

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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April 27, 2010
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HELD AT: Council Chambers
City Hall

B E F O R E:
ERIC MARTIN DILAN
Chairperson

COUNCIL MEMBERS:
Leroy G. Comrie, Jr.
Elizabeth S. Crowley
Lewis A. Fidler
Letitia James
Brad S. Lander
Melissa Mark-Viverito
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NYC Licensing Board

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Chairman
Plumbing Foundation of New York City

Michael Apuzzo
Representative
Plumbers Local #1 of New York City

CHAIRPERSON DILAN: Okay, good morning everyone. My name is ... good afternoon, excuse me. My name is Eric Martin Dilan, and I am the Chairman of the City Council's Housing and Buildings Committee. I'd like to thank everyone for attending today's hearing on proposed Intro 68, which is a local law to amend the Administrative Code of the City of New York in relation to penalties for unlicensed plumbing and fire suppression work. This bill would amend the Administrative Code to increase penalties for those who perform plumbing or fire suppression work without the required master plumber's license or master fire suppression contractor's license. Currently, engaging in any business or occupation without the required license is classified as an immediately hazardous violation. A license is required to perform plumbing or fire suppression piping work within the City of New York. This bill would increase the fine or the civil penalty that can be levied for these types of violations from not less than \$2,500 for each violation to not less than \$5,000 for the first offense, and not less than \$10,000 for each subsequent offense.

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2 Additionally, the violation will be considered a
3 misdemeanor punishable by a fine of not less than
4 \$5,000 for the first offense and \$10,000 for any
5 subsequent offense, no more than \$25,000, or by
6 imprisonment of not more than one year by such
7 fine and imprisonment. Again, like I said at the
8 outset, if anyone wishes to testify, please see
9 the sergeant-at-arms, and I'll just do a little
10 bit of housekeeping to acknowledge some of the
11 members who are here. To my far left I have
12 Council Member Lewis Fidler of Brooklyn. Next to
13 him is Council Member Brad Lander of Brooklyn.
14 Next to him is Council Member Melissa Mark-
15 Viverito of Manhattan. We have Ben Goodman next
16 to me, policy analyst of the Committee, Baaba Halm
17 to my right, counsel to the Committee, Council
18 Member Elizabeth Crowley of Queens, Council Member
19 Leroy Comrie of Queens, and Council Member Jumaane
20 Williams of Brooklyn. We've been joined by the
21 Department of Buildings. Welcome, gentlemen, and
22 in your own voice, if you could identify yourself,
23 and you may begin your testimony after that.

24 MR. KRAMER: Good afternoon,
25 Chairman Dilan and other members of the Committee.

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2 My name is Stephen Kramer, and I'm Senior Counsel
3 to the Commissioner of Buildings, and I'm here
4 today with Donald Ranshte who is our director of
5 intergovernmental affairs. And I want to thank
6 you for this opportunity to discuss Intro 68, to
7 establish new minimum penalties for unlicensed and
8 fire suppression work. Intro 68 demonstrates the
9 continued ... continuation of our partnership with
10 the Council to arm the Department with the tools
11 necessary to stop or deter work that is performed
12 illegally and can be potentially dangerous. As
13 you are aware, all plumbing and fire suppression
14 work, which primarily consists of sprinkler and
15 standpipe construction or repair, must be
16 performed by a contractor licensed by the
17 Department in the appropriate field. Whether as a
18 result of a complaint, or as part of our regular
19 inspections process, our inspectors reach out ...
20 search out work being performed by unlicensed
21 contractors. When an inspector observes plumbing
22 or fire suppression work being performed by an
23 unlicensed contractor, the inspector will issue a
24 criminal court summons to that contractor, that's
25 our current process, we don't normally make

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2 unlicensed work returnable to the environmental
3 control board, although we are authorized to do
4 that. Through the criminal court process, the
5 Department, however, often finds the imposition of
6 a minimal fine, \$250 or \$500, or even sometimes
7 just community service, is ordered by the judge
8 for unlicensed work violation. This, under the
9 administrative code, under section 28.202.1, the
10 penalty for immediately hazardous, unlicensed work
11 violation is \$1,000. By contrast, if a licensed
12 plumber or a licensed fire suppression contractor
13 were violated for work without a permit, the civil
14 penalty would be ... the minimum civil penalty,
15 would be \$5,000. The intention of this bill is to
16 make the fine or penalty equal for both of these
17 serious violations. The relatively small fines or
18 penalties that have often been imposed in criminal
19 court simply do not offer the necessary deterrents
20 to keep unlicensed contractors from performing
21 unlicensed work. Intro 68 will amend the building
22 code and plumbing code 28-201.2.1 to make the
23 performance of unlicensed plumbing or fire
24 suppression work subject to a minimum fine or
25 penalty of \$5,000 for the first offence, and a

1 minimum of \$10,000 for each subsequent offence.

2 We believe that the imposition of these
3 substantial minimum fines will deter unlicensed
4 contractors from taking a job where a license is
5 required. I want to thank the Council and those
6 licensed professionals and their organizations in
7 the plumbing and fire suppression industry who
8 have proposed this bill and support ... as I
9 understand, are supporting it. Thank you for the
10 opportunity to testify, and I'll be happy to take
11 any questions you may have.
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13 CHAIRPERSON DILAN: Thank you, Mr.
14 Kramer. We've also been joined by Council Member
15 Jimmy Oddo, the Republican leader from Staten
16 Island. Just a few questions, and then I'll get
17 to my colleagues who hopefully will be pretty
18 brief. Why is a license necessary to engage in
19 the types of work that you described in your
20 remarks?

21 MR. KRAMER: Well, there's so much
22 ... that's a good question. There's so much
23 plumbing work and fire suppression work that goes
24 on, what a license does in these fields is it sets
25 a minimum level of competence, of both experience

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2 and competence, to engage in the field. If work
3 this important were performed by unlicensed
4 people, the Department has no way of insuring that
5 the work is performed according to code. We would
6 potentially have to have an inspector or require
7 the contractor or the owner of the job to hire an
8 inspector to basically perform a controlled
9 inspection, to make sure that the work is
10 performed in a safe and code-compliant way. What
11 the license does is that the people who are
12 licensed are required to go through a training
13 program and have work in the field, and then pass
14 a test to make sure that essentially they know not
15 just the basics, but ... basic plumbing is like
16 repairing a washer in a handle. You don't require
17 a licensed plumber for repairing the innards of a
18 toilet, but once you get into issues of anything
19 involving piping, in particular, or gas piping in
20 particular, we want to make sure that the work is
21 performed by a competent. Gas, and even things
22 that seem so straightforward as water piping, you
23 can have cross connections with the sewer and
24 result in problems there. And also in waste
25 piping, if it's not slanted on the right angle, it

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2 can result in sewage backups into a home and can
3 present significant health problems.

4 CHAIRPERSON DILAN: Okay, so to
5 your knowledge, how often do non-licensed persons
6 engage in this type of work?

7 MR. KRAMER: Well, what we tend to
8 find is, you know, in smaller jobs, where
9 essentially someone is trying to, if I understand
10 your question, to, you know, save money. I mean,
11 they may respond to, you know, they may have had
12 an unlicensed in the house, for example, to do ...
13 or in their small apartment building, to perform
14 minor repairs and he can see that the guy can
15 actually do a pretty good job. He says, well, you
16 know, I have a little more major work involved,
17 I'd like to put in a new bathroom, you know, in
18 apartment #3A, I'd like to, you know, move the
19 sprinkler heads because I want to put in some
20 equipment in the boiler room. So at that point is
21 when they, you know, the unlicensed plumber may
22 say, that's the kind of work which I need a
23 license for, I can't do it for you. Or he'll say,
24 sure, I'll be glad to take the job, and give him a
25 price. And essentially it's the job of our

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2 inspectors to go out and see what kind of, you
3 know, see, either in response to a complaint or
4 when they might be in the building for other
5 purposes, to ... they see a worker there who's
6 performing what looks like it should be licensed
7 plumbing work or licensed fire suppression work,
8 or even more often, to come out, it may happen
9 when you go out on a CFO inspection to see that
10 work has been done but no license has been filed,
11 no permit has been applied for.

12 CHAIRPERSON DILAN: Okay, so, and
13 maybe you're not the right person to answer this,
14 and maybe you have the information, maybe you
15 don't. If you do, if you could get it to the
16 Committee, but how often in the past two years has
17 the Department violated individuals who performed
18 this type of unlicensed work? Basically, how many
19 violations has the Department issued where it's
20 applicable here?

21 MR. KRAMER: We'll get that for
22 you, I don't have it with me.

23 CHAIRPERSON DILAN: Okay, yeah, we
24 would want to know the answer to that question.
25 And you elaborated in your testimony as to why you

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2 thought the increase was necessary. Is there
3 anything more you'd like to add to that?

4 MR. KRAMER: Well, I think that,
5 you know, it's essentially there are two issues
6 here, which are, one is fairness. There's no
7 reason why we should be giving out a lower penalty
8 here, imposing a lower penalty here for unlicensed
9 work than we do for a licensed plumber who's doing
10 work without a permit, in my judgment. That's
11 really an issue of fairness. But the second issue
12 is the one that I also alluded to in the
13 testimony, which is one of deterrence. That
14 essentially a higher fine here we think, you know,
15 if there's essentially a de minimis fine
16 associated with the violation, it doesn't work,
17 serve the main purpose of the violation, which is
18 to deter, to punish and to deter, that's the two,
19 they go hand-in-hand.

20 CHAIRPERSON DILAN: Yes, so I don't
21 anticipate this being a major source of revenue
22 for the city, and I wouldn't expect you to have
23 this question as well, but if someone could get
24 back to us as to what they project the revenue
25 would be for this bill if it was to pass. If

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2 somebody could get that to the Committee as well.

3 MR. KRAMER: We'll look and see
4 what that is. The revenues from this don't
5 actually go directly to the environmental control
6 board or the Department of Finance. It's more
7 circuitous, because it goes through the criminal
8 court system. But we can see what kind of data
9 that's available here.

10 CHAIRPERSON DILAN: Okay, so you're
11 saying the revenue for this doesn't stay within
12 the city?

13 MR. KRAMER: It first goes through
14 the court system.

15 CHAIRPERSON DILAN: And then back
16 to the city?

17 MR. KRAMER: It does come back to--
18 -

19 CHAIRPERSON DILAN: (Interposing)
20 To the general fund.

21 MR. KRAMER: To the general fund,
22 but not, it's not as easy to track as it would be
23 if it were ECB or a civil penalty that's payable
24 directly to the Department. But essentially it
25 comes down to the ... I mean, when a contractor is

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2 required to go to criminal court, we think that it
3 sends a bigger and stronger signal than it does
4 when it merely is returned to ECB. I mean, ECB
5 might work, but there are certain things that we
6 regard as sufficiently serious and we really, even
7 though it's much more expensive to go to criminal
8 court, it requires ... it's a little more
9 administrative work, both by the corporation
10 counsel's office and our staff, but we think that
11 these violations are serious enough and that's
12 where we'd like to see them returned in the first
13 instance.

14 COUNCIL MEMBER CROWLEY: Okay, I'm
15 going to open up for questions. I have Council
16 Member Williams, followed by Crowley. And we were
17 joined by Joel Rivera of the Bronx. Council
18 Member Williams? Oh, we are joined, I didn't see.

19 COUNCIL MEMBER WILLIAMS: Thank you
20 so much for that testimony. I had two quick
21 questions. The first one, I noticed that you want
22 to equalize the penalties, but I guess it would
23 make sense that the person who is unlicensed
24 should probably have an additional penalty. Is
25 there something else that goes along with doing

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2 hazardous work and on top of it not being
3 licensed? That was one. And then two, just
4 briefly, I just personally wanted to know when are
5 you required to have a licensed plumber, as
6 opposed to an unlicensed plumber?

7 MR. KRAMER: Well, as to the first
8 question, I essentially, I mean, we think that
9 \$5,000 is, it certainly seems like an appropriate
10 minimum fine. I mean, I can see why you might
11 feel that, I mean, in certain instances, you know,
12 when ... why \$5,000 seems very steep for a licensed
13 plumber who failed to get a permit. We try, you
14 know, it is high, but the Council debated that and
15 put in that minimum penalty a while ago. And it's
16 similar for, you know, work without a permit, you
17 know, there is a lower penalty for work without a
18 permit on one, two and three family homes, and
19 when it gets to larger buildings, it is, you know,
20 \$,5000 was imposed and it's, it is stiff, there's
21 no question about it. But I'm not sure we should
22 go higher than that here. At a certain point when
23 you get into criminal court, if the fine is so
24 high, the minimum fine is so high, then the
25 respondent really doesn't have any incentive to

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2 plea bargain and he'll fight it, and that's even a
3 more costly procedure and very time consuming for
4 the city's lawyers. On the second question, I'm
5 probably not the best person to answer that. The
6 code, we do have however, on our website
7 descriptions of what kind of work requires a
8 license and what does not. Essentially it's minor
9 repairs to plumbing fixtures. The installation of
10 new fixtures, if it's a replacement in kind, I ...
11 you know, if you replace a toilet, it doesn't
12 require a license or a permit. But if it's moving
13 a toilet, it definitely requires both. But I
14 would really recommend you check our website, and
15 if you want to go into it in more detail we can
16 talk, I can get someone on the phone who is truly
17 an expert on that issue.

18 CHAIRPERSON DILAN: Thank you,
19 Council Member Williams. Council Member Crowley?

20 COUNCIL MEMBER CROWLEY: Thank you,
21 Chair Dilan. Good afternoon. I have a question.
22 I imagine violations come up a lot with new
23 constructions and installations. How about do you
24 find that there are unlicensed plumbers with
25 deconstruction, and how much do you see that as a

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problem?

MR. KRAMER: Deconstruction?

COUNCIL MEMBER CROWLEY: I would imagine if you were taking down a building.

MR. KRAMER: Demolition, yeah. In demolition, you would not ordinarily ... other than the ... the first thing to require on demolition is that you file a certification with the Department that all utilities have been cut off, which would include water and sewer. And at that point the plumbing work, what was formerly plumbing work inside the building may be removed and demolished by the demolition contractor, and does not require a plumber to do the removal of all that interior, whether it be the fixtures or whether it be the piping. Because the utility has, the water service and sewer service, gas service and electric services have all been cut off.

COUNCIL MEMBER CROWLEY: But in terms of fire suppression, when you're taking down demolition?

MR. KRAMER: Well, if it's a very large building, for example, which is covered by the new rules, the rules that went into effect

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2 over the last six months, as you go in, step by
3 step, the standpipe must be maintained and it has
4 to be capped, I think, within one floor of the
5 working floor, that absolutely requires a licensed
6 plumber or a licensed fire suppression contractor.

7 COUNCIL MEMBER CROWLEY: And just-

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9 MR. KRAMER: (Interposing) And
10 requires a permit as well.

11 COUNCIL MEMBER CROWLEY: In terms
12 of new construction, do you find that there are a
13 lot of unlicensed plumbers installing fire
14 suppression sprinklers?

15 MR. KRAMER: That has not been a
16 widespread, nearly as widespread a problem as in
17 terms of renovation, on renovations, on new
18 buildings, or something, because the permit is
19 required, I mean, as part of the application for
20 the new building permit. So it's right from the
21 get go you need a permit, and both our inspectors
22 who go out in the field on a regular basis, and
23 industry would be bringing those, if there were
24 unlicensed work taking place, bringing those to
25 our attention. We sometimes find a licensed,

1 occasionally find a licensed plumber will
2 basically subcontract out the work to people who
3 are, who are not licensed, and we issue violations
4 and have hearings and penalize those plumbers.
5 But the basic question that you posed on new
6 buildings, it's not, we don't believe the problem
7 is nearly as widespread as on the renovations.
8

9 COUNCIL MEMBER CROWLEY: Thank you.

10 CHAIRPERSON DILAN: Okay, thank you
11 Council Member Crowley. I just have one or two
12 follow up questions, there are no other questions
13 from my colleagues. But are there any
14 ramifications, whether in this bill or in current
15 law, for a homeowner or building owner, if they
16 were to hire an unlicensed plumber?

17 MR. KRAMER: Yes, we also issue
18 violations to the building owner or homeowner for
19 work without a permit, which then, in order to
20 renew the permit, in order to get the permit, that
21 is, the penalty which is provided for in the
22 administrative code must be paid before you can
23 get the permit.

24 CHAIRPERSON DILAN: Just to make it
25 simpler for me, it's rare that an unlicensed

1 plumber would go to Buildings and get a permit.

2 MR. KRAMER: Yes.

3 CHAIRPERSON DILAN: For the work,
4 okay, fine.

5 MR. KRAMER: Right.

6 CHAIRPERSON DILAN: And that would
7 still apply- -

8 MR. KRAMER: (Interposing) And
9 that's an additional, it's an additional ... it's a
10 separate, it's a separate violation, but
11 absolutely would apply, and we would, it's
12 certainly, we would certainly issue to the owner a
13 work-without-a-permit violation, which would, that
14 would then kick in the minimum fines for work
15 without a permit provisions, which the Council
16 increased a number of years ago, I think two years
17 ago.

18 CHAIRPERSON DILAN: Okay. Mr.
19 Kramer, I'd like to thank you for your time and
20 testimony, seeing no other questions. I'd like to
21 thank the Department of Buildings for its support
22 on the bill, and my guess is as you review, if
23 there's any language that you feel needs to be
24 changed, please reach out to Committee Council,
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and we can work on those details.

MR. KRAMER: Thank you very much.

CHAIRPERSON DILAN: Thank you.

We've also been joined by Council Member Letitia James of Brooklyn, who is a member of the Committee. We have only one panel signed up to speak on this bill. Mr. Kenneth Klein, Mr. Robert Greenberg, and Mr. Michael Aruzzo. And you can begin in the order that you were called. If you have copies of your testimony, you can give it to the sergeant at arms. Mr. Klein?

MR. KLEIN: Good afternoon, my name is Kenneth Klein, I'm a registered professional engineer. I have over 50 years experience as a professional engineer. I'm also a member of the city's plumbing and fire suppression license board. As an engineer and a member of the license board, I support Intro 68, which would establish a minimum fine of \$5,000 for first-time offenders, for individuals who perform plumbing or fire suppression work without a license. The work that licensed plumbers are required to perform under the administrative section of the building code can be very dangerous if installed improperly.

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2 Only a licensed plumber is permitted to install or
3 maintain potentially explosive medical gas and
4 fuel gas piping. If gas piping is installed by an
5 unqualified or unlicensed individual, homes,
6 churches and hospitals can be decimated due to gas
7 leaks. The goal of licensing, therefore, is to
8 minimize the potential of shoddy and incorrect
9 work. In the case of a gas connection to an oven,
10 for example, the installation by an unlicensed
11 individual versus a licensed plumber can mean the
12 difference between life and death. As I
13 previously stated, I'm a member of the city's
14 licensing board. At the licensing board we
15 receive reports from the enforcement units, IAD
16 and BSIU, that take criminal action against both
17 licensed and illegal individuals posing as
18 plumbers in the city. These reports show that the
19 penalties for licensed plumbers are on average
20 much greater than for unlicensed plumbers. I
21 think it's ridiculous that unlicensed plumbers
22 face fewer monetary fines than licensed plumbers.
23 The value of the New York City plumbing license is
24 devalued when the cost of doing business is easier
25 for an unlicensed individual than for a licensed

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2 plumber. I'm in full support of Intro Bill 68,
3 any bill that establishes a significant minimum
4 penalty for unlicensed plumbing or fire
5 suppression work will deter unlicensed plumbing or
6 fire suppression contractors, as well as
7 strengthen the value of the New York City plumbing
8 license, and most importantly, insure the safety
9 of all New Yorkers. Thank you.

10 CHAIRPERSON DILAN: Thank you.

11 Okay, next we have Mr. Greenberg.

12 MR. GREENBERG: Good afternoon,
13 thank you. My name is Robert Greenberg, for the
14 past two years I've served as chairman of the
15 Plumbing Foundation of the City of New York, which
16 is a clearinghouse and education forum for the
17 plumbing industry. Plumbing Foundation is a
18 nonprofit association of licensed contracting
19 firms, engineering associations, manufacturers and
20 suppliers, whose mission is to insure the public
21 health through the enactment and enforcement of
22 safe plumbing codes. I'm here today to testify in
23 support of Intro 68. The Foundation believes it
24 is vitally important that fuel, gas, sanitary,
25 water distribution, medical gas and fire

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2 suppression systems be installed only by qualified
3 and licensed plumbing and fire suppression
4 contractors. Sections 28-401.1 and 28-410.1 of
5 the building code make it unlawful for people
6 other than licensed firms to perform this work.
7 We know that many people are flagrantly violating
8 these safety laws. When violators are
9 investigated and prosecuted by the Department of
10 Buildings, the penalties imposed are small,
11 usually only \$500. Penalties in such small
12 amounts are not sufficient to deter these
13 unlicensed and untrained persons from commencing
14 and/or continuing their illegal work. Accordingly
15 this bill amends the administrative code penalty
16 provisions to provide sufficiently high minimum
17 fines to adequately deter people from violating
18 these important licensing laws. It is important
19 to know that this bill only establishes a strong
20 minimum penalty for the unlicensed contractor, but
21 that any ramifications that property homeowners
22 who hire unlicensed contractors. However, owners
23 should be aware that unlicensed contractors
24 jeopardize safety, and the work they perform can
25 void homeowners' insurance policies. The

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2 Foundation urges the City Council to vote in favor
3 of Intro 68. Thank you very much.

4 CHAIRPERSON DILAN: Okay, Mr.
5 Aruzzo, and if I pronounced that incorrectly,
6 please correct me.

7 MR. APUZZO: Fine, that's Apuzzo.

8 CHAIRPERSON DILAN: Apuzzo.

9 MR. APUZZO: Yes.

10 CHAIRPERSON DILAN: Okay.

11 MR. APUZZO: Good afternoon, my
12 name is Michael Apuzzo, and I represent Plumber's
13 Local #1 of New York City. We have about 6,000
14 members who live and work in New York City every
15 day, and we work along with all licensed plumbers
16 every day in our daily lives. We are in favor of
17 Intro 68, and we want to continue with the higher
18 fines, we believe that this would be the best
19 thing for New York City and our members, and
20 everybody that lives and works in New York City.
21 Thank you.

22 CHAIRPERSON DILAN: That's pretty
23 brief, I like that.

24 MR. APUZZO: Thank you.

25 CHAIRPERSON DILAN: I guess at this

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2 time now the question will be to whoever feels is
3 best fit to answer it, but I guess through your
4 professional experience, how often do you find
5 that work is being performed in the city by
6 plumbers who are unlicensed?

7 MR. GREENBERG: I couldn't give you
8 the exact numbers, we do feel from some of the
9 research we've done that it is a high amount, a
10 high percentage of unlicensed, unsafe work
11 occurring in the city.

12 CHAIRPERSON DILAN: So we'll have
13 to wait for Buildings, but you do think it's a
14 large problem, in terms of the actual number of
15 people performing without permits?

16 MR. GREENBERG: Yes.

17 CHAIRPERSON DILAN: Any of my
18 colleagues have any questions?

19 MR. KLEIN: I did want to add, as
20 sitting on the licensing board, we get roughly
21 twelve violations a month, that they seem to
22 catch, and that's probably the tip of the iceberg,
23 really. There is quite a bit of unlicensed work
24 going on, and as we said, once a month, when we do
25 meet, there's an average of about twelve

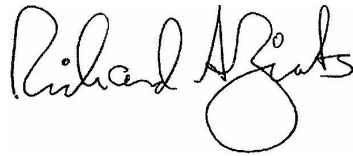
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violations that we see.

CHAIRPERSON DILAN: Okay. Do any of my colleagues have any questions? If not, we'd like to thank you gentlemen for coming in and providing testimony on today's agenda item. There is no further testimony that will be given verbally. I do have some written testimony that will be entered into the record, that's from the New York Fire Sprinkler Contractor's Association. They have submitted testimony in favor, as well as the Mechanical Contractors Association of New York, also submitting testimony in favor. And with that, Intro 68 is laid aside, and that will conclude this hearing.

C E R T I F I C A T E

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



Signature _____

Date May 9, 2010