

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT

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June 29, 2012  
Start: 1:15 p.m.  
Recess: 3:11 p.m.

HELD AT: Council Chambers  
City Hall

B E F O R E:  
LETITIA JAMES  
Chairperson

COUNCIL MEMBERS:  
Council Member James F. Gennaro  
Council Member Robert Jackson  
Council Member Michael C. Nelson

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

James Roberts  
Deputy Commissioner, Bureau of Water and Sewer  
Operations  
Department of Environmental Protection

Peter McKeon  
Chief, Collection/Recycling Operations  
Department of Sanitation

Ron Gonen  
Deputy Commissioner, Sanitation Sustainability and  
Recycling  
Department of Sanitation

Todd Kuznitz  
Assistant Chief, Enforcement  
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Harry Nespoli  
President  
Local 831, United Sanitation Association Workers of  
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Thomas Outerbridge  
General Manager  
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Lawrence R. Schillinger  
Environmental Affairs and Government Relations Counsel  
New York Chapter, Institute of Scrap Recycling  
Industries

Michael Powers  
Manager  
TNT Scrap

Mary Ann Rothman  
Executive Director  
Counsel of New York Cooperatives and Condominiums

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

Ron Bergamini  
CEO  
Action Environmental Group

Daniel Mulay  
Representative  
Natural Resources Defense Council

1  
2 [pre-hearing banter, background  
3 noise]

4 CHAIRPERSON JAMES: Thank you.  
5 Good afternoon and welcome to this hearing on the  
6 Committee on Sanitation and Solid Waste  
7 Management. My name is Letitia James and I'm the  
8 Chairperson of this Committee, and I hail from  
9 Brooklyn. I'm joined today by my colleague, also  
10 from Brooklyn, Council Member Mike Nelson, all the  
11 way the far right. Today, we will be hearing four  
12 bills that relate to the stability and security of  
13 recycling in the City. For the past two years,  
14 the markets for recyclable materials have  
15 increased significantly. This market increase is  
16 a mixed blessing. Although it ensures that the  
17 material recycle is, we recycle is more valuable,  
18 it also means that that material is more likely to  
19 be removed and sold prior to collection by the  
20 Department of Sanitation or private carters. In  
21 some instances, this type of poaching is  
22 permissible. Current law allows individuals to  
23 remove material placed out for Department of  
24 Sanitation collection as long as they do not use a  
25 motor vehicle while doing so. That will, that

1  
2 will not change. But in other circumstances where  
3 removal is conducted with a motor vehicle or where  
4 the material removed is placed out for private  
5 carters to collect, it is unlawful. I believe  
6 that the bills we are discussing today will play a  
7 vital role in protecting recycling programs in the  
8 City without unduly harming individuals who poach  
9 recycling without using a motor vehicle. To  
10 better understand the problem, we will hear from  
11 the City's recycling contractor today. We will  
12 describe in detail how it is losing literally  
13 millions of dollars worth of material every year.  
14 In addition, the National Solid Waste Management  
15 Association estimates that last year private  
16 carters in New York City lost some \$10 million  
17 worth of stolen cardboard. That not only impacts  
18 private carters, it also means that commercial  
19 building owners could be asked to pay more for  
20 waste hauling. In addition to financial impacts,  
21 recycling theft also affects our ability to expand  
22 recycling in New York. As we will hear more about  
23 today, poaching of recyclables could jeopardize  
24 the expansion of our recycling program to include  
25 all rigid plastics, pursuant to Local Law 35,

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2 which this Committee passed in 2010. In an effort  
3 to address the poaching and theft of these  
4 materials, and to strengthen aspects of our  
5 recycling program, we will hear four bills today,  
6 and I will provide brief descriptions of each of  
7 these bills at this point. First, after an  
8 incident where one individual stole more than a  
9 dozen manhole covers to sell as scrap metal, I,  
10 along with my colleague Council Member Jumaane  
11 Williams of Brooklyn, sponsored Intro 888, which  
12 provides City law enforcement the authority to  
13 charge a civil penalty for the theft of manhole  
14 covers in the City. It is currently already  
15 covered under the Criminal Code. Second, in  
16 response to the increase in recycling theft, I am  
17 sponsoring, again in conjunction with Jumaane  
18 Williams, Intro 889, which addresses the poaching  
19 and theft of recyclables placed curbside, improves  
20 enforcement of recycling theft and strengthens the  
21 regulations for businesses that accept recycling,  
22 such as scrap metal dealers and paper recyclers.  
23 Third, Intro 893, sponsored by Council Member  
24 Recchia, who should be joining us shortly, would  
25 prohibit the on-street bulk collection of beverage

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2 containers using a motor vehicle and would create  
3 a registration and reporting scheme for entities  
4 that collect bulk beverage containers, using a  
5 motor vehicle on private property. And then  
6 finally, Intro 894, also sponsored by Council  
7 Member Recchia. It would establish an extended  
8 producer responsibility program for appliances  
9 that contain refrigerants, such as CFCs. I note  
10 that the primary trade group representing the  
11 manufacturers of these appliances was unable to  
12 send a representative due to the last minute  
13 scheduling change of this hearing. But they have  
14 submitted written testimony that will be included  
15 in the record for this hearing. Today, we will be  
16 hearing from a host of advocates and stakeholders  
17 regarding these bills. I hope to use this time to  
18 obtain valuable feedback from all parties on ways  
19 to make these bills better. Let me state that  
20 again, because I have received a number of calls  
21 suggesting that we are going to move the bills as  
22 is. I hope to use this time, this afternoon, to  
23 obtain valuable feedback from all parties on ways  
24 to make these bills better. In addition to that,  
25 we also plan on meeting with some individuals

1  
2 privately over the summer break. Without any  
3 further ado, I now turn the floor over to the  
4 first set of witnesses representing the  
5 Administration. And um, the first witness is DEP  
6 Commissioner James Roberts, who I understand has  
7 to leave early, so we will allow Mr. Roberts to  
8 testify first. Chief Peter McKeon, he works, he  
9 represents Department of Sanitation Collection.  
10 Chief Todd Kuznitz, who's no stranger to this  
11 Committee, DSNY Enforcement, and I apologize if I  
12 mispronounced your name. Deputy Commissioner Ron  
13 Gonen, from the Sanitation Sustainability and  
14 Recycling. Gentlemen, please begin.

15 JAMES ROBERTS: [off mic] Good  
16 afternoon, Chairperson James and Council Members.  
17 I am James Roberts, I'm Deputy Commissioner for  
18 the Bureau of Water and Sewer Operations with the  
19 Department of Environmental Protection. And on  
20 behalf of Commissioner Strickland, I thank you for  
21 the opportunity to testify on Intro 888, related  
22 to the theft of manhole covers. This bill  
23 proposes a set of minimum civil penalty for the  
24 theft of manhole covers at--Okay. How about now?

25 MALE VOICE: Yeah, that's better.



1  
2 JAMES ROBERTS: [off mic] Thank  
3 you.

4 CHAIRPERSON JAMES: Is it on? It's  
5 not on.

6 [technical]

7 JAMES ROBERTS: How about now?  
8 There you go. That definitely works. [background  
9 comments] Okay, we're good?

10 CHAIRPERSON JAMES: Yes.

11 JAMES ROBERTS: I apologize. Do  
12 you want me to restart?

13 MALE VOICE: Yes. [laughter]

14 JAMES ROBERTS: I was afraid that  
15 was going to be the answer. [laughter] So, once  
16 again, good afternoon Chairperson James and  
17 Council Members. I am James Roberts, I'm the  
18 Deputy Commissioner with the Bureau of Water and  
19 Sewer Operations at the Department of  
20 Environmental Protection. I'm here on behalf of  
21 Commissioner Strickland, and we thank you for the  
22 opportunity to testify on Introduction 888, Intro  
23 888, with regard to the theft of manhole covers.  
24 The bill proposes to set a minimum civil penalty  
25 for the theft of manhole covers at \$2,500 by

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2 amending Title 10, Public Safety, and Title 20,  
3 for Environmental Protection of the New York City  
4 Administrative Code. And although I do have a few  
5 comments on the amendments, I would like to  
6 express my appreciation and strong support for the  
7 Council's efforts to address the theft of manhole  
8 covers, notwithstanding the purpose of the coverer  
9 who owns it. And as we're aware, there are a  
10 number of private entities that manage  
11 infrastructure within the City that are also  
12 affected by the same issue. So, by creating a new  
13 Administrative Code Section 10-118.1, and by  
14 increasing the civil penalties for such dangerous  
15 violations. To give you an idea of the problem,  
16 the number of missing DEP manhole covers in 2009,  
17 was roughly 1,600. And that, over a three year  
18 period, is roughly a constant number, with two--  
19 1,300 in 2010, and nearly 1,500 in 2011. To-date,  
20 we've recorded about 373, just short of 400. So,  
21 going through half the year, we're, the numbers  
22 appear to be somewhat diminished, and I think that  
23 is in part due to the attention that it's garnered  
24 and some of the efforts that we've been working  
25 on. Those numbers include covers on manholes that

1  
2 lead to sewer infrastructure as well covers on  
3 manholes that lead to our potable water  
4 infrastructure. The cost of the covers themselves  
5 range anywhere from, you know, \$90 to \$100.  
6 They're nominally priced in theory. And I should  
7 explain from the onset that not all the covers  
8 that are missing are stolen. You know, we do  
9 have, from time to time, for various reasons,  
10 covers that are knocked off, you know, due to  
11 something like a snow removal process or, you  
12 know, something that's uneven or gets hit by a  
13 truck. So, not, we don't view the whole, you  
14 know, the totality of the issue as being stolen.  
15 To give you an idea of how we handle it, when a  
16 call comes in to 311, reporting a manhole of any  
17 type missing, DEP is typically the first responder  
18 because we manage the largest part of the  
19 infrastructure within the City. And due to the  
20 serious public safety issues potentially involve,  
21 these jobs are handled as what we term P1, they're  
22 the highest priority that we have. We respond  
23 immediately. We work very closely with all the  
24 other City agencies that you would envision, the  
25 Department of Transportation, NYPD, FD and the

1  
2 Office of Emergency Management. If the condition  
3 is related directly to DEP infrastructure, action  
4 is taken to make the site safe, we'll make  
5 immediate repairs if possible, or schedule repairs  
6 that are necessary if they're warranted. Castings  
7 belonging to other entities, most typically  
8 private utilities, are referred to the appropriate  
9 utility offices, with the DOT and the other  
10 agencies notified as warranted, that the condition  
11 belongs to "fill in the blank, X-Y-Z Utility," and  
12 that they have been notified. DEP will not leave  
13 the scene of a serious condition until it is  
14 secured by either DOT or some other emergency  
15 response entity, including the owner of the  
16 castings. Calls to 311 concerning damaged or  
17 noisy manhole covers are referred to DOT, which  
18 issues what they call corrective action reports.  
19 They essentially play the traffic cop in directing  
20 the, the repair of, and maintenance of all the  
21 rest of the utility castings that are in the City.  
22 When a DEP crew identifies that a missing manhole  
23 cover is ours and we believe it's due to theft,  
24 the crew will report that missing manhole cover by  
25 calling the local precinct, and generally by

1 contacting the Department of Investigation  
2 concurrently. And as I explained, besides staff  
3 covers can go missing in the course of street  
4 excavation or during a snow plow operation, or  
5 something. DEP does not go to large extents to  
6 try and characterize, you know, what class that  
7 is, whether in fact it is a DEP. But we are  
8 mindful of trends, and so we will record, when we  
9 see an uptick in a particular neighborhood or  
10 borough, we pay a little bit more attention to  
11 that, and generally will then reach out to the  
12 local precinct commanders and/or DOI, and start to  
13 pay attention. Because the value of the manhole  
14 covers is less than \$1,000, if an individual is  
15 apprehended, the offense would be a A misdemeanor,  
16 the charge would either be a petty larceny or  
17 criminal possession of stolen property in the  
18 fifth degree, depending whether it is possible to  
19 prove actual theft or only possession of the  
20 stolen property. Recently, for example, with the  
21 assistance of our colleagues at the NYPD, we've  
22 had some success in reducing the number of missing  
23 manhole covers. Between March 15th and 18th of  
24 this year, eight covers were stolen in The Bronx.  
25

1  
2 Following an investigation by the NYPD, two  
3 arrests were made on March 19th, for the theft of  
4 all eight. The number of missing manhole covers  
5 in The Bronx declined after those arrests. That--  
6 we find that to be typical that these things  
7 happen in bunches, and that usually there's, you  
8 know, one set of people that are doing it. From  
9 April 20th through May 2nd, 26 thefts of manhole  
10 covers occurred in Brooklyn and Queens. ConEd  
11 reported to NYPD--all of those thefts were ConEd  
12 covers--and we understand that this is still under  
13 investigation by the NYPD Major Case Unit. With  
14 respect to the bill itself, I would offer you two  
15 comments: First, although the bill increases the  
16 penalties for a provision of the Administrative  
17 Code, Section 24-524, related to sewer manholes,  
18 it does not include a similar increase in the  
19 penalties for parallel provision in Code Section  
20 23-304, entitled "Injury to Water Supply  
21 Property." And again, as you are aware, we have  
22 both the water and sewer infrastructure. That  
23 provision serves a similar purpose for the water  
24 supply system, that Section 5--I'm sorry, 24-524  
25 serves for the sewer system. Second, my

1  
2 colleagues at NYPD have noted that the proposed  
3 Section 10-118.1 regarding utility manhole covers  
4 does not include a criminal penalty like that  
5 imposed for the theft of sewer covers in Section  
6 24-524. And that the lack of the commensurate  
7 criminal penalty for Section 10-118.1 might  
8 inadvertently create some confusion because of the  
9 inconsistencies, especially because of the new  
10 provision amends Title 10 of the Administration  
11 Code, which offenses generally carry criminal  
12 penalties. It could also diminish the ability of  
13 law enforcement officers to detain offenders in  
14 order to properly identify them for the purpose of  
15 issuing a summons or notice of violation. We  
16 would therefore recommend that the bill be amended  
17 to include the same criminal penalty provided for  
18 Section 24-524, applicable to sewer covers, and  
19 make it a misdemeanor punishable by a fine between  
20 \$500 and \$10,000, or imprisonment for up to 30  
21 days. In this way, the two Administrative Code  
22 provisions addressing the theft of manhole covers  
23 would provide consistent and stringent penalties  
24 for creating a perilous public hazard. And once  
25 again, I'd like to thank you for the opportunity

1  
2 to testify and I'd be glad to answer any questions  
3 if you had them.

4 CHAIRPERSON JAMES: So,  
5 Commissioner Roberts, I don't have any questions,  
6 I know that you have to leave at this point in  
7 time. Council Member Nelson, do you have any  
8 questions? We've also been joined by Council  
9 Member Robert Jackson from Manhattan who's having  
10 his lunch. So, I know that you have to leave, and  
11 you may be excused at this point in time.

12 JAMES ROBERTS: Thank you very  
13 much.

14 CHAIRPERSON JAMES: IF there's any  
15 follow up, we'll be in touch with your office.  
16 Thank you for your testimony.

17 JAMES ROBERTS: Yes.

18 CHAIRPERSON JAMES: Next?

19 [pause, background noise]

20 RON GONEN: Just want to that it's-  
21 -[laughter] And I'll stop halfway. Okay. Good  
22 afternoon, Chairperson James and Members of the  
23 Committee on the Sanitation and Solid Waste  
24 Management. I am Ron Gonen, Deputy Commissioner  
25 for Sustainability and Recycling for the



1  
2 Department of Sanitation. I am also here today  
3 with Todd Kuznitz, Director of Enforcement for the  
4 Department. We are here on behalf of Sanitation  
5 Commissioner John Doherty to testify on three  
6 bills that are subject of today's hearing by this  
7 Committee. First, Chairperson James, I would like  
8 to thank you and City Council for your leadership  
9 on this issue. The poaching of recyclables  
10 designated for collection by DSNY is a growing  
11 problem that seriously harms the City's recycling  
12 program. The Department appreciates the  
13 opportunity today to discuss this important issue  
14 of significant interest to both the City Council  
15 and the Administration. Our offices to date have  
16 worked together on draft legislation and we look  
17 forward to continuing to work with the Council to  
18 enact final legislation to best accomplish our  
19 shared goals. Before I specifically address each  
20 of the bills, I would like to share with you an  
21 overview of our mission and current observations  
22 and the impacts that unlawful and un--and  
23 organized poaching has had on both the  
24 Department's recycling operation and its  
25 refrigerant removal program conducted pursuant to

1  
2 a federal consent order. First, as you know, in  
3 the City's comprehensive solid waste management  
4 plan approved in 2006, the Administration  
5 reaffirmed residential recycling as a key  
6 component of its long term vision for solid waste,  
7 for managing solid waste. In the plan, the  
8 Department committed to developing new contracts  
9 with private vendors, under which the Department  
10 would deliver residential recyclables it collects  
11 to private vendors that would process the  
12 recyclables and sell the recovered materials. The  
13 plan, and Local Law 40, which the full Council  
14 passed in the summer of 2010, established  
15 ambitious goals for the percentage of Department  
16 collected solid waste that would be diverted for  
17 recycling processing. These goals are threatened  
18 by the actions of organized groups that unlawfully  
19 remove recyclables placed out by residential  
20 property owners and building managers, for  
21 Department pickup. Second, the unlawful removal  
22 of recyclables also adversely impacts the  
23 productivity of sanitation workers since the  
24 material that is set out by the City's residents  
25 is often poached at various intervals and amounts.

1 The Department should be collecting this material.  
2  
3 Third, unlawful poaching activity complicates our  
4 ability to calculate the City's actual diversion  
5 rate for recyclable materials, thus rendering the  
6 City's recycling reports potentially inaccurate,  
7 which impacts the Department's finances and  
8 productivity. Fourth, the unlawful poaching of  
9 material costs the City money under its recycling  
10 contracts. Fifth, the improper handling of  
11 certain bulk metal appliances containing  
12 refrigerants by poachers threatens public health  
13 and the environment. The poaching of recyclables  
14 seriously impacts the City's recycling program.  
15 With each unlawful poaching activity, the City  
16 loses income from the sale of its own recyclables.  
17 Scrap iron and steel can be sold for up to \$250 a  
18 ton, over four times the price from a decade ago.  
19 And bundled paper can net \$230 per ton. To give  
20 you an idea of the detrimental impact that  
21 unlawful poaching has had on our recycling  
22 program, we estimate that on average each year,  
23 the Department has been losing thousands of tons  
24 of metal, high value PET plastics and paper that  
25 have a value of millions of dollars. Poaching is

1 a New York City problem and a national problem.  
2  
3 And the problem is not limited to poaching of  
4 materials left out for Department collection, but  
5 extends to outright theft of valuable City and  
6 private property, including the theft of steel  
7 manhole covers from the streets. Earlier, DEP  
8 testified that it supports Preconsidered Intro  
9 4918, which is under consideration by the  
10 Committee today. The Department also supports  
11 this bill, except that we would also like to see  
12 the bill expanded to cover any property marked as  
13 belonging to the City, and include public utility  
14 property as well. Since Local Law 50 of 2007 was  
15 enacted, those who poach have grown more  
16 sophisticated and a lucrative, organized,  
17 underground market has emerged. Poachers organize  
18 their activity around Department route schedules  
19 and often employ multiple individuals using a  
20 single van or truck. Since December 2007, when we  
21 first began enforcement under Local Law 50, the  
22 Department has issued 1,829 notices of violation  
23 to persons unlawfully removing recyclables from  
24 the residential curbside and impounded 1,184  
25 vehicles used in the unlawful removal of

1 residential recyclables. The Department has also  
2 issued 269 violations to person unlawfully  
3 removing recyclables from the curbsides of  
4 commercial establishments, and impounded 162  
5 vehicles used to unlawfully remove commercial  
6 recyclables. Recently, the Department has  
7 witnessed a sharp rise in the number of poaching  
8 violations, with the largest number of violations  
9 issued during 2010 and 2011, respectively. To  
10 date, in 2012, the Department has issued 357  
11 notices of violation for poaching recyclable  
12 material, the most is has issued in a six month  
13 period. Additionally, the Department has  
14 witnessed a steep rise in the theft of recyclable  
15 bulk items that contain refrigerants, such as  
16 chlorofluorocarbons, CFCs. The unlawful removal  
17 of these items from the curb poses and increased  
18 threat to public safety due to the potential  
19 release of refrigerant chemicals into the air. In  
20 Fiscal Year 2010 and 2011, the Department removed  
21 CFCs from 74,086 appliances, and 56,192  
22 appliances, respectively. In the past couple of  
23 years, we are finding that more of the requests we  
24 receive to remove CFCs from appliances resulted in  
25

1  
2 the appliance not being found on location. Now I  
3 will turn to addressing each of these three bills  
4 under consideration today, beginning with the  
5 first bill, Intro No. 889. The Department  
6 supports Intro No. 889 which will significantly  
7 improve the Department's ability to enforce the  
8 current theft of recyclables law. This bill also  
9 enhances the Department's ability to enforce the  
10 law against persons unlawfully removing Department  
11 marked items and items that contain refrigerants.  
12 It also enhances the Department's ability to  
13 enforce the law against persons who accept  
14 material that is illegally removed from the curb  
15 without authorization. In particular, we support  
16 the provisions of the bill that would create a  
17 special class of materials known as "Department  
18 marked items" to cover items containing  
19 refrigerants, such as CFCs, and which have mixed,  
20 fixed upon them an official Department marking  
21 indicating that it has been placed out on the curb  
22 specifically for Department refrigerant removal  
23 and collection. Create enhanced enforcement  
24 authority against individuals who unlawfully  
25 remove Department marked items from the curb, and

1  
2 a rebuttal presumption that the owner or operator  
3 of any vehicle that is carrying a Department  
4 marked item, has unlawfully removed such item from  
5 the curb. Require that a person removing  
6 recyclables from the curb from a small residential  
7 building, must be in possession of an authorized  
8 consent agreement by the property owner at the  
9 time such materials are removed from the curb.  
10 Authorize the Sanitation Commissioner in its  
11 consultation with the Commissioner of the  
12 Department of Consumer Affairs, to adopt rules  
13 providing for the licensing or registration of the  
14 operation and activities relating to the  
15 acceptance, processing, tipping, sorting and  
16 storage of recyclables. Create a citizens reward  
17 program for the public to notify the Department of  
18 specific incidents of unlawful poaching and create  
19 a criminal penalty for the removal of recyclable  
20 material from commercial premises. We believe  
21 that these provisions will greatly enhance the  
22 Department's ability to ensure that recyclable  
23 materials are not taken from the curb, and thereby  
24 removed from the Department's recycling program.  
25 However, the Department respectfully requests that

1  
2 this Committee increase the penalties against  
3 individuals unlawfully removing Department marked  
4 bulk appliances containing refrigerants from the  
5 curb. While this bill increases the Department's  
6 ability to enforce the law against such  
7 individuals, the bill only imposes fines in amount  
8 to those who unlawfully remove non-refrigerant  
9 bulk appliances and other bulk material. Due to  
10 the serious environmental issues associated with  
11 the release of CFCs into the atmosphere, the  
12 Department believes that unlawful removal of items  
13 that contain CFCs must carry a higher penalty in  
14 the law. Intro No. 894, refrigerant recovery.  
15 The Department also support Intro No. 894, which  
16 establishes manufacturer responsibility for the  
17 recovery of refrigerants. This bill would allow  
18 for the shift of part of the financial burden for  
19 that recovery to manufacturers of refrigerant  
20 containing products. Although under this Intro,  
21 manufacturers will be responsible for the proper  
22 handling of CFCs, the Department will continue  
23 operating its own programs that manufacturers may  
24 utilize for the recovery of refrigerants.  
25 Manufacturers may opt into the Department's



1 program or establish their own recovery program.

2 Should a manufacturer opt into the Department's  
3 program, the manufacturer will pay a fee for the  
4 Department's recovery of CFCs from its appliances,  
5 which would be enacted by rule. This program will  
6 allow the Department to recover a portion of its  
7 program costs for continuing to operate its CFC  
8 removal program, and we look forward to working  
9 with this Committee and the industry to enact this  
10 program citywide. Intro No. 893, on-street  
11 collection of redeemable beverage containers.

12 Over the past several years, the Department has  
13 witnessed a significant increase in the number of  
14 motor vehicles that act as collection sites for  
15 beverage containers. This bill will require such  
16 motor vehicles to register with the Department,  
17 operate in a safe and sanitary manner, comply with  
18 applicable New York City laws, and only conduct  
19 business on private property. Additionally, this  
20 bill will give the Department enforcement  
21 authority to impound vehicles acting in violation  
22 of this law. The Department believes it is  
23 important to ensure that these motor vehicles,  
24 acting as container collection sites, not operate  
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1  
2 on the City streets and sidewalks, and that such  
3 container collection sites comply with the City's  
4 Sanitation Code, so that they do not impair the  
5 quality of life in communities. Accordingly, the  
6 Department supports this Intro and is prepared to  
7 work with the Committee to finalize this bill.

8 Lastly, while poaching is a major problem, there  
9 will always be New Yorkers who are looking for  
10 reusable items on the curb to use for themselves  
11 personally in their apartment or home, such as  
12 decorations or furnishing. These bills largely do  
13 not limit this type of activity, and the  
14 Department does not enforce against such  
15 individuals on foot, who might take a lamp or a  
16 small table, provided it is not part of an  
17 organized, large-scale, vehicular poaching  
18 operation. The Department believes the best way  
19 to capture materials for reuse is to encourage  
20 residents to either donate their unwanted  
21 household items and furniture, or to seek out,  
22 exchange, sale or swapping opportunities. To  
23 encourage this, the Department operates various  
24 reuse programs in the city, including Refashion  
25 NYC to help divert clothing; the NYC Stuff

1  
2 Exchange website, an app to help residents find  
3 locations where they can buy, sell or donate used  
4 goods; and the NYC Materials Exchange Development  
5 Program, to provide support to the many reuse  
6 organizations in the City. As you know,  
7 information on these programs can be found on the  
8 Department's website, and we are pleased to make  
9 these programs available to all New Yorkers  
10 looking to extend the useful of reusable items. I  
11 wish to thank you again for holding this hearing  
12 and bringing this important issue to the forefront  
13 today. We look forward to continuing to work  
14 cooperatively with this Committee, and the Council  
15 to finalize these bills, and ensure their passage  
16 into law, and we're happy now to answer any  
17 questions.

18 CHAIRPERSON JAMES: [off mic] Thank  
19 you, we've been joined--[on mic] We've been joined  
20 by Council Member James Gennaro from Queens. And  
21 I thank you for that testimony. Let me begin with  
22 the following questions. I represent Fort Green,  
23 Clinton Hill, Prospect Heights, Crown Heights, in  
24 the Borough of Brooklyn. There is, along with  
25 Park Slope and Downtown Brooklyn, we have a number

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2 of swapping opportunities, sale opportunities,  
3 exchanging and reusing of items which are disposed  
4 on our sidewalks. Oftentimes, individuals use  
5 their cars to pick up items. Would this be  
6 covered under any of the bills, specifically 889?

7           RON GONEN: The bill allows people  
8 to accept less than two items. So, if you're  
9 driving by and you see a lamp or if you're walking  
10 by and see something you want to take, and it's  
11 less than two items, you're welcome to take it.  
12 Our preference is, as you mentioned, there's a lot  
13 of organized programs, both done at the local  
14 level as well as the citywide level. Our  
15 preference would be that residents who want to  
16 dispose of items or get items reused, use those  
17 local programs or organized programs, if they just  
18 have one item, they're welcome to set it out and  
19 someone's welcome to come by and take it.

20           CHAIRPERSON JAMES: The gentleman,  
21 the Commissioner from DEP, indicated that with  
22 respect to manhole covers, there was a particular  
23 problem in the Borough of Brooklyn and Queens. Do  
24 you find that there is a similar problem in  
25 Brooklyn and Queens as it relates to poaching of

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recyclables? Or is it citywide?

RON GONEN: Yeah, poaching is citywide. I would say Manhattan has a major problem when it comes to poaching of curbside recyclables because you have so many on-street baskets. I would say this is very much a citywide problem.

CHAIRPERSON JAMES: What are the types of recyclables that are being stolen?

RON GONEN: You have PET bottles and cans. You can look at the Bottle Bill Deposit Law, and that really drives what is being poached, because that's where the value is at.

CHAIRPERSON JAMES: And do you believe that poaching and theft has increased in the City of New York; and if so, why?

RON GONEN: I think it is continuing to increase because there's value to that material, the commodities market continues to get more and more valuable, and that's what's driving the increase in poaching.

CHAIRPERSON JAMES: And the economic impact on the City of New York again?

RON GONEN: We estimate the impact

1  
2 to be in the millions. Our internal estimate is  
3 \$4-\$6 million. But because it's so widespread,  
4 it's actually hard to put a specific figure on it.  
5 But it is in the millions of dollars, in terms of  
6 its impact.

7 CHAIRPERSON JAMES: What if I, I'm  
8 a tenant living in a large residential building,  
9 and I want to sell my recyclables to my brother.

10 RON GONEN: That's fine.

11 CHAIRPERSON JAMES: That's fine.

12 RON GONEN: Yeah.

13 CHAIRPERSON JAMES: What if I live  
14 in a large residential development, and because we  
15 are low income or working class, we have an  
16 arrangement to have someone purchase our  
17 recyclables. The income comes to the building to  
18 reduce our overhead. Would that be covered under  
19 this bill?

20 RON GONEN: Now, any interaction or  
21 transaction between two people organizations is  
22 okay, it's not covered under this. This is really  
23 focused on someone put our their material with the  
24 expectation that the Department of Sanitation was  
25 going to be collecting that material. And someone

1  
2 else comes along in a motorized vehicle and  
3 collects it. So, if you're doing a transaction or  
4 an interaction with, with someone that you know,  
5 that's fine.

6 CHAIRPERSON JAMES: So my super--  
7 the superintendent of my multiple dwelling, a  
8 large complex, let's say Co-op City, they want to  
9 sell their recyclables, is that allowable under  
10 the law?

11 RON GONEN: Yeah. And we would  
12 prefer that they not sell their recyclables.  
13 There's something that they need to go through  
14 with the Department, because in that instance  
15 they're selling a valuable commodity, and the  
16 Department of Sanitation is still coming by and  
17 collecting the refuse, so we would prefer that  
18 they not do that, but--

19 CHAIRPERSON JAMES: So the  
20 Department has the right of first refusal, is that  
21 what you're saying?

22 [background discussion]

23 RON GONEN: They have to have a  
24 file with the Department to have permission to  
25 sell those recyclables.

1  
2 CHAIRPERSON JAMES: Thank you, so  
3 it is prohibited from--

4 RON GONEN: Yes.

5 CHAIRPERSON JAMES: --a multi, a  
6 residential dwelling for engaging in some private  
7 contracts to pick up their recyclables.

8 RON GONEN: Yes.

9 CHAIRPERSON JAMES: Okay. And with  
10 respect to--do you have any reason to believe that  
11 this legislation will reduce the amount of  
12 recycling in the City of New York? Will our  
13 recycling rates reduce as a result of this  
14 legislation?

15 RON GONEN: I actually think that  
16 the recycling rate will go up.

17 CHAIRPERSON JAMES: Okay. And  
18 please discuss the problems that the Department of  
19 Sanitation has noted with respect to the poaching  
20 or theft of refrigerant containing appliances.  
21 Can you speak a little bit to the health hazards  
22 and public safety?

23 RON GONEN: So, the refrigerants  
24 contain CFCs, which are a harmful chemical, that  
25 by federal law need to be handled properly. And



1  
2 so when someone puts out a refrigerant or a air  
3 conditioner, and that is not handled properly,  
4 that's actually creating a major environmental  
5 issue for us, and what you can sometimes see is  
6 people will come and take some of the valuable  
7 items out of the refrigerant, leave the actual  
8 bulk refrigerant there, and have released the CFCs  
9 into the atmosphere. So, it's dangerous, it's  
10 covered under federal law, and it's important that  
11 we collect it properly.

12 CHAIRPERSON JAMES: Again, focusing  
13 on Intro 889, we've heard from scrap metal dealers  
14 and some of them have expressed concern to me and  
15 to staff that the enforcement of this bill would  
16 prohibit scrap metal dealers from accepting bulk  
17 metal. Is, would that, would that practice be  
18 prohibited under this legislation?

19 RON GONEN: No.

20 CHAIRPERSON JAMES: Okay. I do  
21 believe, however, we need to make it clear. It's,  
22 there, there is some confusion and we need to  
23 specify that in fact it would not prohibit scrap  
24 metal dealers from accepting bulk metal. With  
25 regards to Intro 893, please discuss--will this

1  
2 legislation preclude an individual from removing  
3 recyclables from the curb without the use of a  
4 motor vehicle? And again, I guess it goes to the  
5 issue that I asked you at the outset of the  
6 hearing.

7           RON GONEN: You can, if it's less  
8 than two bulk items, you can remove it. If it's  
9 MGP or paper, and you're on foot, and you remove  
10 it, and that is not covered under this, we're  
11 specifically focused on motorized vehicles.

12           CHAIRPERSON JAMES: And again,  
13 focusing on 893, do you believe that the  
14 enforcement of this bill would interfere with  
15 redemption centers?

16           RON GONEN: No. No.

17           CHAIRPERSON JAMES: What about  
18 retail stores that are sanctioned by the State  
19 DEC?

20           RON GONEN: No.

21           CHAIRPERSON JAMES: Okay. Moving  
22 onto Intro 894, please discuss the Department of  
23 Sanitation's program to collect refrigerant from  
24 appliances. And I'm particularly concerned if  
25 there's cost involved, whether or not these costs

1 will be passed on to consumers.

2 PETER MCKEON: Well, in the 1990--

3 CHAIRPERSON JAMES: Could you  
4 please introduce yourself.

5 PETER MCKEON: Oh, I'm Peter  
6 McKeon, I'm Chief of Collection Operations,  
7 Department of Sanitation.

8 CHAIRPERSON JAMES: Thank you.

9 PETER MCKEON: In 1990, the federal  
10 government passed the Clean Air Act, which  
11 mandated that refrigerants contained in  
12 appliances, such as air conditioners,  
13 dehumidifiers, refrigerators, etc., have them  
14 removed by a licensed EPA, a person with an EPA  
15 license. The City was sued by the federal EPA in  
16 1993, that we weren't in compliance, there was  
17 discussions back and forth. We signed a consent  
18 agreement, with the Department of Justice and the  
19 federal EPA, 1998-'99, that general timeframe,  
20 mandating that we run a program, where all  
21 refrigerant would be removed. Currently, we have  
22 a program where we track the items priced out for  
23 collection from phone call to actual collection,  
24 residents who have an air conditioner,  
25

1 refrigerator, dehumidifiers, etc., who wish to  
2 have their refrigerant removed, must phone 311 for  
3 an appointment, the appointment is part of an  
4 electronic record. We send the following day, we  
5 get the appointment, we send the following day a  
6 trained, certified sanitation worker technician,  
7 with a federal license, to extract the CFC gases.  
8 He then attaches a decal to that air conditions or  
9 etc., that indicates it's CFC free and it's safe  
10 for collection. And then from there we track  
11 where it actually goes. With the poaching, we  
12 have some real fear that the City is not in  
13 compliance with the Federal Clean Air Act. With  
14 poaching, anything could happen, the actual  
15 appliance is not tracked, we're not sure if it's  
16 serviced properly. The release of Freon gases,  
17 CFCs gas, into the atmosphere, damages the ozone  
18 layer, it causes severe damage to the climate, and  
19 we feel that's quite dangerous, and that to me is  
20 what the biggest issue, is that we're not, we're  
21 not really sure what happens to refrigerants, by  
22 the poaching. Far as the program goes, we have a  
23 very robust program, we have over 100 sanitation  
24 workers who hold the license, we have several  
25

1  
2 sanitation workers that hold an events license for  
3 transfer gases, and we've had a good program where  
4 the gases are recycled, we've done business for  
5 years with a company called Refron, located in  
6 Long Island City (and it's now called Air Gas).  
7 But we bring pure gases to them, and the  
8 Department does receive some revenue from this  
9 agreement. And we feel it's been a good program,  
10 and it's endangered by poaching.

11 CHAIRPERSON JAMES: And the cost?

12 PETER MCKEON: Costs of the program  
13 is approximately \$1.7 million a year. Which is  
14 the expense portion of salary, etc., tools.

15 CHAIRPERSON JAMES: Deputy  
16 Commissioner Gonen, I want to go back to Local Law  
17 889, and specifically want to ask you a question.  
18 Do you believe that, as the legislation is  
19 currently drafted, that it would interfere with an  
20 individual's ability to return their own beverage  
21 containers to, for refund?

22 RON GONEN: No.

23 CHAIRPERSON JAMES: Okay. Do my  
24 colleagues have any questions at this time? Okay.  
25 I thank you for your testimony. And I thank you

1  
2 for your answers, and I look forward to working  
3 with you forward, as we continue to negotiate  
4 these bills. Thank you very much.

5 RON GONEN: Thank you.

6 [pause, background noise]

7 CHAIRPERSON JAMES: And, Inspector  
8 Kuznitz, I believe that's your, what's your title?

9 TODD KUZNITZ: Assistant Chief.

10 CHAIRPERSON JAMES: Assistant  
11 Chief, thank you for coming in on your day off.

12 TODD KUZNITZ: You're welcome.

13 CHAIRPERSON JAMES: Sorry about  
14 that. Take care. Blame Jared. Oh, and now we  
15 will hear from Mr. Harry Nespoli, the head of  
16 Local 831, United Sanitation Association Workers  
17 of America.

18 HARRY NESPOLI: Which is a good  
19 one. [pause, background noise]

20 CHAIRPERSON JAMES: How you doing,  
21 Mr. Nespoli?

22 HARRY NESPOLI: How are you guys up  
23 there?

24 CHAIRPERSON JAMES: We're all  
25 right. You okay? Ready to begin?

1  
2 HARRY NESPOLI: All right? You  
3 hot, you cool, I'm ready?

4 CHAIRPERSON JAMES: Go ahead.

5 HARRY NESPOLI: Okay, first of all,  
6 everybody knows me. I handed in the written  
7 document on this, as far as that. I just want to  
8 touch on a few things. First of all, thank you  
9 Chairwoman James, and everybody up there, for  
10 having just the, the hearing here on this thing.  
11 We are in favor of Law 889 and 894, the Sanitation  
12 Union. You know, I sit out there, listening to  
13 the Department, and it just seems as if ...  
14 recycling started in 1986. I wasn't the President  
15 of this Union, I was the Vice President of this  
16 Union. No, I'm sorry, I was a trustee of this  
17 Union. And it was something in the future that  
18 the City took on, and I was wholeheartedly  
19 involved in that, as a trustee. And I've seen  
20 things with recycling go on throughout the years,  
21 to the point of being the President, that was  
22 really disgraceful to the people of New York City.  
23 The stopping of recycling totally confused them.  
24 Then when it came back again, the fact that the  
25 public recycles this and doesn't recycle that,

1  
2 really totally confused everybody. And as the  
3 years went on, I read Waste Management, I see  
4 other cities that are definitely making money off  
5 the recycling, back into New York City, and  
6 helping the environment. Right now, I think that  
7 recycling, these bills are going to strengthen  
8 recycling to the point of really having a revenue  
9 and helping the economy out there. And I really  
10 hope that it continues and moves forward. To hear  
11 the Department talk about some of the issues  
12 they're talking about, that my workforce brought  
13 to me as a Vice President and Trustee back then,  
14 and it fell on some deaf ears, it kind of goes to  
15 show you that the men in the street, they know  
16 what's going on. They saw the trucks come over  
17 from Jersey, stealing it's material. They saw  
18 people with other trucks, they turned it into a  
19 business out there. And what they were doing was  
20 then they ended up renting trucks so that if they  
21 did get impound, they, their rented truck would go  
22 back to wherever they rented it from. But the  
23 Council has moved forward and beyond that, and I  
24 think that these here benefits, these here two  
25 bills, can help tighten up first the economy and



1  
2 then the environmental. On 889, I still don't  
3 understand why my truck is going to a building  
4 there and is not picking up the City recycling.  
5 And I honestly feel that as long as that truck is  
6 there, and this, it's the City's responsibility to  
7 pick it up, we should at least, the time that our  
8 truck is there, have the right to pick it up, to  
9 strengthen the recycling program moneywise, for  
10 the people of New York City. sometimes, other  
11 people, and the recycling function, the value of  
12 it, there was times that I spoke to my men, and  
13 there was nobody out there stealing, because the  
14 value of it was low. But the City still had a  
15 responsibility to recycle, whether it's low or  
16 whether it's high. That's what the whole  
17 recycling program was. The revenue can now  
18 benefit the City of New York, finally, now, the  
19 people can get some of this revenue back into the  
20 City, where everybody knows we need it the most.  
21 As far as the, the 894 is concerned, and you  
22 talked about it, it's very important with that  
23 gas. And that's why that was set up many, many  
24 years ago. And that's why we have a very good  
25 program. Possibly, you can know possibly the

1  
2 reason for one of your questions were, is it  
3 continuing and can we catch more of these people  
4 that are stealing it? It's the fact that we don't  
5 have the manpower in the law enforcement part of  
6 our agency. We're limited to it. And that's a  
7 very important part. We've been telling them this  
8 Union's been telling them for the longest time,  
9 and to sit there and listen to them talk about the  
10 value and the productivity that my men get beat up  
11 with every single day, out there, and saying it's  
12 not there, when it should be there, it's really, I  
13 took notes. [laughs] 'Cause I know I'll be using  
14 them again. So we're in favor of this 889, and  
15 you have my testimony in writing, and 894 I think  
16 it's very important because of that gas. There's  
17 pieces in, in the refrigeration, that can be more  
18 than just the value of a piece of material. They  
19 take it out. But to get to that material, they  
20 have to release the gas. I don't think that that  
21 is wise for the environment, definitely; and I  
22 understand that there are people out there on hard  
23 times. There's not enough jobs out there now,  
24 that there should be more jobs for the working  
25 people out there. And sometimes they have to do

1  
2 something that really, they don't want to do, but  
3 they'll go against the law to do it, if they have  
4 the responsibility to feed a family. But the gas  
5 is my main concern with that. We have a program,  
6 and Mr. McKeon mentioned it, and he's been on it a  
7 very long time, and I was the, I was on it from  
8 the very beginning as the Vice President of this  
9 Union, and it works, and it protects the people of  
10 New York City. So, definitely, in favor of this,  
11 and definitely, without a doubt, we were the first  
12 to report it, the stealing of what's going on in  
13 New York City is a shame. And still going on.

14 CHAIRPERSON JAMES: Thank you Mr.  
15 Nespoli. So you're okay with the fact that this  
16 does not really apply to peddlers, the theft, the  
17 poaching provision.

18 HARRY NESPOLI: I believe it's not  
19 over the peddlers.

20 CHAIRPERSON JAMES: Okay.

21 HARRY NESPOLI: This is an  
22 organized effort to organize--It's a lot larger.  
23 And I notified the Department about it, too, I  
24 mean, if they impound a truck, and it's the  
25 owner's truck--

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CHAIRPERSON JAMES: Right.

HARRY NESPOLI: --somebody comes to that court with money, not to bail out that owner. That's it, that person that's coming in with that money is the person that organized this.

CHAIRPERSON JAMES: How many law enforcement agents or employees do you have in the Sanitation?

HARRY NESPOLI: 100, maybe 120 law enforcements, that are watching this.

CHAIRPERSON JAMES: And at what point in time, what was your peak?

HARRY NESPOLI: At peak at one time, in law enforcement--don't forget, they were doing tickets, big and heavy one time. Now, they're focusing these 120-30 officers are focusing on stealing, because it's a big problem. So, there was about 350 at one time.

CHAIRPERSON JAMES: And recently, there was a new hiring class; in that class how many do you anticipate being law enforcement? Or they're all saying--

HARRY NESPOLI: I wish I was the Commissioner, but I'm not the Commissioner.

1 [laughter] That's totally up to the Commissioner.  
2 It's up to budget. Everything is around budget,  
3 now. You know. These apartment buildings that  
4 are, that we service, that we could be saving some  
5 money here, I heard that once said service from  
6 the City wasn't regular. I disagree, because the  
7 Department and myself, have been working together  
8 to adjust--I'm willing to adjust, sit down with  
9 them, as a Union President, and look about giving  
10 that service. And sometimes, these apartment  
11 buildings can't store all that stuff. And I  
12 understand that. And if we're doing our service,  
13 and they still have that stuff left over, then by  
14 all means get that extra service is if means--they  
15 should come to the City first

17 CHAIRPERSON JAMES: Right.

18 HARRY NESPOLI: --because I think  
19 we can do it quicker and better for them. We  
20 control the whole City, we do the whole City of  
21 New York. But again, we've had worked out with  
22 the Department, closely, to make adjustment so  
23 that the public does get serviced. And I will  
24 continue doing that.

25 CHAIRPERSON JAMES: And Mr.

1  
2 Nespoli, last question, with regards to the theft  
3 of manhole covers and/or ConEd covers, is that a  
4 threat to--I mean, how does that, has that damaged  
5 your trucks? And is it a public safety issue for  
6 your men and women?

7 HARRY NESPOLI: I--the on--the only  
8 thing I know about manhole covers is the fact if  
9 they're not there, they're dangerous for the  
10 public and dangerous for regular cars, hitting  
11 that manhole without that cover. I don't know  
12 anything about selling it, what it costs, how they  
13 lift it up, or whatever they do. All I know is  
14 that if there was no man cover there, a child  
15 walking across the street, somebody, just looking  
16 the other way, and with some of the distractions  
17 out there, they're stepping into that. That's a  
18 very dangerous.

19 CHAIRPERSON JAMES: Thank your Mr.  
20 Nespoli. Any other questions from my colleagues?  
21 Thank you, Mr. Nespoli, have a great weekend.

22 HARRY NESPOLI: Thank you.

23 CHAIRPERSON JAMES: And thank you  
24 to, for your service, and to your men and women.  
25 Next, we have Tom Outerbranch--

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TOM OUTERBRIDGE: Bridge.

CHAIRPERSON JAMES: --Bridge,  
Outerbridge; Scott Horn; Lawrence Schillinger; and  
Mike Powers.

[pause, background noise]

MALE VOICE: Any particular order?

CHAIRPERSON JAMES: [off mic] No.

--

MALE VOICE: Flip a couple of  
coins, see where we end up. Okay. Mr.  
Outerbridge will jump in there.

[pause, background noise]

TOM OUTERBRIDGE: Is it on, that  
on? [technical] Good afternoon.

CHAIRPERSON JAMES: [off mic] Good  
afternoon.

TOM OUTERBRIDGE: Thank you for the  
opportunity to testify this afternoon. My name is  
Thomas Outerbridge, I'm the General Manager for  
Sims Municipal Recycling. As you may know, our  
company has a contract with the Department of  
Sanitation to handle all of the curbside metal,  
glass and plastic that's collected throughout the  
City. We've done this since 2002, and in 2009 we

1  
2 executed a long term, 20 year contract with the  
3 City. At the same time we also signed a lease  
4 with the Economic Development Corporation to  
5 develop the principle processing facility for the  
6 City's curbside recyclables in Brooklyn. So, as  
7 the City's long term recycling partner, and with a  
8 very significant financial investment in the  
9 infrastructure, as well as personnel to service  
10 the program, we have a very strong interest in the  
11 success and growth of the program over time.  
12 Before discussing the bills that we're talking  
13 about today, I did just want to acknowledge the  
14 City Council. I've been working in this field in  
15 New York for the last about 20 years, and the City  
16 Council's always been a very, very strong and  
17 consistent supporter of the curbside program, and  
18 I think has had a big role in it becoming a  
19 permanent part of the way the City handles its  
20 solid waste. The bills that are under  
21 consideration today, they address a significant  
22 problem that has steadily grown in recent years.  
23 And that is the wide, what is now widespread and  
24 well organized practice of scavenging materials  
25 that are placed at the curb for recycling



1  
2 collection. The total tons of metal, glass and  
3 plastic that we receive has dropped by about five  
4 percent in the past two years, and since we  
5 started this program, the metal--actually about  
6 over the same period the amount of metal we  
7 receive has dropped by about 50 percent, to the  
8 point where the bulk metal, which is a lot of what  
9 the white goods people were referring to, some of  
10 which have CFCs, but also other bulky metal  
11 objects, are virtually nonexistent anymore in the  
12 material that we receive. Used to make up about  
13 50 percent of the metal we received. Certainly  
14 there's other factors aside from scavenging that  
15 may be at work here, there's the economy. And  
16 there may also be individual participation that's  
17 changing. But we know that scavenging is a  
18 significant part of what's going on. The  
19 Department of Sanitation tracks it and documents  
20 it through its CFC recovery program, sending the  
21 van out. And certainly anybody who lives in the  
22 City can witness it on a daily basis, any day that  
23 curbside recycles are put out for collection it's  
24 a pretty extensive combing over that happens. Why  
25 is this particularly problematic for us as well as

1  
2 for the City? First, I do think it's worth  
3 pointing out that scavenging is not by and large  
4 increasing the recycling rate in the City. With a  
5 couple of exceptions, all the materials that are  
6 being scavenged are materials that are put out for  
7 collection for recycling collection. Really  
8 what's happening is they're diverting material  
9 from one recycling program, being the Department  
10 of Sanitation, into a different, informal  
11 recycling network. Second, with regard to the  
12 CFCs, the City, I think as you've heard about, it  
13 spent many, many years and a lot of money setting  
14 up a CFC recovery program. And while we don't  
15 know exactly how many white goods with CFCs that  
16 are scavenged or not, actually the gas is probably  
17 recovered, we know some portion of those or not,  
18 so there's obviously the greenhouse gas and ozone  
19 later effects that come with not properly handling  
20 the CFCs. Third thing is relative to our revenue  
21 sharing, that is part of our contract with the  
22 City of New York, it's entirely tied to the  
23 composition and quantity of material we receive.  
24 We're in the midst now of updating the composition  
25 of the metal, glass, plastic, and I'm certain that

1  
2 it will show that the revenue due back to the City  
3 from metal, glass and plastic will be  
4 substantially reduced from what it was compared to  
5 the 2004 and 2005 composition study, which was the  
6 basis for our starting point, if you will, with  
7 the Department of Sanitation under the long term  
8 contract. Fourth, for us, simply as a recycling  
9 company, the revenue that we receive from the sale  
10 of the City's recyclables is a huge factor in what  
11 allows us to make the investment that we have made  
12 and continue to make in the infrastructure to  
13 serve the City's recycling program. We spent  
14 several tens of millions of dollars, and Brooklyn  
15 is going up now, I think that facility will  
16 ultimately be a \$100 million facility with a  
17 significant investment on the part of the City, in  
18 some basic infrastructure there, as well as our  
19 investment. And, so, the composition, again, what  
20 we get from the City is the sort of fundamental  
21 part of the math. And I've talked about this in  
22 other settings. There's sort of, there's a  
23 perverse coincidence with the deposit legislation.  
24 Deposit legislation puts a value on those  
25 materials specifically that we actually want in

1  
2 the curbside recycling program, so that what is  
3 being scavenged from the curb, from the curbside  
4 recyclables, are PET, which is sort of a stable or  
5 a plastic sales, and aluminum, which is the most  
6 valuable metal we get. There isn't a deposit on  
7 the potato chip bags and the sneakers and the CD  
8 cases and all of those other things that we get  
9 that we actually don't, that we actually have to  
10 landfill. So, I would just--one last point that  
11 was raised earlier, and I think by the Department  
12 of Sanitation, tied to the diversion of the same  
13 time as we're seeing the metal, PET, aluminum, the  
14 things that, the things that really sustain our  
15 business being scavenged from the curbside  
16 program, the Depart--the City and the City Council  
17 wants to add additional recyclables to the  
18 program. You want to expand the array of  
19 plastics, for example, that are accepted in the  
20 recycling program. So, what's really happening is  
21 we're being asked to take materials for which  
22 there are no or very, at least not well  
23 established markets, low value materials, at the  
24 same time as we're losing the materials that  
25 ultimately sustain the business. So, it's,

1  
2 there's obviously at some point, something doesn't  
3 work in that equation. So, I--that's--I'll leave  
4 it at that, and thank you again for the  
5 opportunity to testify. Even though we've been  
6 doing this for I guess ten years now, in some  
7 ways, to me it's as though we're sort of just at  
8 the very beginning of this very long term  
9 relationship with the City. Our facility in  
10 Brooklyn will be open in about a year from now,  
11 and that will be a very, I think a City, certainly  
12 for us, it's a facility that we will be very proud  
13 of and I think those people in New York who are  
14 in, who sort of like the idea of recycling will be  
15 very proud of that facility, will be--people talk  
16 about San Francisco, Seattle. They won't have  
17 anything like what we're building in Brooklyn, so  
18 I look forward to working with you in the years to  
19 come.

20 CHAIRPERSON JAMES: [off mic] Thank  
21 you. Next?

22 LAWRENCE SCHILLINGER: Good  
23 afternoon, Chairperson James, Council Members on  
24 the Committee. My name's Lawrence R. Schillinger,  
25 I am the Environmental Affairs and Government

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2 Relations Counsel to the New York Chapter of the  
3 Institute of Scrap Recycling Industries, goes by  
4 the acronym of ISRI. ISRI represents more than  
5 1,600 companies worldwide, providing education,  
6 advocacy and compliance training, and promoting  
7 public awareness of the vital role recycling plays  
8 in the U.S. economy, global trade, the environment  
9 and sustainable development. The New York Chapter  
10 of ISRI is comprised of more than 70 companies,  
11 which process, broker and market scrap  
12 commodities. Many of those companies are  
13 represented here today, and I'd just very briefly  
14 like to call your attention to where those, which  
15 companies are here and where they do business.  
16 More of less in alphabetical order is Aloca  
17 [phonetic] from Brooklyn; Benson Scrap from  
18 Brooklyn; Brookfield Metals in The Bronx; Brooklyn  
19 Resources, not surprisingly from Brooklyn; Cropsie  
20 Metals [phonetic] from Brooklyn; Don Jon  
21 Recycling, Staten Island; Irving Metals in  
22 Brooklyn; Gershow [phonetic] Recycling in  
23 Brooklyn; Metal Depot in The Bronx; Placo  
24 [phonetic] Scrap in Brooklyn; Timson [phonetic]  
25 Trading from The Bronx; TNT Scrap from Brooklyn;

1  
2 and PK Metals from the other borough of the City  
3 of New York, Long Island, but has, does business  
4 within the City. The scrap industry represents a  
5 very significant economic footprint within the  
6 City of New York, and throughout the metropolitan  
7 region. A study prepared for ISRI in 2011 by John  
8 Dunham & Associates revealed that within the City  
9 of New York, the scrap recycling industry is  
10 responsible for the direct and indirect creation  
11 of more than 8,500 fulltime jobs, with a total  
12 economic contribution of nearly \$2 billion, that's  
13 billion with a B, dollars. And I would note that  
14 these are good paying jobs, averaging well over  
15 \$50,000 a year in salary and benefits. That study  
16 is available from the website, ISRI.org. ISRI New  
17 York strongly supports New York City's municipal  
18 recycling efforts; in fact, Sims Metal Management,  
19 the City's long term contractor from which you  
20 just heard, is a prominent member of the New York  
21 Chapter of ISRI. We understand, we appreciate and  
22 we support the underlying intent of the proposed  
23 legislation. We recognize the City's interest to  
24 protect from scavenging curbside recycling  
25 materials that have been left for collection by

1  
2 the Department of Sanitation. Our concern,  
3 however, is that as presently drafted, the  
4 legislation fails to properly distinguish between  
5 recyclable materials, which comprise a segment of  
6 the solid waste stream, versus scrap recycling  
7 commodities, which constitute materials in  
8 commerce. The key distinction here, and one which  
9 up until now has been plainly established  
10 throughout the statutory and regulatory framework  
11 for solid waste management at the federal, the  
12 State and the City level, is that municipal  
13 recyclables are a subset of solid waste. Sort of  
14 as an analytical starting point, solid waste is  
15 defined as material which has been discarded,  
16 rejected, as being spent, useless or worthless.  
17 The New York City Administrative Code at 16209  
18 sets forth that definition and then goes on to set  
19 forth the definition for recyclable materials. As  
20 such, recyclable materials are solid waste, that  
21 may be separated, collected, processed and  
22 marketed, and returned to the economy in the form  
23 of raw materials. So, we're comfortable with that  
24 definition, and to the extent the legislation  
25 adheres to that, we're okay. What we're concerned



1  
2 about is, as drafted, the proposed legislation  
3 goes beyond that definition and references the  
4 term that the universe of recycled materials  
5 constitutes "anything that is capable of being  
6 recycled," which is virtually everything. And  
7 would support, and I don't think that's the  
8 intent, but it's the words on the paper, to put  
9 that huge universe of material under the, under  
10 the regulatory jurisdiction of the Department of  
11 Sanitation. So, what it turns on is not so much  
12 what the substance is, but how it was handled by  
13 the generator of that substance. Here's an  
14 example, I mean, a commercial or industrial  
15 business produces scrap metal. If that commercial  
16 or industrial account discards the scrap metal, by  
17 place it at the curb for recycling, that's solid  
18 waste at that point and we get that; on the other  
19 hand, if the commercial/industrial business owner  
20 maintains ownership of that scrap metal, or scrap  
21 commodity, whatever it may be, and goes through  
22 the Yellow Pages, wants to find a scrap processor,  
23 gets a couple of prices, and wants to sell that  
24 material that's still within the ownership of that  
25 commercial/industrial account, well that's a scrap

1 commodity, and that's where we wanted to see that  
2 there's a very clearly delineated, bright line.  
3 And the solution here is simple, I mean, we just,  
4 we respectfully but we emphatically urge the  
5 Council just to stick with the existing definition  
6 of recyclable material, that's set forth in the  
7 Administrative Code. Leaving the defined universe  
8 of recycling materials as it is, really resolves  
9 many of our subsequent concerns. I mean, the  
10 cumbersome provisions set forth in 16461, dealing  
11 with having to get notarized letters to remove  
12 recyclable material from certain premises, again,  
13 that goes away as long as we're under--we all  
14 understand that those recycled materials are  
15 curbside, collectible, recycled materials, and not  
16 the scrap commodities. We're concerned about the  
17 provisions at Section 16-463, which would empower  
18 the Department of Sanitation to promulgate a whole  
19 new set of rules and regulations on scrap  
20 processing facilities. Scrap processing  
21 facilities are already regulated at the City level  
22 by the Department of Consumer Affairs, and the  
23 Department of Environmental Protection; and at the  
24 State level, by the Department of Environmental  
25

1 Conservation and the Department of Motor Vehicles.  
2 So, from the perspective of the scrap industry,  
3 throwing one more agency into the mix just  
4 provides for duplicative and excessive regulation.  
5 The second paragraph of 16-463 makes reference to  
6 a term called "non-bulk recyclables," and I think  
7 we understand what the intent is, but you know,  
8 that's an undefined term. And, you know, it's not  
9 clear exactly what is being referred to there,  
10 because it's undefined. With regard to the issue  
11 of scrap theft, I'd just like to call attention to  
12 the fact that the New York State General business  
13 law requires that all scrap processes record the  
14 identity of all persons from whom scrap is being  
15 purchased and the type of scrap that is being  
16 purchased, and we really encourage vigorous  
17 enforcement of that provision across the board, on  
18 all scrap processes. And I think that will go a  
19 long way towards the issue of scrap theft. And in  
20 that regard, I'd just like to solicit the support  
21 of the Council and the Administration for New York  
22 State Senate Bill 6971, which passed the Senate  
23 this year, but did not pass the State Assembly.  
24 That bill would substantially increase penalties  
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1  
2 on scrap processors who don't maintain and create  
3 the necessary records to aid law enforcement in  
4 going after and investigating the crime of scrap  
5 theft. And also would require the installation of  
6 video recording cameras at the scale, and at the  
7 cash register, and that really aids the law  
8 enforcement in going after scrap theft. So, in  
9 closing, on behalf of the scrap recycling  
10 companies in New York City, which comprise the  
11 membership of the New York Chapter of the  
12 Institute of Scrap Recycling Industries, we  
13 reiterate our support for the effort undertake by  
14 the Council, and the Administration, to safeguard  
15 the integrity of the City's municipal recycling  
16 program. We look forward to working with the  
17 Council on this legislation, and also the  
18 legislation dealing with the removal of  
19 refrigerants and the handling of refrigerators  
20 that is, for interests of brevity, didn't want to  
21 get bogged down on that. We look forward to  
22 working with you, to see that the Council's, the  
23 Administration goals are met, and just so that  
24 there's no unintended, shall we say, collateral  
25 damage to the scrap recycling industry, in doing

1  
2 so. So, thank you for your attention and your  
3 consideration, and for the opportunity to share  
4 you with you our concerns this afternoon.

5 SCOTT HORNE: Chairperson James,  
6 Members of the Council, my name is Scott Horne,  
7 I'm Vice President and General Counsel for the  
8 Institute of Scrap Recycling Industries, the  
9 national trade association headquartered in  
10 Washington. For the sake of brevity, I have  
11 submitted written testimony and I would like to  
12 just talk about some of the highlights and perhaps  
13 elaborate on a couple of things that Mr.  
14 Schillinger just spoke about. I do want to make  
15 clear, unfortunately many folks misunderstand who  
16 we represent. We are the private sector recyclers  
17 of ferrous and non-ferrous metals, paper, plastic,  
18 glass, rubber, textiles, electronics, the whole  
19 gamut. And un--contrary to popular belief, we go  
20 back in this country not to 1986, but back into  
21 the 1700s in the days of Paul Revere. That's when  
22 recycling really began here in the U.S. We're  
23 here not necessarily--or certainly not to  
24 complain. We're here to offer our assistance. We  
25 have, as a national association, had the

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2 opportunity to visit with many different  
3 governmental entities around the country, who have  
4 faced similar problems. We, we therefore would  
5 like to offer our assistance in going forward. I  
6 do believe that perhaps that there are some even  
7 misinterpretations on our part or just  
8 misapprehensions about what some of us do. And to  
9 elaborate just a little bit more, the folks that  
10 we represent are the manufacturers of  
11 specification grade scrap commodities. And that  
12 is material that often can be utilized directly in  
13 lieu of virgin materials, to make new basic  
14 materials. I'd like to first address the Local  
15 Law dealing with manhole covers, and I can do that  
16 very easily. I can tell you that we are very  
17 grateful that this bill addresses the real  
18 problem. You are addressing the issue of thieves,  
19 and all too often we see bills that look at the  
20 back end. Mr. Schillinger talked about the State  
21 bill that requires recording and so on, and we  
22 don't have a problem with that, we actually, in  
23 our recommended practices for our members, we  
24 include manhole covers as something you should not  
25 buy. But my point is that without having a stated

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2 penalty for the thieves, and not giving an  
3 incentive to either law enforcement or prosecutors  
4 to take action, we're never going to solve the  
5 problem. So, I am glad to see that the Council  
6 has taken this up and pointed at the correct  
7 people. I'd next like to talk about the Local Law  
8 dealing with the curbside materials and other  
9 materials. We have always acknowledged that  
10 anytime an individual relinquishes dominion and  
11 control of their materials, by placing it in a bin  
12 or a collection area specified by a governmental  
13 entity, that that material then belongs to the  
14 government and they should be able to do whatever  
15 they please with it. We are concerned because the  
16 way the legislation currently reads, at least to  
17 us, it appears to broaden that realm of materials  
18 that would come under the government's right. And  
19 it in effect, it is a taking without due process  
20 or compensation. So, we do have some concerns  
21 about that, and we think that if, as stated  
22 earlier, that's not the intent, that we can help  
23 you find language that will address that, in a  
24 better fashion.

25 CHAIRPERSON JAMES: [off mic] Even

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if the property is abandoned?

SCOTT HORNE: Well, if the property is abandoned--

CHAIRPERSON JAMES: [off mic] Left on the sidewalk.

SCOTT HORNE: That, that is something that a City would normally take responsibility for, and we certainly can't argue that point. We never have.

CHAIRPERSON JAMES: [off mic] It's in the agreement, the side agreements, if you will, that you take issue with.

SCOTT HORNE: Well, it's the fact that the way the bill reads, it would--well, using the example of Co-op City, I think you raised earlier, in our mind, until a person discards material, they have something valuable. Your watch, okay, or my watch, let's say, if I took it and put it in the bin at the curb, it becomes the City's property. And it should be protected from scavenging and so on.

CHAIRPERSON JAMES: [off mic] But if you want to give it to me right now--

SCOTT HORNE: Absolutely. I should



1  
2 have the right to exercise dominion and control  
3 until such time as I relinquish it. Similarly, if  
4 I want to sell it to a recycler, or if I want to  
5 donate it to the Girl Scouts, I should be able to  
6 do that, as well. And that's what we want to  
7 protect, make sure that the individual rights are  
8 not trampled in this case. We are also concerned  
9 with the registration process under the Business  
10 Integrity Commission. Again, as I understand it,  
11 and forgive me for being a foreigner in this case,  
12 but as I understand it, it was originally created  
13 to target certain specific issues which it doesn't  
14 seem to me are of the same consequence in this  
15 situation. And because of the nature of what the  
16 City is trying to accomplish, and especially the  
17 fact that it is an economic issue, and not being a  
18 public health and welfare issue, we have seen  
19 courts, a federal court in Dallas, stated that  
20 when it's an economic issue, it's outside the  
21 realm of the governmental entities' jurisdiction.  
22 Again, you would not be prohibited from exercising  
23 control over the material relinquished, but it  
24 becomes different when you try to go beyond. The  
25 issue with the BIC becomes, with the interstate

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2 commerce clause, under the Constitution, you would  
3 not really be able to require recyclers from other  
4 states to be licensed in order to come in to pick  
5 up the material that they've purchased. And that  
6 indeed would create an unequal playing field for  
7 your recyclers here in the City.

8 CHAIRPERSON JAMES: [off mic] But  
9 the question that I proposed to the Administration  
10 was with regard to the enforcement of this bill  
11 and whether or not it would prohibit scrap metal  
12 dealers from accepting bulk metal, and they said,  
13 "No."

14 SCOTT HORNE: I hear you, the way  
15 it's written, though, again, that's something that  
16 needs to be addressed.

17 CHAIRPERSON JAMES: [off mic]  
18 Right. Okay, next.

19 SCOTT HORNE: And then I'll just  
20 quickly move on to the CFC recovery, the Local Law  
21 dealing with CFC recovery. Clearly, we understand  
22 the need for the recovery of CFCs, our members are  
23 involved in doing that throughout the country.  
24 But again, the way the law is written, it goes  
25 well beyond federal requirements in some cases,

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2 and our concern is that, unfortunately EPA in  
3 promulgating the regs for the Clean Air Act  
4 actually went beyond the face of the law itself,  
5 and to go even further beyond becomes problematic.  
6 So, we again would like to help you draft  
7 something that addresses the City's primary  
8 concern without creating undue burdens on folks  
9 who are already doing the right thing. And I  
10 thank you very much for the opportunity.

11 CHAIRPERSON JAMES: [off mic] Thank  
12 you.

13 MICHAEL POWERS: Good afternoon,  
14 thank you, Madam Chairwoman. I would like to  
15 thank the City Council for holding this important  
16 public hearing. My name is Michael Powers, and  
17 I'm speaking on behalf of TNT Scrap. We are a  
18 scrap yard, a scrap metal recycling facility, we  
19 have two yards in Brooklyn. We employ 25  
20 employees, some of whom are here with us today.  
21 They all work very hard and make a very good wage  
22 to feed their families, contribute to the vibrancy  
23 of the community, and are part of the critical  
24 recycling infrastructure of New York City. We are  
25 very proud of our strong environmental record,

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2 especially the fact we recently started shipping  
3 recyclable materials by barge along the new town  
4 creek. Madam Chairwoman, we are all here because  
5 of our concerns with the proposed bill, which will  
6 add new regulations to the recycling industry.

7 While I agree that the general intent of this bill  
8 is admirable, I am strongly opposed to the bill in  
9 its current draft. Some of the language, as we've  
10 heard, is ambiguous; some of the proposed  
11 regulation is unnecessary and will create  
12 unintended consequences that will harm the overall  
13 goal of encouraging recycling. The stated intents  
14 of the bill are really twofold. One, reduce theft  
15 of recyclable material. Theft on any level is  
16 wrong; theft of recyclables should be no  
17 different, and it is already illegal, it just  
18 requires greater legal enforcement. Two, prevent  
19 the unlawful release of chlorofluorocarbons and  
20 refrigerants. Our industry works diligently to  
21 prevent the improper release of these harmful CFCs  
22 and will continue to do so. This bill as drafted  
23 does not honor the stated intent of your bill.  
24 The City declaring ownership over any and all  
25 recyclable or potentially recyclable materials

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2 does not help fight theft. The bill, if enacted,  
3 would criminalize the agreements that we have with  
4 residential buildings. We would be breaking the  
5 law by honoring our current lawful agreements.  
6 Why is this City forcing lawful businesses to  
7 forfeit all recyclable material to the City as a  
8 response to concerns of theft? Why not focus on  
9 the punishment of the theft? Further, at what  
10 point is the average citizen breaking the law by  
11 having recyclable material in their possession?  
12 At what point in the supply chain is City  
13 declaring ownership over that recyclable. The law  
14 as written seeks to criminalize private scrap  
15 collectors that are contracted to remove  
16 recyclable material by residential or commercial  
17 entities, and by saddling our industry with  
18 draconian permission slips. If these collectors,  
19 through hard, honest work, are authorized to  
20 remove recyclables lawfully, and then how can the  
21 City justify - - purely on a financial desire of  
22 one international corporation and their  
23 partnership with the City? If private citizens  
24 choose to give recyclables away, or sell  
25 recyclables to other private citizens or companies

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2 who then properly recycle that material, how does  
3 the City justify ownership over these items? It  
4 should not be under the appearance of fighting  
5 theft. The administration has made great strides  
6 in working towards a sustainable recycling  
7 program, and PlaNYC has made great efforts and  
8 results in working towards a greener future. All  
9 the while, all of these recycling businesses like  
10 TNT, have consistently moved in the same direction  
11 with the City towards a greener equipment and  
12 vehicles, we've all limited truck traffic in this  
13 City, by moving recyclables by both rail and  
14 barge, without any assistance or insistence from  
15 the City or State. The problem, we see, is just  
16 simply that the bill is overly broad. For  
17 solutions, the City and the Department of  
18 Sanitation have alternative options to reduce the  
19 theft of recyclables and both business owners and  
20 collectors, who do things the right and moral way,  
21 are happy to help. However, this bill will  
22 cripple a thriving and economically strong  
23 industry. Demanding these collectors give up  
24 their livelihoods due to strict, if not  
25 impossible, procedures, expensive and unnecessary

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2 licensing, costly and ineffective paperwork that  
3 will bury the Department of Sanitation in  
4 requests, is simply the wrong way to stop the  
5 theft of recyclables. Thank you for the  
6 opportunity to speak today. We look forward to  
7 working closely with your office and with the  
8 Council's staff to come up with a bill that we  
9 could all support, and that protects the critical  
10 New York cycling recycling infrastructure. Thank-

11 -

12 CHAIRPERSON JAMES: Thank you, Mr.  
13 Powers, let me begin with you. You said that  
14 there were some solutions, do you have any  
15 suggestions that you can provide to us, specific  
16 suggestions that you can provide at this point in  
17 time to get at the problem?

18 MICHAEL POWERS: Some specifics  
19 that I think, I think, you know, as we spoke on,  
20 the curbside material is, at least, and again, I'm  
21 not a lawyer, I'm just a scrap guy.

22 CHAIRPERSON JAMES: That's okay.

23 MICHAEL POWERS: I believe, and I  
24 go on through every single day, purchasing  
25 material that those materials are already illegal,

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2 for us to take or for somebody else to take.  
3 That's my understanding. I think the enforcement  
4 on that level is admirable. It should be.  
5 Anything that belongs to the City shouldn't be  
6 stolen by the City. And you know, nobody should  
7 buy something that's stolen from the City.

8 CHAIRPERSON JAMES: You said that  
9 you have a number of agreements with some  
10 residential developments. Can you talk to me a  
11 little bit about these residential buildings?

12 MICHAEL POWERS: Absol--

13 CHAIRPERSON JAMES: Why do they  
14 have contracts with you, as opposed to just  
15 allowing Department of Sanitation to remove their  
16 recyclables?

17 MICHAEL POWERS: When I say  
18 contracts or agreements with the residential  
19 buildings, I'm talking about anything from, you  
20 know, we just got our website up and running a few  
21 months ago, and every single day I get a request  
22 to enter an agreement or a contract with somebody  
23 who is either in an apartment, I don't know if  
24 it's a one-story building, two-story building, or  
25 ten story building--



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CHAIRPERSON JAMES: Right.

MICHAEL POWERS: --and they request to have their dishwasher picked up. They request to have, you know, their, they have an aluminum table out in the back where their glass broke off. So, I then pass those leads onto customers who--I don't like to call them peddlers, I don't like to call them scavengers, I'm talking about the good, hardworking people, and in my case in Brooklyn and Queens, that go out and go after these leads, and bring the materials to us.

CHAIRPERSON JAMES: But is it because these individuals in these residential buildings do not have supplemental service? Or is there a problem with--

MICHAEL POWERS: A lot of times these--

CHAIRPERSON JAMES: --the Department of Sanitation not pick up on time, or--

MICHAEL POWERS: They get paid for their material. That's the difference.

CHAIRPERSON JAMES: So, it's just revenue.

MICHAEL POWERS: It's revenue on my

1  
2 part, it's revenue on the person that brings it to  
3 my part, and it's revenue on the owner of the  
4 property, that they are looking to sell.

5 CHAIRPERSON JAMES: And for the  
6 most part, you said you don't know whether or not  
7 these residential buildings--

8 MICHAEL POWERS: Well, we also, you  
9 know, we also go into, you know, we have a lot of  
10 buildings where they'll be doing a big job, a),  
11 company will be taking out all of the radiators  
12 out of the entire building, and then they will  
13 come, they'll contact us and say, "Come, bring  
14 your dumpster, bring your box truck," whatever the  
15 case may be. "We want to sell you the radiators  
16 out of the building." And that is an agreement  
17 that it, you know, we get nervous about the  
18 language on that. Would I be allowed to do that,  
19 or am I breaking the law?

20 CHAIRPERSON JAMES: But how do you  
21 get at, we're trying to get a handle on the  
22 recycling rates in the City of New York. Because  
23 you remove them from the Department of Sanitation,  
24 there's no way for us to determine whether or not  
25 we've made strides with respect to recycling in

1  
2 the City of New York.

3 MICHAEL POWERS: Well, that I can't  
4 speak to. I can tell you what our recycling rate  
5 is. And you know, it's nearly 100 percent. And I  
6 can tell you the volume that we do, and you know,  
7 that's certainly a conversation we could have in  
8 private.

9 CHAIRPERSON JAMES: Okay. So, I  
10 know you've contacted my office and so--

11 MICHAEL POWERS: Yes, ma'am.

12 CHAIRPERSON JAMES: --at some point  
13 in time, we plan on following up with a meeting.

14 MICHAEL POWERS: I appreciate that,  
15 and I look forward to that.

16 CHAIRPERSON JAMES: Thank you. Let  
17 me go to--Mm-hmm? Oh, sorry. [laughs] Let me go  
18 to Mr. Schillinger. I've asked the staff to  
19 submit a Reso in support of Senate 6971. What  
20 happened in the Assembly? Why did it not pass?  
21 'Cause they just ended session early?

22 LAWRENCE SCHILLINGER: Yeah, I  
23 think that may be the case. We're going to  
24 continue to work on it, I think that there is an  
25 opportunity to get that bill passed. And, you

1  
2 know, I would also speak to an issue that came up  
3 from one of the previous panels, about looking at  
4 the, the statutes in the penal law, the State  
5 Penal Law, which would address scrap theft. And  
6 there is no crime of scrap theft. And so,  
7 currently, to prosecute a scrap thief, you, the  
8 State would look at one of the larceny statutes,  
9 petty larceny, larceny, grand larceny. Then, in  
10 the case of where there's damage done to a  
11 structure, let's say a thief goes in and cuts  
12 copper from an air conditioning unit. Well, the  
13 copper may be only worth, you know, a certain  
14 amount, and the criminal mischief done is worth a  
15 certain amount, but they're both misdemeanors.  
16 But under either statute, if the aggregate  
17 economic value of the crime were combined, it  
18 would be an, it would pop up to an E felony. And  
19 so we're also encouraging legislation at the State  
20 level to create the crime of scrap theft that  
21 would basically, you know, put the aggregate value  
22 of the scrap theft--

23 CHAIRPERSON JAMES: Above the  
24 \$1,000.

25 LAWRENCE SCHILLINGER: Correct.

1  
2 CHAIRPERSON JAMES: Was there, in  
3 terms of S6971, are the bills comparable in the  
4 Assembly and the Senate? I mean, are there any  
5 issues that we should know about?

6 LAWRENCE SCHILLINGER: Yeah, well,  
7 the problem we have had in the Assembly is on the  
8 increase in penalties, where the, frankly the  
9 Assembly Codes Committee tends to be reticent  
10 towards--

11 CHAIRPERSON JAMES: My very good  
12 friend is Assembly Member Lentol.

13 LAWRENCE SCHILLINGER: As is a good  
14 friend of mine, as well. And we continue to work  
15 with Chairman Lentol to, and staff over there, to  
16 get them to address this issue in we think will be  
17 a more effective manner.

18 CHAIRPERSON JAMES: As someone who  
19 worked in Albany for ten years, and who was  
20 counsel, I share their sentiment. And I also, you  
21 know, understand and I think relate to the point  
22 that you made about unintended collateral  
23 consequences, and that really is not our intent  
24 here. Our intent, obviously, is to get at the  
25 theft of recyclables. So, we will continue to

1  
2 have discussions. You made a number of  
3 recommendations that we've made plenty of notes on  
4 and we're going to take that into consideration.

5 LAWRENCE SCHILLINGER: We  
6 appreciate that greatly.

7 CHAIRPERSON JAMES: Thank you. And  
8 then, I had a question, some questions related to-  
9 -Mr. Horne, very interesting. You know, as  
10 someone who has challenged the abuse of eminent  
11 domain in my district, as you know, and as  
12 someone, I'm very sensitive to the issue of taking  
13 and eminent domain, and all of that, so when  
14 someone who does not want to run afoul of the  
15 Constitution, but who did not know that recycling  
16 goes back to, who did he say? [background  
17 comments] Paul Revere. That deserves a side  
18 conversation.

19 SCOTT HORNE: I'd be happy to.

20 CHAIRPERSON JAMES: And I look  
21 forward to having that discussion with you, as  
22 well. Lastly, to Mr. Outerbridge. Mr.  
23 Outerbridge, recycling rates in Brooklyn, if in  
24 fact we were to pass these bills, would our  
25 recycling rates in Brooklyn which have been

1  
2 abysmal, do you believe that they would increase?

3 TOM OUTERBRIDGE: I think that they  
4 would increase substantially, but like I said, we  
5 are going to be updating the composition data that  
6 we have for the metal, glass and plastic, and that  
7 will go a long ways to telling us whether or not  
8 the reduction in tonnage is due to just an overall  
9 reduction or are we seeing specific commodities  
10 disappearing at a higher right than others.

11 CHAIRPERSON JAMES: And has your  
12 revenue dropped as a result of this poaching?

13 TOM OUTERBRIDGE: Yeah, revenue,  
14 let me see, substantially impacted.  
15 Unfortunately, it's, it's, you know, the materials  
16 that disappear are the materials that have value  
17 and the materials that are left behind are the  
18 materials that do not, whether they be glass or  
19 other certain plastic grades with very low values.

20 CHAIRPERSON JAMES: And the  
21 contract that you have with the City of New York,  
22 that revenue sharing, is that, is it fixed or is  
23 it based on about, is it based upon the number of  
24 recyclables that you recover?

25 TOM OUTERBRIDGE: There is a fixed

1  
2 processing fee and then the revenue sharing that  
3 occurs with the City is tied to the materials we  
4 receive, the composition of the material we  
5 receive, and market values in any given month.

6 CHAIRPERSON JAMES: But the  
7 recyclables that you collect have nothing to do  
8 with the items that were mentioned by members on  
9 our panel.

10 TOM OUTERBRIDGE: If it's, if it's  
11 a business, certainly if it's a commercially  
12 generated, it has nothing to do with material we  
13 received from the City. If it's residential  
14 material, then it's--

15 CHAIRPERSON JAMES: Scrap metal?  
16 What about scrap metal?

17 TOM OUTERBRIDGE: Well, scrap  
18 metal, again, if it's commercial scrap metal,  
19 that's one, one thing. If a building is  
20 separating all of its aluminum cans and has a side  
21 deal, then that's material that would've come to  
22 us.

23 CHAIRPERSON JAMES: Radiators as  
24 the gentleman mentioned.

25 TOM OUTERBRIDGE: Yeah, and that I



1  
2 guess would kind of, it's going to come down with  
3 the scale, if they do a commercial renovation and  
4 they have a private contractor in there, that may  
5 be commercial material, and that contractor is  
6 going to go to a scrap yard, with the metal; and  
7 will go to a C&D yard with the C&D. If it's an  
8 individual with a radiator, then it's probably  
9 not commercial and that's where it comes down to I  
10 think the distinction between commercial and  
11 residential.

12 CHAIRPERSON JAMES: Okay, thank  
13 you.

14 LAWRENCE SCHILLINGER: Thank you.

15 CHAIRPERSON JAMES: Thank you,  
16 gentlemen. Okay. [pause, background noise] So,  
17 our last panel is sort of all over the place, but  
18 we're going to call you up for the purposes of  
19 time. And I believe someone has a command  
20 performance. Ronald Bergamini [phonetic], you  
21 have a command performance, apparently Channel 11  
22 would like to hear your testimony. Angela Pinsky,  
23 representing the Real Estate Board; Mary Ann  
24 Rothman, very good friend, counsel of New York  
25 Cooperatives and Condominiums; and Daniel Mulay

1 [phonetic], representing Eric Goldstein from NRDC.

2 And that is our last panel for the afternoon.

3 Thank you. And you did, you have done a fine job.

4 [laughter] [pause, background noise]

5  
6 MARY ANN ROTHMAN: How does this  
7 work? It's on. Good afternoon, thank you for the  
8 opportunity to address you. My name's Mary Ann  
9 Rothman, I'm the Executive Director of the Counsel  
10 of New York Cooperatives and Condominiums, which  
11 is a membership organization for co-op and condos.  
12 And I speak today on behalf of the Federation of  
13 New York Housing Cooperatives and Condominiums,  
14 and the Coordinating Council of Cooperatives,  
15 which are all similar organizations. We are  
16 looking at a very different aspect of the proposed  
17 legislation. We'd like specifically to address  
18 the portion that addresses the use of  
19 supplementary services to remove recycling. Our  
20 comments are based on conversations with boards  
21 and management of a number of buildings and  
22 complexes that use or have considered using  
23 private carters to remove some of their  
24 recyclables. I should point out that the majority  
25 of these are low and moderate income condominiums

1  
2 and cooperatives generally fairly large complexes.  
3 The prohibitions and administrative requirements  
4 in the proposed legislation would be particularly  
5 onerous to these communities. My organization and  
6 our sister organizations, try to keep our members  
7 updated on laws and regulations that affect them,  
8 and we try to help them comply with all  
9 requirements. As home owners, our members seek to  
10 run their buildings efficiently, affordably and  
11 well, providing a clean and safe environment for  
12 their shareholders or unit owners. However, in  
13 trying to be effective recyclers, we often run  
14 into problems. With just one recycling pickup  
15 scheduled each week, many buildings face problems  
16 in finding space to store recyclables in the  
17 interim. Particularly in the warmer months,  
18 unpleasant odors emanate from the areas where  
19 recycling and garbage are stored, then pickup  
20 schedules are frequently not met. And sometimes,  
21 as the recyclables continue to sit at the curb  
22 just exactly where they were supposed to be for  
23 pickup several hours earlier, the Sanitation  
24 Police come by and issue a citation to the  
25 building. Frustrating. To maintain an attractive

1  
2 appearance of their buildings and mitigate  
3 unpleasant odors, some buildings have contracted  
4 with private companies to pick up some or all of  
5 their recyclables. In many cases, this is done  
6 after following proper procedures and obtaining  
7 authorization from the City to do so. There is a  
8 cost involved for these buildings, but the  
9 decision is made to accept this additional cost in  
10 the interests of keeping the buildings and grounds  
11 clean. There are also opportunities to recycle  
12 more items than the Department of Sanitation  
13 currently collects. Our organizations  
14 respectfully request that the City Council review  
15 the issues that provoke this part of the proposed  
16 legislation, that you seek compromises that will  
17 enable the City to maximize what's removed from  
18 our waste stream and recycled. Also enabling the  
19 company responsible for separation recycling of  
20 these materials to operate profitably, without  
21 imposing cumbersome and costly requirements on the  
22 buildings that feel they need additional pickups.  
23 Finding ways to improve the Department of  
24 Sanitation's performance in meeting recycling  
25 pickup schedules would certainly be a start, but

1  
2 perhaps there could also be additional pickups  
3 scheduled at larger buildings or complexes, or  
4 those that are most conscientious about recycling.  
5 And a simple, straightforward system should be  
6 developed for documenting the need either for  
7 additional recycling pickups or for permission to  
8 have private carters collect some items. Every  
9 effort should be made to maximize the efficiency  
10 of recycling in our City and to minimize its cost.  
11 We would be pleased to take part in efforts to  
12 improve the present system with these goals in  
13 mind. Thank you.

14                   RON BERGAMINI: Might as well go  
15 next. [background discussion] Hi, my name is Ron  
16 Bergamini, I'm the CEO of Action Environmental  
17 Group. And I'm actually here to testify in my  
18 capacity as a member of the National Solid Waste  
19 Management Association, which is a nonprofit trade  
20 group representing many solid waste haulers in the  
21 City. And hopefully I can give a little bit of a  
22 different perspective, and that is one from the  
23 private hauler. As you know, private haulers  
24 don't just pick up solid waste in New York City,  
25 they pick up cardboard and paper as well, and some

1  
2 other materials, but I know today we're here to  
3 talk about cardboard. And this problem has been  
4 going on for a number of years, and as the price  
5 of cardboard fluctuates, it's amazing, you can  
6 actually see the level of theft change depending  
7 upon the value of the cardboard, which right now  
8 probably runs at about \$120 per ton. From what we  
9 understand, thieves who take this cardboard are  
10 selling it for a lower number, and what they do is  
11 they use box trucks, and I know--I'm going to try  
12 not to say the same thing other people have said--  
13 when they rent these box trucks they probably fit  
14 about a ton-and-a-half, two tons, in there per  
15 night. Well, we've done our own surveillance,  
16 we've, on an ad hoc basis, if you will, and we're  
17 reasonably confident of what the numbers, and it's  
18 over 50 box trucks a night, we believe that are  
19 out there in New York City. Annually, the  
20 industry, it's probably about \$8-10 million, it's  
21 a little hard to say exactly what the number is,  
22 because as I said, the price of cardboard  
23 fluctuates. The other difference is, recycling  
24 facilities, which we have one, we're also losing  
25 because the other haulers, instead of bringing us

1  
2 ten tons of material, are bringing us seven, maybe  
3 eight. I don't know, so it makes it a little  
4 difficult to make that determination. Now, we've  
5 been working with the Business Integrity  
6 Commission for a number of years, and we've  
7 provided photos, videos, license plates and  
8 everything else, and I have to commend the BIC,  
9 and particularly the new administration there, but  
10 frankly their resources are limited. And what we  
11 have found is, the New York City Police Department  
12 understandably has different priorities. However,  
13 I daresay if iPods are on the corner, and those  
14 are being stolen every night, it'd probably get  
15 everyone's attention. This has value. And some  
16 people don't get that. And I understand it,  
17 "That's garbage on the street corner, shouldn't  
18 you be happy someone took it?" Well, no. So,  
19 even when the Business Integrity Commission does  
20 its job, and whether it's the Department of  
21 Sanitation or the Police Department, it's our  
22 understanding that the District Attorney's office,  
23 likewise, doesn't see this as quite the sexy case  
24 that they'd like it to be. So, our prosecutions  
25 don't go that far. So we certainly support this

1  
2 bill. The National Solid Waste Management  
3 Association certainly wants to work with your  
4 offices to perhaps a tweak or two. In particular,  
5 the four month waiting period, I know it's a small  
6 point, but you know, four days or four hours would  
7 probably be better for us. And there's this one  
8 other point that I want to bring to the, your  
9 attention, and the format in which you do  
10 something about this, I'm not actually certain but  
11 we know that this material is being taken to other  
12 jurisdictions, outside of New York City. And  
13 that's part of the law enforcement problem. And I  
14 understand that. But by the same token, we know  
15 that jurisdictions have joint taskforce, whatever  
16 you want to call it, all the time. The Business  
17 Integrity Commission knows this, the--City Hall  
18 and the Administration knows this. So, whatever  
19 this body could do to encourage that, because  
20 frankly it's the people who are accepting this  
21 material I think is where you could really make  
22 the biggest bang for your buck. And to answer  
23 some question that you had earlier, there's no  
24 question that recycling rates will go up in the  
25 City. And as you know, New York City's the only



1 jurisdiction that has a rate cap in place, so the-  
2 -[laughter] I can't go anywhere without mentioning  
3 that, so sorry but, but that, the way the industry  
4 bills customers is that the recycling component  
5 subsidizes the solid waste. So, it's not just the  
6 haulers that are suffering, ultimately it's the  
7 businesses and the small businesses, because if  
8 what we think as the subsidation's not going to be  
9 there, well, we're going to have raise those  
10 prices some other way, and you know, that gets a  
11 bit thorny. So, in closing, it is a serious  
12 problem, we're here to help, both the National  
13 Solid Waste Management Association, my company,  
14 and I know several other the members of the  
15 industry are anxious to help out with this. So,  
16 thank you very much. [background comment] Great,  
17 okay. [laughter]

19 DANIEL MULAY: Hi, good afternoon,  
20 Chairperson James and Members of the Committee.  
21 [background comment] I'm sorry?

22 CHAIRPERSON JAMES: [off mic] You  
23 look so young.

24 DANIEL MULAY: Oh. Thank you.  
25 [laughter]

1  
2                   RON BERGAMINI: Does that mean I  
3 don't? [laughs]

4                   DANIEL MULAY: My name is Daniel  
5 Mulay, and I'm with the Natural Resources Defense  
6 Council. I'm speaking today on behalf of Eric  
7 Goldstein, who's NRDC's New York City  
8 Environmental Director. I'm pleased to be here  
9 today to testify in favor of three pieces of  
10 legislation under consideration: 889, 893 and  
11 894. NRDC strongly supports all three of these  
12 legislative proposals. Although recycling was  
13 considered by some to be an unreliable trash  
14 disposal strategy 23 years ago, when the City's  
15 mandatory recycling statute was enacted, the  
16 environmental and economic benefits of the  
17 strategy have grown over the past two days, two  
18 decades. And the market for recyclables has  
19 matured. For example, recent commodity prices in  
20 the New York region this month, have shown that  
21 recycled materials are at about \$150 a ton for  
22 mixed paper, \$340 to \$480 a ton for plastic  
23 bottles, and \$1,420 a ton for aluminum. Indeed,  
24 these and other recyclables have become  
25 sufficiently valuable that they have triggered the

1  
2 black market collection system that we've been  
3 talking about today. In recent years, private  
4 entrepreneurs in motor vehicles have prowled City  
5 streets and stolen recyclables that New Yorkers  
6 had placed out for collection by the Sanitation  
7 Department. These thieves sell the recyclables,  
8 often for tidy profits, depriving New York City of  
9 much needed revenue, which would otherwise be  
10 obtained by the Sanitation Department, after it  
11 drops off collected recyclables at private  
12 materials recovery facilities. Additionally, some  
13 residential building owners and managers are  
14 separately collecting and selling for profit  
15 recyclables from their buildings, thereby removing  
16 these recyclables from the municipal waste stream,  
17 and depriving the Sanitation Department of the  
18 proceeds generated from recycling these  
19 commodities, which would otherwise offset some of  
20 the costs of solid waste disposal and collection.  
21 In 2007, the Council wisely took the first step to  
22 combat these problems posed by recycling rustlers,  
23 if you will, when it passed Local Law 50. Yet,  
24 it's clear now that the provisions of Local Law 50  
25 have not been sufficient to fully address the

1  
2 situation, and that further legislative action is  
3 necessary. Intro 889 seeks to remedy several  
4 critical gaps in the systems and enforcement  
5 mechanisms created by Local Law 50, and altogether  
6 we feel at NRDC that the law will strengthen  
7 deterrence to unlawful recycling in order to  
8 secure compliance with existing law and that it  
9 will reduce risks to air quality by ensuring that  
10 refrigerant containing materials are handled by  
11 the Sanitation Department and other authorized  
12 parties that properly dispose of CFCs. Intro 893  
13 would also enhance existing recycling laws. By  
14 creating penalties for both collection of beverage  
15 containers, which are particularly profitable  
16 amongst the recycling stream, this law will serve  
17 to improve the value proposition of recycling,  
18 ensuring that the City can fully reap the  
19 financial and environmental benefits of a cost  
20 effective and sound recycling program that is at  
21 the heart of the City's most recent solid waste  
22 management plan. NRDC also supports Intro 894.  
23 It would reduce the likelihood that stolen bulk  
24 metal items like refrigerators and air  
25 conditioners are improperly disassembled, with the

1  
2 inevitable result being the release of  
3 chlorofluorocarbons or CFCs, which are potent  
4 ozone depleting gases, into the atmosphere.  
5 Second, the bill places responsibility for  
6 properly gathering CFCs from these products  
7 directly on the companies that manufacture them  
8 rather than on the City and taxpayers. For these  
9 and other reasons, Intro 894 advances a concept  
10 that NRDC applauds. Of course, NRDC's concerns  
11 with the current state of recycling efforts in New  
12 York City extend far beyond the problem of stolen  
13 recyclables. We believe that major elements of  
14 the City's entire recycling program must be  
15 revamped and reenergized to make the system more  
16 productive, cost effective, and compliant with the  
17 goals of the City in PlaNYC. And we will be  
18 publishing detailed recommendations on this topic  
19 later this summer. But the proposed bills  
20 discussed today are nonetheless very important.  
21 NRDC believes those bills are consistent with  
22 sound environmental and fiscal planning, and that  
23 they're good urban policy. They comply with the  
24 intent and goals of Local Law 19 of '89 and Local  
25 Law 50 of 2007, and with the Bloomberg

1  
2 Administration's program to make New York a more  
3 sustainable City. We enthusiastically support  
4 these bills, and we thank you Chairperson James  
5 for guiding and advancing this legislative  
6 package.

7 CHAIRPERSON JAMES: Thank you, Mr.  
8 Mulay, is that how you pronounce it?

9 DANIEL MULAY: Correct, yes.

10 CHAIRPERSON JAMES: Mr. Mulay, do  
11 you believe that any of these bills are overly  
12 broad, as was mentioned by some who testified  
13 earlier? Do you have--?

14 DANIEL MULAY: I think it's  
15 possible that certain refinements could be made,  
16 particularly with 889, which is a rather extensive  
17 bill.

18 CHAIRPERSON JAMES: Okay.

19 DANIEL MULAY: But in general, we  
20 support the purpose and intent of the bill, and we  
21 think that the increased penalties make sense in  
22 most cases.

23 CHAIRPERSON JAMES: Thank you. Ms.  
24 Rothman, you testified, in your testimony, you  
25 indicate that some of your members, to maintain an

1  
2 attractive appearance of their buildings, some of  
3 them have contracted with private companies.

4 Would it also be fair to say that some of these  
5 individuals are doing it, you know, primarily, I  
6 mean not primarily, but as a corollary for, to  
7 create some revenue? Generate revenue?

8 MARY ANN ROTHMAN: In all but one  
9 of the cases of the people I spoke to, they're  
10 paying more to have a secondary source of removal  
11 than they recover in credit toward recycling.

12 CHAIRPERSON JAMES: So this is not  
13 really an issue of revenue, it's just they don't  
14 have the space to store it?

15 MARY ANN ROTHMAN: They don't have  
16 the storage space, and they don't receive their  
17 sanitation recycling pickups on time, when they're  
18 supposed to. So--

19 CHAIRPERSON JAMES: So--

20 MARY ANN ROTHMAN: --particularly  
21 in summer, huge piles. Not as fragrant as they  
22 should be. [laughter]

23 CHAIRPERSON JAMES: So if  
24 Department of Sanitation were to improve their  
25 recycling pickup schedules and/or--

1  
2 MARY ANN ROTHMAN: They'd be  
3 delighted.

4 CHAIRPERSON JAMES: Okay, thank  
5 you. And lastly, to Mr. Bergamini, have you been  
6 in touch with the District Attorney's office?  
7 Have you contacted the District Attorney's office?  
8 And where is this a problem most, in what borough?  
9 Is it any particular community?

10 RON BERGAMINI: In the first  
11 instance, I haven't personally been involved with  
12 the District Attorney's office, but folks from the  
13 Business Integrity Commission have told us that  
14 they've made the pitch to the District Attorney's  
15 office. And while the District Attorney's office,  
16 I believe in Queens, did open up an investigation  
17 at one point, they've told us it's just hard to  
18 get people's attention on this. So that's--

19 CHAIRPERSON JAMES: It's a low  
20 priority.

21 RON BERGAMINI: It's a lower  
22 priority. As for where it happens, it's, frankly,  
23 all the boroughs. Manhattan it's probably the  
24 worst simply because it makes sense, this might  
25 sound crazy, but from the thieves' standpoint,



1  
2 it's a more densely populated area, so they could  
3 do better and quickly.

4 CHAIRPERSON JAMES: Got it. But  
5 you said a lot of, if we could get at those who  
6 are accepting the materials--

7 RON BERGAMINI: Yes.

8 CHAIRPERSON JAMES: You also  
9 indicated that they're primarily out of state.

10 RON BERGAMINI: Right.

11 CHAIRPERSON JAMES: So it's not--  
12 so, most scrap dealers and/or--

13 RON BERGAMINI: Yeah, these aren't  
14 really scrap dealers, these are paper recyclers.

15 CHAIRPERSON JAMES: So the recycle-  
16 -

17 RON BERGAMINI: Which is what we  
18 do, as well.

19 CHAIRPERSON JAMES: Right.

20 RON BERGAMINI: But we are licensed  
21 to do so.

22 CHAIRPERSON JAMES: So, they're  
23 not, so in New York City, it tends not to be a  
24 problem, most people who are accepting  
25 recyclables.

1  
2                   RON BERGAMINI: I'm not in law  
3 enforcement, I haven't conducted any kind of  
4 investigation, but we do know from very strong  
5 anecdotal evidence from our--observations from our  
6 employees, from observations from BIC people, and  
7 from folks in the Police Department, that they see  
8 them going through the Lincoln Tunnel. So, one  
9 doesn't have to be a genius to figure that out.

10                   CHAIRPERSON JAMES: Got it. And  
11 you support the legislation as is, particularly--I  
12 mean, but the four month period you would like it,  
13 obviously, to--

14                   RON BERGAMINI: Oh, yeah, the four  
15 month, and also evidently there's a requirement  
16 that contracts to remove recyclables from some but  
17 not all residential properties provide reports  
18 twice a year. NSWMA is always leery when new  
19 reporting requirements are installed. But we'd  
20 want to look at that a little bit.

21                   CHAIRPERSON JAMES: Unduly  
22 burdensome.

23                   RON BERGAMINI: Right.

24                   CHAIRPERSON JAMES: Okay. Thank  
25 you, I appreciate the panel. Is there anyone else

1  
2 who seeks to testify at this point in time? So, I  
3 thank you all for coming. This adjourn--we are  
4 now adjourning this hearing for further discussion  
5 and look forward to your recommendations on these  
6 bills. Thank you.

7 [gavel]

C E R T I F I C A T E

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

Signature

A handwritten signature in cursive script that reads "John David Tong". The signature is written in black ink and is positioned to the right of the printed word "Signature".

Date July 18, 2012