

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON SMALL BUSINESS

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October 22, 2018
Start: 1:19 p.m.
Recess: 9:09 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Corey Johnson
Speaker

Mark Gjonaj
Chairperson

COUNCIL MEMBERS:

Diana Ayala
Stephen T. Levin
Bill Perkins
Carlina Rivera
Ydanis Rodriguez
Margaret S. Chin
Brad S. Lander
Kalman Yeger
Keith Powers
Ben Kallos
Andy Cohen

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

Gregg Bishop
Commissioner of Small Business Services

Gale Brewer
Manhattan Borough President

Richard Gottfried
New York Assembly Member

Ruth Messinger
Borough President

Brad Hoylman
New York State Senator

David Eisenbach

Elvis Silverio
National Restaurant Bar and Lounge Association

James Klein
Friends of SBJSA Group

Larisa Ortiz
City Planning Commissioner

Jessica Lappin
President of Alliance for Downtown New York

Jessica Walker
President of Manhattan Chamber of Commerce

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

Julian Hill
Community Development Project

Lena Afridi
Director of Economic Policy

Kirsten Theodos

Nelson Eusebio
National Supermarket Association

Laura Sewell
East Village Community Coalition

Harry Bubbins
Greenwich Village Society for Historic
Preservation

Justin Levinson
Vacant New York

Griffin Hansbury
Author Jeremiah Moss

John Banks
President of Real Estate Board of New York

Steve Soutendijk
Cushman and Wakefield

Robin Abrams
Vice Chair at Compass Homes

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

Joanne Podell
Cushman and Wakefield

Jim Watt
Lee and Associates

Bill Montana
Commercial Real Estate Broker

Lordes Comatcho [sp?]

Marlene Cintron
Bronx Overall Economic Development Corporation

Bill Borock
Save Chelsea

Ray Rogers
Corporate Campaign

Quenia Abreu
President of New York Women's Chamber of
Commerce

Frank Garcia
Chair of National Association of Latino State
Chambers

Mary Ann Rothman
Executive Director of Council of New York Coops
and Condos

Darcey Gerstein
Board of Directors of Seward Park Coop

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

Joseph Rosenberg
Catholic Community Relations Council

Rob Brynes
East Midtown Partnership

Michael Brady
Third Avenue Business Improvement District

David Cohen
32BJ SEIU

Mark Caserta
Park Slope 5th Avenue BID

Olympia Kazi
NYC Artist Coalition

Judy Richheimer
Government Relations Committee for the Guides
Association of NYC

Robert Benfatto
NYC BID Association

Jamie Burkart
NYC Artist Coalition

Areeb Kahn
Community Development Clinic Brooklyn Law School

Juliana Milandro
Community Development Clinic Brooklyn Law School

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

Nikki Ledger

Brandon Sullivan
Author

Steven Kirkpatrick
NYC Bar Association Real Property Law

Patricia Dorfman
Clean Streets for All

Lauren Gardner
School for Poetic Competition

Brent O'Leary

Laura Travers
Small Business Owner

Manny Gomez
Sunnyside Chamber of Commerce

Ayisha Oglivie
Community Board 12 Manhattan

David Mulkins
Bowery Alliance for Neighbors

Nick
Yoga studio owner

Christian Emanuel

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

Helene Storgen [sp?]
Clayworks Pottery

Pamela Dayton

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2 CHAIRPERSON GJONAJ: Alright, good
3 afternoon. I'm Councilman Mark Gjonaj, Chair of the
4 Small Business, and this hearing is about to begin.
5 I pass it to my colleague and Speaker, Corey Johnson,
6 who will open up today's hearing.

7 SPEAKER JOHNSON: Thank you very much,
8 Chair Gjonaj. Good afternoon. I apologize. I am
9 quite under the weather today. I have been for five
10 days, but I wanted to be here for this important
11 hearing. We're here today to address the crisis that
12 has deeply affected me and New Yorkers all across our
13 city. Long-time small businesses are closing at an
14 alarming rate leaving our neighborhoods pock-marked
15 with vacant store fronts, bodegas, laundromats,
16 bakeries, book stores, restaurants, shoe repair
17 shops. When these mom and pop shops go, our
18 neighborhoods lose the essential services and
19 products they provide. Our neighborhood lose the
20 jobs they provide, and perhaps most importantly, when
21 a long-time small business is shuttered, we lose a
22 piece of New York City. I can't imagine a New York
23 without its mom and pop shops. I don't want to. To
24 know your corner bodega owner is to know someone who
25 will hold your keys, receive your packages, and ask

1 how you've been. I personally don't have a door man.
2
3 I don't need one. I have L&M Deli right on my corner
4 at 15th Street and Seventh Avenue, but we keep losing
5 places like L&M. CVSs, Starbucks, I'm not
6 disparaging them, but they don't hold our keys. They
7 don't sign for our packages. We don't know their
8 owners. They aren't why people visit New York and
9 why people want to live here. I want to make clear
10 that I know that this is a complicated issue. Owning
11 a business is hard and many fail. That's not new. I
12 know the internet is disrupting retail in
13 unprecedented ways, and costs are up across the
14 board. But there are successful profitable mom and
15 pop businesses who are willing and able to pay market
16 rent, but still they're being kicked out. Tortilla
17 Flats in the West Village just announced in the last
18 two days-- always packed, very popular restaurant.
19 They couldn't reach a deal with their landlord.
20 They've been there for over 30 years, and they are
21 now closing this weekend on October 27th. Clayworks
22 Pottery in the East Village kicked out of its spot
23 after 44 years in business. Lenox Lounge in Harlem,
24 an art-deco treasure, Billie Holiday and Miles Davis
25 played there, priced out. Its building is being

1 demolished, and it's now going to be a Sephora.
2 Northshore Hardware in Littleneck, after 70 years
3 they were given only one month to vacate, one month
4 after 70 years. Cup and Saucer in Chinatown, just
5 one of many, many diners that we've lost in recent
6 years across New York City. and the Associated
7 Supermarket on 14th Street and Eighth Avenue, one of
8 the last affordable supermarkets in the village, it
9 closed two years ago after an exorbitant rent hike,
10 tripling their rent, and that storefront is still
11 sitting vacant today. The list goes on. Our city
12 right now has some really tough problems. One in 10
13 public school kids has lived in temporary housing in
14 the last year. Our public housing is crumbling and
15 falling apart, and so are our subways. So, yes, our
16 plate is full, but this has to be one of our top
17 priorities if we want to maintain the city as we know
18 it. If this isn't a priority, we'll lose the
19 vibrancy of our neighborhoods and New York begins to
20 look more and more like any other city, hum-drum,
21 cookie-cutter, and boring. We can't let that happen.
22 We choose not to live in a city of corporate
23 franchises. Today, we're here to evaluate the Small
24 Business Job Survival Act on its merits to hear from
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1 stakeholders and experts and to give this bill the
2 fair hearing that it deserves. Former Council Member
3 and Borough President Ruth Messinger, who is here
4 today-- thank you, Ruth for being here-- introduced
5 it more than 30 years ago. That is a long time. A
6 lot has changed since then, but what hasn't changed
7 are the fundamentals. What hasn't changed is our
8 commitment to small businesses that define New York
9 City. So, I want to thank everyone for being here,
10 and I look forward to your testimony today. Thank
11 you very much, Chair Gjonaj.

12 [applause]

13 CHAIRPERSON GJONAJ: Thank you.

14 SPEAKER JOHNSON: You can use our silent
15 hands.

16 CHAIRPERSON GJONAJ: Thank you, Speaker
17 Johnson, for that very articulate and carefully
18 thought out statement. So, good afternoon. I'm
19 Councilman Mark Gjonaj, Chair of the Committee on
20 Small Business, and I'd like to thank you for joining
21 us as we hold a hearing on Intro 737A, the Small
22 Business Job Survival Act. Too many small business
23 owners are struggling just to keep their doors open.
24 I would even say that they're under assault from
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1
2 rising costs of businesses, coping with government
3 bureaucracy, and a seemingly unmanageable maze of
4 regulatory oversight, increase in taxes, consumer
5 behavior changes, and the rise of the internet
6 shopping, competition from big box stores, just to
7 name a few. Under these conditions, 50 percent of
8 businesses don't make it to year five, and that's a
9 national figure, which in most cases is before lease
10 renewals are considered. The reality is most
11 businesses do not have the luxury of thinking about a
12 lease renewal. If we want to do more to help small
13 businesses survive, we need to do more to create an
14 environment that allows mom and pop shops to
15 flourish, because they are truly the backbone of our
16 city's economy and the tax base. When these
17 businesses are not able to survive, we lose our
18 greatest source of jobs and tax revenue. Eighty
19 percent of our workforce comes from microbusinesses
20 that have less than 10 employees. In some form or
21 another, this bill has languished around City Hall
22 for over three decades. That's older than some of my
23 colleagues, and looking around this room, older than
24 some of the people here, all why business owners
25 continue to struggle. It is no longer an option to

1 sit idle waiting for things to get better on their
2 own, because they have not and will not. So whether
3 it is this bill, some version of it, an alternative,
4 or a fully comprehensive set of solutions, we as a
5 city must act now. We must be proactive and not
6 reactive. There is too much at stake. Having
7 negotiated hundreds of leases for both tenants and
8 landlords as a real estate broker, as a tenant, and a
9 property manager, I have firsthand knowledge of these
10 issues. My experience in navigating the leasing
11 process for both new contracts and renewals helps me
12 in my current capacity as Council Member and Chair of
13 the Committee as I assist constituents and small
14 businesses throughout the City of New York. As
15 someone who was once a small business owner, I have
16 been on both sides of this lease agreement. I
17 appreciate the struggles that these burdens can place
18 on our owner seeking to meet payroll, balance the
19 books, meet the needs of our community, and hopefully
20 create a profit to help raise their families.
21 Neighborhood mom and pop shops used to be a long term
22 investment that would allow a family to thrive. Once
23 a business owner was ready for retirement, they were
24 able to sell their business and enjoy the benefits of
25

1 their hard work. This doesn't happen as much, if at
2 all. These are real struggles that not everyone
3 understands. So, as we seek to review this bill, it
4 is important to examine and clarify what it actually
5 does. First, it would grant the tenant the right to
6 renew his or her lease for a minimum of 10 years, and
7 would set procedures for negotiating the rent,
8 including a mutual available option to seek
9 nonbinding mediation. If mediation does not lead to
10 an agreement with the landlord, the tenant may then
11 demand final and binding arbitration. Second, if
12 the tenant chooses not to renew the lease after
13 arbitration, the law would regulate that he or she
14 may continue to occupy the premises while paying the
15 rent that is no greater than 10 percent of the--
16 above the average rent that was charged during the
17 final 12 months of the last rental agreement between
18 the landlords and tenant. The landlord may then
19 market the premises to a new tenant. Finally, if the
20 landlord reaches a lease agreement with a new
21 tenant, he or she must offer the agreed upon terms to
22 the existing tenant. In that event, the original
23 tenant is obligated to vacate the premises only if he
24 or she declines a new offer. I don't intend on
25

1 focusing on the legal issues that surround the
2 legislation. I will leave that to the judges and the
3 attorneys, but as a policy matter, this bill speaks
4 to the issues of the neighborhood character, which is
5 a concern for all of us who call this city our home.
6 The retail sector has seen employment fall for the
7 last two years and it shed 2,800 jobs in 2017 alone.
8 Over the last three years, Carnegie Deli, Webster
9 Hall, FAO Schwartz have all closed, and the number of
10 chain stores in the City has increased for nine years
11 running. E-commerce, which has gone from less than
12 one percent of all sales in the year 2000 to more
13 than 13 percent in 2017 is another source of pressure
14 for local small business owners. In preparation for
15 this hearing I've met with many stakeholders
16 including business owners, bids, advocates for and
17 against the bill. Amid the complex and multifaceted
18 issues, I'm committed to giving this bill a fair
19 hearing. This hearing is a fact-finding mission, and
20 I look forward to the testimony from the
21 Administration, from academics and advocates, all of
22 whom bring valuable perspectives to the issue of
23 maintaining neighborhood character and ensuring that
24 the City provides a level playing field for everyday
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1 entrepreneurs who contribute so much to our way of
2 life. I'd like to thank Irene Bihovski [sp?],
3 Counsel to the Committee, Michael Hertz [sp?], Policy
4 Analyst as well as my Chief of Staff, Reggie Johnson,
5 my Budget Analyst, Elir Fundo [sp?], and my
6 Legislative Director Darthan Jimboli [sp?] for the
7 work in making this hearing possible. Finally, I'd
8 like to recognize all of the committee members that
9 have joined us, and most of all, our Speaker, Council
10 Member Ayala, Council Member-- Council Member
11 Rodriguez, Perkins, Rivera, Chin, Ayala, and Lander,
12 Yeger, Kallos, Cohen-- we almost have quorum-- and
13 Powers. So once again, thank you and we look forward
14 to this very informative hearing. Council Member
15 Rodriguez, please.

17 COUNCIL MEMBER RODRIGUEZ: Thank you,
18 Speaker. Thank you, Chair. First, I would like to,
19 before I say anything, to say thank you Sung Soo Kim
20 who has been a champion on this bill, and even from
21 the hospital where he's probably fighting the
22 toughest fight of his life. He's also been giving
23 guidance in these conversations. So, thank you to
24 him and the members of the Small Business Congress in
25 New York City. Good afternoon. I'm Council Member

1 Ydanis Rodriguez, prime sponsor of this legislation.
2 Together, we're more than 24 Council Members, but at
3 the end of the day today, we will get majority of
4 Council Members signing on this bill, and also the
5 Co-Chair of the Black Latino Nation Caucus, along
6 with Council Member Miller. This bill also received
7 full endorsement of the caucus today. This bill is
8 about immigrants' rights. Fifty percent of local
9 business owners in New York City are owned by
10 immigrants, and the rest run a business that their
11 grandmother/grandfather of whoever was an immigrant
12 50 years ago and started with a dream to take their
13 family to be part of the middle class. I would like
14 to take a moment to thank Speaker Johnson and Chair
15 Gjonaj, but also all the lawyers, especially Newman
16 and Kelly, Chief of Staff of the Council, Jason
17 Goldman, and everyone that play important role for
18 putting this hearing together. This bill is an
19 important first step in improving the small business
20 climate in New York City. Small businesses create
21 most of the jobs in New York City. Approximately 89
22 percent of the 220 businesses in New York City employ
23 fewer than 20 people. So there's no doubt that small
24 businesses are major contributors to the economy
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1 wellbeing of the neighborhood across our city.

2
3 However, we are now experiencing a crisis within the
4 local business community. As we are facing a crisis
5 in the transportation system and people are fed up
6 [sic] and tired and need answer, the crisis for local
7 small business cannot wait any longer. And so our
8 goal is to create a better process for balancing the
9 need to protect and grow healthy small businesses
10 within-- with ownership right of property owners,
11 too. We are here to discuss a legislative idea that
12 was originally proposed back in 1988. Thank you,
13 Ruth Messinger, for your leadership and the rest of
14 the colleagues when they introduced the bill in 1988,
15 1990, 1996. We are here to get this bill to cross
16 the finish line. The idea was to bring more clarity
17 to the way that businesses and property owners
18 negotiate lease terms. I believe that the Council
19 must look at this issue because we see blocks of
20 vacant storefronts across our city. Why is that we
21 have overcome the great financial crisis of the 2008,
22 yet we still see so many small businesses closing
23 their doors every day. The Small Business Job
24 Survival Act will encourage all parties, property
25 owners and small business owners to act honestly and

1 to engage fairly when negotiating a commercial lease.
2
3 The current environment allows many lenders to have
4 almost unlimited powers in negotiating to act, in
5 many cases, in bad faith or to arbitrarily force
6 tenants out, which can permanently injure a small
7 business, its employees, their families, and
8 therefore, the larger community. The Small Business
9 Job Survival Act for the media, editorial board, real
10 estate, let's be clear with this, this is not about
11 commercial rent control. I repeat, it is not about
12 commercial rent control. Rather, it is a bill that
13 gives both parties more clarity and rights in the
14 lease renewal process. This bill is the only one
15 that can establish a better process for commercial
16 lease renewal negotiations, including lease renewal
17 terms, arbitration, triggering [sic] conditions,
18 limits on security deposit, and provision on
19 landlords' retaliation. If anyone has a better plan,
20 please bring it forward. All leases of commercial
21 premises may be renewed and the option of tenants who
22 did not lose their right to renew a lease. Such
23 lease renewals should be for minimal terms of 10
24 years with a rating approval of the lender, a list of
25 shortened or longer duration may be selected. The

1
2 landlord shall provide notice to the tenants 180 days
3 before the termination of the lease, and the basis of
4 which the lease cannot be extended for the full 10-
5 year term. Upon determination of the current
6 tenancy, the property owner shall notify the tenants
7 of his or her decision to reoccupy the commercial
8 premises at least one year prior to determination of
9 the lease. People come to New York City to visit Cat
10 [sic] Deli, McNally Jackson Bookstore, a neighborhood
11 bar or restaurant or a local bodega. They visit the
12 mom and pop store because they represent New York
13 City and the people that live here. Property owners
14 have the benefit of keeping our most population
15 institutions in business as well. It's a win/win
16 situation. As the income inequality gap widens, we
17 must ensure our small and microbusinesses continue to
18 thrive and operate their bodegas, retail shops and
19 bookstore in the City. I want to be clear that
20 although today's hearing is the beginning of the
21 legislative process for this bill, I am committed to
22 developing a solution that will be fair and
23 transparent to all involved. I look forward to
24 listening to all of the parties who want to work
25 towards this goal from the City's major financial

1
2 centers to the unions and working people and to their
3 mom and pop businesses that you can find in every
4 corner of New York City, they share their concerns.
5 The goal of the Small Business Job Survival Act is
6 simple, to protect small businesses, address the
7 large numbers of storefront vacancies that hurt
8 communities, give property owners clarity in fair
9 lease negotiations, and create a healthy business
10 environment in New York City. The Job Survival Act
11 is the only real solution to stop the closing of long
12 established, local, small, and microbusinesses and
13 save jobs. [speaking Spanish] Si se puede.

14 CHAIRPERSON GJONAJ: Thank you for that,
15 Councilman Rodriguez. I now recognize Gregg Bishop,
16 the Commissioner of Small Business Services for the
17 City of New York.

18 UNIDENTIFIED: I want you to raise your
19 right hand. Do you affirm to tell the truth, the
20 whole truth and nothing but the truth in your
21 testimony before this committee and respond honestly
22 to Council Member questions?

23 COMMISSIONER BISHOP: I do.

24 UNIDENTIFIED: Thank you.
25

1
2 COMMISSIONER BISHOP: Good afternoon,
3 Speaker Johnson. Thank you for being here even
4 though you're sick. I recognize that this is an
5 important issue for you, and I thank you for taking
6 the time out. Good afternoon, Chair Gjonaj, for-- of
7 course, thank you for your advocacy, and of course,
8 members of the Committee on Small Business. My name
9 is Gregg Bishop, and I am the Commissioner of the New
10 York City Department of Small Business Services. At
11 SBS we aim to unlock economic potential and create
12 economic security for all New Yorkers by connecting
13 them to quality jobs, building stronger businesses
14 and fostering thriving neighborhoods across the five
15 boroughs. Today I will be testifying on Intro 737
16 and the work SBS has done to support commercial
17 tenants. After my testimony, I'm happy to take your
18 questions. Small businesses are essential to the
19 local economy and character of the neighborhoods in
20 New York City. They provide opportunities and jobs
21 for members of their communities. Small business
22 ownership and entrepreneurship can help uplift
23 generations of families while providing neighbors
24 with goods and services. While we know many
25 businesses face challenges in our competitive market,

1 we want to ensure they have the tools to succeed. To
2 address challenges, this Administration has invested
3 in several programs to help businesses. Many
4 businesses struggle to adapt to changes in the
5 business environment. The underlying causes of these
6 changes are complex, and vary from neighborhood to
7 neighborhood, corridor to corridor, and property to
8 property. SBS is committed to providing businesses
9 with the tools to succeed and seeks to improve
10 outcomes for businesses in every step of development.
11 SBS offers a range of free services to businesses,
12 everything from helping them navigate government to
13 comprehensive business courses, to connecting them to
14 capital. In Fiscal Year 2018, SBS worked with
15 approximately 20,000 small businesses and
16 entrepreneurs throughout the City. SBS also has
17 taken a proactive-- has taken proactive steps to
18 ensure businesses are aware of our services. SBS has
19 NYC Business Solution Centers in every borough where
20 businesses can access our free services. Through the
21 Council-funded Chamber on the Go initiative, trained
22 business specialists canvas commercial corridors,
23 connect business owners with our services. Since the
24 launch of the program in 2016, Chamber on the Go has
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1 reached more than 9,000 businesses. SBS also
2 recently launched a mobile outreach unit as another
3 resource to bring services throughout the five
4 boroughs. In addition, NYC Business is a
5 comprehensive website where business owners can find
6 out about SBS services and relevant information from
7 other city, state, and federal entities. We know
8 that one of several challenges business owners face
9 is navigating the leasing process. To support
10 businesses that are facing issues with their lease,
11 we provide free legal representation through our
12 Commercial Lease Assistance Program. Attorneys help
13 businesses with signing a new commercial lease,
14 amending, renewing, or terminating an existing lease,
15 negotiating on behalf of the commercial tenant with
16 their landlord, and providing advice and referral
17 services when litigation cannot be avoided. This new
18 program which launched in February has already served
19 approximately 250 businesses. The Commercial Lease
20 Assistance Program builds on our prior and continuing
21 work with commercial lease education workshops to
22 help business owners better understand the components
23 and implications of signing a commercial lease. Both
24 programs build on the important work done by with the
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1 passage of the commercial tenant protections. The
2 Non-residential Tenants Harassment Law gives
3 commercial tenants the right to take their landlord
4 to court if they're being harassed. This includes
5 using force against or threatening to use force
6 against a tenant, repeated interruptions of essential
7 services, removing personal property, changing or
8 removing locks, preventing a tenant from entering or
9 interfering with business through construction and
10 repairs. Along with these services and protections,
11 SBS also offers a comprehensive guide to commercial
12 leasing in New York City. This guide includes
13 information on the basics of commercial leases, how
14 to incorporate lease negotiation into business
15 planning, limiting personal and business risk, and
16 overall best practices. All these services are
17 available at nyc.gov/comlease. Another program that
18 specifically assists longstanding neighborhood
19 businesses is Love Your Local. Through our work we
20 have seen business struggle to adapt to change in
21 market conditions. Through Love Your Local, the City
22 is working to combat this issue and preserve
23 longstanding legacy businesses. This program
24 celebrates and promotes a diverse, independent, small
25

1 business that enrich neighborhoods across New York
2 City and encourages New Yorkers to share their
3 favorite non-franchise business on an interactive
4 online map. Business owners can also apply for
5 business advisory consultations and funding.
6 Eligible businesses may receive a grant of up to
7 90,000 dollars which can be used to address
8 operational and capital improvements, as well as
9 other needs that will help that business better
10 compete. Through this program, SBS hopes to empower
11 business owners to adapt to changing environments.
12 Love Your Local also allow SBS to test interventions
13 to help business remain competitive and scale up
14 successful strategies through integration with our
15 NYC Business Solution Centers, local community groups
16 and other partners. Grantees for the first round of
17 the program will be announced later this year.
18 Another way we have empowered communities to support
19 their commercial corridors is by providing funding
20 and technical assistance to local nonprofit
21 organizations that are focused on supporting and
22 improving the commercial districts such as local
23 development corporations, business improvement
24 districts, merchant's associations, and Chambers of
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1 Commerce. Via competitive grant programs such as
2 Avenue [sic] NYC, Neighborhood Challenge, and
3 Neighborhood 360, SBS has provided operating support
4 to these organizations to assess the challenges faced
5 in their district and to implement localized
6 solutions. Now, I'd like to discuss the legislation
7 before us, Intro 737, more commonly known as the
8 Small Business Job Survival Act. I would like to
9 begin by thanking all the advocates, elected
10 officials, community organizations, and businesses
11 that have pushed for a hearing on this topic. Though
12 we may have different views on this legislation, we
13 have all been fighting to create a fair environment
14 for our small businesses. First, let me be clear,
15 SBS is supportive of helping commercial tenants
16 during the lease renewal process. However, we are
17 concerned about the potential unintended policy
18 consequences of the proposed legislation that could
19 make it harder for all commercial tenants, existing
20 and new. We have also been advised by the Law
21 Department that this bill may have several legal
22 issues. We are happy to facilitate conversation
23 amongst our legal teams to discuss those concerns,
24 but I would like to move the discussion forward and
25

1 focus on other concerns with this legislation. As
2 SBS understands it, the goal of this legislation is
3 to create an environment for fair negotiations in the
4 commercial lease renewal process. While we are
5 supportive of this goal, this legislation may do more
6 harm than good. This bill requires mandatory
7 arbitration of leases at renewal to settle disputes
8 between parties. In arbitration, both parties would
9 need to provide data and documents to determine fair
10 lease terms. However, arbitration often favors the
11 party who is able to provide more resources and
12 information into the arbitration process. Therefore,
13 larger and more well-resourced parties such as
14 landlords and multinational corporations will likely
15 have the upper hand through this mechanism, and it
16 may not bring the desired benefits to small
17 commercial tenants. This legislation may also drive
18 the cost of commercial rent up because landlords may
19 incorporate the anticipated cost of arbitration into
20 lease agreements. This legislation also does not
21 offer protections for businesses that do not
22 currently have formal leases, which include many
23 longstanding immigrant-owned businesses. While we
24 also encourage businesses to get a lease to ensure
25

1 protections, many businesses do not have leases.
2 This legislation may make it harder for those
3 businesses to secure leases, because landlords may be
4 less inclined to execute leases to avoid the
5 potential cost of arbitration. We also want to
6 ensure a fair environment for new entrepreneurs
7 looking to begin a new business. Though some
8 longstanding businesses are operating without leases,
9 most new businesses need leases to get financing and
10 begin operating. In our experience, we have seen
11 landlords give shorter leases or no leases to new
12 businesses due to uncertainty of the businesses'
13 survival. In addition, we have seen landlords and
14 banks prefer multinational corporations as more
15 attractive tenants. In particular, mixed-use
16 developments with significant commercial spaces tend
17 to have complex financing and may be especially
18 impacted by this. This may be a factor in the rise
19 of vacant storefronts and otherwise prosperous
20 neighborhoods, and this legislation would exacerbate
21 the issue. As landlords are not required to provide a
22 lease, an onerous renewal process could further
23 incentivize landlords providing leases at all. This
24 means that new businesses could potentially be at a
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1 disadvantage and not be provided the basic
2 protections that are commonly found in leases.
3 Through this legis-- though this legislation attempts
4 to create a system to provide fair lease renewal
5 terms, it is important to note it does not guarantee
6 favorable terms for the tenant. The party that makes
7 the strongest case, often the party with the best
8 resources, is likely to have a more favorable
9 outcome. For example, based on evidence of landlord
10 cost, an arbitrator could conclude existing rents are
11 appropriate or increase the rent for a business.
12 This could also make the renewal process much
13 costlier for the tenant, as they would share in the
14 cost of arbitration, and it may create an outcome
15 that tenants may deem unfair. Additionally, it is
16 unclear if there are currently enough arbitrators to
17 meet the demand of a robust real estate market like
18 New York City, and what trainings will be required to
19 build a pipeline. Given these concerns, SBS hopes to
20 work with Council and advocates to better identify
21 the cause of vacant storefronts throughout the City
22 and find potential solutions. As mentioned earlier,
23 to address this issue, SBS offers a number of
24 services to help small businesses such as the
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1 Commercial Lease Assistance program. However, we
2 know there is more to be done. Along with the
3 programs SBS currently offers, the Administration has
4 been exploring other tools to improve our
5 understanding of the broader retail landscape,
6 especially vacancy. We are interested in a
7 storefront registry to help better understand the
8 scale of the vacancy issue. We also generally
9 believe the commercial leasing process should be more
10 transparent and are in the early stages of
11 researching ways to increase such transparency. We
12 welcome the opportunity to discuss these and any
13 related topics, any related ideas you may have on
14 this topic. As I stated earlier, Mayor de Blasio,
15 the Administration and I broadly share the Council's
16 belief in the importance of healthy commercial
17 corridors and thriving small businesses. We thank
18 you for the opportunity to testify here today to
19 discuss these topics, and I'm happy to take any
20 questions.

22 CHAIRPERSON GJONAJ: I'd like to give the
23 opportunity-- thank you for that, Commissioner. Any
24 of my colleagues have a question for the
25 Commissioner? Speaker Corey Johnson?

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2 SPEAKER JOHNSON: Thank you, Commissioner
3 Bishop for being here today. Thank you for your
4 testimony. This bill has been around, as been said,
5 for 30 years, and what I don't see in your testimony
6 here today is-- you talk about the Commercial Lease
7 Assistance program, which has already served 250
8 businesses in New York City. How many small
9 businesses are there in New York City?

10 COMMISSIONER BISHOP: So, the number we
11 use is 230,000 small businesses in New York City.

12 SPEAKER JOHNSON: I am not passing
13 judgement on this program, which is probably an
14 important, good program that helps those 250
15 businesses. But with that many small businesses,
16 clearly it's not helping the businesses that we here
17 today are seeking to assist who are having their
18 rents jacked up, double, triple, quadruple the
19 amount. So, what I would sort of love to understand
20 is has there been a study by SBS on how the loss of
21 long time small businesses impacts neighborhoods?

22 COMMISSIONER BISHOP: So, Speaker, thank
23 you for that question, and I share, obviously, in my
24 testimony I talked about the fact that at SBS we
25 focus on helping small businesses, but we also focus

1 on creating vibrant commercial corridors. It is
2 important for us to make sure that we understand what
3 are some of the issues that are affecting different
4 commercial corridors, and what are some of the
5 challenges in terms of the increase in vacancy. To
6 your question, we have not done a study. We have
7 actually worked with community partners to look at
8 the different neighborhoods to address their
9 particular issue. This is a very complex issue. It
10 requires a localized strategy. So, for example, our
11 Neighborhood 360 program where we've made investments
12 in different neighborhoods, we've come up with
13 different programs for different neighborhoods to
14 help either businesses learn about those
15 neighborhood, learn about what the community needs in
16 the neighborhood, to actually help those
17 neighborhoods with-- to help those communities with
18 retail attraction. So, again, we have made
19 investments across the City because we recognize that
20 this is a very complex issue that requires a
21 localized strategy.

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23 SPEAKER JOHNSON: So, there has not been
24 a study that's been done on the loss of small
25 businesses?

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COMMITTEE ON SMALL BUSINESS

COMMISSIONER BISHOP: Well, I can tell you that-- so there has not, but I could tell you that in every neighborhood, if you lose a longstanding business that has impact on that neighborhood. We have made a lot of investments in helping different neighborhoods address those issues, and I'd be happy to talk to you about some of the programs we've invested in at Avenue NYC, our Neighborhood 360 program, and our Neighborhood Challenge program to help businesses not only-- to help neighborhoods come up with strategies to attract more business.

SPEAKER JOHNSON: So, what about when we hear all over New York City when a grocery store goes out, neighborhood doesn't have a grocery store anymore? How does that affect a local neighborhood and what is the City doing to ensure that we do not lose essential businesses for the wellbeing of a local community and neighborhood?

COMMISSIONER BISHOP: So, and I certainly share your concern, I mean, when we took a walk through in your district, you know, walking down Christopher Street, up Bleecker Street, I mean, when we see vacant storefronts, it affects the character

1 of a neighborhood, and that is certainly something
2 that we are very concerned about at Small Business
3 Services. That's why we've made investments, as I
4 said, in programs to help build the capacity of local
5 organizations because they have a lot of the intel on
6 the ground to understand what that particular
7 neighborhood needs, because this is not-- this has to
8 be a block by block strategy for us. We have to make
9 sure that all our partners, whether it's local
10 development corporations, chambers of commerce,
11 etcetera, we provide them the tools that's necessary.
12 So, we certainly have additional programs that we
13 have worked to help businesses at all stages of the
14 growth, not only for businesses that are starting,
15 but businesses that are operating. What I have
16 heard, and I've been, you know, working with small
17 businesses for over a decade, that this is just one
18 of the many issues that small businesses struggle
19 with. They struggle with access to capital.
20 Certainly, a lot of small businesses are
21 undercapitalized when they first start. So, we need
22 to provide more opportunities for them to actually
23 get the capital they need to run. They struggle with

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getting the right workforce to make sure that they have the right staff--

SPEAKER JOHNSON: [interposing] But Commissioner, specifically, if a viable, vibrant, well-run, well-managed, small business, Tortilla Flats,--

COMMISSIONER BISHOP: [interposing] Yep.

SPEAKER JOHNSON: McNally Books, I can just keep listing them like I did in my opening statement. Their lease comes up for renewal--

COMMISSIONER BISHOP: [interposing] Yep.

SPEAKER JOHNSON: and their lease has doubled, tripled, quadrupled, and they're operating, they're able to somehow withstand the regulatory framework that Chair Gjonaj talked about in his opening, which is challenging for many small businesses, what is the answer there? What is the-- what is the City saying we should do for small businesses who haven't really done anything wrong, but on the whims of the free market, their lease has been doubled, tripled, or quadrupled?

COMMISSIONER BISHOP: Right.

SPEAKER JOHNSON: What is the solution?

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2 COMMISSIONER BISHOP: So, I would say
3 that-- so, in terms of a solution, you know,
4 certainly we'd be happy to talk about different
5 solutions. I don't think there's a silver bullet. I
6 think in those cases where you have, you know, the
7 shock of a business that have properly planned their-
8 - run their business and they've done what they were
9 supposed to do, and then there's the shock of a
10 landlord saying that now I'm going to double/triple
11 your end, of course that is a problem for us. and
12 especially to your point where, you know, you have a
13 supermarket that has now been removed providing
14 essential services in a community, and that property
15 has now remained vacant for over, you know, two,
16 three, four, five, years, that is a problem. And
17 certainly we--

18 SPEAKER JOHNSON: [interposing] So,
19 what's the solution?

20 COMMISSIONER BISHOP: So, we have
21 certainly talked about either a storefront vacan-- a
22 storefront registry or even a vacancy tax, some type
23 of penalty where you look at in terms of what is the
24 appropriate time for a landlord to actually turn that
25 space over. I think we'd be happy to continue that

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2 conversation with Council to figure out ways we can
3 disincentivize landlords from keeping storefronts
4 vacant for extended period of time.

5 SPEAKER JOHNSON: Commissioner-- yes? I
6 mean, us tracking these things, that's doing--
7 getting the data necessary, which is important for
8 all public policy decisions on vacant storefronts.
9 That doesn't actually solve the problem that we're
10 talking about, though. It gets us the data that we
11 need but it doesn't solve the ultimate issue, and
12 what I'm trying to understand today, and I do think,
13 you know, certain advocates may not want to hear
14 this, but I don't think this bill is a perfect bill.
15 I do think this bill has to see changes. I think this
16 bill should not treat We Work in the same way as it
17 treats a bodega, and that's what this bill does
18 currently. This bill currently, as written, if you
19 are Goldman Sachs you are treated the same way as a
20 bodega. That does not make any sense. So there are
21 changes that need to happen for this bill to actually
22 make it make more sense for the folks we're trying to
23 help, and we're trying to help local small
24 businesses, mom and pop shops, all the ones that I
25 listed in my opening and all the ones you've heard

1 about here today. That is true if advocates want to
2 read the bill. That's what the bill says, anyone
3 with a commercial lease in New York City, and I am
4 not here today to help Goldman Sachs or We Work or
5 these other large companies, but that's what the bill
6 says. So, what I want to understand is, for those
7 smaller businesses, for the ones we're talking about,
8 what are we doing to help them on rent renewals?

10 COMMISSIONER BISHOP: Right. So, Mr.
11 Speaker, I think, you know, as I stated in my
12 testimony about the concerns, the policy concerns,
13 that is one of the unintended consequence in terms of
14 it covers all businesses. So, for example, to answer
15 your question, when we created the Commercial Lease
16 Assistance Program, we particularly created a program
17 for our micro businesses. The businesses that need
18 the resources, these are the businesses that don't
19 have, you know, a line of credit. They don't have an
20 attorney on retainer. In some cases, they don't know
21 their rights. So, we created this program in
22 partnership with the bill that was passed with
23 Council to ensure that businesses, small businesses,
24 and that's who we are focused on, the small mom and
25 pops. These are businesses that have five or less

1 employees have the resources like an attorney to help
2 them understand the lease negotiation process, the
3 lease renewal process, and you pointed out the fact
4 that there are over-- that we've helped over about
5 300 businesses. Even though there are 230,000 small
6 businesses in New York City, not everyone needs our
7 services. Most of the businesses that use our
8 services are microbusinesses. These are businesses
9 with five or less employees, and the reason being is
10 that they need assistance with helping them through
11 this process. So, when we have-- for example, we had
12 a small business that used our lease negotiation
13 attorney to negotiate a lease, and that business
14 actually walked away with a 10-year lease with an
15 option to renew, and that's important when you have
16 the resources available. So, certainly, we
17 understand the challenge, the policy challenges, I
18 think we-- but we do share the same goal which is to
19 create a fair process for small businesses not only
20 to obtain a lease, but also renew leases.

22 SPEAKER JOHNSON: Commissioner, I say
23 this respectfully, I think the programs that SBS have
24 been doing have been really good programs, and I

1 think you've done a very good job as Commissioner of
2 SBS, and--

3
4 COMMISSIONER BISHOP: [interposing] Thank
5 you.

6 SPEAKER JOHNSON: you've been
7 extraordinarily responsive to Council Members when
8 things have come up in there of communities. I think
9 the issue that we're facing here goes far beyond
10 actually what you're able even to try to achieve as
11 an agency on your own. And so I guess the question
12 that we're posing today about the extraordinarily
13 high number of mom and pop shops and small businesses
14 that are not getting a fair lease renewal process.
15 That goes actually beyond probably was SBS is capable
16 of doing right now given the law and given what you
17 guys are actually able to try to do. I think you've
18 put together some programs which are good programs
19 which are able to help a very small number of
20 businesses. But the high number of businesses that
21 are seeing unfair, greedy rent hikes of doubling,
22 tripling, quadrupling, quintupling of rents, I
23 haven't heard a strategy from you today on how we
24 deal with that, which is why we're hearing this bill.
25 And so I appreciate your commitment to small

1 businesses, but I think that we need to do much more.
2 I mean, I-- it's heartbreaking to hear that Tortilla
3 Flats is closing, which is one of the mainstays of
4 the Far West Village. It's heartbreaking to see if
5 you walk down Bleecker Street or Hudson Street or
6 Seventh Avenue South in the Village to see literally
7 over 150 vacant empty storefronts. That is what we
8 need to try to fix, and I'm not sure that you, and I
9 don't mean this about you personally, I mean SBS has
10 in your tool kit and arsenal, tools to be able to
11 actually solve that right now, which is why
12 legislatively we are seeking to do something to fix
13 that. The one other-- I don't have any other
14 questions. I'm how-- give it back to the Chair, but
15 the one other thing I would say is I am deeply
16 committed to trying to do something here that makes
17 sense. I do think that there are potentially
18 unintended consequences that I am very concerned
19 about, and I'm concerned about them because I am
20 concerned that it's actually going to potentially
21 harm small businesses as part of this bill. I do not
22 want to do anything to harm small businesses. I am
23 deeply committed to us figuring out a path forward to
24 help existing small businesses stay in place with a
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1 fair lease and rent renewal process. I think you're
2 going to hear today from some academics, some left of
3 center academics, the Urban Justice Center, and ANHD,
4 and other folks who are folks that care deeply about
5 these issues, but they have analysis concerns about
6 this bill and about what it could mean to small
7 businesses in the City, things we haven't
8 contemplated yet, things that weren't brought up in
9 your remarks or my remarks, things that they brought
10 up on their own in looking at how this is handled.

11 So I want today to really about is airing all of this
12 out, coming forward and coming up with a sustainable,
13 fair path forward to kind of correct what's happening
14 right now, and I look forward to doing that with my
15 colleagues here in the Council, and I look forward to
16 working with you on that. Thank you very much, Chair
17 Gjonaj for the opportunity to ask questions today.
18 And I will stick around, I just have to go get some
19 medicine, but I'll be back.

20
21 COMMISSIONER BISHOP: Thank you, Mr.
22 Speaker, and I think-- I think we both share the same
23 goals of supporting our small businesses and we're
24 willing to work with Council on solutions. Thank you
25 very much.

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2 CHAIRPERSON GJONAJ: I do have a
3 question, Commissioner, regarding as you understand
4 this bill. The protections would be afforded to
5 every business owner that you or any use of a
6 property for non-residential use, is that correct?

7 COMMISSIONER BISHOP: That's my
8 understanding of the bill.

9 CHAIRPERSON GJONAJ: That would also
10 include city agencies where there are tenants.

11 COMMISSIONER BISHOP: That-- yes, I
12 believe so. I mean, it-- the bill just says "non-
13 residential." So it's all types of commercial.

14 CHAIRPERSON GJONAJ: But that would also
15 then, as the Speaker indicated, give protections to--

16 COMMISSIONER BISHOP: [interposing] Large-
17 -

18 CHAIRPERSON GJONAJ: McDonalds of the
19 world, the franchises, the Wall Streets, the hedge
20 funds,--

21 COMMISSIONER BISHOP: [interposing] As
22 long as--

23 CHAIRPERSON GJONAJ: [interposing] the
24 Walmart's of the world, if you will.

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2 COMMISSIONER BISHOP: Big box stores,
3 multinational corporations, yes, anything that's
4 nonresidential.

5 CHAIRPERSON GJONAJ: Does the City own
6 property that it leases out?

7 COMMISSIONER BISHOP: Yes.

8 CHAIRPERSON GJONAJ: That would give the
9 protections to those tenants of city-leased property
10 then as well?

11 COMMISSIONER BISHOP: In theory, it
12 could, but I would say that-- and we have seen it,
13 you know, Council Member Rodriguez, we work closely
14 with the Council Member. Where there's
15 opportunities-- where the City owns property we can
16 be a little bit creative, but it would cover all
17 resident-- all non-residential property.

18 CHAIRPERSON GJONAJ: As this bill is
19 written, then.

20 COMMISSIONER BISHOP: As the bill is
21 written.

22 CHAIRPERSON GJONAJ: So that would even
23 cover marinas that are leased to private entities
24 that are city-owned properties, EDC leases--
25

COMMISSIONER BISHOP: [interposing]

Correct, correct.

CHAIRPERSON GJONAJ: park leases, concessions. This has an effect across the board. I would imagine even cooperatives such as Hunt's Point, for example, Arthur Avenue Market--

COMMISSIONER BISHOP: [interposing]

Anything that's non-residential this bill covers.

CHAIRPERSON GJONAJ: Why don't we have a study, a registry of our small businesses? And that number that used 230,000 which is a guesstimate, why don't we actually have a registry of small businesses by the type, the square footage, the industry?

COMMISSIONER BISHOP: Certainly. So, I mean, I think we share some of the same goals in terms of data. One of the things that we would love to work with Council on is a storefront registry, because I think, you know, what this bill is addressing and the Speaker eloquently put it, and I, you know, in my neighborhood I lost my favorite restaurant because of rising rents. So, I certainly understand what's happens when a longstanding business has-- is no longer in a particular neighborhood, and then that property sits vacant for

1 a very long time. It's right for people to ask,
2 "Well, why did this landlord kick this longstanding
3 business out?" So, certainly I understand the goal
4 of the bill to create a fair process, so one of the
5 things--
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7 CHAIRPERSON GJONAJ: [interposing] Yeah,
8 but Commissioner, the question is why don't we have a
9 registry of current occupied storefronts and retail?

10 COMMISSIONER BISHOP: Well, I think we
11 are looking at figuring out how we can do a
12 storefront registry, and we'd be happy to work with
13 Council on that because I think that better gives us
14 an idea of where there are specific issues, because
15 in certain neighborhoods you certainly can see a very
16 high levels of vacancy, and you need to understand
17 property by property why that property is sitting
18 vacant. Some of it could be the landlords doesn't
19 have the capital necessary to improve their
20 commercial space to become attractive for a business.
21 Some of it could be a landlord that's totally
22 absentee, that doesn't care about the neighborhood,
23 and there's different interventions for different
24 issues on why a property is vacant.
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2 CHAIRPERSON GJONAJ: IN addition to the
3 data that is so much needed for us to better
4 understand and forecast the needs of our small
5 businesses before we start looking into the reason
6 for the vacancies as how to keep their doors open
7 instead of focusing on being reactive to once they're
8 closed. You did bring up-- is there a scenario that
9 you would understand vacancies being healthy for a
10 community? So, 100 percent occupancy would prevent
11 start-ups. There would be a negative impact on
12 incoming businesses.

13 COMMISSIONER BISHOP: I mean, that is all
14 hypothetical. I-- you know, for us at Small Business
15 Services we want to see vibrant neighborhoods, and
16 vibrant neighborhoods means that the businesses in
17 those neighborhoods are providing the services that
18 the community needs and wants. Certainly there are
19 neighborhoods that-- and I've been with different
20 Council Members. There are neighborhoods that love
21 and want to see mom and pops. There are neighborhoods
22 that would love to see a chain. I mean, the City, we
23 have 8.6 million people. Everyone has different needs
24 and different desires for their community. We want
25 to make sure that the retail corridor is healthy,

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2 it's the right mix, and that is why we continue to
3 invest in local organizations to come up with a local
4 strategy to address the needs of their community.

5 CHAIRPERSON GJONAJ: You also mentioned a
6 vacancy tax. What would that look like?

7 COMMISSIONER BISHOP: I mean, we would
8 have to work on the logistics of that, because one of
9 the things I would say is that, you know, if there is
10 a business that's been operating in a space, that
11 business is then priced out of that space, and then
12 that space is left vacant for an extended period of
13 time. We have to determine what that is. In certain
14 communities I know there's a desire, that extended
15 period of time shouldn't be longer than six months.
16 In certain communities it's three years. I don't
17 know what the number is. I think working with
18 Council we should determine what is the right number
19 of years that a property could be vacant before we
20 apply some type of penalty on that business owner--
21 on that landlord.

22 CHAIRPERSON GJONAJ: When it comes to
23 real estate taxes on those vacant properties, are you
24 familiar with the tax rates and how they're
25 calculated?

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2 COMMISSIONER BISHOP: So, I'm vaguely
3 familiar with taxes. I mean, that obviously is my
4 colleague at the Department of Finance who is dealing
5 with property tax, but I do know, and this is one of
6 the reasons why we created the Commercial Lease and
7 Assistance Program, when you're negotiating your
8 lease upfront which is why we want to get businesses
9 at the beginning of that process, you can negotiate
10 what can be-- what should be passed along as part of
11 your lease process. You can negotiate what that
12 renewal terms looks-- what that renewal term look
13 like. So that's why it's important, especially for
14 our small micro-businesses. They are provided the
15 resources necessary to get a fair-- to have a fair
16 process in the lease negotiation part.

17 CHAIRPERSON GJONAJ: Alright, well
18 getting back to the real estate. When a property is
19 vacant, the real estate taxes that are paid on that
20 property, is it equivalent to the property being
21 occupied when it comes to real estate taxes?

22 COMMISSIONER BISHOP: My understanding,
23 it's-- the taxes are related to the value of the
24 property.
25

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2 CHAIRPERSON GJONAJ: Okay. So, say that
3 again, please?

4 COMMISSIONER BISHOP: The taxes are
5 related to the value of the property.

6 CHAIRPERSON GJONAJ: Value of the
7 property. So regardless if it's occupied-- well,
8 actually, commercial properties are assessed
9 differently based on income, but if it's a vacancy,
10 they do not-- does a property owner benefit from a
11 vacant space?

12 COMMISSIONER BISHOP: Again, I-- so, I do
13 not-- different properties have different reasons why
14 they're vacant. Again, without understanding the
15 specifics of a particular property, I cannot answer
16 that question. What I can tell you is that based on
17 my experience, I know that some property owners and
18 some properties are vacant because of multiple
19 reasons. One, the square footage could be too large.
20 Retailers change. A lot of businesses are looking
21 for smaller square footage, and that landlord may not
22 be able to actually have the capital necessary to
23 divide the property. The property could be vacant
24 because there are structural issues with attracting
25 the right type of tenant. They may not be enough

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2 technology. There's so many-- this is why this is a
3 very complex issue, but again, going back to the goal
4 of this, we want to make sure-- and we as Small
5 Business Services, we want to see vibrant commercial
6 corridors. We do not want to see vacant storefronts.
7 So we would be happy to work with Council to come up
8 with a solution, whether it's a storefront registry,
9 a vacancy tax or some type of transparency in the
10 lease renewal process or the leasing process.
11 Certainly happy to work with Council on that.

12 CHAIRPERSON GJONAJ: I'm sure my
13 colleagues have so many questions for you. I have
14 one last one. We certainly understand that rent is a
15 factor when it comes to our small businesses and
16 challenges that they have. Is there-- are there any
17 other factors that you can safely share with us that
18 are an impact on small businesses and their
19 survivability?

20 COMMISSIONER BISHOP: Sure. And without
21 speaking definitively, right, because that's again
22 one of the reasons why this problem is so complex.
23 There's a number of reasons. There's a number of
24 things that small businesses have to deal with,
25 right? There's the cost of the actual space.

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2 There's the cost of, you know, people, getting the
3 right people. There's just getting capital. Again,
4 a lot of our services are focused on addressing those
5 things. So, when you look at our are comprehensive
6 workshops, a lot of it is focused on your back
7 office, and for example, having an inventory
8 management system, understanding your income
9 statements, being able to do projections. You know,
10 we focus a lot on back office for a reason, because
11 we see that's there's some-- that's some of the areas
12 that small businesses struggle with. We focus on
13 access to capital. We've made a lot of investments
14 on actually connecting businesses to capital. We've
15 connected businesses to over 50 million dollars in
16 the past fiscal year of capital, much needed capital.
17 We focus on the regulatory environment. We've talked
18 a lot about the regulatory environment and certainly
19 figuring out ways to make it easier for businesses to
20 be in compliance with city regulations, and even
21 working with Council to reduce the back and forth
22 from different agencies that we have seen. So,
23 certainly there's a number of other things that
24 business owners have to address, but I can't speak
25 definitely on one particular business, because it

1 runs the gamut, and that's why we have these nine set
2 of services that we provide for business owners.

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4 CHAIRPERSON GJONAJ: Thank you,
5 Commissioner. Let me open up the floor to some of my
6 colleagues. Council Member Rodriguez?

7 COUNCIL MEMBER RODRIGUEZ: Thank you,
8 Chair. Commissioner, you mentioning about the
9 unintended-- non-intended consequences, so in that
10 direction you mentioned about the many local
11 businesses that they don't have leases. From the
12 220,000 business in New York City, how many of those
13 they don't have lease?

14 COMMISSIONER BISHOP: So, that is a
15 question that I'm unable to answer, because the
16 lease-- the leasing process is not transparent, and
17 when I say not transparent, one of the goals,
18 hopefully we can work together on, is to look at
19 what's the process of negotiating the lease, making
20 sure that it's consistent and standard across the
21 City, especially for our small businesses. So, I,
22 you know, again I do not know the answer to-- but
23 just anecdotally, a lot of--

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COUNCIL MEMBER RODRIGUEZ: [interposing]

Okay, so we do know that there's many local small businesses that they are first of all not leases.

COMMISSIONER BISHOP: Correct.

COUNCIL MEMBER RODRIGUEZ: I can tell you in my community I have in one of those corners like three businesses that they say to me, "We don't have leases. The landlord come here every month, and he take the money cash, [inaudible] leases." So, that's happening in our city. I can tell you tomorrow so that we can speak directly to those cases. I have cases such as a friend of mine that has a bodega in Brooklyn, 30 years, and he leases month per month, 30 years. So, of course, process is important, and that's-- you know, I believe that we do agree on that part at some level when it comes to the language of this bill. The heart core of this bill is about process.

COMMISSIONER BISHOP: Right. And--

COUNCIL MEMBER RODRIGUEZ: [interposing]

We are now determining about how real estate property owners will determine their values about process.

This is something that I hope that you and the Administration and SBS understand that we are

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discussing a bill that the main focus is about establishing a better practice on how business owner, local business owner and property owner negotiate the lease.

COMMISSIONER BISHOP: Correct, and I think we want to make sure that it's a fair process, and this bill for all the longstanding businesses that do not have a lease would not cover those businesses, and some of the unintended consequences that I talked about is that it would dis-incentivize a landlord for even extending a lease. What we know and the reason why we made the investments in the commercial lease assistance program among other areas is that when you have a lease you're protected. The main thing a small business need is consistency. They need to be able to, whether it's five years or ten years, plan out the growth of their business, and without a lease it denies them that consistency. It also denies them a number of things in terms of access to capital, etcetera, and the things that I could talk about when you don't have a lease. So, certainly those are some of the unintended consequences, but again, I just want to be clear, we share the same goal in terms of creating a fairer

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2 process for small businesses through the leasing
3 process and the lease renegotiation process.

4 COUNCIL MEMBER RODRIGUEZ: Thank you.
5 And you've been great in our community. We work
6 together. We were able to save a supermarket
7 together. Council Member Levine and I know that we
8 work around [inaudible] for Washington.

9 COMMISSIONER BISHOP: Yep.

10 COUNCIL MEMBER RODRIGUEZ: And the same
11 thing we're able to do at Coogan [sic] restaurant.
12 However, that lease that restaurant, we were not able
13 to help them to be saved when the rent was \$7,000 and
14 the landlord says \$25,000 for the new leases. So
15 there was not a process there for that owner that was
16 in his business for more than 20 years to now to
17 respond to those type of requests. So, again, we
18 agree that this is about process, and for me, this is
19 important especially for the press, whoever, is
20 process. It's not rent control. And my second
21 question is, I do agree, you know, on all the
22 programs that you've been leading. One of the things
23 is that one, that the Council been working with you
24 guys putting the resources so that small business
25 they are able to get lawyer at least to understand

1 the leases. But we know that this is program. This
2 is not a law, right?

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4 COMMISSIONER BISHOP: So, it's not a law,
5 but we work with the Council to actually-- prior to I
6 believe it was maybe three or four years ago, there
7 was actually no laws to protect commercial tenants
8 from harassment. And under-- working closely with
9 Council Members, and we were able to actually get
10 that law passed, and that actually for the first time
11 quantified what commercial tenant harassment looked
12 like. We, as the Administration, put resources to
13 actually then provide additional legal support.
14 We've always provided legal support for businesses,
15 but it was limited to mainly, you know, starting a
16 business, structural questions, and lease review but
17 now we've gone deeper into the lease renegotiating
18 service.

19 COUNCIL MEMBER RODRIGUEZ: And--

20 CHAIRPERSON GJONAJ: [interposing] Thank
21 you, Councilman. We- one more, go ahead.

22 COUNCIL MEMBER RODRIGUEZ: So, one--
23 again, I am happy to hear that we agree on the spirit
24 on continuing the process of negotiate around the
25 spirit of the bill which is about bringing fairness

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2 and establishing a better process. And two things--
3 one is does the Mayor and SBS wish to support a
4 vacancy tax? And second, will the Mayor be more open
5 to work with the Administration to support this bill
6 if this bill doesn't include the larger tenants, but
7 focus on the local small businesses.

8 COMMISSIONER BISHOP: So, to answer the
9 first question, I think a vacancy tax is something we
10 should look at. I think if you have landlords who
11 are absentee or just landlords who are just bad
12 actors, we certainly need to figure out a way to--
13 some lever to actually affect that behavior. There
14 are communities that have landlords who kept space
15 vacant for 20, 30 years. That's unacceptable, but
16 certainly this particular bill, even if you narrow it
17 down, there are unintended consequences, and I think
18 the policy concerns that I laid out, the fact that
19 arbitration is being seen as a silver bullet. We
20 look at all the businesses that use our services,
21 these are small businesses. They're too-- the
22 business owners are busy running their business.
23 You're asking now the business owners to actually
24 come up with the resources necessary to have an
25 effective arbitrary arbitration, and we have seen,

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2 and it could potentially happen, where if you're
3 well-resourced, which would probably be the larger
4 landlords or a multinational organization, you're
5 going to come out better. So, certainly those are
6 the concerns that we have. There are other concerns,
7 but certainly we share the goal of the process and
8 making sure that's a fair process.

9 CHAIRPERSON GJONAJ: Thank--

10 COUNCIL MEMBER RODRIGUEZ: [off mic] the
11 advocate and go to--

12 CHAIRPERSON GJONAJ: [interposing] Council
13 Member, we have a slew of Council Members. We've got
14 46 people that are going to be testifying today, and
15 we still have a number of Council Members that have
16 to ask questions. Your last question, 10 seconds.

17 COUNCIL MEMBER RODRIGUEZ: Let's [sic]
18 advocate an oath to deal with consequences related to
19 the arbitration. I get the concern. We need to be
20 listening to the pro and con. But that particular
21 concern about how the arbitration and the funding and
22 everything, the local small businesses-- small
23 business doesn't have any more choice more than this
24 bill in order to survive.

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COMMITTEE ON SMALL BUSINESS

COMMISSIONER BISHOP: But I-- arbitration is just one of the policy concerns. You--

COUNCIL MEMBER RODRIGUEZ: [interposing] It's not the only one.

COMMISSIONER BISHOP: You could end up with landlords deciding not to extend leases, period, which would again, as I said, be unfair to the small business community. You could have landlords that bake in the cost of arbitration. I mean, there's a number of policy concerns that I think, again, we share the goal of creating a fair process, but certainly there are serious policy concerns with this bill.

CHAIRPERSON GJONAJ: Thank you, Council Member and Commissioner. We're going to start keeping a time clock as we move forward so we all have a fair opportunity to ask our questions. I recognize Councilman Kallos.

COUNCIL MEMBER KALLOS: Commissioner Bishop, do you have any idea how big, what the magnitude of the vacancies and empty storefronts is? Is there currently a survey of all the empty storefronts in our city?

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COMMITTEE ON SMALL BUSINESS

COMMISSIONER BISHOP: So, there isn't, and this is why we'd love to work with Council on a storefront registry, something that gives us consistent data cross the City, and certainly data that's more frequent. You know, we have in different-- working with different community organizations we have an idea in certain communities the type of-- the level of vacancy, but in certain communities we don't. So, we want to make sure we came up with the solution that's consistent and frequent.

COUNCIL MEMBER KALLOS: And has SBS or any other city agency looked at different tools that are used, whether it's the existing programs you spoke of, your grant, or on the west side they did mom and pop zoning, what types of tools can help?

COMMISSIONER BISHOP: So we, we're testing all types of-- I mentioned Love Your Local. One of the things that we're doing as part of that program is testing different interventions that we may be able to scale out. Certainly, we've looked at other cities. Other cities have tried different programs that it's been mixed results.

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COMMITTEE ON SMALL BUSINESS

COUNCIL MEMBER KALLOS: Does the mom and pop zoning work?

COMMISSIONER BISHOP: You know, I cannot say with 100 percent certainty that it does. Again, the real estate changes on a-- it's very dynamic. So, for example--

COUNCIL MEMBER KALLOS: [interposing] Let me just jump in with one last question.

COMMISSIONER BISHOP: Yeah.

COUNCIL MEMBER KALLOS: Sorry to continue interrupt-- it's just we've got three minutes--

COMMISSIONER BISHOP: [interposing] Sorry.

COUNCIL MEMBER KALLOS: to try to make our case. So, I represent the Upper East Side. It was originally settled by Hungarian and German immigrants. Some of those immigrants were my family members. And I've gotten to see all the stores that I grew up with just disappear as the neighborhood becomes less of an immigrant community and more big box stores. I guess one of the questions is what we can do to protect smaller businesses, and the Speaker referred to not want to protect Goldman Sachs. I have no interest in protecting any of the big banks. There's no reason I need banks across the street from

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2 each other or four banks on the four corners of a
3 block. And then similarly, what can we do to try to
4 limit the skyrocketing rents? We have restaurants
5 and stores that survived the Second Avenue Subway
6 construction only to see their rent go up by 10 or
7 100 times. Can we tie cost to-- the increases to
8 actual costs versus just somebody deciding they want
9 100,000 a month, which is in fact the going rate for
10 retail in my district?

11 COMMISSIONER BISHOP: Right, so I think--
12 just to answer a couple questions you have baked in
13 there. Number one, I think some type of storefront
14 registry, a vacancy tax, will certainly change the
15 behavior of landlords. It's-- it will certainly
16 change the behavior of landlords, but we want to make
17 sure that we have a fair process in the leasing and
18 the lease renewal process, because one of the things
19 that we've seen is that if you have an attorney, if
20 you have someone that that could explain to you what
21 it is that the lease, what protections you have,
22 certainly that would be helpful. Now, in communities
23 that are changing, we have different programs to help
24 businesses adapt. I think one of the things that
25 when the Speaker talked about L&M Deli, that's a

1 perfect example of a small business recognizing the
2 rise in e-commerce and using the fact that now I
3 could store, you know, different parcels with-- and
4 make money off of that. There are different ways to
5 adapt to changing technology, etcetera, that's why a
6 lot of our intensive workshops we have is based on
7 how to adapt to changing environments.

9 CHAIRPERSON GJONAJ: Thank you,
10 Councilman. Thank you, Commissioner. I recognize
11 Council Member Lander.

12 COUNCIL MEMBER LANDER: Thank you, Mr.
13 Chair and Mr. Speaker and everyone who's here today.
14 Commissioner, I know you care about these issues
15 personally because I've been out on the street with
16 you in Redhook and Park Slope, and I know you feel it
17 deeply, but institutionally, I think I share some of
18 the frustration that the Speaker has, because two
19 years ago, actually last month, we did a hearing
20 right here in these chambers on small business
21 diversity, and we asked about a whole series of
22 policies about formula [sic] retail bans, about small
23 business zoning, about tax incentives, and what we
24 got at that time was the Department of Small Business
25 Services doesn't have a study, doesn't have research,

1 doesn't have information, doesn't have evaluation of
2 those policies-- "We'd be glad to work with the
3 Council to review them." So, then we did more work.
4 We put a report out about each of those things. Since
5 that hearing two years ago, since our report came out
6 one year ago, is there any more research from the
7 Administration on whether a formula retail ban would
8 work, on whether small business zoning to prevent
9 just banks and drug stores would work, on what the
10 form of a tax incentive program would be, on any of
11 the policies that we laid out not even going back 30
12 years, just two years and one year, including the
13 idea of a registry or information? Do you have
14 anything more to bring us today than you did a year
15 ago or two years ago?

17 COMMISSIONER BISHOP: Right. So, it
18 think, you know, we have had conversations about a
19 storefront registry. We continue to--

20 COUNCIL MEMBER LANDER: [interposing]
21 We've had a lot of conversations, but do you have
22 anything more to give us, any more research, any more
23 proposals, any more evaluations of any of these
24 ideas?

25 [applause]

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COMMITTEE ON SMALL BUSINESS

COMMISSIONER BISHOP: So, we have focused a lot on our regulatory environment to make it easier for businesses to be in compliance with regulations. We're working with Council right now--

COUNCIL MEMBER LANDER: [interposing] That sounds like-- no, I mean, again, I don't want to get in a fight with you personally, because I know you feel and care about these issues, but it sounds like the issue is no, the Administration has not produced for us any evaluations of the proposed policies or any comprehensive information or analysis of the problem we're looking at today of the, you know, displacement caused by rampant rent increases in the mom and pops and small business that we love.

COMMISSIONER BISHOP: Right, and I would say that it is-- it is certainly a complex issue, because without--

COUNCIL MEMBER LANDER: [interposing] Again, Commissioner, I really respect you personally. You're telling me no. That's not just on you. It's on the Administration. This is a rampant problem in the City, and like it's a collective failure. None of us have solved it. I've been in office nine years. Small businesses have been closing in my

1 district nine years. I go out each time and try to
2 help. I protest and picket with the artists or with
3 the restaurant. We haven't come up with good new
4 policy. We did try. We've had a couple of hearings.
5 We've put out a big significant policy report
6 planning for retail diversity. We asked our staff to
7 do an analysis, and I just got to be honest, the fact
8 that the Administration has not done the research,
9 put out a policy analysis, brought us some policy,
10 responded to the policy ideas we proposed puts us in
11 a really difficult spot. I don't know whether the
12 SBJSA gets at the problems we're trying to solve, but
13 without any more information or analysis, it's really
14 frustrating to try to be a partner.

16 COMMISSIONER BISHOP: Right, but--

17 COUNCIL MEMBER LANDER: [interposing] So,
18 I'm just going to ask my one-- this is a question
19 that you can answer without analysis. You know,
20 what's certainly happening in my district is the
21 increase in rent makes it very difficult for small
22 businesses upon renewal. So, do you think it would
23 be appropriate conceptually to put some restrictions
24 on property owners and landlords of some kind? We
25 can even leave broadly an understanding of what those

1 would be to protect mom and pops, small business,
2 small retail and other tenants from displacement
3 caused by rising rents and gentrification. Just
4 conceptually, would that be an appropriate thing for
5 us to do--
6

7 COMMISSIONER BISHOP: [interposing]

8 Council Member--

9 COUNCIL MEMBER LANDER: to try to solve
10 this problem?

11 COMMISSIONER BISHOP: Because it's so
12 hypothetical, I'm unable to answer that question
13 without understanding-- without understanding the
14 economics of every particular building. Again, I
15 think to be fair, in the past two years I've talked
16 about Love Your Local. We are testing interventions
17 to figure out how to actually help longstanding
18 businesses. So, we are not-- it's not like we
19 haven't been doing anything. We want to make sure
20 that whatever program that we come out with is
21 scalable, it's actually-- is actually-- actually can
22 work. So that is why we are pushing forward with
23 Love Your Local. So, you know, again, we share the
24 goal of making sure that there's a fair process to
25 the leasing, to-- for small businesses to actually

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2 get a lease, and for small businesses to go through
3 the lease renewal process. Certainly, we have
4 concerns about landlords who keep space vacant, and I
5 think a storefront registry or some type of vacancy
6 tax might be some of the things that we talk to
7 Council and get your help if we need assistance in
8 Albany.

9 COUNCIL MEMBER LANDER: So, I'm past my
10 time, and I'll yield it back, and I wanted to get
11 into some more detailed about how we would focus
12 this, how to think about its breadth versus
13 narrowness, a whole set of issues, but I just have to
14 be honest, and again, with-- and I know you love your
15 local, I've seen you with your passion and your heart
16 for it, but with neither information or analysis, nor
17 even a sense that the principle of some restrictions
18 on owners to prevent rent gouging and massive lease
19 renewals, it's hard to believe in the commitment of
20 the Administration to work with us as real partners
21 to solve this problem.

22 COMMISSIONER BISHOP: I--

23 CHAIRPERSON GJONAJ: [interposing] Thank
24 you, Councilman. We have to move on. We've got a
25 slew of Council Members. And just, this is the

1 definition of insanity, doing the same thing over and
2 over again, and I agree with you Council Member, but
3 as we're in here with this hearing, outside there are
4 literally hundreds of minority-owned businesses that
5 are not protesting that their businesses are going to
6 be shut down because of rent, but because of
7 regulation. Small mom and pop businesses, the Latino
8 Restaurant Bar and Lounge Association is outside
9 protesting that their businesses are shutting down
10 because of the hookah licenses, just to give you an
11 idea, but these conversations continue. I now
12 recognize Mark Levine.

14 COUNCIL MEMBER LEVINE: Thank you, Mr.
15 Chair, and thank you, Mr. Speaker. Good to see you
16 Commissioner. I do want to respectfully disagree
17 with one point you made in an answer to an earlier
18 question. I don't know of any neighborhood that
19 prefers chains over mom and pops.

20 COMMISSIONER BISHOP: I--

21 COUNCIL MEMBER LEVINE: [interposing] I
22 think New Yorkers are almost united across the
23 spectrum in our love of small businesses and mom and
24 pops.

25 [applause]

COMMISSIONER BISHOP: So,--

COUNCIL MEMBER LEVINE: [interposing] And that's the idea behind Love Your Local, right?

Because we love--

COMMISSIONER BISHOP: [interposing] So, that is--

COUNCIL MEMBER LEVINE: our local businesses.

COMMISSIONER BISHOP: certainly-- and when I mentioned that, there are-- some of your peers who I've walked their district, and individuals were happy because a particular business came. Again, we are-- at Small Business Services we focus a lot on our mom and pops, but we focus on the neighborhood side of a retail mix, and that includes, you know, your mom and pops.

COUNCIL MEMBER LEVINE: I hear you on that, I just want to-- I have a couple of other points and time is short. The topic-- I think it was the Chair brought it up, the topic of city-owned business, which we're landlords to, has come up. I believe there's about 500 retail establishments collectively in DCAS-managed buildings. It just galls me that amongst them we are renting to so many-- we,

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2 the City, are renting to so many chains and fast-food
3 stores and chain pharmacies. That's a topic for
4 another hearing, but--

5 COMMISSIONER BISHOP: [interposing] And
6 probably another Commissioner.

7 COUNCIL MEMBER LEVINE: And probably
8 another Commissioner, but one that is relevant in
9 this context. You declined to comment on a
10 hypothetical, so I want to give you a very specific
11 real world example, the kind of thing you're hearing
12 from my colleagues. 3880 Broadway on 162nd Street
13 and Washington Heights, 2015 landlord evicted seven
14 small businesses, mom and pops, Latino-owned, been
15 there for many years, including beloved local
16 restaurant, Punta Cana, which had been there for 40
17 years. That was in 2015. Three years later, those
18 spaces are still empty. So, this is a loss for those
19 businesses that just wanted a little more time, even
20 if they were being evicted, give them time to get
21 their affairs in order and find another location.
22 It's a loss for the neighborhood that has a dead zone
23 now. I would think it's a loss for the landlord. I
24 don't get that calculus. There was such an apparent
25 imbalance of resources in that fight. The small

1 businesses didn't have money for high-powered
2 lawyers. They were totally outgunned in the lease
3 negotiation. So what does-- what will the City do in
4 instances like this, if not the bill we're looking at
5 today to help level the playing field and to help
6 prevent this incredible waste of pushing out beloved
7 local businesses just to leave the spaces vacant for
8 years on end?
9

10 COMMISSIONER BISHOP: Right. So, just to
11 be clear on-- we share the goal of creating a fair
12 process for getting a lease or renegotiating a lease.
13 I think in this particular case, you know, that
14 particular landlord may have not had or may have made
15 poor assumptions in terms of what the actual market
16 rate can be for that particular property. And I
17 think working with Council, that's where, you know,
18 having some type of penalty like a vacancy tax,
19 because we want to make sure that landlords
20 understand, you know, the market conditions. I
21 think, you know, the misperception is that, you know,
22 the larger landlords they have resources that they
23 can calculate when the market is softening. They can
24 calculate, for example, when we talk about big box
25 stores. Big box stores are creating smaller

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2 footprints. So the larger landlords have the
3 resources. We're-- what I'm concerned about is
4 really creating a fair process where, you know, when
5 you have a small individual who came to this country,
6 acquired different properties, they're sort of
7 navigating this blindly. They may not have the
8 capital that they need to actually build out their
9 commercial space. They have a mixed-use building.
10 We want to make sure that there's some type of
11 process where they too understand that they need to
12 make an educated decision in terms of whether or not
13 they're going to have their storefront--

14 COUNCIL MEMBER LEVINE: [interposing] And
15 my time is up. You talk about fair process. I think
16 we all want fair process. There's no fair process in
17 the legal proceeding where one side has an attorney
18 and high-powered consultants and the other side is on
19 their own. Is that kind of imbalance that is leaving
20 mom and pop stores to the mercy of more powerful
21 landlords, and it's that kind of imbalance that we
22 need to correct.

23 COMMISSIONER BISHOP: And that's why we--
24 that's why we created the Commercial Lease Assistance
25 Program to provide attorneys for those small

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2 businesses, but again, the unintended consequences of
3 this bill, it relies on arbitration, and I think that
4 is putting a lot of onus on small businesses to
5 actually have an effective argument and we are
6 concerned about that.

7 COUNCIL MEMBER LEVINE: Thank you, Mr.
8 Chair.

9 CHAIRPERSON GJONAJ: Thank you. I'm going
10 to remind everyone again, sometimes we're deaf toned
11 to the signal, so please, under three minutes.
12 There's a slew of us. I recognize Council Chin.

13 COUNCIL MEMBER CHIN: Thank you, Chair,
14 and thank you to the Speaker, and I'm really happy
15 that finally we're having this hearing, right?
16 After-- I think the last time there was a hearing on
17 this bill or similar was 2009, before some of us got
18 elected to the City Council. Commissioner, you know,
19 in my district I know that a lot of you heard about
20 the book store that the Speaker talked about,
21 McNally's Bookstore. That's going to be forced to
22 close, and they're going to relocate somewhere else,
23 and they've been in the community on Mulberry Street
24 for a very, very long time, and also right next to
25 them was the Mets [sic] Supermarket that was closed

1 on Christmas of 2016. Finally, we heard that the
2 landlord is renting it to an upscale food place,
3 artisan food, right? And the Met Supermarket who
4 has been serving a lot of seniors and rent regulated
5 tenants was forced to leave, because the landlord
6 didn't want them to stay. They wanted upscale for
7 the neighborhood. So he finally got something, and
8 that is not fair, and that's not fair to the resident
9 in the neighborhood, and we got to do something to
10 fight against that. And I know, you know, I don't
11 have much time, but you keep talking about, you know,
12 arbitration and that the small business, you know,
13 don't have the resources. Then that is something the
14 City, the Department of Small Business Services
15 should provide to help these small businesses if they
16 have a chance to get to arbitration or mediation,
17 just like you've been helping them with lease
18 negotiation and other resources that the Department
19 of Small Businesses is providing. So in terms of
20 arbitration, I would see your department providing
21 the support to help the small business prepare so
22 they can make the case against the huge rent
23 increase, or the landlord that just absolutely refuse
24 to renew the lease, because they want some other
25

1 high-end upscale business to move in. So, I think
2 that's what I wanted to ask you is that couldn't your
3 Department provide the resource to help these small
4 businesses with arbitration or mediation?
5

6 COMMISSIONER BISHOP: So, Council Member,
7 and I know you share a strong passion for small
8 business in your community as well. We are providing
9 resources. I think one of the things we have said is
10 that we want to provide resources to the businesses
11 at the upfront to make sure that they have
12 consistency in the leasing process--

13 COUNCIL MEMBER CHIN: [interposing] But
14 that's good, but what I'm asking is that when they
15 have an opportunity to renew their lease and they
16 need help with the arbitration-- let's say that we
17 can finally negotiate and get a good bill passed, and
18 that was the option on the table, wouldn't Department
19 of Small Business Services step in and help these
20 small businesses if they have a chance to do
21 arbitration?

22 COMMISSIONER BISHOP: So, arbitration is
23 just one of the unintended-- the sort of-- one of the
24 policy concerns we have. I think, you know, one of
25 the things I'm also concerned about is the fact that

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2 landlords may not even extend leases, which is an
3 issue that we would not be able to help. So, again,
4 I certainly share the goal of creating a fair
5 process, and we are happy to work with Council to
6 figure out what that looks like in terms of ensuring
7 that our small businesses have a fair process in the
8 leasing process.

9 COUNCIL MEMBER CHIN: Thank you, Chair.

10 CHAIRPERSON GJONAJ: Thank you.

11 COUNCIL MEMBER CHIN: That's what we ask
12 for.

13 CHAIRPERSON GJONAJ: Thank you. We're
14 going to approach this with like a lightening round,
15 I guess, so we understand the importance of time. I
16 recognize Council Rivera.

17 COUNCIL MEMBER RIVERA: I want to say
18 Chin stood within the time, and I want to thank her.
19 So, thank you, Commissioner. So you mentioned that
20 small businesses have about five employees or less
21 based on one of your definitions. The reason why I'm
22 asking that, and I know there's micro-businesses and
23 there's a number of definitions on what constitutes a
24 small business, but do you recommend that we define
25 small business within the legislation itself?

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2 Because what I'm looking to right now is the bill and
3 the text and how we could improve it, because you
4 will hear from advocates today that they are willing
5 to make changes as long as it stays within the
6 mission and the core of what we're trying to do. So,
7 do you recommend that we change the definition?

8 Because we certainly don't want to help Duane Reade,
9 but we want to make sure that we are keeping those
10 affordable supermarkets in our neighborhood.

11 COMMISSIONER BISHOP: So, I think, just
12 to be clear, the number that I gave you was the
13 businesses that utilize our services. I think,
14 again, not to sound like a broken record, but we
15 share the goal in terms of creating a fair process,
16 and what that looks like I think we would have to
17 work closely together. I will say that as far-- as
18 I've been notified by the law Department, there are
19 some legal concerns with the bill as well, which I
20 did not get into. I was dealing with more the policy
21 issues, and I think the Law Department will work with
22 the Council's attorneys to address those legal
23 points.

24 COUNCIL MEMBER RIVERA: Okay, so have you
25 determined what it would cost an administering agency

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2 to oversee the process? So, if we did have some
3 iteration of the bill that was passed, have you and
4 Mayor's Office looked to what it would cost for you
5 to oversee such a process?

6 COMMISSIONER BISHOP: We have not.

7 COUNCIL MEMBER RIVERA: Have you looked
8 into-- with all the tools that were mentioned by
9 Council Member Kallos and the-- considering that the
10 Administration has had some sort of a writer's block
11 on policy ideas and creative solutions, have you
12 looked into vacancy penalties at all?

13 COMMISSIONER BISHOP: So--

14 COUNCIL MEMBER RIVERA: [interposing] I
15 know it's a discussion that you want to have, and
16 we're open to having it. Have you looked into what
17 this could look like?

18 COMMISSIONER BISHOP: Right, so we have
19 looked at other municipalities to figure out what
20 that looks like, and in certain areas it has mixed
21 results, so we want to work with you to ensure that
22 we have something that actually will address the
23 issue of vacancy.

24 COUNCIL MEMBER RIVERA: So, if we decided
25 that SBS would be the overseeing agency, clearly

1
2 there are associations that have arbitrators. Do you
3 think that companies that do mitigation and
4 arbitration have enough capacity to handle potential
5 caseload?

6 COMMISSIONER BISHOP: Again, a
7 hypothetical. We don't know, and we don't know what
8 type of training that would be needed. And again,
9 it's assuming arbitration is the silver bullet.
10 There are other policy issues with this bill that,
11 you know, we have not addressed, which is a landlord
12 may not necessarily issue a lease or a landlord may
13 actually bill in the cost of arbitration into the
14 cost of the lease.

15 COUNCIL MEMBER RIVERA: So, this is going
16 to be an important step. I guess my last question
17 is, you know the effects that neighborhoods, that our
18 own neighborhoods when multiple businesses close. So
19 we realize this is not a silver bullet and that there
20 are other factors in terms of closing small
21 businesses are you willing to work with us in terms
22 of implementing this bill and becoming the overseeing
23 agency?

24 COMMISSIONER BISHOP: So, we are willing
25 to work with Council to come up with a fair process

1
2 for businesses to renegotiate their lease and to get
3 a lease.

4 COUNCIL MEMBER RIVERA: Okay, thank you,
5 Mr. Chair, for my time.

6 CHAIRPERSON GJONAJ: Thank you,
7 Councilwoman. I recognize Councilman Cohen.

8 COUNCIL MEMBER COHEN: Thank you, Chair.
9 I'll be brief, because I'm not sure that I really
10 have a question, but this bill has been, you know--
11 the whole time I've been here I've met with many of
12 the advocates. I'm not a sponsor of this bill, but I
13 have to say over time I am becoming more sympathetic
14 as I go through my district, and I have many, many
15 vacant stores. And I really also have to echo the
16 comments of Council Members Lander, Chin, and Rivera,
17 that I-- you know, I'm a big fan of the
18 Administration. We work together on a lot of things,
19 but I do not feel that there is real leadership here
20 on this problem, and I have, you know, Johnson
21 Avenue, Jerome Avenue, Gunhill [sp?] Road, Webster
22 Avenue, White Plains Road, Riverdale Avenue. There
23 is a vacancy problem on all of those commercial
24 strips in my district, and you know, I'm really
25 considering this legislation because I want to do

1 something about maintaining businesses in my district

2 So, it's really again, I don't have a question and

3 I've been very, very brief. I want the message to

4 get back to the Administration that we need, you

5 know,-- you know, it's nice that you have concerns

6 about this legislation, but we really need if

7 there's-- if you think that there's a better way, an

8 alternative way, now is the time to speak up.

9
10 COMMISSIONER BISHOP: SO, I thank you for

11 that statement. I think we share the same goal of

12 creating a fair process, and certainly we have

13 different tools that we have implemented from giving

14 businesses access to free attorneys to creating a

15 program where we're looking at different

16 interventions to help longstanding businesses. This

17 is the first of a kind in terms of being able--

18 business to be eligible for a grant of 90,000

19 dollars. I think, you know, we as an administration,

20 we do not like to see vacant storefronts. I

21 certainly have said in my community I've lost even

22 some of my favorite restaurants. So, it's an issue

23 that impacts me personally. So, certainly, I want to

24 make sure that we work together to create a fair

25 process.

1
2 COUNCIL MEMBER COHEN: I get it that we
3 agreed on the problem. It's the solution that we
4 need to really--

5 COMMISSIONER BISHOP: [interposing] It is
6 a complex-- it is a complex issue that requires
7 different interventions at-- especially in different
8 neighborhoods around the City.

9 COUNCIL MEMBER COHEN: I'll just
10 conclude, but the time is now, though. Thank you,
11 Chair.

12 CHAIRPERSON GJONAJ: Thank you. Recognize
13 Council Powers.

14 COUNCIL MEMBER POWERS: Thank you.
15 Thanks so much. Thank you for your testimony. I want
16 to thank the Speaker and the Chair for having this
17 committee, because it is a bill that has been here in
18 the Council for a very long time. It's something we
19 all have talked about and hear about often. I'm the
20 son of a small business owner. Right across the
21 street from my house for 20 years, so also deeply
22 concerned about where we go from here. And I just
23 want to say, and I don't mean to pile on, but similar
24 feelings as others here, which is I would hope the
25 Administration, if we have another hearing on this

1
2 sometime in the future, if there's opposition we'd
3 come with a number of solutions, either bills that
4 are in Albany or in the City Council or other ideas,
5 that if it's not this that we can move forward.
6 Because I do think that the programs you're doing
7 today are good, but they're not saving the small
8 businesses that are in the empty storefronts which we
9 see every day. One thing we didn't talk about, you--
10 one minute you sort of glanced over in your testimony
11 is the legal issues that have been raised with this
12 bill which seemed to be the center of the argument
13 for many years. So, I was hoping maybe you could
14 share with us what those legal concerns are.

15 COMMISSIONER BISHOP: So, it is-- it's my
16 understanding from the Law Department that there are
17 some legal concerns, and certainly the Law Department
18 has said they're willing to sit down with Council
19 attorney to go over the finer points.

20 COUNCIL MEMBER POWERS: Can you name,
21 enumerate, any of the legal issues that they--

22 COMMISSIONER BISHOP: [interposing] I
23 think, you know, again, my understanding there's--
24 because this bill effects the tenant/landlord

1 relationship, that there might be some legal concerns
2 there.

3
4 COUNCIL MEMBER POWERS: Just to be frank,
5 I mean, this is like essential, I think one of the
6 core issues to the bill is the legal argument, and I
7 think the different sides here have a real
8 fundamental debate about whether it's legal or not.
9 I think it's something our lawyers are looking at as
10 well, but certainly we'd appreciate if we can
11 sometimes, so near-- some short term could get an
12 analysis of that. And also, I think to be honest,
13 the public does deserve to hear what those legal
14 arguments are and to know whether they are valid or
15 not, rather than being a sentence in the--

16 COMMISSIONER BISHOP: [interposing] Sure.

17 COUNCIL MEMBER POWERS: in the testimony.

18 COMMISSIONER BISHOP: And again, the Law
19 Department has said that short term following this
20 testimony we'll be willing to provide those points.

21 COUNCIL MEMBER POWERS: Okay, but I hope
22 you understand the point. The question I had was,
23 can you talk more about the issues around mediation,
24 arbitration? You've talked a lot about the cost
25 related to mediation and arbitration, the-- what the

1
2 impact would be on small businesses, how that might
3 be prohibitive to businesses. Can you talk about
4 that issue, and then also the issue of no-- the
5 businesses don't have any leases? That's unfamiliar
6 to me, but I'd be curious to hear about the
7 businesses that don't have leases today and the
8 impact on them.

9 COMMISSIONER BISHOP: Yeah, so there's--
10 in different communities, as Council Member Rodriguez
11 talked about, not only in his community, but there
12 are many different communities across the City where
13 there are longstanding businesses that have a
14 perfectly fine relationship with their landlord, and
15 therefore there isn't the written legal instrument of
16 a lease that governs their relationship. Where we
17 have seen challenges is if that property is then sold
18 to another entity, and that puts that small business
19 at a disadvantage. So, some of the unintended
20 consequences is that, you know, landlords may decide
21 not to issue leases period, and that will actually
22 hurt small businesses, because they need leases to
23 actually get capital, for example. I think the
24 arbitration issue-- again, this is all hypothetical.
25 Without understanding the capacity of arbitrators in

1 New York City, it's sort of assuming that not only
2 this is going to be the silver bullet, it's that the
3 small business is going to have the resources
4 necessary. During arbitration it's all about the
5 case that you present, and this may not-- an
6 arbitrator could actually agree with the landlord,
7 etcetera. So there's a lot of issues there that--
8 hypothetical issues that we do not know about, but
9 certainly we share the same goal of creating a fair
10 process for small businesses to get a lease and to
11 renegotiate their lease.

12
13 COUNCIL MEMBER POWERS: And under this
14 bill, if you went to arbitration, is it possible you
15 would end up-- you could end up back-- you could end
16 up what market rent is, correct?

17 COMMISSIONER BISHOP: You could end up
18 with-- you could end up with market rent, higher than
19 market rent. It all depends on the larger resource
20 position that, you know, between-- and in the
21 arbitration process.

22 CHAIRPERSON GJONAJ: Thank--

23 COUNCIL MEMBER POWERS: [interposing] And
24 sorry, just one-- can I just ask one last question,
25 sorry.

1
2 CHAIRPERSON GJONAJ: So much for
3 lightening.

4 COUNCIL MEMBER POWERS: To the issue, I
5 have a number of condos and co-ops in my district who
6 have raised concerns about it, about the impact on
7 residential buildings that have retail on the bottom
8 floor. Have you guys looked at that at all in terms
9 of impact on a residential-- you said non-residential
10 earlier, but certainly there are residential
11 properties that have retail and rely on them.

12 COMMISSIONER BISHOP: Right.

13 COUNCIL MEMBER POWERS: I'm just
14 wondering if you guys have found any analysis.

15 COMMISSIONER BISHOP: There's so many--
16 there's a lot of unintended consequences in terms of--
17 - depending-- and that's why I said this is a complex
18 issue. Depending on the financials of that particular
19 building, it may result in that particular building
20 needing to have a certain tenant. We've heard that.
21 So, you know, I wouldn't be able to speak
22 specifically or citywide. We'd have to look at
23 property by property.

24 CHAIRPERSON GJONAJ: Thank you. I
25 recognize Council Yeger.

1
2 COUNCIL MEMBER YEGER: Thank you, Mr.
3 Chairman, Mr. Speaker. Commissioner, in your
4 estimation is the bigger problem facing the City the
5 number of lenty [sic] vacancies, which is just
6 keeping storefronts unoccupied for a longer period,
7 for a very long period of time in some cases, or is
8 the notion of existing businesses having their rents
9 or their proposed rents proposed to be much larger
10 than a rent that they'd be willing to accept?

11 COMMISSIONER BISHOP: Right. That's a
12 great question, and it's also a complicated question.
13 I think, you know, we are concerned about vacant--
14 vacancies in commercial districts. We do not want to
15 see storefronts that remain vacant for an extended
16 period of time. It affects the character of the
17 neighborhood. It affects the quality of the
18 neighborhood. It robs the neighborhood of essential
19 resources. So, certainly that's why we've made
20 investments on the neighborhood, on our neighborhood
21 development side to really create localized solutions
22 to help those particular areas, commercial districts,
23 help address that particular issue.

24 COUNCIL MEMBER YEGER: I have a clock,
25 Commissioner, so I'm going to-- I'm going to try to

1
2 be as brief as possible. The bill's been framed as
3 not commercial rent control by members of the Council
4 and by advocates and I'm hopeful that that's the
5 case. But my question for you is, everything that I
6 see in the bill is really about the relationship
7 between the existing tenant and the landlord and as
8 it affects the rent. Do you see anything in this
9 bill that would affect the number or the ability
10 right now of the City to occupy and have storefronts
11 that are currently vacant occupied?

12 COMMISSIONER BISHOP: I-- I think the--
13 the bill is focused on trying to create a fair
14 process through the lease negotiation and lease
15 renewal terms. The policy concerns that we have
16 could, I think to your point,-- you know, I don't
17 know if it's going to address the issue of vacancy. I
18 think a vacancy tax or some type of storefront
19 registry would be something that would affect the
20 vacancy concerns that we have as a city.

21 COUNCIL MEMBER YEGER: Okay. The-- as
22 you've indicated a number of times in your answers,
23 nothing in this bill actually helps, and possibly, in
24 your estimation, and I don't want to put words in
25 your mouth, so correct me if I'm wrong, can actually

1
2 hurt businesses from being able to get the leases in
3 the first place, and that's because landlords may say
4 well, if you know, I get into a lease with a tenant
5 who's knocking on my door right now, and then I want
6 to do something later in ten years, I'll be
7 prohibited from doing that. I might as well just
8 leave it vacant. That could be-- that could in fact
9 exacerbate the problem that we're seeing right now in
10 vacancies. Is that correct?

11 COMMISSIONER BISHOP: I mean, that's one
12 thing. I mean, it-- there's-- it's so many
13 unintended consequences and we're all speaking in
14 sort of hypothetical issues. The landlord could say,
15 "Well, I'm not going to-- I'm no longer going to
16 issue leases." And that could hurt small businesses.
17 So, there's a number of unintended consequences with
18 this bill.

19 COUNCIL MEMBER YEGER: Alright,
20 Commissioner, what do you think about the City of New
21 York simply effectuating eminent domain over
22 properties where--

23 [applause]

24 COUNCIL MEMBER YEGER: over properties
25 that are vacant, and or even not vacant, where the

1 City comes in and says, you know, landlord, we don't
2 think you're renting this property for the right
3 amount of money or we think we can do it better. So,
4 we, the City of New York, we're going to come in,
5 we're going to own the property, be the landlord, and
6 rent it out to those who we think are the right
7 people to rent it to and for the right prices.

9 COMMISSIONER BISHOP: I would need to get
10 more details in terms of what that looks like.
11 Certainly, I know the City has focused on, for
12 example, in the Rockaways. We've had landlords
13 who've kept properties vacant for over 40 years. The
14 City has stepped in. so, certainly, you know, again,
15 where possible and especially where the city owns
16 property, we can test out different interventions,
17 but without understanding the details of that
18 proposal, I'm unable to answer that question.

19 COUNCIL MEMBER YEGER: Commissioner, one
20 last question, because the clock is running--

21 CHAIRPERSON GJONAJ: [interposing] I want
22 to--

23 COUNCIL MEMBER YEGER: [interposing] so
24 you can answer after the bell goes off. You've
25 indicated, actually the members of this Council who

1 asked you questions earlier indicated and I think
2 you've agreed that this bill would actually not only
3 benefit the small mom and pop store and the bodega on
4 the corner, but actually the large bank that's
5 looking for a better deal, the Goldman Sachs, if you
6 will. Can you expand on that a little bit on how you
7 see no difference in this bill between how it treats
8 any tenant across the City?
9

10 COMMISSIONER BISHOP: Right. I think
11 because the bill just has a blanket in terms of the
12 commercial. So certainly some of the-- it applies to
13 all commercial tenants, so not just mom and pops. I
14 mean, it-- we are speaking in hypotheticals, so that
15 is certainly one of the policy concerns we have, but
16 again, we share the same goal in terms of figuring
17 out a way to support small businesses and having a
18 fair process in the leasing and lease renegotiation.

19 COUNCIL MEMBER YEGER: Thank you,
20 Commissioner.

21 CHAIRPERSON GJONAJ: Thank you.
22 Commissioner, I want to thank you for your time, and
23 we're going to have to continue this conversation.
24 We have many more follow-ups with you, but there's
25 many people signed up to testify. I want a true

1
2 commitment from you that we will have some type of
3 study/survey done in the near future, and a real
4 commitment as you know it.

5 COMMISSIONER BISHOP: Certainly, so we
6 will-- happy to work with you--

7 CHAIRPERSON GJONAJ: [interposing] Great.

8 COMMISSIONER BISHOP: on what that
9 solution looks like, and I will have some members of
10 my team remain for the remainder of this hearing to
11 make sure that we hear not only from the advocates,
12 but from the different stakeholders as well.

13 CHAIRPERSON GJONAJ: Thank you,
14 Commissioner. We'll call up the next panel, and it
15 would be Borough President Gale Brewer, Assembly Dick
16 Gottfried, Council and Borough President Ruth
17 Messinger, and Brad Hoylman [sp?].

18 [applause]

19 SPEAKER JOHNSON: Gale, if you want to
20 start.

21 BOROUGH PRESIDENT BREWER: I think my
22 staff has testimony. Can you give it out?

23 SPEAKER JOHNSON: They did. We have it.

24 BOROUGH PRESIDENT BREWER: You have it?
25 Okay.

1 SPEAKER JOHNSON: Yep.

2 BOROUGH PRESIDENT BREWER: So, I'm Gale
3 Brewer, Manhattan Borough President. I want to thank
4 you all for-- Chair, Speaker, we're all talking about
5 the SBJSA. As you know, I worked on this bill during
6 my time as City Council staff member with the very
7 distinguished person to my right, Ruth Messinger, and
8 I have continued to fight for small business
9 throughout my career. I believe I'm the only elected
10 official that has actually passed an amendment to the
11 zoning regulation to restrict storefront signs. We
12 also published in the Borough President's Office a
13 report with comprehensive recommendations on saving
14 storefronters, and we walked the entire length of
15 Broadway to identify the hundreds of vacancies. The
16 crisis facing small business, which inspired the
17 SBJSA, has only gotten worse. National chains spread
18 throughout the City. I throw up when I see a 711.
19 Storefronts have been vacant for years, and online
20 shopping is reducing foot traffic to our local shops.
21 While I fully agree with the goals of the SBJSA, I
22 have concerns about how effective the current version
23 of the bill is. As it is currently written, the bill
24 applies to all commercial leases, including thousands
25

1 of white shoe law firms, hedge funds, and other
2 financial institutions. They don't need our support.
3 The scope of the legislation would first need to be
4 significantly narrowed, whether it should be narrowed
5 to small business, small retails, store-fronters
6 [sic], or legacy businesses, which are long-term
7 neighborhood businesses, needs to be studied as does
8 how those terms might be strictly defined to
9 withstand a legal challenge as you heard earlier.
10 The act must not be so cumbersome to implement for
11 both owners and tenants that there are unintended
12 consequences for landlords. Will the regulatory
13 burdens of the act encourage them to sign up national
14 chains that will always be able to pay rent
15 increases, resulting in fewer opportunities for
16 store-fronters, that's the question? For existing
17 small commercial tenants who operate without leases,
18 from month to month, the provisions of the act must
19 not increase the likelihood that they will be forced
20 out. I also think the arbitration and right of first
21 refusal provisions in the act could be streamlined.
22 For example, mandatory mediation with a required
23 negotiation period might actually enable significant
24 numbers of financially sound small businesses to stay
25

1 in place. The act could also require periodic review
2 to determine if the provisions are working and how to
3 improve them if necessary. A carefully tailored bill
4 would likely raise fewer legal issues and reduce
5 costly and lengthy litigation. Next, I would like to
6 talk about approaches which can be implemented now. I
7 support the creation of a citywide registry law,
8 which would require those holding commercial spaces
9 vacant to regis-- last summer, as I said, we walked
10 all of Broadway to count the many vacant storefronts.
11 While their survey provided a snapshot of the
12 vacancy, we need to systemically track storefronts.
13 This information will provide a complete
14 understanding of the problem, and it will track it.
15 And as the initiator of the City's Municipal Open
16 Data Portal, I know about data. We need that full
17 understanding, and as we heard earlier, the City is
18 not doing it. There are other proven methods for
19 helping small businesses which I believe need greater
20 consideration. In 2012 as a Council Member I passed
21 zoning protections for small storefront businesses in
22 the upper west side, particularly banks and chain
23 Drug stores, because they were dominating every
24 single block. One of these protections was the
25

1 creation, as you heard earlier, of the upper west
2 side special enhanced commercial district. It limit
3 the size of storefronts from West 72nd Street to 110th
4 Street banks can only be 25 feet long and new sores
5 only 40 feet long. It requires ne development to
6 include retail space on the ground floor. And then,
7 thanks to the City Council, you did the report in
8 2017 planning for retail diversity and it found the
9 zonings to be very effective. Additionally,
10 neighborhoods like the East Village have been seeing
11 their character eroded. You heard that earlier from
12 the Council Members. Existing programs with proven
13 benefits of the community can be expanded and adopted
14 to solve these problems facing small businesses.
15 Fresh is an example, and the other issue have to deal
16 with is the commercial rent tax. I have a bill that
17 would exempt super markets, to the credit of Council
18 Member Garodnick, former Council Member, and the
19 Council that got rid of some of the CRT. The whole
20 thing needs to go. The City must take advantage of
21 its own assets to assist small businesses. There are
22 many kiosks in other city-owned locations which can
23 help support small businesses. Let me point out that
24 the kiosks at One Center Street which the Department
25

1 of Transportation rented for years have been vacant
2 for three years. It's a disgrace. Additionally, we
3 must look to support public markets and pop ups.
4 They can go in some of these vacant spaces. Our goal
5 is yours to protect the small businesses which
6 contribute to the character of our neighborhoods. We
7 need to now identify programs that other cities are
8 instituting and look at them. These challenges are
9 very varied for the small businesses. There's no
10 single solution but we must immediately reduce the
11 burden with reforms and incentives that are carefully
12 tailored and help ensure their success through close
13 monitoring and adjustment as necessary. We need to
14 pass legislation here in the Council and in Albany if
15 necessary. The pizza store, as was an example in my
16 neighborhood, on 84th and Amsterdam, was kicked out
17 two years ago, and it has not been re-rented, and is
18 sitting there empty, and it was beloved. Thank you
19 very much.

21 CHAIRPERSON GJONAJ: Thank you, Borough
22 President. Next we'll have Borough President
23 Messinger.

24 BOROUGH PRESIDENT MESSINGER: [off mic]

25 SPEAKER JOHNSON: Ruth, turn your mic on.

BOROUGH PRESIDENT MESSINGER: Yeah.

Members of the Council, thank you very much. This is dramatic for me. It's 21 years since I left public office, and 29 years since I was privileged to serve in the Council. I promise you I have kept track of elected officials, policy and politics in the City since that time, and salute you for the work that you do on behalf of the people of New York and for your efforts to try to find the right solutions to the complex challenges. I want to thank the Committee Chair and the Speaker and Council Member Rodriguez particularly for their opening statements, which I think described the problem in some great detail as did some other Council Members. I do want to say that this is an area in which individual stories, as powerful as they are and as much as we all like to use them, because it's a favorite restaurant, it's a favorite dry cleaner, sometimes lead in my experience to people diminishing the scope of the problem. This is a huge problem citywide. It is amazing to me that I introduced a legislation quite similar to this 32 years ago to provide some protection to small businesses hit with astronomical rent increases. You basically know the problem, so I'm not going to read

1
2 all of my testimony, but I want to add a couple of
3 points. One of the things that was happening then,
4 then it was happening on the west side, now it's
5 happening all over, and I feel like the Commissioner
6 did not pay adequate attention to this. Most
7 business owners understand that rent is a key piece
8 of their capacity to operate, and therefore, they
9 know what the nature of their lease is, and they will
10 and do approach landlords months before the lease
11 expires to say, "Can we talk? What kind of increase
12 are you going to want?" By in large, in my
13 experience, in many of the places and situations
14 we're talking about, they just get no answers.
15 There's no obligation on the owner to sit with them.
16 The owners are clearly imagining that they can get
17 infinitely more for the space than that tenant can
18 pay. They may be right. They may be wrong, but they
19 literally do not respond. So, that's an area in
20 which there's no power left for the small business
21 person who is critical to this operation. Then, I
22 think there's not been enough attention paid to the
23 fact that many small businesses that are then told
24 the new lease-- it's not only a 300/500 percent
25 increase, but it's being offered for a very short

1 term, because the owner is thinking, well, I'll do
2 300 percent now and then I'll do another 300 percent
3 in three years, which means that the small business
4 person can't put any of her or his money into
5 building up the capital of the business which makes
6 it harder for the business to make a profit that can
7 cover the rent. As I said, the story is spreading
8 every place. I want to note that there are many, many
9 businesses, I guess I just alluded to that, that are
10 willing to pay some increase, sometimes a sizable one
11 that we're never able to engage in any sort of lease
12 negotiation. When those small businesses leave the
13 neighborhood, and I heard a couple of remarks about
14 we'll help them relocate. These are businesses whose
15 clientele is right there. Occasionally, there's a
16 lucky opportunity, relocate around the corner, but by
17 in large these are businesses that need to be in the
18 neighborhoods where they built up customer
19 satisfaction. This business of new businesses coming
20 in-- so, yes, lots of spaces just staying empty which
21 is just appalling on the notion that there is not
22 proactive effort by the City to keep track of that
23 and to start to make those lists as they apparently
24 have promised you is really distressing to me, but I
25

1 also want to say that when new businesses come in,
2 first of all, they're a gamble. So, it's again, it's
3 a small business, but now instead of trying to pay a
4 \$4,000 a month, it's being asked for \$20,000 a month,
5 and it has no built up clientele. So many of these
6 storefronts on the west side, which Gale can verify,
7 rotate then. Some new business, you lose your old or
8 you lose your favorite dry cleaner. Something new
9 comes in. It's not a dry cleaner, but oh, it's a
10 place that you might wish to give your business to,
11 and it's gone in three years. This issue of vacancy
12 is, I think, hugely troubling, and we did some
13 research 32 years ago in which it appeared-- this is
14 not of matter of fact because I don't have access to
15 City tax records-- but in which it appeared that
16 owners would then file saying that their building was
17 not as profitable as it had been, because they were
18 getting less total income from the building. They
19 were getting less total income because they were
20 keeping a whole row of storefronts vacant, but if
21 they get less income, that is a cost to the City of
22 New York. They then appeal for a lowering of their
23 property taxes because their building isn't
24 producing, so there's an easy place for the City to
25

1 step in and look at issues of vacancy. If you're
2 using your vacancy to lower the money that goes to
3 the City of New York, then surely not only the
4 community and the citizenry, but the City Council
5 should be concerned. I can't resist just saying that
6 at least on the west side, Gale referred to this, the
7 spaces went and go still dramatically to drug stores
8 and banks, and I think eventually every person on the
9 west side-- I hear this all the time-- has the same
10 question, which is what neighborhood needs a large
11 drug store on every corner, and what on earth are
12 those banks doing, especially since almost everybody
13 now banks online. And so it appears that these chain
14 businesses are to some extent using this space simply
15 to advertise their brand. The essence of the
16 legislation is a little different now than it was in
17 1986, but not dramatically. The notion is to require
18 the parties to come together to require some time for
19 negotiation, and then to require, if necessary, some
20 form of arbitration. We recognize that all the small
21 businesses that work with us, that some of them would
22 not be able to pay an increase that was agreed on,
23 but at least they would have had their chance to
24 negotiate and to be able to stay where they are where
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1
2 their customer base is. The testimony of the City
3 that there could be problems in arbitration because
4 the owners have more access to more paperwork, yeah,
5 but they get them-- they get some sharing of
6 information. Right now there's no opportunity to see
7 any of that because there is no required arbitration.
8 For me, this is a proposal for negotiation and
9 arbitration, proposal for the City to step in and
10 regulate a system that is no longer serving any of
11 its parties adequately, certainly not the
12 entrepreneurs, the workers, the communities, and
13 their citizenry. I want to just-- one or two other
14 personal notes. I've been contacted about this
15 legislation by people in other cities, by people in
16 this city and by members of the press on this issue
17 more than any other issue that I actually managed to
18 get passed, which I'm very proud of, but this is
19 clearly an issue all over the place. I thought I
20 would note for you that last year a well-known
21 figure, who I will not identify, came up to me in a
22 restaurant and said, "Remember when I was working
23 with the Mayor against your commercial rent bill?
24 Well, now the problem is infecting my neighborhood,
25 and I see how right you were." I'm not going to

1 identify him, but I want to take this moment to
2 salute one of the wonderful business leaders forced
3 out by exorbitantly large rent increases. His name
4 is Alan Ruben [sp?]. He inherited and ran Radio
5 Clinic on Broadway and 98th Street. There is a new
6 book about him by this daughter called *We are*
7 *Staying*. *We are Staying* refers to the fact that this
8 business which had been growing for about 50 years
9 stood by the community after the 1977 riots. The
10 store was rebuilt, expanded its business into
11 appliances, mobilized other businesses to stay and
12 continued to serve the community until it was forced
13 out by excessive rent. So, this is a story of an 80-
14 year business that was put out despite its commitment
15 to stay. In conclusion, I would just say that this
16 city thrives when it builds communities, strengthens
17 neighborhoods, and provides business opportunities
18 and jobs for its citizenry. Huge rent increases and
19 failures to negotiate put small businesses out of
20 business, strangle entrepreneurs, damage neighborhood
21 quality of life, and take away jobs, threatening the
22 fabric of life in this city. Vacant storefronts make
23 the problem even worse. So, Council Members, it is
24 long past time for city elected officials to
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recognize the scope of this problem and find effective solutions. That's the job of government. Thank you.

[applause]

CHAIRPERSON GJONAJ: Thank you so much. Next, my favorite teenager at the table there, Assemblyman Gottfried.

ASSEMBLY MEMBER GOTTFRIED: Thank you. So, my name is Richard Gottfried, and I represent the 75th Assembly District. It's a pleasure to be here, and I thank Speaker Johnson and my former assembly colleague and friend, Mark Gjonaj for this opportunity to testify. I'm not going to read my testimony that gives some arguments for the bill because that's already been done extraordinarily well by Ruth Messinger. Boy, do we miss Ruth Messinger. I get to see her in the lobby every so often, because we live in the same building. Anyway, and there are others who--

BOROUGH PRESIDENT MESSINGER:

[interposing] Different elevator banks.

ASSEMBLY MEMBER GOTTFRIED: Oh, yes. But I do want to-- and there are many people here today who will also eloquently explain the need for this

1 very reasonable and sensible piece of legislation. I
2 just want to respond to a couple of-- well, to one
3 point, and to offer a thought. The representative
4 from the Mayor's Office was talking about how
5 cumbersome the arbitration process could be, and it
6 could be expensive and difficult for small tenants to
7 deal with, etcetera. Well, today, they don't have to
8 worry about a complicated arbitration process. It's
9 very simple. We either pay the rent the landlord is
10 demanding or you get out, or the landlord doesn't
11 offer you the opportunity to pay a rent and just
12 says, "Get out." Under the bill, the-- if a
13 commercial tenant chooses to, the commercial tenant
14 can stick with that system under the bill if the
15 landlord demands a rent, the commercial tenant is
16 perfectly free to say, "That's a lot, but sure I'll
17 pay it." Or if la-- or the tenant can say, "I can't
18 pay that. I'll just leave." Or if the landlord
19 doesn't offer a new lease, the tenant has the option
20 of saying, "Oh, that's too bad. I'll leave." So,
21 the tenant will have all the options they have today
22 if they find the arbitration process to onerous and
23 complicated. I think an awful lot of tenants,
24 though, will seize on that opportunity and will be
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1 grateful for the opportunity to stay and continue to
2 serve their community, and they'll be grateful to the
3 Council for giving them that opportunity. The other
4 thing I wanted to say is you've heard people-- you
5 will hear more people saying, "Oh, I support the
6 concept of the bill, but you need to make a couple of
7 changes." Nobody is going to sit down with you and
8 seriously talk about making changes and bargain
9 seriously until the bill is moving to the floor or is
10 on the floor and is moving to passage. That's when
11 people will take the bill seriously and seriously sit
12 down and say, okay, can we change this line and that
13 line. Until you get to that point, 10-20 years from
14 now, you know, your successors, my successor-- at
15 some time I will have a successor-- will be in the
16 same place on this bill. So, even if you agree that
17 there are things that could be changed in the bill,
18 the only way to get that kind of negotiation going
19 and get those whatever changes need to be made, the
20 only way to make that happen is to get this bill to
21 the floor and be on the verge of calling the roll.
22 Thank you.

23
24 SPEAKER JOHNSON: Excuse me. Dick, I am
25 so grateful and proud that you are my Assembly

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2 Member. So I'm glad that you're here and I'm glad
3 that my State Senator is here as well. I just want
4 to say one thing. You know, today's hearing is about
5 moving this bill. We wouldn't be having this
6 hearing--

7 ASSEMBLY MEMBER GOTTFRIED: [interposing]

8 Yep.

9 SPEAKER JOHNSON: if we weren't very
10 seriously contemplating this measure, hearing
11 feedback from elected officials and advocates and
12 other folks that are in this room to determine the
13 best path forward. but just process-wise, you know,
14 here at the Council we start to make changes on
15 legislation after a hearing and before it gets to the
16 floor, because we have to age bills, you know, a
17 certain number of days before they can come up for a
18 vote, and so this is really the first step in that
19 process. That's why we're having this open, fair,
20 thorough, and long hearing today, which to hear
21 feedback from all stakeholders like you, which your
22 testimony was fantastic, to be able to understand
23 what changes need to be made from all sides before we
24 start through that process. So, I just want folks
25 to know that changes don't happen on the floor of the

1 Council. That's not how it works here. There's a
2 negotiation that will happen after this hearing
3 today.

4
5 ASSEMBLY MEMBER GOTTFRIED: Sure, and I
6 understand that. I'm just cheering you on. Keep the
7 ball rolling. That's when--

8 SPEAKER JOHNSON: [interposing] Thank you.
9 You look good in pom-poms.

10 ASSEMBLY MEMBER GOTTFRIED: When people
11 know you're moving a ball forward, they'll talk.

12 SPEAKER JOHNSON: Thank you, Dick.

13 CHAIRPERSON GJONAJ: Thank you,
14 Assemblyman. I miss you. I really do. Senator?

15 SENATOR HOYLMAN: Thank you. Thank you,
16 Mr. Chair, and Speaker Johnson. Sitting to the left
17 of me, a couple centuries' worth of public service,
18 and it's worth noting that the last time this-- well,
19 when this bill was introduced, I guess originally,
20 Speaker, you were, I guess, four years old. So--
21 and we-- so, we've finally gotten this far, and I'm
22 very proud of the Council for moving it, and thank
23 you, Mr. Chair, for the opportunity. I'm State
24 Senator Brad Hoylman. I represent the 27th district,
25 part of the west side and east side of Manhattan. I

1
2 hear about this problem a lot, which is why my staff
3 and I last summer produced a report called Bleaker on
4 Bleecker, which we identified as a project to look at
5 the issue of high rent blight, as it's known, as it
6 was coined by law professor Tim Wu, in my
7 neighborhood. Just to tell you what we found by
8 virtue of going out with teams of people on the
9 street. We found everything from a 6.67 vacancy rate
10 on Second Avenue from Third to 14th Street to a 6.52
11 percent vacancy rate on Eighth Avenue from 15th to
12 22nd, and on Bleecker Street from Sixth Avenue to
13 Eighth Avenue, an 18.44 vacancy rate, literally
14 almost one in five storefronts were vacant. And this
15 problem, as you know, cannot be viewed in a vacuum.
16 Although, tell that to the operators of Desco Vacuum
17 Sales and Services on 14th Street. They had been
18 around since 1950 and lost their lease. We have to
19 look at, of course, the issue of online retail and
20 the impact of it. But, as was pointed out earlier,
21 and they say you can't manage what you don't measure.
22 So, we really need current data on both storefront
23 vacancies and the impact of online sales on our small
24 businesses and retailers, in particular. I, in this
25 report, have proposed a number of possible solutions.

1 First, I want to applaud the Council for taking steps
2 on raising the threshold of the commercial rent tax.
3 The question is, why can't we raise it further? Why
4 shouldn't we eliminate it altogether? Secondly, in
5 terms of the bill itself before us, one of the most
6 important things it points out, as was alluded to
7 earlier by your colleagues, Mr. Chair, is the lack of
8 a level playing field between landlords and tenants
9 when it comes to small businesses, and just as the
10 Council has done in terms of residential tenants, I
11 think commercial tenants do need a leg-up and do need
12 assistance with those negotiations. The current
13 leases are landlord leases. They should be designed
14 differently to favor the tenant if anyone, not the
15 landlord who generally has the most resources at his
16 or her disposal. Let me also say that the State can
17 do something, too. Currently, in-- when we talk
18 about vacancy taxes, it's legislation that I'm
19 actually looking at with Assemblywoman Deborah Glick,
20 the State is limited in its ability to impact local
21 zoning decisions, but one way we can act is by
22 utilizing our taxing authority. Landlords who leave
23 retail storefronts vacant can't deduct-- cannot
24 deduct the lost potential rental income they would
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1 have received from their state income tax liability.
2 They, like all owners of commercial real estate, are
3 able, though, to receive deductions for depreciation
4 of the property and operating expenses. To create a
5 dis-incentive for leaving retail storefronts vacant,
6 one possibility is that the state could explore
7 phasing out those deductions on a sliding scale for
8 building owners who leave retail spaces vacant for
9 over a year. New York also could consider other tax
10 incentives, credits or penalties to dissuade
11 landlords from keeping a store vacant. One example
12 of this type of policy is in the City of London,
13 which provides commercial building owners who lose
14 their tenants a short period of relief on their
15 business taxes. After three months the tax relief
16 expires and the owners must pay the full business
17 rates even if the store is vacant. That's meant to
18 encourage landlords to rent out their space. So, I
19 hope you take a look at the report that I created. I
20 really commend you for moving forward with this
21 legislation. We should look at other jurisdictions,
22 of course. San Francisco, as you know, has a legacy
23 business registry where historic businesses in
24 existence for 30 years or longer are provided certain
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2 benefits, tax credits, historic tax credits, to help
3 them with their operation, and we also need to look
4 at providing small business owners with certain loan
5 disclosures. California, I'll close with this, is
6 the only state to give small business owners the same
7 protections that the Truth in Lending Laws have given
8 to consumer borrowing. So, there are a lot of things
9 we can do in Albany to improve the state of play for
10 small business owners, and I look forward to working
11 with the Speaker and you, Mr. Chair, and forwarding
12 these proposals up in Albany. Thank you.

13 SPEAKER JOHNSON: Thank you all so much.
14 I'm really grateful, of course, to have three of my
15 local colleagues that I get to work with, the Borough
16 President, my State Senator, and my Assembly Member.
17 Thank you all for being here today.

18 CHAIRPERSON GJONAJ: I want to thank you
19 all. We do have a question from Councilman Kallos.

20 COUNCIL MEMBER KALLOS: So, I have three
21 minutes. I have questions for our Borough President,
22 our State Senator, and pretty much the whole panel,
23 so please be as brief as possible. To the Borough
24 President, I asked the SBS Commissioner about the mom
25 and pop zoning that you had done on the west side.

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2 Is that a useful tool? To our State Senator, what is
3 the likelihood of passing legislation on the state
4 level to dis-incentivize warehousing? And to the
5 other two members on the panel, just regarding your
6 enthusiasm and why this of all the many issues you're
7 working on, this has gotten so much of your
8 attention?

9 BOROUGH PRESIDENT BREWER: Thank you very
10 much. Regarding the west side zoning, it was passed
11 in 2012. I asked the City Planning Commissioner,
12 which was the city agency involved, and they have not
13 been able or refused because they said no study is
14 possible because not enough time has passed, and I
15 often ask. However, I want to thank the City
16 Council, because in your wonderful planning for
17 retail diversity, you have done a little bit of a
18 study and you found that these zoning reforms to be
19 effective. Vacancies on the protective blocks were
20 lower than on streets without protections. So, I do
21 think that, and I want to thank the City Council.
22 The City Planning Commission should do a study. I do
23 think that zoning is a tool that is one tool in our
24 tool box to address this issue.

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2 SENATOR BRAD HOYLMAN: In response to
3 your question about the likelihood of action in
4 Albany, ask me on November 7th. I would also add
5 that the State of New York can enable the City to
6 place limits on formula [sic] retail uses. That's
7 legislation that I carry, again, with Assemblywoman
8 Deborah Glick. It's something we should look at to
9 give the City even more authority in that regard.

10 RUTH MESSINGER: So, I just wanted to
11 say-- I mean, I tried to say it. I think that-- and
12 I think all of you know it as well as anybody, but
13 it's like-- it's a reflection on what is the nature
14 of the quality of life in New York City. You know,
15 the Council's concerned, the city is concerned about
16 mass transit, about a variety of other things. New
17 Yorkers lead very complicated lives, and for many,
18 many years they relied on the range of neighborhood
19 services being immediately there. Yes, some of those
20 can be done online. Yes, some of those, but talk to
21 people who have lost the services on which they
22 depended becomes a huge issue. And they're likely,
23 by the way, then they do other things. There are New
24 Yorkers who have cars who have no decided to do some
25 of their shopping outside of the City. This all

1 really reflects back, on sort of the nature of life
2 in the City and the ways in which small businesses
3 and their clientele together building community. And
4 when you have these vacant areas and these blocks
5 [sic] looking [sic] people, I know people who moved
6 into the City who were saying like, "I don't get why
7 there's so many empty storefronts. Isn't this a
8 thriving economy?" So, we're sending very mixed
9 messages by not controlling any of this and allowing
10 people who see their own interest in the market to
11 dominate all decisions, and I think it's dangerous
12 for the City and its neighborhoods, and I think
13 eventually it hurts the City tax base.

14
15 ASSEMBLY MEMBER GOTTFRIED: Good question
16 why there's issue. Partly, it's because it's for
17 every New Yorker it's something that confronts us,
18 you know, on a daily basis. I think part of my
19 interest in this issue is that I really don't like
20 people having really unlimited power over other
21 people, and in-- particularly in commercial
22 landlord/tenant relationships, that's what the law
23 today tolerates, and that just burns me.

24 COUNCIL MEMBER KALLOS: I want to thank
25 the Chair for this indulgence, just a quick follow-up

1 question. One of the provisions of this is that a
2 landlord--

3
4 SPEAKER JOHNSON: [interposing] Ben, Ben,
5 I love you, but we have 100 people that need to
6 testify, 120. I want to get to the public.

7 COUNCIL MEMBER KALLOS: Out of my mutual
8 love with the Speaker, I will hold my--

9 SPEAKER JOHNSON: [interposing] Thank you
10 very much. Thank you all so much for being here.

11 CHAIRPERSON GJONAJ: I-- before you
12 leave, I just want to bring up something. San
13 Francisco has an independent Small Business
14 Commission made up of small business owners that
15 really gives them a say when it comes to the interest
16 of these small businesses--

17 BOROUGH PRESIDENT BREWER: [interposing]
18 Yes.

19 CHAIRPERSON GJONAJ: and looking forward
20 to your support as we perhaps consider that moving
21 forward.

22 BOROUGH PRESIDENT BREWER: And I just want
23 to add, I agree with it. It has to be independent of
24 the Mayor. That is a really important aspect, no
25 matter who--

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2 CHAIRPERSON GJONAJ: [interposing] Can you
3 repeat that again, please?

4 BOROUGH PRESIDENT BREWER: It has to be
5 independent of the Mayor--

6 CHAIRPERSON GJONAJ: [interposing] I'm
7 sorry, I'm not hearing you very well.

8 [laughter]

9 CHAIRPERSON GJONAJ: Thank you so much.

10 SENATOR BRAD HOYLMAN: Thank you.

11 CHAIRPERSON GJONAJ: We call up David
12 Eisenbach, James Klein, and Elvis Silverio. David,
13 could we begin with you?

14 DAVID EISENBACH: Sure. For 400 years
15 there's been a basic relationship that built New York
16 City. It was the land-- it was the landlord and a
17 tenant. From before when we were called New York,
18 when we were called New Netherlands, you had a
19 landlord and he brought in a tenant. And it didn't
20 matter what language that tenant spoke or what food
21 he served in his restaurant or sold in the store, it
22 was all about the rent, could you pay the rent? And
23 that notion created the greatest marketplace on
24 earth, and people from all over came to New York to
25 fulfill their dream, from Wisconsin to Warsaw to

1 Shanghai to Santo Domingo, they came here. Sometimes
2 their dream was to be a great artist. Sometimes
3 their dream was to be a great chef. Sometimes it was
4 just to provide a living for their family, but they
5 knew they could do it here, even if they didn't have
6 money to open up their own small business, they could
7 get a job in a small business, but what have we seen?
8 We've heard a lot about hypotheticals. Well, I got
9 some facts. The New York Times reported quoting from
10 Douglas Elliman that the vacancy rate in retail in
11 Manhattan went from seven percent in 2016 to 20
12 percent in two years. Now, if I were a Mayor or I
13 were the head of the Small Business Services and that
14 was a fact, I'd be pretty damned embarrassed. We
15 have 250,000 small business owners who right now are
16 hoping that you pass this bill. They couldn't be
17 here because they're working, because they're
18 desperately trying to pay that rent, and they know
19 that this act cannot wait. We've got the biggest
20 David/Goliath story since Jane Jacobs took on Robert
21 Moses, and just like that fight, just like that fight
22 it's a battle for the soul of New York. What kind of
23 New York do you want? You want one of chain stores,
24 or do you want one of Chinatown? Do you want one

1 where it's all about We Work spaces or do you want
2 garment district factories? This is the choice, and
3 I say I side with my fellow New Yorkers who depend on
4 small business for their jobs. I side with David
5 against Goliath. I side with Nick Belkof [sp?], yoga
6 studio teacher. I side with Ming Lam [sp?], garment
7 district and restaurateur. I side with my dentist,
8 Michael Chang on Second Avenue. He can't be here
9 because he's got to clean some teeth, but I side with
10 them. And so please, looking forward to this
11 conversation. Looking forward to answering all your
12 questions, and we will have facts and we will have
13 answers on why this bill is perfectly legal. Thank
14 you.

16 CHAIRPERSON GJONAJ: Thank you, David.
17 David, I do have a question for you.

18 DAVID EISENBACH: Yeah.

19 CHAIRPERSON GJONAJ: Have you actually
20 seen the survey that shows 20 percent vacancy?

21 DAVID EISENBACH: It was quoted in the
22 New York Times. Douglas Elliman retail vacancy rate
23 conducted a survey.

24 CHAIRPERSON GJONAJ: I've been asking for
25 that survey.

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DAVID EISENBACH: Yeah.

CHAIRPERSON GJONAJ: No one's been able to produce it.

DAVID EISENBACH: Believe me, they're not going to give it me. Maybe there's somebody in the office who works for Douglas Elliman who has access to the survey, but--

CHAIRPERSON GJONAJ: [interposing] We've been trying to get it. There's no one that-- that survey does not exist. It sounds like--

DAVID EISENBACH: [interposing] You know why? It really hurts--

CHAIRPERSON GJONAJ: [interposing] a misquote.

DAVID EISENBACH: It hurts their argument, Mark. So, they probably won't give it to you.

CHAIRPERSON GJONAJ: Or we can take the approach that you should-- don't always believe what you read.

DAVID EISENBACH: Okay. Okay. I believe what I see. I believe what I hear, and I see empty storefronts. I see empty storefronts in every neighborhood in New York City. I walk around the

1
2 upper west side, right, talk about zoning, how that
3 helped. It is devastated. It's depressing walking
4 around the upper west side, how many vacant empty
5 storefronts. I believe what I hear from small
6 business owners who don't complain to me about the
7 water bill. Yeah, taxes are a pain. Yeah, fines,
8 yeah, regulations, but their number one concern is
9 the rent. And the knowledge that they-- it's a
10 ticking time bomb. They are just counting down the
11 days until their lease comes up and they know their
12 landlord is not going to renew, and they're either
13 going to have to find a new space or just find
14 something else to do. That's what I believe, Mark.

15 CHAIRPERSON GJONAJ: David, thank you,
16 but I also come from that small business world, and
17 prior to entering politics, I was a small business
18 owner. Rent was a concern, but not my only concern.
19 I talk to small businesses day in and day out. I've
20 met with every facet, every industry, every bid,
21 every merchants association, every chamber, and it's
22 just not rent by itself. There are many other--

23 DAVID EISENBACH: [interposing] I--

24 CHAIRPERSON GJONAJ: issues out there that
25 impact, but it's very hard for me to believe, because

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2 I too drive through Manhattan and the outer boroughs
3 and I visit them all, 20 percent vacancy means one in
4 five stores, and that is not the case.

5 DAVID EISENBACH: This is-- this is the
6 number that Douglas Elliman provides, the number that
7 New York Times provided.

8 CHAIRPERSON GJONAJ: Thank you. Next--

9 DAVID EISENBACH: [interposing] And by
10 the way, I did not say it was the only issue. I said
11 it is the main issue, and we're going to actually
12 hear from small business owners today if you don't
13 believe.

14 CHAIRPERSON GJONAJ: Which I'm looking
15 forward to. Thank you, David.

16 ELVIS SILVERIO: You know-- first of all,
17 my name is Elvis Silverio from the National
18 Restaurant Bar and Lounge Association. I had a
19 speech that I was going to delegate today. I think
20 it was just-- I'm going to put it aside. I want to
21 speak from the heart, because I think this is what
22 we're here for. We just want to--

23 SPEAKER JOHNSON: [interposing] If you
24 could speak a little closer into the mic.

1
2 ELVIS SILVERIO: Every time I come to
3 this room I look up and it says--

4 SPEAKER JOHNSON: [interposing] You have
5 to speak into the mic, we can't hear you.

6 ELVIS SILVERIO: Can you hear me now?

7 SPEAKER JOHNSON: Now we can.

8 ELVIS SILVERIO: Every time I come in
9 here I look up and it says, "A government by the
10 people, for the people," and so forth. And now I'm
11 wondering, is it for the people? So, I'm a third
12 generation business owner. I'm looking for a fourth
13 generation. That's not the case today. So is it for
14 the people? I don't think so. It's more for the
15 Fortune 500 companies and the landlords that are
16 looking for the big hike and say, "Listen, in two
17 years you'll be out of here. I could get \$30,000 for
18 this rent." Maybe. But right now, I got to put food
19 on my table. Right now I've got to provide for 300
20 employees. How am I going to do that if this is for
21 the people? Well, the only thing that I came to is
22 move to another state. Move out of the country. I
23 came here for an opportunity, but it seems that small
24 businesses are being pushed out each and each day.
25 Good point that you had earlier, this is not the only

1 issue. We have many other issues, but without rent,
2 you won't have an issue. So we need to establish
3 something first, and it's covering your rent. If we
4 can't cover that, we can't stay in business. So, how
5 do you expect us to sit here and just imagine that
6 it's for the people? I mean, I got to say, it's
7 just-- there's a word that I'm looking for, but I
8 can't say it in here, but it is, it's that word. And
9 we not only here to fight for rent, for landlord, for
10 this. There are many, many issues that are affecting
11 small businesses. I was here almost six months ago
12 talking about another issue, and it was the Clean Air
13 Act bill. Unfortunately, today, tomorrow we'll be
14 closing close to 600, maybe seven employees will be
15 losing their job or maybe 700 will be losing a job
16 tonight, but that's not the only issue. We have many
17 issues that you guys tend to push aside and let
18 others determine how small businesses should be part
19 of this city. We are the backbone of this city. We
20 are, because many of you guys here, I'm pretty sure
21 you have a favorite deli, a favorite pizzeria like I
22 had. Angelo's Pizzeria is gone. It's now called T-
23 Mobile. So, where should I take my son to eat pizza
24 now, to a Fortune 500 company like Papa John's? Mom
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and pops, that's where the pizza is. That's where a good deli, a good sandwich, a good gyro. That's where I want to go. I don't want to go to Chipotle. I don't like Chipotle. I like a homemade sandwich. So, don't put us aside. We've been here a long time, and we're going to continue to fight to be here, but you guys tend to cater to the Fortune 500 Company. What the hell are we doing here? Thank you.

CHAIRPERSON GJONAJ: Thank you, Elvis.

Well put.

JAMES KLEIN: Hi, I'm James Klein. I'm with the Friends of the SBJSA group, and I have to say that I've been very impressed. Some of you have met with us, and we've had a very long spirited meeting with Chair Gjonaj. We've met many times with the Speaker's staff, and they've been very, very helpful and receptive to discussing this issues, and I think the thing that I want to say is that it's actually very encouraging to see the Council taking these issues so seriously and talk about the substance of the issues and the complexity of the issues. I must say I was very disappointed by the Mayor's representative who didn't seem to be very well versed in either this bill or the Mayor's

1 position on it, and that was disappointing. The
2 thing I want to talk about is the most important
3 issue actually in the room today, and that is the
4 issue of these silly blue hats. If New Yorkers have
5 learned anything over the last two years, we have
6 learned that when a mob shows up in colored hats, New
7 Yorkers lose, and the problem that I have is that
8 these hats represent something, and they represent a
9 lack of understanding of the issues that face our
10 city. Now, the thing that that hat says, it says,
11 "Vote no on commercial rent control." I want to
12 amplify what Councilman Rodriguez says. Everybody
13 knows this is not commercial rent control. Everyone
14 on the Council probably knows it. All the ones who
15 are advocating for this bill know it, and all the
16 people who are wearing those blue hats and the
17 companies that they come from know it. And how do I
18 know that? I'm looking at, and I've looked at this
19 very much in the last few days, the paper that was
20 put out by the City Bar Association that said that
21 the City couldn't do this. It required some
22 emergency, you know, designation by the State as an
23 emergency. It's a totally bogus paper, and I'll tell
24 you why. On page four, the first line of the
25

1 argument, they say, "The Committee views these
2 provisions as the equivalent of rent control." They
3 don't say it's rent control, and then they have a
4 footnote, and the footnote says, "Rent control is
5 generally considered and assumed to be a statutory
6 mechanism that limits the amount of rent that may be
7 charged. So, they set up a straw man that's a bogus
8 argument, and they know that it's a bogus argument,
9 and they put it in a bogus magic footnote where they
10 define this bill in a way that isn't in this bill.
11 All of you people have read this bill. I've read
12 every single word of this bill. There's nothing in
13 this bill that says the government creates the amount
14 of rent for commercial spaces. Section E3 has 14
15 different criteria of all kinds of different ways
16 that a private arbitrator creates the rent. There is
17 nothing that suggests that this bill is in any way
18 rent controlled, and I think we have had a very
19 substantive conversation, and we've all appreciated
20 it, and we're going to continue to talk about these
21 issues and continue to negotiate after this hearing
22 as we move this to the floor, and it would be very
23 helpful if we can come out of this hearing today,
24 everyone with the understanding that this is not
25

1 commercial rent control, and we can talk about the
2 substantive issues and all of the other issues. No
3 one says this bill is the silver bullet.
4

5 SPEAKER JOHNSON: Mr. Klein?

6 JAMES KLEIN: Yes. So,--

7 SPEAKER JOHNSON: [interposing] Thank you.

8 JAMES KLEIN: that's the point that I
9 would like to make.

10 SPEAKER JOHNSON: No, thank you for your
11 testimony, and I want to thank you for your advocacy
12 and I appreciate what you said us continuing to
13 negotiate and work together, because you just said
14 it-- I didn't-- and I hope folks will hear this.
15 They may not want to hear it. This bill is not the
16 silver bullet. You said it in your--

17 JAMES KLEIN: [interposing] Well, no--

18 SPEAKER JOHNSON: [interposing] Let me
19 finish. And you're on the advocacy committee
20 supporting this bill. I think it's important to say
21 that. People can put their thumbs down. It's the
22 truth. This is not the silver bullet. This is
23 looking to correct a problem that we've all
24 acknowledged here today and trying to figure out a
25 way to do it. I want to just say a couple things. I

1 am not an attorney. I do not believe, and I was not
2 involved, no one told me they were doing it, I didn't
3 speak to them, I saw it when it was poste online, I
4 do not believe the New York City Bar Association,
5 which is a very good association with I think a
6 pretty sterling reputation, put out a junk paper for
7 political reasons. I don't think that's what
8 happened. I think that the language you cited on the
9 equivalency, I don't believe that this is commercial
10 rent control. So I don't believe that. I agree with
11 you. I don't think this is commercial rent control,
12 but I do think that there are folks that have
13 concerns, and we have to work through those concerns.
14 They may not have been totally spelled out in the
15 document that you were citing, but that's what the
16 legislative process is. That is why we're having
17 folks testify. That's why it's important that you
18 testify and David testifies and Elvis testifies. We
19 want to get folks on the record. We want to hear
20 their ideas. We want to understand what people's
21 concerns are. That's the legislative process.
22 That's what we do all the time. So, but I don't
23 think that that's-- that the Bar Association did that
24 for some ulterior motive.
25

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2 JAMES KLEIN: Can I just address that?
3 Because I'm a member of the Bar Association, and my
4 point in doing it was not to bash the Bar
5 Association. My point in saying what I said was we've
6 spent a tremendous amount of time looking at this
7 bill, looking at the issues. as you probably know,
8 you and I have actually never met, but I've spent a
9 lot of time with Mr. Newman and Eric, and so you've
10 probably heard of what I've been doing working on
11 this bill, and the thing that frustrates me is that
12 it's not that the Bar Association itself was
13 disingenuous in putting out the paper, it's that
14 people use that kind of argument as a way to shut
15 down the substantive discussions that we need to
16 have.

17 SPEAKER JOHNSON: And I don't want that
18 to happen either--

19 JAMES KLEIN: [interposing] and that--

20 SPEAKER JOHNSON: which is why we're
21 having this hearing.

22 JAMES KLEIN: That's right, and so I'm
23 just saying that that's why I started my comment by
24 commending all of you. I know that Mr. Gjonaj has
25 concerns. I know you have concerns, and that some of

1
2 them are very legitimate concerns. Our meeting with
3 Mr. Gjonaj I think was an eye-opener for both of us.
4 I think he was surprised that the advocates were
5 willing to talk the way openly the way we did, and we
6 were surprised that he was willing to listen and to
7 give us his perspective, and we were happy to hear
8 it. So, I just want to make sure that if people show
9 up with hats with slogans on it that are no correct,
10 that they don't use these kinds of documents as a way
11 to shut down what is a very helpful, useful process
12 for us to go through to get us to some solutions that
13 we all believe we need to get to.

14 SPEAKER JOHNSON: Mr. Klein, I have a
15 question for any of you on the panel. Any of you can
16 take a-- answer this. It's what I raised earlier.
17 The bill applies to everyone, from corner bodegas to
18 locksmiths to small retail storefronts, to 200-- to
19 Home Depot, to 200,000 square foot leases in large
20 commercial buildings. Does that concern you? Do you
21 think this bill should cover every commercial lease
22 in New York City? David, you could answer, Mr. Klein,
23 Elvis, whoever wants to answer it.

24 DAVID EISENBACH: Go ahead.
25

1
2 ELVIS SILVERIO: I mean, to my concern
3 it's more small businesses.

4 SPEAKER JOHNSON: That's my concern as
5 well.

6 ELVIS SILVERIO: Right now, Fortune 500
7 Company could pay the rent.

8 SPEAKER JOHNSON: So then why are we
9 including them in this bill?

10 ELVIS SILVERIO: I have no idea. They
11 should take them out of there.

12 JAMES KLEIN: Well, I do have an answer
13 to that, because I think it's part of my previous
14 answer which is we're concerned about jobs. That's
15 really-- it's a Small Business Job Survival Act.
16 Just Like we don't want to-- we didn't want to shut
17 down discussions about the yoga studio that's on the
18 third floor and the manufacturers who have concerns.
19 And so am I concerned about Goldman Sachs, you bet I
20 am not, and I don't think David Eisenbach is either
21 or any of the advocates are, but we wanted to make
22 sure that the discussion didn't just immediately
23 focus in on one class of businesses and that we would
24 have an open discussion about all of the different
25 businesses that exist in New York like Ruth Messinger

1 was talking about and the Assemblyman was talking
2 about. And so the issue is not Goldman Sachs and
3 protecting them, the issue is having a full
4 discussion about all of the different kinds of
5 businesses and not immediately focusing in on the mom
6 and pop on the corner, which is what everyone's
7 emotional concerns are. It's a bigger issue than
8 that.
9

10 SPEAKER JOHNSON: I understand that, but I
11 just want to be clear, the testimony that we've heard
12 today from you all, from the elected officials that
13 proceeded you, from the anecdotes from the Council
14 Members that I'm sure we're going to hear it, from
15 the public who's here today as well, the vast
16 majority. I'm not putting aside the yoga studio and
17 the small garment manufacturer, but the vast majority
18 of the concern that has percolated around this bill
19 has been around empty storefronts. That is what I
20 think has been the driving resonant thing around this
21 bill, and so I'm trying to get at the heart and crux
22 at what we're looking at, and I think one of the
23 deficiencies in this bill, and I don't say with any
24 disrespect to my good friend Ydanis Rodriguez-- he
25 didn't write this bill, he inherited this bill and

1
2 decided to carry it and champion it; it's been around
3 for a very long time-- is I think it's hard to have
4 this conversation when currently white shoe law
5 firms, as the Borough President said, would qualify
6 for arbitration under this bill. it's a distraction,
7 and I don't think it's what we need to be talking
8 about, but advocates have come forward and said they
9 want no changes in the bill, none. They don't want a
10 single line changed. That's an unreasonable thing.
11 I like having this discussion where we talk about
12 what the real focus is to understand what we're
13 trying to accomplish here.

14 DAVID EISENBACH: Yes. And look, this
15 was-- is a major issue between advocates on this
16 issue. We agree that changes can and will be made to
17 this bill, and one of them is an adjustment on who's
18 actually covered. And so long as Ming Lam in the
19 garment district factories are covered and light
20 manufacturers and manufacturers in the city are
21 covered, and the yoga studio and the dental offices,
22 and not just the retail ground floor spaces, we will
23 be comfortable with this bill. It is the Small
24 Business Jobs Survival Act.

25

1
2 CHAIRPERSON GJONAJ: Thank you. We do
3 have a couple of questions. Before I move onto my
4 questions from the other members, Mr. Klein, what
5 type of attorney are you? Yeah, what law do you
6 practice?

7 SPEAKER JOHNSON: Mr. Klein, put your
8 mic--

9 JAMES KLEIN: [interposing] Right now I do
10 litigation, but I've had a very varied career. I was
11 on the staff of the New York City Charter Revision
12 Commission back in 19-- late, late 1980's that
13 create-- that when the Board of Estimate went away, I
14 was on-- I was a staff member on that Commission. I
15 then went to San Francisco and worked as a
16 Legislative Aid for the San Francisco Board of
17 Supervisors, and I've had a very varied career in law
18 and business, and right now I have a practice where I
19 do litigation.

20 CHAIRPERSON GJONAJ: I'm curious, at your
21 place of practice are you a tenant or a landlord?

22 JAMES KLEIN: Well, I'm a tenant. I
23 guess that's--

24 CHAIRPERSON GJONAJ: [interposing] You
25 kind of hesitated.

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JAMES KLEIN: No, well, I mean, I rent space in a suite of offices. Do I don't actually have a lease in the sense that-- currently. But I've been a small business owner.

CHAIRPERSON GJONAJ: So would this benefit you, this type of rent protection? Are you successful lawyer, service-- with a renowned history? Is this who we're looking to protect?

JAMES KLEIN: Well, I don't understand the premise of your question. I mean, are you trying to get the-- I mean--

CHAIRPERSON GJONAJ: [interposing] I'm trying to--

JAMES KLEIN: [interposing] If you're trying to discredit me in some way, I don't understand it.

CHAIRPERSON GJONAJ: No, no, no, I'm not trying to discredit you. So you are a successful lawyer that certainly doesn't need an arbitrator to negotiate for him, and you are a tenant. Under this bill as written, you would be afforded the protections as much as Elvis there, and Elvis you have--

1
2 JAMES KLEIN: [interposing] No, the answer
3 is no.

4 CHAIRPERSON GJONAJ: Why?

5 JAMES KLEIN: Because I rent space on a
6 month to month basis in a suite of offices. I am not
7 the lease holder in a commercial space, so I would
8 not be covered by this bill.

9 CHAIRPERSON GJONAJ: I'm sorry, the bill
10 does cover you. The bill reads: "For a rental space
11 for anything that is non-residential, including
12 sublets, sublease, primary tenants." It's a very
13 loosely defined definition.

14 JAMES KLEIN: You got me.

15 CHAIRPERSON GJONAJ: Okay. Thank you for
16 your honesty. I'm looking forward to continue this
17 conversation.

18 JAMES KLEIN: Yes, I am, too. Thank you
19 very much.

20 CHAIRPERSON GJONAJ: And we do have
21 questions from Council Member Levine. Levin.

22 COUNCIL MEMBER LEVIN: Thank you. Thank
23 you very much, Chair Gjonaj. Thank you to this
24 panel. I have a few questions if you'll allow me. I
25 just want to talk a little bit about mediation and

1 arbitration. Do you believe that medication or
2 arbitration are things that a small business owner
3 can navigate or handle? Is this something that, you
4 know, if you don't have-- is this like where you see
5 it as a potential problem if somebody doesn't have
6 resources or doesn't speak English, for example, or
7 something like that?

9 DAVID EISENBACH: Right. Well, the way
10 the bill is set up, it is-- one of the options is to
11 work with the American Arbitration Association. This
12 is an 80-year-old institution, and I've spoken to
13 them personally, and they have assured me that they
14 will have absolutely no trouble handling all of the
15 rent arbitration cases in New York City if this bill
16 passes. If you do not have an attorney they have a
17 pro-se program where they will guide you. They will
18 guide you through the rent arbitration, the
19 arbitration process. This is something they have
20 been doing for decades. They have an assistance
21 program, both with translation, alright, and a
22 sliding scale for fees. Now, arbitration, it sounds
23 like a scary word, right? It's actually extremely
24 simple. A lot more simple than trying to find a new
25 space, a lot more simple than figuring out how you're

1
2 going to move and build a new clientele in a new
3 neighborhood. So, this idea that small business
4 owners won't be able to comprehend the difficulties
5 of arbitration, you don't know small business owners.

6 JAMES KLEIN: Well, I also just want to
7 address that, too, because it's-- I mean, it's not an
8 idle concern. It's a process that has-- and people
9 have to understand it and they have to work their way
10 through it, and like any process that's going to
11 create issues and challenges for people, but I think
12 the thing that is interesting about it is that if you
13 think about the testimony of the gentleman from the
14 Small Business Services, they're groping for ways to
15 come up with programs to help small businesses. Now,
16 one of the reasons why they're having so much
17 trouble, and you've-- some of you have addressed this
18 in your questions-- is because you can't get good
19 information about what the problems are, and they
20 haven't done the studies, right? So, the issue is--
21 one of the issues of this particular bill and the
22 mediation and the arbitration is to make the process
23 itself transparent and understandable so that-- so
24 the City's department like the Small Business
25 Services can then specifically gear programs to

1 helpful people through the process that is some, you
2 know, legitimate, logical process. The problems they
3 have now, because they've been developing programs is
4 they can't get them through-- they can't design a
5 program that addresses an illogical process. And so
6 is there issues with mediation and arbitration?
7 Absolutely, but at least it creates a logical process
8 that the rest of the City's departments can then
9 address with their programs.
10

11 DAVID EISENBACH: One other thing--

12 CHAIRPERSON GJONAJ: [interposing] Thank
13 you.

14 DAVID EISENBACH: regarding the
15 arbitration process is that often times according to
16 the American Arbitration Association, the two people
17 on both sides wind up settling before there is even a
18 ruling. And one half of those cases that settled,
19 they don't have to pay the administrative fee. So,
20 just having the structure of arbitration forces both
21 sides to be as reasonable as possible. It's a lot
22 less complicated and cheaper than going to court.

23 CHAIRPERSON GJONAJ: Thank you,
24 gentleman. I do have a question for you as a follow
25 up to that. What is the expected timeframe for worst

1 case scenario starting at the 180-day marker, within
2 the first 90 days of landlord and tenant can't come
3 to some type of agreement? What is the process of
4 the worst case scenario for an arbitrator timeline,
5 and that would include the arbitration itself?
6

7 DAVID EISENBACH: You mean, is there
8 something in the bill to put a time limit on it? Is
9 that--

10 CHAIRPERSON GJONAJ: [interposing] Yeah.

11 DAVID EISENBACH: what you're asking?
12 Then, no. There's nothing.

13 CHAIRPERSON GJONAJ: So, what was the
14 estimate as far as a timeline for the arbitration
15 portion to measuring the number of days or weeks or
16 months of hearings that could lead to a final
17 determination?

18 DAVID EISENBACH: There's nothing in the
19 bill that says there isn't--

20 CHAIRPERSON GJONAJ: [interposing] So what
21 would the expected average arbitration timeline be?

22 DAVID EISENBACH: I don't have the
23 answer.

24 CHAIRPERSON GJONAJ: So, an arbitrator--
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COMMITTEE ON SMALL BUSINESS

DAVID EISENBACH: [interposing] Like, you wouldn't know how a court case is going to work out. How long does that work out? I think it would depend on the schedules of both the landlord and tenant. I mean, there are a million factors, I suppose, that we don't--

CHAIRPERSON GJONAJ: [interposing] That's my point exactly, and you hit on it earlier. Small businesses really do not have the time.

DAVID EISENBACH: Well, but Mark, Mark--

CHAIRPERSON GJONAJ: [interposing] And they're-- and this is my point.

DAVID EISENBACH: Yeah.

CHAIRPERSON GJONAJ: That we have to be very careful because our small business owners are both making the pizza and delivering the pizza.

DAVID EISENBACH: Yeah.

CHAIRPERSON GJONAJ: And ringing up the pizza at the same time.

DAVID EISENBACH: If they're--

CHAIRPERSON GJONAJ: [interposing] If they don't have the ability to go back for weeks and weeks and begin a process of a year-long arbitration

1 without understanding the final outcome which may
2 eventually be something not in their favor--

3 DAVID EISENBACH: [interposing] Yeah.

4 CHAIRPERSON GJONAJ: and that is that
5 rent is unaffordable despite the arbitrator's
6 involvement and determine what the fair market rent
7 will be, that tenant may find themselves not being
8 able to afford the rent.

9 DAVID EISENBACH: Right.

10 CHAIRPERSON GJONAJ: I agree with you on
11 the arbitration, but let's understand that this isn't
12 a quick solution and certainly not a silver bullet to
13 the lasting issues that impact our businesses day in
14 and day out.

15 DAVID EISENBACH: Right. Let me just say
16 that that-- a year-long arbitration would be
17 extremely unusual, okay. Number two, an arbitration
18 case, believe me, a small business owner is going to
19 find the time if the landlord is asking for a 300
20 percent rent increase and nobody in the area is
21 getting that, right, he's going to take the time to
22 go through the arbitration process, and that
23 arbitration we're talking about, let's say the tenant
24 is paying \$20,000 a month, that's \$240,000 a year
25

1 over the course of a 10-year lease. That's a 2.4
2 million dollar business deal. Do you think they're
3 not going to take the time or the effort to go
4 through arbitration on a 2.4 million dollar business
5 deal, and that's not even an outrageously high rent?
6

7 CHAIRPERSON GJONAJ: Thank you,
8 gentleman, and I do believe Councilman Rodriguez has
9 a quick question for you, quick. Right, Councilman?

10 COUNCIL MEMBER RODRIGUEZ: Am I-- I'm
11 going to be using my three minutes. I'm the lead
12 prime of this bill, and I'm standing with the voices
13 of the small business owner. They want a lease that
14 shouldn't be less than 10 years, right? They want
15 arbitration. They want a better process on how to
16 negotiate the leases. In this room, I can tell you
17 that there's a lot of positive energies. We are all
18 the voices. The Speaker said loud and clear, he's
19 committed to work on this bill. I've been here for
20 nine years. For the last 20 years, no Speaker has
21 been committed to take this bill to the floor. So,
22 today, we're making history. The Speaker want to
23 hear and take the input of everyone, people that have
24 different interests, building owners, management,
25 real estate, small business owner, 220,000 business

1 owning business in New York City, and 89 percent more
2 than 185,000, they employ less than 20 individuals.
3 We will work to deal with what is needed for the
4 resources to get the support and need for
5 arbitration. We will deal and work with the local
6 small businesses on any other thing that we need to
7 put to the table. And we will work with lawyers like
8 you to be sure that we take your input. So, again,
9 as the lead prime of this bill with more than 20
10 Council Members, with the support of the Speaker and
11 the Chair, and with the voices of all interests here
12 from real estate, the condo [sic], the small business
13 advocate, all the legislators here I am confident
14 that in 2018 if we put an interest of coming out with
15 a good process that works for everyone. We will pass
16 the Small Business Survival Job Act in New York City.
17 Thank you.

19 CHAIRPERSON GJONAJ: Thank you.

20 DAVID EISENBACH: Thank you.

21 CHAIRPERSON GJONAJ: But we have to ask
22 questions, not make statements. The board-- can we
23 recognize Council Levin, please?

24 COUNCIL MEMBER LEVIN: Thank you very
25 much, Chair. I'll try to keep these brief. A few

1 more question here if I can. One of the criticisms of
2 the bill is that small landlords and affordable
3 housing developers have made the argument that
4 sometimes their commercial space is used to keep
5 affordable residential rents affordable. Are you
6 concerned that the bill might have that type of
7 impact on-- this is-- I suppose this is with non-rent
8 stabilized units, so maybe smaller buildings or
9 buildings where the, you know, the-- for some reason
10 it's not rent stabilization, but it's keeping-- you
11 know, the rents are in range or something like that.

12
13 DAVID EISENBACH: Sure. And the idea is
14 that the commercial space is somehow subsidizing the--
15 -

16 COUNCIL MEMBER LEVIN: [interposing]
17 Correct.

18 DAVID EISENBACH: Right?

19 COUNCIL MEMBER LEVIN: That's been a
20 concern--

21 DAVID EISENBACH: [interposing] That's a
22 concern, and that is a real concern, right? We are
23 all concerned about affordability, whether you're
24 concerned about residential affordability or
25 commercial affordability, but just as much and maybe

1 more than anyone else, if you are living in an
2 affordable residence and you need that affordability,
3 you need affordable small businesses. You need to
4 have a job. The main employer of immigrants in New
5 York City is small businesses. You know, I spoke to
6 a-- this last weekend, a single mom in Elizabeth
7 Street Garden who told me that the Met Food on
8 Mulberry Street, the one that she shops at, right, is
9 closed. So where does she have to go for her
10 groceries now? Whole Food. What happens with the
11 seniors that live in that area that now have to go to
12 Whole Foods, right? This is the affordability
13 question that goes directly to the Small Business Job
14 Survival Act, right?

16 COUNCIL MEMBER LEVIN: Sorry, I do have a
17 couple more--

18 DAVID EISENBACH: [interposing] The high
19 rents get passed on to everyone, including the
20 customers.

21 COUNCIL MEMBER LEVIN: A couple more
22 questions here. Are you concerned that potentially
23 the bill might make vacancies worse because landlords
24 might seek to rent to chains that won't engage in
25 the arbitration process? Is that a concern?

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COMMITTEE ON SMALL BUSINESS

DAVID EISENBACH: Well, they're already doing it. They're already doing it. This idea that somehow this bill is going to responsible for a small business crisis, well look around. Look at those numbers. A 20 percent vacancy rate in Manhattan in just two years' time? Where's it going to be in four years' time? And let me tell you, right? For the last few years we have had a--

CHAIRPERSON GJONAJ: [interposing] David, can you please acknowledge the Councilman and not the crowd. Thank you.

DAVID EISENBACH: Oh, sorry. No, I'm sorry, man.

COUNCIL MEMBER LEVIN: Yeah, yeah. It's fine.

DAVID EISENBACH: We've been talking about tax payer money.

COUNCIL MEMBER LEVIN: Sure.

DAVID EISENBACH: Think about all those small empty storefronts, how they're not generating tax payer money. They're not generating sales taxes.

COUNCIL MEMBER LEVIN: And sorry, and I just--

DAVID EISENBACH: [interposing] Yeah.

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COMMITTEE ON SMALL BUSINESS

COUNCIL MEMBER LEVIN: I have one more question for you.

DAVID EISENBACH: Yeah.

COUNCIL MEMBER LEVIN: This process that's laid on the bill does not necessarily guarantee that rents will stay the same or even go up a small amount, so why do you think the bill would help? And I say this as a sponsor of the bill, but--

DAVID EISENBACH: [interposing] Yeah, yeah.

COUNCIL MEMBER LEVIN: why do you think the bill would help if it doesn't guarantee any of those-- either of those outcomes?

DAVID EISENBACH: Right, it doesn't guarantee, and this is why James' point earlier about how the New York City Bar Association, by putting this false claim in a footnote, it--

JAMES KLEIN: [interposing] No, I'm not a lawyer, I'm not a great legal mind, but I have been reading college student papers for 20 years, and every time one of my students wants to bury a weak argument, they'll put it in a footnote. It took me five minutes to catch that, okay? It is not rent regulation, so therefore, it doesn't set a limit on

1
2 the amount of rent. The rent is still going to go
3 up. It's not an anti-landlord bill. The rent will
4 go up. There'll just be more winners instead of
5 right now where it's all about the big real estate
6 and the people with the hats.

7 CHAIRPERSON GJONAJ: Thank you, David.

8 COUNCIL MEMBER LEVIN: Thank you, Chair.

9 CHAIRPERSON GJONAJ: Just a quick
10 question for you. Does this address increase year
11 over year besides the initial lease or a 10-year
12 renewal? Does it even discuss the increments that
13 the lease will be increased during a 10-year phase?

14 JAMES KLEIN: You mean, in terms of the
15 terms of the lease?

16 CHAIRPERSON GJONAJ: Right, are we-- I'm
17 sure it doesn't call for a 10-year fixed rent, that
18 there'll be escalations.

19 JAMES KLEIN: Hm.

20 CHAIRPERSON GJONAJ: We'll leave it at
21 that. Thank you, gentleman.

22 SPEAKER JOHNSON: Oh, no, I just have one
23 thing. I just want to follow up on Council Member
24 Levin's point. Again, he's a sponsor of this bill
25 and has been a big supporter of it, and I don't want

1 to gloss over something that I think is really
2 important, and I know it's something that you all
3 care about. I just think it's another complication
4 that we need to address, which is he has to question-
5 - small landlords and affordable housing developers
6 say they often use whatever commercial space they may
7 have in the building to subsidize affordable rents
8 above the ground floor, and I think not in the next
9 panel, but the panel after that, you're going to hear
10 from folks who do affordable housing work who I think
11 are allies in many of the issues that we care about
12 together who have similar concerns about trying to
13 figure out a way to do something meaningful for small
14 businesses for retail spaces while at the same time
15 not potentially jeopardizing some of the HDFCs or
16 affordable buildings that have income restrictions
17 where, you know, we've been going through this crazy
18 process of third-party transfers in New York City of
19 buildings that have been affordable buildings and we
20 want to be able to understand some of the commercial
21 spaces on the ground floor. Not all, this is small
22 percentage, I'm not using a broad brush to paint this
23 for all them, but again, it shows some complications
24 and talking about this in a nuanced way. Some of

1
2 those do subsidize the affordable housing, the HDFC,
3 the small business that's there. And so I want to
4 just understand what you think, David, we do in
5 instances like to ensure that we're actually not
6 going to do something that could potentially harm
7 working people who are living in affordable
8 apartments above.

9 DAVID EISENBACH: Right, right. Well, if
10 they have a tenant, they're getting rent. That rent
11 is going to subsidize the affordable housing. My
12 hunch is you don't have massive vacancy rates in
13 buildings like this that are legitimately trying to
14 rent the space and subsidize the housing. Where you
15 find the vacancies, where you find the empty
16 storefronts is when you have a real estate developer
17 who is either over leveraged or playing money games
18 and leaves the space empty for years. I don't think
19 this is happening in affordable housing buildings
20 that need the rent to subsidize the housing. I don't
21 think we have anything to worry about there.

22 SPEAKER JOHNSON: No, what I'm saying is
23 I don't disagree with what you just said there. What
24 I'm saying is the economics of buildings change over
25 time. you know, there could be a major repair that

1 needs to happen in that building that the building's
2 trying to figure out how to pay for that repair,
3 whether it's the repointing of the building or doing
4 other renovations that are important for the folks
5 who live in that building, and there may be a certain
6 rent, not a doubling or tripling or quadrupling of
7 the rent, that they could potentially need to be able
8 to finance those repairs. Go ahead, Mr. Klein.

9
10 JAMES KLEIN: Yeah--

11 SPEAKER JOHNSON: [interposing] So, the
12 point I'm trying to make is, does this restrict it so
13 much that you couldn't potentially have a fair
14 negotiation happen between a landlord that isn't
15 someone who's trying to screw someone over, but
16 instead they want to enter into a fair negotiation.
17 Does this in any way restrict their ability to do
18 that?

19 JAMES KLEIN: The answer is no, because
20 if you look at the 14 criteria in Section E3 that
21 talks about the criteria to be used by the
22 arbitrator, I mean, you can go down the list, but one
23 of them is the cost of maintenance and operation of
24 the entire property, including land and building
25 improvements and including all service debt such as

1 the mortgages. So, the arbitration process, and
2 that's just one of the 14. So the-- and so almost
3 all of the circumstances that you're concerned with
4 are already contemplated by the criteria that could
5 be part of the arbitration process. And so, those
6 issues are accounted for, and so-- and then the other
7 thing, I would like to just go back to Mr. Gjonaj's
8 question, because if you look at the definition of
9 rent in the first section, the definition of rent
10 takes in-- where is it? It says the term rent means
11 any and all consideration including but not limited
12 to pass-alongs received by the landlord in connection
13 with the use of the occupancy. Now, the rent is one
14 aspect of a commercial lease is. There are many
15 other provisions, and so to the extent that the whole
16 point of this bill is transparency and people
17 understand the bargain that they're getting into.
18 And so the definition of rent including pass-alongs
19 makes that into something that's understandable and
20 so they don't get hit with all these things that they
21 didn't bargain for at the beginning of the rent, at
22 the beginning of the period-- of the lease period
23 when the negotiation happened. But if there are other
24 aspects of the commercial lease, as there always will
25

1 be, that may be tied to inflation, something that
2 escalates it. I mean, those things are still part of
3 a commercial lease, and this doesn't do it. This
4 deals with the base rent and including the pass-
5 alongs so that again, it's a rational process and
6 that people can understand and plan for over a 10-
7 year period what they're signing up for and what
8 their businesses need to account for.

10 SPEAKER JOHNSON: Mr. Klein, thank you,
11 and David and Elvis, thank you for your testimony.
12 The reason why I'm asking these questions I think
13 goes to the first question we engaged in a respectful
14 back-and-forth, Mr. Klein, was related to the large
15 commercial tenant of 200,000 square feet, and you and
16 David and Elvis saying that's not what you were
17 looking for this to apply to. I think there's a
18 nuanced conversation that we're trying to figure out
19 about where this should apply and about how to
20 understand that not every property owner is the same
21 in every single way, and to have a nuanced discussion
22 around that, because there probably isn't a one-size-
23 fits-all approach, but we're trying to figure out how
24 to get through this in a way that goes to the heart
25 of what we've talked about which is doubling,

1 tripling, quadrupling of these commercial leases that
2 has a deleterious effect on communities and
3 neighborhoods and rips apart the fabric of local
4 neighborhoods. So, I appreciate being able to have
5 this thoughtful back-and-forth with you all as
6 advocates for this bill to understand how you're
7 thinking. So, thank you very much for your
8 testimony.

10 DAVID EISENBACH: And we would like to
11 just thank you, Corey. For 30 years, right, we have
12 been avoiding this discussion. We finally are having
13 the discussion. We've been looking at everything
14 else, right, taxes, zoning, this, that, not the rent.
15 And that has allowed the failure of us to actually
16 hold a public hearing, right, in the City Council
17 chamber like we're doing on today, has allowed REBNY
18 to keep on spreading the misinformation that this is
19 rent control. It's not rent control, and that's what
20 this public hearing is going to show.

21 SPEAKER JOHNSON: Thank you.

22 CHAIRPERSON GJONAJ: Thank you,
23 gentlemen.

24 DAVID EISENBACH: Thank you.

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COMMITTEE ON SMALL BUSINESS

CHAIRPERSON GJONAJ: We invite up Jessica Walker, Julian Hill, Lena Afridi, Larisa Ortiz, and Jessica Lappin.

SPEAKER JOHNSON: Is former Council Member Lappin here still? Oh, great, fantastic. We're proud to have a former member of this body here with us today, patiently waiting to testify. Thank you, Jessica. And we also have a member of the City Planning Commission, Commissioner Ortiz who's here. Thank you for being here. If you would like to begin.

COMMISSIONER ORTIZ: Why thank you. Thank you, Chair and Speaker Johnson. My name is Larisa Ortiz and I'm Principal of Larisa Ortiz Associates. I'm also New York City Planning Commissioner, and as part of my--

SPEAKER JOHNSON: [interposing] You could just pull the mic a little bit closer. Thank you.

COMMISSIONER ORTIZ: I'm also New York City Planning Commissioner. As part of my obligations under Conflicts of Interest rules, and must say I'm here to provide expert testimony, and I'm not here on behalf of any client. Since founding my firm over a decade ago I have worked with hundreds

1 of communities nationwide and have devoted my life's
2 work to helping small businesses, especially in
3 disadvantaged communities and on behalf of many
4 nonprofits and cities. I applaud the efforts to
5 advance a small business agenda. Small businesses
6 are the backbone of our City. But this legislation
7 has significant potential to create a set of
8 unintended consequences that may in fact undermine
9 small businesses. First and foremost, as many have
10 said, it gives all commercial establishments from
11 chain stores to large tenants the right to renew,
12 which I believe would result in market distortions
13 that favor those tenants. Think about it, if you
14 were a landlord and new that the very first lease you
15 signed would obligate you in the long-term to a
16 particular tenant, wouldn't you be much more cautious
17 about taking a risk on an unproven small business?
18 Wouldn't it be understandable if this legislation
19 made landlords skittish about signing leases with
20 small businesses at all? And wouldn't it be a shame
21 if that caused landlords to leave spaces vacant for
22 longer? And what factors does the arbitrator used to
23 determine fair rent levels? Is the arbitrator
24 expected to conduct an appraisal without the training
25

1 or expertise to do so? There was something made of
2 the 11 factors that are listed in the legislation,
3 and I further question how those are weighted and how
4 we will make the determination about rent based on
5 those. And what about mixed-use coop buildings where
6 rent from the commercial space is precisely what is
7 keeping maintenance costs low. Those cross-subsidies
8 are what prevent the displacement of many low-to-
9 moderate income tenants in this city, particularly
10 those in strong market neighborhoods. In 2014, on
11 behalf of SBS, my firm conducted a survey of small
12 businesses and asked them what their profitability
13 challenges were. Rent was not first, second, or
14 third. In fact, it was tied for fourth place after
15 access to capital, utility costs, and help
16 understanding a changing customer base. Yet, when
17 the same question was posed to the City's small
18 business service providers they indicated that rent
19 was the number one concern among small businesses.
20 So, I ask, is this legislation truly responsive to
21 what the majority of small businesses themselves say
22 the need and want to remain competitive? I do
23 believe there are many things we can and should do.
24 To give you an example, just a few weeks ago, my
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1
2 colleagues and I were trying to determine whether a
3 local café needed a permit to place a single café
4 table directly in front of their business, which is
5 something that in our experience would drive a 10 to
6 15 percent increase in sales. We spoke to five
7 different people via 311, read countless regulations,
8 sent two emails, came up with opposing findings, and
9 yet, if a business owner gets this wrong it's a quick
10 fine. I do believe this legislation is a good start,
11 but I would request that we look at it and revise it
12 in a number of substantive ways. Thank you.

13 CHAIRPERSON GJONAJ: Thank you.

14 LENA AFRIDI: Good afternoon. Thank you,
15 Chair Gjonaj and Speaker Johnson and members of the
16 Committee on Small Business. My name is Lena Afridi,
17 and I'm the Director of Economic Development Policy
18 at the Association for Neighborhood and Housing
19 Development. ANHD is a membership organization of
20 New York City Neighborhood-based community groups.
21 We have over 100 members throughout the five
22 boroughs. Our mission is to ensure flourishing
23 neighborhoods and decent affordable housing for all
24 New Yorkers. One aspect of that work is to support
25 and protect New York City's small businesses from the

1 threat of displacement with particular focus on
2 owner-operated low-income minority and immigrant-run
3 businesses. ANHD believes that new solutions and
4 tools are needed to fight the rampant displacement of
5 small businesses. However, we do not support the
6 Small Business Job Survival Act as it is currently
7 written, because we believe that legislation as
8 important as this and which will have a major impact
9 on small businesses on our city should be fully
10 understood and evaluated to ensure that it will have
11 the correct impact. What follows is a partial list
12 of some questions that we believe should be fully
13 considered before any action is taken. So, the bill
14 functions by creating a complex system of
15 individually negotiated mandatory arbitration between
16 the commercial tenant and the landlord at each rent
17 renewal with a complex schedule of deadlines for
18 notices and actions laid out. This process has the
19 potential to create enough delays, pitfalls, and
20 expense for both the commercial tenant and the
21 landlords if periods of vacancy could be extended.
22 Commercial rental markets in different parts of our
23 city face different circumstances and any solution to
24 the problem of commercial stability should take those
25

1 differences into account. The impact on the luxury
2 rental markets of much of Manhattan for example would
3 be very different from the impact on genuinely
4 struggling commercial rental markets in many areas
5 of the outer boroughs. The landlords and the worst
6 examples of aggressive rent increases fueled by a
7 desire to take advantage of rising rents in
8 gentrifying neighborhoods deserve sympathy. However,
9 it's important not to create a mechanism that does
10 damage the health and viability of the commercial
11 rental market of other neighborhoods as well. I'm
12 going to speak a little bit also about the unintended
13 consequences on some types of vulnerable small
14 businesses. The central provision of the bill
15 binding mediation and arbitration could risk making
16 immigrant-owned small businesses even more vulnerable
17 to the threat of displacement. Without a structure
18 to ensure that the process is equitable, including an
19 explicit Know Your Rights campaign in several
20 languages and city funding for arbitration and
21 mediation, this process could create even more
22 arduous red tape for immigrant small businesses and
23 tip the scales in favor of landlords who can afford
24 the cost of the process and have a savvier
25

1 understanding of what it entails. In addition, the
2 bill could exacerbate incentives for the landlord
3 that increase the threat of tenant harassment, a
4 problem to which immigrant small business owners are
5 especially vulnerable when landlords could also be
6 spurred to choose chain stores over mom and pop
7 businesses. Rather than filling a property with a
8 small business with the risk of repeated arbitration,
9 landlords could be made more willing to find a chain
10 that will simply pay rent increases without
11 challenge. In neighborhoods with high vacancies,
12 this could mean that empty spaces will be filled, but
13 more likely with chain stores. This would be a
14 particular risk in immigrant-dense neighborhoods
15 already susceptible to displacement pressures caused
16 by gentrification such as Bushwick and Jackson
17 Heights. Any bill that takes on this issues should
18 keep in mind the material realities of immigrants.
19 We're committed to finding solutions to keeping New
20 York small businesses thriving. While we deeply
21 believe that immediate measures must be taken to curb
22 the displacement of New York small businesses, more
23 information is needed in order to better understand
24

1
2 the impact of SBJSA and to prevent any unintended
3 consequences. Thank you.

4 SPEAKER JOHNSON: Thank you. You may
5 begin. Make sure your mic is on.

6 JULIAN HILL: Thanks. Good afternoon,
7 Chairman Gjonaj and distinguished members of the
8 Committee on Small Business. My name is Julian Hill
9 and I'm a staff attorney at the Community Development
10 Project. Among other things, the Community
11 Development Project, or CDP, offers legal advice to
12 new and existing working cooperatives, small
13 businesses and nonprofits, and also works with
14 grassroots organizations groups and coalitions to
15 ensure marginalized community are not pushed out of
16 their neighborhoods. Last year, CDP along with two
17 other legal service providers received city funding
18 through SBS to start the Commercial Lease Assistance
19 or CLA program which was referenced earlier. Those
20 who provide free non-litigation legal advice
21 regarding commercial leases for small businesses.
22 I'm testifying only on behalf of CDP today and with
23 the vision for a day where small businesses are not
24 bullied by landlords and are respected as the engines
25 of community economic progress that they are. Our

1 clients include clothing stores, restaurants, beauty
2 shops, wal-off [sic], Spanish and Cantonese speakers,
3 women, people of color, immigrants, low-income folks
4 in Queens, Manhattan, Brooklyn, and the Bronx. Let
5 me tell you just about a few. There's Anne who has
6 been in business for almost 40 years. She was on a
7 month-to-month lease after her previous lease
8 expired. Several months into that arrangement she
9 was asked to leave. We bought her some time through
10 a termination agreement, but she's in immense stress
11 in negotiating a new lease, even with our assistance.
12 Then there's Calvin, in business for 25 years. His
13 landlord told him several months before the end of
14 his lease that it would not be renewed. Last time we
15 spoke, he had absolutely no idea what he was going to
16 do. Anne and Calvin may have benefitted from SBJSA
17 and had a chance to negotiate a renewal lease.
18 However, these cases do not represent the majority of
19 what we've been seeing on a day-to-day basis.
20 There's Brenda, excited to buy her first business
21 from a previous tenant when she tried to set up the
22 electricity sub meter. However, the local provider
23 told her that the landlord needed to resolve several
24 Department of Building violations that the landlord
25

1 refused to pay. Having invested several thousand
2 dollars into this business, she can't operate just a
3 few months after signing this lease. Then there's
4 Maxine and Tim, siblings who took over their
5 successful business from their mother after operating
6 for 40 years when she passed away. The fixtures that
7 they believed they need to pass a Department of
8 Health Inspection are getting old. However, their
9 written lease expired five years ago and they cannot
10 get a loan to renovate without a written lease. They
11 have asked the Board of their landlord, Unlimited
12 Equity Cooperative, to sign a new lease, but no one
13 on the Board believes that they have the authority to
14 do so. Therefore, they are stuck. We know worker
15 cooperatives with oral contracts and a number of
16 other businesses that are weighed down by the burdens
17 of several Department of Building violations amount
18 to thousands and thousands of dollars regarding
19 awnings, uses of sidewalk space and alike. The SBJSA
20 will not help these clients. Some do not even have a
21 written lease to renew. Even for the clients who may
22 benefit from SBJSA, we only have a few questions.
23 Why does it apply to all businesses and not include a
24 definition for small business? Who will pay for
25

1 mediation if it's necessary? Is the supply of
2 possible mediators sufficient to actually provide
3 these services? And how will the City fund those
4 services and others? We are not in support or
5 against SBJSA. Our experience suggests that the SBJSA
6 could be useful for some of our clients, that it
7 would not be enough to stem the number of small
8 businesses that we see leaving their spaces.

9
10 Regardless of the outcomes, CDP is happy to work with
11 small businesses, City Council and other interested
12 and impacted stakeholders on a solution that will
13 help the clients that we serve. Once again, thanks
14 for this opportunity.

15 SPEAKER JOHNSON: Thank you.

16 JESSICA WALKER: Thank you so much. My
17 name is Jessica Walker. I'm the President and CEO of
18 the Manhattan Chamber of Commerce. You have my
19 testimony in front of you. I just wanted to make a
20 few points based on what we've heard today. So, I
21 think you understand that our mission really is to
22 help businesses thrive here in New York City, and the
23 vast majority of our 1,400 members are small
24 businesses. So, I just want to come speaking on
25 their behalf. First of all, even though, like I

1 said, we oppose this legislation essentially because
2 we think it's counterproductive, and also because we
3 think it could actually be potentially harmful to the
4 small businesses that we're all trying to help. The
5 bill before us has many issues. So, we've heard a
6 lot about the arbitration process and think that it
7 is very cumbersome and unrealistic for the average
8 small business owner to take part in. But most
9 importantly, the proposal discourages landlords from
10 ever renting to a small business, which I think would
11 make the environment worse. So, as discussed today,
12 it would make little sense to include all commercial
13 spaces in this legislation, but on the other hand, if
14 you narrow this just to small businesses, you're
15 essentially putting a target on their backs. Why
16 would a landlord want to rent to them if they have to
17 jump through all these additional hoops? What's
18 more, is that if this bill were to pass, it would
19 immediately trigger litigation, so it wouldn't be a
20 benefit to anyone for quite some time, which is also
21 pretty concerning. And meanwhile, businesses would
22 continue to struggle. I just wanted to thank,
23 actually, the-- Gregg Bishop and the Administration
24 for understanding some of these concerns, which was a
25

1 little-- was disheartening. In my written testimony,
2 I highlight a few possible alternatives, things that
3 I think that could be explored that could possibly
4 have more of an impact in helping small businesses,
5 and I definitely want to echo those who testified
6 today in terms of wanting to do more studying of the
7 problem. I think that what you'll find and what
8 you'll glean is that there are a lot of major issues
9 that are affecting small businesses. We've surveyed
10 our membership as we've heard some of the issues that
11 come before rent and real estate are issues around
12 regulations, such as, you know, the minimum wage
13 increase that has been coming, and we're going to see
14 that again at the end of the year go up again, issues
15 around taxes, issues around competition is a big
16 issue as well. Let me just fast forward to say that
17 ecommerce only comprises about 10 percent of all
18 online-- of all retail sales currently, 10 percent.
19 That's the real emergency, because we already see the
20 impact that it's made in the market place. In five
21 years or 10 years, that number is going to be higher,
22 and so that's really the emergency we should be
23 talking about today if we want to help small
24 businesses. I am available around the clock. I do
25

1 want to be helpful here. Please, you know, let me
2 know how we can help. Thank you.

3
4 SPEAKER JOHNSON: Thank you.

5 JESSICA LAPPIN: Good afternoon. I'm
6 Jessica Lappin, President of the Alliance for
7 Downtown New York. Small locally-owned businesses
8 are what make New York different from any other place
9 around the globe, and we have 1,200 retail
10 storefronts that are in our catchment area in lower
11 Manhattan. They employ New Yorkers and they give our
12 neighborhoods character, and today, they face a
13 myriad of challenges, some of which have been
14 discussed today. The pressure of e-commerce alone is
15 enormous. But beyond that, while rent is a factor,
16 what we hear most from struggling business owners are
17 complaints about bureaucracy, unresponsive city
18 agencies, crippling property tax assessment
19 increases, over-regulations, scaffolding-- any small
20 business will tell you that scaffolding is the kiss
21 of death and can be up for years-- traffic, and
22 overly aggressive enforcement, and unfortunately,
23 this bill doesn't address these problems, and as many
24 have said, we think have unintended consequences that
25 would make it worse. The onerous lease renewal

1 process that are mandated, which apply unnecessarily
2 to all commercial leases in New York City regardless
3 of size, and oddly, also to shopping malls would
4 severely restrict the flexibility that successful
5 retail needs. It would create disincentives for new
6 and exciting creative uses for ground floor space at
7 a time when experimentation is key. I think what we
8 hear most loud and clear is that it would also lock
9 in existing uses for decades and ignores the changing
10 winds of consumer demand. I will tell you, when
11 Duane Reade opened on Wall Street and on Water Street
12 they were welcomed with open arms. People in the
13 neighborhood were thrilled. It was a place to get
14 basic essentials and groceries when there was nothing
15 here serving people after 9/11, after Sandy. Now,
16 everybody loves to hate Duane Reade, but that was
17 less than 10 years ago. People were very excited to
18 have Duane Reade open here. Community's interest and
19 desires for the retail they see changes, and we have
20 to acknowledge that and not lock everything in place
21 we have today. What about the noisy bar or the vape
22 shop that communities, Community Boards and elected
23 officials don't like. This removes any leverage
24 people have, if you're an owner or a next-door
25

1 neighbor, because they will be guaranteed the right
2 to stay forever. It would also lead to less new
3 overall retail space and that's important because
4 here in lower Manhattan since 2014 we've added 2.9
5 million square feet of space. And we have small
6 businesses like Nom Pang [sp?] to Beer Table to New
7 New [sic] Chocolates that have flocked to these new
8 spaces and landlords in many instances have actively
9 sought out local entrepreneurs, but these new
10 restrictions would discourage the development of new
11 space which prevents that kind of future job growth
12 over the long-term reducing supply and actually
13 increasing pricing pressure. And I would say lastly,
14 because you may have the same tenant for decades that
15 people have said, it really creates an incentive for
16 a tenant with great credit like a bank or a national
17 chain which is not the goal. So, my time is almost
18 up. I do also make suggestions in my written
19 testimony, some of which came from my co-chair at the
20 Red Tape Commission a couple of years ago that
21 Comptroller Scott Stringer organized. We had
22 hearings in all five boroughs, and it really reflects
23 some of things that I heard firsthand, not just from
24 businesses here, but around. And we do look to
25

1
2 continue to work with you on some better solutions to
3 this problem. Thank you.

4 SPEAKER JOHNSON: Thank you very much.
5 So, I would love to understand from you all-- your
6 testimony is helpful, but I'd love to understand, for
7 the instances that we're talking about today, for the
8 instances where rent is doubled or tripled or
9 quadrupled, what is your suggestion?

10 JESSICA WALKER: So, I'll start. I'm
11 sure others can speak. But the example that I've
12 been thinking about recently is the coffee shop which
13 closed down last week. This was a beloved restaurant
14 that was in Union Square. I think we all have been
15 there at some point, and it was actually not only one
16 of the profitable restaurants here in the City but in
17 the country, and they still decided to go out of
18 business this year. Now, rent certainly played a
19 part. The Union Square area is hot right now.
20 There's no question about it. But what has been
21 addressed less is the fact that because it was such a
22 big restaurant and they had so many staff members,
23 that if the minimum wage which is going to be going
24 up at the end of the year, if they were still in
25 business, they would paying 46,000 dollars more per

1 month-- per month-- in additional payroll. The point
2 I'm trying to make is that I think that these things
3 are complex, as Gregg Bishop said, and it really is
4 accumulative impact of all these things that are
5 happening.

7 SPEAKER JOHNSON: Well, what about a
8 restaurant like Tortilla Flats, who in the last three
9 days said that they want to stay in the Far West
10 Village? They've been there for over 30 years.
11 They're able to be profitable and continue to have
12 viable, attractive business, and the only reason why
13 they're going under is because the landlord
14 unreasonably, and I would say in a greedy way, hiked
15 their rent to almost three times what they're paying
16 now. They gave no other reason. They didn't talk
17 about minimum wage or government regulations or
18 bureaucracy or any of those things. They just said
19 our rent is tripled and now we have to go out of
20 business. What is your suggestion of how the Council
21 and the City should act in instances like that, or
22 you think we shouldn't act?

23 JESSICA WALKER: Well, I mean, it's
24 because I-- the thing is, there aren't very many
25 studies, as we've heard today, in terms of what the

1 issues are. No, it's true. And that's, I think,
2 something that really does need to take place. Even
3 is this bill were to pass, as I said, it's going to
4 be triggered. It's going to trigger legislation.
5 There's no reason why we don't have the time to
6 actually look at the problem to find out what is
7 affecting people. I think that it's something that
8 we've done--

10 SPEAKER JOHNSON: [interposing] But I'm
11 asking for your suggestions on how the Council should
12 deal with instances like that, for any of you.

13 LENA AFRIDI: So, I would like to make a
14 couple of suggestions that my panelists might not
15 actually agree with, my fellow panelists. So, this
16 bill is not commercial rent control, right? So, why
17 aren't we talking about commercial rent control? The
18 bill that is currently in place right now or that's
19 being suggested right now is-- it might help in the
20 far west side, but it might have completely
21 deleterious consequences in Bushwick, in Jackson
22 Heights, and is it worth it for putting immigrant
23 small business owners on a line for a select few
24 minority of small business owners. Any solution that
25 we come up with can't put immigrant small business

1
2 owners, communities of color, low-wealth communities
3 at risk for the sake of, you know, just passing
4 something. Whatever we pass has to be equitable. It
5 has to be fair. It has to have real steady
6 consequences that are going to have an impact over a
7 long period of time. So, this bill, you know, parts
8 of it might work, but across the board, it's not
9 going to work for everybody. That's something that
10 we need to figure out. We need to work together to
11 figure that part out.

12 SPEAKER JOHNSON: Just before
13 Commissioner Ortiz, before you speak, Ms. Afridi,
14 could you just expound a little bit more on-- and I
15 know you testified to it, but I think it's actually a
16 very important thing-- more than 40 percent of people
17 living New York City right now were not born in the
18 United States. They were born in another country.
19 That is the great strength of our city is our
20 diversity, and to drill down a little bit more on
21 your nuanced and specific concerns on how this would,
22 you believe, affect small businesses in the
23 neighborhoods that you discussed, immigrant-owned
24 where English may not be their first language, can

1
2 you just talk a little bit more about that. I think
3 it's important to understand this.

4 LENA AFRIDI: Yeah, sure. So, it's less
5 about the way that the bill is written and more about
6 the process. I will say that ANHD worked on the
7 Commercial Tenant Anti-harassment legislation that
8 was mentioned earlier. We work with UJC on NTDP on
9 the CLA program. However, that program was, you
10 know, it was not-- we didn't get enough city funding
11 in order to make it actually useful across the board,
12 and if we don't have that included in the process
13 with SBJSA we leave out a large, large number people
14 who are particularly vulnerable at this time.

15 Immigrant small businesses face rampant harassment.
16 You know, what we see on the residential side we see
17 on the small business side. We have an example of a
18 woman in Bushwick named Esmeralda who own a
19 restaurant. You know, the landlord came, they turned
20 off her water during her restaurant rush. They
21 turned off her electricity. In some cases we see
22 people calling ICE on their tenants. That's a
23 conversation that's not addressed, right? That's not
24 addressed in this piece of legislation. It's a
25 conversation that's not come up when we talk about

1 small businesses in general. And we talk about
2 immigrant small businesses, there's little that's
3 been done to provide real translation, little that's
4 been done to provide real legal services. We need to
5 expand CLA so people--

7 SPEAKER JOHNSON: [interposing] No, but
8 tell me why--

9 LENA AFRIDI: [interposing] I'm sorry.

10 SPEAKER JOHNSON: you do not think SBJSA
11 addresses these concerns? What changes would you
12 seek to the bill to address the concerns that you're
13 talking about?

14 LENA AFRIDI: Yeah, I would say, you
15 know, add something in there to make sure that people
16 are getting the resources that they need, and without
17 those resources, let's think about who benefits
18 first. In the meantime, in the gap when we're
19 waiting for those resource to get to immigrant
20 businesses, they're going to say, "I can't navigate
21 this process. I don't understand this red tape. I'm
22 not going to sit down with my landlord who has
23 threatened to call ICE on me. I'm never going to sit
24 down with my landlords who has ever threatened to
25 call ICE on me. And so I would rather just shut down

1
2 rather than, you know, wait for the services to come
3 to me." And so people who have resources can use
4 this bill to their advantage or this piece of
5 legislation to their advantage, but those who don't
6 get left behind.

7 SPEAKER JOHNSON: Got it. So, you're
8 saying the-- I mean, we, we put together here at the
9 Council just a flow chart to understand what the bill
10 says as currently written, and you know, the top is
11 the commercial lease ends in 180 days, and then the
12 four boxes below: landlord agrees to renew the lease
13 at agreed rate; the landlord agrees to renew lease
14 but no agreement on price; landlord does not provide
15 notice of regarding renewal; and landlord refuses to
16 renew lease, provides written reasons, and then kind
17 of the flow chart of what happens in each one of
18 those. And I think people have talked earlier and
19 used language around the process being cumbersome in
20 some ways and being intensive where not ever small
21 business may be equipped to be able to handle a
22 process designed like this. Is that what you're
23 saying, that some of these immigrant small businesses
24 may have a harder time or smaller businesses that may

1 not even have a lease may have a harder time
2 navigating a process like this?

3
4 LENA AFRIDI: Correct, yeah, that's what
5 I'm saying, and that's something that we've seen, you
6 know, working with small businesses across the board
7 in all five boroughs of the city, immigrant small
8 businesses in particular. We talk about red tape
9 being an issue. Red tape is an issue for everybody,
10 but it's especially an issue for people who don't
11 speak English, who don't have a lease, who are again
12 facing rampant tenant harassment. You know, I'm not
13 saying that the bill across the board doesn't work,
14 but there are some serious considerations to be taken
15 in order to make sure that it's applied equitably.

16 SPEAKER JOHNSON: Commissioner?

17 COMMISSIONER ORTIZ: Thank you. Those
18 instances that you mentioned, I mean, these examples
19 are heart-wrenching, gut-wrenching for many of us,
20 but I think we have to be careful about taking, you
21 know, one example and assuming that it's universal.
22 You know, the study that the City Council itself put
23 out said that there's explosive growth in businesses
24 and developing in immigrant neighborhoods. So the
25 problem in Manhattan of the 20 percent vacancy is not

1
2 necessarily what we're seeing, and I know because I
3 work in many of these neighborhoods in the outer
4 boroughs. What's missing from this conversation is
5 the conversation about demand as well. In some cases
6 we don't have sufficient demand to even fill all the
7 spaces that are available out there.

8 SPEAKER JOHNSON: Respectfully, I
9 understand that point, but I gave in my opening an
10 example of a little more than two years ago one of
11 the last remaining affordable supermarkets at the
12 border of Chelsea and the Village at 14th Street and
13 Eighth Avenue, an associated supermarket whose
14 business was totally fine-- I spoke to the manager.
15 I spoke to the actual landlord that came in and
16 bought the building. They were paying their rent.
17 Everything was fine, and all of a sudden the rent
18 went from \$35,000 a month to more than \$100,000 a
19 month. And so one of the last remaining affordable
20 grocery stores where there was demand was put out of
21 business because of the tripling of the rent, and now
22 that space has been sitting vacant for two and a half
23 years.

24 COMMISSIONER ORTIZ: I'm sure--
25

1
2 SPEAKER JOHNSON: [interposing] That is
3 what I'm trying to understand and get at today is
4 when that happens that has a real life impact on the
5 fabric of neighborhoods and communities and New
6 Yorkers, and I understand that's not every instance,
7 but in the instance it does happen, it has a
8 significant deleterious effect on that local
9 community.

10 COMMISSIONER ORTIZ: And I think those
11 absolutely need to be addressed on a case-by-case
12 basis. I will say, I live in Jackson Heights--

13 SPEAKER JOHNSON: [interposing] But how do
14 we address those, that's what I'm asking?

15 COMMISSIONER ORTIZ: On a case-by-case
16 basis.

17 SPEAKER JOHNSON: How?

18 COMMISSIONER ORTIZ: I would say talking
19 to the landlord, figuring out what their needs are.
20 This is not-- you know, using this legislation to
21 sort of blanket the entire city I think could create
22 potential problems for other small businesses. So,
23 it's about a balance. But I will say, you know, in
24 Jackson Heights we had a drug store that closed
25 because they said high rent, you know, was an issue,

1 and they put up a sign, and they said we are out
2 because there is high rent. The space was vacant for
3 six months. Another drug store filled the space and
4 they're doing fine. And what they did was they
5 updated their storefront. They're now transparent
6 and visible. They have a whole new set of goods that
7 they're selling in a whole different way and they
8 actually are able to pay that higher rent. And so I
9 think we just should be very careful about the
10 assumptions that we make when, you know, the concern
11 is about small businesses. We have to help our
12 businesses be more competitive, and there's so many
13 ways in which we can do that.

14
15 SPEAKER JOHNSON: Well, Commissioner, one
16 thing that I would say that I agree with you on is I
17 don't think every neighborhood is exactly the same. I
18 do think that certain neighborhoods have a uniqueness
19 to them and have a need that is distinct to those
20 communities and neighborhoods. What the retail
21 landscape is in Jackson Heights is not the same as
22 the Far West Village, and it's important to
23 acknowledge that, but I would say that there is a
24 problem when you have 150 vacant storefronts from
25 Fifth Avenue to the Hudson River or from Houston to

1
2 14th Street. When you have 150 empty storefronts in
3 one neighborhood, that show that there is something
4 wrong that is going on that we need to try to fix in
5 some way. And you're right, it's why I've tried to
6 respectfully, thoughtfully make this point throughout
7 this hearing, is that I think we have to be nuanced
8 about this. I think we have to understand there's
9 not a one-size-fits-all solution, but I am trying to
10 figure out what that solution is that staves off
11 McNally Books closing and Tortilla Flats closing and
12 Associated closing solely because of a tripling or
13 quadrupling of the rent when their businesses have
14 been doing fine. That is what I'm trying to get at
15 today, and it's not the easiest answer because the
16 landscape is different all across the city. I want
17 to go to Council Member Rodriguez and then Council
18 Member Kallos.

19 COUNCIL MEMBER RODRIGUEZ: Small

20 businesses are smart, great entrepreneur, and I can
21 tell you that I come from one of those islands where
22 the first known Native Americans settled in New York
23 City who [inaudible] in 1613, and when the Dutch came
24 back and found her, he was doing business with the
25 Native Americans. I'm one of those 38 percent of New

1
2 Yorkers born and raised in another country. I'm one
3 of those 50 percent immigrants who own the local
4 small business in New York City. If anyone has
5 another plan more than a program by a potential for
6 the law on how to survive to support the local small
7 business, please bring it forward. Because programs
8 are not law. So, as I say, no Speaker in the last 25
9 years has been committed to take this bill to the
10 floor for the vote. Here we are with Speaker Johnson
11 saying loud and clear, we want to hear from all the
12 partners, but when a lot of arguments about the owner
13 intention, come on, we're smart. We know what
14 intention is. The intention is to save our city,
15 because when the local small business close, they
16 property-- that business, they're affected, their
17 employees, their family, and their communities. When
18 the 55 million tourists came here last year, besides
19 staying in Midtown, they also want to go and be
20 connected with the-- the character of the City. And
21 city been changing from community through community
22 as a domino effect. The big franchise are taking
23 over the mom and pop store, and I understand it. If
24 you represent property owner, the conversation is
25 different. We need to discuss with the property

1 owner. I feel that we can persuade the property
2 owner that this can be a win/win situation. But if
3 you represent local small business, wait and listen
4 from the pres-- from the Dominican National
5 Supermarket Association, from the Dominican or the
6 Women Chamber of Commerce, from the all chambers here
7 representing the local small business. Listening to
8 the story, they cannot wait any longer. It's not
9 about the programming. Again, if you represent real
10 estate, we're ready to sit down with you and have the
11 conversation, because we feel that the real estate
12 should be part of this conversation. But if you
13 represent merchants, local small business, I want to
14 work with you, and I want to take you tomorrow to
15 Brooklyn where my friend is holding a business for 30
16 years and the landlord is refusing to give at least
17 more than month-per-month. They're immigrants like
18 us. I'm going to take you to 204 10th Avenue where
19 the landlord is refusing to read the lease and he's
20 taking the cash money every month. Those are the
21 stories that we have in the underserved community,
22 and we need your input and feedback to help us to
23 make this bill better. Like the Speaker said, we
24
25

1
2 want to get the voice of everyone to be able that we
3 end with this bill as a good one for all sector.

4 SPEAKER JOHNSON: Council Member, thank
5 you for that. Council Member Kallos?

6 COUNCIL MEMBER KALLOS: I believe in
7 evidence-based governance. I like reading academic
8 research papers and analyzing other relating data,
9 particularly when I disagree. I found that
10 differences in results often relate to experimental
11 design. Tier [sic] review can help, but it's rare in
12 government, and that it should be. For Larisa Ortiz
13 Associates and the Manhattan Chamber of Commerce,
14 would you share the results of your studies, your
15 questionnaires and experimental design?

16 COMMISSIONER ORTIZ: Yes.

17 COUNCIL MEMBER KALLOS: Okay, and now
18 while every member of this panel has acknowledged
19 that rent is an issue for small business, almost all
20 of you raised additional issues that I would like to
21 engage. So I'm going to ask four questions to
22 different folks and hope that we can get quick
23 answers. For Larisa Ortiz, in your commit-- is in
24 your capacity as a City Planning Commissioner, would
25 you make a motion at the next meeting to study the

1
2 impacts of Manhattan Borough President Brewer's mom
3 and pop zonings? For Downtown Alliance as the only
4 bid to testify so far, you seem to have a command of
5 businesses you represent. Do you have any data that
6 you can share on commercial vacancy rates versus
7 storefronts and what you are seeing downtown? I also
8 want to thank you as a former Council Member, Lappin,
9 for mentioning scaffolding, a white whale for me and
10 businesses. Would Downtown Alliance submit a
11 memorandum support on the scaffolding legislation
12 before the Council? And for Manhattan Chamber of
13 Commerce, President Jessica Walker, as Chair of the
14 Land Use Subcommittee on Planning, Dispositions,
15 Concessions, I've been advocating for and winning
16 affordable commercial space and new affordable
17 housing developments. Would you work with me on
18 future projects throughout Manhattan to expand
19 affordable retail?

20 COMMISSIONER ORTIZ: I guess I'll go
21 first. I actually cannot comment on Land Use or
22 regulatory issues here. I'm conflicted from doing
23 that. But I will say that I bring this concern to
24 every hearing that we get, and if you're sitting in
25 City Planning Commission, you will know that I am

1
2 very tough on applicants. I have a lot of concerns
3 about how we are deploying our zoning as a tool, and
4 I do try to address those in the Commission, but I
5 would not be able to do what you suggest.

6 COUNCIL MEMBER KALLOS: Thank you.

7 JESSICA WALKER: Sorry. In my testimony
8 I do sort of touch upon wanting to do zoning, and I
9 think it something that we should be doing. Under
10 the last Council, I think in December of 2017, so
11 right at the end, they released this Retail Diversity
12 Report. It had a lot of good stuff in there in terms
13 of using zoning to help small businesses. So, I'm
14 absolutely happy to work with you.

15 JESSICA LAPPIN: I would say we do track
16 commercial vacancy rates and we are at about roughly
17 give or take 10 percent. I think that's important
18 too to sort of think about when you hear different
19 statistics about vacancy I think-- I'm talking about
20 commercial-- that you put sort of in perspective.
21 You're never going to be at zero percent, and we're
22 at sort of historic lows for us in lower Manhattan.
23 So, we're kind of happy to be in the 10 percent
24 range. We do not track retail. We never have, and I
25 think honestly would be-- unless technology evolves--

1
2 pretty daunting. We have 1,200 retail storefronts,
3 and that doesn't include when you think about all the
4 doctor's offices and other not-street uses. I'm not
5 even sure how we would begin to track that unless
6 there is a technological tool that evolves, and we
7 would be really interested in that. I would say, you
8 know, in retail rents we have some anecdotal, some
9 resources, and you know, on Water Street, about \$211
10 a square foot, Nassau Street \$205 a square foot.
11 Most expensive would be sort of the Broadway corridor
12 which is 368, which-- so not exorbitant and actually
13 down from last year by about two percent of Broadway
14 specifically. So, I would say, I mean I think it
15 goes to this it's not a one-size-fits-all approach.
16 This is an area that had-- was really under-retailed
17 for a very long time, especially after 9/11 and it
18 has taken almost 20 years to really add, but the
19 businesses have-- we've dramatically added the number
20 of businesses. They're doing well. Rents have been,
21 as I said, sort of going down, and you know, we think
22 it's a success story just adding a number of shops
23 that we have, but it's very different in every
24 neighborhood of the City, and I think that's sort of
25 the key.

1
2 COUNCIL MEMBER KALLOS: Thank you for
3 your work, for your business improvement district,
4 and for Council District Five previously.

5 CHAIRPERSON GJONAJ: Thank you,
6 Councilman. Commissioner, I do have a question for
7 you, and it comes to the impact that this bill could
8 have on rezoning. Currently, there's been a few
9 neighborhoods that have been rezoned, many more that
10 are on the plan or in process of being rezoned. How
11 would this impact those efforts by this
12 Administration?

13 COMMISSIONER ORTIZ: I will have to say,
14 I cannot comment on land use or regulatory issues.
15 I'm not here in my capacity as the City Planning
16 Commissioner.

17 CHAIRPERSON GJONAJ: As an individual,
18 how would you say this could impact any rezoning?

19 COMMISSIONER ORTIZ: I, honestly, I
20 cannot comment on land use or regulatory issues. I
21 would be hit with a fine by the Conflicts of Interest
22 Board, so I'd rather not touch that. My apologies.

23 CHAIRPERSON GJONAJ: Anyone else on the
24 panel that may have any input? I guess that's fine.
25 Thank you for your time and your patience. Next we

1
2 call up Nelson Eusebio, Andrew Berman [sp?], Kirsten
3 Theodos, Justin Levinson, Laura Sewell, and Jeremiah
4 Moss. And in no particular order, I guess we'll
5 start with you, Nelson, from the far left and work
6 our way right.

7 NELSON EUSEBIO: Sure. My name is Nelson
8 Eusebio. I represent the National Supermarket
9 Association, representing over 400 dwindling
10 supermarkets in the New York area, dwindling because
11 we used to be a lot more. We used to be a lot more
12 because doing business in the City of New York in the
13 70s and 80s was totally different than doing business
14 today. The cost of doing business in New York has
15 quadrupled even more than that. The biggest agent of
16 change has been the rent. We have scenarios where we
17 have stores that their leases are up after been
18 serving communities for 20 or 30 years and paying
19 high rent as it is, the landlord will all of a sudden
20 come in and say, "Well, your rent just tripled, just
21 quadrupled. Deal with it." But we can't deal with
22 it. We have to close our doors. In the few instance
23 that we deal with it, what we have to do, we have to
24 go from charging for a can of 16 ounce beans, 99
25 cents, now we have to charge three dollars for that

1 same product, and we're talking about food, food that
2 people need to eat and survive. So what happens to
3 our neighborhood, either the people pay these crazy
4 prices or they get up and leave, and of course, when
5 they do that they call it gentrification, and it's
6 happening all over New York City. So what we're
7 saying is that there needs to be a medium where
8 stores can stay and survive in neighborhoods and not
9 charge these crazy prices that they're forced to
10 charge, when you've got to pay four or five dollars
11 for a 64 ounce bottle of Coca-Cola. My daughter used
12 to live in Little Italy in what they call SoHo now,
13 and my good friend Paul who everybody's been talking
14 about had the Met Food there on Mulberry Street, and
15 she says to me one fine day, she says, "Dad, your
16 friend Paul, I know he's friend and everything, but
17 he's a crook." I said, "Why you call him a crook?"
18 He goes, "Because he's charging five dollars for a
19 Coca-Cola." I say, well, that's not on him. She
20 goes, "What do you mean? He's the one charging the
21 price." I go, "It's a reflection of what he's paying
22 to stay in business." So, what did my daughter
23 leave, do, she left the neighborhood, because she
24 couldn't afford it no more." Subsequently, Paul had

1
2 to leave the neighborhood, too, because he couldn't
3 afford the neighborhood. And who is Paul, and what
4 was Paul? Paul was a young immigrant from the
5 Dominican Republic that came to this country in 1970s
6 and grew up in that neighborhood when it was
7 traditionally an Italian, Puerto Rican, Dominican
8 neighborhood. He bought that store with savings,
9 money that he borrowed from his relatives and his
10 family. He bought that store and he became part of
11 the American dream. Twenty years into his American
12 dream he had a harsh reality. The landlord gave him
13 an ultimatum. He started paying there originally
14 20,000 dollars. The rent went up to 100,000 dollars.
15 When the landlord asked for 115,000 dollars, he had
16 to leave. We killed Paul, and we kill the American
17 dream, and we killed everything that New York City
18 stands for, and we see it all over New York. That's
19 why I said we were 400 stores dwindling supermarkets.
20 We are dwindling, and all our talent and all our
21 funds and our resources you find them now in North
22 Carolina; you find them in Florida, where rents and
23 doing business is cheaper. Why are these people
24 leaving? Why are we losing these resources?

1 CHAIRPERSON GJONAJ: Thank you, Nelson. I
2
3 do just want to point out the original Little Italy
4 is where I was born and raised--

5 NELSON EUSEBIO: [interposing] Really?

6 CHAIRPERSON GJONAJ: on Arthur Avenue.

7 NELSON EUSEBIO: Okay, in the Bronx,
8 okay.

9 CHAIRPERSON GJONAJ: Paul you said,
10 correct?

11 NELSON EUSEBIO: Yes.

12 CHAIRPERSON GJONAJ: Where is Paul now?

13 NELSON EUSEBIO: Well, Paul owns a small
14 corner store in Brooklyn now. So, his--

15 CHAIRPERSON GJONAJ: [interposing] So, he
16 still--

17 NELSON EUSEBIO: American dream has been
18 downsized five times full [sic].

19 CHAIRPERSON GJONAJ: Thank you. Maybe
20 we'll continue from the left, I'm sorry. You want to
21 give her the microphone?

22 LAURA SEWELL: The East Village Community
23 Coalition. I'm Laura Sewell. I'm the Executive
24 Director. Conducted a storefront vacancy survey in
25 August 2018. Interns conducted a walking count

1 noting the addresses of vacancies from the south side
2 of 14th Street to the north side of Houston and from
3 the east side of Third Avenue to the west side of
4 Avenue D. New buildings with undivided retail space
5 no matter how large were counted as just one vacant
6 unit even when they were counted as four in our
7 previous studies. There are eight vacancies in large
8 newly developed properties. Managing agents of these
9 buildings freely stated that their first priority was
10 residential closings or rentals and that they were
11 willing to wait for the right fit for the commercial
12 space. Despite our conservative methodology, the
13 average vacancy rate in our survey area is 15
14 percent. That's four percent higher than the 11
15 percent rate we documented in 2014. The vacancy
16 rates differ widely from avenue to avenue. Avenue C
17 is 23 percent. Third Avenue is 27, and 14th is at
18 31. Anonymous LLCs are playing a speculative game of
19 monopoly with each other at the expense of our
20 neighborhoods. These owners don't frequent our
21 streets. They don't buy supplies at the local
22 hardware store. They don't contribute to the fabric
23 of our community like the small business owners who
24 helped make their buildings such an attractive
25

1 investment. Commercial rent control is not on the
2 agenda today. Rent is not the only challenge facing
3 small business, but it is the only matter before the
4 committee this afternoon. The small measures of
5 support for small business laid out in 737A could
6 have made a difference for some of what we've lost.
7 These people all have faces to me and to you and
8 represent the fine first step toward creating a
9 climate where our small business stands a fighting
10 chance. The unintended consequences we've heard so
11 much about by our daily and direct observation are
12 already happening. We've all seen how many
13 businesses our communities have lost, but the lower
14 east side still has much worth saving. We appreciate
15 the Speaker's commitment to holding this hearing and
16 to finding a workable path forward before it is too
17 late.
18

19 CHAIRPERSON GJONAJ: Thank you, and just
20 for the record, can you state your full name, please?

21 LAURA SEWELL: Laura Sewell.

22 CHAIRPERSON GJONAJ: Thank you, Laura.

23 HARRY BUBBINS: Good afternoon, Council
24 Members, and thank you for the opportunity to
25 testify. I'm testifying on behalf of the Greenwich

1 Village Society for Historic Preservation. My name
2 is Harry Bubbins. I'm the East Village and Special
3 Projects Director. Our organization previously
4 testified at the December 2016 joint hearing held by
5 this committee on promoting retail diversity and
6 preserving neighborhood character where a number of
7 compelling initiatives were discussed. At that
8 hearing we testified in support of the Small Business
9 Job Survival Act and strongly reiterate that support
10 today. We commend the Speaker and the Council for
11 finally bringing this common-sense bill to a hearing,
12 and we hope it will be approved to accomplish its
13 intended goals. While zoning incentives and vacancy
14 penalties are important to consider, without
15 consideration of commercial lease renewal
16 protections, these alone won't be enough. One vital
17 approach to the vexing challenge of rent gouging and
18 refusal to renew leases is the Small Business Job
19 Survival Act. Now co-sponsored by a majority of this
20 committee and over 20 Council Members, this hearing
21 should lead to a vote to approve this much-needed
22 measure. To many the commercial lease renewal
23 process is more of a shakedown than a fair
24 negotiation. This bill will afford a better, more
25

1 equitable environment for small business dealings
2 with difficult and unyielding landlords. Throughout
3 the neighborhoods in which we work, Greenwich
4 Village, NoHo and the East Village, we have seen a
5 devastating loss of longstanding businesses often due
6 to a refusal of landlords to renew leases or to
7 astronomical increases and rent. The list of lost
8 businesses is too numerous to bring up today, and
9 you've heard some already, but one example is
10 Avignone Chemists on Bleecker Street, the oldest
11 apothecary in the City at over 180 years old, which
12 was forced to close when their lease came up and the
13 new landlord tripled their rent. Café Vivaldi on
14 Great Jones [sic] on Jones Street was a
15 quintessential Greenwich Village café restaurant, and
16 live music venue, which was forced to close in part
17 by a tripling of their rent by landlord Steve Croman
18 [sp?] who recently served jail time for his dealings
19 with tenants in 2011. There are many more cases
20 where the Small Business Job Survival Act could have
21 made a difference, some of which-- many of which
22 you've already heard today. Our City's neighborhoods
23 are struggling to hold onto their character-defining
24 job-producing entrepreneur-driven small businesses.
25

1
2 We need this legislation as soon as possible to
3 protect them from unfair competition and price
4 gauging landlords. We hope today's hearing will
5 bring us to an affirmative vote on this measure as
6 soon as possible. And with the brief time I have
7 left, there's a second page on the testimony we've
8 submitted. You might hear by some of the real estate
9 forces out there that put together these so-called
10 reports about how Historic Districts or land-marking
11 negatively impact retail climate. Nothing could be
12 further from the proof-- further from that. The
13 second page of our testimony is a little bit on that
14 to rebut some so-called reports that were out there
15 recently. Thank you.

16 CHAIRPERSON GJONAJ: Thank you, Harry.

17 JUSTIN LEVINSON: My name is Justin
18 Levinson, and I worked on the Vacant New York Project
19 that was tallying and mapping vacant storefronts in
20 Manhattan. Like Council Member Kallos, I'm big on
21 data-driven government indecision, so I'll try to do
22 what I can to help that along. As it turns out, the
23 problem is quite widespread. I started this in 2016.
24 By summer 2016 I had recorded nearly 1,000 vacancies
25 in Manhattan via combination of online collection and

1 hand count. I am working on an update. I don't have
2 final figures at the moment. The initial count is
3 probably about 1,200 plus, just about a 20 percent
4 increase about two years. Due to inaccuracies in the
5 data gathering process both in 2016 and today, I
6 under counted by quite a large amount. My properties
7 that weren't represented by your large brokers or
8 part of a long tale of sort of small owner-occupied
9 ended up often not being counted if I could hand
10 count them. I had a sort of crowd-sourcing approach
11 where I had people write in anything that I had
12 missed. I collected more than 100 additional
13 vacancies written in by readers in 2016, and some of
14 those were also included in Borough President
15 Brewer's hand count which would be 188, and Senator
16 Hoylman's Bleecker Report as well. Although present
17 across the borough, distribution tends to be around
18 higher rent districts with neighborhoods like SoHo
19 being particularly hard hit. Based on my research
20 and anecdotal evidence, it appears to be happening as
21 rental tenants are being presented with large
22 increases, and then they're either vacating or
23 they're simply not being offered a lease renewal and
24 the property owners will wait to find a new tenant
25

1 who will simply pay what they're asking. My most
2 surprising finding was the sort of emotional response
3 that we're hearing today from people in the room. I
4 was getting this from, you know, news articles, from
5 people who want to open businesses. People who have
6 been pushed out of their own businesses are emailing
7 me just expressing their concern and thanking me for
8 someone finally providing data and a light was
9 actually going on inside the City. As Council Member
10 Johnson has said, this is not a silver bullet
11 solution, but right now we need-- I'd like to at
12 least look at options that we have on the table,
13 things that have been presented including the vacancy
14 tax, registry are also important steps that can work
15 in concert with this bill. Look, I mean, we're
16 really dealing with this problem as a retail vacancy.
17 A lot of these solutions that were represented when
18 this report came out was, "Oh, we can do this to fill
19 these vacant storefronts." My concern at this moment
20 is really to stop the bleeding, because we can't fill
21 up the bowl if there's a big hole in the bottom of
22 it. Thank you.

24 CHAIRPERSON GJONAJ: Thank you, Justin.

25 Justin, I'm just curious about the research. Were

1
2 you able to determine how many businesses we have in
3 New York City as you were conducting your survey?

4 JUSTIN LEVINSON: I'm not, unfortunately,
5 no.

6 CHAIRPERSON GJONAJ: Thank you.

7 KIRSTEN THEODOS: Good afternoon. Thank
8 you for this opportunity to testify. My name is
9 Kirsten Theodos, and I'm a Co-founder of Take Back
10 NYC, a coalition of residents, community leaders, and
11 small business owners with one goal, to see that City
12 Council votes on and passes the Small Business Job
13 Survival Act. Trying to save mom and pop isn't about
14 nostalgia, banning chain stores, nor is it commercial
15 rent control. It's about over 1,000 small businesses
16 that are being shuttered every month, which equates
17 to over 8,000 jobs lost every month in New York City.
18 When a community is out of work, the fabric of that
19 community deteriorates and the path of social
20 mobility for low-income families is lost. And this
21 crisis is getting much worse and rapidly spreading to
22 every neighborhood and every borough as evidence by
23 vacant storefronts on every Main Street across the
24 City. New Yorkers want a real solution to stop the
25 closings and save jobs. We don't want initiatives,

1 loans, reduction in fines or landlord incentives. We
2 want legislation so our struggling business owners
3 can begin thriving again. If we are seriously
4 looking at solutions to save our mom and pops, then
5 we need to address the crux of the problem, which is
6 exorbitant rent increases and the right to a lease
7 renewal, and thank you to the Speaker for also
8 acknowledging that. The SBJSA addresses the issues
9 of our commercial tenant space by giving them a right
10 to a minimum 10-year lease renewal and a right to
11 equal negotiation terms when it comes time to renew
12 their lease. The SBJSA should have passed in 2009
13 when it had the unanimous support of the Small
14 Business Committee and 32 Council Members signed onto
15 the bill. New York City business owners are victims
16 of decades of manipulation and speculation of the
17 free market, rent gouging, banks bidding against
18 franchises for prime space, warehousing storefronts
19 for sometimes for years, flipping property with
20 commercial space in it and just plain greed. This
21 results in commercial tenants not being able to gain
22 reasonable lease terms. Let change come to a
23 neighborhood, but let the small businesses who
24 sacrifice and invest in that neighborhood have the
25

1
2 opportunity to stay in business, protect their
3 investment and the jobs of their employees. Small
4 businesses are the largest employer, the backbone of
5 New York City's economy and vital to the stability
6 and character of every neighborhood. The majority of
7 New Yorkers want our law makers to live up to their
8 campaign pledges of supporting progressive
9 legislation like the Small Business Job Survival Act.
10 It is time that all law makers take the crisis of our
11 business owners, face today seriously, and stop the
12 closing and save jobs by passing the SBJSA. Thank
13 you.

14 CHAIRPERSON GJONAJ: Thank you, Kirsten.

15 GRIFFIN HANSBURY: Thank you, Mr.
16 Speaker, City Council, for this hearing. My name is
17 Griffin Hansbury, and I write as Jeremiah Moss. In
18 over a decade of writing my blog and book Vanishing
19 New York, I've walked the streets of the city talking
20 with small business people about the forced closures
21 of their shops and restaurants, office spaces, and
22 art studios. Over and over they tell me that the
23 number one force shutting them down is a landlord who
24 demands a high rent increase or refuses to renew the
25 lease. Thriving mom and pops beloved in their

1 communities for 20, 40, 80, and more years are pushed
2 out by rents that yes, double, triple, quadruple,
3 quintuple and more. The spaces sit empty creating
4 high rent blight and new tenants, as we know, get
5 short leases that create a revolving door city in
6 which the social fabric of our neighborhood is de-
7 stabilized. I'm also a licensed Clinical Social
8 Worker and a psychoanalyst and a small business
9 person who lost my office to a commercial developer,
10 and I can tell you that the stress of losing a space,
11 the instability of constantly having to pull up
12 stakes is detrimental to mental and physical health,
13 and not just to the business person. New York's
14 always changing, but the current pace of change is
15 out of control. Every day I hear from New Yorkers
16 who are grieving the death of their city. People
17 feel alienate and socially and politically
18 disengaged. They feel hopeless. Time and again I've
19 sat with people who weep over spaces and livelihoods
20 taken away. Too often, I've seen when older people
21 have lost their businesses, they pass away often
22 within a year. We're all affected. Psychologists
23 and neuroscientists who study the streets have shown
24 that the monotony of chain stores makes people
25

1 depressed. Senior citizens age faster when they live
2 on blocks of chains instead of small businesses. A
3 diversity of stable mom and pops both improves and
4 extends our lives, but that diversity is being
5 destroyed by unregulated greed. The City's small
6 business crisis could also be considered a public
7 health crisis. The SBJSA will help stop the
8 bleeding. It's not a silver bullet, as we keep
9 hearing, but silver bullets only exist in fairy
10 tales. This bill is the strongest treatment we have
11 and that's why the opposition keeps throwing up
12 distractions. You're going to hear that internet is
13 killing retail, not high rents, while the internet
14 takes a bite. It's mostly like on Bleecker Street,
15 pushing these big chains to close some of their many
16 locations, many lost leaders. With affordable rents
17 mom and pop can survive the internet. You're going
18 to hear that commercial rents are declining and
19 correcting. While rents are coming down somewhat in
20 some places, they're not returning to affordable
21 levels before this crisis began. A decline from
22 50,000 a month to 40,000 is not affordable. If you
23 have a fever of 105 and it goes down to 104, you're
24 still sick. And on the so-called free market that we
25

1 keep hearing about, the market is not free. It's
2 rigged. When the city and state gives land, public
3 land and money and tax breaks to big business, that's
4 not the free market, it's a rigged market. There was
5 a time when this City Hall protected the vulnerable
6 from the powerful, but New York's values changed.
7 Today, it favors the powerful. It gives protection
8 to the big and leaves the small to struggle. Our
9 city has become in many ways unjust and inhumane.
10 Now you have the chance to change that. If you don't
11 act now and pass this bill, we're going to lose all
12 the remains of the city we love, and New York will
13 lose whatever's left of its soul, and I submit my
14 book to the five members of the committee as back-up
15 for my testimony. It's 10 years of qualitative
16 research.

18 CHAIRPERSON GJONAJ: Are they
19 autographed?

20 GRIFFIN HANSBURY: They are autographed.

21 CHAIRPERSON GJONAJ: Thank you.

22 GRIFFIN HANSBURY: If you want it
23 personalized, you can--

24 SPEAKER JOHNSON: [interposing] They sell
25 for less than 50 dollars? Less than 50 dollars?

1 GRIFFIN HANSBURY: [inaudible] yes, it
2
3 does.

4 SPEAKER JOHNSON: We can take them then.

5 GRIFFIN HANSBURY: Is that safe? Yeah.

6 SPEAKER JOHNSON: Yes, thank you.

7 Jeremiah-- well, your real name's not Jeremiah, but
8 your pen name, your sobriquet, your pseudonym--

9 GRIFFIN HANSBURY: [interposing] Yes.

10 SPEAKER JOHNSON: is Jeremiah Moss. I
11 want to thank you for all you've done to document
12 what has changed in New York City. I remember
13 reading about what was happening at Edison in my
14 district and going for that final day and seeing what
15 you had documented at the Sunshine Theater and other
16 places across the City, and I think telling the
17 history of New York City and understanding the
18 reasons behind the great loss is extraordinarily
19 important. So I really want to thank you for the
20 work that you've done for years and years now in
21 cataloging the history of our great city and actually
22 having that be something that we can learn from and
23 look back on to hopefully put in place sound, public
24 policy solutions to fix that. So, I want to thank
25 you for that.

1 GRIFFIN HANSBURY: Thank you.

2 SPEAKER JOHNSON: I just have a couple
3 questions. I want to just ask to anyone on the
4 panel, you know, there have been-- the staff here at
5 the Council has worked-- as has Chair Gjonaj as you
6 heard from one of the previous panels-- I think very
7 forthrightly and in good faith to prepare for today's
8 hearing. There's been no subterfuge. There's been
9 no game playing. It has really been about getting an
10 education, learning the fact, and understanding what
11 the best path forward is. What I've heard from some
12 advocates, though, is that there should be no changes
13 to this bill, none. That's not reasonable. No bill
14 is that-- gets enacted that way in the City Council.
15 It doesn't matter what the bill is. And so I want to
16 understand from you all as advocates who are before
17 us, where you do think there could be potential
18 changes. Where you think you'd still have a bill
19 that would be meaningful that would still stave off
20 the loss of small businesses that are seeing the
21 doubling, tripling, quadrupling, quintupling of
22 rents, but does not create a process that potentially
23 harms small businesses that we heard about in the
24 previous panel, or captures large white shoe law
25

1 firms that don't need protection on this bill. So, I
2 would love again to have an instructive conversation
3 with each other to understand where we think there is
4 some wiggle room to still get to the heart of what
5 this bill seeks to accomplish, while at the same time
6 not overreaching in a way that isn't getting to the
7 heart of what we're looking at. Any of you can
8 answer this question?

10 NELSON EUSEBIO: I think we're talking
11 about small business. Maybe we can cap it, cap it to
12 that, 15,000 or maybe no more than 20,000 square
13 feet, because if you have 40-50,000 square feet, then
14 you're a big player, you're a chain. You know, you
15 can run with the big boys. Most of our stores, what
16 we represent are between 10, no more than 20,
17 especially in the City, and we have a lot of stores
18 that are 5-7,000 square feet. So, there's a cap on
19 the square footage, that might reflect on your
20 ability to pay-- to pay the rent. I also want to say
21 something that with the rent bill and the landlords
22 lease, so to speak, it goes much more than that,
23 because a lot of these rents are not only high, but
24 they have what they call a "triple net lease" where
25 the tenant has to pay the taxes on the property, has

1 to maintain the property. If the roof falls on you,
2 it's your responsibility, and the landlord walks away
3 100 percent cash-free. He's not making any
4 investment. All this money is in his pocket, and
5 those are some of the things that we should address,
6 if we may, how landlords could take responsibility on
7 their own property and not just pass it on the
8 tenant.
9

10 SPEAKER JOHNSON: So, I want to say
11 something, but I probably shouldn't say. I'm
12 probably going to get in trouble by the staff here at
13 the Council, but I think it's important, again, to be
14 transparent and to be open with each other as we
15 start this process in a meaningful way. There are
16 other bills that members sought which were not
17 mutations of the SBJSA, but different things that
18 people thought whether it is doing what you did, sir,
19 in actually creating a vacancy registry that the
20 Borough President talked about, looking at potential
21 zoning restrictions and understanding how zoning fits
22 into this puzzle that people wanted to hear today.
23 We didn't hear those bills, because I didn't want
24 people to say we were hearing those bills to district
25 from this bill which has been trying to get a hearing

1 for almost 10 years, and so we put those bills aside.
2 But I think part of what this conversation needs to
3 entail is that this bill is not a panacea, it's not a
4 silver bullet; there are other things that we can do,
5 and I think the way to move forward is to have an
6 honest conversation with each other about data, about
7 zoning, about all of the issues we're talking about
8 that are important for us to have a complete and full
9 conversation on this. But and those bills are ready.
10 They're not substitutes for this bill. They
11 complement this bill and complement helping small
12 businesses. We did not hear those bills today.
13 Chair Gjonaj wanted to hear those bills, but he
14 understood that there was a lot of focus just on
15 having a hearing on this bill, so we had the hearing
16 just on this bill. No one knew that, but that's what
17 we did, because we didn't want people to say we were
18 hearing other bills to distract from this bill. So,
19 again, I come back to for advocates what are some of
20 the potential changes you do think are reasonable to
21 the piece of legislation before us that would still
22 accomplish the goal.

24 LAURA SEWELL: Speaker Johnson, I just
25 wanted to add before I answer that is I personally

1 don't have a problem with the bill including all
2 commercial tenants. The SBJSA, the progressive piece
3 of legislation, and I don't think it would be right
4 to discriminate against a sector of businesses
5 regardless if they work on the 30th floor of the
6 Chrysler Building or not. The bill should cover all
7 commercial tenants. As far as which parts of the
8 bill should be altered, you know, I'm not an
9 attorney, I don't really know, but I do know that
10 over the course of 30 years when this bill has been
11 kicking around in one form or another, there have
12 been at least eight amendments and changes made to
13 the bill. So, small business advocates are open to
14 changes as long as the bill still has teeth to stop
15 the closings and save jobs, and stop the extortion of
16 our mostly immigrant business owners.

18 CHAIRPERSON GJONAJ: I just want to add
19 and I just want to reiterate what the Speaker so
20 eloquently stated, and I don't want to use the silver
21 bullet scenario. Let's look at it as a vaccine, and
22 there is no vaccine that's going to cure all of our
23 small business needs. We have treat this more like
24 it's diabetes where we have to change a way of
25 lifestyle, what we eat and exercise, because clearly

1
2 no one issue is going to resolve the small business
3 issues, and we have to keep an open mind that from
4 industry to industry there are different issues that
5 impact and will determine whether that business will
6 survive or not. And Nelson, when you say 14,000
7 square feet, let me remind you that Nick's Coffee
8 Shop which is about 500,000 square feet, competes
9 against Starbucks and Dunkin Donuts and putting them
10 on the same platform with the same protections is not
11 what I think the bill's intention is.

12 NELSON EUSEBIO: And you're absolutely
13 right. You're absolutely right, because we come
14 across a lot of landlords who want a national
15 exposure where they can get a guaranteed rent, where
16 they can get a higher rent or maybe what they feel is
17 a stable rent, and they hold that against us. Why
18 should we deal with you when we get guaranteed 20
19 years, 30 years, from a national chain? And that is
20 a problem. That is an issue. We're independent
21 business people dealing with Wall Street and we just
22 can't fight with them fair.

23 CHAIRPERSON GJONAJ: Nelson, I'll add, to
24 your industry, the National Supermarket Association,
25 for example, small grocery stores have come to me

1 asking for help because you have an unfair advantage
2 over the local grocery store or bodega.

3
4 NELSON EUSEBIO: Yeah.

5 CHAIRPERSON GJONAJ: And we should be
6 mindful that, again, we should look at this as a
7 whole, there's a forest out there and not focus on
8 the tree within the forest. But small businesses
9 have come to me saying, "Mark, help me. I'm a small
10 business owner. I have a corner grocery store. I
11 cannot compete with the Walmart's or the A&Ps of the
12 world."

13 NELSON EUSEBIO: Well, that's not us.

14 CHAIRPERSON GJONAJ: You have C Towns
15 [sic], right?

16 NELSON EUSEBIO: Yes.

17 CHAIRPERSON GJONAJ: So, the C Town
18 scenario compared to a small mom and pop grocery
19 store, understanding the issues that we have here are
20 so complicated.

21 NELSON EUSEBIO: Yeah, they are very
22 complicated, and as a matter of fact, we do work with
23 the Bodega Association and we meet with them about
24 three or four times a year to share information with
25 them back and forth and also to help them become more

1
2 productive in what they're doing. But most cases,
3 nine out of 10, a supermarket, medium size
4 supermarket, 10-15,000 square feet, they co-exist
5 with a corner bodega because they have different type
6 of traffic and different goods that they might sell
7 different times.

8 CHAIRPERSON GJONAJ: Nelson, I'm with
9 you, but I also hear from your own members that we
10 can't compete against the online deliveries that
11 don't have any brick and mortar, the wholesale
12 industry where you order online and 24 hours it's
13 delivered. How do we compete against them? It's a
14 very complicated scenario, and I just want everyone
15 to keep-- and I think the Speaker said it best.
16 Let's keep an open mind as we address all of the
17 issues that impact all of the small businesses that
18 are out there.

19 NELSON EUSEBIO: I know I spoke too much
20 today, maybe. I just want to say something, that
21 I've been to a lot of these hearings and stuff like
22 that, and usually about 5:30 in the evening you have
23 two people up there and everybody's gone home for the
24 day. Thank you for listening to us. Thank you, City
25

1 Council Speaker for taking the time. Thank you, Mr.
2 Rodriguez for putting this together or working with--

3 SPEAKER JOHNSON: [interposing] I'm not
4 staying much longer, I'm sick.

5 NELSON EUSEBIO: This has been fantastic.
6 Thank you.

7 SPEAKER JOHNSON: Let me just-- I know
8 you, Kirsten, you want to say something, but is there
9 an openness and a recognition to explore other
10 complementary things like zoning?

11 JUSTIN LEVINSON: I-- you know, I think
12 just speaking sort of emotionally a little bit, I
13 think that there's a feeling that I have, and I think
14 a lot of my fellow advocates have that somehow if we
15 talk about other options, this is going to be
16 snatched away from us, because it's been snatched
17 away before. But, you know, if I had my ideal
18 scenario, I would have the SBJSA, I'd have vacancy
19 tax, and I would also have zoning to curb formula
20 retail, chain retail. I would have a multipronged,
21 three-pronged approach and just knock this out. You
22 know, talk about vaccination, I think that would
23 really knock out the problem pretty well.
24

1
2 SPEAKER JOHNSON: I would just say that I
3 think the bill as written, again, I think has some
4 problems that I have identified very openly at this
5 hearing today, and I also think that if we were going
6 to adopt a bill similar to this bill, I think some of
7 the folks earlier testified in a very thoughtful way
8 in saying that you would actually need potential
9 resources. You would need budgetary allocations to
10 help some small businesses, to be able to afford
11 legal representation, to be able to understand the
12 regulatory process. I think that's an important part
13 of this and one thing that we shouldn't kind of gloss
14 over I think is a very important detail that we need
15 to figure out in a thoughtful way. The vacancy tax
16 is not up to us. it's a state issue as you heard
17 from Assembly Member Gottfried and State Senator
18 Hoylman, and the zoning issue on this, you heard from
19 our current Borough President Gale Brewer that when
20 she was in the City Council she attempted and she was
21 able to achieve a rezoning on, I believe, Columbus
22 Avenue on the upper west side on smaller stores to
23 try to limit chain stores from over populating
24 Columbus Avenue which is what she saw. It had some
25 mixed success. It didn't exactly play out in the way

1 that I think she had hoped and the Community Board up
2 there had hoped. That could be a lesson for future
3 potential changes. I agree with you, though, that
4 this is a-- it needs to be a fulsome conversation
5 that we have on this, and I just want to set
6 expectations that, you know, this bill like all of
7 our bills that are complicated bills, we-- this past
8 week, the Right to Know Act went into effect, and
9 that was a bill that was negotiated for four years in
10 the last Council and went into effect on Friday, and
11 so bills take a while. In the meantime, we may have
12 hearings on other bills that are not-- that is not
13 separate from this, but again, we think is part of
14 the conversation we need to have on this issue to be
15 able to move this ball forward, and I just think it's
16 important for us to be honest with each other about
17 that.

19 LAURA SEWELL: Speaker, I totally agree,
20 and it should be a multi-pronged approach, and what
21 Jeremiah just described is something I would totally
22 agree with it, but just something you need to rememb-
23 - folks need to remember when we're talking about
24 retail zoning, it only applies to new leases. It's
25 not going to keep our old established businesses in

1 place, and while it's a great idea, it would have to
2 be looked at neighborhood by neighborhood, and I
3 mean, that could take-- to analyze every single
4 neighborhood across five boroughs, I mean, that could
5 take a decade.

7 SPEAKER JOHNSON: Well, I think-- I hear
8 that point, and I would just say that we should
9 potentially-- I haven't thought this out and I
10 haven't had granular conversations about it. We
11 should potentially start to have this conversation on
12 areas that have seen the highest amounts of
13 gentrification, the highest amounts of vacancy rates
14 as recorded in the surveys that have been done and
15 that should be done moving forward, and so I think
16 you can have this conversation at least on the zoning
17 front, not in a citywide way, but in a way that goes
18 to the areas that have seen the highest level of
19 retail blight and have a conversation there, and I
20 think some of the communities that have experienced
21 that would actually like to have that conversation. I
22 can tell you the Community Board Two in the Village
23 would probably like to have that conversation, as
24 would Community Board Four in Chelsea and Hell's
25 Kitchen. I can't speak to the other parts of

1
2 Manhattan or the other parts of the city that I don't
3 represent, but I can tell you that you could
4 potentially identify it in that way so it doesn't
5 become a citywide process, but a process that focuses
6 where we've seen the biggest problems.

7 LAURA SEWELL: And that's great. I just
8 wanted to point that out, that you know, that would
9 only apply to new leases.

10 SPEAKER JOHNSON: Well, I think, you
11 know, I don't think it's best for us to get into it
12 today for a variety of reasons. I think there are
13 legal concerns about this bill. I wanted to have a
14 hearing to hear from everyone, but I do think that
15 there are-- put the New York City Bar Association's
16 opinion aside. I think that there are smart,
17 constitutional folks that have some concerns with the
18 bill as written. And so if we were going to do
19 something, I'm sure you're going to hear from a
20 future panel that there would likely be litigation
21 around anything that we do, which means that if we're
22 going to pass a bill, we should make sure that we
23 really fully, competently feel like that bill is
24 going to pass legal muster as it moves forward or all
25 of this is for not, and I think that's important for

1
2 us as a body. It's part of our responsibility, but
3 also as advocates here today, you wouldn't want us to
4 take a step after all this advocacy and hard work and
5 somehow we've done something that leaves it open to
6 legal challenge. I don't feel comfortable having
7 that exact conversation here today, but I think it's
8 a conversation that everyone should be having moving
9 forward about what rightfully can be in the
10 parameters of the bill.

11 UNIDENTIFIED: I appreciate the nuanced
12 approach to this. I mean, I think-- I'm not going to
13 speak for every advocate of this bill. I mean, my
14 primary concern is that I would like to see the
15 spirit of the bill intact and teeth. I think what
16 people are concerned about with wanting to pass the
17 bill intact is it gets watered down or there's a
18 bunch of loopholes added, and I think we both
19 understand the spirit and the intention of this, and
20 we-- if we measure it by square footage, by number of
21 employees, by you know, amount of money income per
22 year, like there's a way we can slice this, and I
23 think those details can be worked out as long as the
24 original spirit of the bill is included [sic].

1
2 SPEAKER JOHNSON: I think that's a good
3 conversation to have, and I think that's totally fair
4 to have that conversation, but there have been many
5 advocates that have come forward who said there
6 should be zero changes. That doesn't happen with a
7 single bill that is ever passed by the New York City
8 Council. So, that's not a reasonable starting point
9 for us to actually be able to go through a process
10 together. It's not fair. It's not realistic. It's
11 not reality. So, I think we need to be able to have
12 this conversation. I want to thank you all very much
13 for being here today.

14 CHAIRPERSON GJONAJ: Hold on, we've got a
15 couple of questions here. I have one. How many of
16 you come back from the small business world, the
17 micro-business world, less than 10 employees, with a
18 show of hands? Anybody? Thank you. Councilman
19 Powers, please?

20 COUNCIL MEMBER POWERS: Thank you. I'm
21 going to do a little follow-up on the Speaker,
22 because he covered a lot of the questions that I
23 asked. But, you know, I know some of the
24 conversations-- the conversation has been a lot about
25 this bill that covers all tenants throughout the

1 City, and I know we have heard from different groups
2 about impacts and things like that. I'm not asking
3 you to negotiate the bill in public or anything like
4 that, but I did want to go down one tier here, which
5 is to say you have supermarkets who are here. We
6 have cultural landmarks in this city that we want to
7 preserve. Obviously, everybody has a favorite
8 business that they care about in their neighborhood,
9 and then we hear the contrast to office buildings. I
10 know there's disagreement on this, maybe even in the
11 panel. Office buildings in Midtown in my district or
12 others where maybe this isn't the intended goal is to
13 regulate big law firms, big hedge funds, and other
14 business like that. Is there a priority category
15 amongst folks on this? Is it cultural landmarks? Is
16 it supermarkets? Is it ground floor retail? Is it--
17 and then we also have geographical boundaries? I
18 represent Midtown. I represent Midtown Manhattan
19 adjacent to the East Village area and Stuyvesant
20 Town. Are there priority categories, priority
21 geographical areas? If we are going to have a
22 conversation about this, I think it's helpful to
23 have-- know where some starting points are in terms
24 of what are the things, the real intended goals in
25

1 terms of who-- can anybody provide some insight into-
2 - sure.
3

4 LAURA SEWELL: Businesses that serve the
5 needs of the community and the residents of the
6 community, of the immediate community, that's the
7 priority.

8 COUNCIL MEMBER POWERS: I was hoping for
9 more granular, but I do understand there are
10 essential businesses. I'm talking about-- I mean,
11 the Speaker brought up a point of the supermarket.

12 LAURA SEWELL: Shoe repair, you know, we
13 can be very granular-- 500 businesses that serve the
14 community listed in our guide.

15 COUNCIL MEMBER POWERS: Okay.

16 LAURA SEWELL: They-- if by granular you
17 want a list, I mean, here it is. It's everything
18 from cafes and coffee shops to bakeries to people who
19 cut hair and gift stores and galleries to clothing
20 store--

21 COUNCIL MEMBER POWERS: [interposing] So,
22 it does sound like we're talking though predominantly
23 about ground floor retail that is doing sort of
24 neighborhood services and essential services for the
25 community, is that what you're saying?

1
2 LAURA SEWELL: I'm in the East Village,
3 so the bulk of our stock is mixed-use retail. So,
4 it's primarily residential on the upper floors and
5 ground floor is retail or services.

6 COUNCIL MEMBER POWERS: Thank you. And I
7 wanted to ask a question on your-- I appreciate your
8 storefront vacancy survey. I live nearby, so I know
9 some of the areas we're talking about. Did you--
10 were you able to identify the reasons in addition to
11 the vacancies, that rate of reasons of why they were--
12 -

13 LAURA SEWELL: [interposing] We've just
14 started working on it. It's challenging because a
15 lot of the owners are hidden. It's just, you know,
16 an LLC and an address. We do-- we did note several
17 NYU buildings that are vacant on Third Avenue, which
18 is surprising. You would think they would be
19 motivated to bring someone in to serve their
20 population, and also NYCHA buildings have high
21 incidence of vacancies.

22 COUNCIL MEMBER POWERS: Which buildings?

23 LAURA SEWELL: NYCHA.

24 COUNCIL MEMBER POWERS: Oh, NYCHA.

25 LAURA SEWELL: Yeah.

1
2 COUNCIL MEMBER POWERS: And I wanted to
3 note, Third Avenue is a high-trafficked area, close
4 to Union Square, adjacent to the subways.

5 LAURA SEWELL: And an extremely
6 speculative market right now.

7 COUNCIL MEMBER POWERS: An extreme
8 speculative market, got it. And then the 14th Street
9 Avenue A which is kind of on the periphery of-- one
10 of the buildings you note in your vacancy survey is a
11 new building that went up. It has a Target in it.
12 It's not in my district. I live across the street.
13 It's in Council Member Barron's district. That was
14 not actually a-- it's a new development--

15 LAURA SEWELL: [interposing] It's a new
16 development. The existing businesses that I used to
17 shop in were burned out in a fire at a pizza place.

18 COUNCIL MEMBER POWERS: Right.

19 LAURA SEWELL: So it took out--

20 COUNCIL MEMBER POWERS: [interposing] My
21 favorite pizza place in the City.

22 LAURA SEWELL: Yeah, so the new develop--
23 the Target is in a new development. Most of-- a lot
24 of the block is. There's still a remarkable number
25 of businesses open on the block.

1
2 COUNCIL MEMBER POWERS: I guess one of the
3 things I'd raise is that like this bill would also
4 protect-- would also keep the Target in business, and
5 I know that the Associated Supermarket on 14th I
6 think is one of your members, and also most live
7 nearby, is also, you know, on a month-to-month lease
8 considering their future, and many in the
9 neighborhood are concerned about them as well. But
10 the bill would cost O'Keefe [sic] their well-
11 resourced chain store that I think is not the
12 intended goal in business as well, which would then
13 potentially put the supermarket at--

14 LAURA SEWELL: [interposing] I'm not going
15 to tell you it thrills me, but the fact of the matter
16 is, Target managed to negotiate a lease for itself
17 just fine. The businesses who have been in, made the
18 community what it is, have no protections. So, while
19 the conversation is complicated, while what's wrong
20 with small business in New York is very complicated
21 conversation, the fact that this type of tenant
22 that's contributed to the community and continues to
23 contribute has no protections. It's really fairly
24 simple, and that seems to me what this bill
25 addresses.

1
2 COUNCIL MEMBER POWERS: Great. Thank
3 you, and thank you for your survey as well.

4 CHAIRPERSON GJONAJ: Thank you.
5 Councilman Rodriguez?

6 COUNCIL MEMBER RODRIGUEZ: Thank you
7 Chair. You know, what we were addressing in the
8 beginning is like how some sectors they are so
9 interesting on misleading New Yorkers on this
10 conversation. The headline on one of the newspaper
11 [inaudible] "The Blasio Administration Oppose
12 Commercial Rent Control Bill." So, that's the
13 headline immediately. And you heard from the SBS
14 Commissioner, the SBS Commissioner said they have
15 some concern, but no [inaudible] first of all, the
16 Administration called it rent control. But some
17 people are interested to make this conversation about
18 rent control. And it cannot be about rent control
19 when Mayor de Blasio in 2008 sponsored the Intro.
20 8474 which was to create this bill, a small business
21 lease program in commercial lease renewal process.
22 So, I think that, again, we're in the best place in
23 our history with the leadership, with the Speaker,
24 with Chairman Gjonaj and all of us to understand that
25 this is the time of social media. You know, 30 years

1
2 ago when this bill was discussed, a lot of things
3 were discussed in the corner of the room. Today,
4 everyone is engaged in this conversation, and that
5 makes all of us, the elected officials, the real
6 estate, the business community more accountable
7 because people have information immediately. I have
8 conversa-- question to mention which is can you share
9 the experience on how supermarket owners, many
10 supermarket owners, started as bodega owners, and how
11 this bill can help the current bodega owners to also
12 keep their dream that in the future they can be the
13 future supermarket owners?

14 NELSON EUSEBIO: The current supermarket
15 owners were bodega owners 20, 30 years ago, and like
16 we said before, through the desire and through the
17 American dream they were able to buy a supermarket,
18 but that case is harder and harder. Most of the
19 bodega owners today can't reach that level that
20 previous store owners reached. The rents and the
21 overheads that they have doesn't afford the ability
22 to raise funds, have money to make the next level to
23 go into a supermarket industry. So, I don't know how
24 they're going to be able to do it now unless this
25 legislation introduced to help them be more

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successful and more profitable. The profit margin for the bodega owner today is nearly zero compared to what it was 10, 15 years ago where he could make an honest living and dream of getting a bigger location. It's almost impossible now.

CHAIRPERSON GJONAJ: I want to thank you all. We're ready to call up the next panel. Joanne Podell, John Banks, Steven Soutendijk, Robin Abrams, Bill Montana, and James Welch. We'll start from the left if it's okay? Wherever you guys feel comfortable.

JOHN BANKS: Mr. Chairman, if you don't mind, I'd like to start?

CHAIRPERSON GJONAJ: Sure, certainly.

JOHN BANKS: I just want to get some water. I've been waiting for a long time for a sip of water.

CHAIRPERSON GJONAJ: While you're getting ready, I just have a question about the blue hats. Were they purchased from a local small business?

UNIDENTIFIED: Good answer. Good question.

UNIDENTIFIED: Amazon.

1
2 CHAIRPERSON GJONAJ: Maybe we can get the
3 answer to that question.

4 JOHN BANKS: I know the answer. They
5 were purchased from an online dealer. Thank you, Mr.
6 Chairman, Mr. Speaker, members of the Committee. My
7 name is John Banks. I am the President of the Real
8 Estate Board of New York. I want to take some time
9 today to talk about some of our concerns about the
10 legislation being proposed. In the interest of time I
11 would request that my testimony be entered into the
12 record in its entirety, and I will speak to bullet
13 points in order to try to move things along. I want
14 to thank all the homeowners, business improvement
15 districts, affordable housing advocates, and a
16 special thanks to 32BJ Building Service Workers who
17 are strongly opposed to this bill. All of us are
18 very sympathetic to the challenges facing retail
19 businesses and want to help them thrive. The truth
20 is, the retail market is in a state of flux across
21 the country. Online shopping is changing the way the
22 consumers behave. The discussion around this issue
23 have been marked by hyperbole, anecdote and not
24 enough data, but this legislation will do nothing to
25 solve the underlying issues behind storefront

1 vacancies, and instead would have catastrophic
2 impacts on our local economy. The market is
3 correcting the problem of high rents. Retail rents
4 have fallen and are continuing to come down.
5 According to CBRE, asking rents is down 18 percent
6 citywide and down 25 percent in the West Village. We
7 know how easy it is to demonize landlords, but we
8 know that flexibility and support are the greatest
9 help we can give small businesses. The bill will
10 hurt small businesses by stifling innovation. If
11 landlords know that they will be required to remain
12 in a lease agreement in perpetuity, they will wait
13 for a tenant whose idea is proven and can pay and
14 will not be a nuisance to their residential tenants.
15 In the interim, more storefronts will remain or
16 become vacant. There's a myth we keep hearing about
17 the property owners benefit from empty storefronts.
18 This is false. Former Council Member Messinger
19 referenced that she does not have the information
20 behind it that she suspects that this is true. I only
21 point to her colleague on the panel, Senator Hoylman,
22 and his study, "Bleaker on Bleecker", page nine. He
23 says that this myth about the fact that landowners
24 get a tax benefit from keeping their storefronts
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1 vacant is just that misinformation and a myth. Even
2 when storefronts are vacant, landlords have to pay
3 property taxes. We all know the City Finance
4 Division, excuse me, Finance Department does not
5 reduce taxes when assessments are changed. They
6 never go down. We have-- excuse me. Even when
7 storefronts are vacant, landlords have to pay
8 property taxes, which have doubled in the past
9 decade, and operating expenses such as utilities.
10 There are no tax benefits for keeping space empty.
11 There are many areas where the Council has authority
12 to help, zoning regulations, land-marking, and
13 oversight on city agencies. There are solutions that
14 would address the greatest challenges facing small
15 retailers. The Health Department has increased fine
16 revenues 40 percent, and the City's latest budget
17 projects collecting nearly 900 million dollars in
18 fines and fees this year, 110 million dollars
19 increase from previous years. Rising business costs
20 and regulatory requirements impede occupancy. Older,
21 outdated space impedes occupancy. This bill will
22 impact neither root cause of storefront vacancies.
23 Legal concerns remain. Despite what many have said,
24 I'm going to ask a very simple question. Are the
25

1 rents able to fluctuate in a free market? If they
2 are not under this legislation, then they are
3 controlled. New York City Bar Association recently
4 reported that the Council has no legal authority to
5 pass this bill. If we put the issue aside though,
6 the bill still would not address some of the greatest
7 challenges facing small businesses in New York City.
8 Our own research shows that restrictive zoning and
9 other regulatory requirements lead to higher retail
10 vacancy rates. Commercial Rent Control ignores
11 market conditions and would hurt the economy. This
12 bill will kill jobs, kill ingenuity, and ensure
13 homogenization of retail in the City of New York. It
14 was deeply flawed 30 years ago when I was in the Koch
15 Administration. It was deeply flawed 28 years ago
16 when I was in the City Council Finance Division. It
17 was deeply flawed 16 years ago when I was Chief of
18 Staff to the City Council, and it remains deeply
19 flawed. The only survival the bill ensures is the
20 continuation of vacancies. We hope any legislation
21 put forward by the City Council will be legal, based
22 upon data and not anecdotes. We hope the Council
23 will pass legislation that will create jobs for small
24 businesses rather than perpetuate the endless
25

1 government regulation and laws that are ever
2 increasing-- are an ever-increasing burden on small
3 businesses. Thank you.

4 SPEAKER JOHNSON: Thank you. Mr. Banks,
5 before we get to the rest of the panelist, because I
6 do have to go home. I am not feeling well.

7 JOHN BANKS: And I appreciate you
8 sticking--

9 SPEAKER JOHNSON: [interposing] So, I
10 wanted to stay for as many folks as I could. I have a
11 few questions for you. I think there are many things
12 you said we may not entirely agree on, but I want to
13 understand again the question I have posed to
14 multiple panels. What do you suggest, or do you
15 suggest nothing when the rent is doubled, tripled,
16 quadrupled? The business has been a viable,
17 profitable, well-run, well-managed business that has
18 had a customer base in a neighborhood, whether again
19 it be Tortilla Flats or McNally Books, or Associated
20 Supermarket, and the landlord, whoever the landlord
21 is, doubles, triples, quadruples the rent, what do
22 you believe should happen? Nothing?

23 JOHN BANKS: So,-- no.

24 SPEAKER JOHNSON: Okay.
25

1
2 JOHN BANKS: What I believe should happen
3 is that the City, as a matter of public policy, if in
4 fact you find that this is an area that needs
5 redress, then the City because it is the broadest--
6 has the broadest ability to spread the risk across
7 all of the City's residents, tax payers and
8 otherwise, should consider an incentive program to
9 help smooth over temporary or rent increases that may
10 or may not result. I am disheartened by the fact
11 that Tortilla Flats is closing. They have plenty of
12 my money, so I know that they are able to provide a
13 reasonable amount of return on their investment and
14 continue to work. I do not dispute that they're
15 going out of business for whatever reason they say
16 they are. But the City is dynamic. It changes, and
17 there are winners and losers in that, and we just
18 need to be careful that we do not try to apply a
19 blanket solution to some place as dynamic as the City
20 of New York.

21 STEVE SOUTENDIJK: And before we lose
22 you, Speaker Johnson, I just want to talk about
23 McNally Books because it's been referenced a number
24 of times.

25

1
2 SPEAKER JOHNSON: If you could give your
3 name, sir.

4 STEVE SOUTENDIJK: My name is Steve
5 Soutendijk. I'm a retail leasing broker that works at
6 Cushman and Wakefield. I rent stores for a living,
7 primarily in Manhattan. McNally Books is actually
8 going to be signing a new lease elsewhere, I believe
9 on Eighth Street. So, it's not a closing, it's a
10 relocation. In addition, she also has a store in
11 Williamsburg, and my understanding is that she's in
12 negotiations on another lease as well. So, this
13 closing small business will at the end of the day
14 have three very successful stores.

15 SPEAKER JOHNSON: I understand that, but
16 that's one example.

17 STEVE SOUTENDIJK: I don't know the
18 situation--

19 SPEAKER JOHNSON: [interposing] Let me--
20 let me finish. That's one example that you were able
21 to give a relocation. There are many businesses for
22 whatever reason who are not able to relocate because
23 of the price that is paid upon a closing and upon not
24 having a lease renewal. So, I'm glad that the owner
25 of McNally Books is able to find another location on

1 Eighth Street. Eighth Street is actually one of the
2 worst places in Manhattan for vacancies and has been
3 for many, many years between Sixth Avenue and Fifth
4 Avenue on the north and south sides of that street.
5 It was a street that had beautiful record stores and
6 other stores, but were vacated mostly, when you talk
7 to those owners, was because of a rent increase, not
8 because of business going down. So, again, Mr.
9 Banks, you had said that you think the decision to
10 come up with some type of incentive program, what
11 does that mean?
12

13 JOHN BANKS: So, for example, if a small
14 business-- and I agree with many of the other
15 speakers who said that we need to define exactly what
16 is small business. I think it's absolutely ludicrous
17 that we would seek to protect the Fortune 500 Company
18 in their lease. That--

19 SPEAKER JOHNSON: [interposing] You and I
20 agree on that.

21 JOHN BANKS: So, if you are truly a small
22 business, and we would work with the council to
23 define that so that it is limited in scope, we
24 believe that something like a tax abatement program
25 for a period of time which would offset any rent

1
2 increase for that small business would be a way to
3 manage a transition. Obviously, for both the City's
4 Fisc [sic] and the landlord and the tenant, there
5 needs to be some phasing out of that. You don't want
6 to provide a subsidy in perpetuity, but we think that
7 to allow a business to change and to become more
8 profitable, tax abatement program would be something
9 that the City could offer and spread the risk across
10 the entirety of its tax base as opposed to relying on
11 the individual landlord or owner of the building to
12 bear the burden of the public policy that is being
13 presented.

14 SPEAKER JOHNSON: Do you think there's
15 any speculation involved on why we're seeing
16 significantly higher vacancy numbers in certain
17 neighborhoods across Manhattan and across the City?
18 What do you think is one of the main drivers that
19 contributes to that?

20 JOHN BANKS: I think that the City is a
21 dynamic place. Ten years ago, Williamsburg and
22 Brooklyn, I-- Wythe Avenue was desolate. Today, you
23 go on Wythe Avenue, it is booming. I could not-- I
24 drove past it recently. I could not believe how
25 vibrant the community had become because of all the

1 development and the fact that there's no increase
2 truck-- excuse me-- foot traffic and residential, the
3 residential community has thrived, and many of the
4 businesses I suspect that are on Wythe might have
5 been in the East or the West Village but have found a
6 home in the Williamsburg area. Other developing
7 neighborhoods, Long Island City, Astoria, Bushwick
8 now, they are experiencing the type of retail--
9 excuse me-- retail growth that other parts of
10 Manhattan may have had. Manhattan is a very expensive
11 place to live and to work, but there is opportunity
12 in other parts of the City, and I think--

14 SPEAKER JOHNSON: [interposing] But when
15 you're in the West Village and you have 150 empty
16 storefronts--

17 JOHN BANKS: [interposing] Out of how
18 many, Mr. Speaker?

19 SPEAKER JOHNSON: I can't give you an
20 exact number, but I can tell you that when you walk
21 up Hudson Street you are seeing huge numbers of
22 vacant storefronts in a way that does not seem normal
23 or healthy for a local neighborhood. Where you used
24 to have a bodega or a pharmacy or a coffee shop or
25 things that make up our neighborhoods are now

1 shuttered storefronts for years upon end with no
2 business coming in, and again, I can't speak to all
3 of those businesses because some of them may have had
4 bad business models. Some of them may have had
5 overleveraged themselves. Some of them may have made
6 bad business decisions, but plenty of them said that
7 they were viable businesses and the reason why they
8 closed was the rent was increased gigantically, and I
9 want to understand how you think besides an incentive
10 program, how you think we should address that.

12 JOHN BANKS: Well, the reason I ask you
13 the context of the 150 storefronts that you observed
14 is because as we've said and others have said, we
15 don't have good information, and we are trying or at
16 least there is a proposal to legislate in a data
17 vacuum, and that is wrought with risk. I think one
18 of the things that Council can do as an initial step
19 is to engage in a meaningful process of understanding
20 retail markets, retail spaces and why businesses go
21 vacant. That way, when a public policy gets
22 determined to come out at the end of that process it
23 can be done based on fact and data and not anecdote--

24 SPEAKER JOHNSON: [interposing] I don't
25 disagree with you on that. I actually think it is

1
2 very important that we have the data that we need to
3 make decisions to understand the breadth of the
4 problem borough by borough, neighborhood by
5 neighborhood, zip code by zip code, council district
6 by council district, Community Board by Community
7 Board because I think that what that data will show
8 is that there are neighborhoods that have experienced
9 rapid gentrification, real estate speculation, and
10 other things that has contributed to this high level
11 of vacancy. You may seem that in some areas, you may
12 not see it in other. Again, which is why I said to
13 the advocates that came before you and on other
14 panels, I don't think this bill is a perfect bill. I
15 think we do need more information. I think this bill
16 needs to be tailored in a certain way, and I don't
17 believe that white shoe law firms and Goldman Sachs
18 should be treated the same way as a shoe repair shop
19 that has a good business but their rent is going to
20 go from 20,000 dollars a month to 80,000 dollars a
21 month and they go out of business. That is what
22 we're talking about here that I'm trying to figure
23 out in a sound public policy manner, how the City
24 should address the hyperinflation of rents in certain
25 neighborhoods. Now, we don't have to get into what

1 the arguments or what REBNY's position is on rent
2 regulation as it relates to residential rents, but I
3 would tell you that I believe that with the
4 homelessness crisis that we have right now, 63,000
5 people in the shelter system last night, almost
6 10,000 people sleeping on the streets of New York
7 City, we have a major crisis, and one of the reasons
8 why is because we have gaping holes in our rent laws.
9 I think that, again, if you don't figure out a way to
10 solve these problems, the problem ends up getting a
11 lot worse down the line, and I am afraid that we
12 could potentially see similar issues, not citywide
13 but neighborhood by neighborhood, given the dynamic
14 of individual neighborhood, that we see on
15 homelessness for individuals as we're seeing for the
16 loss and the real just trying to stem the tide of
17 local small businesses. It's gotten really bad. I'm
18 afraid it's going to get even worse. People keep
19 saying as you said, the market's dynamic. It bounces
20 back. It's flexible in some way. Well, that's true
21 in some places, but not in all neighborhoods across
22 New York City as we experienced that. I can tell you
23 where I live in Chelsea at the border of Chelsea and
24 the Village I haven't experienced that. There are
25

1 storefronts that have been vacant for years and years
2 and years on end, and that is bad for the fabric of a
3 community, of a neighborhood, and I want to try to
4 figure out a way to fix that in a way that is based
5 on data and sound public policy that gives small
6 business owners some chance at making it, some chance
7 at being able to be part of this great city. I
8 haven't heard from opponents of this bill some
9 concrete steps that you believe we should take to do
10 that besides what you just named, which is some
11 potential incentive program. That's the conversation
12 that I want to have. I want to do it in a databased
13 way, and I think it's something that all of us should
14 work on. I do take exception with something that you
15 said in your testimony, which is I think our legal
16 authority, we have some legal authority. We'll
17 figure out what that legal authority is. I'm sure
18 you guys might challenge our legal authority.

19
20 JOHN BANKS: You can be assured we will
21 challenge it.

22 SPEAKER JOHNSON: You will challenge it,
23 which is why it's important that we get it right, but
24 that's where my thinking is on this, and I think it's

1
2 a conversation that is important to have which is why
3 I'm glad we're having this hearing today.

4 JOHN BANKS: Mr. Speaker, I agree
5 completely that dialogue is good and we would love to
6 continue to have the dialogue that we have had with
7 your staff. I won't respond to your comments about
8 rent regulation. We have plenty of time over the
9 next eight months to do that.

10 SPEAKER JOHNSON: I think we'll be on the
11 opposite side of that issue from each other.

12 JOHN BANKS: I'm pretty sure we're going
13 to be on the opposite side of that issue as well.

14 SPEAKER JOHNSON: Thank you. Mr. John, I
15 know there are other people here to testify. I'm
16 going home. I'm sorry if I didn't get to hear you
17 today.

18 JOHN BANKS: Feel better.

19 SPEAKER JOHNSON: But I'll be looking at
20 people's written testimony. Thank you very much.

21 CHAIRPERSON GJONAJ: Speaker, before you
22 leave, I just want to ask a question that maybe I
23 think is important. Mr. Banks, besides the data
24 driven, certainly that we needed that. That's needed
25 to determine what course of actions taken. What would

1
2 a tax abatement proposal look like? Would it be
3 means tested? Would it be based on the fact whether
4 or not a business can support an increase--

5 SPEAKER JOHNSON: [interposing] Well, Mr.
6 Chair, I don't want to answer this question for Mr.
7 Banks, but I would say that one thing that's been
8 talked about in the past is you could potentially
9 incentivize landlords to resign leases at a certain
10 rate, and if they did, they could get a property tax
11 abatement on their properties in a meaningful way
12 that could potentially incentivize them to resign the
13 lease at a level that is not going to significantly
14 harm the business that's there. I think there are
15 ways to think about that in a creative way, again,
16 which is why I think it's important to have this
17 conversation in a fulsome manner and be creative
18 about potential solutions knowing that this is not
19 the silver bullet.

20 JOHN BANKS: I would like to defer all
21 future questions to the Speaker.

22 [laughter]

23 SPEAKER JOHNSON: Yeah, I don't know
24 about--

1 UNIDENTIFIED: You're going to come to
2
3 regret that.

4 CHAIRPERSON GJONAJ: He's going home to
5 get chicken soup.

6 JOHN BANKS: Thank you, Mr. Speaker.

7 CHAIRPERSON GJONAJ: If we can continue
8 and then we'll ask the questions afterwards.

9 JOHN BANKS: Great. Thank you.

10 ROBIN ABRAMS: Hi, my name is Robin
11 Abrams. I'm Vice Chairman at Compass. I've been a
12 commercial broker for over three decades. I'm a
13 prior Chair of the Real Estate Board's Retail
14 Committee where I initiated the Reacher [sic] Report,
15 covering rents on major New York City retail
16 corridors. There are a few points I'd like to touch
17 on that demonstrate that the proposed Intro. 737
18 legislation will not be positive for small businesses
19 and will lead to increase, not less, vacancy.

20 Talking about vacancies: As a broker that represents
21 a lot of tenants and is now representing some
22 landlords, I'm finding across the boards that
23 landlords do not want to keep their spaces vacant.
24 As brokers that represent landlords, I think a number
25 of us are under pressure from those landlords whether

1 they're small building owners, institutional
2 landlords, or co-op and condo building to secure
3 tenants. Landlords are more flexible, more creative
4 in order to do deals. If you see what's happening in
5 the retail climate, many of them are now doing pop-
6 ups, they're doing shorter term leases, offering
7 incentives including lower rents, free rent periods,
8 and doing work to prep spaces for tenants to
9 encourage deal making. Rents, as we've all said, are
10 overly aggressive. They've been softening
11 tremendously over the past several years. They've
12 gone down. Everything is cyclical. It has taken a
13 couple of years for them to naturally correct
14 themselves, and we now see significantly lower rents
15 in almost all of the areas. At the height of the
16 market they were extremely high. Now, if we look at
17 neighborhoods like the Upper West Side, we're hearing
18 there's a lot of vacancy. We see deals, as Steven
19 said, in many areas, Roshbeba [sp?] Furniture, Design
20 within Reach Furniture, Shakespeare Book Store. So
21 there is deal making that is going on based on
22 landlords taking lower rents and encouraging creative
23 deal terms. Retail is changing. We are challenged.
24 There are many uses that are no longer taking as many
25

1 stores, and a lot of the stores are now downsizing.
2 We don't see as many chains expanding, and I think
3 that landlords are embracing all kinds of creative
4 uses. At the same time, there's a tremendous amount
5 of new construction. You know, I've seen numbers
6 quoted of 15 million, 25 million. There is a lot of
7 square footage that's been added to the inventory and
8 the amount of space that's being leased. You know,
9 it's tough for it to keep up with that. Online
10 shopping has diminished retail sales for many
11 retailers, but we also see e-commerce brands opening
12 stores, Google, Amazon, Untuck-it, Bonobos [sp?], the
13 Real [sic] Glossier [sp?]. ICSC recently, which is
14 the International Council of Shopping Centers,
15 reported that online brands open brick and mortar
16 stores and that induces their overall sales to go up
17 dramatically. So we want to encourage these kinds of
18 tenants also to open stores in New York City. There
19 are challenges, hidden costs such as real estate tax,
20 city occupancy tax, difficulty in obtaining DOB
21 approval, landmark approvals, other necessary
22 protocols which are costly, time consuming, and
23 frighten local businesses from leasing space. Who's
24 expanding? Food, fitness, experiential uses among
25

1 others. The process has to be simplified for them
2 and others, easier to navigate and quicker. Those
3 uses in particular have to accommodate certificate of
4 occupancy requirements, public assembly permits.
5 Often the tenants and perspective landlords are put
6 off by these processes that are necessary for them to
7 open. If landlords have to offer renewals to
8 existing tenants, other tenants will not consider
9 space until they know the spaces will be vacated.
10 They will be fearful of wasting their time
11 negotiating and then not being able to proceed if the
12 landlord must maintain the existing tenant. Based on
13 the scenario that is now proposed, it is a very
14 difficult and cumbersome process. The City should
15 encourage deal making by facilitating the process and
16 should not impose regulations that will potentially
17 discourage tenants from leasing space and filling the
18 vacancies.
19

20 CHAIRPERSON GJONAJ: Thank you, Robin.

21 ROBIN ABRAMS: Thank you.

22 JOANNE PODELL: Hi, I'm Joanne Podell.

23 I'm also at Cushman and Wakefield and also as a
24 former chairman of the Real Estate Board of New York.
25 I'm currently a member of the Commercial Board of

1
2 Directors. I've been in the leasing of retail stores
3 for 25 years. I represent landlords and I represent
4 tenants, and so I have a really great overview of
5 everybody's needs and how we can find ways to get
6 deals done, and that's the most important thing, how
7 do we come together to make deals so that people do
8 have retail stores. So, my story starts with I was a
9 retailer, and so I can tell you I understand all of
10 the challenges, all of the difficulties, all of the
11 problems with competition, and of course, rent. I
12 can tell you I went out of business, and I lost my
13 business and a hell of a lot more, but it was a great
14 learning experience, and so when I began the process
15 of being a retail broker I understood full well the
16 cost, the human cost, associated with having a store,
17 what it means to have to make payroll. And so that
18 led me to do the very best I could to negotiate on
19 behalf of landlords and tenants in a fair way so that
20 we could keep the tenants and the landlords could get
21 a fair rent. Some things have happened to change the
22 retail the business, and those are the things that we
23 all have to look at, because they will help us to
24 understand how we get to the next step. A lot of
25 decisions go into making a deal, right? And a

1
2 retailer has to look at pro-form [sic]. He has to
3 understand what his real costs are. What are the
4 labor costs? What are the construction costs? What
5 are the administrative costs? It's not just about
6 rent. It's about so much more, who your customer is,
7 are you in the right location? Has the location
8 changed? And maybe, just maybe the relevant retailer
9 has to move somewhere else. It's not to say they
10 failed, and it could be about rent, but it could be
11 that maybe they're going somewhere else. And I think
12 we should call up Tortilla Flats and tell them they
13 should find another restaurant, and we'll all help
14 them, because this what we do.

15 UNIDENTIFIED: We've already called them.

16 JOANNE PODELL: He already called. You
17 see what happens? So, consumer habits are changing,
18 and they're evolving, and-- evolving, excuse me. And
19 online competition is part of it. But the National
20 Retail Federation, which is the most important retail
21 organization with the greatest statistical
22 information, tells us it'll only represent 20 percent
23 of retail by 2020. If you consider that catalog is
24 10 percent, that's really not a lot. Oh, I'm going
25 to go fast. Okay. So some information, which I

1 think you'll find interesting. Let's talk about
2 Broadway and SoHo where there's significant amount of
3 availability. That availability, yes, the rents have
4 gone up. I am not going to dispute that. What
5 happened to Lafayette Street when those rents went
6 up? Walk Lafayette Street with me. It's packed.
7 You can't find a store, because the tenants said,
8 "You know what landlord, if it's going to be too
9 expensive and I'm a viable business, I'm going to
10 find some place to go." Look at a street like
11 Madison Avenue from 34th Street to 39th Street. It
12 was desolate. It had wholesale stores. It had
13 bodegas. It had really almost no stores to tell the
14 truth. What do you think happened there? And I'm so
15 happy to say that many years ago I put a retail store
16 in there, and it was a furniture store. Everybody
17 said, "What are you crazy, putting a furniture store
18 there?" I said, "Just do it. Go there. You're
19 going to be alright." It is now Furniture Row. I
20 made no more deals there, by the way, but it's okay.
21 It's Furniture Row. Every store is filled with
22 furniture stores paying big rents, and those rents
23 translate to tax dollars for us, because part of the
24 way that we gain our revenue is based on the income
25

1 from these buildings, and if we get tax dollars that
2 are high, we get rent that's higher, and their income
3 is higher. Real estate people pay more in taxes, and
4 that's to all of our benefit. Nolita [sic], perfect
5 example, the rents went crazy many years ago. It
6 started out the very small stores. Suddenly the
7 stores are 800 dollars a foot. Emptied out. Well,
8 guess what? I walked Nolita [sic] on Friday. You
9 can't find a store, and the rents are where they
10 should be, 250 to 300 dollars a foot. Self-
11 regulation, where it can be painful, and it can be
12 painful sometimes, it really works. The gentleman
13 who was so passionate earlier on when he said 400
14 years-- well, for 400 years it worked. Why can't it
15 continue to work? And yes, we can help some of those
16 entrepreneurs that are trying very hard to build
17 their businesses. John, tax incentives-- you have a
18 whole community of people here who are participating
19 today because we believe in New York and we want the
20 City to continue to grow, and we need to work
21 together, but by controlling, controlling the rent,
22 we're not solving a problem. We're creating a new
23 one. Thank you very much.

24
25 CHAIRPERSON GJONAJ: Thank you, Joanne.

1
2 STEVE SOUTENDIJK: Good afternoon. My
3 name is Steve Soutendijk. As I mentioned, I'm a
4 store leasing broker who's worked at Cushman and
5 Wakefield for 14 years, representing both retail
6 landlords and tenants across the City. My livelihood
7 like my fellow brokers here relies on tenants and
8 landlords finding common ground and signing leases,
9 both long-term and short-term to occupy retail space.
10 Vacant storefronts not only distract from that
11 vibrancy, but also are not good for business, period.
12 For property owners who lose cash flow while still
13 paying property taxes and mortgage payments, for
14 retail businesses unable to benefit from a dense
15 consumer population, and for brokers like myself who
16 rely on commission income from deals to make a
17 living. While challenges facing retailers and small
18 businesses at a macro level, whether it's the
19 pressures of e-commerce and Amazon or the rising cost
20 of labor have contributed to the current level of
21 availability and New York's retail market, there is
22 no question that rents have also played a part. From
23 2010 to 2016 rents rose at a rapid pace, but as it
24 became clear that those rents coupled with the macro
25 economic challenges were unsustainable, the market

1
2 underwent a dramatic shift. Over the last two years
3 landlords have become increasingly flexible, not only
4 on base rents, which in almost every major New York
5 City market have dropped between 20 and 30 percent,
6 but also on concessions and incentives to lure
7 retailers. Whereas previously landlords would have
8 preferred longer term leases, in an effort to prevent
9 vacant storefronts and to maintain some cash flow,
10 owners increasingly look to pop-up and short term
11 deals giving small businesses and start-ups and
12 opportunity to prove out a viable business model
13 without making a long-term financial commitment to a
14 space. The substantial rise in these pop-up deals
15 disprove this bill's proponents almost by themselves.
16 Landlords are not waiting for a bank or a drug store
17 to fill their spaces, but rather taking a risk often
18 at substantially discounted rents and with meaningful
19 start-up risks in signing pop-up leases. As I
20 mentioned, almost every landlord we deal with
21 recognizes this massive shift in the retail market.
22 Banks have been downsized thanks to the rise and
23 efficiency of mobile banking. Drug stores have not
24 been expanding facing tremendous headwinds from
25 Amazon and the competitive e-commerce marketplace.

1 Duane Reade put 20 spaces on the market for sublease
2 this year, and there are fewer banks in Manhattan in
3 the last five-- in the last five years there have
4 actually been less banks in Manhattan. So, that's
5 actually less of a thing. Even if a landlord was
6 going to keep a space vacant intentionally waiting
7 for one of these tenants, it's unlikely that they're
8 going to come. Taking their place, decreased rents
9 and increased flexibility have meant that restaurant,
10 bar, and food and beverage tenants are now more
11 active than ever, despite the pressures that
12 Community Board and the Department of Health making
13 that business even more challenging. New York's
14 retail market like any free and fair marketplace is
15 susceptible to the power of supply and demand. This
16 is what we do every day for a living, and we can tell
17 you with certainty that landlords do recognize the
18 challenges in the retail world and have adjusted
19 pricing and concessions accordingly and that deals
20 are now getting done. The market is working and it's
21 imperative we let the forces of supply and demand do
22 their job. Thank you.

24 CHAIRPERSON GJONAJ: Thank you Steve.

1
2 JIM WATT: So, good morning. My name is
3 Jim Watt. I wear a lot of different hats. I am a
4 landlord or I should say a property owner. I'm also
5 in the retail business. I've owned five bagel stores.
6 I no longer own them. I sold the business. I
7 recently opened a kid's indoor activity center in
8 Park Slope, Brooklyn. We're opening a second one in
9 Boerum Hill shortly. I also own now a high-end barber
10 company. We're opening locations hopefully in New
11 York shortly. So, I'm a tenant. I'm a property
12 owner, and I also own a brokerage company called Lee
13 & Associates where we have 85 brokers now, 20 of
14 which specialize in retail leasing. One thing I have
15 not heard today was any discussion about what impact
16 this might have on the tax base of New York City. if
17 you look at what's happening to our budget over the
18 last five years, it's gone from 69 billion dollars to
19 I think currently 89 billion dollars. It's a 20
20 billion dollar increase, a 30 percent increase. What
21 is paying for that increase? Increased rents. So,
22 if we do something today that now impacts rent
23 significantly, it's going to impact our budget, and
24 then you as the City Council will have to make a
25 decision, how are we going to pay for it? Do we

1
2 continue to have lower rents, or do we continue now
3 not to have as many teachers? Do we continue not to
4 have as many fireman, police officers, so forth and
5 so on? So there's been no discussion today, no
6 mention whatsoever about the effect this will have on
7 the City budget. The other thing is, I've managed
8 and I've owned real estate in New York City for 30
9 years. I've dealt a lot with small retailers. I
10 happen to like small retailers. I like to keep them
11 in business. I can't think of a time, except for
12 maybe once or twice, where I actually did not renew a
13 tenant because of a rent issue. I've not renewed
14 tenants because I didn't like how they operated. I
15 have not renewed tenants because they didn't pay my
16 rent in a timely manner, and I had a bad track record
17 with them, so I did not renew them. I am now going
18 through a process where I have an office building
19 that I've owned for many years. The neighborhood now
20 has improved significantly over the last five years.
21 My tenants in the building are two liquor stores, a
22 wholesale handbag store, and a low-end vitamin shop.
23 These are not the type of retailers that I think are
24 now appropriate for that neighborhood. So, I'm going
25 to spend two million dollars to upgrade the retail

1 space in that building and replace those tenants.
2 Under this legislation, I would not be able to do
3 that. So I would not be able to improve my real
4 estate. So one of my biggest objection to this
5 legislation is the impact it has on my ability and my
6 willingness now to invest in my building. Now, we
7 also have to consider not every landlord in the City
8 of New York is a big landlord. In fact, most
9 landlords in the City of New York are small
10 landlords. Having legislation that now requires
11 smaller landlords to have to deal with arbitration to
12 renew a tenants' lease is very problematic. They
13 will have the same issues navigating this process
14 that a small tenant is going to have. It's a
15 cumbersome process. It's a time consuming process,
16 and it's expensive process. So, I object to that.
17 Again, I'm worried about the fiscal implementation of
18 it. As an owner of a small business I will tell you
19 that the regulatory impact that the City of New York
20 now has an opening of business, and the City of New
21 York is huge. My experience dealing with the
22 Building Department in Brooklyn has been an absolute
23 nightmare. Thirty years in the real estate business
24
25

1 represent are law firms, PR firms, not for profits;
2 they don't need your help. So, narrow your focus.
3 Corey kept talking about should we narrow this,
4 should we narrow this? I wish he was here to say it.
5 Yes, narrow this to really small stores, 1,000 feet,
6 20 people maximum. That's your sweet spot. That's
7 where I think most of what we're talking about we
8 could probably find some common ground on. So, send
9 that message to him, please, because doing all the
10 other stuff, the office space, you're not going to
11 get traction. It's just going to be a waste of time.
12 I think this is going to mostly hurt consumers, and
13 the consumers are really who your constituents are,
14 right, but also businesses of all sizes, tenants
15 looking for space, and landlords of all types. And
16 while there may be a perception that most landlords
17 are just big greedy soulless corporations, there's a
18 lot of regular people, as Jim was just talking about,
19 who are owners, co-op owners, condo owners,
20 immigrants, and small business people who've worked
21 really hard to get a building. Now they got a
22 mortgage on it and they got to pay for it. You know,
23 they're not evil jerks. They're just people who are
24 trying to pay the mortgage. We are obviously in a big
25

1 period of disruption right now, right, in how
2 consumers buy things. Pretty sure everyone in here
3 except for the one nice lady I met before has bought
4 something on Amazon, and I guessed that more than
5 half of us have an Amazon Prime account and use it.
6 I do. But store rents have fallen. They continue to
7 do so. The market's correcting as my colleagues have
8 talked about, and tenants looking for space have
9 options that are affordable again. It takes time for
10 corrections to occur. Those can be painful, and when
11 I say painful, like I'm looking at the faces of the
12 people it's painful for. We all feel for you, we all
13 do. We all like our local retailers. None of us
14 wants to see another Starbucks or another-- see the
15 Dunkin Donuts, and I see stables on these things,
16 okay? None of us want to see those. We all like the
17 place that have character, every single one of us,
18 but, you know, it is what it is. That's a permanent
19 fixture on our landscape and we've all got to deal
20 with it. But government can't get involved in
21 controlling commerce or even trying to influence it.
22 It didn't work in the Soviet Union. It didn't work
23 in Cuba. It didn't work in a lot of South American
24 countries. Consumers suffered greatly, consumers,

1
2 our constituents. It's not going to work here. So,
3 if the City Council wants to help small businesses,
4 help them by reducing the many hurdles they face, and
5 when starting and running a business. In my view the
6 arbitration is simply not workable and you're going
7 to be wasting your time on it. Don't bother.
8 There's a billion reasons and we'd be all glad to sit
9 and talk with you about why it's not workable, but
10 ultimately, I'm telling you, it's just going to be a
11 time waste for you guys. Focus on something else.
12 We'll help you. By the way, we have a ton of data.
13 REBNY has a ton of data, and the stores where these
14 folks and the companies where these folks work, they
15 all have a ton data. We want to share it with you.
16 We want to work with you. Sure-- you-- in one sec.
17 Let me finish and then you can just jump in. So,
18 that's kind of it. Look, consumers are the people
19 we're trying to figure out who to help here, right?
20 And consumers are voting with their pocket books.
21 They're buying at Dunkin Donuts because they're
22 getting some value there. You know, that jus tis
23 what it is, and you know, the City-- what this bill
24 does, it engineers for being stagnant and not
25 changing, and as John and everybody said, this is a

1
2 very dynamic city and it's got to be dynamic. We
3 can't engineer for stagnation. It's not what we want
4 as consumers, as neighbors in our neighborhoods.
5 It's just not what we want. So, this is well-
6 meaning. Figure out some way to help small
7 businesses. We'll help you do it, but doing this
8 arbitration kind of thing and trying to do it for
9 office leases and everything else doesn't work. And
10 what did you want to say Joanne?

11 JOANNE PODELL: Oh, I just wanted to
12 mention that specific to the information regarding
13 statistics, that 20 percent, none of us know where
14 that came from. We've called [inaudible]

15 UNIDENTIFIED: It's just not true. [off
16 mic]

17 UNIDENTIFIED: I can add.

18 SPEAKER JOHNSON: We're going to open up
19 the question part of it, and that's one of the
20 questions that we certainly have that--

21 UNIDENTIFIED: [interposing] You want
22 stats [sic], she's got it. She's got it. They have
23 it.

24 UNIDENTIFIED: Thank you.

25

1
2 CHAIRPERSON GJONAJ: You're done with
3 your testimony, I would guess, Bill? Thank you.
4 Now, that we brought up this subject of the 20
5 percent vacancy in Manhattan that so many have
6 referred to that was reported, can anyone tell me
7 where this report exists?

8 JOHN BANKS: Chairman Gjonaj, you hit the
9 nail on the head earlier during the testimony when
10 you said it doesn't exist. It does not exist. What
11 happened was there was a person who was speaking to
12 the times about a segment analysis, a market segment
13 analysis, and in that particular area that she was
14 referring to there was a 20 percent vacancy rate.
15 There is no report that substantiate the citywide
16 vacancy rate of 20 percent. You indicated that
17 you've tried to get it. We have tried to get it.
18 The New York Times has tried to get it. No one has
19 the report because it does not exist.

20 STEVE SUTENDIJK: You also just can't
21 count the number of vacant stores, which a lot of
22 people have alluded to. You have to have a
23 denominator. You have to count the total number of
24 stores in all five boroughs to come up with a vacancy
25 rate, and nobody has done that. It's very difficult

1 to do. We do it at Cushman and Wakefield. We do it
2 in specific sub-markets, 10 blocks at a time, and
3 it's difficult for us to do.

4 BILL MONTANA: But if you want stats,
5 we'll get it for you.

6 CHAIRPERSON GJONAJ: I'm grateful to all
7 of you, because that was a variable of the question
8 that no one had brought up. To know the vacancy rate
9 you really have to know the X factor, and that is how
10 many commercial spaces--

11 UNIDENTIFIED: [interposing] Thank you.

12 CHAIRPERSON GJONAJ: we have.

13 UNIDENTIFIED: We'd like to know, too.

14 JOHN BANKS: I asked the Speaker for the
15 context of his 150, and that I was trying to get at
16 that same thing.

17 CHAIRPERSON GJONAJ: So, help me
18 understand this, please. Mr. Banks, you said
19 landlords do not benefit from vacant properties. Do
20 you mean it's not like wine, it only gets better with
21 time, and there's a benefit there that keeping a
22 vacant store for years--

23 JOHN BANKS: [interposing] Right, there is
24 this misconception put out by some in the advocate
25

1
2 community that there's a tax break associated with
3 keeping one's store vacant for years and years on
4 time. That is not true. The Department of Finance
5 does not reduce your taxes if you have a vacancy.
6 While you still have a certain level of expenses
7 associated with running that retail space, you now
8 have no income. So, you do not pay taxes on the
9 income you do not collect, and that's the same as
10 everybody else in the world. So, Council Member
11 Gjonaj, if you are not making money, the Department
12 of Finance does not charge you taxes on the money you
13 did not make. There is no advantage.

14 CHAIRPERSON GJONAJ: So, you--

15 ROBIN ABRAMS: [interposing] In fact,
16 there's a dis--

17 CHAIRPERSON GJONAJ: [interposing] you
18 don't-- there's no advantage from real estate taxes,
19 that's the question.

20 JOHN BANKS: Correct.

21 CHAIRPERSON GJONAJ: Keeping a vacant--
22 you're-- I believe the assessment would be as if it
23 was occupied.

24 JOHN BANKS: Correct.

1
2 CHAIRPERSON GJONAJ: So, there's a net
3 loss to that property owner.

4 JOHN BANKS: Correct.

5 ROBIN ABRAMS: And there's a net loss to
6 the City, because if there's not increased revenue,
7 then the tax based on income is not there, and that's
8 actually how it works. So, that's part of it. The
9 other thing is retail stores, landlords-- there are
10 costs associated with changing from retailer to
11 another, and there's a significant amount of time.
12 Tenant leaves. You've got to find a new tenant,
13 maybe clean up the space. You lose income. You have
14 to pay a new broker. You have to pay maybe some
15 money to help to rebuild the space. You've got to--

16 CHAIRPERSON GJONAJ: [interposing] Please
17 elaborate on that, because for some of us that are
18 not real estate brokers, explain how a broker's
19 commission is earned--

20 ROBIN ABRAMS: [interposing] Sure.

21 CHAIRPERSON GJONAJ: and what means for
22 that property owner. So--

23 ROBIN ABRAMS: [interposing] Sure. Do you
24 want me to do it? Okay. It's the same for
25 everybody. And most of the commissions are within

1
2 the same range. Every company has their own, but
3 generally, this is how it works. We are paid nothing
4 until a deal is signed, and we are paid by the
5 landlord. So, the tenants that are struggling today
6 in spaces, we can help them. They don't get charged
7 by us. If there is a question as to what the real
8 value of their space is in the marketplace, we can
9 provide that, all of us. It's not unusual. In fact,
10 it's obligatory to making new deals, and that's part
11 of it. We're paid as a portion of the-- it varies. I
12 don't want to give-- I'll be happy to share with you,
13 but basically it ends up being a percentage of the
14 first year's rent. It's a schedule, and that
15 schedule is always negotiable. So, those are just
16 some of them. And by the way, any time-- and I
17 represent landlords, all of us do, and Steve you can
18 certainly jump in here. Jim, you're a landlord, so.

19 CHAIRPERSON GJONAJ: What is a typical
20 concession? Anyone on the panel could answer this.
21 For a incoming tenant, what is the cost factor to a
22 landlord generally speaking?

23 STEVE SOUTENDIJK: You know, a weak
24 market like we have right now, it can be quite
25 significant. So, it's not just free rent. It can be

1
2 anywhere from six months to even more than that, but
3 it's also providing the tenant with a build-out. A
4 strong credit tenant can come in and say, "Listen, I
5 want you to what we call white box the space, put up
6 the walls, put in the electricity, put in the HVAC,
7 put in the bathrooms." That gets to be very
8 expensive. We have a so-- despite the fact that we
9 have a strong economy, which is kind of the dichotomy
10 here. We have a strong economy. We have a very weak
11 retail market right now. So, a lot of landlords when
12 they're confronted with this, and I manage a lot of
13 real estate landlords, they don't quite get it. Why
14 are my rents going down when we have less than a four
15 percent unemployment rate? The GDP is doing great.
16 Trump is telling us we're doing wonderfully, yet my
17 rents are going down. So, part of the disconnect you
18 have with a landlord is trying to explain to them
19 right now we're having a real adjustment in the
20 retail market. Rents are going down despite all the
21 great economic news, and now you have to spend-- not
22 only going to get less rent, but you have to give
23 more free rent. You have to build out the space for
24 the tenant, or you have to provide a work allowance.

1
2 It could be up to a year to a year-and-a-half's worth
3 of rent.

4 CHAIRPERSON GJONAJ: You touched on
5 something else. So, supply dictates demand, dictates
6 price, is that what you're saying?

7 STEVE SOUTENDIJK: Yeah, basic economics.

8 CHAIRPERSON GJONAJ: Wow.

9 STEVE SOUTENDIJK: Yeah, I know.

10 CHAIRPERSON GJONAJ: But going back to
11 the build-out. So not only are you saying that up to
12 six months in rent concessions plus a vanilla box can
13 be a considerable--

14 STEVE SOUTENDIJK: [interposing] That's
15 probably at a minimum. I think you're probably
16 looking at much more than that.

17 JIM WATT: So, I'm doing a deal right
18 now. I'll give you an example, and this is for a
19 space that I'm renting as a tenant for myself and for
20 my son out in Brooklyn. I'm a tenant. I also own
21 retail stores. I do a lot of different things, sort
22 of whatever. It's a space out in Brooklyn. It's
23 been on the market for a year and a half. It's been
24 empty. The rent was originally 150 dollars a square
25 foot, which is a very high rent, but you know what,

1
2 it was a rising market. The landlord thought, you
3 know, I'm going to ride the wave to a higher market,
4 but then it stopped, and the rent started to come
5 down. The space stayed vacant. It formerly had been
6 a hamburger joint, so it's in very mediocre
7 condition. I'm putting an indoor kid's gymnasium,
8 basically. So, I don't need the hamburger stuff. My
9 rent, the deal that I'm doing is a 15-year lease
10 which is a long term. It's 65 dollars a square foot,
11 65 dollars a square foot. That's the reduction in
12 the rent. Now they're going to be step ups. In
13 three years it's going to be increased to about 80
14 some dollars a square foot. I'm getting over six
15 months free rent, and the landlord is putting in a
16 new storefront. The landlord is ripping out the
17 ceiling, putting in a new ceiling for me. The
18 landlord is putting in new air conditioning, spending
19 a lot of money for me, but otherwise he can't get the
20 space rented, and this is a very good location. Now,
21 if it wasn't such a good location, the concessions
22 would be even greater, and that's if the landlord can
23 even find a tenant. There are spaces that are empty
24 now because there aren't any tenants for it. It's
25 not because the landlords are holding out. We have a

1
2 space on Broadway and Bond Street which you would
3 think would be a great location. We have a pop-up
4 store in there. It's been there for two years, but
5 we can't find a permanent tenant for that space. You
6 walk up and down that strip of Broadway you have a
7 lot of vacancies. Same problem, there aren't any
8 tenants.

9 CHAIRPERSON GJONAJ: Since you-- most of
10 you are brokers and come from that world, it's rather
11 fascinating that no one brought up the fact that
12 tenants don't benefit from a long-term lease if
13 there's a personal guarantee. Is that a standard in
14 our commercial leases?

15 JOANNE PODELL: If you're my tenant,
16 you're not signing a personal guarantee.

17 UNIDENTIFIED: You'll sign--

18 ROBIN ABRAMS: [interposing] and I'm not
19 letting them sign one either.

20 CHAIRPERSON GJONAJ: I'm sorry, one at a
21 time, please.

22 ROBIN ABRAMS: I wouldn't let my
23 important client sign a personal guarantee, unless it
24 was completely-- I've never had a client do it.

1
2 CHAIRPERSON GJONAJ: You have to speak
3 into the mic, because they're not hearing you.

4 ROBIN ABRAMS: Sure, sorry. So, I again
5 represent only tenants. I will never let one of my
6 clients sign a personal guarantee. It's too onerous.
7 There's too much risk. I don't want my clients
8 having to do that. So we'll find a landlord who
9 will, you know, find other ways to securitize the
10 transaction or get comfortable with spending the
11 money that Jim just talked about in order to make the
12 transaction.

13 JOANNE PODELL: I want to clarify, because
14 there's something called a "Good Guy Clause." A Good
15 Guy Clause is a modified guarantee, and it's
16 important to understand that. Good Guy just kind of
17 means what it is, that you're a good guy. During the
18 term that you occupy space you have made a promise
19 that your corporation will pay every month. If there
20 comes a time when you see that your company is
21 failing and you will not be able to pay rent,
22 oftentimes it goes to Landlord and Tenant Court, and
23 it could take a really long time for a landlord to
24 get back his space, and during that time, the
25 tenant's there running their business not paying

1 rent. So, what landlords look for is a Good Guy
2 Guarantee. That means the moment you stop paying
3 rent, you are obligated personally. There's a simple
4 solution tenant: Give me back my keys, you can
5 leave, and you have no personal guarantee. And
6 that's what a Good Guy Clause is. Marrying what Bill
7 said, I would never let anybody sign--

9 BILL MONTANA: [interposing] Right, a Good
10 Guy Guarantee is not really a guar-- it's not a
11 personal guarantee, Mark. All it is is a lever for
12 landlords to get someone out who's occupying space
13 but not paying. In terms of actual personal
14 guarantees, they're pretty rare.

15 CHAIRPERSON GJONAJ: So, my question is
16 to those of you that have had experience with--
17 mostly owns a sophisticated. And if they're
18 concerned with a renewal that may be out of their
19 control at the expiration of this lease, would they
20 consider a clause that makes the tenant liable for
21 any default.

22 : That's interesting. The legislation--

23 CHAIRPERSON GJONAJ: [interposing] Speak
24 up, please.

1
2 JIM WATT: The legislation provides that
3 on a renewal the tenant only has to put up two
4 months' rent.

5 CHAIRPERSON GJONAJ: That's security.

6 JIM WATT: Security, and that's a real
7 problem. I mean, I don't like the legislation,
8 period, but that's a serious issue because if you
9 have a mom and pop tenant that has no credit and
10 they're only putting up two month's security, you're
11 under-secured.

12 CHAIRPERSON GJONAJ: What do you-- what
13 is your security deposit for the store that you're
14 going to be renting?

15 JIM WATT: Three months. But I'm also
16 putting up-- I'm probably spending 300,000 dollars to
17 build it out, and I put-- I'm putting that 300,000
18 dollars up in escrow on day one with the landlord to
19 secure my obligation to the building. So, the
20 landlord at the end of the day, if I go out of
21 business, you know, two years from now at least he's
22 getting a store that's been improved. But again,
23 it's a soft market. You know, this is a wonderful
24 market for mom and pops. We talk about we want more
25 mom and pops, this is the market for moms and pops.

1
2 Landlords now are looking for tenants. There aren't
3 a lot of tenants out there.

4 CHAIRPERSON GJONAJ: I think--
5 Councilman, you have a question before I continue
6 with mine?

7 UNIDENTIFIED: No, Mr. Chairman, I'm
8 looking at the stack of slips that Committee Counsel
9 has. I'd love to let these fine folks go on their
10 way.

11 CHAIRPERSON GJONAJ: I'll just ask
12 another question about data and how important it is
13 for an assessment-- what would be a comprehensive
14 approach for a citywide data collection,
15 understanding the difference between neighborhoods,
16 let alone boroughs can vary? What would be a
17 realistic approach?

18 JOHN BANKS: So, Council Member, I've
19 thought about this a lot, and I'll harken back to
20 something that I believe the City continues to do
21 today. It has the workforce to do this, but every
22 day the City does scorecard on the street ratings.
23 With today's technology I don't think it's too
24 difficult to design a program where the folks doing
25 the street ratings and scorecard can go photograph a

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2 vacant storefront, give the GPS location, and then
3 being to create a database about what storefronts are
4 vacant. Barring that, it would take a massive
5 effort, and I'm sure the Council could figure out a
6 way to get volunteers to engage in it, but it would
7 be a massive physical effort to walk down the
8 commercial corridors of the City to try to assess not
9 just the number of vacant storefronts, but also the
10 number of stores along the street. One of the things
11 that is troubling about the debaters and some folks
12 cite, excuse me, Borough President Brewer's study of
13 Broadway, and they say there were 180 some-odd vacant
14 storefronts during that survey, but what is not
15 revealed is over the 13 mile stretch that they looked
16 at is how many storefronts actually exist along that.
17 So, 180 vacancies out of 1,800 is a lot, out of
18 18,000 it's nothing. If it's 180 out of 180, it's a
19 tremendous amount. But that is the problem is that
20 there is no uniform basis by which we can assess some
21 of the information that's going out.

22 CHAIRPERSON GJONAJ: Let me add to this,
23 Mr. Banks. Correct me if I'm wrong, but this is the
24 exact information that will be needed if it goes into
25 arbitration to determine what the rental market is

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2 for that area, for that specific location. Wouldn't
3 this become the essential component of any potential
4 arbitration?

5 JOHN BANKS: I don't know how an arbiter
6 would find comparable sales for a commercial space,
7 because that information does not exist. It's
8 private. It's not disclosed. So, in order for an
9 arbitration process to have real meaning, there would
10 be some need for data to allow the arbiter to make
11 some reasonable assessment about what is or is not.

12 CHAIRPERSON GJONAJ: But how-- Mr. Banks,
13 that would completely undermine the process. If
14 there is no legal means by-- to obtain that
15 information--

16 JOHN BANKS: [interposing] I agree.

17 CHAIRPERSON GJONAJ: of a rental per
18 square foot, that would in default give--

19 JOHN BANKS: I agree completely, and as
20 somebody testified earlier, I think it was
21 Commissioner Bishop, you know, I've been involved in
22 arbitration throughout my career, and in fact, the
23 person on the side of the arbitration that has the
24 better data is the person who generally wins that
25 arbitration because they are able to support their

1
2 position through empirical information where the
3 other side is not able to do that. And then third, I
4 truly-- impartial third-party arbiter will look at
5 only the data and not the emotion.

6 CHAIRPERSON GJONAJ: So, I would imagine
7 it is the opinion of this entire group without that
8 data it's virtually impossible to move forward, let
9 alone comply with this bill?

10 JOHN BANKS: Speaking as the industry's
11 association, I would agree, yes, it's impossible to
12 do in a fair way.

13 CHAIRPERSON GJONAJ: Councilman? I want
14 to thank you all for your--

15 JOHN BANKS: [interposing] Thank you both
16 for your time and energy. I appreciate it. Thank
17 you, Council Member Yeger, nice to see you.

18 CHAIRPERSON GJONAJ: Bill Borock, Ray
19 Rogers, Quenia Abreu, Kin Ming Lang [sp?], Lordes
20 Comatcho [sp?], and Marilyn-- oh, Marlene Cintron of
21 the BOEDC. Councilman Yeger, I'm going to need you
22 sooner than later, please. Kalman-- as custom, we'll
23 begin from the left and work our way toward the
24 right.

1
2 LORDES COMATCHO: Hi, my name is Lordes
3 Comatcho. I'm a resident of the Upper West Side.
4 I'm here as just a consumer. My Councilwoman is--
5 well, it used to be Gale Brewer, of course, back
6 then, and I do remember the pizzeria that was closed.
7 I used to go after high school at USC Brandise [sp?].
8 I used to go for pizza there, so I remember that
9 very, very well. I'm here because again, I am a
10 consumer, and I've got another restaurant that's one
11 of my favorite restaurants which is on 44th and Sixth
12 [sic] Avenue. It's a Dominican restaurant. It's
13 called Ali's [sp?]. She's really struggling. It's
14 been almost three years. It's a restaurant owned by
15 her, her mother, and her daughter. Right now, like I
16 said, she's struggling because the rent is going up
17 because across the street from her they're building
18 this high-rise which is going to consist of
19 residents-- residential and commercial, and I feel
20 really bad for her, because like I said, she's now my
21 favorite restaurant where I go to eat, and she's
22 really struggling, and I just want to say that this
23 bill, if it-- they've got to make some changes to
24 this bill, like Corey was saying. There are changes
25 need to be made to these bills, and I feel one of the

1 changes that needs to be made to this bill, is--
2 first of all, it needs to be in the way where these
3 small business owners, majority of them, are owned by
4 immigrants, and a lot of these immigrants from the
5 Dominican Republic, and just like her, there's a lot
6 of immigrant businesses in all five boroughs, and I
7 feel this bill needs to be looked at very closely
8 before it's passed because of that. Thank you very
9 much.
10

11 CHAIRPERSON GJONAJ: Thank you. Ms.
12 Cintron.

13 MARLENE CINTRON: Good evening. My name
14 is Marlene Cintron. I'm the President of the Bronx
15 Overall Economic Development Corporation, and I'm
16 here today to testify on behalf of Bronx Borough
17 President Ruben Diaz, Jr. on Proposed Intro. Number
18 737A, the Small Business Job Survival Act. I support
19 a thriving and entrepreneurial economy in New York
20 City, and I support providing small businesses with
21 an opportunity to compete and thrive across the five
22 boroughs. The Small Business Job Survival Act is a
23 good idea whose time has come. With some
24 improvements it can be exactly what this needs-- this
25 city needs to ensure a lively commercial climate.

1 landlords could be described as small businesses
2 themselves. The bill should include a provision that
3 the likelihood of a landlord or developer divulging
4 on a loan with their financial institution, a loan
5 taken out in good faith and responsibly accounted for
6 should be factored into the arbitrator's final
7 decision. We should also include a carve-out. If
8 the landlord herself wishes to start a small business
9 in good faith in the commercial property. This
10 legislation presents some novel commercial tenancy
11 issues. There may be, for instance, some questions
12 worthy of exploration about the arbitration clause
13 essential to the legislation. However, we must focus
14 on the greater good of this legislation. Small
15 businesses need an opportunity to stand on equal
16 footing with their landlord and have a real chance to
17 negotiate a fair lease extension. We cannot accept
18 the continuing scourge of mess of rent increases
19 without regard to the vibrancy of a neighborhood, nor
20 can we accept an ongoing plague of empty storefronts
21 in once thriving commercial corridors. One of the
22 key issues that has risen around the SBJSA is its
23 legality. However, this point has been much debated
24 and answered. In 2010, my office convened a legal
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2 summit surrounding this legislation which was then
3 known as the Small Business Survival Act in
4 partnership with the Bronx Overall Economic
5 Development Corporation. The report of that panel
6 found that the Small Business Survival Act is fully
7 constitutional and legally sound to withstand likely
8 court challenges. Regardless, such a matter can be
9 decided not by us, but by the courts. We should not
10 allow a hypothetical legal challenge to block
11 critical legislation and much needed change. This
12 body must do what it can to promote a vibrant
13 commercial economy in New York City small businesses
14 and entrepreneurs. With SBJSA, this is an excellent
15 first step towards this goal I look forward to
16 working with my colleagues to amend the existing bill
17 in order to both preserve the character of our
18 neighborhoods and promote commercial vitality across
19 the five boroughs. Thank you.

20 CHAIRPERSON GJONAJ: Thank you, Ms.

21 Cintron. Sir?

22 BILL BOROCH: My name is Bill [off mic]

23 COUNCIL MEMBER YEGER: Push the button on
24 the microphone. There you go.

1
2 BILL BOROCK: Thank you. Okay. First,
3 he's not here, Corey, but we-- I'm a member of a
4 group called Save Chelsea. It's a preservation group
5 in Manhattan. Corey's not here, but we want to thank
6 Corey for bringing this up for discussion. I think
7 we just heard testimony from our [inaudible] other
8 side. I think it's another world. A world I'm in
9 exists like a landlord died. His son sold the
10 building. This is in Chelsea. What happened with a
11 new owner? Raised the rent very high. The pet store
12 had to leave. The dry cleaner had to leave. Coffee
13 shop had to leave. I recently went away on a little
14 vacation. I came back. I couldn't believe all the
15 stores. I walked in the neighborhood over at Chelsea
16 where Corey talks about, where Corey Lives. I walked
17 on Sixth Avenue from 14th Street to 23rd Street,
18 Seventh Avenue from 14th Street to 23rd Street, Eighth
19 Avenue from 14th Street, 23rd Street, Ninth Avenue,
20 14th to 23rd Street. You would think it was a
21 blighted area. All the empty stores. All the empty
22 stores, most of them left because their rents were
23 raised very high. I used to shop in Associated that
24 talked Corey talked about. Corey said it was
25 Associated store. They raised the rent up to over

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2 100,000 dollars. This is the reality of what's
3 happening. It's another world from what REBNY is
4 talking about. Something must be done. Now, this
5 act has been raised, been talked about I think for
6 about 30 years. This is the first time, I think, it's
7 come up to discussion. Whether it comes to a vote or
8 not, my feeling is representing Chelsea is sh9uldn't
9 have all this discussion beforehand about the
10 changes. It's true that some changes need to be made
11 it's not a perfect law. Everyone's talking about a
12 silver bullet. Think Gottfried mentioned, if you
13 remember, he said that this vote should be-- this
14 bill should be brought up for a vote now not later.
15 The reason is the discussion be taken afterwards
16 through all the discussion we talked about. What
17 happens if we get into a discussion and research?
18 How many research projects have been made, and pages
19 and pages are written? What happens at the end of
20 the page, at the end of research? It says more
21 research needs to be done. This happens all the time.
22 So, it's time to bring this up for a vote, and then
23 all the discussion can take place and all these
24 little nuances could be worked out then rather than
25 before. It needs to be brought up for a vote now.

CHAIRPERSON GJONAJ: Thank you, Bill.

RAY ROGERS: Ray Rogers, small business owner at Corporate Campaign. You know, in today's Daily News are two op-eds talking about the Small Business Job Survival Act. One is full of lies. One is full of truths. I hope that you'll read them and you decide who telling the truth and who's lying. Now, the panel before us here, President John Banks of REBNY was up here as was Mr. Bill Montana who fortunately had an opportunity to talk to earlier before the hearings. He's wearing a cap that says "Vote No Commercial Rent Control." President John Banks did a whole article and column on how the SBJSA is commercial rent control. So the premise of everything they say is lies because they're lying about the SBJSA, and that's their job is to misinform and mislead legislators and the public. They ought to be held accountable for it. Right now, commercial tenants have no rights and are completely at the mercy of unscrupulous landlords. All-- they're not landlords who are honest and fair-minded. We're talking about protecting people against the unscrupulous landlords. All small business owners, their employees and their neighborhoods need the

1 rights and protection of the SBJSA passed intact will
2 provide. When I talk about passed intact, we
3 understand the legislation process, that there are
4 going to be some changes here and there, but we're
5 talking about the heart or the spirit that was talked
6 about earlier, that there's some sort of empowerment
7 of people negotiating leases so they can't be price
8 gauged out of existence. The key elements of the
9 SBJSA were discussed here today. They were guaranteed
10 that small businesses whether storefronts on the
11 ground floor or professional offices in the 20th
12 floor, the right to renew leases for a minimum of 10
13 years, the right to mediation and binding arbitration
14 to stop rent gouging, and the end of concocted,
15 oppressive landlords pass-alongs like inflated water
16 and property tax bills. The legislation would also
17 end the all-too-common practice of extorting large
18 sums of money, tens of thousands of dollars, from
19 small business owners and especially immigrants just
20 to get a lease. Any City Council member votes
21 against passage of the SBJSA with those provisions,
22 in essence is casting a vote against New York City's
23 immigrant population, much of which is made up of
24 struggling small business owners and their families.
25

1 Council Members who vote against it or try to weaken
2 its protections are also supporting the Real Estate
3 Board of New York's continued hostility against our
4 mom and pop stores and other small businesses they
5 have targeted as irrelevant, expendable, and an
6 impediment to maximizing profits. Why are REBNY's
7 President John Banks so terrified of the SBJSA? Why
8 has REBNY prevented passage of the bill for 32 years?
9 Why is REBNY's President John Banks spewing out
10 misinformation that the SBJSA is a commercial rent
11 control bill, which is not and never has been? And
12 I'll tell you why, because passage of the SBJSA
13 intact will mean the flow of billions of dollars in
14 money from super wealthy property speculators,
15 developer and unscrupulous landlords represented by
16 REBNY to small businesses, their employees, and the
17 local economy. That is why passage of the Small
18 Business Job Survival Act intact, the spirit of it,
19 is so crucial for a much healthier New York City and
20 the well-being of everyone living and working here.
21 For that reason I urge every City Council member,
22 including you, Mr. Gjonaj, to vote wholeheartedly in
23 favor of this bill. Thank you.
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COMMITTEE ON SMALL BUSINESS

CHAIRPERSON GJONAJ: Ray, thank you for that very passionate testimony. You do not need a loudspeaker, by the way.

RAY ROGERS: Thank you.

CHAIRPERSON GJONAJ: God has given you one.

RAY ROGERS: Invite me to any demonstrations. I'll be-- impressions?

CHAIRPERSON GJONAJ: I think we're waiting for--

RAY ROGERS: Oh, here, good.

UNIDENTIFIED: It's not always about you, Ray.

QUENIA ABREU: Good afternoon, or good evening at this time. We have all been patiently waiting, so thank you very much, Chair Gjonaj and the rest of the Council Members that have stuck around to listen to our testimony. I am Quenia Abreu, President of the New York Women's Chamber of Commerce, an organization that is very proud to be a supporter of small businesses, and therefore, supports the Small Business Job Survival Act. We have been doing this for quite a long time, and we're very disappointed in the past when some of the

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2 elected officials, some of the speakers just kill the
3 bill or kidnap it as we call it, and so we're very
4 grateful that we're having this hearing today. And
5 you know, often we hear the phrase that we heard of
6 many times here today about the business-- small
7 business being the backbone of the City of New York.
8 To us people that have grown in-- that are immigrants
9 and have grown in immigrant community like myself,
10 they're the gatekeeper of our neighborhood. They
11 keep their neighborhood safe. They provide jobs for
12 our communities. They are, in fact, the largest--
13 collectively the largest employer of New York City.
14 That's what they do, they provide jobs and keep our
15 neighborhoods safe. When I moved our office of the
16 New York Women's Chamber to 135th Street and
17 Amsterdam, it was a drug infested area, and we were
18 the commercial tenant, the commercial tenant
19 responsible for changing that area. That is a
20 thriving community right now, and we would like to
21 keep it that way, but every day we see businesses
22 closing. And you have to be blind and you have to be
23 a hypocrite to pretend that that is not so, and that
24 the main reason for that happening is the rent. The
25 rent is out of control. That's what is happening.

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2 And we're not seeking rent control. We are seeking
3 fairness. We're seeking rights for our small
4 businesses. As our colleague here mentioned, they
5 have no rights. When your lease expire you have no
6 right. So imagine you're a small business, you put
7 all your life's savings into a business to build your
8 business. You spent 300,000 dollars, 400,000 dollars,
9 sometimes half of a million dollars to renovate a
10 store, and then in a couple of years your landlord
11 tells you you have to go. They don't even give you
12 the money that you spent in that store. And then
13 you're out of business. Sometimes with a loan,
14 because that has happened to some of our members, and
15 the City's doing nothing to protect them. We have a
16 lot of great programs coming out of SBS. We are a
17 partner of SBS thanks to our Council Members, but the
18 reality is this, those are Band-Aids. Those programs
19 are Band-Aids. Some of them are fantastic, but if
20 you don't have a lease it doesn't matter. That's
21 like somebody coming to you and telling you that
22 they're going to decorate your house for free, but
23 your mortgage is going to cost you to leave your
24 house. It is the same thing. That's what's happening
25 to our small businesses. So we need to protect them.

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2 You spoke about a study, well, fine, do a study, but
3 you don't even need a study. You can just walk
4 around the streets and see the businesses closing.
5 You have to be blind not to notice. We notice that
6 every single day, but if you want to do a study,
7 fine. I think the bid [sic] should be doing that.
8 They get enough money from the city of New York.
9 They should have by now a data registry of vacancies,
10 okay? Because they're there. They're working with
11 the landlords, so they know-- they know what
12 vacancies are out there. Now, in closing I want to
13 say this, I agree with you in terms of the proposed
14 bill, it's not perfect. No bill is perfect. No
15 legislation is passed with introduction. We have
16 talk about it. We have to negotiate. We have to see
17 what is the best deal, again, for businesses and also
18 for the landlords, because you know what, this is a
19 city a small businesses, but this is also a city of
20 big businesses. We need to be able to co-exist. But
21 what is happening right now is that we are becoming a
22 city that is displacing its small businesses and
23 warehousing commercial spaces. That's what is
24 happening. They're not renting. They're warehousing
25 the spaces. The pizza shop that you mentioned,

1 that's in my neighborhood. That pizza shop was the
2 place where my kids grew up. They used to keep an
3 eye on my kids. The place closed last year. Why?
4 Because the rent went from 10,000 dollars to 30,000
5 dollars. How many slices of pizza do you have to sell
6 to make that rent monthly, and the place has been
7 vacant since that. They have not rented it out. So
8 we have to do something about it. You're right about
9 the definition of small businesses. I agree with you.
10 I don't think we're in this to protect the small
11 businesses. They can protect themselves. They have
12 money to do that. This is about our small
13 businesses. This is about protecting them, and we're
14 counting on you to do this. Okay? We're really
15 counting on you. One other-- to just finalize, I
16 want to say this also, that we must end the practices
17 that the landlords have right now of month-to-month
18 leases, okay? Month-to-month lease and no leases at
19 all. We have businesses that they have been in the
20 same location for 30 years and now they have no
21 leases at all. Why? Because the landlord's waiting
22 for a better tenant that can pay a higher rent to
23 then say bye-bye to them. Okay? And it's not fair.
24 So we have to-- we have to remedy that, and we have
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2 to do that today, because we are in a crisis right
3 now. We need to protect our communities. We need to
4 protect our small businesses, our jobs, our
5 immigrants. That is very important to us. This is
6 what we want of City of New York, and this is what we
7 expect from you. So, we want to thank you again, and
8 in closing, just very briefly, I always say this,
9 okay? We are going to remember today. We're going
10 to remember because we've been here before, and this
11 time we will not forget and we will not forgive.
12 Okay?

13 CHAIRPERSON GJONAJ: Thank you.

14 QUENIA ABREU: Thank you very much.

15 FRANK GARCIA: My name is Frank Garcia.

16 I am the outgoing chairman of the New York State
17 Hispanic Chamber representing 80,000 Hispanic
18 businesses like Quenia's group, the Latino Restaurant
19 Association, the Bronx Hispanic Chamber. That's
20 where we met Councilman when I was president in the
21 Bronx. Now, I'm the new Chairman of the National
22 Association of Latino State Chambers representing 80
23 percent of Hispanic Chambers in the U.S. and Puerto
24 Rico. To me, this is a disgrace hearing today.
25 Being here two weeks ago I got operated, a major

1 surgery, and for your people to tell me just now, the
2 gentleman sitting there, that I could not speak, to
3 send in an email when I represent a lot of Hispanic
4 businesses, and what Gregg Bishop was saying about he
5 has this program to help small business, my members
6 don't see it. And the Restaurant and Latino
7 Association was here testifying. I got 80 Latino
8 restaurants closing this month, some in your
9 neighborhood, Councilman, and I'll give you the name.
10 I can't give it publicly, because of legal issues,
11 but I have Latino restaurants in your neighborhood
12 that voted for you that now are about to lose their
13 business, and we depend on you. That's why I
14 supported you when you ran for assembly when no one
15 else wanted, I believed in you, and I still believe
16 in you. This is about the community. I had my
17 business in the neighborhood in the Bronx. You know,
18 your brother used to buy recycled toner from me, if
19 you remember. And I had to close down my warehouse
20 and fire 30 employees, why? Because my landlord was
21 a crook. What he used to do, he used to make me pay
22 30,000 dollars in taxes of the building and pay my
23 other tenants when I had-- I had a contract with
24 Columbia University to recycle toner. I had to.

1 There was no way. He didn't want to renew my lease.
2 So I couldn't get certified as a minority business.
3 I lost my lease, lost the warehouse, lost everything,
4 and luckily I partnered up with an Asian IT company
5 here in Wong [sic] Street and I was able to recover
6 my business. But I lost 30 employees in the South
7 Bronx. And Marlene knows. She's been to my
8 warehouse when I was in the South Bronx. So you
9 can't tell me that the landlords when they come up
10 here and say, "Oh, we're fair." They wasn't fair
11 with me. Okay? Took-- my rent went up from 3,000
12 dollars all the way to 20,000 dollars. You think
13 selling recycled toner that I could afford that? You
14 know, so-- you know, California has laws to protect
15 small business. I just came from there. I just came
16 from Texas. Las Vegas who's Republican. You're
17 telling me the Democrats can't help put this law for
18 small business. And I'm telling you, our members in
19 Jackson Heights and Queens got rid of a Crowley
20 [sic]. I helped in that, and whoever is going to
21 vote against this law, we're going to make sure as
22 Hispanic businesses we're going to create a national
23 pact to go after those City Councilmen that are
24 hurting our small business, because we put you in
25

1
2 there to support us, and it's frustrating when I
3 hear, "Oh, but we don't know if this law is going to
4 support, you know, is going to hurt small business."
5 You know what I have-- in Jackson Heights I have ICE
6 coming into Latino businesses evicting small
7 business, because that landlord is saying, "If you
8 don't pay this rent and pay me cash under." I have
9 stories and documentation I could give you, and
10 they're evicting those small businesses, because they
11 don't have papers. Okay? Gregg Bishop doesn't
12 document that. He knows. He's been in the same
13 places when the businesses said that publicly, but he
14 doesn't care. I'm asking you, Mr. Chair, to help us
15 with this law and pass this law now, because we
16 cannot wait no more. Thank you.

17 [applause]

18 CHAIRPERSON GJONAJ: Frank, thank you,
19 and the passion that you have through your own
20 experience resonates well with all. This is coming
21 to the floor after how long of a delay for a reason,
22 because we have a Speaker that he--

23 FRANK GARCIA: [interposing] I want to
24 thank the Speaker. I'm sorry. Thank you for what he

25

1
2 is doing. I really applaud. Let's give him an
3 applause, because he does believe in small business.

4 CHAIRPERSON GJONAJ: And I made sure that
5 I embraced this hearing, and I did the work that was
6 needed that would be led to a transparent, fair
7 hearing by hearing from all sides. You know, I can't
8 help but bring up while we were in the hearings today
9 how many of you are outside with the minority-owned
10 businesses which were mostly Dominican or Hispanic--

11 FRANK GARCIA: [interposing] I was there.
12 I help organize it.

13 CHAIRPERSON GJONAJ: Great. Can you
14 elaborate what was going on outside?

15 FRANK GARCIA: It was that the
16 businesses, the restaurants, are losing 60 business
17 because of the hookah and also because of the rents.
18 The landlords are not renewing their leases. So you
19 got 60 of the top Latino restaurants are going under.
20 Jimmy had the same problem, Jimmy Bronx [inaudible],
21 your friend Jimmy, he had a personal guarantee out of
22 his house. He had to pay-- the landlord that hurt
23 me, you know, that's what the businesses are fighting
24 out there because of what's been going out there with
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COMMITTEE ON SMALL BUSINESS

small business and how our members are losing their
restaurants.

CHAIRPERSON GJONAJ: Frank, and I just
want to make sure that we do this evenly, with a fair
tone. The hundreds that were out there today were
protesting a policy.

FRANK GARCIA: two issues, the hookah,
and they were talking about-- I was there. I spoke at
the press--

CHAIRPERSON GJONAJ: [interposing] The
press-

FRANK GARCIA: the press conference.

CHAIRPERSON GJONAJ: The press release
that was issued was around the hookah law which is
taking effect this--

FRANK GARCIA: [interposing] That's
correct. It was about the hookah law and also about
the landlords, because they spoke about. Elvis spoke
here and testified about it. So, if you want to turn
it out and say that--

CHAIRPERSON GJONAJ: [interposing] Oh, no,
I'm--

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2 FRANK GARCIA: our business outside that
3 are in your district are not talking about the rents,
4 they did.

5 CHAIRPERSON GJONAJ: Unfortunately I was--
6 - unfortunately I was in here, and I didn't leave.

7 FRANK GARCIA: I understand that, but I
8 have a video, I can send it to you.

9 CHAIRPERSON GJONAJ: That's great, but I
10 wanted to make sure that we understand because we go
11 back to the question of-- rent is not the only issue.
12 There's certain other--

13 FRANK GARCIA: [interposing] I know you're
14 trying to--

15 CHAIRPERSON GJONAJ: Frank, I want to
16 give everybody--

17 FRANK GARCIA: [interposing] spin it
18 around, but it's--

19 CHAIRPERSON GJONAJ: [interposing] I want
20 to give everybody--

21 FRANK GARCIA: [interposing] Rent is the
22 number one issue. It was my business that lost--

23 CHAIRPERSON GJONAJ: a chance. There's
24 six people on that panel, and I know you and I know
25 the passion and your history, but in fairness, I

1 think we can all agree that there has to be a
2 comprehensive all-inclusive approach to the problems
3 that small business owners face day in and day out.
4 The one issue that very few people are bringing up,
5 do you realize the number of banks that we have in
6 every community? Do you realize what's going to
7 happen as we embrace online banking, and we no longer
8 need brick and mortar banks? Do we even comprehend
9 the impact that that could potentially have on this
10 city when those commercial properties become vacant,
11 when we lose those jobs, when we lose that tax base?
12 Although we can look at each and every one of these
13 cases as being unique and important, there's a real
14 crossroads in our near future, and that commercial
15 property currently occupied by a bank and whereas
16 they start marketing themselves online more and more
17 and less of a need for our New Yorkers to have to
18 visit a bank is going to lead to some tremendous
19 impacts. And they have all the money. They don't
20 need-- they don't worry about rent.

22 MARLENE CINTRON: If I may respond--

23 CHAIRPERSON GJONAJ: [interposing] Please,
24 Marlene.

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2 MARLENE CINTRON: I think it's a good
3 time to kind of bring the conversation back to the
4 fact that this is a conversation about small
5 businesses, and certainly this city has weathered a
6 lot of storms. I'm not concerned about the banks.
7 They're not the major employers here. It is the
8 small businesses, and as a result, I have no doubt
9 that when those places become available, if and when
10 we do the right thing this evening, this week, this
11 year, and we do what we need to do to protect small
12 businesses, those small businesses are going to
13 become big businesses, and they can take up that
14 space nice and easy. So, certainly, I'm not
15 concerned. What I'm concerned about is the small
16 business that keeps our neighborhoods really safe,
17 that gives a flavor to our communities, that entices
18 and inspires our young people by looking to see what
19 an older adult is doing to pay their rent and pay for
20 their children's education, that will give them the
21 energy and the vision to say, "If he can do it, so
22 can I." And usually, when they do it, they do it
23 better.

24 CHAIRPERSON GJONAJ: Marlene, I'm from
25 that world. You aspire to be from an employee to an

1
2 employer. You aspire that you build a trade and a
3 skillset that's needed to open your business someday,
4 that you can build on your experience. I'm from that
5 world. Let's not forget, I was a small business
6 owner. I rented space. I also was the managing agent
7 on other space. So, I played a role in hundreds of
8 commercial leases for both tenant and landlord, as
9 broker, as a tenant, and as a managing agent for the
10 owner.

11 MARLENE CINTRON: And you bought
12 buildings that became vacant and then provided new
13 jobs and new opportunity. It's a circle. It just
14 needs to be--

15 CHAIRPERSON GJONAJ: [interposing] And we
16 strive-- we strive to make things better, but I don't
17 want anyone to walk away saying that this is going to
18 cure our small business problems.

19 FRANK GARCIA: We never said that
20 Councilman.

21 CHAIRPERSON GJONAJ: Thank you.

22 FRANK GARCIA: Councilman,--

23 CHAIRPERSON GJONAJ: [interposing] So, and
24 keep an open mind.

1
2 FRANK GARCIA: a quick question I wanted
3 to ask you.

4 CHAIRPERSON GJONAJ: Yeah.

5 FRANK GARCIA: Would you meet with the
6 local Hispanic Chamber leadership, because we have
7 not met with you yet. We have a lot of data to give
8 you, and we would like to meet with you and your
9 staff, with Quenia, the Restaurant Association--

10 CHAIRPERSON GJONAJ: [interposing] Frank,
11 I've--

12 FRANK GARCIA: [interposing] all the
13 Chambers, the supermarket, all of us. It's 26
14 Chambers. We'll get 15 to meet with you. I know I
15 can't get all 26, but at least 15 to tell you the
16 issues that the Hispanic Chambers' membership, the
17 Bronx Hispanic Chamber, all of the--

18 CHAIRPERSON GJONAJ: [interposing] Frank,
19 for weeks I met with all stakeholders--

20 FRANK GARCIA: [interposing] But you
21 haven't met with us yet.

22 CHAIRPERSON GJONAJ: Was there a request?

23 FRANK GARCIA: Yes, I did.

24 CHAIRPERSON GJONAJ: Well, then I
25 apologize to you, number one, because I made sure I

1 met with all stakeholders that had a say on this
2 regardless of their position, because it was
3 important for me. So I'm not sure how that request
4 came in, but I'll look into it, and I'm happy to set
5 one up with you, and I owe it to you and I owe it to
6 everyone that wants to be heard, and I give everyone
7 the attention that they deserve, because I'm actually
8 here to serve and--

10 FRANK GARCIA: [interposing] I know that,
11 that's why I tell you that, because I know you from
12 the Bronx and I know you care--

13 CHAIRPERSON GJONAJ: [interposing] My
14 heart is in the right place, and my head is in the
15 right place, so thank you. Does anyone want to add
16 to that?

17 MARLENE CINTRON: I just want to ask,
18 Chair Gjonaj, that we really need a promise from the
19 City Council on two things, and it's that you're not
20 going to kill-- that we're-- we're going to make sure
21 that this bill gets passed. That it's not-- I mean,
22 yes, granted there will be changes. It happens all
23 the time, but we have been at this for 30 years
24 already, okay? And we need to pass this bill. We
25 need to pass this legislation that we are not going

1
2 to have days go by and days go by because there's a
3 study, there is this, there is that. We need to
4 come-- we need to bring this to fruition. This is
5 very important for the City of New York, and we need--
6 - we need to hear from you as Chair of the Small
7 Business Committee. We need to hear from you as
8 Chair of the Small Business Committee that this is
9 not going to be another, you know-- what has happened
10 in, you know, the last several years where we have a
11 hearing, we have this, and then it doesn't go
12 anywhere.

13 CHAIRPERSON GJONAJ: I'm with you. We
14 are giving this the attention and committing the
15 resource--

16 MARLENE CINTRON: [interposing] and
17 timing, timing, we need--

18 CHAIRPERSON GJONAJ: [interposing] If
19 you'll allow me.

20 MARLENE CINTRON: I'm sorry.

21 CHAIRPERSON GJONAJ: We are giving this
22 the attention and allocating the necessary resources
23 for the following steps. I do want to reiterate, Mr.
24 Garcia, it was-- there's a misunderstanding. I just
25 confirmed. I'm here to hear the last testimony.

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COMMITTEE ON SMALL BUSINESS

MARLENE CINTRON: Yes.

CHAIRPERSON GJONAJ: You indicated, I believe, that you can't wait. And I said, well, then submit your testimony in writing. So no one here should feel that they have to leave because they will not be afforded the opportunity to be heard.

FRANK GARCIA: That's not--

CHAIRPERSON GJONAJ: [interposing] I am here as long as I need to be.

FRANK GARCIA: [interposing] I was here since the morning. I have a doctor's note saying that I have a medical condition. I just got major surgery. I was here all day because that's what a Latino leader does, and I'm here, and I wasn't going to leave until you heard my testimony. I was too sick to write. I will make sure you get something in writing, and you know me, I'm a man of my word.

CHAIRPERSON GJONAJ: No, Mr. Garcia, I just want to point out because it may have been conveyed incorrectly.

FRANK GARCIA: No, I was [inaudible] your staff.

CHAIRPERSON GJONAJ: No one here has to leave. As long as you're willing to stay I will

1
2 remain here so you're record-- so you go on record
3 with your testimony.

4 MARLENE CINTRON: Thank you.

5 CHAIRPERSON GJONAJ: That's the point I
6 was trying to make, and we are going to continue.
7 Thank you so much.

8 BILL BOROCK: I have a question. Can you
9 let us know here that you will bring this up for a
10 vote?

11 CHAIRPERSON GJONAJ: I'm sorry?

12 BILL BOROCK: Can you let us here know
13 right now that you will bring this to a vote, you
14 will bring a vote--

15 CHAIRPERSON GJONAJ: [interposing] It
16 doesn't go to a vote. It has to be worked on. First
17 of all, it has to go to a committee hearing. There
18 has to be another hearing before it comes to a full
19 vote. It has to come out of Committee. So, we have
20 steps and we have procedures in place that have to be
21 taken. It's not only for this, but every--

22 BILL BOROCK: But will you bring it up
23 for a vote?

24 CHAIRPERSON GJONAJ: That's the
25 intention. The intention is to follow this through--

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2 BILL BOROCK: [interposing] Will you bring
3 it up. Will you vote to be brought up for a vote?

4 CHAIRPERSON GJONAJ: My-- as I indicated
5 all along, I am fully supportive of small business,
6 because there are very few people in the Council that
7 have ever owned a small business. So if there's
8 anyone that understands the issues, it's me
9 firsthand. I have-- there is no stronger advocate
10 for small business than myself. My parents
11 immigrated here. So when you talk about immigrants,
12 I know, and what it took for them to invest in this
13 city and risk. So, the commitment will be there. We
14 are having this hearing for that one reason, and this
15 notion that this is not going to be given the focus
16 and the attention that it deserves is an ill-
17 conceived one. Work with us. we have 51 members in
18 this council that are going to be spending the next
19 several weeks listening to the hours long testimony,
20 and ultimately I truly believe we will be passing a
21 comprehensive small business protection package, and
22 I will be at the front of that because it's that
23 important to me and the future of this city. Thank
24 you. Next panel is Dennis Johnston, Ratina Mayer
25 [sp?], Michael Brady,-- I don't know if someone's

1 here from the Park Slope bid-- Rob Burns, Joe
2 Rosenberg, and Stewart Saft, and Mary Ann Rothman.

3 UNIDENTIFIED: Start?

4 CHAIRPERSON GJONAJ: Yes, please. We'll
5 begin from the le-- unless there is an urgency for
6 anyone, we'll begin from left.

7 MARY ANN ROTHMAN: I'm going to stand if
8 you don't mind, because we're sharing a seat. Good
9 evening. My name is Mary Ann Rothman, and I'm the
10 Executive Director of the Council of New York
11 Cooperatives and Condominiums. Ours is a membership
12 org-- ours is the largest of several membership
13 organizations for housing cooperatives and
14 condominiums in the five boroughs. More than 170,000
15 New York families make their homes in our member
16 buildings which span the full economic spectrum from
17 very modest housing to upscale dwellings. We've done
18 a little bit of research. We find that around
19 100,000 families in the City of New York live in
20 housing cooperatives that have commercial space, and
21 I see that these posters are not as big as I had
22 hoped, but they show the councilmatic districts and
23 the number of households in the various cooperatives
24 in your district that have commercial space in them.
25

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2 When this space is actually owned by the cooperative
3 or condominium, the revenue from the commercial
4 tenants supplements the carrying charges, as has been
5 said frequently this evening, and it makes the
6 housing cost of the shareholders or unit owners more
7 affordable. No cooperative or condominium has any
8 incentive to leave its commercial space vacant nor
9 any reason to push out a good tenant. When vacancies
10 occur, Boards try their best to find tenants who will
11 be an enhancement to the building and the
12 neighborhood who will pay on time, who will comply
13 with city laws, who will not create noise or other
14 disturbances. They're happy to retain such tenants,
15 but there are disappointments. Tenants do fail to
16 meet these reasonable criteria, and then the Board
17 looks forward to terminating the relationship when
18 the lease ends and to look for a better tenant. The
19 Council of New York Cooperatives and its members
20 strongly oppose Intro 737A for the restrictions it
21 seeks to impose on the right of a cooperative or
22 condominium to administer its own space. Thank you.

23 CHAIRPERSON GJONAJ: Thank you, Mary Ann.

24 DARCEY GERSTEIN: My name is Darcey
25 Gerstein. I'm the President of the Seward Park Coop

1 Board of Directors, and I'm here to represent the
2 5,000 residents who live in my coop and depend on the
3 income derived from our 45 retail and professional
4 tenants to offset their maintenance costs. Not only
5 is Seward Park a Naturally Occurring Retirement
6 Community, or NORC, we were also incorporated as a
7 Title I redevelopment company in 1956 with more than
8 40 percent of our current shareholders entering
9 between then and the coop's 1996 reconstitution as a
10 free market coop. We retain one of the lowest per
11 square foot maintenance fees in Manhattan and pride
12 ourselves in keeping fees affordable for all of our
13 residents. Revenue from commercial rent provides
14 about 15 percent of our operational costs. Not
15 incidentally, real estate taxes account for nearly
16 half of our 29 million dollar annual expenses having
17 almost tripled in the last decade. Our newer
18 commercial leases include provisions for
19 contributions to these rising costs which are
20 otherwise borne exclusively by our shareholders.
21 Never the less, the Board has continuously made
22 concerted efforts to acquire and maintain unique
23 independent business that add value and needed
24 service to our community. Even in the current
25

1 environment of many empty storefronts and demise of
2 beloved mom and pops in the neighborhood, our
3 commercial strip has only two vacancies. Both are
4 notable to this discussion. The first is at 403
5 Grand where there was a 7-11 that had a 10-year lease
6 signed in 2013 that they chose to terminate early.
7 Aside from Citibank, this was our only national chain
8 in all of our commercial spaces. Bill 737 in its
9 current form would protect our corporate retailers at
10 the expense of our shareholders and the broader
11 community. To wit, the coop is now poised to select
12 a neighborhood small business to replace 7-11. The
13 second is at 393 Grand Street where a long-term
14 tenant nearing the end of his lease was given the
15 opportunity to upgrade his service and offerings to
16 match the needs and desires of the community. When
17 he did not, we sought additional proposals from other
18 small businesses that offered superior service and
19 products in addition to better terms. The lease was
20 awarded to a new small business women who is also a
21 neighborhood resident. Under bill 737, this free
22 negotiation and new small business opportunity would
23 not have been possible. Seward Park exemplifies the
24 100,000 coop households that act as both landlords

1 and consumers of the businesses on their properties.

2 We are continuously balancing the line between

3 defraying shareholder costs and providing needed

4 community services. Bill 737 removes our negotiating

5 power and stymies our efforts to attract and retain

6 diverse, small local businesses the very businesses

7 that supporters of bill 737 hoped to protect. We

8 urge you to reject this bill and consider other

9 legislation that would help existing small businesses

10 without hurting working families and homeowners like

11 my neighbors in Seward Park. I just wanted to

12 mention that one of the businesses that Speaker

13 Johnson mentioned earlier was Cup and Saucer in

14 Chinatown. We actually solicited them to rent one of

15 our vacant spaces, and they didn't-- they declined to

16 pursue further negotiation for their own personal

17 reasons. So, there's a lot of stories and two sides

18 to every coin. So it's not a one-size-fits-all

19 solution. That said, I look very forward to you

20 patronizing a small local business after this because

21 I'm starving.

22 CHAIRPERSON GJONAJ: Thank you, Darcey.

23 JOSEPH ROSENBERG: Good evening Chair

24 Gjonaj. I'm Joseph Rosenberg. I'm the Executive

1 Director of the Catholic Community Relations Council
2 representing the Archdiocese of New York and the
3 Diocese of Brooklyn on local legislative and policy
4 matters. We are strongly in opposition to Intro.
5 737A. Commercial premises are very broadly defined in
6 this bill as "a building or space in the City of New
7 York occupied for non-residential purposes."
8 Accordingly, this legislation would cover spaces
9 leased by religious organizations to social service
10 providers, community organizations and other
11 nonprofit entities for non-commercial purposes.
12 Intro 737A would eliminate a property owner's ability
13 once a commercial tenant's lease is about to expire
14 to select a new non-residential tenant more
15 appropriately suited to a location than the previous
16 tenant. Removing this well-established legal right
17 would result in a tremendous burden on nonprofit
18 religious organizations. Nonprofit religious
19 organizations are not engaged in purely commercial
20 enterprises. They use their resources on their
21 properties to best support their core mission. They
22 must have flexibility to determine the best way in
23 which their non-residential spaces can be used to
24 serve their congregations and communities. This bill
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1 eliminates their ability to do so. For example, both
2 the Archdiocese of New York and the Diocese of
3 Brooklyn provide community organizations and other
4 enterprises with rental opportunities to provide
5 services to local residents. These will include such
6 facilities as food pantries and senior citizen
7 community centers, which are defined by commercial
8 premises under this bill since they are non-
9 residential. If Catholic Charities or local parishes
10 conclude that their congregations and neighborhoods
11 were to benefit from the termination or relocation of
12 these operations by replacing them with other
13 community uses, they would be unable to exercise this
14 option. Instead, the existing enterprise must be
15 offered a 10-year lease renewal. This is a hardship
16 on the Parish, the religious organizations, and in
17 many instances, the local residents as well. The
18 Archdiocese of New York and the Diocese of Brooklyn
19 have also constructed and preserved thousands of low-
20 income housing units throughout New York City over
21 the last several decades. A revenue source to help
22 cover the maintenance and operation of such low-
23 income housing, as many people have said already at
24 this hearing, are the use of commercial rents on the
25

1 ground floor level of such developments. If a
2 charitable or other affordable housing organizations
3 determines that a commercial tenants nearing the end
4 of their lease term should be replaced by one that
5 can better serve the local residents, and/or pay a
6 greater rent to help cover the housing development's
7 operations, they should be able to make such an
8 important decision. This bill creates many hurdles
9 preventing them from exercising such an option. It
10 appears to inadvertently create a barrier against
11 many nonprofits and religious organizations that are
12 devoted to and focused upon the development of low-
13 income housing in our city. The health of the
14 commercial sector in our city is extremely important.
15 Although this bill is well-intentioned, it creates an
16 untenable burden on all property owners, not just
17 nonprofits and religious organizations. This is
18 deeply flawed and should not be passed. I just want
19 to also indicate that a colleague of mine, Louis
20 Chaffe [sp?], who is the Director of Legislative
21 Policy for the United Jewish appeal also has the same
22 perspective. She had to leave early, but you have
23 her testimony.
24

25 CHAIRPERSON GJONAJ: Thank you, Joseph.

1
2 ROB BYRNES: Good evening, Chairman
3 Gjonaj. I'm going to be very brief. My name is Rob
4 Byrnes. I'm the President of the East Midtown
5 Partnership which is a Midtown Manhattan Business
6 Improvement District. We count among our members more
7 than 800 ground floor businesses and a roughly 3,000
8 upper floor commercial tenants, and I'm happy to
9 report 9.7 percent vacancy rate. I walked the
10 district myself in August, so I can confirm that. I'm
11 not going to-- I'm going to be brief because you've
12 already heard everything already like 17 different
13 times, and you already understand this is a nuanced
14 issue. We do oppose 737A as written, because we feel
15 that there are a lot of-- that while rent is important,
16 there are a lot of other things that are important to
17 the vitality of the small business sector that need
18 to be looked at, taxes, fees, mandates that-- I hear--
19 - those are what I hear from my small businesses.
20 The Clear Curb Initiative from the City that won't
21 allow my-- many of my small businesses over like
22 seven or eight blocks to have some customer dropped
23 off or get a delivery during the day. So these are
24 the kind of things that we would like to see City
25 Council look at, as well as rent, and I also want to

1
2 encourage you to use the City's Business Improvement
3 Districts and the New York City BID Association as a
4 resource. We are in touch with our small businesses
5 on a daily basis. We work very closely with them. We
6 know what is on their mind and we are-- we want to
7 move forward and protect them. So, thank you.

8 CHAIRPERSON GJONAJ: Thank you, Rob.

9 MICHAEL BRADY: Good evening, Chair
10 Gjonaj, Council Member Yeger, who I think stepped
11 out. As I said before, I will say it again, New York
12 City has failed small business community, and with
13 this legislation as written, we will continue to do
14 so. Thank you for the opportunity to speak today.
15 I'm Michael Brady, Executive Director of the Third
16 Avenue Business Improvement District, located in the
17 South Bronx. The Third Avenue Business Improvement
18 Discovery is the Bronx's oldest BID and greets over
19 200,000 visitors daily. We currently have a ground
20 floor vacancy rate of six percent. In addition to
21 leading the Third Avenue Business Improvement
22 District, my organization currently manages the
23 Southern Boulevard Business Improvement District to
24 our east with 16 percent vacancy rate and the
25 Bruckner Boulevard Commercial District to our south

1 with a three percent commercial vacancy rate.

2 Collectively, these areas represent the majority of
3 the South Bronx with over 700 largely first and
4 second generation immigrant-owned member businesses
5 slated to grow the 1,500 member businesses by 2019.

6 Our organizations have had a great impact on ensuring
7 that businesses, particularly those in the outer
8 boroughs, can exist and thrive and adapt and evolve

9 in the rapidly changing economic landscape that is
10 New York City. As you know, BIDs are legislative
11 partners of the city of New York, funded and self-

12 sustained by contributions in the form of a special
13 assessment on property owners. These are not tax
14 dollars taken by everyone. Business Improvement

15 Districts have management agreements with the City of
16 New York and are some of the earliest examples of
17 public and private partnerships. At the very heart of

18 what we do is maintain the civility and growth of
19 small businesses in commercial districts. In 2017,
20 over 147 million dollars in services were provided by

21 New York City's network of 75 BIDs across all five
22 boroughs, assisting over 93,000 small and micro-

23 businesses. Our collective organizations oppose
24 Introduction 737A, the Small Business Job Survival

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1 Act. After careful consideration and input by our
2 stakeholders, our organizations will not support the
3 legislation without significant revision. The
4 legislation, as we've heard today, has a lot of holes
5 and may do more harm than good. We realize that the
6 optics of passing legislation that is embraced by a
7 populous base is, in our political environment, is
8 appealing to many members of this Council. However,
9 the unintended consequences of passing this
10 legislation will burden already struggling mom and
11 pop store owners. In our understanding, the
12 legislation in front of the Committee when it was
13 first proposed was developed as a radical solution
14 with the full understanding that the legislation was
15 not enforceable or legally binding, akin to a "what
16 if" piece of legislation. The proposed legislation
17 misses the mark for the following reasons: it lacks
18 legal standing. It is inconsistent with state law.
19 It creates a predatory leasing environment for small
20 mom and pop businesses. It has an overly burdensome
21 arbitration clause that will actually hurt small
22 businesses, not help. Additionally, during a time
23 when our businesses are under constant threat as a
24 result of rising rents, a rising tax burden to
25

1 increasing operational costs, we can't afford to pass
2 a lackluster legislation onto our small businesses
3 without knowing its effects and its validity. It's
4 not fair and it goes against everything being
5 America's Fairest Big City is all about. This
6 legislation is not part of a broader plan to assist
7 our small business communities and will whitewash the
8 future of leasing for our commercial districts.

9 Removing the vibrant business cultures that make New
10 York City so New York. It is our recommendation that
11 this council should keep this bill in Committee for
12 redrafting to comply with New York State real
13 property and other legal barriers. Two, properly
14 assess the localized needs of small businesses will
15 real data. Three, include a revised vision of this
16 legislation with a roll-out of a fairer property tax
17 structure. Four, develop a suite of mechanisms and
18 more importantly resources, financial and otherwise,
19 for small business owners that may experience
20 litigation as a result of 737A. Five, not let
21 politics get in the way of supporting businesses,
22 something this politicized legislation does. Six,
23 examine the mandated-- examine and mandate that city
24 agencies work together to support small business, and
25

1
2 lastly, bring equity to city service distribution.
3 The City needs to get its act together. Thank you
4 for your time today. I appreciate it. Thank you.

5 CHAIRPERSON GJONAJ: Thank you, Michael.

6 DAVID COHEN: Thank you, Chairperson
7 Gjonaj. My name is David Cohen. I'm 32BJ SEIU. I'm
8 reading on behalf of our Vice President Denis
9 Johnston. I also acknowledge Council Member Yeger.
10 We are here in opposition today of Intro 737 of 2018,
11 the Small Business Protection Act. I appear today on
12 behalf of the Union's 85,000 New York City members.
13 We're City's janitors, security officers, window
14 cleaners, doormen, and porters. I'll try to be
15 brief. Our members live across the five boroughs
16 from Coop city to Coney Island. WE appreciate the
17 contribution of small businesses to the vibrancy of
18 our city and recognize the importance of their
19 success to the health of the City's economy. We also
20 recognize that there's a deep affordability crisis in
21 our city and that many small business-- small retail
22 businesses struggle to make ends meet. This bill,
23 however, does not apply exclusively to small
24 businesses. It applies to all commercial leases
25 including office leases in the City, no matter how

1 large the tenant is. Under the proposed bill, the
2 City would be providing a new raft of protections for
3 large corporate tenants who are more than capable of
4 standing on their own two feet when negotiating their
5 lease renewal. Additionally, on the property service
6 industry, restrictions on the rent receivable by a
7 building owner is ultimately a restriction on the
8 revenue pool from which because services contracts
9 are paid. The proposed bill may allow an arbitrator
10 to consider the services provided by a building
11 owner, but it provides no guidance as to how they
12 should consider whether building service workers
13 receive a decent wage, quality healthcare and a
14 pension. When building workers unionize and when a
15 contract for the first time, it is possible that a
16 building owner may seek to recoup the change in labor
17 costs from their commercial tenants. We strongly
18 attest to the fact that good labor standards improve
19 productivity and the quality of services provided,
20 but nonetheless, it would be a terrible unintended
21 consequence if restrictions on commercial rents were
22 to stand in the way of workers unionizing. We trust
23 that the Council Members who have supported this bill
24 are well-intentioned, and we simply ask that they,
25

1
2 along with the committee, carefully consider the full
3 consequences of the legislation and consider a more
4 direct means to support the City's small businesses.

5 CHAIRPERSON GJONAJ: Thank you, David.

6 MARK CASERTA: Hi. Good evening. My
7 name is Mark Caserta. I'm the Executive Director of
8 the Park Slope Fifth Avenue BID, and there's almost
9 nothing left to stay at this point of the night, but
10 I will just add, we have 30 blocks of storefronts at
11 the heart of Park Slope Brooklyn. We go from the
12 Barclay Center essentially to 18th Street. I do know
13 what my vacancy rate is. I exactly 42 businesses out
14 of 520. That's eight percent. And so we talk to those
15 businesses every single day on the streets. We hear
16 their concerns every day. So, is rent an issue?
17 Yeah, it's an issue in a lot of cases. Are bad
18 landlords a concern? Yeah, we have some bad ones. I
19 won't name them here, but I know who they are. But,
20 you know, again, I think you've brought it up, the
21 position here is that rent is a concern. The City
22 almost never talks about the regulations on the daily
23 basis. I have businesses that have been shut down
24 because of regulations on the Street. They're a real
25 problem. The City's idea is to fine first and punish

1 first before they educate, and that's a big mistake,
2 and that has to be looked at in the future as well.
3 The business registry really has to happen. If you
4 register for the City first before you went to
5 business, a lot of the problems we're having just
6 wouldn't happen. Also, I want to add a couple times
7 we've talked about the San Francisco Small Business
8 Commission. In some form or another I really
9 believe-- I mean, we have small business people
10 sitting here today after six and a half hours who
11 want to speak and want to be heard. Clearly, they're
12 not being heard, and I know you're trying to help
13 that as the Chairman. I know the Speaker was here
14 all day long. That was amazing. I thought that was
15 great, but they don't have a voice, and bills are
16 being passed at the City Council, policies are being
17 written at city agencies without really hearing how
18 they will affect the small businesses in the streets.
19 I really-- I for one think that needs to stop.

21 CHAIRPERSON GJONAJ: Thank you, Mark. I
22 think we could all agree that something needs to be
23 done, and we can't rely on this one issue, rent, to
24 solve the problems. There is no silver bullet. I
25 think especially this panel who seems to be so well-

1 balanced across the board realizes that there's too
2 many other factors that need to be considered, and
3 it's just not that cut and dry as some would make it
4 out to be, and I want to thank you all for your time,
5 your patience and commitment to making sure that our
6 commercial corridors continue to thrive. I'm
7 grateful to you. Do we have anybody else here that
8 is from the BIDs? I wanted to make sure that BIDs
9 have a chance, too. Let's call up the next panel.
10 Judy Richheimer [sp?], Ed-- I'm sorry-- Reid Con
11 [sp?], Robert Levy [sp?], or anyone from Brooklyn Law
12 School, Ed Figueroa [sp?]- is there an Ed Figueroa
13 [sp?], James Bruchot [sp?], Erica Ruben [sp?], and
14 Olympia Kazi. If it's okay, we'll begin with left to
15 right. Press the button.

17 OLYMPIA KAZI: Yes, okay, here we go.
18 Thank you. I mean, it's incredible. Also because
19 really, you know, you're so generous with your time.
20 So, thank you for holding this long-awaited and very
21 long hearing. My name is Olympia Kazi, and I am with
22 the New York City Artist Coalition. You can hear me?
23 Yes? Good. So, we advocate for the safety and
24 preservation of grassroots cultural spaces, and
25 people didn't mention this enough I think today. They

1 all think of small businesses a something different,
2 but you know, cultural spaces are small businesses.
3 The kind of spaces we advocate for are talent
4 incubators and they create community and they support
5 community, and they are, you know, small businesses.
6 I'm going to skip some of this stuff, but basically,
7 the City of New York, the Mayor's Office of Media and
8 Entertainment talked about the fact that 20 percent
9 of them were lost in the last 15 years, so now I'm
10 talking about the economic impact of-- a report [sic]
11 on music industry. And among the example that they
12 brought up were CBGBs that everybody knows, and that
13 [inaudible]. What people may not know is that
14 actually CBGB ended up closing after a 12-year lease
15 expired because of rent increases and they stated
16 that the wetland [sic] preserve was on a month-to-
17 month because the education courses wouldn't allow
18 them to get a renewal. Now, these spaces are
19 treasured. The very New York Times article that
20 talked about the closing of CBGB in 2006 said, "The
21 latest and highest profile rock [sic] club [sic] to
22 vanish from lower Manhattan in recent years as rents
23 and other expenses have continued to skyrocket," and
24 this is what we're looking at today. By the way,
25

1
2 parents [sic] this is not here it has nothing to do
3 with the New York City Administration [sic]. I lead
4 one of the clubs [sic] of Carlina Rivera, and what
5 the previous panel was talking about, the reality of
6 small [inaudible] coops [sic] is we never leave our
7 commercial space vacant, because know it supports our
8 housing. So, as other people have said earlier,
9 that's a different discussion that you need to look
10 at, but it's not okay for them for them to
11 [inaudible] against [sic] most businesses, because we
12 should not be fining them or fighting amongst each
13 other. Like, there are ways in which we co-exist,
14 and we all need protections. Sorry for the
15 parenthesis [sic]-- go back down to my Coalition.
16 So, we talked about CBGB and all the staff. Now, you
17 know, this bill was introduced in the late 80s and
18 what we're dealing here today is a vacancy epidemic,
19 and it doesn't really have to do with the fact that I
20 have an 11-month-old baby that tonight had get only
21 with her dad and a three-year-old boy because I
22 really wanted to be here. Yes, I do buy the diapers
23 on Amazon because I cannot carry 800 pounds of
24 diapers, but that doesn't mean that I'm not
25 supporting small businesses. And I don't think I

1 created this vacancy. What is creating this vacancy
2 is the fact that there are no lease controls out
3 there. Now, we do support SBJSA, but we do believe
4 that there are changes that need to be made. We have
5 some suggestions to give you here. Okay, very
6 quickly. Funding for people who cannot afford
7 arbitration, because arbitration is a big cost. So,
8 the City fund could be a great idea, and you could
9 use as a model the Right to Counsel that is currently
10 done by City. The second thing is translation
11 services. Know Your Rights campaign and subsidy
12 [sic] tenant harassment protection. Again, the other
13 thing that other people brought up is that immigrant
14 communities very often are not given a lease. So, how
15 can we make a program for those who don't have
16 actually lease, because currently SBJSA only talks
17 about those who have a lease? And last but not
18 least, if arbitration fails, you guys should have
19 controls and go and check out, because if it fails
20 because the landlord says certain things and then
21 they didn't do, there needs to be the precautions.
22 And anyway, in closing, thank you again, and we
23 actually support the New York City Artist Coalition,
24 commercial rent stabilization. Everybody saying
25

1 about this is not-- that, we actually support that.
2 We're working with City Council and on the vacancy
3 bill, too. So, we really look forward to working
4 with you on all the bills that are coming forward,
5 because we need them.
6

7 CHAIRPERSON GJONAJ: Thank you so much.

8 We have a lot of work to do together, yes.

9 JUDY RICHHEIMER: My name is-- am I on?
10 My name is Judy Richheimer. I am active in
11 Democratic Party politics in Chelsea and I am the
12 Chair of the Government Relations Committee for the
13 Guides Association of New York City, known as GANYC
14 [sic]. That's an organization that supports tour
15 guides. It's an industry that hasn't been discussed
16 today. There is a strong concern among my Chelsea
17 neighbors and fellow tour guides that the New York
18 City we love, quirky, special and awesome,
19 accommodating to all kinds of everyday needs is
20 shrinking fast and is in danger of disappearing
21 altogether. I live on a street in Chelsea described
22 by Eva Wharton [sic] as having been populated in the
23 1870s with "small dress makers, bird stumpers, and
24 people who wrote." Now, Wharton clearly shuddered at
25 the thought of those kinds of tradespeople, but for

1 many of us, that combination of the ordinary and the
2 acentric had to find Chelsea's charm for more than a
3 century, and that charm could be found in our
4 abundance of book shops, small hardware stores, cafes
5 not called Starbucks, and wonderful Latino
6 restaurants which have largely disappeared and have
7 been replaced by chains on the one hand and vendors
8 of hyper luxury on the other. Now, it was mentioned
9 earlier that retail has to change to reflect the
10 changing residential nature of a neighborhood. Keep
11 in mind that although luxury residential towers now
12 abound to the west of 10th and Chelsea. For nearly
13 60 years low and middle income housing in the form of
14 two NYCHA developments and Pencil [sic] have
15 dominated Chelsea and continue to define that
16 neighborhood. The people living in those apartment
17 need every bit as much of the rich places to shop and
18 to go to eat. And that leads me to a question tour
19 guides are often asked: "Where are your
20 supermarkets?" And a comment we increasingly hear,
21 "Gee, we have all those stores back home." Tourism
22 is booming now, but if we don't protect what makes
23 New York livable and also what makes it special,
24

1
2 eventually our image, our brand, is going to suffer
3 across the country and around the world.

4 CHAIRPERSON GJONAJ: Thank you, Judy.

5 ROBERT BENFATTO: Thank you. Good
6 afternoon, Chairman Gjonaj, Members of the Small
7 Business Committee and other Council Members present,
8 Council Member Yeger. My name is Robert J. Benfatto.
9 I'm the Co-Chair along with Meredith Phillips Almeida
10 [sp?] of the New York City BID Association, which
11 represents the Directors of the City's 75 Business
12 Improvement Districts. I am testifying today on
13 behalf of the Association in opposition to Intro.
14 737A. BIDs are stewards of commercial corridors
15 throughout the five boroughs of New York City and
16 have a unique and vested interest in cultivating a
17 vibrant streetscape of the wide and healthy range of
18 businesses and services to meet consumer needs.
19 Storefront vacancies are a critical challenge facing
20 our city and our BIDs. So we truly appreciate the
21 Council's attention to this important issue. BIDs
22 care about this issue because ground floor vacancies
23 discourage pedestrian activity and are detrimental to
24 our mission of cultivating dynamic commercial
25 corridors. Now, I don't want to go into the rest

1 because it's going to repeat what everyone's said
2 about particular reasons of why this bill as
3 presently written would not be helpful for the
4 situation that we find, but just to talk quickly.
5 The BID directors do care very much about storefront
6 vacancies because we walk our district multiple times
7 every week, multiple weeks in a year, and every time
8 we see a vacancy it's not good for a bid director.
9 No one who runs a bid wants to see vacant stores in
10 their bid. The problem under the bill is it says it's
11 a blunt instrument, a very broad blunt instrument
12 that just doesn't get to all the problems, and you
13 need something to eat away at all the problems. Back
14 in April of this year, before we even prepared for
15 this bill, we formed a Storefront Vacancy Group by
16 the BID Association. A number of different BIDs
17 joined together and we've been working on the draft
18 reports and we've been looking at things that you
19 heard just discussed here before by my other BID
20 members looking at things like in San Francisco where
21 they have that Independent Advisory Board that
22 reviews proposed legislation before anyone gets to
23 vote on it. Looking at things they're doing in
24 London. One of the BIDs talked about online how
25

1
2 online businesses should have a property stance in
3 the area, otherwise maybe they should be taxed. I'm
4 not saying that that's-- but these are things to look
5 at, and other things to encourage flexible and
6 creative uses such as pop-tenants in the area, and
7 this requires greater study also, and the Council
8 Speaker kept talking about having to work together,
9 and I wanted to say we use the [inaudible] available
10 working together, and we keep track of vacancies on
11 individual levels. Unfortunately, the Association
12 doesn't keep a broad record. The Association really
13 just-- the BID Director, there's no staff, but every
14 BID keeps a record. And SBS has an annual report
15 every year that you have to reply to, and you report
16 your vacancies. So, the SBS Trends Report actually
17 does have a record of the vacancy percentage for each
18 every 75 BIDs in the district, and I know that mine
19 happens to be 12 percent number for Hudson Yards
20 Business Improvement District. We need to do things
21 more like that and do greater study, and thank you
22 for listening to me.

23 CHAIRPERSON GJONAJ: Thank you, Robert.

24 JAMIE BURKART: Hello. I'm Jamie
25 Burkart. I'm a member of the New York City Artist

1 Coalition, and I live in Fort Greene, Clinton Hill.
2 It's great to see-- it's been great today to see so
3 many Council Members supporting SBJSA and that we're
4 having this hearing. So, thank you very much. And I
5 wanted to say thank you to the City's First Director
6 of Night Life who is here, Ariel Pallets [sp?]. She
7 spent a couple of hours sitting up in the balcony.
8 So, thank you to the Administration for creating that
9 office. I'm here because New York City's cultural
10 spaces are small businesses, and cultural spaces
11 close due to rent. My life as an advocate began
12 because of the loss of another. My friend, Nick Gomez
13 Hall [sp?], who is one of the 36 people killed in
14 Oakland's tragic Ghost Ship fire. When a City's
15 residents can't afford appropriate commercial spaces
16 for culture, our diverse cultures are forced out of
17 our neighborhoods. We're forced out of business, or
18 we're forced underground into less safe, exploitative
19 slumlord situations. As a safety advocate,
20 affordability is a life and death issue for culture
21 in New York. Cherished community spaces can't get a
22 fair lease here and are closing. Silent Barn [sic]
23 closes here due to rent increases. Madeeba [sic]
24 South African restaurant down the street from me
25

1 closed due to rent increases. Barcepia [sic] closed
2 when the landlord refused to come to the table for
3 lease negotiations. Treasured neighborhood
4 institutions must be able to afford to thrive in New
5 York. When we lose places to come together, we lose
6 New York. Culture needs the right to renew its lease
7 in New York City. In Paris, you can still go to the
8 café where Sart [sp?] and de Beauvoir wrote, but the
9 spaces in the Bronx and Harlem where hip-hop was born
10 have closed. They're not open anymore. We need
11 commercial rent protections. Save the places that
12 make New York, New York with fair leases and fair
13 rent. Pass the Small Business Job Survival Act, Intro
14 number 737. Thank you.

15
16 CHAIRPERSON GJONAJ: Thank you, Jamie.

17 AREEB KAHN: Good evening. My name is
18 Areeb Kahn. Juliana Milandro and I are here on
19 behalf of the Community Development Clinic at
20 Brooklyn Law School. The Small Business Job Survival
21 Act would create a bureaucratic, costly process that
22 is difficult to navigate. My testimony today will
23 focus on three big problems with the process. First,
24 big businesses will benefit the most. Second,
25 similar tenants will be treated differently, and

1 third, the process is overly complex for small
2 businesses. As we've heard repeatedly today, the act
3 is not distinguished between big and small tenants.
4 By not doing so, the act allows big businesses to
5 take conservative negotiation stances at a relatively
6 minimal cost while smaller businesses are left
7 needing to spend a relatively higher amount to
8 negotiate a new rent that is in no way guaranteed to
9 be affordable. This issue can be illustrated by
10 comparing two tenants, a Chipotle and a local Mexican
11 restaurant. On the one hand, Chipotle has in-house
12 lawyers who already work on lease negotiations and
13 will absorb these costs as the standard price of
14 doing business. The local Mexican restaurant, on the
15 other hand, doesn't have a similar Legal Department.
16 For businesses like them, the system becomes pay to
17 play. They may need to hire an attorney for
18 mediation and arbitration, and after spending
19 thousands of dollars, they may still be left with the
20 rent that is too costly for them to stay in business.
21 The act's arbitration provisions sets forth 12
22 factors that an arbitrator must consider when setting
23 the rent. These 12 factors can then be supplemented
24 by all other relevant factors. Such a complex and
25

1
2 vague standard will lead to unpredictable and
3 inconsistent results. Two arbitrators determining
4 rents for similar businesses located near each other
5 are likely to arrive at different rents for these
6 businesses because of the broad set of criteria they
7 can consider. This unlimited level of subjectivity
8 afforded to individual arbitrators becomes all the
9 more problematic for small business tenants,
10 considering that an arbitrator's decision is final
11 and non-reviewable. The City's property tax system
12 offers a cautionary tale. The property tax system is
13 complex. Many of its decisions are unreviewable, and
14 it's results arbitrary and unfair. One consequence
15 has been that property owners in wealthier
16 neighborhoods often pay lower property tax rates than
17 those in less affluent neighborhoods. This state of
18 affairs has led to a high profile lawsuit and a
19 reconsideration of the entire property tax system by
20 the Mayor's Advisory Commission on Property Tax
21 Reform. The Mayor himself has called the property
22 tax system too opaque and too complex. The complex,
23 vague, and unreviewable rent setting provisions of
24 the act are likely to create analogous problems for
25 tenants and landlords alike. Similar small tenants

1 would be treated differently and big tenants are
2 likely to work the system to their relative
3 advantage. In addition to high costs and a lengthy
4 process, the proposed system is not easily navigable
5 for mom and pop business owners. Most of them are not
6 too familiar with the legal system. For those
7 tenants who choose to negotiate under the proposed
8 system themselves, they would face a new world of
9 legal processes that have nothing to do with their
10 businesses. The act almost requires that tenants
11 hire lawyers to guide small business owners through a
12 system that might begin to feel like the soul-
13 crushing New York City Housing Court where tenants
14 and landlords spend countless hours and often obtain
15 results as perplexing as the problems that brought
16 them there in the first place. Tenants entering
17 Housing Court face steep odds. The system is
18 confusing and impersonal, and as many as 90 percent
19 of the tenants who enter the court enter without a
20 lawyer, making the atmosphere chaotic. Tenants are
21 often unaware of their rights and how the court
22 works, leading to temporary judgements that do
23 nothing but postpone the date of their eviction. The
24 act similarly disadvantages small business owners by
25

1
2 creating a need for lawyers without the majority of
3 small-- without which the majority of small business
4 owners will be left feeling lost and may end up being
5 railroaded. In conclusion, the act's proposed
6 processes exacerbate the advantages that big business
7 tenants currently enjoy in the commercial rent
8 market. The act would not accomplish it's stated
9 goals of creating a fair negotiation market with
10 reasonable and fair lease terms to help small
11 businesses survive and encourage job retention. The
12 Council should consider alternatives to assist small
13 businesses, as my colleague Juliana Milandro will
14 offer. Thank you.

15 CHAIRPERSON GJONAJ: Thank you.

16 JULIANA MILANDRO: Good evening. My name
17 is Juliana Milandro. Given the testimony of my
18 colleague, it is important to shed light on policy
19 alternatives that may achieve the intended goals of
20 the bill, namely to protect small businesses and
21 promote job growth in the local economy. These three
22 policies, vacancy laws, formula business
23 restrictions, and tax credits for landlords may be
24 more effective ways of targeting and protecting small
25 businesses. First, cities like San Francisco and

1 Chicago have enacted vacancy laws to target large
2 increases and vacant storefronts. These laws require
3 commercial landlords to maintain their properties
4 with the goal of decreasing the negative impact these
5 vacancies have on the surrounding neighborhood.

6 Vacancy laws provide clear guidelines to owners that
7 require registration with an associated fee, an
8 insurance policy for the property, maintenance of the
9 interior and exterior of the property for the safety
10 of the community, and a point of contact for
11 questions regarding property. San Francisco has also

12 introduced a program that aims to attract businesses
13 to a particular neighborhood based on the type of
14 vacancies and community desires. Similarly, New York
15 City could use a vacant storefront registration
16 requirement as a foundation for a broader, small

17 business retention strategy. Second, the City could
18 protect small businesses by enacting formula business
19 restrictions. Bristol, Rhode Island and San
20

21 Francisco, California have enacted restrictions that
22 placed limits on formula businesses entering
23 particular neighborhoods. Formula businesses include
24 chain retail stores and fast food establishments.

25 Many New York City neighborhoods have gone through a

1
2 dramatic change over the last few years, and these
3 changes are slowly moving into other neighborhoods.
4 The formula business restrictions serves to prevent
5 chains from operating in particular neighborhoods in
6 order to protect their historical fabric. This will
7 help to protect the unique character of New York City
8 neighborhoods that have yet to feel the effects of
9 gentrification. A restriction on leases to formula
10 businesses will incentivize leasing to small business
11 tenants. This will protect existing small businesses
12 and should also tend to increase the number of small
13 businesses overall. Lastly, a tax credit could
14 alleviate some concern about long-standing tenants
15 being forced out of their spaces due to rising rent
16 prices. SCRIE/DRIE is a residential tax credit
17 program currently used in New York City. These
18 programs freeze rent for eligible tenants in rent-
19 regulated units and in turn provide landlords with a
20 tax credit to cover the difference between the rent
21 paid by the tenant and the maximum legal rent. To
22 successfully implement this model, the City would
23 need to create clear guidelines and limitations on
24 the use of this tax credit to prevent abuse and
25 excess pressure on the City's budget. For a

1 commercial rent tax program, the City should target
2 existing tenants and take into consideration annual
3 gross revenues of the business, number of employees
4 and the impact the tenant has on the neighborhood.
5 For instance, are they a long-standing tenant? This
6 system should be a short term solution to prevent
7 payment shock for small tenants that are struggling
8 financially due to a large increase in their monthly
9 rent, rather than a long term solution to changing
10 market conditions. Additionally, the City must, of
11 course, consider that tax credits come at a price
12 paid by tax payer dollars. Thank you.

14 CHAIRPERSON GJONAJ: Thank you for that,
15 Juliana, and that was probably the most out-of-the-
16 box thinking I heard all day long on how we can come
17 up with a collective, comprehensive approach for
18 those that truly need the help the most, and it has
19 to be some types of means test. But San Francisco,
20 and I think you'd all agree, because of the
21 independent small business commission that is
22 independent of politics, it's made of small
23 businesses which also compromise the arts, determines
24 the faith and the impact of regulation as well as the
25 free markets on those corridors and those small

1
2 businesses, and collectively they come up with an
3 approach that has worked wonderfully for San
4 Francisco. I want to thank you all again for your
5 time, and I believe my colleague here has a question.

6 COUNCIL MEMBER YEGER: Very briefly.

7 Thank you, Mr. Chairman, and thank you to the panel
8 for remaining here for the entire today. We had to
9 stay here, so you did too, I guess. Well, I didn't
10 have to. He did. I'm not on the committee. My
11 question is for the two law students, Ms. Milandro
12 and Mr. Kahn. One of the things that you pointed out
13 to, you pointed out in your testimony, Ms. Milandro,
14 is other municipalities and things that they've
15 enacted. As you know, municipalities are governed by
16 the powers that are vested in us by our state. We're
17 creatures of the state. We don't get to make our own
18 rules unless the state has actually authorized us to.
19 During the course of your research, have you found
20 whether or not the City of New York is authorized to
21 pass this program? As you probably heard from
22 sitting here all day, there are a number of people
23 who have said that the City of New York may not have
24 that authority.

1
2 JULIANA MILANDRO: My research was more
3 of a policy analysis and not really a legal analysis,
4 so I wouldn't be able to answer that question.

5 COUNCIL MEMBER YEGER: That's a good
6 answer. I'm not prepared for a hot bench, right? The
7 notion of similar tenants being treated differently,
8 Mr. Kahn, you referred to the Mayor's Advisory
9 Commission of property tax reform and talked about
10 the property tax system, and I agree with you that
11 the results are arbitrary. I think you used the word
12 "unfair." I would say "capricious" is probably a
13 better word to stick in there. It's true. There's--
14 there really is no review. What would you suggest as
15 a way for the City's property tax system to become
16 fairer that would enable small businesses to operate
17 in an environment that allows them to boom rather
18 than bust? And part of the reason for that question,
19 I suppose, is that an enormous amount of the pressure
20 being put on small businesses that are tenants comes
21 from the fact that landlords themselves has pressures
22 based on their rising costs. The biggest rising cost
23 for landlords tends to be real property taxes.

24 AREEB KAHN: Sorry to give you a similar
25 answer to Ms. Milandro's answer.

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COMMITTEE ON SMALL BUSINESS

COUNCIL MEMBER YEGER: Don't worry about it. Alright, I'm going to let you go, because this is fun, and I really just needed something to wake me up, but I appreciate it.

AREEB KAHN: Thank you very much.

CHAIRPERSON GJONAJ: Thank you, Council Member. Thank you so much. We'll call up the next panel: Brent O'Leary, Santos Rodriguez, James Nelson, Jordan Barowitz [sp?], Fabio Furman [sp?]. We've got room for one more. Let's call up Laura Panamev [sp?]. Four, five, six-- Can we make sure that we get everybody on the panel? Is anyone left from the people we just called out? So, let's go to the next-- How many people are still here to testify with a show of hands? Okay. Let's begin with the five on this side. We got room for two more. Does anyone have to leave? Yes, young lady. And I'll take the-- yes, young lady. The two-- sir? I think we gave it to the two ladies. Sir, I think the two ladies indicated they have to leave, if it's okay? And as customary, left to right, if it's okay with you.

NIKKI LEDGER: Okay, so I'm going to start off with something I didn't write, which is the

1
2 small family business history for me. During the
3 1920s, 30s, 40s, and--

4 CHAIRPERSON GJONAJ: [interposing] Can you
5 state your name please?

6 NIKKI LEDGER: Oh, Nikki Ledger [sp?],
7 sorry. During the 1920s, 30s, 40s, and part of the
8 1950s my grandparents owned a small business which
9 was located just west of here where the World Trade
10 Towers were later built, and imminent domain was used
11 to seize that land to build the towers, which brings
12 me to what I really want to talk about which is a
13 novel use of imminent domain. There's-- I think
14 you're interested in this. There is a professor of
15 law and public affairs at Cornell by the name of
16 Robert Hocket [sp?] who about five years ago was in
17 a-- testified with Maxine Waters interviewing him in
18 Washington, D.C. at the Rayburn office building about
19 possible use of imminent domain to buy up underwater
20 mortgages. This never came to pass, but he is still
21 very interested in the subject of using imminent
22 domain in novel and ways that are useful and
23 constructive for citizens and for anyone, for non-
24 citizens since a lot of these businesses are
25 immigrants, immigrant businesses. I have a reference

1 here to a link should you be interested in like
2 reading a 20-page paper. Now, one of the things I
3 want to say about putting this forward as a proposal
4 is I think it would have to take brave politicians in
5 New York City in order to do something with this.
6 Okay? Not just to talk to him and think about it.
7 And I also want to say that I think it's time for us
8 to think about a stronger state. We think of the
9 state as infringing upon our rights and so forth and
10 so on, but since Ronald Reagan, a strong state has
11 gotten a bad rap, but I think it's also the case that
12 the strong state is needed to protect people. From
13 there I want to segue. I've been reading a bit of
14 someone who used to be a Canadian politician whose
15 name is Michael Ignofitiv [sp?]. You might know his
16 name from articles on the New York Review of Book, or
17 maybe not. So, to condense something I was reading
18 of his, know that they need, meaning the people, a
19 sovereign with the power to compel competing sources
20 of power in society to serve the public good. They
21 want, meaning the people, some public authority to
22 protect them from the systemic risks imposed on them
23 by the powerful. So, I feel that I'm offering the
24 City Council a new mandate, one that I think some
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1
2 people have forgotten that is their role as
3 politicians, which is a particular way of serving the
4 people to protect them from excessive abuses of
5 power. In this case, it's the real estate industry.
6 So, my last paragraph: New York City is losing its
7 sovereignty to real estate super magnets, losing it
8 to Albany, and I think there have been numerous times
9 during the day-- do you have a question? Okay.
10 Please reclaim New York. Time is running out. The
11 rate of decay of our life at street level has
12 accelerated. Should we pass this bill, at least
13 small immigrant businesses and families will be
14 saved. Thank you.

15 BRANDON SULLIVAN: Good evening. My name
16 is Brandon J. Sullivan. I'm the author of Rivington
17 Was Ours, a book about how small businesses in the
18 lower east side were able to make an indelible
19 imprint on our culture with bands like The Strokes,
20 LCD Sound System, of course, Cardi B, and New York's
21 greatest export, Lady Gaga. I met and started
22 working with Gaga in the fall of 2005 when her first
23 record deal fell through and she thought her whole
24 life was over. Gaga was able to start fresh here,
25 because we had venues and great spaces and small

1 businesses here in New York City. I came here to
2 tell you today that I'm not here to advocate for any
3 single small business, but for our greatest export,
4 our culture. Empty storefronts are a blight on our
5 neighborhoods and our culture, and when you look at
6 the progress of the 20th Century you see that passion
7 in New York City businesses always led the way. We
8 had integrated dance floors before we had integrated
9 school boards, and we had marriage equality at
10 Stonewall before we had it at City Hall. A year ago
11 today the Mayor of our City had the Empire State
12 Building and One World Trade Center lit up orange to
13 entice Amazon to put their second headquarters here.
14 I say it's time to light up our available real estate
15 and open our cities to the dreams of a new
16 generation, to build a home for the incubators and
17 innovators who will lead our city into the 21st
18 Century. This is the city that never sleeps because
19 so many great people choose to stay here and chase
20 their dreams every day and every night, and we know
21 if we can make it here, we can make it anywhere, but
22 the inverse of that is true, that if we can't make it
23 here, we're going to have to go somewhere else. I
24 want to leave with a quote from the great Jane
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1
2 Jacobs, the City Advocate, about why we need these
3 scenes and small businesses. She said, "Lowly,
4 unpurposeful and random as they may appear, sidewalk
5 contacts are the small change from which a city's
6 wealth of public life may grow." Please pass,
7 strengthen SBJSA so we can all grow and flourish.

8 COUNCIL MEMBER YEGER: Thank you. Sir?

9 STEVE KIRKPATRICK: Good evening. My
10 name is Steve Kirkpatrick. I'm a member of the New
11 York City Bar Association Real Property Law
12 Committee. I practiced real estate law for over 20
13 years representing both property owners and
14 commercial tenants in lease disputes, and helped
15 prepare the Committee's legal analysis regarding this
16 bill. The Committee concluded that the City Council
17 is not authorized to enact this bill because it is
18 tantamount to rent control. It limits a landlord's
19 rights with regard to the use and occupancy of his or
20 her commercial space. The power of a local
21 government, such as the City, to enact local laws has
22 to be based upon a grant of authority found within
23 the Charter, State Constitution, Municipal Home Rule
24 or a State enabling statute. And there is no State
25 enabling statute expressly authorizing the City to

1 control rents, let alone commercial rents which have
2 historically not been regulated in the same manner as
3 residential rents. Further, even if there is general
4 power to enact a local law, there must be consistency
5 with State law. Although there are no cases that have
6 arisen specifically resolving the City's power as to
7 commercial rents or spaces, attempts by the City to
8 enact residential rent control legislation without
9 specific authorization have been invalidated by the
10 courts. In addition, the enactment of this bill
11 would also create inconsistencies with a number of
12 existing State laws. For instance, with regard to
13 the right to have a lease extension and binding
14 arbitration, those provisions conflict with Real
15 Property Law Section 228 and 232A, which give
16 landlords the right to terminate certain month-to-
17 month and 30-day tenancies on 30 days' notice. In
18 addition, the automatic renewal provision conflict
19 with Real Property Law Section 229 which provides for
20 the recovery of double rent from hold-over tenants.
21 Further, there's a conflict with Real Property Law
22 Section 232D subsection two which explicitly excludes
23 refusal to renew a lease as a form of harassment.
24 The arbitration provisions also create conflict. The
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2 Municipal Home Rule Law Section 11-1-E provides that
3 the State, not the City, retains power over
4 legislation that affects the courts. There also are
5 conflicts with the arbitration requirements and
6 landlords and tenant rights to resolve their disputes
7 through judicial proceedings such as summary eviction
8 proceedings brought under the State RPAPL, Article
9 Seven. In addition, under the Civil Practice Law,
10 Article 75 which governs arbitration and among other
11 things, provides that all arbitral awards are subject
12 to judicial review. These, all of these
13 inconsistencies are problematic, and as I said
14 earlier, given the history of court decisions finding
15 the local laws attempting to control residential
16 rents have been invalidated, we believe that it is
17 likely that this bill controlling commercial rents
18 and the landlord/tenant relationship would also
19 potentially be invalidated. Thank you.

20 COUNCIL MEMBER YEGER: Thank you, sir.

21 PATRICIA DORFMAN: I'd appreciate it if
22 you would listen. Some of us have not eaten, not gone
23 to the bathroom, not had any water. True of you also,
24 but we're not-- some of us also are not paid to be
25 here today; you are. I'm Patricia Dorfman. I was

1 associated with the Sunnyside Chamber of Commerce for
2 20 years as past Executive Director. I'm now
3 Executive Director of Clean Streets for All, which we
4 seem to have about 12,000 people. I generally want
5 to leave property owners alone, because it's a
6 fundamental right, but what's happened now is the
7 deck is so stacked in favor of the real estate lobby,
8 everything is warped. Today, it's Mr. Banks. I'm
9 glad he testified, but it's Mr. Banks, the rest of
10 us, or Pat or Patricia. They've gotten-- they've
11 played a long, slow, brilliant game. They've gotten
12 421A, MIH, BSA, wide swath rezoning, BIDs that are
13 completely supported by small business, and keeping
14 this bill out of-- from the floor for 32 years bound
15 up in the closet. So, they're wining. So, this is
16 not we need a big fair thing, and everybody hears
17 from everybody. We need something and we need it
18 now. New York is going down the tubes. Small
19 businesses are struggling, and I feel like they're
20 struggling for no reason. We lost 40 businesses.
21 All of them was because the rents were too high. We
22 went from 1,500 to 15,000 even after they put in
23 200,000 dollars' worth of work in two years. So,
24 they're saying today this is sort of out of the, you
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1 know, wheelhouse of City Council. Well, how come
2 these other bills were in the wheelhouse of Albany
3 and New York? You guys take power and make this
4 happen for us. You're our leaders. You can be like
5 when they killed Tammany Hall finally with Roosevelt
6 and Fiorello La Guardia. Help us and go down in
7 history as the people who saved New York. We're
8 begging you.

9
10 CHAIRPERSON GJONAJ: Thank you.

11 LAUREN GARDNER: Hi. My name is Lauren
12 Gardner, and I own-- co-own and co-run two businesses
13 in Manhattan. I wanted to come and talk to you today
14 as someone who runs these businesses so I can give
15 you my opinion on what it's been like. Both of these
16 businesses, one of them is called the School for
17 Poetic Computation, and it's located in the West
18 Village. The other one is called Baby Castles, and
19 we're a cultural space. We're located on 14th Street
20 in Chelsea. Both of them started as ideas and really
21 as projects by artists and educators. They started in
22 other spaces, but then they were able to move into
23 their own spaces when there was enough demand for the
24 services that these organizations offered. Through
25 the ability to have our own space, it's allowed us to

1 so last week I had to renegotiate the rent at one of
2 the spaces. I went in, and they asked for a 200
3 percent increase. This is in addition to the space
4 improvements for HVAC that we would have to pay that
5 represent 30 percent of our yearly operating budget.
6 That amount of money took us three years to save.
7 We've only been in that space for three years. We
8 were able to renegotiate a rent for another three
9 years, but I'm not really sure what's going to happen
10 after that. I know that my time is running out, but
11 I wanted to give you a few points that concerned me
12 from other people talking. The comment about
13 desolate blocks on Wythe: Baby Castles was on Kent
14 which is one block over in 2011 for two years, and we
15 were there as part of 285 Kent. There are also four
16 other cultural spaces that shred that space. So,
17 what desolate looks like to one group, maybe real
18 estate investors, looks like, you know, an
19 opportunity for entrepreneurship for others. Pop-up
20 spaces aren't solution. One of my previous students
21 from last year had to rent out a pop-up space for
22 what he's actually-- I don't know if you're familiar
23 with the new museum has an incubator project for
24 artist entrepreneurs. He had to rent out a space to
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1
2 have his showcase. It cost 10,000 dollars for a
3 three-week rental on the Lower East Side. That's not
4 sustainable. Another example is when Jim was up
5 here, and his example of renegotiation for his space
6 in Brooklyn is not mine. Right? His-- and I want
7 this to really be acknowledge, that his comes from a
8 place of privilege. So, I understand that 737 is
9 maybe not ideal, but access to an arbiter would help
10 us advocate for ourselves, and that's not anything
11 that we've had in the past. I've been eight years as
12 a member and organizer of Baby Castles, and in those
13 eight years we've had to move five times. And
14 during-- and I think that that's talked about like
15 Jeremiah Moses, like, absolutely said how much stress
16 that causes for an organization. During that time we
17 became a nonprofit. We've been moving forward, but
18 to think about the time lost and having just to move
19 our organization and still exist, and what we could
20 have been doing to strengthen ourselves and our
21 community as a business is frustrating. So, I thank
22 you very much for your time today, and I hope you can
23 move this forward.

24 CHAIRPERSON GJONAJ: Thank you, Lauren.

25 LARUEN GARDNER: Thank you.

1
2 BRENT O'LEARY: Hello, my name is Brent
3 O'Leary, and I'm a son of a small business owner from
4 Queens, and I'm here to tell you what you've been
5 hearing, that we are in crisis. I'm walking around
6 the neighborhoods and there are so many empty
7 storefronts popping up left and right, and it's
8 because the owners are asked for 200 percent
9 increases, double, triple. And where did that come
10 from? I mean, there hasn't been inflation. There
11 hasn't been profits. There hasn't been anything.
12 So, I mean, what we're saying is as a small business
13 owner, how can you say I'm going to rent a place or
14 I'm going to invest in equipment if you know that
15 they can raise it double or triple the next year. I
16 mean, we just can't do that. And these are
17 businesses that are not being forced out because
18 they're doing badly. There's the demand there. So
19 it's not online retail. They still have the
20 customers. They still have the people coming, but if
21 your profit margin is 20 percent, and your rent is
22 doubled, now you're not profitable. Now you got to
23 go find someplace else. And as you said, a local
24 business can't do that, because you know, we rely on
25 our customers. We rely on the people we know and the

1 environment that we made, and the reputation that we
2 made in that neighborhood. So, we're asking for your
3 help, and I just want to say that, you know, this
4 also has a ripple effect. It's not just the small
5 business owner. You know, it's all the employees he
6 has working for them. It's all their families. I
7 mean, this is crippling neighborhoods. You know,
8 small-- as you know, small business is the biggest
9 producer of jobs in New York, and we need them to be
10 a healthy New York City. Small business is the
11 lifeblood and it's really the gateway for the American
12 dream for a lot of us, especially our immigrant
13 community. So, we're here, and we thank you for
14 staying for the seven hours and listening to us, and
15 we'll work with you. We're asking you to pass this.
16 It's not the silver bullet. We have that, but it's
17 the start. It's the beginning. It's a framework on
18 which we can base it. We'll deal with the vacancy
19 penalties. We'll deal with everything else, but we
20 need this now to put everything else in place. Thank
21 you.

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23 CHAIRPERSON GJONAJ: Thank you, Brent.
24 Brent, just a question for you. What type of
25 business do you operate?

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2 BRENT O'LEARY: Well, my father was a pub
3 owner and I was an attorney.

4 CHAIRPERSON GJONAJ: Just want to
5 reiterate the importance and the significance for me
6 personally that our commercial corridors remain
7 viable. They make up the neighborhoods. Without
8 them not only do they create local jobs, but they
9 provide a place to live and raise a family. The
10 convenience of being able to walk from your home to
11 an establishment makes for a solid neighborhood, and
12 I agree with you, we have to do something. We have
13 so much to embrace as we make the next steps
14 possible, but our small businesses are the-- the
15 future of this city is in the hands of the small
16 businesses that we need to be supportive of. So,
17 thank you again for your time and your duration and
18 your patience. Councilman Yeger would like to ask a
19 question.

20 COUNCIL MEMBER YEGER: Thank you, Mr.
21 Chairman. This really is just a statement for Ms.
22 Gardner, just to let you know, I appreciate your
23 frustration and I'm sure the entire Council does
24 about what it took to get to this point, but it's
25 also important to give credit where credit is due.

1
2 Our Speaker's leadership is what brought this to a
3 hearing today, and you know, Speaker Johnson has
4 recognized that this is an important issue and that
5 there is a crisis in New York City, and that's why
6 he's brought this. So, although you do have concerns
7 about how long it's taken to get here, and I'm not
8 looking for a place in the history book at all, but
9 Speaker Johnson has brought this to where we are
10 today, and it's an opportunity for us to--

11 PATRICIA DORFMAN: [interposing] I concur.
12 I'm just a bit too tired to--

13 COUNCIL MEMBER YEGER: [interposing] Okay,
14 fair enough. Yes, ma'am.

15 PATRICIA DORFMAN: I just want to say one
16 thing now that the Chair is here. This is so
17 important to history. It's resting on you, Chair.
18 You sat here. I didn't see you except for just now go
19 for a break. It's impressing us. Pass this. Pass
20 this. It's going to change New York forever, and
21 you're going to get the credit. We can go on forever
22 with the banks and their money. It's much easier to
23 talk to them. They're very congenial. They have all
24 the lawyers. As I say, they pass bills for the last
25 20 years to make this- get to this point where

1
2 they're like a giant octopus over the City. I love
3 real estate people, just we need to be able to
4 survive, and we're not surviving.

5 COUNCIL MEMBER YEGER: Okay. Thank you.
6 And Ms. Ledger, just to be perfectly clear, I know
7 you were referencing my comment about imminent domain
8 earlier. It was more of an academic question for me.
9 I actually do not support imminent domain for this
10 issue, and I just wanted to make sure that you're
11 clear about where I was coming from. I did ask one
12 of the panelists about it. It was more of a-- I don't
13 want to say facetious, but it was academic at least.
14 Mr. Kirkpatrick I have a question about some of the
15 things that you noted are inconsistent with State
16 Law, and as I've in my questions earlier to the law
17 students that - you know, we all recognize that we're
18 a creature of the State and that the State gives us
19 our right to operate and our right to pass laws. One
20 of the things I didn't notice and I wonder if can au
21 pine on, the statute as currently written, the
22 proposed bill has a notice requirements that's not
23 currently as best as I imagined in the Real Property
24 Law, the RPAPL, this 180 day notice requirement of a
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1 landlords' intent. Can you au pine on whether or not
2 that's something that conflicts with State Law?

3 STEVEN KIRKPATRICK: The notice issues
4 that conflict that were as I said, the curtailing of
5 an owner's right to terminate month-to-month
6 tenancies and tenancies at will. We did not see a
7 specific conflict with the 100-day notice provision
8 by itself, but that is tied to other provisions such
9 as the arbitration where there are conflicts.
10

11 COUNCIL MEMBER YEGER: Do you see manner
12 that a bill would accomplish what this bill clearly
13 intends to accomplish that would be lawful, or is it
14 your opinion and the City Bar's Opinion that without
15 an authorizing law from the state, there is simply no
16 opportunity for this even to move forward.

17 STEVEN KIRKPATRICK: We looked at this
18 bill. We looked at both the original Intro. 737 and
19 then the 737A. So that's really what we did, and we
20 don't have-- it wasn't really our role to come up
21 with ways that the bill could be fixed to say simply,
22 but we looked at this bill and wrote a report on the
23 existing bill.

24 COUNCIL MEMBER YEGER: Thank you, sir.
25 Thank you, Mr. Chairman.

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COMMITTEE ON SMALL BUSINESS

CHAIRPERSON GJONAJ: Councilman Powers?

COUNCIL MEMBER POWERS: Thank you. It's been a long night, so I'm going to actually refrain from asking questions. I just wanted to say thank you to everybody who's been here for a very, very long day, and I wanted to just recognize both colleagues who have been here from the beginning of this, for sitting here through a long day, but also just recognize everybody's who's here and thank you for sitting through a very long hours of testimony to have your voices heard here as well. Thank you to the Chair.

CHAIRPERSON GJONAJ: Thank you, Councilman. I believe we all agree that these protections should be afforded to small businesses and not corporate America, that we shouldn't be affording this type of protection to Fortune 500 companies. Is that the sentiment amongst all of you?

PATRICIA DORFMAN: I think everybody-- that'll shake out on its own. I don't have any problem with Rite Aid subject to the same thing as his pub.

CHAIRPERSON GJONAJ: So much for that. Thank you again for your time. With a show of hands,

1
2 I believe everybody on the left side, six people--
3 seven, one, two, three, four, five-- let's have the
4 last seven come up, please.

5 UNIDENTIFIED: [off mic]

6 CHAIRPERSON GJONAJ: We're not going
7 anywhere. I thought that was it. We're not done,
8 no. We'll bring from the left. Press the button to be
9 heard.

10 LAURA TRAVERS: Good evening. So, my
11 name is Laura Travers [sic]. I'm a small business
12 owner coming to testify why I think the Small
13 Business Job Survival Act should be enacted for the
14 greater good of all New Yorkers. My business is a
15 small neighborhood bar which I built and established
16 in 2005. It has been successful since then at
17 providing an income to me, my six bartenders, and
18 just as importantly, enriching the life of our
19 regulars who have come to regard it as a home away
20 from home to meet and exchange news and ideas among
21 themselves. Indeed, small businesses do more than
22 provide an income to their owner and their employees,
23 which in the case of my business provides income
24 varying from 40 to 50 dollars per hour to each
25 bartender employees, and business to many vendors,

1 wholesalers, of course, but also independent
2 businesses such as our exterminator, or BLN [sic]
3 cleaner, our bookkeeper, our handy man, our
4 refrigeration maintenance, etcetera, all of whom get
5 paid between 50 and 150 dollars per hour for their
6 expertise. They also contribute to humanize our daily
7 life, as over the years they continue to cater to
8 their customers in the neighborhood. Yet, for all
9 their contribution to society, economically and
10 socially, retail businesses can be single-handedly
11 run out of business should a landlord decide to
12 increase their rent by double digit or sometimes even
13 triple digit when their lease is up. Currently, when
14 their lease is up for renewal, the shop owner has no
15 right whatsoever. It is as if he or she had never
16 been a tenant in the building. I am lucky to have a
17 good relationship with my landlord, and I hence know
18 all about her concerns. Since I have signed my lease
19 in 2005, the real estate taxes she pays on her
20 building have increased an average by 6.5 percent per
21 year, and her rate for water and sewer has increased
22 on average by 7.5 percent per year. My business pay
23 parts of this bills, but one has to note that these
24 increases are higher than inflation. The Small
25

1 Business Job Survival Act would allow true
2 arbitration landlords and shop owners to negotiate a
3 rent increase which is fair to both sides. It is
4 hard to understand why anyone would oppose it. Thank
5 you for your time and attention to my testimony, and
6 wishing you a nice evening.
7

8 CHAIRPERSON GJONAJ: Thank you, ma'am.

9 LAURA TRAVERS: You're welcome.

10 MANNY GOMEZ: Good evening. My name is
11 Manny Gomez, former President of Sunnyside Chamber of
12 Commerce and currently Chairman of the Chamber of
13 Commerce. Thank you so much for your time. I guess
14 I just want to speak from the heart, and I mean, I
15 know there's so much statistics that happen in our
16 community. I've been living in the community for the
17 past 30 years and to come into a place that is so
18 vibrant and when you get to know the owner's name and
19 they get to know you and you have that relationship,
20 we call it in the Sunnyside Chamber of Commerce, a
21 small town in a big city, and that's on our logo that
22 we always put out there, and that's how we feel, that
23 really a small town in a big city. and what we're
24 seeing right now is that that's changing, and it
25 hurts so much to hear every business owner saying

1 that okay, they might-- right now they might be on--
2 you know, doing business, but they maybe in the next
3 maybe few months they're saying, "Are we going to
4 make it or not? What's going to happen next, you
5 know, when my lease ends?" You know? So, I know
6 everybody has been talking about also the vacancies
7 that we also see in our neighborhood, when we see
8 those stores like our theater that went away, our
9 awesome dentist that was there also for more than 25
10 years, beauty salons. And so it hurts to see that
11 now, that majority of these businesses are not there,
12 are no longer there, you know, and why is that
13 they're no longer in there? And that's because the
14 majority-- the main reason in here is because of the
15 rent increase. That's totally-- we know that that's
16 a fact. And also, when we see a lot of vacancies in
17 our neighborhoods, you know,-- I know a lot of people
18 coming from [inaudible] but sometimes they-- I don't
19 think they-- they should act a little bit more and
20 get involved into it. And one of the reasons that we
21 see is that there was this current property, our
22 theater was and here the dentist was and another
23 restaurant and pop, it was-- it's been vacant for the
24 past probably more than five years. It sold for
25

1
2 CHAIRPERSON GJONAJ: Thank you, Manny,
3 thank you.

4 AYISHA OGLIVIE: Hello. My name is Ayisha
5 Oglivie. I'm a long-term, life-long resident of New
6 York City, a member of Community Board 12 of
7 Manhattan, going on six years currently. I'm the
8 Chair of Housing and Human Services for my district,
9 a technology trainer, a developer, and the very proud
10 older sister of an Inwood, Manhattan business owner,
11 Yousef Meyers [sp?]. My testimony is about what I
12 have witnessed. My brother, the son of a mother
13 immigrant from Panama, and a father grandchild of
14 sharecroppers, after working long hours for years as
15 a trainer for major fitness chains to raise
16 sufficient funds to open his business, prior to
17 opening he made such a great impact that he was
18 selected as a physical trainer for an MTV special,
19 has been features in many national magazines. His
20 business could have garnered attention in any
21 community with his track record and results, but
22 wanted to serve the community which he was born in
23 and so began Pure Results Extreme, known widely as
24 PRX, at 4875 Broadway. In a dilapidated, vacant, old
25 carpet store which required a high investment of over

1
2 200,000 dollars for him to transform it into a state-
3 of-the-art fitness facility. That was unfortunately
4 the best he could do considering most retail in our
5 community, our low to moderate income community, goes
6 for tens of thousands of dollars per month for little
7 to no square footage, and is always rising as
8 turnover increases. It was a move that almost
9 derailed his business before even starting. Starting
10 is only half the battle. New York Presbyterian, for
11 instance, attempted to raise the rent on Coogan's Bar
12 which has been in business for 32 years to the tune
13 of 40,000 dollars per month early this year before
14 elected [sic] stepped in offering a rare opportunity
15 of defending it from closure. The 31-year owner of
16 Carrot Top Bakery, also a tenant of New York
17 Presbyterian and Washington Heights, Renee Mansino
18 [sp?] committed suicide in her bakery in 2014. Her
19 husband stated that the threat of losing her business
20 due to negotiations that were egregious to the tune
21 of 10,000 more per month on top of what they already
22 paid pushed her over the edge. Yet, Cushman &
23 Wakefield, New York Presbyterian's management sits
24 here today claiming rent hikes aren't what is pushing
25 commercial tenants out. They sat here and lied

1 because leading us to believe that helps their bottom
2 lines and that of their properties that they manage--
3 the owners of properties that they manage. As an
4 advocate I've witnessed Columbia University push out
5 a small business that had invested about 200,000 to
6 rehab a location near me within a couple of years of
7 them beginning their lease. Last I checked, these
8 institutions are billion-dollar institutions that
9 receive billions even from our government to operate.
10 They're not suffering. The store I mentioned has
11 been replaced with a store that charges much more for
12 the food it sells. The lack of protections also
13 impacts residents, making neighborhoods unaffordable
14 as the rents are passed through to the mark-up of
15 goods. However, the choice and determination made by
16 my brother to invest his life savings and sweat into
17 PRX and complete that vision has however reverberated
18 to create a ripple of positive changes for many
19 thousands of people. So I'm going to-- very quickly.
20 He served over 10,000 members in Greater New York,
21 123 bi-weekly PRX 14-day challenges, a total of a
22 combined 100,000+ pounds being lost collectively in
23 our community, and I know obesity is something that
24 our city and state wants to address right now.
25

1
2 There's 60 percent of people are either overweight or
3 obese in our state. So, PRX is only one of the many
4 micro-businesses that deserve protection from the
5 SBJSA, and it only begins to address it. I keep
6 hearing today how difficult the task is to strike a
7 balance for landlords and small businesses. Someone
8 mentioned the writing on the ceiling earlier.
9 Another says, "Our commercial policy should hold an
10 equal and impartial hand." Something I find
11 difficult to accept is that for too long landlords
12 alone have had it too easy. It's been too easy to
13 push out the value and culture in our city that we
14 love. At this point, it's not a matter of necessity,
15 but of justice, that we implement the appropriate
16 protections for micro-businesses. I humbly ask that
17 this Council work to not only pass but also consider
18 any additional measures that can be included to
19 protect the New York City culture, businesses and
20 organizations from being pushed out. The question
21 posed in this hearing should not be if, but why it
22 has taken 30 years to do so.

23 CHAIRPERSON GJONAJ: Thank you, Ayisha.

24 AYISHA OGLIVIE: Thank you.

1 DAVID MULKINS: Hi, my name is David
2
3 Mulkins. I'm a 25-year public high school history
4 teacher, and I'm the President of the Bowery Alliance
5 of Neighbors. When I was growing up the image I had
6 of landlords was the kindly Fred and Ethel Mertz on
7 the "I Love Lucy Show." When I moved here in 1983,
8 my landlords were actually like the Mertzes, a little
9 cranky, but kind, and they actually came around in
10 person whenever you signed a lease renewal. In more
11 recent decades, the face of real estate has changed
12 dramatically as corporations and giant LLCs swallow
13 up buildings and corner the market on commercial as
14 well as residential properties. Increasingly, there
15 are no faces attached to these owners, and real
16 estate speculation coupled with this vicious
17 Kafkaesque world that sees only numbers rather than
18 human beings makes it real easy for big real estate
19 without a moment's hesitation to double or triple
20 rents, especially on their commercial properties.
21 About 10 years ago, my friend Mike Schumacher whose
22 family owned and owns the Second Avenue Supermarket
23 called the New Yorker and has served the community
24 for 34 years was shocked to find that his landlord,
25 New York University, an institution of higher

1 learning, was doubling their rent. Eventually, after
2 a groundswell of support from the neighborhood and
3 Council Member Rosie Mendez, NYU finally lowered
4 their demand and gave the Schumacher's a more
5 reasonable rent. Less fortunate, about eight years
6 ago, Edwin Medina, who ran what we considered to have
7 been the last bodega on the Bowery, told me that his
8 landlord was going to triple his monthly rent. He'd
9 been there 20 years, installed a real cool neon sign,
10 served delicious Latin hot plates and hoped to pass
11 the business on to his son. Goodbye, Mr. Medina.
12 There are thousands of stories just like this, and
13 most do not end well. Small businesses desperately
14 need to be protected now. The City Council has been
15 sitting on this bill for 30 years. It's time to act.
16 Protect our small businesses, give them a leg to
17 stand on, and please vote to pass the Small Business
18 Job Survival Act. Thank you very much.

20 CHAIRPERSON GJONAJ: Thank you, David.

21 NICK: Good evening. Thank you, Mr.
22 Gjonaj and all your colleagues for giving us the
23 chance to speak to you. My name is Nick and my small
24 business is a yoga and meditation studio in Astoria,
25 Queens, and I'll tell you, I really like being a

1 small business owner. I like being unique, and I like
2 being one-of-a-kind, and you can mark my words right
3 now, I'm never going to expand my business to become
4 a chain or a franchise. And I'll tell you this, too,
5 I run my small business not because I'm trying to get
6 rich. I really don't have any kind of addiction to
7 money. I've got my yoga. I've got my meditation.
8 I've got deep breathing, and I have plenty to make me
9 happy that doesn't involve money. I know it sounds
10 crazy, but it's really true. But what I do need in
11 this life is I really need respect. I think everyone
12 needs and deserves respect. Now, I had a situation
13 where I tried to open a second yoga studio in West
14 Harlem, not a cookie-cutter from the one I have in
15 Astoria, totally different yoga studio. But when I
16 opened that studio, during our first months of winter
17 our landlord didn't turn on our heating. We couldn't
18 operate as a yoga studio without building heat. So,
19 of course, I reached out to him. I was in good
20 standing. I always paid my rent on time, and I
21 reached out to him to turn on the building heat, and
22 he ignored us. So, of course, my next step was to
23 reach out to the City, and I said, "Listen, I've got
24 this boiler situation. We don't have building heat.
25

1 Can you send HPD to come in and fix this?" And they
2 told me that because it was a commercial building
3 there's no agency in place to move in and make a
4 material repair. The only way to get that heating
5 fixed was for us to take our landlord to court and
6 assert our rights under the Non-Residential Anti-
7 Harassment Bill. it was mentioned about 36 hours ago
8 earlier today, and that Anti-Harassment Bill does
9 require a landlord to provide a commercial tenant
10 with heat, but before we could even get to the steps
11 of the courthouse our landlord made it very clear to
12 us that whether we won or lost in court, it didn't
13 matter to him, he would not renew our lease as a sort
14 of retaliation against us for taking him to court.
15 And that's when it dawned on me that nothing is as
16 valuable to a commercial tenant as lease protection,
17 not a tax break, not a reduction in storefront size.
18 Nothing protects a small business tenant like the
19 lease. I would gladly give up a tax break for lease
20 protection. I will gladly give up storefront size
21 regulation for lease protection. It's the only thing
22 that matters. And I'll tell you this, too, large
23 corporate chain businesses, they don't have this
24 problem. They've got the resources and they've got
25

1
2 the money, maybe through their own money addiction,
3 whatever. They've got all that money and resources
4 and help to fix these problems themselves, but for
5 someone in my situation who likes being a small
6 business owner who wants to have a unique, one-of-a-
7 kind thing that visitors in New York City cannot get
8 anywhere else but in Astoria, Queens, my yoga studio.
9 For someone like me-- Yoga Gorda [sic], by the way,
10 33rd and Broadway-- but for someone like me in the
11 situation and in the lifestyle that I want to live
12 just providing yoga and meditation to a community,
13 there's nothing that can protect me other than lease
14 protection, and that's why I jumped on the bandwagon
15 of SBJSA. And I'll tell you, my personal experience,
16 nothing could be more valuable, and I hope that
17 you'll all agree and take some sympathy and
18 compassion on me. Thank you.

19 CHAIRPERSON GJONAJ: Thank you, Nick.

20 CHRISTIAN EMANUEL: Hello. My name is
21 Christian Emanuel. I live in Brooklyn, and I would
22 just like to thank Mr. Chairman, Councilman Yeger,
23 and Councilman Powers if you're back there still, for
24 sticking with us this evening. This is really
25 special, and democracy in action, and all-star cast

1 New Yorkers. Look upstairs, there are people working
2 very hard, and they're supporting other businesses,
3 too. After their office building sold for 15 million
4 and then 30 million in the same year, we knew
5 something was up. Now, a New York City landmark,
6 thanks to help from Councilman Van Bramer's office
7 and a large amount of community support for land
8 marking the building, the Queens Plaza Clock Tower
9 was prime for redevelopment in 2014. Its small
10 businesses including immigration law firms, labor
11 unions, you name it, it could not be saved even by
12 city landmark status. So when people from REBNY come
13 up here and tell you that vacancy doesn't count for
14 nothing, don't listen to them. Because delivered
15 vacant is a very powerful term in real estate. A
16 group of real estate developers, including a man who
17 was later referred to in the media as a "one-time
18 consiglieri of Fred and Trump" and "Paul Manafort's
19 real estate fixer" had the building cleared out on
20 questionable terms, but in short order. They lied to
21 us. They lied to us and told us they were converting
22 it to residential. So that was a terminate lease.
23 They could kick us out easier said than done. Okay,
24 they're gone, but it's being converted back to an
25

1 office building. And so talking about all these
2 vacant store fronts, it's only the tip of the
3 iceberg. We have to, have to come back to those
4 office jobs, to those people for who their small
5 business is everything. It's their lifeblood. It's
6 what they live and breathe for and it's what supports
7 the community even with the two employees that my
8 parents had for over the years. And so today's an
9 important day because members of the City Council can
10 start to think about who they really serve. Are we
11 here for REBNY, because sometimes in New York State
12 it seems that way, and I'm a REBNY member? I pay dues
13 for that sort of display, and it sort of disgusts me.
14 Or are we here for the people of the City of New
15 York, for the small business owners upstairs,
16 downstairs, storefront, immigrant, third generation,
17 are we here for them? That's a decision that needs
18 to be made in City Council, because we're all here
19 and we're ready to take over. Thank you.

21 CHAIRPERSON GJONAJ: Christian, thank you
22 for that very passionate testimony. Like yourself, I
23 always thought and believed that small businesses
24 were a generational thing that you're supposed to
25 pass on the trade and keep it going, that there was

1 something tangible with a small business, that
2 someday when you choose to retire, that retirement
3 cash-in was when you sold your business. It doesn't
4 happen nowadays. And that means that we've
5 undermined the longevity of our small businesses.
6 So, I agree with you wholeheartedly that we must come
7 up with a comprehensive way to protect our small
8 businesses no matter what they are and where they are
9 because it's the survivability of this city that's at
10 stake. So, thank you. I don't know if you have any-
11 - I want to thank you for your time, and I'm grateful
12 to you, and entrepreneurs stick it out to the very
13 end.
14

15 UNIDENTIFIED: Thank you.

16 CHAIRPERSON GJONAJ: Thank you. Can we
17 call up the last one or two? Three.

18 HELENE STORGEN: I can't read it. [off
19 mic] This working? Okay. I can barely read this,
20 and at this point, this late in the evening I barely
21 want to hear myself. My name is Helene Storgen [sp?]
22 and for 44 years I was the owner of Clayworks Pottery
23 in the East Village. My store was forced to close
24 over a year ago when the building was bought by a
25 predatory landlord. Clayworks was a modestly

1
2 successful business. I have the same philosophy as
3 Nick from yoga, so I understand exactly what he's
4 talking about. We were a good tenant. We had good
5 relationships with the landlord and with the
6 community, but when the building got bought it was
7 like an alternative universe. We were harassed. We
8 were intimidated and threatened, and then taken to
9 court and booted out. There was never any attempt to
10 work with me on anything, no willingness to negotiate
11 or offer me a new lease, or even respond even though
12 there was language in my lease that said that it had
13 to at least had an offer, which is why we went to
14 court. And by the way, within a year of purchasing
15 that building, during which time I was forced out,
16 the landlord declared bankruptcy and the building
17 went into foreclosure. So, in one year he blew
18 through that building because he was doing exactly
19 what the previous fellow talked about, deliver
20 vacant. He thought he could buy the building, dump
21 everybody out, and deliver that building, either flip
22 it or turn it into condos or something. And so he
23 was totally uninterested in doing anything working
24 with me or doing anything. The store's been empty
25 for a year now, and again, I would ask how does that

1
2 make any sense to benefit anybody to have been in
3 since I've been gone. I'm also here-- and I may be
4 the only small business who actually was booted who
5 came to represent people who lost their businesses as
6 opposed to still having a business, so I have to say
7 this is really painful for me, for a lot of reasons,
8 for all the hours, but it's really painful to be
9 sitting here and wanting to participate in this as a
10 business and not being able to. So I feel like I'm
11 representing my fellow business owners who couldn't
12 be here because after all, I got nothing to do. I'm
13 out of a business. But I'd like to thank Jeremiah
14 Moss for bringing something up about how this feels.
15 I didn't want to come here today. I had to be talked
16 into it. It's really painful. It's painful for me.
17 It's like ripping a scar off of a wound that's barely
18 healed. There's a human cost to this. I feel like
19 you can count the empty stores. You can quantify the
20 loss of revenue and taxes, but what about the
21 entrepreneurs who were forced out to give out their
22 dreams and forced out of their businesses. They sort
23 of disappear into the night, never see them again. I
24 mean, not everybody flinks [sic] off, but I don't
25 know where a lot of people are that I knew from my 44

1 years of being in the East Village who were forced
2 out. But I can tell you for me that my life was
3 shattered. I will never be the same person. With
4 Clayworks I was productive both creatively and
5 fiscally. Clayworks and I both contributed to the
6 East Village economy. Now I'm unemployed. I have
7 income. I have no job. I'm no longer productive. I
8 will never be able to be a potter again. That's what
9 I was, the thing that defines me. I got to watch my
10 kilns, my studio equipment, my unfinished work all
11 get sledgehammered into a dumpster. I feel like I
12 lost my identity. If I were a younger woman, perhaps
13 I'd start over. At this stage of my life it's
14 neither realistic, nor practical. I am collateral
15 damage. I don't want to see anyone else go through
16 what I've been through. Small businesses are one of
17 the most valuable resources a city possesses. They
18 give a neighborhood its identity and cache. They
19 make it a desirable place to live. They add value to
20 real estate. Because of this, I really feel
21 landlords and business owners ought to be working
22 together as a partnership. It's in the best interest
23 of both groups, that they thrive and that they're
24 successful. In order to do that, there needs to be a
25

1
2 fairer more level playing field. You have the power
3 to make a start out that, by passing the SBJSA. Make
4 landlords come to the table. Reign in these
5 avaricious, unrealistic rent expectations. Don't
6 allow unscrupulous landlords to play monopoly with
7 people's lives. It's one step. It's a first step.
8 This bill's been kicking around since 1988. Well,
9 now is the time. Pass the bill. I also want to say
10 one little thing. Pop-up stores are not the
11 solution. In fact, they are the Airbnb of retail.
12 They add nothing to the neighborhood, nothing to the
13 fabric of society, and they prevent landlords from
14 treating [sic] with us. Thank you so very much for
15 staying here this late and for listening to me.

16 CHAIRPERSON GJONAJ: Thank you, ma'am.
17 You may not want to leave yet. We may ask you a
18 question.

19 PAMELA DAYTON: Hello, my name is Pamela
20 Dayton. I am supporting the Small Business Job
21 Supporting Act through SaveNYC and my own personal
22 experience. I am part of the Broadway community via
23 on tour and on Broadway and the producers. I
24 participated in collecting signatures and petitions.
25 I did a sit-in, a cash mob at what should have been

1
2 made a cultural institution not torn down, the Café
3 Edison, known as the Polish Tea Room, subject of the
4 Neil Simon's play "45 Seconds of Broadway," where for
5 over 40 years myself and the theater community
6 enjoyed great soup and affordable food. But no
7 matter what we did, it still closed. But the worst
8 part, the storefront remained empty for years to
9 come, and due to my research and watching the
10 speculation and many other places in Times Square
11 wait for the hyper-gentrification of that area which
12 happened so they could raise the rent and open with a
13 very generic place. Since then, as it's been said
14 over and over again, everywhere you look including
15 Alec Baldwin even saying on his "Here's the Thing,"
16 what has happened to my New York? Everywhere are
17 empty storefronts and every single place around the
18 City. The worst case I have seen so far and heard
19 personally is the Pearl River Mart in Chinatown.
20 They paid one month's rent normally of 100,000
21 dollars a month. Their new lease went up to 500,000
22 dollars a month. That's half a million dollars. Is
23 that reasonable? We need a checks and balance system
24 for REBNY and mediators to face the landlord to sit
25 down and negotiate. The Small Business Job Survival

1 Act will start that, but as we said, they're now
2 under LLCs. Personally, I had-- I sent a certified
3 mail 23 times to my landlord who always said he never
4 got it. I had to show up in person. They now are
5 disappearing under post office boxes. They are not
6 accountable. It is becoming harder and harder for
7 anybody to actually find the actual person to deliver
8 the actual papers. So this is affecting everybody
9 and everything, and the-- I also have some numbers.
10 I have-- it could have prevented over 1,400
11 commercial businesses close each month, 70,000 and
12 90,000 of them small business. These are the latest
13 statistics on 2017, estimated 560,000 to 720,000 lost
14 jobs. Don't you think that has a trickle-down effect
15 to housing, to everything in this city? Please take
16 into consideration to pass the Small Business Jobs
17 Survival Act. Thank you.

19 CHAIRPERSON GJONAJ: I want to thank you
20 for your passionate testimony. I want to thank all of
21 you that endured the eight hours. Your testimony, I
22 assure you, does not fall on deaf ears. This Council
23 is committed in making sure that we come up with a
24 comprehensive, proactive approach for our small
25 businesses today and tomorrow. Thank you so much.

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COMMITTEE ON SMALL BUSINESS

PAMELA DAYTON: Thank you.

CHAIRPERSON GJONAJ: This hearing is
officially adjourned.

[gavel]

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COMMITTEE ON SMALL BUSINESS

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 November 20, 2018