

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ECONOMIC DEVELOPMENT

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September 21, 2009

Start: 1:00 pm

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HELD AT: Council Chambers
City Hall

B E F O R E: THOMAS WHITE, JR.
Chairperson

COUNCIL MEMBERS:
Letitia James
Annabel Palma
Diana Reyna
Albert Vann
David I. Weprin

A P P E A R A N C E S [CONTINUED]

Thomas White, Jr.
Opening Statement
Chair
Committee on Economic Development

Francesco Brindisi
Vice President
Chief Economist
Department Head of Economic Research and Analysis
New York City Economic Development Corporation

Howard Spieler
Senior Vice President
Director
Compliance Department
New York City Economic Development Corporation

James Harris
Assistant Vice President
Governmental Community Relations Department
New York City Economic Development Corporation

Chris Brown
Department of Finance

Irva Shikel
New York City Economic Development Corporation

Bettina Damiani
Director
Good Jobs New York

John Petro
Urban Policy Analyst
Drum Major Institute for Public Policy

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[Background noise]

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[Gavel banging]

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CHAIRPERSON WHITE: Good afternoon.

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I am Councilman Thomas White, Jr. And as Chair of

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the Committee on Economic Development, I would

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like to welcome you today on the Oversight Hearing

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on reporting requirements of the Economic

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Development Business programs. There are many

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programs that are offered, one or another benefit

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to business in order to spur economic development,

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create new jobs, and make sure that existing jobs

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are retained.

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In order for the administrators of

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these programs to gauge how well these programs

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are working on their ultimate success in achieving

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their goals, information must be provided to them

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by the recipients of those benefits. In order for

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others such as the Council, others like the

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official and the public to make these same

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informed judgments they too must receive useful

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and accurate information in a timely manner.

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In 1993 the Council enacted Local

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Law 69 which required annual reporting on the

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programs administered primarily by the Economic

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2 Development Corporation but also to some
3 administrative, primarily by the Department of
4 Finance. In 2005 the Council in coordination with
5 the Bloomberg Administration and others revised
6 these reporting requirements by enacting Local Law
7 48.

8 Today's hearing will discuss these
9 reporting requirements and see whether they are
10 still appropriate or need to be revised. The
11 extent of which public reporting on other
12 development benefit programs should be improved or
13 established and whether information related for
14 all such programs should be readily accessible in
15 a single report in a single website.

16 Invited to testify were
17 representatives from the Bloomberg Administration,
18 representatives of the organizations that
19 participate in the Economic Development Benefit
20 programs and representatives of not-for-profit
21 public policy organizations who are active in this
22 area. We will now hear from the representatives
23 of the Mayor's Office.

24 MR. FRANCESCO BRINDISI: Thank you
25 Chairman White and members of the Committee for

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2 inviting the New York City Economic Development
3 Corporation to testify on reporting requirements
4 relating to Economic Development Benefit programs.

5 My name is Francesco Brindisi and I'm a Vice
6 President, the Chief Economist and Department Head
7 for Economic Research and Analysis at NY EDC. I'm
8 joined by Howard Spieler, Senior Vice President
9 and Director of NY EDC's Compliance Department and
10 by James Harris, Assistant Vice President in NY
11 EDC's Governmental Community Relations Department.

12 The New York City Economic
13 Development Corporation's primary mission is to
14 encourage economic development throughout the five
15 Boroughs, assist in the retention of existing
16 jobs, and the creation of new ones, and to help
17 both large and small businesses grow. We do this
18 in a myriad of ways including the administration
19 of discretionary economic development benefits.

20 In particular NY EDC's Capital
21 Services and Energy Groups provide discretionary
22 financial assistance to investment projects under
23 the authority of the New York City Industrial
24 Development Agency, the New York City Capital
25 Resource Corporation, the New York City Public

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2 Utility Service and the Business Incentive Rate
3 program, contingent upon the realization of
4 specified investment and/or job commitments.

5 Furthermore NY EDC makes under-
6 utilized City-owned property available for sale or
7 lease to private companies and organizations
8 willing and able to invest in development or
9 expansion of economic development.

10 First I will give an overview on NY
11 EDC's reporting requirements on said discretionary
12 financial assistance and land sale and lease
13 activity, highlighting certain recent changes in
14 Local Laws. I will also give a brief overview of
15 NY EDC's compliance and monitoring efforts as well
16 as the transparency requirements of the NYC IDA.

17 I will also discuss NY EDC's role
18 in evaluation economic development programs not
19 administered by us but that provide incentives to
20 private investment in the City. In particular I
21 will give an overview of the study at NY EDC
22 carried out in collaboration with the New York
23 City Department of Finance and the New York City
24 Office of Management and Budget on the economic
25 impact of an as-of-right tax expenditure program

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2 and the Industrial and Commercial Incentive
3 Program, recently reformed and supplanted by the
4 Industrial and Commercial Abatement program.

5 Until 2005 NY EDC reporting to the
6 New York City Council was regulated by Local Law
7 60 enacted by the City Council in 1993 with the
8 objective of providing information that could
9 inform an evaluation of the success of economic
10 development initiatives administered by NY EDC.
11 Local Law 69 was amended by the enactment in 2005
12 of Local Law 48 which increased the extent and
13 depth of reporting.

14 Local Law 48 requires NY EDC to
15 submit to the New York City Council, the Mayor,
16 the City Comptroller, the Public Advocate and the
17 Borough Presidents, an annual report containing
18 descriptive data on a selected group of NY EDC
19 projects. The amounts of City assistance, City
20 costs, provided by NY EDC to the businesses
21 involved in this project and estimates of the tax
22 revenues generated in City benefits by these
23 projects.

24 These are provided for the life of
25 each project beginning in the year each project is

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2 initiated. For sales and development leases of
3 City-owned land, data are provided only for the
4 year in which the project is initiated and the
5 seven years following. As a comparison, Local Law
6 69 required reporting on seven years--for seven
7 years on all projects.

8 The only instances for which data
9 are not reported separately are projects with City
10 costs less than \$150,000, \$250,000 in Local Law 69
11 and sales and leases of City-owned land estimated
12 to create or retain less than 25 jobs. Data on
13 these projects are reported in aggregated fashion
14 under Local Law 48 report.

15 Local Law 48 only requires NY EDC
16 to report on projects which start here on or after
17 Fiscal Year 2005. NY EDC voluntarily reports for
18 their lifetime on all projects that commenced in
19 Fiscal Year 1999 with the exception of land sales
20 and development lease projects. Furthermore NY
21 EDC makes the Local Law 48 report available online
22 on its website.

23 The latest Local Law 48 report for
24 Fiscal Year 2008 includes information on 715
25 investment projects that collectively accounted

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2 for over 5% of total private employment in New
3 York City, involved almost \$18 billion of private
4 investment, and totaled an estimated \$29.8 billion
5 in City benefits in present value terms. In
6 comparison the present value of City costs for
7 these projects was estimated to be \$882 million.

8 Local Law 48 requires that New York
9 City Economic Development Corporation provide a
10 variety of descriptive information for each
11 eligible project, including project name,
12 location, time span over which the project is to
13 receive assistance, type of City assistance
14 received, maximum owner estimated total amount of
15 assistance, number of employees at the site of the
16 projects, and a number of jobs that the company
17 has maintained during their reporting year, in
18 order to avoid any loss of allowable benefits,
19 actual number of employees in the reporting year,
20 information about the residence, health benefits
21 and compensation of his employees, and information
22 on assistance provided in the reporting year under
23 certain programs administered by NYC Department of
24 Finance.

25 As a comparison. Local Law 48 and

69 did not require the reporting of the maximum or estimated total amount of assistance being provided or the reporting on certain categories of City costs. Furthermore for employers with more than 250 employees, Local Law 48 introduced reporting on a percentage of exempt and unexempt employees and the percentage of certain employees that fall within certain salary ranges.

Local Law 48 requires NY EDC to report on the type and amount of City assistance provided by NY EDC to companies for eligible projects, assistance that gives rise to City costs includes issuance of tax exempt bonds, mortgage recording tax exemption, real property tax savings from payment in lie of taxes pilot, abatement and stabilization, sales tax exemption, and reduced taxes due to energy assistance. The calculations are based among other sources on information regarding sales tax savings is self-reported by recipients, tax exempt bond savings as supplied by trustees and pilot savings as supplied by NYC DOF.

These incentives encourage eligible businesses to invest in New York City and locate jobs here. For each project, two measures of City

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2 costs are provided. The amount for the reporting
3 year and the total amount over the life of the
4 project as a present value discounted to the
5 project start date. The total present value is
6 further subdivided into two amounts: the portion,
7 using actual figures, relating to the years from
8 the project start to the reporting year; and the
9 portion, using projected figures, from the year
10 following the reporting year through the end of
11 the project.

12 For each investment project the
13 Local Law 48 report also includes the value of
14 certain as-of-right tax expenditure programs that
15 are being served by NYC DOF including the
16 commercial expansion program and the relocation
17 and employment assistance program.

18 The Local Law 48 report also has
19 entries that reflect any recapture or cancellation
20 or reduction of benefits made after the project
21 start date and any penalties assessed. Since
22 Fiscal Year 2003 NY EDC's Compliance Department
23 has recovered approximately \$26 million expressed
24 in 2009 dollars in unauthorized benefits with
25 nearly \$17 million of that amount coming in the

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2 form of recapturing, \$9 million coming from
3 repayment due to unauthorized use.

4 NY EDC enforcement of projects that
5 terminated in Fiscal Year 2008 alone led to the
6 forfeiture of more than \$50 million expressed as a
7 present value in future City costs. City benefits
8 generated directly by a company include the tax
9 revenues that would be paid by the company if the
10 City costs were all zero. City benefits generated
11 elsewhere in the City by a company's business
12 activities are called indirect impacts and include
13 activities of various vendors and suppliers that
14 provide essential goods and services that the
15 company requires.

16 Finally the tax revenues associated
17 with the household spending of those residents
18 whose employment depends directly or indirectly on
19 a company are called induced impact. NY EDC uses
20 an economic model to estimate the portion of City
21 benefits that cannot be directly measured. Using
22 current employment of the entity as a starting
23 point, this model calculates the economic and
24 fiscal impact using multipliers or factors for
25 each sector of the entity.

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2 The calculation of City benefits
3 generally is based on employment figures as of the
4 end of each fiscal year, as supplied to NY EDC by
5 the businesses in response to an annual survey
6 administered by NY EDC's Compliance Department.
7 As suggested by extensive amount of information
8 provided by the Local Law 48 report, NY EDC
9 devotes significant resources to its production
10 which we estimate to be in excess of 2,000 man
11 hours per year across all departments involved.

12 However extensive its reporting
13 activities, NY EDC through its Compliance
14 Department also monitors NY EDC investment
15 projects on their required insurance policy,
16 project completion and pilot payments as well as
17 by conducting subtenant surveys and collecting
18 administrative fees. Furthermore the Compliance
19 Department conducts due diligence by performing
20 onsite visits monitoring that service payment
21 seeking the - - of independent accountants and
22 requiring disclosure statement upon merger,
23 acquisition or sublease.

24 Finally I would like to emphasize
25 the commitment of NYC IDA to transparency and

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2 accountability. NYC IDA statutory requirements
3 include: public hearing notice placed 30 days
4 prior to the related hearing with voluntary early
5 and full provision of cost benefit analysis as per
6 NYC IDA initiatives; audit the financial statement
7 posted on NYC IDA's website on all budgets posted
8 on NYC IDA's website; an annual reports to the
9 State on NYC IDA projects.

10 To capitalize private capital
11 investment taking economic development NY EDC also
12 leverages available as-of-right City, State and
13 Federal assistance. The Industrial and Commercial
14 Incentive Program, ICIP, is one as-of-right
15 program administered by the New York City DOF
16 aimed at spurring private investment by providing
17 real property tax exemptions for commercial and
18 industrial real estate development and renovation.

19 As part of its role in promoting
20 economic development, economic growth in the City,
21 NY EDC was involved in an evaluation of ICIP in
22 collaboration with the New York City DOF and OMB.
23 The objective of the study was to determine the
24 economic impact of ICIP and isolate the areas
25 where the program could be made more efficient by

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2 more carefully targeting its expenditures towards
3 investment projects that would not be undertaken
4 but for the receipt of assistance.

5 The analysis showed the ICIP
6 operated at a significant fiscal loss of the City
7 and identified the main reasons. In particular it
8 showed that the City gained little new economic
9 activity by subsidizing new or renovated retail
10 facilities in neighborhoods already well served by
11 retail. It also found the ICIP real property tax
12 exemptions generally offered south of 59th Street
13 in Manhattan were too generous and unnecessary to
14 induce economic activity.

15 Similarly exemptions that go far
16 into the future are valued significantly less by
17 developers than what they cost to the City. This
18 study showed that reducing the length and extent
19 of certain ICIP exemptions would have provided
20 substantial savings to the City at a small cost in
21 terms of reduction of the amount of economic
22 activity generated by the program.

23 Finally UTDs were initially
24 excluded from ICIP but became eligible after a
25 successful 1994 lawsuit and received exemption

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2 when in excess of 10% of the total in Fiscal Year
3 2007. We believe that the achievement of City
4 policy objectives such as clean energy was ill-
5 served by ICIP.

6 As a result of the study ICIP was
7 supplanted in Fiscal Year 2009, excuse me, but
8 Industrial and Commercial Abatement program.

9 ICAP, which although conceptually similar presents
10 a number of substantial innovations including:
11 one, the exclusion of retail facility from ICAP in
12 the most successful commercial areas of Manhattan
13 and the reduction of benefits from 25 to 15 years
14 for predominantly retail facilities in other areas
15 of the City; with certain exceptions the reduction
16 of the length of ICAP benefits for other types of
17 commercial real estate investments south of 59th
18 Street in Manhattan; a less general protection
19 against inflation in the real property tax base in
20 certain areas of the City; and exclusion of
21 utilities from the program. Significant steps
22 were also taken to improve the transparency
23 predictability of administration of ICAP relative
24 to ICIP.

25 It should also be noted that the

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2 support that continued, realization of low income
3 neighborhoods, NYC IDA is willing to consider
4 financial support for retail projects associated
5 with a larger City redevelopment strategy.

6 The regular assessment and
7 evaluation performed by NY EDC, NY DOF and NY OMB
8 paved the way for the programmatic changes that
9 transformed ICIP from an inefficient drain on the
10 City budget to a program that creates significant
11 new economic activity at the lowest possible cost,
12 saving City tax payers hundreds of millions of
13 dollars in the short term and over the next 20
14 years.

15 Based on the analysis to date, we
16 conclude that the Local Law 48 report demonstrates
17 how critical NY EDC's financial assistance efforts
18 are towards maintaining and expanding New York
19 City's economic base by stimulating investment,
20 job growth and business expansion. We welcome
21 feedback about ways to make information about our
22 activity more open and accessible and believe that
23 a healthy dialog with the general public, policy
24 organizations and local elected officials is an
25 indispensable complement of our accountability

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2 process. We will be glad to answer your questions
3 now.

4 CHAIRPERSON WHITE: Thank you very
5 much. I would like to acknowledge my colleagues
6 on the Committee: Council Member Al Vann; Council
7 Member Diana Reyna; Council Member Palma; and
8 Legal Counsel, Jeff Haberman.

9 I would like to start off by saying
10 can you tell us how the information reported by
11 the beneficiaries of each of the Local Law 48
12 programs is reviewed by EDC or the Department of
13 Finance to determine the accuracy of the
14 information presented? And you exclude any
15 mention of workforce development.

16 MR. HOWARD SPIELER: So EDC's
17 Compliance Department is comprised of about ten
18 full-time staff and we review to the best of our
19 ability each form that comes in.

20 CHAIRPERSON WHITE: So what does
21 that mean?

22 MR. SPIELER: When the forms come
23 in, we try to make sure that it's consistent with
24 what was originally projected, if it's in line
25 with its business. We analyze each number is they

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2 come in. We merely don't recopy numbers. We do
3 analyze them. The numbers are self-reported from
4 the company and reviewed by an appropriate project
5 manager.

6 CHAIRPERSON WHITE: Do you check
7 tax returns?

8 MR. SPIELER: We do not check tax
9 returns. The company is required to include an
10 NYS-45 which is a quarterly unemployment wage and
11 reporting form. And that's submitted and attached
12 with the employment report and collected by EDC.

13 CHAIRPERSON WHITE: Do you, are
14 there any other City agencies that go over
15 documents that are submitted concerning the
16 beneficiaries of this program? Any type of check
17 and balance other than that which you just
18 mentioned?

19 MR. SPIELER: I'm not sure I could
20 answer on behalf of other City agencies. I don't...

21 CHAIRPERSON WHITE: So you just get
22 one document. How do you evaluate and analyze?
23 Do you do it by all beneficiaries? How many do
24 you get in?

25 MR. SPIELER: I think on last

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2 year's report there were 715 companies and each
3 one is reviewed. It's analyzed against--we have a
4 data base of course that tracks what was proposed,
5 the projected investment, the projected growth,
6 and we make sure what's reported is in line with
7 the original projects. And we follow up where
8 necessary.

9 CHAIRPERSON WHITE: Within that
10 analysis, do you have any particular flags that
11 you look for?

12 MR. SPIELER: Sure. I mean
13 obviously we look for variances in reporting. If
14 something doesn't look like it's consistent with
15 how it was reported in the past and we have a
16 general understanding of the economic climate. We
17 should know if a company is reporting something
18 that looks unusual, especially with how it
19 reported in the past, we certainly verify it. We
20 spend a great deal of time verifying those
21 numbers.

22 CHAIRPERSON WHITE: Well. There
23 are some states and municipalities that require
24 aggregating the information from all of the
25 economic development benefit programs into a

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2 single document or a single location on a
3 government website. This is sometimes referred to
4 as a unified development budget. Wouldn't
5 creating a central location for this information
6 be generally helpful to anyone interested in these
7 programs and who would allow, would allow elected
8 officials and the public generally to
9 independently evaluate the value of these programs
10 to the City?

11 MR. BRENDISI: I'm not quite sure
12 what the reporting requirements for other City
13 agencies are so I might be incomplete in my
14 knowledge. And I have certainly have personal
15 knowledge at the very least of what's being
16 reported for SEIP or ICAP. But I think I'd like
17 to make a somewhat conceptual and more general
18 statement that each of these types of assistance
19 have different purposes. And they have different
20 characteristics. For instance the discretionary
21 incentives that NY EDC authorizes have--are being
22 vetted beforehand and they go through a review
23 process where their feasibility, where we study
24 the feasibility and the projected tax returns to
25 ensure that the tax returns are positive, given

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the characteristics of the projects.

So in general terms there is a pretty clear counter-factual, because NY EDC gives out land for instance in the case of a land sale, that project would not have happened but for the initiative of IDA or EDC more in general. For as-of-right programs, it's conceptually difficult to think about the reporting that it's similar to what Local Law 48 is, and that reports on the costs and benefits of each project, by project. Because there is not that particular screening at the beginning because of the nature of the projects.

And if you think about ICIP, I think there are 6,000 properties that receive ICIP exemptions as of Fiscal Year '09. And some of them for as long as 25 years. So it's a significant reporting burden where in addition for ICIP in particular one couldn't say necessarily whether that particular project would have been undertaken, that particular investment, would have been undertaken but for the receipt of assistance.

So it's difficult to be able to put all of these different projects in the same report

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2 and have the numbers that are shown be meaningful.
3 I think that as-of-right programs might be better
4 served by statistical analysis that is different
5 in nature of what is, for instance, Local Law 48.

6 CHAIRPERSON WHITE: My problem--I
7 hear what you're saying. When you say that some
8 projects are very difficult to analyze, can you
9 give me an example of the value of that project?
10 The ones that are difficult?

11 MR. BRENDISI: I think I'm speaking
12 more in terms of evaluation of programs as a whole
13 rather than project by project. I'm not quite
14 sure by what you mean by a project being
15 particularly difficult to analyze but say--

16 CHAIRPERSON WHITE: [Interposing]
17 You said it. I didn't. you said some of the
18 projects--

19 MR. BRENDISI: [Interposing]
20 Conceptually--

21 CHAIRPERSON WHITE: --conceptually
22 are very difficult.

23 MR. BRENDISI: They require--
24 different programs require different approaches.
25 When we studied ICIP for instance, we took all of

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2 the recipients of assistance and the history of
3 the exemptions that they received and we undertook
4 a statistical analysis of projects that would not,
5 in our estimate at least, we implemented a
6 methodology to arrive at an estimate that told us
7 which projects would not have been undertaken but
8 for the specific--but for the ICIP exemptions.

9 The problem is that one can only
10 give a statistical answer to that question which
11 is a certain amount of square footage would not
12 have been in the City but for the program. I
13 think it would be incorrect to say well this
14 particular project would not have happened but for
15 ICIP and this other one did not need the
16 exemptions because it's, you know, the nature of
17 the program is that it's got to be a statistical
18 analysis. And it's got to rely on a large sample
19 of observations.

20 So there are, of course, you know,
21 technical problems in analyzing the economic
22 impact of all of these different programs. And I
23 believe that for discretionary programs we have a
24 well-defined counter-factual that helps us. But
25 for as-of-right programs, it's--I don't think it's

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2 appropriate to single out any particular project.
3 And I believe that the evaluation should be done
4 on a statistical basis.

5 CHAIRPERSON WHITE: Well you have
6 two different categories.

7 MR. BRENDISI: Um-hum.

8 CHAIRPERSON WHITE: Okay? One
9 category can have its own criteria, etcetera,
10 etcetera, the things that you mentioned. And the
11 other criteria that you have could have the same
12 thing. You don't have to put them together. I
13 mean it doesn't work where you can't put them
14 together, you could put them separately and
15 everything that falls in one--in the same category
16 can be listed, can be made available to the City
17 Council, on a website, and to those interested
18 parties and the other category as well. Can it?

19 MR. BRENDISI: I guess that
20 aggregating information in a single place that
21 it's gathered in different places could be
22 helpful. It's just that not all programs can be
23 evaluated in the same way that, I believe at the
24 very least, that can be evaluated in the same way
25 that we evaluate NY EDC's benefits.

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2 I know that DOF publishes the list
3 of properties that receive ICIP for instance, on
4 the website. The information on HICIP amount of
5 each property is also available on an online query
6 tool. The complete list of properties in the City
7 with their assessed values and exemption values
8 are as well published on the website, on DOF's
9 website so all of this information is available as
10 far as I know. I don't know if DOF also has other
11 reporting requirements but...

12 CHAIRPERSON WHITE: Council Member
13 Reyna.

14 COUNCIL MEMBER REYNA: Thank you
15 Mr. Chair. I just wanted to find out as far as
16 the mention of 6,000 ICIP applications as of
17 Fiscal Year '09, is there any knowledge of
18 properties that have been illegally converted that
19 at one point or another have applied for ICIP and
20 clearly has abused the application requirements in
21 order to benefit from the program?

22 And before you answer, you know,
23 you can't answer it unless you're collaborating
24 with the Department of Buildings and/or the IBZ
25 Office, Industrial Business Zone Office, in order

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2 to make a comparison to your 6,000 listing of
3 properties and what they obviously are aware of or
4 perhaps, you know, a field visit to understand
5 whether or not these properties exist as they had
6 applied or are they illegally converted, receiving
7 benefits?

8 MR. BRENDISI: Sure. Well as you
9 know both ICIP and ICAP legislation, I think that
10 they have a rule that said that if there is a
11 conversion to a use that is not a commercial use,
12 for instance, then the project--then the benefits
13 should be terminated. However--

14 COUNCIL MEMBER REYNA:
15 [Interposing] Your 6,000 number as far as ICIP as
16 of '09, Fiscal Year '09.

17 MR. BRENDISI: Right.

18 COUNCIL MEMBER REYNA: Has there
19 been any visits for observations of the 6,000
20 properties?

21 MR. BRENDISI: I'm afraid I cannot
22 answer that question because we are not
23 administering the program and therefore we don't
24 know what enforcement strategies or efforts are
25 being made by DOF in conjunction with any other

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2 City agency. So we know that the recent list of
3 properties that receive the exemptions and
4 therefore we can say how many properties are
5 receiving it by we don't know what the
6 enforcement--

7 COUNCIL MEMBER REYNA: [Interposing]

8 And so the Mayor's Office has not called upon all
9 these agencies to sit down to evaluate whether or
10 not there are, of the 6,000, perhaps a certain
11 number of properties that perhaps are illegally
12 converted receiving tax benefits?

13 MR. BRENDISI: I'm not aware. I'm
14 not aware of... if these discussions have happened,
15 I'm not aware of them in my role at EDC.

16 COUNCIL MEMBER REYNA: Is this
17 something that EDC can perhaps engage to begin to
18 evaluate?

19 MR. BRENDISI: I'm sorry? Say that
20 again?

21 COUNCIL MEMBER REYNA: Is this an
22 effort.

23 MR. BRENDISI: Um-hum.

24 COUNCIL MEMBER REYNA: Coming out
25 of this hearing as a request to EDC, can EDC take

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2 the lead on evaluating and making this particular
3 assessment of 6,000 properties that are receiving
4 ICIP credits or tax benefits in order to be able
5 to have a comprehensive analysis as to what
6 properties have illegally been converted,
7 receiving benefits, so therefore we can begin to
8 have, you know, responsible oversight over these,
9 you know, it's a significant amount of properties
10 claiming to create new positions or retention of
11 positions.

12 And so I just want to be able to
13 know that as the check in balance in government
14 that we are actually evaluating programs because
15 we're coordinating efforts amongst agencies, each
16 playing a different role.

17 MR. BRENDISI: I think that this is
18 a question that should be answered not by EDC, at
19 least not by EDC alone, and probably not in this
20 particular hearing. And, you know, I think
21 certainly that DOF should be involved and these
22 are questions for DOF as well. There is--

23 COUNCIL MEMBER REYNA:

24 [Interposing] Right and I--

25 MR. BRENDISI: --but to answer a

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little more in specificity to--

COUNCIL MEMBER REYNA:

[Interposing] I just want to--

MR. BRENDISI: --your question--

COUNCIL MEMBER REYNA: --make sure you understand, it's not just DOF and it's not just EDC.

MR. BRENDISI: Sure. Yes.

COUNCIL MEMBER REYNA: It's the Mayor's Office of Industrial Business Zone Office as well as Department of Buildings, as well as, you know, the Board of Standards and Appeals.

MR. BRENDISI: Um-hum.

COUNCIL MEMBER REYNA: Because these are all players in the oversight that we expect from Local Law 49. As far as making sure that reporting requirements are factual.

MR. BRENDISI: Um-hum. No I understand your question. I mean what I think what I wanted to say is this. It would be a substantial endeavor and, you know, as you've heard there are ten people in the Compliance Department--

COUNCIL MEMBER REYNA:

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[Interposing] Um-hum.

MR. BRENDISI: --and there are like eight people in the Economics Research--

COUNCIL MEMBER REYNA:

[Interposing] Um-hum.

MR. BRENDISI: --and Analysis. So there is really, you know, resource constraint, let's put it that way. And I don't think I can commit in any way EDC to undertake such an effort although I will certainly refer to senior management when I--

COUNCIL MEMBER REYNA:

[Interposing] Um-hum. And the Office of Industrial and Business Zone.

MR. BRENDISI: Um-hum.

COUNCIL MEMBER REYNA: Was created to collaborate with other agencies to be mindful so that we could protect our industrial spaces. And so I just want to make sure that, you know, I'm not placing the burden of oversight over these 6,000 properties on just EDC--

MR. BRENDISI: [Interposing] Um-hum.

COUNCIL MEMBER REYNA: But the

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2 effort to work with the Mayor's Office who
3 specifically made a commitment to the industrial
4 spaces that exist and are limited and seldom
5 found. I don't know if anyone is here from the
6 Department of Finance to be able to answer perhaps
7 this is something that on their end they are
8 collaborating with other agencies that perhaps you
9 may not know of.

10 MR. BRENDISI: Probably.

11 Unfortunately I'm not able to answer that.

12 COUNCIL MEMBER REYNA: Um-hum.

13 MR. CHRIS BROWN: Hi. It's Chris
14 Brown from the Department of Finance. I would
15 just underscore what Vice President Brindisi said
16 which is that this is obviously something that we
17 can do. To my knowledge nobody at Finance has
18 been involved in such a project. But part of the
19 reason why we put the list of properties that
20 receive ICIP--

21 COUNCIL MEMBER REYNA:

22 [Interposing] Um-hum.

23 MR. BROWN: --up online and we only
24 did that starting last year--

25 COUNCIL MEMBER REYNA:

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2 [Interposing] Right.

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MR. BROWN: --was to create the kind of transparency that we think, you know, would help strengthen the program. We are hopeful that people will take a list like that and see what properties are getting benefits--

COUNCIL MEMBER REYNA:

[Interposing] Right.

MR. BROWN: --and if they know of properties on that list that are not in compliance with some law that would, you know, deny them benefits, to make a report, make a complaint, call 311, any members from your office could contact our office and we would pass that onto the agency for investigation. We want to work cooperatively to make sure that these properties are getting benefits but, you know, that's why 311 was created--

COUNCIL MEMBER REYNA:

[Interposing] Um-hum.

MR. BROWN: --City agencies and EDC and Finance can't be the eyes and ears if there is a business, if there is a property that's getting benefits that it should not be getting any longer--

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COUNCIL MEMBER REYNA:

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[Interposing] Um-hum.

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MR. BROWN: --a complaint would set

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a process in motion where we could--

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COUNCIL MEMBER REYNA:

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[Interposing] Right.

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MR. BROWN: --you know, we could

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move forward and make sure they were not getting

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that benefit any more.

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COUNCIL MEMBER REYNA: Sure. And

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the same is true in having created the Mayor's

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Office of Industrial Business Zone and so they're

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supposed to be collaborating in an effort to have

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an interagency discussion where there is perhaps

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such a situation as an illegally converted

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property receiving credits or whatever type of tax

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abatement program so that if there is no

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collaboration I think, you know, that creates a

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loophole where properties are going to continue to

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get away with receiving some type of City benefit

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and exchange, just abusing the fact that they're

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not protecting the industrial space as they had

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committed to.

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2 Are you aware of the Department of
3 Buildings is routinely checking for, before they
4 issue permits, are they checking to find out if
5 there's a property being illegally converted in
6 order to receive a tax benefit? Is this part of
7 your protocol, as part of the application process?

8 MR. BROWN: As part of the
9 application process you do have to have a
10 Department of Building's permit that has been
11 issued for the work to be cleared and for benefits
12 to be received. That is part of the established
13 protocol. But again this would be one of the
14 situations where if someone was doing unpermitted
15 work--

16 COUNCIL MEMBER REYNA:

17 [Interposing] Correct.

18 MR. BROWN: --that's the kind of
19 situation where a complaint is going to have to be
20 lodged, you know, and we would follow up on it
21 and--

22 COUNCIL MEMBER REYNA:

23 [Interposing] Correct.

24 MR. BROWN: --accordingly.

25 COUNCIL MEMBER REYNA: So I will

1
2 definitely reach out to Ms. Leslie Ramos to find
3 out if there has been any effort to have an
4 interagency discussion concerning the oversight of
5 6,000 properties, perhaps just under this
6 particular program. I'm not too sure of any other
7 that would apply but certainly calling upon the
8 Office and the Mayor's Office to be able to have
9 this type of discussion so that we can just have
10 better oversight where there's illegally converted
11 buildings receiving benefits that they paid back
12 to the City what benefits they received
13 considering it's an illegally converted building.

14 And where there's legitimate
15 business that need space, that we have an effort
16 to collaborate with property owners. But we
17 should not be rewarding these landlords who are
18 converting space illegally when others are trying
19 to follow the law. Thank you.

20 MR. BROWN: We'd be happy to work
21 with you--

22 COUNCIL MEMBER REYNA:
23 [Interposing] Thank you.

24 CHAIRPERSON WHITE: Councilman
25 Vann?

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2 COUNCIL MEMBER VANN: Yeah thank
3 you Mr. Chairman. One little simple question, in
4 your testimony, Sir, you mentioned near the end
5 that New York City Industrial Development agency
6 is willing to consider, is willing to consider,
7 financial support for retail projects associated
8 with a larger City redevelopment strategy. I'm
9 trying to figure out exactly what that means.
10 What kind of projects would be part of a citywide
11 strategy that we would consider financial support?
12 And what kind of support would that be?

13 MR. BRENDISI: I'm not quite sure I
14 can speak for the IDA and some part would give
15 specific examples of these initiatives but I would
16 be happy to get back to you on that--

17 COUNCIL MEMBER VANN: [Interposing]
18 No actually I'm reading from your testimony. And
19 I read it almost verbatim.

20 It says it should also be noted
21 that to support the continued revitalization of
22 low income neighborhoods, New York City Industrial
23 Development Agency is willing to consider
24 financial support for retail projects associated
25 with a larger city redevelopment strategy. I

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2 didn't quite, you know, it sounded good, I didn't
3 quite understand it, that's why I...

4 MR. SPIELER: I believe that the
5 IDA is prohibited from incentivising retail
6 projects. I believe that is the case and maybe
7 the intent, obviously we can come back with a more
8 firm answer but I believe that the intent may be,
9 if we were allowed to, we would support it. But
10 again that is just my best guess. I'd like to try
11 to give you...

12 [Off mic]

13 MS. IRVA SHIKEL: My name is Irva
14 Shikel [phonetic] and I work with Francesco
15 Brindisi and EDC. If the area has a lower than
16 average income, I'm not sure what the level of--
17 the average level is, I think it's the State. And
18 then there is a proportional population living
19 under the poverty line, a certain portion, in
20 those neighborhoods, IDA would consider helping,
21 of providing assistance to retail developments.

22 COUNCIL MEMBER VANN: Could I hear
23 that one more time please? I'm sorry.

24 MS. SHIKEL: In an area or a
25 neighborhood where the poverty level is higher

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2 than a specific average or a statewide average
3 poverty level or a certain proportion of the
4 people, higher than an average are below the
5 poverty level and their income is lower, in those
6 kind of areas, IDA, those are the kinds of areas
7 where IDA would consider or would be willing to
8 consider assisting, providing assistance to retail
9 projects.

10 COUNCIL MEMBER VANN: Okay.

11 MS. SHIKEL: Because IDA does not
12 provide--IDA is forbidden to provide assistance to
13 retail projects per se. However in certain
14 exceptions they're willing to consider certain
15 exceptions in certain lower income neighborhoods.

16 [Off mic discussion]

17 COUNCIL MEMBER VANN: - - that
18 authorizes for that. I guess the Counsel raised a
19 good question. The authority for that comes from
20 where?

21 MR. SPIELER: I believe the state
22 level.

23 COUNCIL MEMBER VANN: The state?

24 MR. SPIELER: I believe.

25 [Off mic discussion]

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2 MR. SPIELER: We can get back to
3 you with an accurate, precise answer.

4 COUNCIL MEMBER VANN: Sure, sure.
5 Of course.

6 [Off mic discussion]

7 CHAIRPERSON WHITE: Okay could you
8 comment on whether you believe that the reporting
9 requirements of Local Law 48 should be altered in
10 any way?

11 MR. SPIELER: Well we're happy to
12 comply with the law, we're committed to
13 transparency.

14 CHAIRPERSON WHITE: Well we
15 understand that but that wasn't the question. The
16 question is on whether you believe that the
17 reporting requirements of Local Law 48 should be
18 altered in any way?

19 MR. SPIELER: I don't think we have
20 any suggestions for changes at this time.

21 CHAIRPERSON WHITE: Okay. Can you
22 tell us which economic development benefit
23 programs are not captured by Local Law 48 and
24 which agencies administer each of those programs?

25 MR. SPIELER: Not off the top of my

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head, I mean we'd be happy to get back to you.

MR. BRENDISI: Yeah I mean I think there is a long, long list of as-of-right programs that are not administered by EDC that are administered by DOF or SBS that we certainly can get back to you afterwards. But, you know, ICIP or ICAP are administered by DOF. As I mentioned before CEP and relocation program are administered by DOF. So it's a long list.

CHAIRPERSON WHITE: You know--

MR. BRENDISI: [Interposing] I'm not quite sure I can, you know, summarize, you know, and associate with each program each agency at this moment.

CHAIRPERSON WHITE: Okay. It seems to me that the benefits are tied to employing individuals in order to get some of the benefits, that you have to employ people in the neighboring area, people at a certain economic level, to give them an opportunity to work, is that correct?

MR. SPIELER: I do not believe that's a specific requirement. Most IDA projects involve some sort of capital infrastructure investment. There may be a specific employment

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2 threshold but as far as specific to a
3 neighborhood, I do not believe the agreements are
4 tied that way, no. But they are--

5 CHAIRPERSON WHITE: [Interposing]
6 Well forget the specific neighborhood, let's talk
7 about employment.

8 MR. SPIELER: Well if they're
9 required to commit to some sort of infrastructure
10 improvement or expansion or acquisition then
11 people should be employed there, so sure.

12 CHAIRPERSON WHITE: So how will we
13 know that? Shouldn't you know that?

14 MR. SPIELER: Well we do request
15 and capture and report the employment information
16 for each project.

17 CHAIRPERSON WHITE: Yeah that's
18 what I mean. We never get a true reading on that.
19 That's one of our problems. We know that
20 businesses are getting benefits. But we do not
21 know and we cannot capture the amount of job that
22 is has created or maintained. That seems to fall
23 into the category of the gentleman mentioned about
24 the difficulties of certain programs not to be
25 able to put--evaluate the programs properly.

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2 These benefits are tied to employment, all of
3 them.

4 And yet when we to the--we can get
5 to the benefits, we can get to everything else,
6 and we can even get to the areas of the
7 difficulties of evaluating one set of benefits
8 versus another and not being able to put them into
9 a category to whereas elected officials and others
10 can see everything that's being done. So my
11 question is, the employment piece, who's capturing
12 the amount of employees, the employment that's
13 being generated, which leads to people paying
14 taxes, with these benefits that are being given?

15 MR. SPIELER: I believe we do
16 report that. We have--we're required to report
17 the amount of jobs at the project location at the
18 time of closing and then each fiscal year we
19 collect it. So we can tell the amount of jobs
20 that were created or lost at the location in a
21 year over year basis or from inception.

22 CHAIRPERSON WHITE: Well the issue
23 is, and I know you're all doing a good job or at
24 least trying, but how do you verify that that's a
25 fact?

2 MR. SPIELER: We can't possibly--

3 CHAIRPERSON WHITE: [Interposing] I
4 mean you just accept the documentation that you
5 receive.

6 MR. SPIELER: We review it.
7 Obviously we cannot go to three or several
8 thousand locations. That's not possible. We make
9 sure the number is reasonable. We compare it to
10 what was projected, what was reported at
11 employment. They have to provide some supportive
12 supporting documentation in the form of the NYS-
13 45. And if it's questionable we of course reach
14 out.

15 We do perform field visits. EDC's
16 Compliance Department went on nearly 100 field
17 visits last year. And we do do our due diligence.
18 We do not just accept the numbers at face value.
19 We do research each number.

20 CHAIRPERSON WHITE: Do you do
21 random audits?

22 MR. SPIELER: We do not retain an
23 auditing firm but we internally review projects
24 all the time, very thoroughly. Well the word
25 audit is very specific but we review projects very

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2 closely--

3 CHAIRPERSON WHITE: [Interposing]

4 So the answer is no you don't.

5 MR. SPIELER: We don't employ
6 auditors but we do very, very--we do review these
7 projects very thoroughly.8 CHAIRPERSON WHITE: I know you do
9 that. But there's a difference between a review
10 and an audit, you know.11 MR. SPIELER: We don't audit their
12 financials. We have the right in some cases to
13 request audited financials. We can, especially
14 the larger projects are submitted every several
15 years or on request to submit a form of
16 independent accountant's opinion that review some
17 of their purchases and some of their procedures
18 and policies.19 CHAIRPERSON WHITE: Well I'm mainly
20 talking about employment right now within the
21 benefits. How do you verify that a developer or a
22 business, if they're required to hire 20 people to
23 get a benefit, that they in fact hired those 20
24 people?

25 MR. SPIELER: Like I said, we check

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what--

CHAIRPERSON WHITE: [Interposing] I mean is there a form--

MR. SPIELER: [Interposing] All the--

CHAIRPERSON WHITE: -that you make out, or they make out, that verifies, you know, you can name, you can have a name and a Social Security number.

MR. SPIELER: That is part of the NYS-45, yes. And also all forms are submitted to us in writing and signed by an authorized representative or an officer of the company. So we are getting a representation, we are getting the NYS-45. We do make sure the number is consistent with what we believe should be there.

We do question numbers that look out of the ordinary. We do look for consistency against projections, against the original project scope. And we, you know, we factor in economic conditions as well but we do verify to the best of our ability very number that comes in. We do review it, probably more than one set of eyes.

CHAIRPERSON WHITE: Yeah I--you

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2 see, the only problem that I have and I think
3 everybody in this hearing is we know there's a
4 high rate of unemployment. It's reported every
5 day on the news. Okay? And people who are
6 applying for benefits, unemployment insurance. So
7 with those numbers, I'm saying, why is it
8 impossible or do we take an assumption that what
9 people are reporting to us is in fact true?

10 Are we doing spot checking or are
11 we just taking it based on what's submitted to us.
12 I hired, I'm getting a benefit. In my work scope
13 I said that I was going to employ 50 people and
14 retain 50 people for a period of 6 months, a year,
15 etcetera. Okay? You get that. You look at it.
16 It's consistent to what I presented to you to get
17 the benefit. Why wouldn't it be? But how do you
18 know it's true?

19 MR. SPIELER: I guess we don't know
20 if it's true, it should be a company by an NYS-45
21 which has a summary page which lists the number of
22 employees at the end of the previous fiscal year.
23 But yes, it's represented by the company, it's
24 sent--

25 CHAIRPERSON WHITE: [Interposing]

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2 Well if I'm the company, you think I'm going to
3 tell you I'm not doing--that I didn't hire those
4 50 people?

5 MR. SPIELER: That happens too.

6 CHAIRPERSON WHITE: No, no, it
7 could happen but I'm just asking you, that's like
8 asking me or asking not all contractors, that's
9 like asking somebody did you build that house
10 according to specifications. Did you take any
11 shortcuts? You know, unless you have someone to
12 go and evaluate the work in progress.

13 And I know that we don't have all
14 of those people but I mean surely, okay, if the
15 numbers in an area of unemployment remains the
16 same and you have a business in there that's
17 getting these benefits that has stated in their
18 work scope that they're going to hire 50 people
19 from the neighboring community or surrounding--and
20 the people are on unemployment or public
21 assistance, somewhere along the way that number
22 should drop by 50 because 50 people were taken off
23 the welfare roles or 50 people were given
24 employment.

25 And that's the problem that I'm

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2 having and the Committee's having. When we get
3 down to the people and the peoples' benefit,
4 nobody can verify other than saying well we take
5 their word for it.

6 MR. SPIELER: Well we take their
7 word for it and we check the NYS-45 which should
8 list the number of employees. The numbers should
9 be reasonable close. That is part of the law that
10 is required by Local Law 48 and we require our
11 companies to submit it. So can we verify every
12 single person? That's not possible. We do ask
13 for supporting documentation and we do check it.
14 We check for red flags.

15 CHAIRPERSON WHITE: But you still
16 don't independently verify.

17 MR. SPIELER: Every number?

18 CHAIRPERSON WHITE: No, no, no.
19 See I know you can't do every, you don't do none.

20 MR. BRENDISI: I don't think that
21 is true. The NYS-45 are the documents that--

22 CHAIRPERSON WHITE: [Interposing] I
23 said independently verify. That means going out
24 to the field, you've got the paper, okay? You got
25 1,000 programs. Okay? They're all submitted to

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2 you, okay? Their requirement. So you say you
3 know what? Let's take a random sample of ten of
4 the programs. Okay? You don't independently
5 verify, that's what I'm saying?

6 MR. SPIELER: Well we do go on
7 field visits, some are surprise, some are
8 scheduled. We do look and we do make sure when
9 we're on the field visit that what was reported
10 is--that the project is operating within its
11 intended scope and that the employment numbers
12 that were reported look reasonable. So we do,
13 like I said--

14 CHAIRPERSON WHITE: [Interposing] I
15 don't want it to look reasonable. It's supposed
16 to be exactly what they said it was going to be.

17 MR. BRENDISI: But there are
18 variations between part time and full time
19 employment and so, you know, depending on the day
20 that you do the field trip, there are variations.
21 Also the NYS-45's that have been mentioned before,
22 they are the, I believe the reporting that the
23 firms do to the State for unemployment insurance
24 purposes.

25 They, those statements are as

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2 official as they get essentially. And the
3 enforcement of those statements is made by State
4 DOL. I mean they, firms have to report however
5 many people qualify for unemployment insurance.
6 There is no other, I don't think, official
7 document that is better than NYS-45 to check what
8 the employment is. The firm has got to pay the
9 contributions to unemployment insurance so they
10 have no incentive of overstating employment in the
11 NYS-45.

12 And also what our projects are
13 screened for feasibility so I think the projects
14 that we have in any particular community are
15 better, are bound to be a better sample of what
16 happens in the community as a whole.

17 And on the other hand, not only are
18 they better but they may not also be
19 representative of the whole community. So
20 checking the unemployment rate in a particular
21 area against how that particular project is doing,
22 there is no necessary contradiction between what
23 the unemployment rate is doing in that area and
24 how well a particular firm is doing.

25 A particular area might do worse

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2 than other parts of the City, for instance, for
3 all sorts of reasons but the project that we give
4 assistance to, is a firm that does a lot of export
5 that is doing very well. It's in the--it's
6 reasonable and it's completely acceptable to think
7 that that particular project is a project that can
8 have employment growth whereas the rest of the
9 community may have unemployment decline. So--

10 MR. SPIELER: [Interposing] And
11 maybe the benefits are helping with that.

12 [Off mic discussion]

13 COUNCIL MEMBER JAMES: - - White,
14 am I on? Thank you Council Member White.

15 CHAIRPERSON WHITE: I would like to
16 acknowledge my colleague Council Member Letitia
17 James.

18 COUNCIL MEMBER JAMES: I apologize
19 for being late. Does the reporting requirement
20 apply when stimulus funds are used?

21 MR. SPIELER: If the agency, if the
22 bonds, if the ARRA bonds are issued through the
23 agency then it would be part of next year's Local
24 Law 48. As far as other stimulus, I believe the
25 answer is no and we could check that.

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COUNCIL MEMBER JAMES: Okay.

MR. SPIELER: So if stimulus bonds are issued through the agency through the IDA, definitely. If some stimulus funds go to some project, I don't know. And we can get back to you with that answer.

MR. BRENDISI: And I'm not an expert on this but there are, I think, Federal reporting requirements on the projects that receive stimulus and therefore I think the City, it's a whole lot of agencies that are responsible for this so I think that..

COUNCIL MEMBER JAMES: Is there any requirement on any level of government to report not just the number of employees who are hired but to hire individuals who are public assistance, displaced workers, former municipal workers or things of the like or just as employees?

MR. BRENDISI: For what particular?

COUNCIL MEMBER JAMES: For any level of government. Any--

MR. SPIELER: [Interposing] What kind of project.

COUNCIL MEMBER JAMES: -economic

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2 development yeah. Is there any requirement that
3 you hire specific categories of employees?

4 MR. SPIELER: To my knowledge our
5 projects do not require a specific type of
6 employee hired.

7 COUNCIL MEMBER JAMES: And for the
8 most part the law just requires that a number, that
9 they just state the number of employees that
10 they've hired, correct?

11 MR. SPIELER: In our annual survey
12 we ask for number of employees, including if they
13 apply, pursuant to the law whether or not they
14 receive benefits, the breakdown between contract,
15 full time, part time, etcetera.

16 COUNCIL MEMBER JAMES: Even as it
17 relates to the Empire Zones, is there any
18 requirement that a first priority be given to
19 individuals who are formerly public assistance
20 recipients, displaced workers, municipal workers,
21 state workers?

22 MR. SPIELER: We don't administer
23 empowerment or Empire Zones, I couldn't answer
24 that question.

25 COUNCIL MEMBER JAMES: And my last

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2 question is I get the gist of this hearing is that
3 companies are doing self-reporting and there is no
4 mechanism to independently verify whether or not
5 they've in fact adhered to all the requirements of
6 this law.

7 And I guess the question that I've
8 asked that I want to ask you and I don't know
9 whether or not you're in a position to answer it
10 is, is your agency in apposition to actually
11 independently verify? Do you have the staff to do
12 that?

13 MR. SPIELER: We have a variety of
14 methods. I'd be happy to walk you through how we
15 would monitor a typical IDA project. So I do
16 believe that we monitor to the best of our
17 ability. And I'm going to give you a rundown of
18 some of the requirements and how they apply.

19 So we require our IDA projects to
20 maintain a certain level of insurance. They also
21 indemnify the agency. So this is a protection for
22 the company and for the agency. And of course a
23 company is not going to ensure a property they no
24 longer own.

25 COUNCIL MEMBER JAMES: What type of

1 insurance?

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3 MR. SPIELER: Liability, access,
4 worker's comp and property, for most deals. Each
5 deal is individually negotiated but I can say
6 comfortable that the large majority of our
7 projects have to be--we require those four types
8 of insurance.

9 We have a zero tolerance policy.
10 We will default companies for failure to provide
11 or have insurance or to indemnify us.

12 COUNCIL MEMBER JAMES: What about
13 health insurance? Health benefits?

14 MR. SPIELER: That's not a
15 requirement under our projects. We do ask as part
16 of our annual survey whether or not they provide
17 health insurance to their employees full time and
18 part time but it's not a requirement for their
19 project that they do provide it.

20 COUNCIL MEMBER JAMES: Is there any
21 requirement that they pay prevailing wage?

22 MR. SPIELER: No there is not.

23 COUNCIL MEMBER JAMES: Okay. So
24 it's just minimum wage.

25 MR. SPIELER: They're silent on

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wages.

COUNCIL MEMBER JAMES: It's silent on wages. Okay. Thank you Mr. Chair.

CHAIRPERSON WHITE: Okay thank you gentlemen.

MR. SPIELER: Thank you.

MR. BRENDISI: Thank you.

[Witnesses leaving]

CHAIRPERSON WHITE: I've got them in together. As soon as the gentlemen clear the table, Tina Damiani and John Petro.

[Pause]

CHAIRPERSON WHITE: Yeah.

[Witnesses getting settled]

CHAIRPERSON WHITE: Ladies first.

MS. BETTINA DAMIANI: Good afternoon. My name is Bettina Damiani [phonetic] and I direct Good Jobs New York. We keep track of how the City allocated economic development subsidies. Thank you for the opportunity to speak to you today.

I'm going to break up my testimony in two sections. One is to talk about areas of specific improvements for Local Law 48. I think

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2 you asked the staff before if they had any, and we
3 do, we have some we think could be very helpful.
4 And other, some of the policy issues that seem to
5 have been hanging over some of the more specific
6 conversations.

7 So first of all there have been
8 great improvements in transparency and
9 accountability in New York City over the past
10 several years with the IDA. The IDA staff has
11 been much more responsive under this
12 Administration than they had in the past to try to
13 make the process more open. And that has been
14 done both with them complying with Local Law 48
15 and also opening up their public hearing process
16 more than it was before.

17 A quick example is, for example,
18 for the public hearing for the New York Stock
19 Exchange, which was going to be about a \$1 billion
20 deal, we had no information prior to the public
21 hearing and there was no board members. Turing
22 right around, last week, there was a public
23 hearing to provide recovery zone bonds in downtown
24 Brooklyn. The room was packed. We had materials
25 a week prior and people came out on both sides and

1
2 had a very vigorous debate. So it's not perfect
3 but it definitely is light years ahead of where it
4 used to be.

5 But with that said, some
6 highlights. One is Local Law 48 only covers 7
7 years of a deal. Many of these deals can run up
8 to 20 years. I think Bear Sterns has a 50-year
9 deal. We need to have the entire spectrum of the
10 subsidies for all years that they get public
11 benefits, not just for the first 7. It's nearly
12 impossible to hold a project accountable when the
13 public doesn't understand what's happening for the
14 remainder of those years.

15 The value of land sales, we are
16 told by the EDC that they always sell it for the
17 fair market price. We'd hope that's true but you
18 never know so I think just verifying what the
19 price of the land sale was would be very helpful.

20 Job triggers, if you look at the
21 Local Law 48 sheet for specific deals, it will say
22 what the job trigger is. Part of the problem is,
23 again, those job promises are over a number of
24 years. And I think it's a little unclear in Local
25 Law 48 what the job triggers are per year. So it

1
2 would be very helpful knowing if that year, that
3 company was expected to create 10 jobs and they
4 only created 8 or they were supposed 10 and they
5 created 15, right.

6 All those are very important pieces
7 of the puzzle to understand how well subsidies are
8 doing and also the larger piece of how that sector
9 might be doing.

10 It doesn't include State costs in
11 their cost benefit analysis. I think it's
12 important to know what the value both to the costs
13 and the benefits of these projects are to the
14 State.

15 We've asked the IDA and the EDC
16 several times to give us this information in an
17 Excel spreadsheet and we've been told that they
18 don't have it. We've tried numerous times to
19 request this information. What we've ended up
20 doing is actually hand-typing in the information
21 'cause we've tried to break it down and we're
22 doing things by Borough. So we have subsidy
23 snapshots for Queens and for Manhattan and we're
24 now working on ones for the Bronx.

25 And to be able to do that

1
2 adequately we've had to literally type in from
3 looking at the page onto an Excel spreadsheet. I
4 really would like to think that there's just been
5 some missing communication and the City really
6 does have this information in some kind of data
7 base and they're just hesitant to let it go.

8 So if there's anything the
9 Committee can do to make sure that information is
10 done in Excel spreadsheets and made public that
11 way, that would be a big boost on the transparency
12 and accountability front.

13 Not understanding what the total
14 value is of subsidies going to that particular
15 project, I think that was something the Committee
16 was trying to get at a few minutes ago, is that
17 there are many different types of subsidies and
18 incentives that can go to a particular project,
19 whether it's ICIP or whether it's discretionary
20 programs at IDA or it's the Worker Opportunity Tax
21 Credit or there are other WIA--I mean the list is
22 quite, is very long.

23 And I think to address that it
24 would take--it's not saying it's impossible, you
25 know, economic development budgets have been done

1
2 around the country. But it would be a
3 particularly heavy lift. That doesn't mean that
4 we shouldn't make some kind of attempt to
5 understand how successful or unsuccessful
6 particular programs are for an employer.

7 So going ahead, going to the larger
8 issues that are happening here is I think one of
9 the concerns is lacy of synergy between the
10 projects that the IDA and the EDC fund and what's
11 happening in other parts of the City regarding
12 unemployment or getting people back to work.
13 There's supposed to be some kind of connection
14 between the IDA subsidies projects and Small
15 Business Services. That might be happening. It
16 hasn't been made very clear to those of us who
17 watch this sort of, these issues.

18 When a company gets a subsidies
19 there are no job standards. This is what I think
20 you were trying to allude to before Chairman.
21 There is no expectation they have to hire New
22 Yorkers. There is no expectation they have to
23 give them health benefits or give them a decent
24 wage.

25 Ironically we're surrounded by

1
2 entities that do that. We are in theory and
3 competition with New Jersey. Yet if you
4 participate in their BEEP program you have to
5 provide them health benefits and pay them a decent
6 wage. So we need to stop dumbing down and
7 understand the leverage of our subsidy programs to
8 make sure that we create good jobs and understand
9 what our competition is.

10 I think our larger concern is the
11 due diligence of were these companies really in
12 need of subsidies to move forward. And I think
13 that's an honest debate to have regarding smaller
14 firms, but on these very, very large corporations
15 and stadiums, tax breaks are not the deciding
16 factor.

17 There's a litany of other public
18 investments that are really the key in deciding
19 whether a company is going to stay or go. And we
20 also have to understand what's happening on the
21 other side of either the river or other state
22 lines of whether a company was really going to
23 move or not.

24 And are these projects targeting
25 people in need? Are we going to be using

1
2 incentives to hire people that have excessive--not
3 excessive, have wonderful job skills. Maybe they
4 have MBAs. I think the larger issue is we need to
5 be making sure that we use our tax investments
6 wisely to help people that need jobs. I think
7 that's the key. And there's a great disconnect
8 here that kind of goes back to the lack of job
9 standards that we have.

10 There needs to be, I think, a
11 better synergy between communications with other
12 City agencies that are allocating incentives.
13 ICIP is a good example but ICIP is not a job
14 program. You're not going to get job figures out
15 of ICIP. It was never meant to be creating for
16 jobs. It was about helping companies relocate to
17 other areas of the City.

18 So if we want to call it a job
19 program, that'd be great by me but that means
20 you're going to have to create a whole different
21 type of accountability piece of that.

22 And yes the Department of Finance
23 has put that information out on the web and it's
24 immensely helpful. I just wanted to congratulate
25 the Department of Finance on that because nerds

1
2 like us actually go through and put in block and
3 lots and look at specific information in trying to
4 make sure, or get a sense of who's getting ICIP
5 but it's not a job program. So the accountability
6 piece, I think it's a different conversation to be
7 having.

8 Regarding call backs, for example,
9 the City says they've called back or taken money
10 back. It's been a little bit unclear on how
11 concise that process has really been. Pfizer for
12 example, they didn't really have to pay back any
13 of their subsidies, their future subsidies were
14 foregone. When Met Life decided to move back to
15 Manhattan out of Long Island City, they should
16 have paid a \$24 million fine but instead they only
17 paid \$5 million.

18 So because these are discretionary
19 subsidies, that leaves a lot of leeway and we
20 would argue too many loopholes in how these are
21 allocated out. So I think just to sum up I think
22 the larger issues we need to really make sure we
23 learn to focus our tax incentives on creating jobs
24 for people that need them.

25 Retail came up before, I think

1
2 Council Member Vann asked about retail, last week
3 the CRC which is part of the EDC which is sort of
4 like the IDA, again this whole silo is part of the
5 issue of trying to make things accountable if
6 we're all chasing each other's tails all the time,
7 approved recovery zone bonds for Albee Square in
8 downtown Brooklyn.

9 What was not taken into
10 consideration for that project is all the
11 businesses that were displaced and the positive
12 impact that was having on downtown Brooklyn. So I
13 think before we can talk about the specific jobs
14 created at a particular site, I think we need to
15 have a much clearer understanding up front from
16 the City's side of the due diligence that's done
17 because if you don't have the whole piece of the
18 puzzle and you can always make a project look like
19 it's going to be beneficial.

20 I won't spend a lot of time talking
21 about Yankee Stadium because I think we're all
22 done with that. But I think that's a very good
23 example of was that a good project for the
24 community? The City did not leverage one penny of
25 those subsidies to make sure local Bronx

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2 residents, Bronx County, highest unemployment rate
3 in the state thank you very much, and they didn't
4 leverage one penny to hire Bronx residents.

5 So there's great opportunities
6 here. And we're not saying that tax subsidies
7 shouldn't be used, they just need to be done more
8 carefully and more accountably. Thank you.

9 CHAIRPERSON WHITE: Okay. I'll let
10 the gentleman speak next and then we'll open up
11 for questions.

12 MR. JOHN PETRO: Thank you
13 Committee Chair White. My name is John Petro and
14 I'm an Urban Policy Analyst at the Drum Major
15 Institute for Public Policy.

16 The Drum Major Institute is a
17 nonprofit, nonpartisan public policy think tank
18 based here in New York City. And part of my job
19 at DMI is to find the best local level policies
20 from cities across the country, to find policies
21 that have a proven record of success and have a
22 positive impact on the residents of that city.

23 And as part of that effort we
24 looked at how other cities conduct their economic
25 development subsidy processes and found that New

1
2 York City can be doing much better at ensuring
3 public tax dollars create real economic benefits
4 and opportunities for City residents.

5 Specifically New York City should
6 require that recipients of public subsidies create
7 living wage jobs for New York City residents. We
8 need to focus on the quality of jobs created and
9 not just the quantity.

10 We know that at least one city,
11 Minneapolis, Minnesota, does exactly that. When
12 entering into an economic development agreement,
13 Minneapolis sets out the number of living wage
14 jobs that must be created by the subsidy recipient
15 based on the amount of public money that they
16 receive. For every \$25,000 of subsidy at least 1
17 living wage job must be created. And in
18 Minneapolis the living wage is \$13.25 an hour. If
19 the subsidy recipient fails to meet its
20 obligations, if it does not meet the target for
21 living wage jobs, it must pay the City \$100,000 in
22 damages for every living wage job that was not
23 created.

24 New York City does not require the
25 creation of living wage jobs when it enters into

1
2 economic development agreements with private
3 companies. Because of the actions of the City
4 Council, the passage of Local Law 48, we know that
5 a large percentage of the jobs created do not pay
6 a living wage.

7 A living wage in New York City is
8 roughly \$12.00 an hour for a single adult with no
9 dependents and about \$20.00 an hour for a parent
10 with one child. According to the NY EDC's Annual
11 Investment Projects Report from Fiscal Year 2008,
12 we know that 27% of the jobs at all of the job
13 sites included in the report paid less than
14 \$40,000 a year and 14% of the jobs paid less than
15 \$25,000 a year.

16 Now this is out of the total number
17 of jobs that currently exist. As I understand the
18 report it does not distinguish between which of
19 those jobs existed already and how many were
20 created as a result of the public subsidy. And
21 that's just me reading the report. It might be
22 interpreted differently.

23 Now why is it important that there
24 be living wage requirements attached to economic
25 development subsidy deals? Well for example at

1
2 the Kings Ridge Armory in the Bronx there's
3 currently debate over whether a private developer
4 that is receiving City subsidy should require
5 future retail tenants to pay a living wage. The
6 Armory is being redeveloped into a retail mall and
7 the development is expected to bring 1,800
8 construction jobs and 2,000 permanent jobs to the
9 site.

10 While we need jobs using tax payer
11 dollars to create poverty level jobs that offer no
12 real economic opportunity is not the answer,
13 according to the Fiscal Policy Institute, the
14 median wage of a New York City retail worker in a
15 nonprofessional, non-managerial occupation is only
16 \$10.78. And at 40 hours a week and 52 weeks a
17 year, an individual earning this wage will barely
18 gross over \$22,000. And many workers make less
19 than the median wage.

20 This is not enough to support a
21 family and it's not a good use of City tax
22 dollars. The developer in this case has received
23 promises of \$90 million in public financing
24 through the IDA, through IDA subsidies, tax
25 credits and repairs to the building. And the

1
2 community has every right to expect that they'd
3 benefit from the use of public money. But
4 poverty level wages do not bring true economic
5 opportunity.

6 In fact when tax dollars are used
7 in this way the City loses twice. First when tax
8 dollars are diverted from other uses, the money
9 that could be spent on schools, public safety or
10 open space. And second when the City must spend
11 money to provide services to the family that is
12 only making a poverty wage and cannot support
13 itself.

14 The Minneapolis City Council was
15 able to use its power to create real economic
16 opportunity for its constituents by requiring the
17 creating of living wage jobs. New York City
18 should do the same thing. That's it. Thank you.

19 CHAIRPERSON WHITE: [Off mic] Thank
20 you very much. Do we have the power, the City
21 Council, do we have the power to require that the
22 State alter the program that we believe that the
23 City could do this on its own?

24 MR. PETRO: You go ahead.

25 MS. DAMIANI: You're asking if the

1
2 City Council can require standards and wages. Yes
3 you all had that opportunity. It didn't work.
4 There was a living wage law that was passed in
5 '03, does anybody remember? Was it '03? '03,
6 thank you. And for much part of that debate,
7 subsidy recipients that got over \$1 million in
8 benefits from the IDA were part of that debate. I
9 never saw the actual law but from my understanding
10 that was in it until very close to the end and it
11 was taken out.

12 So this is something that has been
13 taken up in the Council in the issue of job
14 standards to economic development subsidies was
15 taken out of the legislation. So the short answer
16 is yes, you do--

17 CHAIRPERSON WHITE: [Interposing]
18 Well that's what I mean... okay. Council Member?

19 COUNCIL MEMBER JAMES: Yeah, can I
20 just follow up on that? So back in 2003, your
21 position is that back in 2003 we passed a living
22 wage law. My understanding is that it only
23 applied to City contracts and not for private
24 ones, am I incorrect?

25 MS. DAMIANI: No I believe so and I

1
2 think it was also targeted towards home healthcare
3 workers.

4 COUNCIL MEMBER JAMES: So it was
5 just targeted to one particular segment. And the
6 City was engaging in the services through
7 contracts.

8 MS. DAMIANI: Yes.

9 COUNCIL MEMBER JAMES: But my
10 understanding or my experience and I know for a
11 fact that private home care attendants do no
12 benefit from that same law which is why we are
13 losing so many home attendants in one particular
14 area and they're trying to get into publicly
15 funded childcare agencies.

16 So in this particular instance, or
17 the subject matter of today's hearing is private
18 entities. And so based on your explanation it
19 would not apply.

20 MS. DAMIANI: The current living
21 wage law does not apply to any IDA subsidies. I
22 mean the IDA attorneys are here and they can
23 correct me if I'm wrong but...

24 COUNCIL MEMBER JAMES: So I don't
25 know, given the example that you just cited,

1
2 whether or not we, we being the City Council, are
3 in a position to apply this law to IDAs. And I
4 don't know--and we're going to do research on it.
5 I've already have asked Counsel to look into that
6 matter because it's something that I obviously
7 would like to sponsor.

8 MS. DAMIANI: We're certainly
9 behind the curve around the rest of the country.

10 COUNCIL MEMBER JAMES: Yeah and
11 it's an indictment of us as a City. We're
12 supposed to be that, you know, progressive, but,
13 you know, obviously we're not.

14 In terms of health benefits, do you
15 think we are in a position to provide, to require
16 that these contractors provide health care
17 insurance?

18 MS. DAMIANI: I'm not an attorney
19 but I can tell you from a public policy standpoint
20 that when the City is using our tax dollars to
21 create good jobs, I think we should recognize that
22 there's a leverage there. And part of that
23 leverage could be to ensure that there are good
24 jobs. And health care benefits, unless something
25 dramatically changes in the next few months in

1
2 this country, is an important component to what a
3 good job is.

4 And I would argue that the City
5 Council does have a stronger hand to play in this
6 than they have in the past.

7 COUNCIL MEMBER JAMES: I'm told
8 that some projects are as-of-right and some are
9 discretionary. And in what scenario would it
10 apply?

11 MS. DAMIANI: Well right now I'm
12 under the impression we're talking about
13 discretionary subsidies.

14 COUNCIL MEMBER JAMES: Okay.

15 MS. DAMIANI: Because that's what
16 the IDA handles. And if we're talking about ICIP,
17 that's a different conversation. I would like to
18 think you could create a law that would include
19 all those benefits but if we're going to be
20 speaking specifically around IDA, I don't know how
21 ICIP could fit in that but I'd be happy to, you
22 know, discuss that. 'Cause again it's not
23 connected to jobs, ICIP.

24 COUNCIL MEMBER JAMES: You
25 mentioned earlier the project in downtown Brooklyn

1
2 which I am very much involved in, particularly as
3 it relates to creating affordable housing. We're
4 expanding the affordable housing envelope in City
5 Point which is formerly Willoughby Square.

6 My question to you is do you
7 believe that, as far as you know, was there any
8 requirement on the Federal level to provide living
9 wages and/or health care benefits if in fact
10 stimulus funds are used or Federal dollars are
11 used?

12 MS. DAMIANI: The American Recovery
13 and Reinvestment Act applies to Davis Bacon
14 Projects [phonetic], bond projects are not part of
15 that. It's like one step removed.

16 COUNCIL MEMBER JAMES: Um-hum.

17 MS. DAMIANI: So unfortunately
18 there are no standards on the recovery zone
19 projects.

20 COUNCIL MEMBER JAMES: And you
21 indicated that the reporting requirements, the
22 transparency is good but the information is
23 disturbing. Would that be fair to say?

24 MS. DAMIANI: Sorry, could you
25 repeat your question?

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2 COUNCIL MEMBER JAMES: The fact
3 that they are now required to report--

4 MS. DAMIANI: [Interposing] Um-hum.
5 Um-hum. Yes.

6 COUNCIL MEMBER JAMES: --but the
7 information that has been uncovered is disturbing.

8 MS. DAMIANI: Yes. I think it's--
9 earlier when there was Local Law 69, quite
10 frankly, I don't think anybody can understand what
11 Local Law 69--

12 COUNCIL MEMBER JAMES:
13 [Interposing] Um-hum.

14 MS. DAMIANI: --really meant. And
15 so now we're moving forward into what it should
16 be. It should be a public debate and the
17 information should be in the public domain. And
18 we should have this opportunity to get a better
19 sense of whether these are wise investments or
20 not. And I think for many of these projects,
21 particularly the very large ones, we are not
22 getting the best investment for our dollar.

23 COUNCIL MEMBER JAMES: But there
24 are those that would argue that it creates a
25 significant amount of construction jobs which are,

1
2 you know, high wage jobs. And so therefore how
3 could you argue against the investment of public
4 dollars for that purpose?

5 MS. DAMIANI: Construction jobs in
6 New York are some of the best jobs in the country-
7 -

8 COUNCIL MEMBER JAMES:
9 [Interposing] They sure are.

10 MS. DAMIANI: --we will not argue
11 with that for one second.

12 COUNCIL MEMBER JAMES: If I could
13 get one, I'd get one.

14 MS. DAMIANI: That's right. With
15 that said, I don't think we can conduct our entire
16 economic development policy and job creation
17 policy in New York City through the lens of
18 construction jobs.

19 It has to be one piece of that
20 puzzle. And again we have to recognize that most
21 companies do not make a location decision based on
22 the tax rate. Mayor Bloomberg said it. I think
23 he forgot. They don't. They're much more
24 concerned about having access to an educated
25 workforce and having an efficient public

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2 transportation process. It's not the taxes. And
3 Mayor Bloomberg said it. He applied for and got
4 subsidies for the tower for his company. And then
5 when he became Mayor he turned it down.

6 And I'm paraphrasing but he pretty
7 much said, you know, if you're a company and your
8 margin is only your taxes, then you don't have
9 enough profit margin for your company. So I think
10 this needs to be taken into consideration. So yes
11 construction jobs are great but we have to look at
12 the long term impact of these subsidy deals.

13 COUNCIL MEMBER JAMES: So basically
14 all the other ancillary jobs that are associated
15 with that project.

16 MS. DAMIANI: Well I think there's
17 an assumption on the EDC's and IDA's part that if
18 the subsidy doesn't happen that entire company is
19 going to disappear--

20 COUNCIL MEMBER JAMES:
21 [Interposing] Right.

22 MS. DAMIANI: --and that whole
23 building is going to fall apart.

24 COUNCIL MEMBER JAMES: Right.

25 MS. DAMIANI: So I think there's

1
2 something obviously said, there's a multiplier
3 effect to business in this City, nobody can deny
4 that. But I think there's a fine balance between
5 the multiplier effect and trickle-down theory.

6 COUNCIL MEMBER JAMES: Right.

7 MS. DAMIANI: So I think that's
8 where--

9 COUNCIL MEMBER JAMES:

10 [Interposing] I'm just going to back to the City
11 Point project. I know that your concern has been
12 we're providing stimulus dollars to a project
13 that's for the most part retail. Well retail in
14 part. And there is no requirement that these
15 wages be living wages and no requirement that the
16 businesses that were displaced as a result of
17 eminent domain be given due consideration. And I
18 share your concern though I am looking at the
19 affordable housing aspect of the project. Thank
20 you.

21 MS. DAMIANI: Thank you.

22 CHAIRPERSON WHITE: Well before I
23 recess the meeting, you know, it would appear to
24 me that we're going to have to take a look at that
25 question that I asked earlier about Local Law 48,

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should it be altered in any way.

And listening at the prevailing wage question, looking at the fact that we're dealing with a pandemic that is coming our way and nobody can afford to get around it, that impacts on our families, our homes, people have children that are going to school.

They're talking about wearing-- getting shots and wearing masks around the City of New York. I think it would be irresponsible on our part if we did not take a look at businesses that have health insurance in one form or another, whether it be they supply it, whether it be that there's a combination of the employer and the employee making a contribution towards health insurance because that affects economic development. If people can't go to work, okay it can slow down the City. It's just one of those things like there's no new air in this world.

So what happens over in Europe, if there's an explosion, we're going to get that air here in New York. It may take a couple of days. I don't know how many people watch the Weather Channel. But if you just look at it, it just

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2 tells you there's no new air.

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So that's why, you know, I'm a conservationist and I believe we should have clean air. That's why we're going green. And at some point all of this has to come together. We're going green, not just money which is green, but also to protect our environment. And parts of our environment are the people that live in it.

So we'll take another look at that. And maybe we'll have to take another look at maybe creating some kind of a benefit to pool, maybe those small companies that cannot afford the health insurance, put them in a big pool and that contribution might lead to some kind of form of inoculation or whatever the case may be.

We all eat in restaurants. You want to make sure the workers there are healthy. You know, whoever's serving your food. I mean this is--I don't have the answer to is. But as a citizen and as an American I just know that everybody in here is blessed with having health insurance.

I can't think of anybody in this room that don't have health insurance. And you

1
2 use it. And I don't think that it's something
3 that's a privilege. I think it's a right to live
4 healthy and to be healthy.

5 So I just wanted to add that to the
6 record. And so these gentlemen be here. Okay.
7 So that when they start looking at these companies
8 that giving them these benefits when I asked the
9 question, could anything be altered? I would take
10 a look at health insurance and what we could do.
11 And prevailing wage, and what we can do.

12 So before I adjourn this meeting is
13 there anyone that would like to say something?
14 There being none, the meeting stands adjourned.

15 [Gavel banging]
16

C E R T I F I C A T E

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

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature _____Laura L. Springate_____

Date _____September 30, 2009_____