

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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May 21, 2009  
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HELD AT: Council Chambers  
City Hall

B E F O R E:  
JAMES F. GENNARO  
Chairperson

COUNCIL MEMBERS:  
Council Member Elizabeth Crowley  
Council Member Bill de Blasio  
Council Member Mathieu Eugene  
Council Member G. Oliver Koppell  
Council Member Eric Ulrich  
Council Member Peter F. Vallone,  
Jr.  
Council Member Thomas White, Jr.

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

James F. Gennaro  
Chairperson  
Committee on Environmental Protection

Alan J. Gerson  
Bill Sponsor  
Committee on Environmental Protection

Caswell Holloway  
Chief of Staff for Operations  
Deputy Mayor Edward Skyler  
Special Advisor to Mayor Bloomberg

Richard Tobin  
Chief  
Fire Department of New York

Robert Avaltroni  
Deputy Commissioner  
Department of Environmental Protection

Geraldine Sweeney  
Mayor's Office of Operations

James Colgate  
Department of Buildings

Brian Geller  
Office of Deputy Mayor Ed Skyler

Written statements:

Building Trade Employers Association

Uniform Fire Officers

CHAIRPERSON GENNARO: It's a little warm in here so this will be like a jackets optional hearing by decree of the Chairman.

[Off mic discussions about proceedings, preparing to start]

SERGEANT AT ARMS: Quiet please, please be seated.

CHAIRPERSON GENNARO: Okay. We're going to get started. Good afternoon, I'm Councilman Jim Gennaro, Chair of the City Council Committee on Environmental Protection. Today as everyone knows we're holding a hearing on four proposed bills to speak to asbestos remediation procedures in the wake of the tragic fire at the Deutsche Bank. On August 18<sup>th</sup>, 2007, a fire caused by a cigarette discarded in the south vestibule on the 17<sup>th</sup> floor destroyed 9 stories of that bank building and resulted in the death of two firefighters.

Asbestos abatement procedures were taking place at the time and no smoking should have been taking place. Proposed Intro number 1001 by Council Member James would prohibit smoking at abatement sites. According to the DA's

1  
2 statement about that fire on the day of the fire,  
3 the firefighters responded, accessed--had--

4 [Off mic]

5 CHAIRPERSON GENNARO: --had access  
6 issues and ascertained that while the building had  
7 two independent stairwells, both stairwells  
8 leading from the 15<sup>th</sup> floor to the 16<sup>th</sup> floor had  
9 been sealed because of ongoing asbestos abatement.

10 The firefighters spent the next 20  
11 minutes breaching the barriers leading to the 16<sup>th</sup>  
12 floor. On the 15<sup>th</sup> floor where several  
13 firefighters were engaged in fighting the blaze,  
14 thick choking smoke reduced visibility to near  
15 zero and disoriented many firefighters, driving  
16 them down to the 14<sup>th</sup> floor. However the 14<sup>th</sup> floor  
17 soon also filled with thick black smoke and the  
18 firefighters attempting to escape it by descending  
19 below the 14<sup>th</sup> floor found their escape was blocked  
20 by wooden planking of the asbestos containment  
21 barriers in both stairwells.

22 Proposed Intro number 1005 by  
23 Council Member Stewart would amend the  
24 Administrative Code in relation to egress at  
25 abatement projects, would clarify access

1  
2 procedures and facilitate access by promulgation  
3 of clear, decisive rules pertaining to access.

4           Due to the density of development  
5 in New York City, high rise buildings cannot be  
6 demolished by explosive charges but must be  
7 dismantled using torches to cut structural steel.  
8 Obviously the use of acetylene torches presents a  
9 significant fire hazard. When asbestos abatement  
10 is undertaken at the same time as the demolition  
11 the potential for fire injuries increase because  
12 abatement requires construction of isolation  
13 barriers to separate, contain and seal the areas  
14 undergoing abatement from other areas within a  
15 building that are no going through that process.

16           These asbestos remediation  
17 containment barriers delayed firefighters' attack  
18 on the fire above the 15<sup>th</sup> floor and prevented the  
19 retreat below to the 14<sup>th</sup> floor. Firefighters  
20 entering the building had no idea that horizontal  
21 containment barriers existed or how they had been  
22 constructed. And the smoking conditions that  
23 developed, the firefighters had difficulty  
24 breaking through the sealed plastic sheeting and  
25 plywood covering the stairwells.

## Proposed Intro 998 by Council

Members Gerson and Martinez would end this fire risk and tragic loss of life resulting from coupled asbestos remediation and demolition. The proposed Local Law would prohibit simultaneous performance of demolition work and asbestos abatement activities within the same building on prohibited both remedial and deconstruction activities from taking place at the same time.

The current abatement process implemented by the DEP pursuant to the new... pursuant to the new, to the new something.

[Off mic laughter]

CHAIRPERSON GENNARO: Pursuant to the--

COMMITTEE COUNSEL: Sorry, code.

CHAIRPERSON GENNARO: --new code do not require the Fire Department, do not require notice to the Fire Department of asbestos remediation activity and are in need of procedural improvements. As a result of the recommendations to the construction, demolition and abatement working group, it became apparent that an abatement permit should be required, that better

1  
2 regulations were needed to provide standards for  
3 the materials used for the temporary constructions  
4 structures used in abatement activities and that  
5 the penalties should be revised and that the  
6 permits should not be issued until abatement  
7 certification has been demonstrated.

8 Proposed Intro number 1003 by  
9 Council Members Martinez and Gerson is intended to  
10 implement these procedural changes.

11 And I'm honored that these bills  
12 are in my Committee. I was happy and proud and  
13 honored to stand with the Deputy Mayor and Speaker  
14 Quinn to hear all the good work that came out of  
15 the task force. It's critically important that we  
16 do this, that we get these into law as soon as  
17 possible so that we can prevent future tragic loss  
18 of life. And with that said, I'm, you know,  
19 grateful to welcome the first panel.

20 First we'll--

21 COMMITTEE COUNSEL: Council Member  
22 Gerson would like to make a statement.

23 CHAIRPERSON GENNARO: Okay. Oh  
24 Council Member Gerson is here, I did not see him.  
25 Council Member Gerson, the author of one of the

1  
2 bills is here. I'm going to recognize Council  
3 Member Gerson in a moment. We're also joined by  
4 Council Member Crowley and Council Member Vallone,  
5 both of Queens, both members of the Committee. We  
6 welcome them here. But before we call the first  
7 panel, I recognize Council Member Gerson for a  
8 statement and want to congratulate him on his  
9 leadership. Certainly this was a tragedy that was  
10 in the First Council District which Alan  
11 represents, grateful for his leadership in  
12 bringing these bills forward and happy to call  
13 upon him for a statement, Council Member Gerson.

14 COUNCIL MEMBER GERSON: Well thank  
15 you very much Mr. Chair. I'll be very brief but I  
16 must start by thanking you for your leadership,  
17 not only in conducting this hearing but in any  
18 number of the countless ways in which you make our  
19 City safer and healthier for all New Yorkers. So  
20 thank you very, very much and certainly my  
21 District will appreciate your extraordinary  
22 leadership.

23 This is double duty it seems, it's  
24 twice in one day that I get to be at a hearing  
25 with Mr. Holloway. So I guess we're doing



1 something very right, especially when we're  
2 agreeing. So I just want to say the entire  
3 package of bills before the Committee, of course,  
4 reflects significant steps forward in making our  
5 City a safer, specifically making construction  
6 sites safer, making the neighborhoods and  
7 communities where construction takes place safer  
8 and more livable. I know, Mr. Chair, you and the  
9 Committee will give these bills your fullest  
10 consideration and with your leadership we'll get  
11 them, we'll enact them.

13 I just want to briefly address the  
14 decoupling into the so-called decoupling bill  
15 which requires that where we have a decontaminated  
16 building that needs to be demolished, the  
17 decontamination proceeds prior to the  
18 deconstruction. This is one of the lessons of the  
19 Deutsche Bank fire and you know tragedies are made  
20 worse when we don't learn from them.

21 And fortunately with these bills  
22 and with this bill in particular we are learning  
23 from that tragedy and taking prudent action to  
24 make sure that such an incident with the tragic  
25 loss of life never happens again. I just wanted,

1  
2 Mr. Chair, I know there's been some talk that are  
3 we needlessly delaying construction or adding  
4 expense, the answer is no. And no, the New York,  
5 with this, these bills, will remain one of the  
6 fastest places in the world in which to  
7 deconstruct and construct buildings. Now we'll  
8 also be further along to making our City one of  
9 the safest places.

10 And I'll just say the bill is  
11 specifically drafted so there is a procedure for  
12 exceptions where we can safely proceed with some  
13 form of decontamination at the same time as some  
14 form of decoupling upon the proper reviews of the  
15 competent agencies, with high standards, which did  
16 not take place, you know, with the Deutsche Bank  
17 Building. We will allow that to happen.

18 So this is a bill that is designed  
19 for safety but also safety which allows the  
20 construction industry to proceed with its  
21 important work in our City. So with that Mr.  
22 Chair I thank you and I want to thank Mr. Holloway  
23 and the Administration, especially my friends from  
24 the Department of Environmental Protection and  
25 Buildings for their work with us, and of course,

1  
2 the Fire Department.

3 Thank you very much Mr. Chair.

4 CHAIRPERSON GENNARO: Thank you  
5 Council Member Gerson. And while I was going  
6 through my statement I did indicate the sponsors  
7 of the bills before us. I think it's worthwhile  
8 and it's certainly appropriate to note that all  
9 the bills before us today were, you know,  
10 sponsored by the Council Members that I mentioned,  
11 but they're all done in conjunction with the  
12 Mayor's Office. And we thank the Mayor's Office  
13 for their great partnership in bringing us to this  
14 good day of this hearing.

15 And the panel, which is already  
16 seated, Chief Richard Tobin of the Fire  
17 Department. Okay. Cas Holloway from the Mayor's  
18 Office. Mr. Holloway, Robert Avaltroni, my  
19 colleague in government and my close personal  
20 friend, always good to see you Bob, Geraldine  
21 Sweeney of the Office of Operation. And I also  
22 have a slip for James Colgate from DOB, okay.  
23 Fine. So we'll consider you part of the panel.  
24 Okay. Great. And what we'll do is we'll have the  
25 Counsel to the Committee swear in the panel. And

then you can proceed with your good testimony.

COMMITTEE COUNSEL: Can you please raise your right hands? Do you swear or affirm to tell the truth, the whole truth and nothing but the truth today?

[Several voices saying I do]

CHAIRPERSON GENNARO: Thank you. And we don't have a prepared statement yet but--oh we do, okay fine.

MR. CASWELL HOLLOWAY: Do we now--

CHAIRPERSON GENNARO: [Interposing] I was asking for it and I say it, and it appears. I like that. I'm a powerful man. It's a good feeling. And so whoever choose to, so Mr. Holloway you'll be making the testimony on behalf of the--okay, if you could just state your name for the record and proceed with your testimony.

MR. HOLLOWAY: Thank you. Good afternoon and thank you for the opportunity to testify today. My name is Cas Holloway, and I am Chief of Staff to Deputy Mayor for Operations Edward Skyler, and a Special Advisor to Mayor Bloomberg. I want to thank you Chairman Gennaro for convening this hearing and to the other

1  
2 Council Members who are here. I would also like  
3 to thank Speaker Quinn and her staff for working  
4 with us in the Administration to develop and  
5 advance the legislation that the Committee is  
6 considering today. And I would also like to thank  
7 all of the sponsors of the bills under  
8 consideration.

9 I also want to recognize the  
10 presence the people sitting here with me. First  
11 Chief Richard Tobin from FDNY, Deputy Commissioner  
12 Robert Avaltroni from DEP, Geraldine Sweeney who  
13 works in the Mayor's Office of Operations. She's  
14 a Senior Project Manager of that office run by  
15 Jeff Kay, and James Colgate who is from the  
16 Department of Buildings. They are with me here  
17 today because each of these agencies in addition  
18 to the Law Department played a key role in  
19 developing the underlying information on which the  
20 recommendations that led to this legislation is  
21 based.

22 And I should also recognize in Ed  
23 Skyler's Office, Brian Geller who was really on  
24 the driving forces to getting all the--converting  
25 all of these recommendations into law.

1  
2           So with that, the four bills under  
3 consideration today are part of a larger package  
4 of bills that together, will enable the City to  
5 implement an important series of reforms to the  
6 way that construction, demolition, and abatement  
7 job, what we have been referring to internally as  
8 CDA operations, are regulated by the City and  
9 conducted in the field.

10           As everyone here knows, on August  
11 18, 2007, a fire at the former Deutsche Bank  
12 building at 130 Liberty Street tragically took the  
13 lives of two of New York City's bravest,  
14 Firefighters Joseph Graffagnino Jr., and Robert  
15 Beddia. The fire could have been avoided, and at  
16 that time, the Mayor committed that the City would  
17 do everything in its power to prevent a similar  
18 tragedy from happening again.

19           He ordered a comprehensive review of  
20 Construction, Demolition and Abatement Operations  
21 that was led by Deputy Mayor for Operations Edward  
22 Skyler, and the agencies sitting here with me  
23 today. And collectively the people sitting in  
24 this room and the people who work with them have

1  
2 spent hundreds if not thousands of hours on this  
3 subject.

4 We ended up doing a report, this is  
5 the report, it's available at NYC.GOV and we can  
6 certainly make copies available that had 33  
7 recommendations in it. We presented it to Mayor  
8 Bloomberg in July of 2008. He accepted them all  
9 and directed that we implement them. And I am  
10 overseeing the implementation of those  
11 recommendations.

12 The legislation that this Committee  
13 is considering today while it cannot undo the  
14 terrible consequences of August 18<sup>th</sup> is an  
15 important step toward fulfilling the City's  
16 commitment to preventing a tragedy like the 130  
17 Liberty Street fire in the future.

18 Before discussing the specific bills  
19 before you today, I want to say a few words about  
20 steps the City has already taken, particularly to  
21 strengthen its internal processes with respect to  
22 the oversight of CDA operations. The 33  
23 recommendations to Mayor Bloomberg last summer  
24 focus on 4 areas: Data Sharing, Inspection  
25 Practices of our agencies that oversee this work;

1  
2 General Oversight of the work; and Conduct of  
3 Operations in the Field. And we've already  
4 implemented important changes in each of these  
5 areas.

6 First DEP and the Department of  
7 Buildings are regularly sharing information with  
8 Fire Department about high-risk abatement jobs,  
9 and the issuance of construction and demolition  
10 permits.

11 We have also completely overhauled  
12 DEP's inspection protocols at abatement sites and  
13 established a baseline of common safety  
14 requirements that any inspector, whether from DEP,  
15 FDNY, or DOB, is required to enforce. We've  
16 already conducted cross-training by all three  
17 agencies so that our inspectors are qualified to  
18 enforce these requirements such as maintaining  
19 clear exits and checking standpipe connections.

20 DEP, FDNY and DOB inspectors are  
21 also all using checklists in the field to ensure  
22 consistency across inspections, and inter-agency  
23 collaboration on these issues, including on  
24 simultaneous abatement and demolition projects.  
25 One example of that in a kind of pilot run of one



1  
2 of the Intros that I'm going to talk about in a  
3 few minutes is the demolition of Yankee Stadium  
4 where it turns out they won't be conducting, as of  
5 right now in terms of the work plan, simultaneous  
6 demolition and abatement work but it was possible  
7 that they could and the agencies have been  
8 involved from the beginning. So we're finding  
9 that that is working right now.

10 DOB has also promulgated a rule that  
11 requires site safety managers on construction and  
12 demolition sites to conduct weekly tracings of  
13 standpipes. And FDNY is already at work building  
14 an entirely new data system with \$23 million in  
15 capital funding that the Mayor so that it can link  
16 all of its 11 databases and truly develop a risk-  
17 based inspection system among other things.

18 So one point of going through these,  
19 at the outset, is to say we haven't waited to  
20 develop all this legislation before implementing  
21 some of the recommendations but as I'll show you  
22 in a minute it is critical that this legislation  
23 move forward. In fact the bills under  
24 consideration today are going to help us to  
25 establish the procedures and grant the City the

1  
2 authority it needs to effect more fundamental  
3 changes, particularly in the way asbestos  
4 abatement operations are overseen and conducted.

5           That leads me to one of the most  
6 important pieces of legislation before you today,  
7 and that came out of the 33 recommendations to the  
8 Mayor. That's Intro 1003 which among other things  
9 establishes a permitting requirement for asbestos  
10 abatement jobs that pose the greatest risk to the  
11 safety of workers, first responders, and the  
12 general public.

13           As many people in this room know,  
14 asbestos abatement is a complex and heavily  
15 regulated activity. A safely conducted abatement  
16 generally requires extensive pre-cleaning, the  
17 establishment of containment areas, the  
18 installation in large asbestos jobs of machines to  
19 maintain negative air pressure, that's pressure  
20 which prevents asbestos containing material from  
21 escaping the containment area through the air.

22           Additionally, DEP rules require the  
23 presence of an independent Air Monitoring  
24 Technician and many other limitations and  
25 restrictions on the way that work is conducted.

1  
2 The whole goal of all of these restrictions is to  
3 prevent exposure to asbestos containing material.

4 But in protecting people from that  
5 material there is a risk that unless carefully  
6 designed and implemented, the structures and  
7 materials needed to establish containment and run  
8 a safe job could obstruct building exits or  
9 otherwise interfere with fire suppression systems.

10 In fact the working group which, as a part of the  
11 work that it did, went out to the field and  
12 visited abatement sites, found that contractors  
13 even though State rules require that egress be  
14 unobstructed and maintained, that they weren't  
15 quite aware how to do that. So we saw that we had  
16 a problem.

17 As the abatement work at 130 Liberty  
18 Street shows, moreover, it shows that these jobs  
19 can be very large and complex, covering multiple  
20 floors. And the CDA working group undertook a  
21 comprehensive review of the aspects of abatement  
22 that could impact fire and life safety. In fact  
23 we went over prior to putting forth the  
24 recommendations for this legislation 50 individual  
25 criteria that I think DEP, I know Chief Tobin, Bob

1  
2 Avaltroni, Geraldine and James probably spent, you  
3 know, many dozens of hours, simply going through  
4 what could possibly raise an issue.

5           And so the bill before you today  
6 requires a permit that would be based on a review  
7 that I'll explain in a minute in situations where  
8 the abatement activity could pose a threat to fire  
9 and life safety. For example the effect the  
10 project could have on the maintenance of getting  
11 in and out, the effect on the fire protection  
12 systems in the building; and whether the work  
13 performed is only being performed in connection of  
14 an abatement, otherwise require a Building's  
15 Department permit.

16           The City will take steps to ensure  
17 that this new requirement can be implemented  
18 quickly and efficiently. And DEP and the Mayor's  
19 Office of Operations have actually already been  
20 working for months to establish a brand new office  
21 out of DEP's headquarters in LeFrak City that will  
22 review and permit the significant abatement jobs.

23           Based at DEP's Asbestos Control  
24 Program it will actually be a jointly staffed  
25 office with DEP and DOB. The build out of the

1  
2 space is almost done. We actually are developing  
3 an entirely electronic system for the filing of  
4 asbestos abatement projects and so we brought  
5 actually a lot of technology to bear, to improve  
6 the process anyway. And I think we've so far  
7 gotten good reaction from the environmental  
8 contracting community who we have been consulting  
9 on this.

10 So one of the important things as we  
11 develop this system is, you know, you don't want  
12 to slow down the process of getting sites abated  
13 because that's the whole goal of the program.  
14 That's we are co-locating DEP and DOB in one  
15 place. That's why we are giving, under the bill,  
16 the ability of that office to issue a permit which  
17 covers any activity that might be in connection  
18 with the abatement that might have otherwise  
19 required a Buildings Department permit. And  
20 that's so you don't have to play bureaucratic  
21 ping-pong and go from one agency to the other.  
22 And our whole goal here is to be safe but also  
23 create something workable.

24 So specifically an A-TRU permit will  
25 authorize not only asbestos activities but other

1  
2 work performed for the purpose of the abatement  
3 project that would currently require a DOB permit,  
4 that could include an alteration work to expose  
5 asbestos material for removal, etcetera.

6 To ensure, and this is actually  
7 based on feedback we got from the construction  
8 industry who we've consulted with throughout this  
9 project, that we do up and running smoothly and we  
10 don't, you know, subject the entire run of  
11 projects to this requirement immediately, the bill  
12 also has a 90-day phase-in period. First the  
13 largest jobs, 1,000 linear feet or square feet of  
14 asbestos containing material to be removed will be  
15 permit requirement and then 90 days later,  
16 everything else. And by everything else, I mean  
17 everything that triggers the thresholds. If you  
18 don't trigger the thresholds you don't have to get  
19 a permit. It's important also to note that FDNY  
20 is going to receive notifications of any job that  
21 requires an A-TRU permit, in addition to some  
22 other jobs that trigger thresholds. And any of  
23 those jobs are actually going to be required to be  
24 inspected by the local fire company. Those  
25 procedures have all already been set up and during

1  
2 questions and answers, you can--Chief Tobin can  
3 speak at length about that and some other  
4 developments.

5 I think it's important to note, one  
6 important thing, following those inspections,  
7 local companies are required to indicate whether  
8 any change or additions to the Fire Department's  
9 Critical Information Dispatch System is required.  
10 That's a SIDS card. That's critical because those  
11 cards are the information that responding  
12 companies look to to get information about where  
13 they're going and what's happening at a building  
14 that they might have to respond to. So we think  
15 that that really addresses a critical information  
16 gap. And this legislation by giving us the  
17 permitting authority is really connected with that  
18 in an important way.

19 The bill also includes two other key  
20 provisions. First, it authorizes the FDNY to  
21 delegate to the Department of Environmental  
22 Protection the authority to enforce the fire code  
23 at abatement sites. That authority doesn't exist  
24 right now so even though DEP inspectors have been  
25 trained and are actually conducting enhanced

1  
2 inspections that include fire related issues, they  
3 have to call the Fire Department to actually issue  
4 violations and summonses, notices of violation.

5 With this bill, that changes.

6 That means that, you know, one of  
7 the key things that we wanted to achieve here was  
8 it shouldn't matter whether you are from the  
9 Department of Environmental Protection, the  
10 Department of Buildings or the Fire Department.

11 If you see a critical life or fire safety issue at  
12 a site, you ought to be able to know how to  
13 recognize it, force it to be addressed and issue a  
14 violation for the fact that it happened in the  
15 first place. So if nothing else, you know, that  
16 this bill achieves that, which is a major change.

17 Finally it also requires that  
18 materials used in temporary enclosures for  
19 abatement, the fire resistance in compliance with  
20 certain standards, so the bill really is a  
21 comprehensive over-fall. You should know if you  
22 have time to go through the report in detail it  
23 kind of covers the history of these operations.  
24 The Department of Environmental Protection has  
25 been regulating these jobs for a long time.



1  
2           The vast majority of those jobs  
3 happen without a hitch. But it's the case that,  
4 you know, some of these complicated jobs, you  
5 didn't have to get a permit. So getting this  
6 permit it and requiring this review ensures not  
7 only that we know what's going on on the ground  
8 but that for big jobs, just like any construction  
9 or demolition that's complicated, you know how  
10 it's going to be done and you sign off on it.

11           The second Intro that I want to talk  
12 about, Intro. 998 that follows 1003, also issues a  
13 key recommendation from the report in that the  
14 Council and Council Member Gerson talked about.  
15 And that's placing restrictions on the  
16 simultaneous demolition and abatement for full  
17 demolitions and also for jobs that involve the  
18 removal of one or more full stories. This bill  
19 actually prohibits the conduct of simultaneous  
20 abatement and demolition unless you get a variance  
21 from DEP. That variance has to be approved by  
22 FDNY and the Department of Buildings.

23           The reason for that is because these  
24 are the three agencies that need to not only be  
25 aware of what's happening but have the expertise

1  
2 to pass on how this work gets done. Now the  
3 Department of Environmental Protection is going to  
4 promulgate rules to implement this. And we have  
5 committed to work with the industry to ensure that  
6 that's done in a way that makes the process  
7 efficient and, you know, so that we can learn the  
8 kinds of jobs that we're going to see. And, you  
9 know, once we get good at it, the process should  
10 move very quickly. So that's something that we  
11 have been working with them actively on and I  
12 think we're going to be able to address that  
13 concern. We've agreed to work with them to do so.

14 So the City believes ultimately that  
15 simultaneous abatement and demolition should  
16 remain a rare occurrence but for those instances  
17 where it is deemed necessary and can be done  
18 safely the variance procedure will allow that to  
19 happen.

20 Moving onto another important safety  
21 issue and Chairman you talked about this in your  
22 opening statement which was smoking. Smoking was  
23 clearly an issue at 130 Liberty Street. Smoking  
24 is unfortunately still an issue at many jobs  
25 across the City. Chief Tobin will be able to tell

1  
2 you what are really amazing anecdotes, still, that  
3 we are seeing out in the field.

4           But this Intro carries out the  
5 strengthening of the Citywide smoking ban at  
6 construction, demolition and abatement sites.  
7 That seems like common sense but it was recently  
8 put into the Building Code and it's been in the  
9 Fire Code, not it's explicitly going to be  
10 codified in law in the Abatement Code and we're  
11 going to be enforcing it with a zero-tolerance  
12 approach. Both FDNY and DOB have already stepped  
13 up their enforcement of no smoking and DEP is  
14 doing the same thing.

15           So it also prohibits in addition to  
16 actually smoking, lighters, matches and tobacco at  
17 the abatement sites. Just so you know, that  
18 actually happens on a lot of sites already because  
19 if you don't have the materials, you can't engage  
20 in the activity which is good.

21           The first three bills that I have  
22 discussed thus far establish new requirements for  
23 the abatement and construction and demolition  
24 industries although with the permitting process I  
25 just described, you know, the amount of work that

1  
2 the City has been doing internally to make that  
3 work is pretty tremendous.

4 But now I want to turn to the--a  
5 couple of Intros that actually require new efforts  
6 by City agencies. As Deputy Mayor Skyler, my  
7 boss, noted in announcing this package of bills,  
8 DEP, DOB and FDNY took a very hard look at their  
9 own practices. And it should come as no surprise  
10 that the resulting legislation calls on these  
11 agencies to improve the way that they work  
12 together and operate.

13 The first Intro to--that addresses  
14 that is 1005. That requires the Department of  
15 Environmental Protection to promulgate guidance to  
16 the industry on how to maintain egress and other  
17 safety issues at sites. What I am holding in my  
18 hand here is, I don't know, probably the seventh  
19 iteration of a draft that's been in the works for  
20 a couple of months. This is a text based version  
21 but ultimately you're going to have a substantial  
22 guidance document with illustrations, pictures and  
23 we're going to be doing a massive outreach  
24 campaign.

1  
2 We thought it was important and I  
3 know the Council thought it was important to  
4 include this as a bill and enshrine it in law  
5 because it's a requirement that is critically  
6 important to ensuring that we do what we can to  
7 prevent, you know, tragedies like 130 Liberty  
8 Street from happening again.

9 So this actually builds on the  
10 considerable progress in sharing information, oh  
11 I'm sorry I just skipped. So that egress guidance  
12 is something that we're putting together and we'll  
13 issue shortly.

14 Finally, an Intro that's not before  
15 the Committee but that I want to talk about  
16 briefly is--that will be coming up is Intro 1007.  
17 And that actually requires DEP, FDNY, and DOB to  
18 work together to establish a procedure to share  
19 information regarding violations issued as a  
20 result of inspections conducted by--

21 CHAIRPERSON GENNARO: [Interposing]  
22 Pardon me, I just want to jump in for a second.  
23 Sarge if you could just close the door, we're  
24 getting a lot of noise coming in from the hall.

25 SERGEANT AT ARMS: It is closed.

2 CHAIRPERSON GENNARO: Oh the door is  
3 closed? Well, you know... whatever we can do to  
4 keep it quiet, that'd be good.

5 MR. HOLLOWAY: So this information--

6 CHAIRPERSON GENNARO: [Interposing]  
7 Excuse me, please continue.

8 MR. HOLLOWAY: --sharing, this  
9 information sharing Intro, you know, directs City  
10 agencies to communicate with each other about this  
11 crucially important data. And I can tell you that  
12 when the Mayor announced the acceptance of these  
13 recommendations in July, this is one of the  
14 recommendations that he focused on based on his  
15 belief, number one, that inspectors out in the  
16 field ought to be able to know what is happening  
17 at a site based on other inspections that are  
18 happening by other agencies; know the problems  
19 that have already been identified and whether  
20 they've been addressed.

21 And so we've started down that path  
22 because information about certain abatement sites  
23 and construction and demolition sites are already  
24 being shared and it's already triggering  
25 inspections by FDNY and so forth. The next step

1  
2 in that is to have an even finer grain of detail  
3 about what are the violations that are being  
4 issues and other critical information about sites.  
5 The Fire Department is also building the system  
6 that I mentioned with the \$23, 24 million in  
7 capital money.

8 And at the end of this multi-year  
9 process, you know, the idea will be to have, to  
10 the maximum extent possible basically, a hand-held  
11 way to know exactly what's happened on a property  
12 and tie into all the data that exists in the City  
13 to tell you what's going on so that inspectors  
14 know what they're dealing with.

15 So one year after the effective date  
16 of the bill, just in terms of reporting back and  
17 accountability, the City is required to provide  
18 the Council a copy of what these procedures are  
19 and we'll look forward to doing that.

20 Finally a subject which is critical  
21 also to this effort and is not, unfortunately, if  
22 the City Council could do it I think it would  
23 already be done, if you could do it on your own it  
24 would already be done. But one of the issues that  
25 arose at the 130 Liberty Street even was the

1  
2 question of so-called non-jurisdictional  
3 buildings. Buildings that are not subject to the  
4 Fire Code, the Building Code or subject to a  
5 certain extent or they have the discretion to  
6 exempt themselves from it and so forth.

7           We believe that the exemptions ought  
8 to end, that at least with respect to certain  
9 critical information that it be required to  
10 disclose. And so we're actually--there is already  
11 some voluntary compliance and some partnerships  
12 for example that the FDNY has. But the voluntary  
13 nature of this compliance with this code, there's  
14 a risk that there are CDA sites or other hazardous  
15 activity at properties that the City does not know  
16 about. And we don't have the ability to require,  
17 building owners to correct.

18           So the Mayor called for state and  
19 federal legislation to require fire and building  
20 code compliance by these buildings. And we  
21 actually have, a bill has been introduced, right  
22 Brian, at the state level that would achieve that.  
23 At the federal level, in addition to, you know,  
24 we're not wed to only one way to get something  
25 done, we're also pursuing MOUs in the intervening



1  
2 time because we all know that the legislative  
3 process can take a long time.

4 We actually have already entered  
5 into an MOU with the Port Authority dealing with  
6 cranes and that actually has generated a  
7 tremendous amount of enforcement by the Department  
8 of Buildings. And we're going to continue to  
9 pursue those at the same time that we pursue the  
10 comprehensive legislative approach.

11 So with that, I appreciate the  
12 opportunity to testify and we will take any  
13 questions that you have.

14 CHAIRPERSON GENNARO: Well thank you  
15 Mr. Holloway. I thank you. I thank the panel. I  
16 thank the good people that you recognized for all  
17 the hard work that they've done, the hundreds and  
18 thousands of hours to respond to this terrible  
19 tragedy and make sure it doesn't happen again.

20 Let me mention that we're joined by  
21 Council Member deBlasio and Council Member Ulrich,  
22 happy to have them with us here today. I've got  
23 some questions that have been prepared by staff, I  
24 made my own, some of my own notes in your  
25 statement that I'll ask questions on first.

2 Entering the room now is Council  
3 Member Koppell from the Bronx. We're happy to  
4 have him with us as well.

5 You mentioned collaboration with the  
6 industry. Certainly that was, you know, the  
7 prudent way to do this. I have known and have  
8 worked with the environmental contractors, you  
9 know, Frank Gorido [phonetic] and those good  
10 folks. And I believe they issued a statement for  
11 the record? Has the counsel to the Committee--

12 COMMITTEE COUNSEL: [Interposing]  
13 Yes they did. They submitted a statement.

14 CHAIRPERSON GENNARO: --a statement  
15 into the record? Could you talk about that, talk  
16 about that collaboration and is it fair to say  
17 that they're on board? I haven't seen their  
18 statement yet but I know in the, you know, days  
19 leading up to this hearing we, you know, on a  
20 staff level just kind of reached out to them and  
21 they--

22 MR. HOLLOWAY: [Interposing] You've  
23 heard some good things--

24 CHAIRPERSON GENNARO: --they seem--  
25 they seem like they're on board. Is that good--

1  
2 talk about the collaboration and the benefit that  
3 was derived, you know, from that collaboration and  
4 just kind of where we are with that.

5 MR. HOLLOWAY: Sure. First when the  
6 report was initially announced I think that the  
7 Environmental Contractors Association just in  
8 terms of support, I haven't seen what their most  
9 recent statement might be, but they do, it's  
10 either a monthly or a weekly newsletter. And  
11 their entire newsletter was devoted to this  
12 initiative because we brought them all in before  
13 we announced and we talked through what we were  
14 planning to do. And we've consulted with them  
15 along the way.

16 Not just because that's a nice thing  
17 to do but because they do the work. And it's  
18 important to have them at the table so that we  
19 know that what we're doing is feasible and can  
20 work.

21 I want to turn it over to Deputy  
22 Commissioner Avaltroni for a minute though because  
23 DEP has really led the way in the meetings with  
24 the environmental contractors and maybe Bob you  
25 can just say a little more about the nature of the

1  
2 feedback, the give and take in those meetings and  
3 where we are.

4 MR. ROBERT AVALTRONI: Yes, thank  
5 you Cas. Mr. Chairman, Council Members. Excuse  
6 me, I've lost my voice. Yes--

7 CHAIRPERSON GENNARO: [Interposing]  
8 I've got a lozenge here. I've got a lozenge.

9 MR. AVALTRONI: As--

10 CHAIRPERSON GENNARO: [Interposing]  
11 Can you catch?

12 MR. AVALTRONI: --Mr. Holloway said,  
13 we've made it a significant effort to ensure that  
14 while we are promoting safety and that's first and  
15 foremost, as we've alluded to in our testimony and  
16 you did as well, it's very important that when  
17 you're asking someone to do something, there's a  
18 full understanding, the appreciation of what needs  
19 to get done and how it has an impact on the work  
20 that's taking place.

21 We've had, not unlike what we did  
22 with the Noise Code, we sat with folks in  
23 different walks of live, the Environmental  
24 Contractors Association who's been a great  
25 partner. They were able to highlight some of the

1  
2 impediments that they felt would be caused by the  
3 methods that we were employing.

4           We listened, we learned, and quite  
5 frankly, at the end of the day we came up with a  
6 collaborative effort there where they understood  
7 completely how safety is the most important  
8 element in what they do as well. And at the end  
9 of the day we would not be restrictive to them.  
10 And as Mr. Holloway said in his testimony, in many  
11 ways we've made it easier for them to come in and  
12 see a representative, for instance, at DEP, at DOB  
13 and know that we are communicating with our  
14 colleagues and our sister agencies like the Fire  
15 Department, which ensures safety for them and  
16 their workers.

17           And so they have embraced this and I  
18 think that's what you'll see in their statement.  
19 And we'll continue to work with them in the future  
20 because, as I said in previous testimonies with  
21 regard to the Noise Code, we don't have all the  
22 answers. But a collaborative approach has allowed  
23 us to look at things from an industry perspective  
24 as well as a safety perspective. And by that

2 collaborative effort we've come up with a full  
3 package.

4 CHAIRPERSON GENNARO: Great. Great  
5 'cause I know Bob you've had, you know, a long and  
6 good relationship with these, you know, with these  
7 good folks as have I. And like you said and Mr.  
8 Holloway said, I think their input is, you know,  
9 viable and it was taken into account and that's a  
10 great thing.

11 And with regard to the non-  
12 jurisdictional buildings, you made reference to  
13 legislation that has been advanced at the State  
14 level. Is that--is this like a serious  
15 legislative initiative where you have an Assembly  
16 bill and a Senate bill and, you know, it's moving  
17 and something's happening or what's the sense of  
18 that?

19 MR. HOLLOWAY: The bill has been  
20 introduced in both houses, is that right Brian?  
21 And the sponsors I think on the Senate side, it's  
22 Senator Squadron and also who else Brian, do you  
23 know?

24 [Off mic]

1  
2 MR. HOLLOWAY: And on the Assembly  
3 side, Assembly Member Gottfried [phonetic]. And  
4 in terms of taking it seriously, actually Chief  
5 Tobin and Mr. Colgate and Brian went up and did a  
6 full day in Albany on this. But we've also spent  
7 a tremendous amount of time internally identifying  
8 what's the building stock, which buildings  
9 actually would fall into these categories. What  
10 are the kinds of things we see in the field  
11 because you want to be able to explain in concrete  
12 terms what it means. We're not just looking to be  
13 able to tell people what to do. And so for us  
14 this is a very important part of the Mayor's state  
15 legislative agenda.

16 CHAIRPERSON GENNARO: Thank you.  
17 We're joined by Council Member Eugene from  
18 Brooklyn, happy to have you here. And if there's  
19 anything that, you know, Council can do... oh I did,  
20 when you were walking in. When you were walking  
21 in. When you were walking in. Yeah I did that.  
22 But Council Member Koppell from the Bronx but I  
23 did recognize when you were still--you hadn't  
24 quite taken you seat yet.

2 If there's anything that, you know,  
3 Council can do to press the case or whatever, you  
4 know, we--

5 MR. HOLLOWAY: [Interposing] We will  
6 absolutely--

7 CHAIRPERSON GENNARO: --sign on a  
8 letter from all the members of the Council, I, a  
9 new resolution of the Council or, you know,  
10 whatever we can do to be supportive in your effort  
11 to do that we'd be happy to.

12 MR. HOLLOWAY: And we will take you  
13 up on that immediately.

14 CHAIRPERSON GENNARO: Sure. I mean  
15 I'm happy to--

16 COMMITTEE COUNSEL: [Interposing]  
17 [Laughing]

18 CHAIRPERSON GENNARO: Happy to do  
19 that. We're, we--yeah we--we've got a couple of  
20 boat rockers here at the Council that like to do  
21 things like that to get other people to do things.  
22 And with regard to the federal effort, I guess we  
23 have a fair amount of federal buildings in this  
24 town and you indicated that you--well I guess  
25 there's state agencies and then there's federal



2 agencies and then like the Port Authority's like a  
3 bi-state or whatever, is that like a separate  
4 category from like a state agency--

5 MR. HOLLOWAY: [Interposing] The  
6 Port Authority is a--

7 CHAIRPERSON GENNARO: --separate  
8 entity?

9 MR. HOLLOWAY: The Port Authority  
10 is--well their authority's within the state. The  
11 state legislation would actually cover any state  
12 buildings. The Port Authority is a bi-state  
13 agency, so you actually would need legislation to  
14 be passed by both state legislatures--

15 CHAIRPERSON GENNARO: [Interposing]  
16 Right.

17 MR. HOLLOWAY: --and so forth--

18 CHAIRPERSON GENNARO: [Interposing]  
19 Or we can just get them to agree to do it--

20 MR. HOLLOWAY: [Interposing] Right--

21 CHAIRPERSON GENNARO: --which is--  
22 you know.

23 MR. HOLLOWAY: --well that's what  
24 we're pursuing right now. You know, the MOU  
25 approach that then down the road, our efforts

2 legislatively are focused right now on we have the  
3 state bill there, similarly at the fed--we're  
4 pursuing, you know, an MOU approach initially with  
5 the Port Authority.

6 Similarly at the federal level, the  
7 General Services Administration is responsible for  
8 federal buildings across the country including New  
9 York City. We've been in touch with them. I've  
10 been in touch personally. We have a draft of a--a  
11 draft that's been going back and forth about, that  
12 is an MOU because that would also be--legislating  
13 that at the federal level will take time. I think  
14 what we want to do is see what we can get done--

15 CHAIRPERSON GENNARO: [Interposing]  
16 Right.

17 MR. HOLLOWAY: --so that there's  
18 something in place and then--

19 CHAIRPERSON GENNARO: [Interposing]  
20 Right.

21 MR. HOLLOWAY: --go from there.

22 CHAIRPERSON GENNARO: Well. We've  
23 got Adolpho Carrion, right some urban--right, he's  
24 the head of the Urban Office or whatever it is or  
25 Urban Policy or something, he's right here from

1  
2 New York City and, you know, 202-456-1414, you  
3 know, and just ask for Adolpho. Whatever. I  
4 think that's the White House phone number. I  
5 mean, you know, he should be able to do this for  
6 us. I would hope. And he is a former member of  
7 this Committee and you can remind him of that, you  
8 know.

9 MR. HOLLOWAY: We will be doing  
10 that.

11 CHAIRPERSON GENNARO: And so  
12 anything that, you know, we could do on that score  
13 as well. He's a former member of this body and  
14 presumably he, you know, reports right to the  
15 President and that's not nothing, you know, so  
16 hopefully we could, we could shake that loose as  
17 well. You know, that'd be great. And--

18 MR. HOLLOWAY: [Interposing] We'll  
19 follow up with you on that too.

20 CHAIRPERSON GENNARO: Yeah. I mean...  
21 and... former member of this Committee who made good  
22 as we say, you know? So. Good for him. Let me  
23 just, just take a look at some of the questions  
24 that I'm going to ask. I'm just going to consult  
25 with counsel briefly.

2 [Off mic]

3 CHAIRPERSON GENNARO: Okay we have a  
4 question here regarding notification to the  
5 contractors, these new rules, these new  
6 procedures. They have to be appropriately  
7 communicated to the contractors. I want to just  
8 ask a general question on how that would work.  
9 Would it be done directly to the contractors I  
10 guess or, you know, through their association or  
11 how would that communication work?

12 MR. HOLLOWAY: Well we're actually,  
13 we have developed in part and are still putting  
14 together a comprehensive outreach plan. The  
15 Buildings Department actually is a great model for  
16 this because in connection with their new  
17 construction codes and the things that the  
18 Department does routinely that has to get out in  
19 the field to be implemented. We know how critical  
20 it is. You can't do it if you don't know about  
21 it.

22 So the, having said that, we also,  
23 in terms of the building trades, we've already--  
24 Lou Collette was actually--stood at the  
25 announcement--

2 CHAIRPERSON GENNARO: [Interposing]

3 Yes.

4 MR. HOLLOWAY: --with the Deputy  
5 Mayor and the Speaker. Gary LeBarbara [phonetic]  
6 wasn't able to be there but was fully supportive  
7 of the effort from the real estate ownership side,  
8 Steve Spinolo [phonetic] from Revenue was there.  
9 So now that's not everybody. But that's an  
10 indication of, you know, what we've tried to do is  
11 bring people in, explain to them what we're doing  
12 and get them to not only help us develop it but  
13 also that they know that this is coming.

14 So we will be communicating directly  
15 both through the associations but also you're  
16 going to be able to get all this information at  
17 NYC.GOV and we will also, you know, we can  
18 actually let you know the exact outreach steps  
19 that we're going to take to ensure that nobody's  
20 taken by surprise.

21 CHAIRPERSON GENNARO: Sure. Thank  
22 you. Thank you. And you made reference Mr.  
23 Holloway to some of what the Fire Department has  
24 had to deal with, with regard to smoking. You  
25 indicated that there were some anecdotes that

1  
2 maybe, you know, Chief Tobin could share with us.  
3 Sometimes people say well you're doing this thing  
4 on smoking and is it a really big deal and  
5 something happened and, you know, you've got  
6 tobacco.

7           And, you know, some people may kind  
8 of, you know, roll their eyes or whatever but I'm  
9 sure you have stories that you could, you know,  
10 put on the record of how, you know, critical it is  
11 that, you know, we indeed, you know, do not only  
12 the, you know, zero tolerance in terms of people  
13 actually smoking but not even let the materials  
14 that would be used to engage in the act of smoking  
15 on the site. If you could put some story that  
16 kind of, to put an anecdote on the record that  
17 reinforces, you know, the critical need for this  
18 type of law.

19           CHIEF TOBIN: Well I don't think  
20 that anything underscores that critical need more  
21 than what happened to us in Brooklyn two weeks  
22 ago. Our newly formed CDA unit went out to  
23 inspect a building site. I believe it was Medgar  
24 Evers College. And they found the construction  
25 foreman inside the site smoking while they were

1  
2 doing the inspection. Not that they found one of  
3 the carpenters or somebody--

4 CHAIRPERSON GENNARO: [Interposing]  
5 Right.

6 CHIEF TOBIN: --hiding in a corner.  
7 They literally found the foreman himself with a  
8 cigarette in his mouth right in front of the  
9 inspector and they cited him and they served him  
10 with a summons. I know for a fact now that  
11 throughout the industry this guy's going to have a  
12 hard time being a construction foreman in any site  
13 'cause we've reached out extensively to the BTEA,  
14 Lou Colette has partnered with us in this. We've  
15 reached out to Bovus. We've reached out to  
16 Turner. We've given presentations. I've been all  
17 over the City giving presentations. I was greatly  
18 assisted by Lieutenant Young and putting together  
19 PowerPoint on the dangers of smoking on  
20 construction sites.

21 When we trained our people we  
22 brought people in from the industry. We had the  
23 Buildings Department at our training. We had the  
24 BTEA at our training. We had the people from  
25 OSHA, Federal OSHA were in on our training. We

1  
2 did a really extensive outreach, drilling home the  
3 danger of smoking on construction sites.

4 Chief Casano [phonetic] has been  
5 adamant that this Department will absolutely take  
6 a zero tolerance approach to that. We've been  
7 writing summonses. DOB's been writing summonses.  
8 But to me it was mind boggling when we caught,  
9 actually caught a construction manager smoking on  
10 the site. And we brought that to the attention of  
11 the BTEA. And Lou was adamant in saying to me,  
12 any time you catch somebody smoking on a site you  
13 let us know. And if it's a union member, they'll  
14 blackball him. So the word is out there. And  
15 it's been really aggressively enforced.

16 CHAIRPERSON GENNARO: Thank you.  
17 Thank you for that, and the whole notion that a  
18 supervisor could do that, someone who obviously  
19 knows better. And--but sometimes people are in  
20 the business and they just, you know, think that  
21 nothing like that could happen to them because  
22 they're a professional.

23 When I was a young man we, you know,  
24 took the family car, this is kind of like along  
25 the same lines of a town of Bellmore [phonetic]



1  
2 where I grew up. And, you know, we had an auto  
3 repair shop. And everybody took their cars to  
4 him. And after he retired, a couple of years  
5 after he retired, and of course the first thing  
6 everyone knows if you're working on a car, the  
7 last thing you ever do is get underneath a car  
8 with just like a simple like bumper jack or  
9 whatever.

10 And he was in the business 50 years,  
11 he figured he was immune from this kind of thing.  
12 He was killed underneath his car, like in his  
13 driveway, under a bumper jack that like, even  
14 someone who's been around cars for like two days  
15 would know not to do. But you think that, after  
16 50 years in the business like what could possibly  
17 happen to me and like I know how to do this. And,  
18 you know, he thought wrong. And anyone who, you  
19 know, smokes on a site is thinking wrong. And  
20 when people think wrong, bad things happen. So.

21 And staff just wrote a question here  
22 with regard to the Yankee Stadium situation. Can  
23 you describe how the CDA recommendations changed  
24 the Yankee Stadium process? And if you could use  
25 that as an example or other current projects that

1  
2 were changed by virtue of the new policy to not do  
3 things simultaneously, the construction and the  
4 abatement?

5 MR. HOLLOWAY: Sure. The Yankee  
6 Stadium, obviously, is a prominent demolition  
7 project. There is asbestos at the site. And we  
8 identified it before it had actually been--the  
9 selection committee was formed to select the  
10 contract who would do it. That was actually run  
11 by EDC and through an RFP.

12 So we, so in this case we actually  
13 convened a pre-meeting and had Fire, Buildings and  
14 DEP assign a point person from each agency to  
15 consult with the team that was making the  
16 selection because the proposals that would come in  
17 to take the stadium down need to be evaluated in  
18 terms of the means and methods that you're going  
19 to use and the sequencing of the work. And it,  
20 inevitably some of those proposals actually  
21 proposed doing some of the work simultaneously.

22 So in this case those meetings  
23 actually continued and let's see, Chief Tobin were  
24 you? Did you participate in this? Did you want  
25 to describe a little bit the way that process

1  
2 worked? And the reason we call it kind of a  
3 pilot, a test run of the way we would do it is, it  
4 actually, all three agencies were involved. Not  
5 every project is going to be that prominent or  
6 that complicated potentially. But without the  
7 process, interestingly, it's not clear, I mean I  
8 think it definitely would have taken longer to do  
9 because you would have to get Fire, Buildings and  
10 DEP all to weigh in at some part, point in the  
11 process to do something that massive.

12 Here we brought them together  
13 beforehand. But Chief.

14 CHIEF TOBIN: From the Fire  
15 Department's perspective, talking about Deutsche  
16 Bank, any place where there's an abatement that's  
17 going on, when we go to work, when we go to work  
18 at a fire, it's like going into combat. And the  
19 key to survival is awareness. Ultimately what  
20 cost us two firefighters' lives at Deutsche Bank  
21 was lack of awareness. They didn't know how to  
22 get out of there. They didn't know the exits were  
23 blocked.

24 From Yankee Stadium from day one,  
25 once they started speaking about this, the Fire

1  
2 Department was involved. We went to the initial  
3 meetings. We participated in a review of each of  
4 the contractors' general experience levels and  
5 everything else. We got every one of them, we  
6 reviewed it. We went to the stadium. We did a  
7 walk-through. We made sure that we had apparatus  
8 access. We made sure that we would be able to get  
9 people out that were injured. We made sure that  
10 we would be able to feed the standpipes. We made  
11 sure that they would be maintained.

12 This thing here was totally  
13 different since Deutsche Bank. Whenever something  
14 like this happens now, from day one, the Fire  
15 Department's right in there and we're aware. And  
16 that's the key for us is awareness. And with Bob,  
17 working with Bob, working with all of these people  
18 on this group, I've never had such a cooperative  
19 venture where everybody looks, because ultimately  
20 the goal is we go home safely, the workers go home  
21 safely and the City continues to grow. Nobody's  
22 looking to stifle anything but we want awareness  
23 and I think with this new process we're getting  
24 excellent awareness.

2 MR. HOLLOWAY: I would add one  
3 thing. What this bill will enable us to do once  
4 it goes active is that it triggers the permitting  
5 requirement once the time period for enactment  
6 passes, I'm not sure when--if it's active 60 days  
7 after and then 90 days for the whole thing.

8 But going forward, Yankee Stadium  
9 would have definitely triggered a permit  
10 requirement because either based on the amount or  
11 based on the fact that you would have had  
12 potential blocking of egress and so forth. So the  
13 agencies would come together. So it would  
14 actually be a little bit different although now  
15 EDC knows for big projects they'll probably seek  
16 us out even before contractors know they need to  
17 deal with us.

18 But I think what it showed was this  
19 can work. And it's good to do it.

20 CHAIRPERSON GENNARO: Great. Thank  
21 you. Thank you. Okay just a few more questions.  
22 This is regarding Intro 1003, is DEP going to have  
23 to hire new personnel to review permit  
24 applications for asbestos jobs or hire new  
25 inspectors to inspect these jobs?

1  
2 MR. HOLLOWAY: I can give the short  
3 answer and then Bob if you want to elaborate.  
4 Actually the--all of the inspectors who are  
5 currently at DEP have now received a totally new  
6 level of training. So we didn't need to replace  
7 those inspectors.

8 In fact the new standards in terms  
9 of identifying fire related and buildings related  
10 issues, that's something we could do on our own.  
11 We did it. The Fire Department developed a  
12 training module for DEP. So did the Department of  
13 Buildings. That's been done. And they're  
14 actually out there with a brand new checklist  
15 doing all of these things.

16 There will be some additional  
17 staffing need. First of all, either a DOB  
18 employee or a DOB designated employee or an  
19 employee who is actually, you know, validated by  
20 the Department of Buildings as capable of doing  
21 the kinds of structural review that will be  
22 necessary with certain abatement jobs that trigger  
23 the permitting requirement is going to be out in  
24 that office. And staffing level will be a  
25 function, as it should be, of demand. So, you

1  
2 know, there are fees that are going to be  
3 associated with the permits so it really just is,  
4 you know, the standard that you need to charge  
5 enough to be able to pay for the oversight.

6 So we'll see. It could be,  
7 depending on what the volume ultimately ends up  
8 being to supplement current staffing levels but I  
9 think we're going into this with a let's see what  
10 the volume is--

11 CHAIRPERSON GENNARO: [Interposing]  
12 Um-hum.

13 MR. HOLLOWAY: --approach. But in  
14 terms of, there has been a substantial training  
15 and cross-training that's been done. But we were  
16 able to do that with existing personnel. Bob.

17 MR. AVALTRONI: I really don't have  
18 too much to add to that but as Cas has said, and  
19 as Chief Tobin has said and our colleagues at  
20 Department of Buildings, the training has been  
21 essential. And we are utilizing the staff that we  
22 have there, the senior staff. So they've gone  
23 through the processes as Cas has indicated, we  
24 will then be hiring some additional folks that  
25 will move into their slots.

1  
2 But again what we're looking for  
3 here is this law will allow us to issue  
4 violations. Right now if we see something, we  
5 still communicate very efficiently, very  
6 effectively with our colleagues at the Fire  
7 Department, Department of Buildings. So we're not  
8 waiting for the law. We have our people trained.  
9 They're well versed in what they're looking for.  
10 This will allow us to hammer.

11 CHAIRPERSON GENNARO: Can I... and we,  
12 it's been mentioned that there are some  
13 circumstances under which it may be safe to  
14 perform simultaneous abatement and demolition. Of  
15 course we have to get a variance to do that. And  
16 under what kind of circumstances would that be  
17 deemed safe. And of course they would still have  
18 to get the variance but in what kind of  
19 circumstances are we talking about where that  
20 might be able to happen?

21 MR. HOLLOWAY: Well certainly a  
22 party would have to come forward and say either I  
23 need to or I want to do this work simultaneously  
24 in connection with this building. You know, we  
25 actually haven't--because there's going to be rule



1  
2 making and some consultation in terms of actually  
3 implementing this, we haven't established the  
4 degree to which those--

5 CHAIRPERSON GENNARO: [Interposing]  
6 Right. I understand--

7 MR. HOLLOWAY: --criteria--

8 CHAIRPERSON GENNARO: [Interposing]  
9 And I'm saying, just kind of conceptually.

10 MR. HOLLOWAY: Conceptually, you  
11 know, if you have a project that is happening that  
12 could literally take twice as long if you're not  
13 able to, you know, if you're doing a large  
14 building or if you're doing, in terms of  
15 sequencing of work that would potentially  
16 necessitate it. Chief Tobin, do you want to  
17 describe other potential circumstances?

18 CHIEF TOBIN: I mean our experience  
19 is it would be large-scale jobs and where we could  
20 develop buffer zones. For instance, when we were  
21 initially talking about Yankee Stadium they were  
22 going to do it in pie sections. And if you were  
23 doing decom, you wouldn't be doing the  
24 deconstruction at the same time. It would be  
25 sectored off in pie sections. And on a vertical

1  
2 building, naturally you would have buffer zones  
3 between the floors where it was going on. So  
4 there are definitely areas--

5 CHAIRPERSON GENNARO: [Interposing]  
6 Right.

7 CHIEF TOBIN: --where it can be  
8 done. Again the whole key to it is, when we're  
9 aware of it and we know where it's going on, and  
10 unlike before, you're going to have either a  
11 registered architect or a professional engineer is  
12 going to draw plans. The means of egress are  
13 going to be ensured. We're going to be ensured  
14 that the standpipe systems are in order. We're  
15 going to be ensured the alarm systems are in  
16 order.

17 If there's anything that's altered,  
18 we're going to ensure that there are fire guards  
19 in place. The while thing is we're going to go in  
20 there knowing what we're going in to. They're  
21 going to know what they're in. And I think we're  
22 going to have a safe world. I don't think we're  
23 ever, based on what we've done now, I think we've  
24 got enough stuff in place where we won't have a  
25 reoccurrence of what happened.

1  
2 MR. HOLLOWAY: Now safety in this  
3 context also though really means can you develop  
4 whether it's a buffer zone or maintaining egress  
5 in certain ways. Can you develop the things that  
6 you--the procedures or the way of conducting the  
7 work that means that it is safe. And that is  
8 basically keeping systems intact, being able to  
9 get in and out and a whole host of things.

10 So, you know, hypothetically, you  
11 could have a whole number of situations where you  
12 might be able to do that and in individual cases  
13 parties are going to have to say, you know, I want  
14 to. Yankee Stadium I think for example it's fair  
15 to say that if you had to do it serially, it would  
16 take a tremendously more time than it would need  
17 to take to still maintain safety and get it down.  
18 So.

19 CHAIRPERSON GENNARO: Fine. Thank  
20 you. And that really concluded the questions that  
21 I had to ask. Is there anyone else that wishes to  
22 be heard? No. Okay. Let me just thank the  
23 panel, thank the Mayor's Office, thank everyone  
24 that was so deeply involved with this good effort  
25 and once again I'm honored to have some of these

1  
2 bills in my Committee and very, very grateful to  
3 everyone who did this great work.

4           And if the work wasn't great there'd  
5 be lots of lots of people here today testifying to  
6 the fact that they weren't consulted. We didn't  
7 even get the kind of cooperation. We have issues.  
8 We don't have--and I think the fact that we don't  
9 have a big list of witnesses is testament to, you  
10 know, the good work that you all have done.

11           But it's not done yet. We've got to  
12 get it done. I just want to state on the record  
13 that we've received written comments from whom?  
14 Do you have the statements? From the Building--  
15 from the BTEA, The Building Trades Employers  
16 Association and the Uniform Fire Officers. Any  
17 other written statements? Okay. I just wanted to  
18 indicate on the record that we did receive  
19 statements from these entities.

20           And, okay, this is a little note  
21 about something going on in my District regarding  
22 N1-H1, so it's okay. I'll deal with that right  
23 after the hearing. And I think it's appropriate  
24 that we would adjourn this hearing in memory of  
25 the, you know, two firefighters who lost their

1  
2 lives, Joseph Graffagnino and Robert Beddia. You  
3 know, may they rest in peace. May their lives not  
4 be in vain. May we use the terrible occasion of  
5 their deaths to make it safe for others in the  
6 future. That should be our prayer and our work.  
7 So with that said, thanks everyone who  
8 participated and this hearing's adjourned. This  
9 hearing is adjourned.

10 [Gavel banging]

11 MR. HOLLOWAY: Thank you.

12 [People leaving the hearing room]

13

14

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     May 29, 2009