the new tool?

DEPUTY COMMISSIONER SCHIFF: Good afternoon, Corinne Schiff, Deputy Commissioner for Environmental Health at the Health Department. The Health Department has about 45 different permits and

license types with more than 62,000 current permit or license folders, and Article 5 of the New York City Health Code requires that before those permits can be renewed that fines be paid. I have a copy of the Health Code section if you want it.

CHAIRPERSON KALLOS: I'll take it.

DEPUTY COMMISSIONER SCHIFF: Okay. I've even—I'm purpose--

CHAIRPERSON KALLOS: [interposing] The sergeant-at-arms will come and—and take it.

DEPUTY COMMISSIONER SCHIFF: But you can—I will hold onto it if you want—I can give it to you now, but I don't have a second copy. So, and I've circle subsection F there for you.

CHAIRPERSON KALLOS: That is—that is fine.

DEPUTY COMMISSIONER SCHIFF: Okay.

CHAIRPERSON KALLOS: Perfect. Thank you. Please so—so tell—tell us a little bit about that section. Okay. Hold on one second.

DEPUTY COMMISSIONER SCHIFF: So, in order to renew a permit of a license you have to submit proof that you have no outstanding fines.

CHAIRPERSON KALLOS: Great.

DEPUTY COMMISSIONER SCHIFF: And it's--and it's an extremely effective to make sure that those fines are paid.

CHAIRPERSON KALLOS: And do you consider repeat violations from other agencies?

DEPUTY COMMISSIONER SCHIFF: We don't have--we don't really have a way to do that, but we are thinking about how we can--how we can bring that into our system.

CHAIRPERSON KALLOS: Okay. We have a great panel of experts. Is there someone here who has an idea of a way to do that so that DOHMH can review other violations from other folks go see--?

DEPUTY COMMISSIONER SCHIFF: I think we--we've--we've talked and we're going to--we're going to explore that further.

CHAIRPERSON KALLOS: Okay. That is--that is absolutely great. Okay, that--that is--and then Fire Department.

JASON SHELLY: Hello, Councilman. Jason Shelly from FDNY.

CHAIRPERSON KALLOS: Have you used our tool?

JASON SHELLY: I don't want to rain on the area of good feelings here, but we've not used your tool, but it's—it's for a specific reason. Specially, a policy decision we've made. You—you mentioned quality of life several times. With the nature of the--the permits and the certificates that we issue, our Public Safety and the nature and the nature of the violations that we issue are public safety in nature, and so, they're of value to the applicant, the person or the business looking for the permit or the certificate, but they're also of great value to the--the city of New York and the Fire Department in particular. So, just to give you a couple of examples, if—if you're applying for a permit to have some sort of hazardous condition or—store combustible materials, you're going to learn about the rules in that, and in order to get that permit, you're going to perhaps take a test to show that you understand the safety information. You're going to show us potentially that you've got outside certifications or other safety qualifications in order to do that, and then importantly, the value is greatly important to the Fire Department often times there's going to be an inspection regime associated

with that permit. So, you're going to ask to be able to do something on your property, store combustible materials. We're going to come out and inspect that, and initially, and make sure that you're doing it in a correct way. You understand how you're doing it, that the person dealing with it who has the certificate understands how to store it, understands how to move it, understands how to interact with first responders, and then we're going to come back six months later or a year later and make sure you haven't moved those barrels of gasoline under a pedestrian walkway or something else that would—would endanger public safety. And so, that's very valuable to us, and it's also valuable for first responders who are going to respond to an incident at that location. So, if you have a permit to store combustible materials on the first floor, and the local firehouse get a—a report of smoke on the third floor, that information all goes into something we call CIDS, our Critical Information Dispatch System. They're going to head to that location with the understanding that all the permitted combustible materials on the first floor we're going to take that information into account as we operate here. So,

it's of great value to--to the--the New York--the citizens of New York. It's great value to first responders. What we normally do is anything to drive that sort of activity underground, drive it off the books, we would fear doing such a thing if we began denying permits and deny certificates--

CHAIRPERSON KALLOS: [interposing] Okay.

JASON SHELLEY: --to people, and so we made a deliberate decision from a public safety standpoint not to do that.

CHAIRPERSON KALLOS: So, my--my Committee Counsel notes that Section 113-01, Applicants Delinquent on Child Support payments.

JASON SHELLEY: So, I thought you might ask the--the two things that we would deny something for--for--

CHAIRPERSON KALLOS: [interposing] So, I guess--

JASON SHELLEY: I'm sorry.

CHAIRPERSON KALLOS: I guess the big question is and--and so we'll get to that question a little bit later, but I--my--my parents are divorced. I was raised by a single mom, and father did not pay child support. We had to seek collection. So, these

laws are important, but I guess why is a person violating the—the Fire Code repeatedly somehow less important and more likely to drive the “work” quote/unquote underground versus somebody who hasn’t paid their child support who should.

JASON SHELLEY: So, the child support is—I think it’s the state. It’s a statutory obligation. It’s not a policy decision that we make in the Fire Department.

CHAIRPERSON KALLOS: You—you are correct.

JASON SHELLEY: I—I wasn’t there when that passed, but I—I believe we would have made the same argument then and would have opposed them for exactly this reason. I don’t think that person is less likely to drive the work underground. I—I wouldn’t argue that we should allow more of it. I would argue that we should have less of that.

CHAIRPERSON KALLOS: I—I strenuously disagree and struggle to maintain composure, but people who owe child support need to support the families.

JASON SHELLEY: [interposing] Of course. I would not disagree with that.

CHAIRPERSON KALLOS: And so, I guess—so just you mean to tell me, so you—somebody's got barrels of gasoline. It's in a building. You show up, they say, yeah, I'm going to put it there. They put it where they're supposed to. You come back six months later, it's under the pedestrian walking and you say nope, that's—that's a violation. You issue a violation. They pay it. You come back six months later, it's back where it was. You issue a violation. They pay it. So on and so forth. In five years they've gotten ten violations because that's how long it would it take. You—you would still support continue to let this person store gasoline on their site?

JASON SHELLY: So, repeat violations a couple of different things. First of all, the—the penalties associated with that go up by quite a large scale for repeats. Depending on the severity, and I—I without my particular case getting—getting into specifics but, you know, we may shut a location down and they get it when they stop a certain type of service until they show--

CHAIRPERSON KALLOS: [interposing] What is your--what rules and regulations would you use for that?

JASON SHELLY: That is in the Fire Code and I could--I'd be happy to follow up with you with that.

CHAIRPERSON KALLOS: Alright.

JASON SHELLY: Just to note also that our program recently worked with DOF for frequent violators of particularly important violations that we've seen. So, that DOF can pursue them more aggressively than just a run of the mill violation, and I think that's a program that is not--not been away from very long, but I think it shows promise.

CHAIRPERSON KALLOS: For the category of violations that you're speaking of that you think are dangerous enough that is worthy of you shutting something down, would you share that list with all the other agencies sitting at the table. So that they may consider those repeat violations when they issue new licenses, permits or registrations--

JASON SHELLY: [interposing] I can--

CHAIRPERSON KALLOS: --or revoke or suspend them?

JASON SHELLEY: I'd be happy to share that information.

CHAIRPERSON KALLOS: Perfect and you'll share that with the Council as well?

JASON SHELLEY: Just to be clear, for-for-what's the threshold? If a violation that could result in vacating a location, is that it?

CHAIRPERSON KALLOS: I-I am--

JASON SHELLEY: I can potentially give you all of it.

CHAIRPERSON KALLOS: No worries, no worries. As I have shared with the other agencies, I-I lack the expertise that you have. I-I am concerned that my constituents are seeing little expertise I might have, but you fake it until you make it, but keeping here is just you threshold. We--we've empowered you. You're an agency. Please work with the other 13 ECB issuing violations--ECB quality of life issuing agencies to say hey, these are things that we think that if the person has repeat violations over and over again from us, that's a reason for you not to issue their DCA or their DOHMH license or their DSNY license or the DOB license.

JASON SHELLEY: I'm happy to do that?

CHAIRPERSON KALLOS: That is amazing.
Okay. in Section 810-A, which DOB happens to have on
hand if you don't. There's a requirement that the
violations, the Notices of Violations include
specific language that says: "If the Environmental
Control Board or the Office of Administrative Trials
and Hearings order you to pay a civil penalty,
failure to pay that penalty in a timely manner could
lead to the denial of an application for lands-
license, permit or registration or just the
suspension, termination or abdication of a license,
permit or registration issued to you by a city
agency. Have you updated yet? Starting from the
left.

ASSISTANT COMMISSIONER WEHLE: Would you-
I didn't quite understand the question. What is it
you're asking?

CHAIRPERSON KALLOS: Have your notice of
the violations been updated to include the written
warning on that?

ASSISTANT COMMISSIONER WEHLE: Yes.

CHAIRPERSON KALLOS: Thank you.

THOMAS MILLER: No.

CHAIRPERSON KALLOS: Will you do so?

THOMAS MILLER: I need to review—review it a little more. If necessary we will.

CHAIRPERSON KALLOS: How long will it take you to get that to us, and whether or now you will comply with the law, or you may have any answer.

THOMAS MILLER: Yes. We would love to work with all partnerships.

CHAIRPERSON KALLOS: No worries. Next.

CASEY ADAMS: I'm gong to have to look in every—I'm sure. Check on my data.

CHAIRPERSON KALLOS: No worriers. How—how long will it take you to get back to our committee counsel with the—with your time length for implementation?

CASEY ADAMS: I will go back and ask right away, and I will get it to you as soon as I can.

CHAIRPERSON KALLOS: Perfect.

CASEY ADAMS: I could leave the description for that. I'm sorry.

DEPUTY COMMISSIONER SCHIFF: The Health Department did update its Notice of Violation.

CHAIRPERSON KALLOS: Great. Thank you to where it with musical chairs, we will let Jeff go

2 briefly, and we may call him back, but just to avoid
3 musical chairs, and I'll just thank the Department of
4 Finance for their cooperation on this.

5 DEPUTY COMMISSIONER SHEARS: It is
6 partly. [background noise, pause]

7 CHAIRPERSON KALLOS: Sorry. Continue.

8 CASEY ADAMS: Yes, the Department of
9 Consumer Affairs has updated their Notice of
10 Violation-Notices of Violations to include the
11 written warning 90-90%. We'll get 100-100% for
12 anybody on good day.

13 CHAIRPERSON KALLOS: Great. To the
14 Department of Sanitation you indicated that you
15 required a cert-certification that they-that private
16 transfer station permits had no outstanding ECB
17 violations. Is that the same for the other six
18 violations that you-sorry, six permits that you
19 provide including recycling, outside collection bin
20 and registration?

21 THOMAS MILLER: No for collection bins.
22 For registrations we-registration facilities are
23 either licensed by DCA or permitted by the Department
24 of Environmental Conservation. Our registration
25 process with those sites we're just going to steer to

2 the nature, and it was to gather information on
3 recycling rates.

4 CHAIRPERSON KALLOS: So, collection.
5 Then registration is through DCA?

6 THOMAS MILLER: No.

7 CHAIRPERSON KALLOS: Sorry.

8 THOMAS MILLER: The--the registration--the
9 recycling registration facilities?

10 CHAIRPERSON KALLOS: Yes.

11 THOMAS MILLER: Those two, I think the
12 number at 80, 24 and maybe 54. They're either
13 licensed by DCA or licensed by the New York State
14 Department of Environmental Conservation.

15 CHAIRPERSON KALLOS: And then DCA does
16 the enforcement?

17 THOMAS MILLER: DCA does, yes, some of
18 the enforcement.

19 CHAIRPERSON KALLOS: Do you do the other
20 enforcement?

21 THOMAS MILLER: We do certain types of
22 enforcement yes.

23 CHAIRPERSON KALLOS: Does DCA consider
24 DSNY violations when you renew recycling facility and
25 collection bins.

CASEY ADAMS: I think there may be some confusion. We—we do not permit those bins, DCA. It may be another agency, but we can—we can--

THOMAS MILLER: [interposing] We're talking about scrap—scrap metal processors?

CHAIRPERSON KALLOS: Uh-hm.

THOMAS MILLER: Alright.

CASEY ADAMS: Those we do. Those we do.

CHAIRPERSON KALLOS: Okay, okay.

THOMAS MILLER: So, the—the 54 sites [coughing] scrap metal processors. I'm sorry for not referring to it properly.

CHAIRPERSON KALLOS: Okay, so let—we'll—we'll go one by one. So, the private transfer stations that's all you—you regulate and handle their registrations?

THOMAS MILLER: Yes.

CHAIRPERSON KALLOS: And you withhold if they have a CV violations?

THOMAS MILLER: Yes.

CHAIRPERSON KALLOS: And you withhold if they have any CV violations?

THOMAS MILLER: Yes.

2 CHAIRPERSON KALLOS: Is intermodal waste
3 transfer facility registration similar? We—we don't.

4 CHAIRPERSON KALLOS: Okay, tell us—

5 THOMAS MILLER: [interposing] So, that's—
6 that's the registration. It's—we theoretically we
7 were preempted from registration the sites that were
8 on rail lines. It's the—the Federal Railroad Act
9 that really takes precedence. It's just a site on
10 rail line where materials are then transported and
11 place on a—on a rail container. There's not much
12 associated with the activity.

13 CHAIRPERSON KALLOS: So—so you regulate
14 responsive complaints. You issue violations to them?

15 THOMAS MILLER: Our regulatory scope is
16 very limited.

17 CHAIRPERSON KALLOS: So, it's—it's
18 federal?

19 THOMAS MILLER: Yeah.

20 CHAIRPERSON KALLOS: Okay, and so and—and
21 are you able to deny a registration there even if
22 they have ECB violations?

23 THOMAS MILLER: As of now, no.

24 CHAIRPERSON KALLOS: And that is—and you
25 do those?

2 THOMAS MILLER: But I—I don't know what
3 violations would—they would really incur.

4 CHAIRPERSON KALLOS: Okay. If—if we can
5 learn more, that is what--we're here, and I—and then
6 fill material operation permits, you regulate and--?

7 THOMAS MILLER: Yes, they provide. We
8 need a clearance letter. We ensure that they don't
9 have any outstanding violations. Yes.

10 CHAIRPERSON KALLOS: Great and the scrap
11 metal facility is DCA?

12 THOMAS MILLER: Scrap metal is at DCA,
13 the recycling handling and recovery facilities are
14 state regulated.

15 CHAIRPERSON KALLOS: Okay, so for the
16 scrap metal facilities--

17 THOMAS MILLER: And that—and they're
18 just—they're very new registrations. We just started
19 registering them this year.

20 CHAIRPERSON KALLOS: Okay for the scrap--

21 THOMAS MILLER: [interposing] That's a
22 new process.

23 CHAIRPERSON KALLOS: So, for scrap metal
24 facilities you require the EC—the ECB Violation
25 Certification?

2 THOMAS MILLER: No, it's just
3 administerial registration is what we issue.

4 CHAIRPERSON KALLOS: Okay. Does DCA
5 require that they don't have any EC-outstanding ECB
6 debts?

7 CASEY ADAMS: I will have a student look
8 into that for you.

9 CHAIRPERSON KALLOS: Ok, if not, this is
10 a place where we will be-DCA and DSNY and I guess do
11 you consider one another's violations or other
12 violations that a scrap metal facility might have
13 accrued? Both DSNY and do you consider repeat
14 offenses.

15 THOMAS MILLER: Like I said, we just
16 started registering them.

17 CHAIRPERSON KALLOS: Okay.

18 THOMAS MILLER: So, the prerequisite was
19 to have DCA license and for handling for facilities
20 they needed a DEC registration as well.

21 CHAIRPERSON KALLOS: Okay. Collections
22 and registrations. You regulate that, and you
23 register that?

24 THOMAS MILLER: Collection bins?

25 CHAIRPERSON KALLOS: Yes.

THOMAS MILLER: Yes--yes, we do.

CHAIRPERSON KALLOS: Okay, and so--and the types of violations that might be written to a collection bin is that for folks who are collecting like clothing or what is--that's it. Okay, it is a--so those are the closing--clothing, and so I know that there is a problem all over the city with some of them that are real and legitimate and some of them that may not be.

THOMAS MILLER: Right.

CHAIRPERSON KALLOS: So, what--what do we do? So, what types of violations could somebody get for that, and what do we do about folks who have the ones that aren't supposed to be there?

THOMAS MILLER: I would either provide you with--with information after the hearing on that specifically--

CHAIRPERSON KALLOS: Okay

THOMAS MILLER: --what the--what the exact process is. I don't think it--

CHAIRPERSON KALLOS: [interposing] Okay.

THOMAS MILLER: --involves many NOV's. It's--with our scope there it's very limited. It's just a form of registration I believe as well.

CHAIRPERSON KALLOS: Okay. We—we have representatives from City Hall here, and I will just say the—the same lines of questioning that I—I have given. If—if that could be brought to the agencies that aren't present here to avoid a part 2 to this hearing for that specific set of questions. We're—we're—are we all set?

MALE SPEAKER: [off mic] Yes.

CHAIRPERSON KALLOS: Perfect. Okay. So every agency has that. So, I want to thank the Department of Health and Mental Hygiene for showing up with a copy of the Article 5, 5(05) subsection f. The question that we have is if you only consider OATH violations of your code or the—or—or for other agencies? The rule that you have is only for your code, and as is apparent from this hearing we want you to consider all of them.

DEPUTY COMMISSIONER SCHIFF: Understood and as I—as I testified a couple—a couple moments ago, we're—we're—we're exploring how we can collaborate with our sister agencies.

CHAIRPERSON KALLOS: [pause] Give me just one moment. Sorry. This is—I—I—I want to thank you for your time. My preference was not to have to even

have this hearing. I understand that it a—it has taken longer than it possibly should, but we're just trying to go through it and there—you may be on the—I wish there were 13 agencies here, but the best way to avoid it is to work together before the hearings. Give me one moment. [pause] Okay, Patrick Wehle at DOB, you—you look like you felt like you weren't getting enough questions. [laughter] So, according to a report from November 2016, Department of Buildings has by far the most outstanding ECB debt with over \$900 million including penalties and interest owed to the city. No other agency has even half that amount. I understand this is partly a reflection of the scope of your agency's responsibilities, but I think there's been a clear policy made by the Council through Local Law 47, and also Council Member Vacca's recently passed Local Law 160 of 2017 that we expect persons with large outstanding debts and who are refusing to repay those debts to have the permits denied. You have mentioned there is a group policy. This is your intent to comply with these laws going forward?

ASSISTANT COMMISSIONER WEHLE: Yes.

CHAIRPERSON KALLOS: And I guess one question is you—in your testimony you mentioned that you collected \$1.4 million. What is the challenge to collecting the other \$900--\$900 million? What is—why—so is it just people? Yeah, what is the impediment to collecting all of the DOB, ECB debt?

ASSISTANT COMMISSIONER WEHLE: What—what I can tell is certainly with Local Law 160, and come the end of this year, December 28th, it takes effect, we will have a process in place for, you know, new building, major alteration and demolition in place of assembly permits where the building or the owners—or owner—owners of those buildings are \$25,000 or more in debt, we will have the means in place at that point in time to withhold permits based on that debt. Presumably, that will make a big difference hopefully in the city, you know, getting these respondents to pay up.

CHAIRPERSON KALLOS: Not to show a card on attending a legislative service request, and our—our pronouncing (sic) for people watching at home, this is a—when a council member says I want to draft a bill. So, you can correct me if I'm wrong. If I own a building and I hire a contractor to fix

something, and then they do something wrong, but I don't know because I'm not a contractor. I lack that expertise. I'm showing a lot of things I don't know here, but a couple months later DOB comes by. They-- they use the wrong wiring. They did the wrong type of tubing or what have you. Who gets the violation, me or the person who did something wrong?

ASSISTANT COMMISSIONER WEHLE: If the department is able to identify the contractor, the contractor would receive that violation. Ordinarily for the types of violations you--we're talking about, ordinarily things like work without a permit, the contractor is not able to be identified. So, the owner of the property would receive that violation. Ultimately, it's the owners of the property who are responsible to ensure that any work that happens on their property is being--is being performed appropriately.

CHAIRPERSON KALLOS: So, I think therein lies the--the large rub. So, even the most sophisticated property owner or manager is--I--I don't know many that would like say, oh, you--you got a permit from DOB. I don't--I doubt even if they asked for a copy of the permit anyone could actually read

the permit. I-I quite often when I get something from DOB end up calling you on the phone to say what does this actually say? What does this actually mean? So, I guess the--and I doubt that they can-- folks are going to go into the--the Business Information System to double check their contractor. Would DOB consider promulgating rules that allow you to pierce through the--the building owner to whoever did the work, and if the building owner comes with evidence to OATH or to you that says here's the money I paid? Here's an invoice and a cancelled check that you can take that to say to the contractor prove why it wasn't you who did this work.

ASSISTANT COMMISSIONER WEHLE: Are you asking if there should be the means in place to relieve the owners of responsibility to ensure that contractors they hire are doing work at co-a safe and co-compliant manner. If they--if that's the question, the answer is no.

CHAIRPERSON KALLOS: How about joint and severally? The--the--for--for--in layman's terms for those watching just it means you can hold both people responsible at the same time.

ASSISTANT COMMISSIONER WEHLE: We—we can and do do that when—when we have the ability to do so. A gain, if we can identify the contractor, both the contractor and the—and the owner of the property would receive the violation.

CHAIRPERSON KALLOS: But I—I guess that the question—so, and the process being do they go to OATH to—to—to—the technical term would be and plead, but in just plain language it would be bring—to point the finger and say that's the person you should hold responsible. So, if I'm a homeowner, I'm watching at home right now, and I got in trouble with DOB because a contractor did—did something wrong, and they didn't get their permit. They did it without a permit, and I—who—what do I do? Do I hand the—the invoice and the cancelled check to some—who do I give it to at DOB? Do I give it to OATH? How—how do I get that person on the hook instead of me or with me?

ASSISTANT COMMISSIONER WEHLE: That would be addressed at OATH.

CHAIRPERSON KALLOS: Okay. So, that happens at OATH, and so, as far as I understand, OATH is not the position to bring in new parties. I think the agencies have to do so. So, how does it work?

It happens at OATH. You go to OATH and you say it wasn't me. It was my contractor. OATH says you're still responsible, and then does--does DOB then issue a new violation or re-amend their violation? How do you do that?

ASSISTANT COMMISSIONER WEHLE: I don't know if there would be the occasion or the need to reissue a violation. Ultimately the judge at OATH is going to make a determination as to whose responsible for the violation, and that will determine, you know, the further course of action.

CHAIRPERSON KALLOS: Just--just to be clear, on the back and forth, we just had you didn't actually give me a clear way for them--for--for a building owner to like get the--the contractor on the hook.

ASSISTANT COMMISSIONER WEHLE: I think that's something that's something that would--they would have to make their case to OATH, and the judge would have to make a determination. At that point in time, it's--it's sort of beyond the Buildings Department. We issue the violation. It needs to be adjudicated at OATH.

CHAIRPERSON KALLOS: But the person who did something wrong is the contractor. The contractor doesn't the price for having done something wrong. Maybe they got a negative Yelp (sic) review, maybe not, but the negative behavior and the non-compliance continues. So, if-if-if DOB is interested in working with us, otherwise we'll try to figure out some sort of legislative framework. We did something on I think it was Introduction 811 or 814 or 812 about allowing multiple parties to be requiring agencies to issue violations to multiple parties. We will send you a copy of that, and hopefully, we can work together on that before having to-to do-do that. We could have done it on the whole batch of laws that we passed together. Following along. So, Deputy Commissioner Wehle, you testified previously before this committee that "For work without a permit violations" a corresponding civil penalty is issued that "In order to get the permit, you will need to pay the violation because not to do so kind of makes a mockery of the idea of getting the work without a violation in the first place." In our research preparing for this hearing, we found more than one example of a company that received multiple

"work without a permit" type violations who were also issued or reissued a DOB permit within the past year and who had tens and even over \$100,000 in ECB debt prior to the issuance of the permit. We would be happy to have staff share some specific examples with you after the hearing. From what I understand you have concerns with broadly applying Local Law 47. Certainly these instances, which you yourself identified we should be more vigorously applying Local Law 47 as a policy matter. Is that not so?

ASSISTANT COMMISSIONER WEHLE: I think I understand the question, and what you're saying is correct. So, as a general matter right now the only occasions where we're not-the only occasions where we're withholding permits based on debt is when a work with a permit violation has been issued. If their case--there should not be any cases where work without a permit violation has been issues that violation has not been--the penalty has not been paid or corrected. If that doesn't happen, we shouldn't be issuing any permits. If you are aware of examples, please bring them to my attention, and we'll take a look at it.

CHAIRPERSON KALLOS: We will do so. In our staff's research—we have a great staff—we—in our staff's research, we found an instance of an owner of multiple properties who had racked up over \$200,000 in Environmental Control Board quality-of-life violations from the Department of Sanitation, Department of Health and Mental Hygiene, Fire Department of New York, Department of Environmental Protection and the Department of Buildings. This owner has also appeared on Public Advocate Tish James' slumlord list, which once upon a time was Public Advocate Bill de Blasio's slumlord list. From Department of Buildings, this owner received violations that included working without a permit, and last year this owner and associated LLCs have been granted at least nine building permits. I understand that we don't want to punish the residents of his buildings any further by denying permits for needed work, but this owner also seems comfortable having a large outstanding debt to the city. Is it the practice of the Department of Buildings to reach out to any other issuing agencies to—for clearly bad actors like this to see if there are licenses or

permits issued by other agencies that could be withheld as a tool to encourage compliance?

ASSISTANT COMMISSIONER WEHLE: I don't believe so, no.

CHAIRPERSON KALLOS: Would you adopt such a practice?

ASSISTANT COMMISSIONER WEHLE: I'm happy to consider it.

CHAIRPERSON KALLOS: And could we have the response to that consideration back within the next week?

ASSISTANT COMMISSIONER WEHLE: Yes.

CHAIRPERSON KALLOS: Great. I would also ask the other agencies present if they would be willing to use the tools at their disposal to help compliance for a bad actor like this?

THOMAS MILLER: Yes. [pause]

CASEY ADAMS: As I mentioned in our—in my testimony, we license a very specific list of businesses. So, in the even that such a bad actor was licensed by us, we would certainly be willing to consider it.

DEPUTY COMMISSION SCHIFF: Yeah, and the Health Department has done some work along the lines

of what you're suggesting looking at some of those—the landlords that are on these—these lists, and looking which sister agency to—to see what sort of patterns we can uncover and how we might be able to elevate enforcement. And so, we—we think it's a good idea, and we'll continue to do that.

CASEY ADAMS: So, what I said before stands as the permits and—and certificates that we issue. Regarding safety (sic) however, we'd—we'd always be willing to consider an idea that someone had for sure.

CHAIRPERSON KALLOS: I want to take a moment to just thank the Department of Sanitation and Department of Health and Mental Hygiene for being the only covered agencies to send a report to the City Council under Local Law 47, I just want to note for the Department of Sanitation you have an incredibly responsive Commissioner who is incredibly accessible, and responds to emails from both elected officials and community members very quickly and takes things as they are, and I want to just appreciate that and I imagine that is part of why you're able to be compliant. So, thank you.

THOMAS MILLER: Thank you. [pause]

CHAIRPERSON KALLOS: So, there were a number of agencies that weren't here. We will be sending these question to the agencies to-to answer in-in lieu of being here, and in lieu of a part 2. If there are any questions--anything I missed, would anyone just like an opportunity to speak or--?

Perfect. I--I want to thank my committee staff for making this happen. I want to the Department of Finance for working with us through here. It's been 18 months. I wish we didn't have to do this hearing in order to start this--restart this conversation that we started about two years ago. But, I'm look forward to working with you. I thank all of you for giving commitments. Between your five agencies, you represent the--the bulk of it, and you represent the permits that matter and the violations that are issued most often, and I honestly believe that if we use the tools under Local Law 47, focus a little less on the ECB debt per se, but the actual number of violations that continue to accrue. That we can get to a place where we're actually doing what we're hoping, which is changing behaviors, and improving the quality of life in the city. I want to thank you for your partnership. It's a big city. Lots of work

to do, and just thank you, and I hope that our-our next meeting is a press conference announcing all the great new rules and regulations that we have as well as all. I'd love to see a huge dip in the number of quality-of-life violations we're issuing because folks now see that if they keep being bad actors it's going to be a problem. So, I hope our next meeting is to announce the great work, and the meeting after that is announce the results. We will send additional questions, and with that, we have a member of the public. Did you want to testify at all, or are you all set?

NICOLE PATTERSON: [off mic] I-I will say actually--

CHAIRPERSON KALLOS: No worries.

NICOLE PATTERSON: --you have asked all the questions that I would ask, you know. (sic)

CHAIRPERSON KALLOS: Perfect. Our-our member of the public was just saying that they-they had their questions answered and that is a great thing. So, I hereby adjourn this meeting of the--

NICOLE PATTERSON: [off mic] [interposing]
You know, but I have a question also for the-for the
DOB.

2 SERGEANT-AT-ARMS: [off mic]

3 [interposing] Then we'll call you up.

4 NICOLE PATTERSON: [off mic] But it's
5 probably, it's probably on the conversions. (sic)

6 [background comments] I don't know what I'll say.

7 [laughter, background comments]

8 CHAIRPERSON KALLOS: So, what we're going
9 to do is we'll—we'll call you up to—to ask your
10 question. We're going to have you fill out a witness
11 slip. [background comments]

12 NICOLE PATTERSON: Pertaining to illegal
13 conversion.

14 CHAIRPERSON KALLOS: Well, first, if you
15 can share your name.

16 NICOLE PATTERSON: Nicole Patterson.

17 CHAIRPERSON KALLOS: Okay, Nick.

18 [background comments] Right, so what—what we'll do
19 is we will thank the Administration, and if you want
20 to-- [background comments]. Okay, so if you would
21 like to just share your concerns on the record if you
22 want to move over a little bit so that you're—you
23 take one, move over to your right one seat.

24 NICOLE PATTERSON: Am I right?

25 CHAIRPERSON KALLOS: Yeah, and--

NICOLE PATTERSON: [interposing] And so—

CHAIRPERSON KALLOS: And so, what we're going to do is if you share what—your concerns, I—I understand that a number of Administration has always offered to talk to you after this hearing, but for, you know, let the Administration go and excuse them, and we will be happy to forward their questions, but please do.

NICOLE PATTERSON: Yes, concerning illegal conversion, which is part of the quality of life, and my husband and I have called the DOB many times, and having illegal conditions above us, beneath us, beside us, and we've had no resolves to the problems at all. I looked up my landlord, and since you were speaking about violations, I looked up for him, and numerous buildings that he has, and he has a number of violations. How can he continue to have a business and nothing is happening. There's no help for the public when we report an illegal conversion. Who do we call? Who do we speak to? Because I've called 311, and they don't even know what the codes when they fill out the—the—the complaint, and you ask them what does this code mean. Nobody on 311 knows what the codes are.

CHAIRPERSON KALLOS: Okay. So, first, if-I-I love 311. It is my biggest talking point that we should work with 311. If 311 works, I'd be out of job. So, the key thing is that you can—you can work with your local council member. My office and-and our staff here will connect you with who your council member is, and when you have specific issues where you call 311, and it doesn't work properly, if you let your council member know, they can let 311 know. I actually emailed 311 this morning them that they weren't working properly, and that way that the complaint can be followed properly but part of this hearing is specifically if somebody is engaging in illegal conversions, if they're engaging in illegal behaviors, and they're getting fines and just paying it or not, the goal is that they can't keep it up, and we want to do it in a way that doesn't force tenants out, but does force the landlords to--

NICOLE PATTERSON: [interposing] We even had-my husband called the-the landlord--

CHAIRPERSON KALLOS: Uh-hm

NICOLE PATTERSON: --and his response to my husband was get a house.

2 CHAIRPERSON KALLOS: That is
3 inappropriate, and we will connect you with your
4 council member and make sure you have the support you
5 need, and we're going to also connect you with a
6 member of the Administration that's graciously
7 offered to go over it with you himself, and I-I'm
8 also hoping that Department of Buildings will work
9 with the Executive Director of 311 to make sure that
10 when folks have specific violations, 311 knows how to
11 respond to it. So, thank you.

12 NICOLE PATTERSON: Thank you.

13 CHAIRPERSON KALLOS: Thank you for being
14 here, and I'm hoping that we can work with you
15 through your council member to get you satisfaction.

16 NICOLE PATTERSON: Thank you very much.

17 CHAIRPERSON KALLOS: You got it. Okay.
18 Seeing no-- [pause] Okay, we're going to recess for
19 five minutes, and then we'll likely adjourn. Thank
20 you. [pause for recess]

21 CHAIRPERSON KALLOS: Are you watching.
22 They're not bad at all.

23 COUNCIL MEMBER GREENFIELD: A little bit
24 yes.
25

2 CHAIRPERSON KALLOS: I want to thank our
3 Council Member colleague David Greenfield, a
4 committee member who has been participating with many
5 of you at home via the live stream or watching TV.

6 COUNCIL MEMBER GREENFIELD: Thank you,
7 Mr. Chairman, and I appreciate your leadership, and
8 especially your probing questions, and wish you a
9 happy and healthy New Year.

10 CHAIRPERSON KALLOS: [speaking foreign
11 language] and we now adjourn this meeting of the
12 Committee on Governmental Operations. [gavel]

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C E R T I F I C A T E

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



Date September 30, 2017