

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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March 23, 2010
Start: 10:22 am
Recess: 12:00 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
LETITIA JAMES
Chairperson

COUNCIL MEMBERS:
Council Member Maria del Carmen
Arroyo
Council Member Elizabeth S. Crowley
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)

Letitia James
Opening Statement re: Intro 63
Chairperson
Committee on Sanitation and Solid Waste Management

Elizabeth S. Crowley
Sponsor Intro 63
Opening Statement
New York City Council Member

Todd Kuznitz
Director of Enforcement
Department of Sanitation

David Golden
Administrative Justice Coordinator
Mayor's Office

Jim O'Kane
President
Maspeth Chamber of Commerce

Marianna Zero for Marie Breslin
Maspeth Kiwanis Club

Ricardo Otton
Owner
Paws and Claws

Patricia Dolan
President
Queens Civic Congress
President
Kew Gardens Hills Civic Association

Rick Deskowitz
Creekmore Civic Association
Bellerose
Member
Citizens Against Graffiti Everywhere

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

Mike Ogugliaro
Board Member
Queens County Civic Association
Citizens Against Graffiti Everywhere

William Markwart
Citizen

Patricia Grayson
Ridgewood Property Owners and Civic Association

Joseph G. Garber
Director
Civil Service Merit Council
Civic Activist

Frederick Cress
Coordinator
Citizens Against Graffiti Everywhere

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2 CHAIRPERSON JAMES: Okay? Okay.

3 Good morning everyone. Welcome to the hearing of
4 the New York City's Council Committee on
5 Sanitation and Solid Waste Management. I am
6 Letitia James, Chair of the Committee. We are
7 here today to hear Intro number 63 which concerns
8 the issuance of tickets for unlawful postings on
9 City property. Before we begin I'd like to
10 recognize my colleagues who are joining us here
11 today. Okay. Councilwoman Elizabeth Crowley who
12 is the primary sponsor of this bill. Okay. Now
13 to the business of the day, is that better? Okay.

14 As many of you know the City's
15 posting law prohibits anyone from posting material
16 such as posters, flyers, or advertisements on City
17 owned or authorized property including telephone
18 poles, lamp posts and traffic signs. The fine for
19 a violation of the posting law is \$75. In 2002
20 and 2003 in response to concerns about the litter
21 and eyesore caused by illegal postings the Council
22 and Mayor enacted changes to strengthen the City's
23 posting law. Among the changes made by these
24 amendments were increased fines and an expanded
25 list of locations where posting is prohibited and

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3 an enactment of the policy that one poster equals
4 one violation.

5 By most accounts the changes made
6 those amendment succeeded at deterring many but
7 not all, the most egregious violators of the law.
8 That being said, one additional consequence of the
9 2003 amendments was that more and more residents
10 began to receive unreasonable fines for violating
11 the posting law.

12 Many of my colleagues and I hear
13 about these problems all too often. In fact in my
14 own district I witnessed a shocking example of
15 this, a small business owner who recently opened a
16 pet store offered flyers to customers who passed
17 through the store. Some of his customers posted
18 the flyers around the neighborhood. Several
19 months after he began offering the flyers he
20 received more than \$10,000 worth of fines all at
21 one time from the Department of Sanitation. Like
22 most New Yorkers I don't like seeing the litter
23 that these illegal postings create in my
24 neighborhood but I think we can all agree that
25 receiving more than \$10,000 in fines at one time
is excessive particularly given the fact that this

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3 was a small store, a small family owned pet store.

4 Our Committee meets today to
5 consider legislation with the goal of moderating
6 some of the excessive fines issued for posting
7 violations while not compromising the law's
8 effectiveness at deterring would-be violators. We
9 believe that the proposed legislation before our
10 Committee today provides a moderate and reasonable
11 decrease in fines to first time offenders of the
12 posting law. The bill focuses on first time
13 offenders because those are the individuals and
14 businesses who are most likely not to know the
15 law. But we recognize that that is not a defense.

16 I want to emphasize here that you
17 are not a first time offender if you put up signs
18 for a company that has received posting tickets in
19 the past or if your company has received tickets
20 in the past and you simply changed the name of
21 that company. Under the current draft of the bill
22 a first time offender will be liable for 25% of
23 tickets issued on the day of his or her first
24 violation. So if you receive ten tickets on the
25 first day you get ticketed, you're only liable for
\$250 in fines instead of \$750.

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3 Going forward a first time violator
4 will be (sic) liable for any tickets issued after
5 that day until he or she actually receives their
6 first ticket, either by mail or personal delivery.
7 Once you receive that ticket you are treated the
8 same as all others and will be fined accordingly.

9 As a Committee we understand that
10 there are important interests on all sides of this
11 issue and we invite all interested parties to
12 testify before the Committee today. We recognize
13 it's a balancing act and but I believe in
14 fundamental fairness. There are also important
15 operational consequences for this bill and we are
16 glad to have representatives from the Department
17 of Sanitation and the Environmental Control Board
18 here today to share their input on this bill.

19 Before I turn the floor over to
20 representatives from the Administration I'd like
21 to invite the sponsor of the bill, Councilwoman
22 Elizabeth Crowley to share some remarks. We've
23 been joined by Carmen Maria del Arroyo from the
24 Bronx, thank you for coming. Councilwoman.

25 COUNCIL MEMBER CROWLEY: Thank you
Madam Chairperson. Our City's economic recovery

3 will be driven in large part by our small
4 businesses which make up over 95% of the
5 businesses in New York City. In order to succeed
6 in one of the most competitive cities in the
7 world, our society demands small businesses
8 promote their services to attract customers. A
9 common way to promote their business is by handing
10 out flyers or posting signs.

11 However not all small businesses
12 know about the laws of posting signs. The result
13 is that all too often small businesses are slapped
14 with excessive penalties that can be crippling,
15 especially in these tough economic times. To
16 present someone with thousands of dollars in fines
17 before they've had a chance to fix the problem is
18 simply irresponsible.

19 The purpose of a fine is to make
20 sure that the violator corrects the problem and
21 does not repeat. The purpose is not to make them
22 close shop. The PATH Act does not change the
23 current law; rather it allows us to stay true to
24 the purpose of the law by providing a common sense
25 solution on how we enforce it.

With the PATH Act we're creating a

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3 path to fairness when it comes to ticketing small
4 businesses and nonprofits. In my community in
5 Maspeth I've heard countless testimonies from
6 small business owners and nonprofits who have been
7 blindsided all at once by numerous fines for the
8 same issue.

9 Today we have three representatives
10 of nonprofits from our community that were hit
11 with excessive fines for posting flyers to
12 advertise an annual street fair fundraiser back in
13 June 2008. Three Maspeth based organizations, the
14 Kiwanis Club, the Chamber of Commerce and the
15 Lions Club raised \$16,000 at their street fair.
16 However \$9,600 of those funds went to the
17 Department of Sanitation for every flyer posted on
18 City light poles. Each fine was worth only \$75
19 but the Department of Sanitation fined all 3
20 organizations and the printer 32 fines each or
21 \$2,400 each adding to a grand total of \$8,600. If
22 this bill had been in effect back in June 2008,
23 all groups together would have paid a total of
24 \$2,400. And they wouldn't have been liable for
25 any additional fines until they received notice
for these fines. Thank you.

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3 CHAIRPERSON JAMES: Chief, you may
4 begin.

5 CHIEF TODD KUZNITZ: Good morning
6 Chairwoman James and members of the Committee on
7 Sanitation and Solid Waste Management. I am Chief
8 Todd Kuznitz, Director of Enforcement for the New
9 York City Department of Sanitation. We welcome
10 this opportunity to testify on the proposed bill.
11 With me this morning is David Golden, the
12 Administrative Justice Coordinator for the Mayor's
13 Office. He will join me in answering your
14 questions.

15 As proposed Intro 63 creates a
16 penalty mitigation program for first time
17 violators of the posting law. The program would
18 allow first time violators of the law who are not
19 deemed to be purposefully evaders or affiliated
20 previous violators of the poster law to pay 25% of
21 the current penalty amount of \$75 for each of the
22 total number of violations issued on the first
23 date the posters are cited. Additionally it holds
24 the respondent not liable for any notices of
25 violation issued subsequent to the first date
until three days after the notices of violation

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3 are served.

4 This Administration clearly
5 recognizes that small neighborhood businesses are
6 an integral part of the City's economy. Their
7 ability to thrive and prosper is vital and
8 necessary to the City's economic engine and making
9 New York City a friendly place to do business is a
10 continuing goal of both the Mayor and the Speaker.
11 We also recognize the difficulties a small
12 business owner faces when choosing to open any
13 business venture, including advertising his or her
14 services or products. I wish to emphasize that
15 like other City regulatory agencies, the
16 Department of Sanitation has long worked with
17 Small Business Services to ensure that commercial
18 business owners are aware of all of the sanitation
19 regulations with which they must comply.

20 We regularly work with Community
21 Boards and civic groups. We attend Town Hall
22 meetings to constantly educate and inform
23 residents and businesses of their community and
24 civic responsibilities towards compliance with all
25 the City's sanitation code provisions. We are
always encouraged by the positive reception we

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3 receive by numerous individuals and merchants
4 across the City at these meetings who take pride
5 in abiding by all of the City's laws as a matter
6 of civic duty and who are committed to keeping
7 their communities clean and attractive for
8 residents, visitors and customers.

9 Accordingly the Department joins
10 with the City Council and constituents from
11 neighborhoods across the entire City in the view
12 that the poster law is an integral component of
13 our City's mandate to ensure street cleanliness
14 and safety. Posters of all shapes and sizes
15 conveying all sorts of information are regularly
16 affixed to various forms of public property.

17 The act of posing on public
18 property generally results in two outcomes. First
19 the posters remain and continue to be covered and
20 surrounded by other posters, thus creating
21 unsightly clutter in many of the City's
22 neighborhoods. Or second, rain, snow and wind
23 conditions rip or dislodge the posters causing
24 them to litter the streets and sidewalks where
25 pedestrians can slip on them.

Illegal posting has long been a

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3 problem that this City has had to address. I'd
4 like to share some statistics with you. To date
5 in this current fiscal year 2010, the Department
6 has issued 55,849 notices of violation for illegal
7 posting. Only one-third of these summons were
8 issued to persons and entities including moving
9 companies, internet businesses, mortgage
10 foreclosure assistance, junk cars wanted and
11 locksmiths. The remaining two-thirds of those
12 summons or 33,244 summonses to be exact, were
13 issued to political candidates and elected
14 officials.

15 [Audience chuckling]

16 Meanwhile 311 complaints about
17 illegal posters on City property increased from
18 9m280 in fiscal year 2008 to 13,634 in fiscal year
19 2009. To date in fiscal year 2010 we have already
20 received 7,011 complaints on unlawful posting.

21 Many neighborhoods, civic groups
22 and private citizens who recognize the negative
23 impact of illegal posters on quality of life have
24 begun to patrol their individual communities to
25 remove unlawful posters before the Department's
agents have the opportunity to observe such

3 postings. The City's regulatory authority with
4 regard to illegal posting is set forth in the
5 Public Safety portion of the New York City
6 Administrative Code under Title 10. And it
7 existed in one form or another since the 1970s.
8 In 1991 under the case of Sosa v. Environmental
9 Control Board, the New York Appellate Division
10 First Department struck down the original poster
11 law, ruling it as unconstitutional. The City
12 Council subsequently amended the poster law in
13 December 1993 establishing a rebuttable
14 presumption that anyone whose name, telephone
15 number or other identifying information that
16 appears on the poster or handbill affixed to
17 public property was responsible for the posting.
18 That person is then able to rebut that presumption
19 by presenting evidence to the contrary.

20 In 2003 the Council amended
21 Sections 10-119, 10-1200, and 10-121 of the
22 Administrative Code to enhance the Department's
23 enforcement of the existing poster law by
24 expanding the prohibited areas for posting and to
25 increase the fines from illegal posting from \$50
to \$75. Local Law number 2 of 2003 also made it

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3 clear that each single poster constitutes a
4 separate violation of the law. These amendments
5 came in response to a dramatic increase in the
6 number of illegal postings, practice that the
7 Council sought to curb.

8 Today's Intro 63, as drafted,
9 presents both legal and administrative problems
10 for the Department. As written the proposed
11 legislation is contrary to already existing
12 sections of the poster law. For example it sets
13 penalties and amounts lower than the minimum
14 penalty prescribed under current Section 10-121.
15 Additionally this bill would be administratively
16 difficult for the Department to enforce. The
17 burden of proof would fall on the Department to
18 prove that a respondent claiming first time
19 offender status is in fact a repeat violator, a
20 purposeful violator or an affiliated previous
21 violator of the poster law. This status can only
22 be determined when the issuing officer has actual
23 knowledge of prior notices of violation issued.

24 However the Department has a
25 tremendous volume of postering cases. This would
make tracking repeat violators extremely difficult

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3 if not impossible. Given the administrative
4 difficulty presented by this burden of proof, we
5 believe the unintended consequence of this bill
6 would be to grant a blanket 75% reduction for
7 violations issued on the first day posters are
8 cited as well as a free pass on posters cited on
9 subsequent days to all but the most egregious
10 violators regardless of their knowledge of the law
11 or past history with posting violations.

12 Lastly it is a well recognized
13 principle upon which our regulatory authority that
14 stands that ignorance of the law is not a defense.
15 Small business merchants play an essential role in
16 achieving and maintaining clean communities. They
17 are on the frontline of their communities and set
18 a positive example for others in their commercial
19 areas.

20 It has been our experience and
21 observation that nearly all small businesses are
22 knowledgeable of the unlawful poster law enacted
23 nearly 20 years ago. Overwhelmingly most often
24 it's not the established brick and mortar
25 neighborhood small businesses that unlawfully
post. Therefore setting up a penalty mitigation

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3 program for first time offenders would set a bad
4 precedent that effectively rewards ignorance of
5 the City's existing laws and incentivizes one
6 time, upstart, inexpensive advertising on City
7 property as opposed to the conventional startup
8 practices of law abiding small businesses.

9 It is in the City's best interests
10 to see that these small businesses continue to
11 thrive during these difficult economic times and
12 it would be unfair to allow other individuals and
13 entities that might otherwise directly compete
14 with those now struggling businesses to gain a
15 benefit from illegal cheap advertising.

16 Finally persons who are otherwise
17 currently deterred from violating the poster law
18 for fear of receiving a \$75 per poster law penalty
19 may be more inclined to post posters if the
20 penalty for a first time offender is only \$18.75
21 per poster for only the posters the Sanitation
22 Enforcement Agent sees on the first day.

23 For example it would likely be
24 cheaper for businesses to accept this reduced fine
25 as a cost of doing business than it would be to
advertise in local circulars. The Department

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3 firmly believes that a far more effective approach
4 to preventing small businesses from being subject
5 to high fines for posting violations is through
6 continued outreach. Working through community
7 organizations, business improvement and commerce
8 associations and individual Council Members, we
9 can continue to ensure that residents and
10 businesses of the City are aware of sanitation
11 laws that have been in place for decades.

12 Indeed I welcome this opportunity
13 to offer to the members of this Committee and the
14 entire Council the Department's partnership in
15 conducting such outreach. Again thank you for
16 this opportunity to testify. We would now be
17 happy to answer your questions.

18 CHAIRPERSON JAMES: Councilwoman
19 Crowley.

20 COUNCIL MEMBER CROWLEY: Thank you
21 Chairperson James. I have a question as it
22 relates to the concern about the number of
23 violations over a period of time. And then not
24 giving enough notice for a violator to correct the
25 problem until they're hit with a number of fines
that span over a long period of time. Is there a

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3 way for your Department to correct this? I mean
4 could you tell me why exactly this happens? Why
5 can't a violator be notified right away so they
6 can correct the problem?

7 CHIEF KUZNITZ: Sure. When the
8 agents go out and they what we call cite these
9 posters, they go out where they form and they rip
10 down each poster and on this form, it's called a
11 citing form, they detail the information on the
12 poster, the date, the time and what the poster
13 says, and the location it was found. At the end
14 of the night they have to go back to their office
15 and they hand that sheet in.

16 And from that sheet we have to do
17 research using various internet databases and also
18 fill out a subpoena and send a subpoena to the
19 telephone company if there was a telephone number
20 on that poster. We have to wait for that subpoena
21 to come back from the phone company, verifying
22 where that phone number is registered, to what
23 party, to what entity, what person. And then we
24 can first issue the violations. Oftentimes those
25 subpoenas don't come back for at least a month.

COUNCIL MEMBER CROWLEY: I don't

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3 think it's fair. Especially for small businesses
4 and nonprofits. Especially in the situation that
5 happened in Maspeth where you actually had a Boy
6 Scout Troop that was not aware of the fines. And
7 they took these posters. And it was weeks if not
8 months before these various different nonprofits
9 groups found out that they had violated the law.
10 And each were severely penalized. I don't think
11 that that's fair. Do you agree that this could be
12 crippling to small businesses and nonprofit
13 organizations?

14 CHIEF KUZNITZ: Well I believe in
15 that particular case that's why there's a
16 rebuttable presumption of the law. The groups
17 have the right to go to the Environmental Control
18 Board and have a hearing and testify that they
19 didn't put up the posters. The Boy Scouts did.
20 That's the rebuttable presumption.

21 We're writing a violation based on
22 the information on the poster saying that this
23 entity is responsible for that violation. The
24 entity can then go to the Environmental Control
25 Board and rebut that and that's written into the
law and that's why that's there.

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3 COUNCIL MEMBER CROWLEY: Well the
4 entities did go to the Board and were still
5 penalized and had to pay excessive fines. And I
6 personally don't think it's fair that they were
7 not made aware right away. It had their name on
8 it. You could have called 411 or directory
9 assistance could have given the number to the
10 organizations in a much quicker way. So they
11 could correct the problem rather than waiting a
12 number of days and collecting more and more
13 violations. To me it feels like that the City is
14 trying to make money on the backs of our small
15 businesses and our nonprofit organizations.

16 There has to be a better way.

17 CHIEF KUZNITZ: I believe in that
18 particular case all of those posters were taken
19 down in the same day. So even with this law, with
20 this new bill, it would have just reduced the fine
21 because they were all taken down the same day. So
22 they would have all been liable for a fine since
23 it was the first day. And that wouldn't have
24 changed anything regarding that particular case.

25 COUNCIL MEMBER CROWLEY: For that
particular case but there's countless number of

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3 other small businesses that have been hit with
4 serious fines that span over a number of days,
5 number of weeks. And that needs to be simply
6 stopped. It's crippling to these small
7 businesses. It's not fair. And I have no other
8 questions.

9 CHAIRPERSON JAMES: Thank you.
10 Chief, your testimony can basically be, your
11 objections to this bill are for four reasons. And
12 let me just summarize. The burden of proof shifts
13 to the Department of Sanitation. It's an
14 administrative nightmare, too burdensome. It
15 would not be an effective deterrent. And it would
16 set bad precedent. Pretty much are those the four
17 objections to the bill?

18 CHIEF KUZNITZ: Pretty much.

19 CHAIRPERSON JAMES: Okay. So my
20 question to you is how many cases have been
21 dismissed before ECB based on this, the fact that
22 one, if a company goes before ECB and argues I
23 didn't put them up someone else put them, you
24 know, I'm not, you know, I'm not liable. How many
25 cases were dismissed as far as you know--?

CHIEF KUZNITZ: (Interposing) I

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3 don't have those numbers with me.

4 CHAIRPERSON JAMES: Okay do you
5 know of any cases that have been dismissed?

6 CHIEF KUZNITZ: Many.

7 CHAIRPERSON JAMES: Many.

8 CHIEF KUZNITZ: Yes.

9 CHAIRPERSON JAMES: Okay. Was it
10 an overwhelming majority or?

11 CHIEF KUZNITZ: I...

12 CHAIRPERSON JAMES: Okay.

13 CHIEF KUZNITZ: I couldn't tell
14 you.

15 CHAIRPERSON JAMES: And in regards
16 to the burden of proof and the administrative
17 nightmare, couldn't Department of Sanitation put
18 into place a log or a system where you enter the
19 names of businesses into some sort of system and
20 therefore you can make a determination as to
21 whether or not individuals are first time
22 offenders?

23 CHIEF KUZNITZ: Well taking for
24 example the thousands that we issue in one year.

25 CHAIRPERSON JAMES: Uh-huh.

CHIEF KUZNITZ: Multiply that each

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3 year, that data base would grow and grow and grow
4 and at some point there's no way to search a
5 database of people. Nor can you tell if it's
6 actually the same person. Many people have
7 similar names. Many people have--move around.
8 They have different addresses. There wouldn't be
9 a common way to guarantee that is the person.

10 CHAIRPERSON JAMES: So currently is
11 there a database of violators in place?

12 CHIEF KUZNITZ: No there is not.

13 CHAIRPERSON JAMES: None
14 whatsoever. So after--

15 CHIEF KUZNITZ: (Interposing) Not
16 in my Department.

17 CHAIRPERSON JAMES: Okay so after a
18 ticket is resolved or adjudicated then that
19 information is deleted?

20 CHIEF KUZNITZ: We don't keep the
21 information at the Department of Sanitation. I
22 believe the Environmental Control Board enters
23 each violation into their system. How long they
24 keep it, what information they keep, I couldn't
25 tell you.

CHAIRPERSON JAMES: So would it not

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3 be possible to sort of coordinate with ECB with
4 regards to first time violators?

5 MR. DAVID GOLDEN: you want me to
6 speak to that--

7 CHIEF KUZNITZ: (Interposing) Sure.

8 CHAIRPERSON JAMES: (Interposing)
9 Yeah sure.

10 MR. GOLDEN: Thanks. The
11 difficulty with doing that is that you can have
12 different identifications of individuals or
13 companies so that trying to match up particular
14 identities becomes problematic. You can have ABC
15 Corporation, ABC Co., ABC, Inc., spaces between
16 the A and the B and the C. Periods between the A
17 and the B and the C and so forth. The records
18 that ECB maintains are adequate for the purposes
19 of seeking to collect in the particular instances
20 in which the violations are issued.

21 But trying to match those
22 violations with identities of companies even if
23 the companies aren't trying to do anything to
24 disguise their identities going forward becomes
25 very problematic. And then of course many
individuals are not trying to use the same

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identity consistently.

3 CHAIRPERSON JAMES: Is there
4 currently a system within ECB where fines are
5 graduated depending on whether or not this is your
6 first or second offense?

7 MR. GOLDEN: There is a second
8 offense penalty but that's very rarely invoked.

9 CHAIRPERSON JAMES: And how does
10 one determine that in fact the individual is a
11 second offender?

12 MR. GOLDEN: I think probably Chief
13 Kuznitz can speak to those situations in which the
14 violations are written that way.

15 CHIEF KUZNITZ: Right. Regarding
16 posting violations, everybody is written as a
17 first offender. There has only been in the six
18 and a half years that I've been there one case
19 where we actually issued a repeat violator and
20 that was because the person or the company was
21 well-known to us. And every time we went there
22 and we told them it was a violation he would just
23 pay the fines and continue to put up more signs.
24 And that was in Queens East area.

25 CHAIRPERSON JAMES: If this problem

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3 cannot be eliminated would you be willing to
4 explore options as to give individuals more time
5 to pay off the fines?

6 CHIEF KUZNITZ: We don't control
7 how people pay off fines.

8 CHAIRPERSON JAMES: ECB?

9 MR. GOLDEN: There are currently
10 opportunities for individuals to negotiate
11 arrangements to pay over time. That is something
12 that goes on with either the Environmental Control
13 Board or the Department of Finance on the
14 collection end of these violations and for that
15 matter all other violations that are handled by
16 ECB.

17 CHAIRPERSON JAMES: Okay.

18 MR. GOLDEN: Depending on
19 individual circumstances.

20 CHAIRPERSON JAMES: Council Member
21 Arroyo.

22 COUNCIL MEMBER ARROYO: Thank you
23 Madam Chair and my apologies for my tardiness but,
24 North Bronx to City Hall is a long distance and
25 I'm from the South Bronx.

The database, the management of the

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3 database is one of the arguments that you make for
4 not being able to manage this or the outcome of
5 what this legislation would bring. Given the
6 technology we have today you don't think that an
7 appropriate database is possible?

8 CHIEF KUZNITZ: Judging by the
9 number of violations that we issue I don't believe
10 that we have the capabilities to handle a database
11 that large.

12 COUNCIL MEMBER ARROYO:
13 Capabilities in terms of what? Human resources?
14 Funding to acquire the appropriate technology to
15 maintain the database? Why wouldn't you be able
16 to--?

17 CHIEF KUZNITZ: (Interposing) All
18 of the above. Even the appropriate technology.
19 I, sitting here today I couldn't tell you how that
20 would be possible for us to do.

21 COUNCIL MEMBER ARROYO: So in
22 preparation for this hearing there was no research
23 to see if there is a database out there and what
24 it would cost.

25 CHIEF KUZNITZ: No there wasn't.

COUNCIL MEMBER ARROYO: Okay.

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3 Given that one of the challenges that you confront
4 is in this database or that you could confront is
5 that there are similar names, entities. So but
6 you are able to successfully fine individuals with
7 similar names and so how do you reconcile that?
8 And how many of those fines do you ultimately
9 collect on?

10 CHIEF KUZNITZ: I'm not sure what
11 you're saying.

12 COUNCIL MEMBER ARROYO: Well you--

13 MR. GOLDEN: (Interposing) We're
14 not--if I could just answer for a moment--

15 COUNCIL MEMBER ARROYO:
16 (Interposing) Well he's confused. So let me try
17 to clarify.

18 MR. GOLDEN: All right.

19 COUNCIL MEMBER ARROYO: Okay?
20 Earlier you stated that the management of the
21 database, one of the problems that could come up
22 is that you have individuals with similar names,
23 companies with very similar names. And then you
24 point to that as one of the reasons why a database
25 may not be the most objective way to do it. But
you are able to successfully fine individuals and

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2 MANAGEMENT

3 entities. Yes?

4 CHIEF KUZNITZ: Yes.

5 COUNCIL MEMBER ARROYO: Okay. So
6 how do you reconcile that one of the reasons that
7 you couldn't manage the database is the similar
8 names and etcetera but you're able to successfully
9 fine. And then the other part of the question,
10 so, how many of the fines do you collect on?

11 MR. GOLDEN: What I was saying
12 before about the similar name is that when we have
13 an ECB judgment that's been issued against ABC
14 Corp., we can go after ABC Corp. When we have it
15 against ABC Co., we can go against ABC Co.
16 There's not necessarily a point that wouldn't
17 ordinarily be one at which we try to make a
18 determination whether ABC Corp. and ABC Co. are
19 the same entity. Under this bill that would be
20 critical for determining whether or not an entity
21 were a first time offender.

22 COUNCIL MEMBER ARROYO: But you
23 also said that you have very small numbers of
24 repeat offenders.

25 CHIEF KUZNITZ: No. What I said is
we treat everybody as a first offender because of

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3 the problems we would have showing someone as a
4 second violator or a previous violator. One
5 particular case stood out and it was a matter of
6 they put up signs, we took down the signs, we
7 issued violations, we went to court. Two weeks
8 after they went to court and were found guilty,
9 they continued to put up signs and we continued to
10 confront them and they continued to put up signs.
11 That's why we stepped it up to the next step where
12 we were able to show this particular company--

13 COUNCIL MEMBER ARROYO:

14 (Interposing) Is a repeat.

15 CHIEF KUZNITZ: --was a repeat
16 violator. But to track everybody and to check
17 every sign that goes up and every violator to see
18 if they previously violated the law, that would be
19 a different issue.

20 COUNCIL MEMBER ARROYO: So Madam
21 Chair, just a two part question and then I'll
22 stop. The Department issued close to 56,000
23 notices of violation for illegal posting to date
24 in 2010. One-third of the summonses were to
25 persons and entities, companies, etcetera. Two-
thirds to elected officials and candidates. So

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3 given that such a significant portion of the
4 summonses and that, you know, elected officials
5 and candidates for office you can find fairly
6 easily, and I don't know that they're similar
7 names, in some cases maybe but not by far, the
8 general rule.

9 Given that a third of the summonses
10 are the ones that I think Council Member Crowley
11 is referring to, I don't think this is an attempt
12 to address the issue of candidates receiving
13 penalties because we're very clear what the law
14 is. And neither one of us can claim ignorance of
15 that law because we know very well not to post.

16 Isn't it worth investigating or an
17 attempt at trying to find an appropriate database
18 and then a discussion about resources necessary to
19 manage it?

20 CHIEF KUZNITZ: That other third of
21 posting violations were issued mainly to home
22 businesses, internet businesses. There aren't
23 that many brick and mortar type stores that put up
24 signs, that put up illegal posters. It's very
25 rare. It might usually be something like a car
wash or a business that's just opening or in some

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3 cases nonprofits that are running street fairs or
4 some type of fund raiser. It's very rare that you
5 actually have a brick and mortar type store.

6 When we go to, in the case of
7 candidates, for instance, yes, you might think
8 it's easy to find the candidate but we don't write
9 to the candidate. We write to the Committee. We
10 have to research who that Committee is because
11 it's actually the Committee that's responsible,
12 not the individual person.

13 COUNCIL MEMBER ARROYO: That's
14 where the database may be really helpful. But the
15 question was, given that a third is given to
16 entities and small businesses, nonprofits, isn't
17 it work investigating what resources may be
18 available to help the Department manage a database
19 and then talk about what that would entail in
20 terms of cost and resources.

21 CHIEF KUZNITZ: Okay. When we--we
22 now use handheld computers as I'm sure you know to
23 issue violations. And when we first started that
24 program with the handheld computers it allowed us
25 to issue certain types of repeat violator by
summonses. And we did look into the issue of what

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3 we call action summonses which is what a posting
4 violation is. And doing the research, we
5 determined at that time we couldn't do it with an
6 action violation because as David Golden said, you
7 know, a name could be off by a couple of letters,
8 you know, from a company to incorporated to
9 different address.

10 There was no way to guarantee that
11 the name that we're showing a violation under
12 regardless of what the name is that it's the same
13 person. With an action violation they have
14 different addresses, different phone numbers.
15 That's why we left it out of our handheld computer
16 system. So I would have to say it would be very
17 difficult and it would still be a big burden, a
18 large burden for the Department to try and figure
19 out repeat violators.

20 If we could have done it, we would
21 have done it back then when we first instituted
22 our Novus [phonetic] handheld where we now issue
23 repeat violators to properties. If there's a
24 property violation, if they've been in violation
25 before, the computer automatically kicks it up to
a second violation. That's something that's

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3 automatically done when we issue a violation.

4 If we were able to do it with
5 posting violations or other action violations,
6 we'd already have it in our handheld and it would
7 have been done. In which case the fines would
8 have been much higher than they are now. Instead
9 we found it easier to just treat everybody as a
10 first time offender at the minimum violation
11 penalty.

12 COUNCIL MEMBER ARROYO: So the
13 answer is no?

14 CHIEF KUZNITZ: That's correct.

15 COUNCIL MEMBER ARROYO: Okay.
16 Thank you.

17 CHAIRPERSON JAMES: So sometimes
18 doing things the easy unfortunately results in,
19 you know, violators, second time violators
20 basically skirting the law. So I guess the
21 question is why is there not a focus or emphasis
22 on second time violators?

23 CHIEF KUZNITZ: Because again it
24 would be very difficult to prove that that person,
25 that name, that telephone number is the same
person that originally violated the law.

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3 CHAIRPERSON JAMES: Hum.

4 CHIEF KUZNITZ: It is very
5 difficult to prove it's the same..

6 CHAIRPERSON JAMES: Entity.

7 CHIEF KUZNITZ: Entity. And we
8 don't want to issue summonses at \$150 apiece.

9 CHAIRPERSON JAMES: Um-hum.

10 CHIEF KUZNITZ: Especially when
11 we're issuing maybe, you know, a company might be
12 getting 100 summonses or 50 summonses.

13 CHAIRPERSON JAMES: Right. Well in
14 the case of the store in my district in Clinton
15 Hill, Paws and Claws, I don't know how many
16 violations they received but it totaled \$10,000
17 for a very small business which is family operated
18 and almost put them out of business. And we
19 understand that it's standard practice for the
20 Department to issue tickets to different
21 individuals for the same posting if each of their
22 names appear on that same poster. What's the
23 rationale for that?

24 CHIEF KUZNITZ: The rationale is if
25 there's, for instance, two names on a poster--

CHAIRPERSON JAMES: (Interposing)

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2 Right.

3 CHIEF KUZNITZ: --or three names on
4 a poster. If we put only one name--

5 CHAIRPERSON JAMES: (Interposing)
6 Right.

7 CHIEF KUZNITZ: --that person will
8 go into court and say I had--

9 CHAIRPERSON JAMES: (Interposing)
10 Right.

11 CHIEF KUZNITZ: --nothing to do
12 with it. It's the other people. So we put
13 everybody's name on it, whoever's on that poster,
14 whatever identifying information, expecting that
15 out of those two or three or four individuals,
16 somebody's going to take responsibility and say
17 the other people involved had nothing to do with
18 it.

19 CHAIRPERSON JAMES: So are each of
20 them liable? Or Just one person is held liable?

21 CHIEF KUZNITZ: They're each being
22 violated. They're each getting a violation--

23 CHAIRPERSON JAMES: (Interposing)
24 Right.

25 CHIEF KUZNITZ: --they each have to

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3 defend themselves.

4 CHAIRPERSON JAMES: Right. But
5 ultimately only one person will be responsible at
6 the end of the day?

7 CHIEF KUZNITZ: That all depends on
8 how they present it to the Administrative Law
9 Judge when they go before the ECB. It all depends
10 on what they tell the Administrative Law Judge.

11 CHAIRPERSON JAMES: so it's
12 possible that all of them could be violated for
13 one violation.

14 CHIEF KUZNITZ: It's possible but
15 depending on their defense, yes.

16 CHAIRPERSON JAMES: Hum. And this
17 means that the City can collect multiple times for
18 the same violation.

19 CHIEF KUZNITZ: If that's what
20 happens I'd have to say yes.

21 CHAIRPERSON JAMES: And as far as--
22 is there any way to avoid this or it appears that
23 this is nothing more than a revenue generator.

24 CHIEF KUZNITZ: Well again it would
25 be up to the people who got the violations to go
to court and contest those violations.

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3 CHAIRPERSON JAMES: Hum.

4 CHIEF KUZNITZ: And either say
5 that--we have a case for instance in parts of
6 Brooklyn where people walk into stores and ask for
7 a \$25 donation and then list that store's name as
8 a sponsor. And it would then be up to that person
9 if they get a violation to go to the ECB--

10 CHAIRPERSON JAMES: (Interposing)
11 Um-hum.

12 CHIEF KUZNITZ: --and defend
13 themselves that way and say I was just told to
14 donate \$25. I don't know why my name is on the
15 poster. That's the rebuttable presumption.

16 CHAIRPERSON JAMES: But Chief do
17 you know how many cases were dismissed as a result
18 of individuals going to court--

19 CHIEF KUZNITZ: (Interposing) I
20 don't have statistics on what was dismissed. But
21 I do occasionally get the decisions and I read
22 through them. So I don't have specific numbers
23 but I have seen where that has happened.

24 CHAIRPERSON JAMES: In the case of
25 Paws and Claws there was no personal delivery.
They did not attach it to the door. They received

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3 it in the mail, again \$10,000 of fines for, you
4 know, a relatively, you know, for posters that
5 were distributed and posted all throughout Fort
6 Green and Clinton Hill by residents because of
7 their fine service. And let me, full disclosure,
8 I've taken my dog there. So but I do this, but,
9 you know--

10 [Off mic]

11 CHAIRPERSON JAMES: Oh sorry. So I
12 guess, so the question is, you know, what
13 percentage of posting fines are served by
14 Department of Sanitation via certified mail versus
15 personal delivery versus attachment on the door--
16 posted on the door.

17 CHIEF KUZNITZ: 99.9% of the
18 summonses are served by certified mail, restricted
19 delivery. Right after the incident with Paws and
20 Claws we tried to tighten up our procedures a
21 little bit so that there wasn't so much of a
22 delay.

23 CHAIRPERSON JAMES: Hum.

24 CHIEF KUZNITZ: Part of the delay
25 in that particular case I remember was with the
subpoenas and with getting the mail delivered.

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3 Sometimes the Post Office attempts delivery. If
4 it's not deliverable for whatever reason they hold
5 onto it They might send a little post card to the
6 store and the people don't go to the Post Office
7 and pick it up. After the incident with Paws and
8 Claws we attempted to make some changes within the
9 posting unit to try and tighten it up a little
bit, a little bit better.

10 CHAIRPERSON JAMES: What did you do
11 specifically?

12 CHIEF KUZNITZ: Well specifically
13 now instead of subpoenas having to go through a
14 chain of command before they're sent out to the
15 phone companies, I've authorized the supervisors
16 in the field, as soon as they get the information,
17 sign the subpoena and send it off, so that cuts
18 back about a week.

19 CHAIRPERSON JAMES: Right.

20 CHIEF KUZNITZ: If they find out
21 posters are not being--or violations, I'm sorry,
22 are not being delivered by the Post Office, then
23 they will take the package and attempt to
24 personally serve it.

25 CHAIRPERSON JAMES: In the case of

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3 Paws and Claws they did not receive the violation
4 for months.

5 CHIEF KUZNITZ: Months.

6 [Off mic]

7 CHAIRPERSON JAMES: Okay--

8 CHIEF KUZNITZ: (Interposing) Yes.

9 CHAIRPERSON JAMES: --so it was
10 four months. And basically based upon your new
11 system, you only reduce it by a week?

12 CHIEF KUZNITZ: Well we try to
13 tighten up wherever we can. If--we have no
14 control over a subpoena. Once we send out a
15 subpoena we have to wait until that subpoena comes
16 back. Now in the case of a business, a store,
17 like Paws and Claws for instance--

18 CHAIRPERSON JAMES: (Interposing)
19 Yeah.

20 CHIEF KUZNITZ: --any store. The
21 name on the store isn't necessarily the
22 responsible party. For instance, let's take a
23 bigger store, Rite Aid.

24 CHAIRPERSON JAMES: Um-hum.

25 CHIEF KUZNITZ: Rite Aid could be
individually owned by a person. We're not going

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3 to write a violation to Rite Aid if the
4 certificate of authority or the address or the
5 phone number of that particular franchise comes
6 back to a different name.

7 CHAIRPERSON JAMES: But in the case
8 of Paws and Claws there's--as far as I know
9 there's only one Paws and Claws in the City of New
10 York.

11 CHIEF KUZNITZ: correct. But we
12 don't know the official legal name until we do our
13 research.

14 CHAIRPERSON JAMES: And wouldn't it
15 have been more convenient or couldn't you have
16 expedited it by just visiting the store?

17 CHIEF KUZNITZ: Yes I believe we
18 could have. And I, like I said, we changed some
19 of our procedures to tighten it up a little bit
20 after that incident.

21 CHAIRPERSON JAMES: Any other
22 questions from my colleagues?

23 COUNCIL MEMBER CROWLEY: I do.

24 CHAIRPERSON JAMES: I'm sorry.
25 Council Member Crowley.

COUNCIL MEMBER CROWLEY: Thank you

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3 Madam Chair. My question is if you're able to
4 give second time violations to homeowners or
5 residents and many of the dwellings in the City
6 are multiple dwellings where you have different
7 residents living within the apartments and
8 probably the ones who are violating the law. The
9 penalty goes to the landlord, is that correct?

10 CHIEF KUZNITZ: That's correct.
11 The penalty goes to the property owner.

12 COUNCIL MEMBER CROWLEY: The
13 property owner. I agree with that. I think it's
14 a good program. I think we need to penalize
15 second time offenders more severely so there's not
16 a third or a fourth time. And I think that we're
17 looking at an opportunity today to correct the
18 system. I don't like illegal posting of signs. I
19 don't like it in the district that I represent or
20 in the City of New York.

21 And I think it's more effective to
22 trace those second time offenders, third time
23 offenders. And if indeed a person is a first time
24 offender, that they be given some leniency because
25 these fines are very severe. They are high fines.
And I think that we're looking at a good

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3 opportunity to start tracking and there's no doubt
4 in my mind that many of the folks that are
5 violating these laws are second or third or fourth
6 time offenders. And if we stay on top of them,
7 that we will have less of these postings and less
8 need to penalize.

9 CHIEF KUZNITZ: Well the Department
10 prefers to educate people before the posters go up
11 because otherwise every, you know, any store that
12 has a grand opening has--would basically have a
13 free pass to poster. And we don't think that's
14 fair to the existing businesses. And we don't
15 think that's fair to the neighbors. We believe
16 that it's better off as we try to do now with
17 Small Business Services to make sure when a
18 business opens up they know these are things
19 you're not allowed to do and these are things that
20 should be.

21 And this is the sanitation rules
22 and regulations and how to maintain your property.
23 And we believe that the right way to go would be
24 to educate these people and now say it's okay if
25 you put up the poster the first time, it's only
going to cost you \$18.75 each. We don't believe

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3 that's the way we should be helping small
4 business.

5 We believe we should educate them,
6 don't put up the poster to begin with. And I
7 think that is better for the people who have to
8 live there in the neighborhoods and see the
9 posters up. And it's better for the other
10 businesses. Why should one business be allowed to
11 poster because it's a new business but not the
12 existing businesses?

13 COUNCIL MEMBER CROWLEY: The 25% of
14 the current fine is still a fine. And we're
15 asking that you give notice of these violations in
16 a timely fashion so they can be corrected. So
17 businesses can learn. I agree with your education
18 plan. I think it makes sense.

19 And at the end of the day I think
20 we're looking at some serious violators in the
21 City that are getting away with also violating,
22 repeating the violations over and over again. So
23 there's a problem here. There's a problem for new
24 businesses not knowing And then getting hit
25 severely. And then there's a problem with repeat
offenders that have to be penalized the way the

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3 law says they should be. And the only way to do
4 that is to have a better tracking system.

5 Correct?

6 CHIEF KUZNITZ: Yes if we could.

7 COUNCIL MEMBER CROWLEY: Thank you.

8 CHAIRPERSON JAMES: Council Member
9 Arroyo.

10 COUNCIL MEMBER ARROYO: Thank you
11 Madam Chair. Most recently in the Mayor's State
12 of the City and the Speaker's State of the City,
13 must was discussed about how City agencies can
14 collaborate in helping new businesses set up,
15 permitting processes, applications, etcetera. Is
16 the Department of Sanitation included in that
17 collaboration?

18 And is there an opportunity for
19 upfront businesses that need to go through that
20 process to receive information, a flyer, from the
21 Department of Sanitation saying oh by the way in
22 doing your startup make sure that you're mindful
23 of X, Y and Z law because the consequence of it
24 will be whatever the fine is.

25 I think it's something that if it's
not included, and I'm looking at the guys taking

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3 notes from the Mayor's Office, that it ought to be
4 included because as we try to build on the
5 economic engine of our City, small businesses are
6 at the heart of how successful that initiative
7 will be.

8 And if upfront that education
9 starts from the day a permit application goes in
10 to whatever agency it is that different types of
11 business need to have, and I get that most or some
12 may not necessarily be required to have a permit,
13 but the ones that do at least would be able to
14 have the benefit of that education program that
15 the Department is so proud of to get it upfront so
16 that they can at least keep themselves out of
17 harm's way and avoid the penalties because they
18 know that in advertising their startup they should
19 not engage in that kind of advertisement because
20 it's going to result in penalties and fines.

21 And if it's not included in that
22 discussion that we had at both the State of the
23 City addresses, that it may ought to be included
24 so that we can find another mechanism for
25 minimizing what small businesses experienced with
regards to fines and penalties associated with

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3 this law.

4 CHIEF KUZNITZ: Yes, the Department
5 has been working most recently with Small Business
6 Services on a website. They're putting together a
7 website called Business Express. And we've given
8 them all our violation codes and all our rules and
9 regulations pertaining to small businesses so that
10 when somebody wants to open up a small business or
11 any type of business, they go to the Small
12 Business Services website, they'll be able to get
13 this information concerning what their
14 responsibilities are as far as Sanitation is
15 concerned and other agencies. I believe that's
16 still in the works though.

17 COUNCIL MEMBER ARROYO: Okay.
18 Small Business Services is not the one stop for
19 every small business that wants to start up in the
20 City. But there are other agencies that they may
21 have to come through, DOH, for example. So it's
22 not just Small Business that needs to be used as a
23 portal for new businesses to get information.

24 I'm suggesting that that menu of
25 agencies, that are going to be pulled together to
collaborate the assistance to new businesses, to

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3 include information on Sanitation's law and advice
4 on what not to do. That's my recommendation. And
5 I'm more talking, I'm looking at the Mayor's staff
6 and not so much at you because you do what you're
7 told and they create the rules.

8 CHAIRPERSON JAMES: Hum. Okay.

9 Apart from--just two last questions Chief and then
10 we'll let you go. Apart from the database
11 concerns what are other administrative hurdles to
12 implementing this law?

13 CHIEF KUZNITZ: That would probably
14 be the main one is over time having somebody that
15 could testify and say that this particular person,
16 this entity is the previous violator.

17 CHAIRPERSON JAMES: Hum. And I'm
18 trying to understand why do you issue subpoenas?
19 Because you can't determine ownership or
20 responsibility or?

21 CHIEF KUZNITZ: If there's a
22 telephone number on the sign--

23 CHAIRPERSON JAMES: (Interposing)
24 Yes.

25 CHIEF KUZNITZ: --we have to
subpoena the telephone company to find out who

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3 that telephone number belongs to.

4 CHAIRPERSON JAMES: So it's just a
5 telephone number and no other identifying
6 information.

7 CHIEF KUZNITZ: Well we always
8 subpoena the telephone number because anybody
9 could put any name on a sign but we figure of
10 you're going to call for information, you're going
11 to call the phone number. You're not going to
12 particularly go to that name that's on the sign.

13 CHAIRPERSON JAMES: Right. Thank
14 you Chief. Thank you.

15 CHIEF KUZNITZ: Thank you.

16 CHAIRPERSON JAMES: Thank you.
17 Okay. now members of eh public can testify.
18 Okay. Ricardo Olton, we're going to do a panel.
19 This is Grand Paws and Claws, James O'Kane, I
20 apologize if I--Kane, excuse me. I apologize if I
21 mispronounced your name. Marianna Zero and
22 Frederick Cress, four panelists. Four.

23 [Off mic]

24 CHAIRPERSON JAMES: Oh. Mr.
25 Frederick, you're opposed so this is a supportive
panel, so Mr. Cress if you could just wait a

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3 minute. I appreciate that.

4 [Pause]

5 MR. JIM O'KANE: Good morning
6 Council Member Crowley, Arroyo and committee Chair
7 James. My name is Jim O'Kane; I'm the President
8 of the Maspeth Chamber of Commerce. And like
9 Elizabeth Crowley mentioned before about what
10 happened in Maspeth, I'll attempt to explain what
11 took place in Maspeth in 2008.

12 The Maspeth Chamber of Commerce
13 sponsors the Maspeth Annual Street Festival. We
14 sponsor the event together with the Maspeth
15 Kiwanis Club and the Maspeth Lions Club on an
16 annual basis for the past 16 years. The Festival
17 takes place along Grand Avenue in Maspeth, Queens.
18 Prior to the Street Fair in 2008, posters were
19 installed by a local Boy Scout Troop on antique
20 light poles along Grand Avenue announcing the
21 upcoming Festival. The Boy Scouts volunteered
22 their efforts and were unaware of the ordinance
23 prohibiting this.

24 They felt they were helping make
25 the Street Fair a success and they now feel
26 terrible. They feel terrible because a Sanitation

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3 Department agent issued 32 tickets against the
4 posters for each organization, resulting in \$7,425
5 in fines. Council Member Crowley mentioned the
6 figure of \$9,000, that's because they also fined
7 the printer. On the bottom of the poster in small
8 letters was the printer who printed the posters.
9 And they also fined him. His fines went away. He
10 never--they just disappeared. He was never
11 notified of a dismissal or why they went away but
12 they just went away.

13 Resulting for the 3 organizations
14 in \$7,425 in fines. The net proceeds for the
15 event was \$4,194. Therefore we lost over \$3,000.
16 And there's an accounting statement attached to
17 the written letter here.

18 The posters were installed in good
19 faith to announce a Festival community event. The
20 3 fraternal not-for-profit organizations turn any
21 proceeds they raise into a multiple of good for
22 the community of Maspeth. It's because of
23 organizations like this that help make our
24 communities a wonderful place they are to work,
25 live and visit.

We feel the City of New York and

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3 the Department of Sanitation has unjustly treated
4 us and excessively fined the 3 organizations. We
5 save the City money by providing programs that the
6 City would otherwise have to do. The City then
7 adopts this extremely harsh position fining us the
8 maximum amount of money allowed under the law for
9 a first time offense.

10 Please change the law.

11 MS. MARIANNA ZERO: My name is
12 Marianna Zero [phonetic], Maspeth Kiwanis Club,
13 representing Marie Breslin who could not be here.
14 Council Members, every year for the past 16 years
15 the Maspeth Kiwanis Club, Maspeth Lions Club and
16 Maspeth Chamber of Commerce have sponsored the
17 Maspeth Street Festival which runs along Grand
18 Avenue in Maspeth, Queens. The fair takes place
19 in the month of June.

20 For our street festival in 2008 our
21 local Boy Scouts volunteered this time to help put
22 poster out to announce the upcoming event. They
23 placed the posters on our antique light poles
24 along Grand Avenue and were very happy to make the
25 fair a success.

They were unaware that the usual

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3 placements of these posters were in store windows
4 along Grand Avenue. Unfortunately they put them
5 on the poles and were not aware of local
6 ordinances. The 3 nonprofit organizations with
7 all volunteers form the community turned all
8 proceeds they raised into the programs that save
9 and help the community.

10 In June 2008 we were issued 32
11 summonses for the 32 posters which were on 16
12 lampposts. They stapled front and back posters.
13 These 32 tickets were issued to all 3
14 organizations resulting in fines for \$7,425. The
15 net proceeds of the event was \$4,194. therefore
16 we lost \$3,231.

17 We feel that the City of New York
18 and Department of Sanitation has unjustly and
19 excessively fined the 3 organizations. By taking
20 this extreme position of fines, the City
21 discourages the people who volunteer their time,
22 effort and money. Without these people to help
23 these programs we cannot help our communities.
24 Please reconsider this decision and change the
25 law. Sincerely yours, Marie Breslin, President
2008 Maspeth Chamber of Commerce.

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3 I would also like to add for myself
4 because I was President of the Chamber of Commerce
5 for 8 years; we've had this fair for 16 years,
6 never once have we posted them on the light poles.
7 Unfortunately the Boy Scouts were overzealous. I
8 feel that a violation was made and a fine maybe
9 should have been issued but not that 4 people were
10 issued a fine for the same violation which is
11 similar to 4 people being in a car, driver goes
12 through a stop sign, the police stops them and
13 gives the passengers as well as the driver a fine.
14 We feel a fine maybe should have been issued but
15 not to all 4 people, one being excused, to 3
16 organizations.

17 That year the Kiwanis could not
18 send as many children to camp, underprivileged
19 children or give as much of a scholarship. The
20 Lions normally sponsor a guide dog. That year
21 there was less money to sponsor a guide dog.
22 That's what we feel. It was just excessive that
23 all 4 people were--all 4 organizations were fined.

24 CHAIRPERSON JAMES: Thank you.

25 We've been joined by Council Member Robert
Jackson. I just want to note, I neglected to note

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3 that this proposed law would not apply to
4 political candidates. They would still have to
5 pay the \$75. Paws and Claws.

6 MR. RICARDO OTTON: Good morning
7 Council Members. I'm the owner of Paws and Claws.
8 I'm Ricardo Otton [phonetic]. I opened up my
9 business in 2007. We provided a service to the
10 people in our neighborhood. They liked our
11 service so they didn't know we were there so they
12 asked us if it was okay if we grab a couple of
13 flyers; put them around, just to let people know
14 you're here. You do such a great job.

15 At that point, you know, I said
16 okay, not a problem, unaware that this was the
17 law. The agent goes out, write 116 tickets but
18 not on the same day, over several days over a 4-
19 month period of time, never serving me my first
20 summons that he wrote, never coming into my store.
21 All the information, I'm not evading the law,
22 everything is on the flyer. Days of operation,
23 phone number, services, everything not trying to
24 evade the law or anything.

25 My whole objection to this is that
it came up to \$10,000 in fines over a 4-month

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3 period of time, never noticed. Everything is
4 here; why not stop into the store? You're
5 breaking the law; you know, this, that. And
6 prevent, if this law is to prevent people from
7 doing it why not stop it at the beginning, not
8 allowing it to continue to go on. A person like
9 myself, family man, newborn baby, I can't afford
10 to pay \$10,000 in fines.

11 How can you, you know, how can you
12 go about doing business that way? And in the ECB
13 court ruled with the agent and he asked the agent,
14 the judge asked the agent well why didn't you give
15 him the fines, the first fine. He said oh I was
16 too busy. Came to the court with only one flyer
17 as evidence of these 116 flyers that he wrote
18 down. And the ECB still upheld his decision, the
19 fines. And up to date, I can't pay it. I tried
20 to make payments of about \$1,000 and that's about
21 it. With a newborn, this is my only means of
22 income, trying to provide for my family, it's
23 absurd. Absolutely absurd.

24 CHAIRPERSON JAMES: --been a
25 judgment that's been filed against ECB, you're now
in the judgment phase. The judgment's been filed

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3 as far as you know?

4 MR. OTTON: I'm sorry, yeah, the
5 judgment has been filed.--

6 CHAIRPERSON JAMES: (Interposing)
7 Okay.

8 MR. OTTON: --they ruled against me
9 and, you know.

10 CHAIRPERSON JAMES: I don't know
11 whether or not anything can be done at this point,
12 at this juncture. And I just urge ECB to really
13 take into consideration, the ECB, the plight of
14 Paws and Claws.

15 MR. OTTON: Yeah. I was just if
16 there was a thing where anyone could help or if it
17 can be retroactive to those who still have fines
18 pending it would be a great help. Or if it can be
19 retroactive to those, you know, like myself and my
20 business to help those who still have fines
21 pending over their head due to this excessive
22 abuse of the law or whatever, you know.

23 CHAIRPERSON JAMES: If ECB is not
24 willing to assist you, I think perhaps we'll
25 sponsor some sort of community event for you to
raise some funds. Okay?

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3 MR. OTTON: Thank you.

4 CHAIRPERSON JAMES: Thank you all
5 for testifying.

6 [Pause]

7 CHAIRPERSON JAMES: William
8 Markhart, how do you pronounce it, Sir? Markwart.
9 I apologize. Rick Des--hum, Rick, how do you
10 pronounce your last name? Deskowitz.
11 Mr.Deskowitz, you may approach. Patricia Dolan,
12 please approach. And one more, Michael Aguilero.
13 Did I pronounce...?

14 [Pause]

15 CHAIRPERSON JAMES: This is a panel
16 of residents who are, individuals who are opposed.

17 [Pause]

18 CHAIRPERSON JAMES: This fine lady
19 should begin. Yes gentlemen. Yes? Can she begin
20 first? That's okay.

21 [Pause]

22 CHAIRPERSON JAMES: You can just
23 pull the mic around for her. She reminds me of my
24 second grade teacher.

25 [Off mic]

CHAIRPERSON JAMES: You're welcome.

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3 She was very kind but she had that stern look too.

4 MS. PATRICIA DOLAN: Well the one
5 that I had in the second grade, she was--believe
6 me. Good morning. I'm Patricia Dolan. I'm the
7 President of the Queens Civic Congress, and
8 umbrella group of more than 110 community and
9 neighborhood based organizations in Queens. We
10 represent tenants, co-op and condo owners,
11 homeowners and business people living in every
12 part of the Borough of Queens. I'm also the
13 President of the Kew Gardens Hills Civic
14 Association.

15 As the Mayor and Council strive to
16 preserve New Yorkers quality of live and prevent
17 the City from spiraling into neglect and
18 decrepitude that New Yorkers suffered in the 1970s
19 and early 80s, care must be taken for the
20 esthetics of the physical City. As a long time
21 local civic leader and Community Board member I am
22 aware of how important keeping our streets and
23 avenues attractive is to achieving that goal.

24 The Department of Sanitation is
25 faced with a Herculean task of keeping the City
clean and enforcing the Administrative Code.

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3 Intro 63 is a misplaced attempt to cater to the
4 interests of promoters of local events that will
5 only send the wrong message to flagrant violators
6 of the law. Intro 63 gives first time violations
7 a second bite of the apple. Give the Department
8 of Sanitations limited enforcement resources it is
9 likely that first time violations will be habitual
10 violations who have been coving public surfaces
11 with their unsightly paper graffiti for years and
12 have not yet been caught. The apple will turn
13 into an untended watermelon and the City will
14 choke on it.

15 Make no mistake. There are no
16 first time offenders. There are only violators
17 caught for the first time. The typical violator
18 of Section 10-121 is the experienced sponsor or
19 promoter of a flea market, carnival, parade.
20 Using lamp posts, mailboxes, utility poles and
21 other property and even trees to plug their events
22 or the violator is a home-based business often
23 operating illegally and evading local taxes
24 promoting dubious activities, for example,
25 purveyors of vitamins and supplements, man with a
truck movers, and stuff envelopes at home and

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3 earn, and the like.

4 None of them deserve pardon,
5 commutation or amnesty. Local schools, civic
6 associations, churches and religious groups have
7 an alternative to public property and know that
8 neighborhood stores will agree to posting
9 announcements of community events in their
10 windows. In my almost two decades of civic
11 activity my civic association has never posted an
12 ad or an announcement on public property. Never.

13 50 years after Lady Bird Johnson
14 launched the successful nationwide movement to rid
15 the nation's highways of unsightly billboard and a
16 decade after New York City banned most ads from
17 highways the City Council must reject out of hand
18 further uglification of our communities. Thank
19 you.

20 MR. RICK DESKOWITZ: Good morning.
21 My name is Rick Deskowitz [phonetic]; I represent
22 the Creekmore [phonetic] Civic Association in
23 Bellerose. I'm also a member of Citizens Against
24 Graffiti Everywhere.

25 Let's face it. A lot of laws in
New York City that are passed in New York City can

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3 be annoying, aggravating or costly to both
4 businesses and individuals. The vast majority of
5 these laws however have a legitimate purpose. The
6 current anti-posting law is a good example. It
7 keeps trash off the poles, walls and also trees
8 and it keeps our neighborhoods looking clean,
9 especially when those illegal posters weather and
10 fall to the ground.

11 Isn't it quite rare that
12 legislation is proposed to water down a current
13 law? That's exactly what this legislation will
14 do. It's effectively allowing those who post
15 illegally to get away with a City-approved
16 substantial discount. If you're familiar with the
17 procedures that the Department of Sanitation must
18 go through to determine the identities of these
19 illegal posting violators, then you'll know how
20 difficult it is to locate the true owners of many
21 of these postered phone numbers. It can sometimes
22 take weeks or month. In the meantime these
23 illegal advertisers are getting more and more free
24 advertising at the expense of our neighborhoods
25 and the law abiding businesses in the area.

I urge you to refuse to dilute an

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3 existing, mostly successful, existing law and vote
4 down this legislation. Along with other civic
5 members I've either pulled down or reported more
6 than 1,000 illegal posters, thousands. And this I
7 feel would create more wear and tear on my vehicle
8 because we would have to spend more time in the
9 evening pulling down even more signs. And I don't
10 get paid for that. Thank you.

11 MR. MIKE OGUGLIARO: Mike Ogugliaro
12 [phonetic] Queens County Civic Association Board
13 Member. I'm also a member of CAGE, Citizens
14 Against Graffiti. Ignorance is no excuse to
15 change the law that exists right now. The only
16 think I'm guilt of is all the signs, the thousands
17 of signs that me and other civic leaders have
18 taken down that the City could have made money on
19 because they can't seem to keep up with the amount
20 of signs. And now they're gluing them to
21 telephone poles and they're destroying the poles.
22 And as far as the Boy Scouts, I feel sorry for
23 them but their leaders had to know about the laws
24 because I mean since I was a kid I knew it was
25 illegal to post signs all over the place. Post No
Bills.

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3 So it's always been a law to put up
4 illegal signs. So there's no excuse to what they
5 do. And like the car--we buy cars, junk cars,
6 they change the phone number, they change one
7 number but it's the same person and they're
8 beating the system. They're learning more and
9 more how to beat the system. And you want to
10 change the law to make it easier because if you
11 give one person a break what are you going to do
12 to We Buy Junk Cars?

13 Are you going to cut them a break?
14 They're illegal. I've been complaining to
15 District Attorney Brown that he should go after
16 them because it's legalized chop shops today
17 because they advertise that we donate your car, no
18 registration, no title, no questions asked. In
19 1972 they made a law that you needed a title to
20 sell your car. If you didn't have it you can't
21 sell it.

22 And now all of a sudden, you know,
23 like these places they're advertising we'll take
24 your car no questions asked. Because once it's
25 crushed up, nobody knows. And you claim that it
was stolen. Meantime I don't know where my car

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3 is. That's just an example. So you give the Boy
4 Scouts a break, now you're giving Green Bay and
5 all these other companies that are flooding our
6 neighborhoods with signs.

7 We've taken thousands of signs
8 down. Not just 1,000. And the City, I wish it
9 would have made money on these signs. So you
10 can't give anybody a break. And that's my opinion
11 'cause the people that are doing this, they claim
12 somebody else did it. Nobody goes around, today
13 people don't volunteer for nothing to hang up
14 somebody else's business--to advertise your
15 business without you knowing about it. I'm sorry
16 'cause we can't get volunteers to do legitimate
17 things. You know.

18 And, you know, it's just not fair.
19 Now they're duct taping them around the poles.
20 The trees, by the way, it's a \$150 summons. And
21 we've taken a lot of them down too and it's just
22 not fair to change the law. They should make the
23 law tougher. Thank you.

24 MR. WILLIAM MARKWART: Hello. My
25 name is William Markwart [phonetic]. I represent
myself. And for approximately three years I've

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3 been involved just on my own initiative in my
4 community of improving the neighborhood because I
5 just got tired of seeing the trash around and all
6 the things up on the lamp posts.

7 [Off mic]

8 MR. MARKWART: Okay. This, now,
9 originally I started out handling only the area
10 between 96th Street and 86th Street. I since, for
11 over a year now, have expanded that from 96th
12 Street all the way down to 72nd Street which is a
13 significant chunk of the whole Upper East Side. I
14 do this primarily on my own including time I
15 spend, you know, reporting a whole lot of other
16 things.

17 It's not just the flyers, that's
18 just one. But I invite you, everyone here, to
19 come into that area, go up there, look between 72nd
20 Street and 96th Street. And I think you will find
21 that it is a much cleaner area than you go south
22 of 72nd Street 'cause I remove stickers. I've
23 removed thousands of stickers. It's easy to get
24 them off if you know the proper technique. It
25 took me a while and I'd be glad to train the
Department of Sanitation or anyone how to do it.

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3 It's really very easy to do.

4 [Audience chuckling, applauding]

5 MR. MARKWART: And you do not see
6 stickers, the favorite place for them was on the
7 news racks and on the mailboxes and so forth. You
8 do not see them up in that area. If you do, you
9 can be pretty well assured it's only been there a
10 few hours. So I invite you to take a look to see
11 what one person has done. And so I think this
12 could be carried out throughout the entire City.

13 I have removed probably tens of
14 thousands of the flyers on the lamp posts during
15 that time. And it's been a deterrence. That's
16 why, yeah, you don't seem them up as more.

17 [Off mic]

18 MR. MARKWART: Yes. Probably, in
19 most cases, however I'm going to get into that.
20 This is just the background. And I have some
21 suggestions, you know, I believe in compromise.
22 And I have some suggestions, a couple of
23 suggestions for compromise on this. Basically I
24 support what's been said here. But I understand
25 that there's people who have different views. And
I think that in our society, we need to do a

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3 better job at compromising.

4 So first my notes are just
5 scattered here. And I would like to offer one
6 suggestion to kind of protect the lamp posts that
7 the City should adopt and should be a standard for
8 everyone who's allowed to which legally is only
9 City agencies. You should use this elastic that
10 the Police Department frequently uses that has the
11 little things on the end, you put it through the
12 thing and it's like--

13 MR. OGUGLIARO: (Interposing) Tie
14 straps.

15 MR. MARKWART: Tie straps because
16 that does not damage the paint.

17 CHAIRPERSON JAMES: --used as
18 handcuffs?

19 MR. MARKWART: No, no.

20 CHAIRPERSON JAMES: Or--yeah? No.

21 MR. MARKWART: You take the--

22 [Crosstalk by audience]

23 MR. MARKWART: --flyer which has to
24 be a little bit heavier stock and it's got a piece
25 of elastic with a little metal brad and you punch
it through a hole on each end and you put it

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3 around and the elastic holds it. So you don't
4 need to use tape. At first the Community Board in
5 my area was frequently using masking tape which is
6 very difficult to get off. And I pointed that out
7 to them. And that's pretty well stopped.

8 But the lamp posts look very bad
9 because of the constant taping that's going up.
10 Now I'm a property owner outside New York. And I
11 know something about painting. And especially on
12 metal. A good paint job should last on those lamp
13 posts if it wasn't for the painting and other
14 things, defacement that's done, ten years because
15 I've had paint that's lasted a lot longer than
16 that. So if that could be adopted somehow as a
17 City standard particularly with the City agencies
18 but any--you know, because they're the only ones
19 allowed to legally do it of using this elastic
20 rather than taping up notices. I think that would
21 be an improvement.

22 Now it does sound like the Paws and
23 Claws does have, you know, a situation which is
24 not typical from my experience. My experience is
25 that most of these businesses are aware or if
they're made aware they don't care. For example

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3 there is a jewelry shop up in my area that has
4 been persistently posting notices around. And
5 normally I just take them down. But they put
6 their exact name and address on it. So I reported
7 this to 311.

8 And I actually talked to Lieutenant
9 Torado [phonetic] there and said well why don't
10 you just call and tell the person that they're not
11 supposed to do it. And she, you know, she agreed
12 to do that. She said normally, you know, she
13 explained the procedures which you kind of heard
14 earlier, but she called me back and she said I did
15 call them and I talked to the owner's son and told
16 them they were being fined and that if they put up
17 any more they would get additional fines. Well
18 they seemed to have slowed down for a couple of
19 days but then after that they were back right
20 again.

21 Comments that I've heard, for
22 example, somebody approached me and said well why
23 are you taking those down. It was for a computer
24 repair person. And I explained it to him. And
25 his attitude was it's a free country. And another
one, where I had called them and told them that

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3 it's against City law to post these notices. And
4 his attitude was well would you rather have me go
5 out and rob people instead. And so basically the
6 attitude of most of these people particularly I
7 would say the small businesses is, you know, that
8 they have a right to do what they want to do and
9 they just don't care.

10 And so I think that has to be
11 faced. Plus I also disagree with the general
12 characterization of poor small businesses we have
13 to do something about them. Because my experience
14 is the businesses that, you know, that are
15 successful and that are well managed--it takes a
16 number of different things to run a successful
17 business. And the ones that are successful, they
18 don't need to do any advertising.

19 Like I said, I own properties and I
20 engage people. The people I engage, they tell me
21 they don't have to do any advertising. Everything
22 is on referral. Right now, very recently, there's
23 this handyman outfit or repair outfit that's been
24 putting up notices all over the City. Well none
25 of the people who do work for me would, you know,
they don't have time to handle the clients that

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3 they presently have.

4 So, you know, there are a lot of
5 businesses that really don't deserve to succeed.
6 They don't have a good concept. They don't have
7 any original idea. They're not well managed.
8 They're not doing things that really attract
9 people. So I just offer that as a general
10 comment.

11 Now. In terms of making--there's a
12 very, to my mind, there's a very simple solution
13 to making sure that these people are--know what
14 the law is. And I support what the Enforcement
15 Officer from Department of Sanitation said.

16 [Off mic]

17 MR. MARKWART: The Chief. Thank
18 you very much. Said his approach of trying to
19 make people aware. Well every business in the
20 City of New York is required to be registered with
21 the County Clerk. I called them up and they told
22 me there are no exceptions. Somebody who's
23 operating with a cell phone out of their
24 apartment, they are required, if they're doing
25 business, they're required to register with the
County Clerk.

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3 So why can't, when they go down to
4 register, there be a paper there which they are
5 required to sign or their authorized
6 representative is required to sign that informs
7 them that this activity is illegal and that they
8 will be signed for it. Now this may, you know,
9 may take time to phase in but it could be done.
10 The existing businesses I don't know whether they
11 have to renew their registration. I forgot to ask
12 that question but perhaps they're sent other, you
13 know, legal materials from the City of which
14 informational material could be included.

15 So one compromise that would be--
16 affect--be satisfactory to me would be for--well
17 me just say first, one other point, most of these
18 businesses they would like to have a permanent
19 sign up. If they were allowed and some parking
20 garages have actually done this, to affix metal
21 signs to the lamp posts advertising their
22 businesses they would do that. They would, you
23 know, they want to have--'cause they do it
24 constantly.

25 And so for nonprofit organizations
and this would have to be thought out, you know,

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3 legitimate nonprofit, charitable organizations
4 that are having an event which has a specific date
5 for my personal point of view I would not object
6 if there was an exception made for them that they
7 could put it up no more than seven days before the
8 event and that they had to be removed 48 hours
9 after the event was over. Any that were still
10 posted 48 hours, after 48 hours, after the event
11 was over, they would be eligible to be fined for
12 it.

13 You know, the attitude for--you
14 know, that they don't go around and take them down
15 after the event. You know it's important to put
16 it up but it's not important for them to take it
17 down. So I think that something could be
18 considered there.

19 CHAIRPERSON JAMES: How many more
20 recommendations do you have Sir?

21 MR. MARKWART: One more.

22 CHAIRPERSON JAMES: Okay great.

23 MR. MARKWART: Okay. My other
24 suggestion is there may be some, I'm not sure what
25 the legal problems may be with regard to trying to
keep track of who's an offender and not. But from

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3 the, whatever the technical problems are, I have
4 worked in the computer field for almost 20 years
5 prior to doing what I'm doing now. And I think
6 the technical problems can definitely be overcome.
7 You need to engage a consultant who will analyze
8 the procedures, understand the issues and know how
9 to relate this to a computer database.

10 Now whether there are still legal
11 problems that would be fuzzy, that I can't answer.
12 I really don't have a legal background. But if
13 you want to try to pursue that approach I think
14 you should call in a professional consultant to do
15 what they call a systems analysis which I did for
16 20 years--but I'm not looking for a job, believe
17 me.

18 [Laughter]

19 CHAIRPERSON JAMES: You already
20 have a job.

21 MR. MARKWART: Yeah. Right, right.

22 CHAIRPERSON JAMES: You're a one-man
23 operation.

24 MR. MARKWART: Yes.

25 CHAIRPERSON JAMES: On the Upper
East Side.

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3 MR. MARKWART: Right. So I
4 appreciate very much your allowing me to take--

5 CHAIRPERSON JAMES: (Interposing)
6 Sure.

7 MR. MARKWART: -this much time.

8 CHAIRPERSON JAMES: And thank you
9 for your recommendations.

10 MR. MARKWART: Thank you.

11 CHAIRPERSON JAMES: Are there any
12 signs to let people know that posting is against
13 the law?

14 MR. MARKWART: No, not that I've
15 seen.

16 CHAIRPERSON JAMES: Is there any
17 signs in your neighborhood?

18 MR. OGUGLIARO: It's just common
19 knowledge as far as I'm concerned. You know, it's
20 something that everybody should know.

21 CHAIRPERSON JAMES: Hum. Okay.

22 [Off mic]

23 MR. OGUGLIARO: No but there's been
24 a change--

25 CHAIRPERSON JAMES: (Interposing)
Let's not go back and forth, thank you.

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3 MR. OGUGLIARO: There's been a
4 change of geographics in the area and we can't
5 help that, you know, if some people just don't
6 understand certain things.

7 [Off mic]

8 CHAIRPERSON JAMES: No, no, no,
9 it's not that kind of hearing. That's okay. you
10 can ask the gentleman a question outside in the
11 hallway, okay? Thank you.

12 MR. OGUGLIARO: Thank you for your
13 time--

14 CHAIRPERSON JAMES: (Interposing)
15 You're welcome Sir. Thank you. The last panel is
16 Patricia Grayson, Joseph Garber and Fredrick
17 Cress.

18 [Pause]

19 CHAIRPERSON JAMES: You--would you
20 like to come back? Well this is in opposition so
21 I'll wait until--okay. We've been joined by
22 Council Member Mike Nelson from Brooklyn.

23 COUNCIL MEMBER NELSON: Thank you.
24 That's all.

25 [Pause]

[Witnesses getting settled]

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3 MS. PATRICIA GRAYSON: Thank you.

4 Good morning gentlemen. My name is Patricia
5 Grayson and I am speaking on behalf of the
6 Ridgewood Property Owners and Civic Association in
7 Community Board 5. My association represents over
8 500 property owners. I'd like to tell you that I
9 speak for all of them but I don't. In Ridgewood,
10 Queens and we are adamantly opposed to any change
11 in the current posting law or the amount of the
12 initial penalty.

13 In 2008 the Department of
14 Sanitation issued 48,774 summonses for illegal
15 posting for the entire year. I got that from the
16 Daily News. During the 2009 campaign period
17 alone, 3 candidates for public office were issued
18 14,405 summonses for illegal posting, 2 were
19 Mayoral.

20 CHAIRPERSON JAMES: Did they win?

21 MS. GRAYSON: One did. Two were
22 Mayoral and one was the candidate for the
23 Comptroller. He won too. I guess he can afford
24 paying all that money.

25 These signs are a blight in our
communities and a significant fine is the best

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3 deterrent. If I may, the second time the person
4 who won the Mayoral election got ticketed would
5 prove that he was a repeat offender wouldn't it?
6 Think about that one.

7 Our first thought is that this bill
8 will help to soften the financial blow to
9 candidates when their overenthusiastic campaign
10 workers staple, glue, nail and tie a variety of
11 vote for posters and flyers over the five
12 Boroughs. It is obvious that over the past two
13 decades persons running for political office
14 totally ignore the regulations or worse yet claim
15 that they didn't know what their campaign workers
16 were doing.

17 CHAIRPERSON JAMES: [Off mic] I can
18 tell Ms. Grayson [off mic] political candidates--

19 MS. GRAYSON: (Interposing) Well
20 now I know but see it didn't say that in the..

21 CHAIRPERSON JAMES: We have to pay
22 the higher fine.

23 MS. GRAYSON: Okay.

24 CHAIRPERSON JAMES: Not me.

25 [Laughter]

MS. GRAYSON: Well here comes the

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3 rest of it. Our second thought is that what about
4 the little guy. How about the lady just wanting
5 to advertise her babysitting services or the
6 landlord that wants to rent his 3-bedroom
7 apartment with an 8 x 10 piece of loose leaf paper
8 with tear offs at the bottom? The answer is that
9 both categories are equally culpable. This law
10 has been in effect for over two decades. Articles
11 have been written in local and national newspapers
12 concerning the illegality of posting on government
13 property in New York City.

14 Those persons who have gotten away
15 with posting signs concerning their business or
16 their political aspirations cry foul when they are
17 caught. I didn't know what my people were doing.
18 Well. We don't want you in a position of power
19 nor do we want your business if you don't know
20 what your people are doing. Um-hum. The actual
21 recommendations for the change in the fines seem
22 to add many layers to the process of issuing and
23 paying for a notice of violation.

24 Who is a first time violator? Will
25 an agent have a computerized tracking system on
their person when issuing summonses? Or will it

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3 have to wait for manual input into a system before
4 being identified? Do you become a first time
5 violator every new year? How long will it take to
6 determine how many violators were issued on the
7 first day if the violator has signs posted across
8 five Boroughs?

9 If the violator is issued 100
10 tickets, \$75 per summons on the first day that
11 violator will only have to pay \$1,875 instead of
12 the \$7,500 they would normally pay. That wasted
13 time to write the other 75 of the 100 tickets that
14 were issued. How long will it take for the first
15 time violator to receive notification of their
16 first offense? Is it possible that an entire
17 week, and now I found it could be even more, is it
18 possible that an entire week could go by without
19 such notification?

20 And if so the violator would then
21 not have to pay fines for postings that remain an
22 eyesore and an offense for as many days as it
23 takes for the City to notify him or her. And how
24 will the City be able to prove the day and time
25 when the violator receives that initial notice of
a violation being issued? What if the violator is

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3 away on vacation? What if the violator is in the
4 hospital?

5 Does all this sound far-fetched?

6 Well not as far-fetched as the excuses citizens of
7 this City will attempt to use in their defense.

8 These regulations have been in effect and have
9 served as a clear message against breaking the law

10 by hurting the violators where the pain is most

11 seriously felt, in their wallets. This proposed

12 change will lose revenue for the City and increase

13 the time and effort it takes to find and prosecute

14 violators. Ridgewood Property Owners and Civic

15 Association strongly disagrees with the proposal

16 to change the Administrative Code and hopes that

17 this body does not implement these suggested

18 changes. Thank you.

19 CHAIRPERSON JAMES: Thank you Ms.

20 Grayson.

21 MR. JOSEPH G. GARBER: Good

22 afternoon Chairperson James, Council Members

23 Nelson, Jackson, Crowley, Arroyo and Council

24 staff, Department of Sanitation Chief of

25 Enforcement Kuznitz, and Criminal Justice

Coordinator representative and I believe the

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3 representative of Associate Commissioner Maria
4 Termini's office. My name is Joseph G. Garber.
5 I'm a Director of the Civil Service Merit Council
6 and a civic activist.

7 I have zero tolerance for the
8 posting of posters on lamp posts, light posts,
9 traffic signs, fire alarm boxes, trees, poles,
10 etcetera. I would not like to see an erosion of
11 the enforcement of those individuals or
12 corporations or other entities who post posters
13 for various reasons. Therefore I'm against Intro
14 56 (sic). I live in Brooklyn North One which is
15 my [mic turned off] and possibly in section 12, 13
16 and 14 which is heavily populated by Hassidic Jews
17 who engage in all kinds of postings all over the
18 area at all hours of the night.

19 Many times I'm like Mr. Markwart, I
20 go out around midnight and I watch who's doing it.
21 Unfortunately I see people who are not members of
22 the Hassidic community but are hired to put those
23 posters. I've in the past, pulled down posters
24 and with one individual getting in confrontation.

25 Okay. I've also seen on the other
side of Brooklyn North One in the Hispanic

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3 neighborhood posters regarding sales,
4 entertainment, boxing, auctions, politically
5 rallies and I've also seen Talmudic classes on
6 Bedford Avenue, Lee Avenue and Kent Avenue. I,
7 two days ago, went around to try to give you a
8 sample. This was on Lee Avenue, Bedford Avenue,
9 Kent Avenue on every, every possible area. There
10 must have been in a 2-block radius 100 of these.

11 CHAIRPERSON JAMES: Can I see that?

12 MR. GARBER: Yes. Sure. Blue
13 envelope in your mailbox, experience the blue
14 savings, blue bargain is a free coupon package
15 jammed with \$100 in valuable pre-Pasa--which is
16 pre-Passover offers and is being mailed to your
17 home this week. I haven't received it as yet.

18 [Laughter]

19 CHAIRPERSON JAMES: [Off mic] Mr.
20 Garber you're getting a free [Off mic]

21 MR. GARBER: No. That's not--start
22 saving money. Okay. Then just to do a sample, I
23 found this in Yiddish which I am fluent to
24 translate Hebrew and Yiddish for the Enforcement
25 Unit indicating that there's going to be a charity
party. I tried going this morning around but

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3 maybe they got tipped off that this hearing was
4 going to be and I couldn't find any recent
5 posters.

6 Okay. Let me continue my testimony
7 please. All right.

8 [Off mic]

9 MR. GARBER: Semi-charity but I
10 didn't determine whether it's authentic. Just
11 because it says charity doesn't mean it's charity.
12 Okay.

13 Now. Face South Fourth, South
14 Second [off mic] in the Latino section of
15 Brooklyn--

16 [Telling him his mic isn't working]

17 MR. GARBER: Oh, excuse me. All
18 right. Brooklyn--Broadway, South Fourth, South
19 Second, South Third in the Latino section of
20 Brooklyn North One. I would like strict draconian
21 enforcement in all areas. Several years ago with
22 the Brooklyn County leader, Estanzia Vito Lopez
23 [phonetic] endorsed a particular person for judge.
24 I wanted around and pulled off that notice in the
25 heavy Bedford Stuyvesant section. And I was
almost scared away but I was not scared away.

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3 Okay.

4 Even though I am a sophisticated,
5 average--more sophisticated than the average
6 citizen and civic-minded activist, and I know my
7 way around 125 Wroth Street, 346 Broadway as it
8 relates to DSNY operations, I also know Sanitation
9 Superintendent Burns Offeat [phonetic] okay at
10 917-731-8871 or 718--

11 CHAIRPERSON JAMES: (Interposing)
12 Mr. Garber don't give out someone's number.

13 MR. GARBER: No it's all official
14 phone numbers listed in the green book. No, no, I
15 would not do that. Or the Sanitation Department
16 directory which is online. Or 718-571-6401. The
17 Posting Unit, 1-646-885-0844 or 1-646-885-0831 and
18 Inspector Kelly I don't know if he's still there
19 but an excellent man at 1-718-714-2742. I've also
20 pulled down posters.. okay now since your last
21 hearing I have not heard from anybody in DSNY
22 about the various issues which I've surfaced at
23 the budget PMMR hearing to the members of the
24 Sanitation and Solid Waste Committee, to
25 Commissioner Dougherty, First Deputy Commissioner
Sullivan and Associate Commissioner Termini.

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3 In conclusion I'm a friend of DSNY
4 and would like to help and assist the Mayor, the
5 Office of Operations, Project Scorecard and the
6 Enforcement Unit to identify offenders regardless
7 of who he or she is. And Chief Kuznitz I'm going
8 to give you a copy of my updated information. I'd
9 like you to develop a liaison so I could assist
10 your Enforcement Unit. Thank you very much.

11 CHAIRPERSON JAMES: Thank you Mr.
12 Garber. Mr. Garber is a regular. He testifies at
13 every hearing. And he's fabulous. He is
14 extraordinary. He's an extraordinary civic
15 servant even though he's mad at me. But anyway.
16 Mr. Cress?

17 MR. FREDERICK CRESS: Good
18 afternoon my name is Fred Cress--

19 CHAIRPERSON JAMES: (Interposing)
20 The mic is not on Sir.

21 MR. CRESS: How's that? Okay. I'm
22 one of the Coordinator which is a Borough-wide
23 organization dedicated to anti-graffiti and
24 illegal sign posting removal. We have 52 groups
25 and it's growing every month. And these are all
volunteers that are tired of seeing these

3 tremendous signs; it's not that 8.5 x 11 paper.
4 That's baloney. That's where it starts. It
5 escalates to this size, to 6 foot signs, to signs
6 that are put up like the poster boards. So it
7 starts like any bad disease, small, and it grows
8 and it grows.

9 We turn in a lot of signs but more
10 than half of what we don't turn in are the signs
11 like this which we take down because they are so
12 offensive to the quality of life for our
13 communities. Political posters are a problem.
14 But when you have people and I'm sure half these
15 businesses are not legit.

16 CHAIRPERSON JAMES: They're not.

17 MR. CRESS: And they're probably
18 taking advantage of the citizenry. And these are
19 all civic people that are doing this on their own
20 time with their own gas. And we have a similar
21 type passion but we do it a little differently.
22 Some using Sanitation to summonses the people.
23 But some when you go out of your house, how would
24 you like to see six of these nailed to your tree
25 in the morning?

CHAIRPERSON JAMES: Hum.

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3 MR. CRESS: Now some people I have
4 personally called and some of them are very good.
5 They come out and they remove it. They
6 understand. So there is outreach that people do
7 get calls. But if you have a company like Green
8 Bay Construction or Panta [phonetic] Construction,
9 when I call them, they know me. And they say
10 Fred, you know, we're making so much money just do
11 what you have to do. Just give us the fines.
12 Because we're making thousands on one deal from
13 one sign. So how do you stop someone like that?

14 You have to stop them before they
15 get that big because half of these companies are
16 not even located in the five Boroughs. So now you
17 have people coming from other counties, exploiting
18 the people, creating a litter problem and I do
19 feel bad that the Scouts did that but they weren't
20 fined. It was the Chamber. It was the Lions and
21 the Kiwanis. You know you kind of got what you
22 deserved. Ignorance of the law is a bad thing.
23 But you know what if everyone just did that, what
24 would Queens look like. What would Brooklyn look
25 like? What would Manhattan look like?

You've seen it during the political

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3 campaigns when there are hundreds of posters up.
4 That is not my version of a beautiful New York.
5 So we will keep doing what we do and I know we
6 faxed letters to all of your offices. I'm sure
7 you've got at least 400.

8 CHAIRPERSON JAMES: Yes.

9 MR. CRESS: Okay. Believe me,
10 there is a civic presence that you have yet to see
11 and we will continue ripping down these signs,
12 turning these people in. We will just get bigger
13 until the problem is eradicated.

14 So please do not make it easier and
15 these isolated cases maybe they can go to the
16 court and work it out but like Mr. Garber, we want
17 zero tolerance. And sometimes when you have to
18 pay a big fine you really do learn a lesson and I
19 ask that you tell your friends and neighbors the
20 lesson that you learned. And don't repeat it.
21 Because if he doesn't turn you in or she doesn't
22 turn you in, I will. Or I'll remove your signs
23 'cause it's not fair what you inflict in your
24 neighbors and your local community people.

25 Because maybe they don't have pets
and maybe they don't want to clean up your flyers

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3 when they fall on the street and get them a
4 summons because it blows on their property, now
5 they've got a \$75 summons because it's something
6 that you did or something you allowed to be done
7 in your name. And people who have private
8 businesses, I'm a small business owner myself,
9 it's very competitive but you need to be
10 respectful of your community.

11 And posting on a lamp post or
12 something is not respectful 'cause you wouldn't
13 like it if it was done in front of your house with
14 one of these. Think about it. How would you like
15 to come out and see this posted on your tree, on
16 your lamp post, on your mailbox? If it doesn't
17 move it seems to be fair game for illegal posters.
18 And that's all I have for you today. Thank you.

19 CHAIRPERSON JAMES: Thank you Mr.
20 Cress. We will take everyone's--

21 [Applause]

22 CHAIRPERSON JAMES: --thank you we
23 will take everyone's advice. Everyone's statement
24 under advice and we have not made a decision with
25 respect to this piece of legislation. But I thank
all of you for attending. And that concludes--oh

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3 I'm sorry, Mr. O'Kane?

4 MR. O'KANE: Yes.

5 CHAIRPERSON JAMES: He wanted to
6 conclude the hearing. He had some additional
7 information.

8 [Pause]

9 CHAIRPERSON JAMES: No. What'd you
10 say? [Chuckling]

11 [Pause]

12 MR. O'KANE: Thank you for letting
13 me come back and something I thought of to address
14 the Sanitation Chief when he mentioned about the
15 requesting a hearing and going through the appeal
16 process. The three organizations did that. We
17 requested a hearing. We were represented by
18 counsel, Anthony Cuomo who is a former Council
19 Member and his attorney.

20 We felt we were well represented
21 again with the Administrative Court Judge, we sat
22 down, we presented our case. And we thought we
23 made a pretty strong compassionate case in favor
24 of the three community organizations and the Boy
25 Scouts. But the fines were upheld. Our next step
was to go to appeal it, appeal that Administrative

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3 Court Judge's decision. And we also did that.

4 And the same results.

5 The fines were upheld and we paid
6 them. And fortunately we paid the initial fine
7 before it escalated up. So it could have been
8 worse but still we feel it was excessive.

9 We feel it was fines without
10 compassion. No unreasonableness was shown, the
11 three community organizations who were all
12 volunteers, they devote their time, their energy,
13 their money, everything goes back into the
14 community. And I can understand there should be
15 fines. Yes. And we did wrong, we should be fined
16 but not to the full extent, the maximum penalty of
17 the law.

18 I mean we're not criminals, third
19 or fourth time offenders. We're first time
20 offenders. It was an oversight. We're sorry for
21 it. We all feel sorry for it. But we also feel
22 that the City really took a harsh, unreasonable
23 stance on fining us the way they did. Thank you.

24 CHAIRPERSON JAMES: That concludes
25 the hearing.

[Background conversation]

1

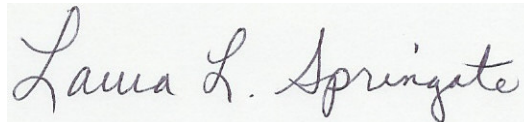
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2

[END 1002.MP3]

C E R T I F I C A T E

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

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

Signature _____Laura L. Springate_____

Date _____April 3, 2010_____