

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON LOWER MANHATTAN REDEVELOPMENT

And CIVIL SERVICE AND LABOR

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November 10, 2010
Start: 9:58am
Recess: 11:35am

HELD AT: Council Chambers
City Hall

B E F O R E:

MARGARET CHIN
Co-Chairperson

JAMES SANDERS, JR.
Co-Chairperson

COUNCIL MEMBERS:

James F. Gennaro
Brad Lander
Stephen Levin
Rosie Mendez
Michael C. Nelson
Domenic M. Recchia, Jr.
Larry B. Seabrook
Eric Ulrich
Jimmy Van Bramer

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

Edward Boles
Lieutenant
Uniformed Fire Officers Association

Richard Alles
Deputy Chief
Uniformed Fire Officers Association

Julie Mennon
Chairperson
Community Board 1

Catherine McVey-Hughes
Vice Chair
Community Board 1

Kimberly Flynn
Co-Coordinator
9-11 Environmental Action

Celine Midri, on behalf of
Jerrold Nadler
New York Congressman

Annette Bernhardt, PhD
Policy Co-Director
National Employment Law Project

Amy Traub
Director of Research
Dromm Major Institute

Deborah Axe
Deputy Director
Make the Road New York

Edocio Alvarado
Worker

Eloise Olivo
Worker

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

Sergio Guzman
Worker

Manuel Santiago
Worker

Camille Rivera
Deputy Political Director
Service Employees International Union Local 32BJ

Phil Andrews
Organizer
Retail Wholesale and Department Store Union

Pat Burcell
Assistant to the President
United Food and Commercial Workers Union, Local 1500

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2 CO-CHAIRPERSON CHIN: The hearing
3 will now begin. Good morning. I'm Council Member
4 Margaret Chin, Chair of the Committee of Lower
5 Manhattan Redevelopment and I welcome everyone to
6 the joint hearing of the Committee on Civil
7 Service and Labor and Lower Manhattan
8 Redevelopment. Today's hearing is on a resolution
9 of which I and the Speaker are prime sponsors, on
10 the James Zadroga 9-11 Health Compensation Act.

11 I want to thank all of those who
12 are here to testify and my colleague from the
13 Civil Service Committee, Council Member Nelson who
14 has joined us this morning and the chair of the
15 committee will be here soon. I would also like to
16 thank the Civil Service and Labor Committee and
17 his Chair, Council Member Sanders, for agreeing to
18 hold this joint committee hearing.

19 The Zadroga Act is a long fight to
20 get the care for the heroes and heroines who
21 sacrificed their health and safety to serve all of
22 us in the days and weeks after 9-11. The fight is
23 almost over. However the most important and most
24 difficult part of the fight is at hand. The House
25 of Representatives did the right thing and passed

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2 the Zadroga Bill thanks, of course, to the great
3 leadership of the prime sponsor, Congress member
4 Maloney and Nadler and the entire bipartisan New
5 York delegation. To his credit, the President has
6 promised to sign the legislation when it gets to
7 his desk. The final and most difficult hurdle now
8 is passage in the US the Senate. I'm confident
9 that with the great leadership of New York
10 Senators Schumer and Gillibrand they will do
11 everything within their power to make this happen.

12 Let me underscore that this is not
13 a New York issue, it is not a Republican issue, it
14 is not a Democrat issue; it is an American issue.
15 When New York was attacked on 9-11 it was a symbol
16 for our country. Those who responded hailed from
17 50 states. - - the coverage of this bill provides
18 an entitlement. Unfortunately, those who need
19 this care are a shrinking group as hundreds of the
20 first responders have passed away due to his
21 illness just like Detective Zadroga. Moreover
22 Congressman Nadler and Congresswoman Maloney
23 fought hard to keep the protection of the
24 community in this bill. Those of us who lived
25 downtown before and during 9-11 and suffer from

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2 health issues because of that will receive needed
3 care from the passage of this bill.

4 This is a fight that must be won.
5 We must do whatever it takes to ensure that the
6 short term and long term needs of all the first
7 responders as well as those who live and work in
8 the area and became sick are met. Passing this
9 resolution from the City Council will tell our
10 senator and all the senators in Washington how
11 important this bill is to New York and to our
12 country. I thank you all for coming and I look
13 forward to your testimony. The first panel will
14 be Lieutenant Eddie Boles and Deputy Chief Rich
15 Alles from the Uniformed Fire Officers
16 Association.

17 Council Member Nelson is going to
18 make a few remarks.

19 COUNCIL MEMBER NELSON: I just
20 found it really incredible that the administration
21 and federal government have not immediately taken
22 care of those that have worked around the Trade
23 Center after the attack on our nation. I
24 personally can't believe that we're still asking
25 our nation to do the obviously right thing. And

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2 quite frankly, I'm totally disgusted by it and I
3 think every right thinking American is. Every
4 member of Congress and the administration that
5 held us back should totally be ashamed of
6 themselves and I really want to see this resolved.
7 And in fairness to all of those who rushed into a
8 situation out of the patriotism and in fact the
9 humanity and got sick because of it should be
10 totally compensated for this. Thank you.

11 CO-CHAIRPERSON CHIN: Thank you.

12 Lieutenant Boles.

13 EDDIE BOLES: Good morning. My
14 name is Eddie Boles. I'm the Treasurer and
15 Legislative Chair of the Uniformed Fire Officers
16 Association and I'm joined today by Rich Alles,
17 our Legislative Director who will testify today
18 and who has been working extremely hard to pass
19 this very, very important bill.

20 RICHARD ALLES: Good morning. My
21 name is Deputy Chief Richard Alles and I'm here on
22 behalf of Fire Officers Association President,
23 Alexander Hagen. I'm joined by my Executive Board
24 colleague, Lieutenant Eddie Voles. The UFOA
25 represents 2,554 lieutenants, captains, battalion

1 chiefs, deputy chiefs, medical officers,
2 supervising fire marshals of the FDNY.

3 Additionally, we represent over 4,000 retirees.

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5 I wish to first thank City Council
6 Speaker Christine Quinn, Council Member Sanders
7 and the Civil Service and Labor Committee members
8 as well as Council Member Chin and the members of
9 the Committee on Lower Manhattan Redevelopment for
10 having a hearing on this extremely important
11 issue. Our union has been proactive and
12 supportive of seeking legislation, whether it be
13 from the city, state or federal government to
14 provide the necessary funding for the monitoring,
15 diagnosis and treatment of our members who
16 responded and worked at the World Trade Center
17 site on and in during the many months after 9-11.

18 Fire officers and fire fighters
19 participated at the work at Ground Zero in an
20 extremely toxic atmosphere. Our current
21 statistics show that 15,276 fire and EMS employees
22 both active and retired have received at least one
23 World Trade Center monitoring exam. We have a 95%
24 retention rate for those receiving more than one
25 exam. Meaning that once diagnosed officers stay

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2 in the program. As of September 2010, 1,100
3 members received World Trade Center medical
4 monitoring exams for this year. The World Trade
5 Center Medical Monitoring Program is annually
6 treated 3,876 members for upper and lower
7 respiratory ailments.

8 Additionally, we have countless
9 members battling various other illnesses including
10 cancers, gastrointestinal, esophageal and sinus
11 illness among our active and retired members.
12 Besides our members battling physical illness,
13 over 14,000 FDNY members have sought counseling
14 through the FDNY counseling service unit. The
15 counseling service unit sees an average of over
16 200 cases a month compared with an average of 50
17 cases a month prior to 9-11.

18 The events on September 11th were
19 an attack on America and an act of war. As a
20 result, hundreds of our members have been forced
21 into early retirement. When the book is finally
22 closed on this terrorist attack, we will have had
23 thousands of lives shortened and the suffering
24 will be impossible to measure. This doesn't even
25 account for the thousands of first responders

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2 nationwide as well as the trade union workers, the
3 volunteers, community residents who worked side by
4 side with us during the clean up when we were
5 assured that the air was safe to breath and now
6 many of them are sick and dying as well.

7 Dr. Kelly and Dr. Piz ant, the
8 chief medical officers of the FDNY have done a
9 tremendous job in the oversight of the health care
10 of our members since 9-11. Both doctors have
11 worked tirelessly on addressing the complexity of
12 delivering health care to our members as well as
13 monitoring the effects from their exposure. They
14 lead one of the centers of excellence for World
15 Trade Center but their efforts need to be
16 supplemented with funding to keep it operating.

17 One very positive program that they
18 were able to implement with the \$25 million
19 federal grant that the FDNY received in the fall
20 of 2006 was providing a prescription drug program
21 for our members. Before this program, the cost of
22 dealing with a World Trade Center illness was
23 being shouldered by the member and our union. Co-
24 payments from the health carriers and the
25 prescription drug costs were being directly paid

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2 by our members and our union welfare fund. These
3 costs are in the thousands of dollars. Our
4 members therefore not only have to endure the
5 emotional and physical stresses associate with
6 their illnesses, but they deal with the financial
7 strains as well.

8 Members of our executive board have
9 made many trips to Washington DC to lobby for the
10 9-11 Health and Compensation Act. The UFOA
11 applauds the efforts of the House sponsors of the
12 bill, Representatives Carol Maloney, Gerald
13 Nadler, Peter King and Michael Mahon in gaining
14 passage in the House of Representatives on
15 September 29, 2010. I had the honor of being
16 there and watching democracy in action. We now
17 look to New York Senators Kirsten Gillibrand and
18 Charles Schumer to lead the charge for passage in
19 the Senate.

20 Additionally, we are thankful for
21 the support from Mayor Bloomberg and his staff who
22 are fighting for support. The 9-11 Health and
23 Compensation Act is a historic bill that will play
24 a substantial role in relieving the financial
25 strain on our members and their families. The

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2 bill will address the monitoring, diagnosis and
3 treatment of World Trade Center illnesses, which
4 will help reduce the financial worries of dealing
5 with an illness. Also, this bill will help save
6 lives since it will promote more careful
7 monitoring and earlier medical intervention and
8 treatment for those who become ill.

9 The 9-11 Health and Compensation
10 Act symbolizes the responsibility of our federal
11 government to those whose selfless acts helped to
12 rebuild this nation after such an event. The
13 complexity of dealing with the health issues from
14 the World Trade Center is monumental. I wish to
15 complement the two committees' effort in
16 addressing many of these issues. The first
17 responders and the citizens of New York City
18 provided first line of defense for the entire
19 country when it was attacked on 9-11. Now our
20 federal government must honor its obligation to
21 assist our city with the necessary funding and to
22 help not only our citizens but those from all 50
23 states who become ill from this catastrophic
24 event.

25 Again, I would like to thank both

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2 committees for allowing me to testify and also for
3 your support and advocacy and attempting to gain
4 passage of this bill. Thank you very much and I'm
5 available for any questions that you may have.

6 CO-CHAIRPERSON CHIN: Thank you
7 very much for your testimony and for all the
8 sacrifices of your members. We want the City
9 Council to pass this resolution to really show
10 that this it is a strong, important issue for our
11 city. Hopefully the Senators will do the right
12 thing and pass this before the holidays to give us
13 a really good present. We've been joined by the
14 chair of the Civil Service Committee, Council
15 Member Sanders, and Thank you for agreeing to this
16 joint hearing.

17 CO-CHAIRPERSON SANDERS: Good
18 morning, Good morning all, good to see you again.
19 This hearing as well as these bills, this is a no-
20 brainer. The real question is why are we doing
21 this, why hasn't it already been passed. If
22 America has produced heroes who are willing to run
23 into harm's way when the rest of us are running
24 away from harm, then certainly we at the very
25 least can make sure that these heroes are taken

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2 care of.

3 No one knew what they were running
4 in to and knowing these men and women as I know
5 them, they would do it again even with this
6 knowledge. They would do it again. If that's the
7 type of heroes that we have been able to produce
8 in America then the rest of the country needs to
9 catch up and Congress needs to do what it needs to
10 do. My friends, this is not a Democrat or
11 Republican issue, this is simply an American
12 issue. It's an issue of what's right and if we
13 can simply do the right thing, we can get to the
14 policies later my friends. You'll have plenty of
15 time to throw mud or whatever else we choose to
16 do, you got plenty of time to do it. But these
17 men and women don't have a lot of time. Therefore
18 we should not take a lot of time.

19 I'm very glad that my co-chair has
20 been kind enough to do this with us so that we can
21 make a statement and New York City needs to make a
22 strong statement here that we absolutely support,
23 not just in word, we'll do everything we can to
24 support these brave people, including urge the
25 passage--first our own resolution and then calling

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2 upon Congress to put aside whatever problems you
3 may have, do the right thing here then you can go
4 back to doing whatever you wish. But at least, at
5 least we will be able to show the people who went
6 into harm's way that we respect them and we'll
7 take care of them and their children.

8 I want to state that we have also
9 been joined by Council Members Nelson of Brooklyn,
10 Ulrich of Queens and of course, Recchia of
11 Brooklyn not to be undone. Now we're overwhelmed
12 by Brooklyn, I see. Having said those things,
13 gentlemen my question is I'm a simple fellow so I
14 have to ask simple questions. What do you think
15 is really slowing this down and what tripped this
16 legislation up?

17 MR. ALLES: A variety of factors.
18 It seems that the contention in Washington, DC
19 where you had opposing sides. One side is saying
20 no to everything and this bill is getting caught
21 up in that. Also, being down in DC so many times
22 and in talking to people of Congress on the
23 opposition two things kept coming up. One, this
24 is an entitlement.

25 CO-CHAIRPERSON CHIN: [Laughter]

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2 I'm sorry, go ahead.

3 MR. ALLES: I know. If this is an
4 entitlement, then I want to know who wants to be
5 on line to receive that entitlement. The other
6 issue came up is well, this is a New York issue.
7 Okay, this is an attack on America and an act of
8 war. The only thing New Yorkish about is the fact
9 that our World Trade Center, one of our shining
10 examples of American freedom and democracy
11 happened to be located in New York.

12 The only other New Yorkish thing
13 about it is hundreds of fire fighters, police
14 officers, EMS workers and thousands of civilians
15 happened to live and work in the tri-state area.
16 That's it. Everybody else responded. We had
17 first responders, we had volunteers, we had trade
18 union workers that worked down there during the
19 clean up. Every single congressional district
20 except for four but including all 50 states were
21 involved. So this is clearly not a New York
22 issue.

23 I think that back on December 7,
24 1941 when Pearl Harbor was attacked, I don't think
25 anybody thought to themselves oh gee, that's a

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2 Hawaiian issue why are we getting involved. You
3 get it. I appreciate your comments Councilman, I
4 really do. I'm an optimist. I feel that we're
5 very close. We'll be down in Washington next week
6 for a lobbying mission. Mayor Bloomberg is also
7 going to be down on Tuesday, November 16. We have
8 what we believe may be 58 or 59 votes so we need
9 to hopefully get a Republican Senator or two who
10 gets it like you do and signs on to the bill and
11 we can get it signed into law by the end of the
12 year.

13 Which, I said before, which will
14 complete the contract which President Bush
15 established as he was down here days after 9-11
16 when he had his arm draped around the shoulder of
17 a New York City fire fighter. He promised us that
18 the federal government would be there for us. He
19 gave us the word of the Oval Office that the
20 federal government would stand behind us. I
21 believed him then and everybody else did. So it's
22 time for the federal government to complete that
23 contract with the people of New York and all of
24 America.

25 CO-CHAIRPERSON CHIN: In fact, I'll

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2 yield. Sir, why don't you? Would you be kind
3 enough.

4 MR. BOLES: Just to add to my
5 colleague, Rich Alles, I've been in the trenches.
6 I testified 2006, 2007, 2008, 2009 and I passed
7 the ball to Richie to testify today because
8 Richie's taking the ball and he's gone with it
9 down to the federal government. As he said in his
10 statement, we've been back and forth many, many
11 times in Washington. I've been there on Sundays,
12 on various weeks trying to fight this bill.

13 We applaud the City Council, and I
14 said this last time, we applaud your efforts but
15 besides just passing this resolution, we need you.
16 We need you to come down and join us in the fight.
17 It would add that much more to the fight if we had
18 a Council Members to join us in the fight. That
19 would say a big statement to the federal
20 government saying we're not only representing
21 unions, we're not only representing the community
22 residents, we don't only represent the trade
23 unions, the volunteers; we now have a political
24 delegation down with us to join in this fights.
25 And that's what it's going to take because if it

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2 doesn't get done now, our feeling is it's not
3 going to get done because there's political
4 football going on down in Washington and we need
5 to get a hold of the ball and score a touchdown
6 and that's the bottom line.

7 CO-CHAIRPERSON SANDERS: I'm sad I
8 let you speak first because I was about to
9 volunteer to come down on the 16th. I'm going to
10 take my schedule and if I can, I'm going to toss
11 it away because we must find a wind. I just can't
12 believe--I have to look into the face of people
13 that are going to say this is a New York issue,
14 not an American issue. New York is part of
15 America, last time I looked. That this is some
16 other type-- I can't believe this. I do want to
17 point out that today, of course, is the Marine
18 Corps birthday, this is 10 November and what
19 better way of celebrating those who stood up.
20 Many of those were Marines, as a matter of fact,
21 then to all of us to say, make a commitment,
22 Marine Corps, why not?

23 MR. BOLES: if I may, the Marine
24 Corps has a code I think. They never leave
25 someone behind.

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2 CO-CHAIRPERSON SANDERS: Yup, never
3 leave anyone on the field.

4 MR. BOLES: Our government is going
5 to be leaving us behind if we don't get this
6 passed. That's a good analogy.

7 CO-CHAIRPERSON SANDERS: As a
8 former Marine, we say we never leave anyone on the
9 field. We will send three to go get one. We'll
10 put three at risk.

11 MR. ALLES: Neither do we.

12 CO-CHAIRPERSON SANDERS: then we'll
13 be together. More questions on this one? More
14 questions, comments or concerns? If not, then I
15 want to thank you for your great service.
16 Continue and God willing we will be together and
17 get a victory here.

18 MR. ALLES: Thank you Council
19 Member.

20 CO-CHAIRPERSON CHIN: Thank you for
21 your testimony. We've all been joined by Council
22 Member Van Bramer from Queens on the Committee for
23 Lower Manhattan Redevelopment and also Council
24 Member Mendez.

25 COUNCIL MEMBER NELSON: Domenic

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Recchia was here.

CO-CHAIRPERSON SANDERS: He was here.

CO-CHAIRPERSON CHIN: And Council Member Seabrook?

CO-CHAIRPERSON SANDERS: He's here.

CO-CHAIRPERSON CHIN: The next panel is Community Board 1, Julie Mennon, the Chair and Catherine, the Chair of the World Trade Center Committee and also Kimberly Flynn, 9-11 Environmental Alliance.

JULIE MENNON: Thank you Chairperson Chin and let me thank you for your leadership and holding this very important hearing. Let me also thank Chairperson Sanders and the other Council Members who are here today for their leadership and holding this important hearing.

We have prepared remarks that we are submitting to you but I'd rather speak from the heart and speak to you directly as Chairperson of Community Board 1 and I know our Vice Chair, Catherine McVey-Hughes shares the same sentiments. It is absolutely outrageous that our US government

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2 has not acted to protect the heroes, the first
3 responders. We are treating veterans in this
4 country than we are treating first responders. We
5 are the only community that has been attacked
6 twice by terrorists and yet we are seeing that the
7 US government does not seem to think that that
8 constituents attack on American soil where we
9 would treat the first responders and give them the
10 kinds of benefits that they deserve.

11 As you know, this bill also covers
12 the community. I can't overstate the importance
13 of that. I know Catherine will agree with me that
14 there is not a day that goes by that we
15 unfortunately do not hear of another person in our
16 community who has developed cancer. There are
17 cancer clusters all over lower Manhattan. When we
18 think about what the government did. The US
19 government told us the air was safe. They told us
20 that we could move back down. I was evacuated
21 from my building and we were told that we could
22 move back downtown and it was safe. Now the
23 government has an attendant duty to provide health
24 care and benefits for those that are sick.

25 Let me just stress on behalf of

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2 Community Board 1 how important the passage of
3 this bill is. We have been there every step of
4 the way in terms of fighting for this bill, it's
5 something of tremendous importance and for heroes
6 like Eddie Boles, who is here today. What they
7 did for our community, they went in and saved so
8 many people. They went in and cleaned up the pile
9 and now for them not to get benefits or for it to
10 take this long. It's not just a travesty it's
11 quite frankly unconscionable.

12 So I want to really thank you for
13 taking the leadership and I want to also second
14 what they said that it's so important that you go
15 down to Washington, DC. We've had a delegation at
16 the Community Board, Catherine has been a part of
17 that going down to DC on a regular basis. I don't
18 know Catherine if you have anything to add.

19 CATHERINE MCVEY HUGHES: Thank you
20 very much. I also just want to say, as you know
21 we've had numerous resolutions that we passed for
22 years dealing with 9-11 environmental health
23 issues and we just passed another one at the World
24 Trade Center Redevelopment Committee meeting on
25 Monday that waits the full approval. But we're

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2 asking that the Senate majority leader, Harry
3 Reed, to schedule the 9-11 Health and Compensation
4 Act now because if it's not scheduled you can't
5 have a vote. We want to know what day it will be
6 scheduled because that right now is the most
7 important thing. Because when they go back to
8 reconvene in Washington, it's not going to be for
9 very long and if it's not scheduled it may never
10 get voted on. That is the number one thing that
11 we're calling on right now. Thank you very much.

12 KIMBERLY FLYNN: I'd like to thank
13 the Council, Chair Margaret Chin and Chair James
14 Sanders for this opportunity to testify. I'm
15 Kimberly Flynn I'm co-coordinator of 9-11
16 Environmental Action. In addition, I currently
17 serve as the Community co-chair of the Community
18 Advisory Committee to World Trade Center
19 Environmental Health Center, which is the World
20 Trade Center, Center of Excellence that serves
21 affected residents, students and area workers.

22 Known as the Survivor Program in
23 the 9-11 health bill the Environmental Health
24 Centers operates at three clinics, at Bellevue,
25 Gouverneur and Elmhurst Hospitals and currently

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2 cares for a patient population totaling more than
3 5,000. I wish to thank the Council and the
4 Speaker for this timely resolution urging the
5 Senate to pass the 9-11 Health and Compensation
6 Act. Clearly, the Council understands as so many
7 of us do, that we have a vanishing window to pass
8 this critical legislation that will provide expert
9 medical monitoring and treatment for responders
10 and survivors whose health was harmed by 9-11 and
11 its toxic aftermath.

12 This bill must pass the Senate in
13 the final session of the current Congress
14 otherwise, as everyone knows, its prospects are
15 very poor indeed. In that event we are right to
16 fear that the more than 30,000 9-11 responders and
17 survivors who were sick as a result of their World
18 Trade Center exposures will be denied the
19 federally funded medical care they desperately
20 need and deserve.

21 The refusal to provide for
22 specialized care that can for so many prevent the
23 worst from happening would be an injustice with
24 grievous consequences. I just want to emphasize
25 that we're looking at research that shows that

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2 early intervention can produce very good results
3 for possibly even the majority of people.

4 In the last few weeks we learned of
5 the death of yet another World Trade Center
6 responder, ironworker Joe Pacurro, another hero
7 who sacrificed everything to help others. Today,
8 I want to obviously honor their service and the
9 fact that they are now not only facing harrowing
10 illness but financial destitute. Many of them,
11 that this bill would remedy.

12 But I also want to bring your
13 attention to an additional population; those who
14 experience 9-11 as children. The New York City
15 Department of Health and Mental Hygiene estimates
16 that tens of thousands of children were living or
17 attending school in the lower Manhattan on
18 September 11th. There aren't enough studies for
19 impacts to children but a growing number of
20 studies have documented serious and lasting 9-11
21 related mental health impacts in children and
22 adolescents.

23 In October 2008, the World Trade
24 Center Health Registry found that post 9-11 asthma
25 prevalence in children under five years of age who

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2 lived or attended school in lower Manhattan was
3 more than twice the already high rate in the
4 northeastern United States. Studies also document
5 age related mental health impacts for a range of
6 ages including increased post 9-11 alcohol or
7 substance use among affected adolescents. The
8 Congress must pass this bill and the President
9 must sign it for their health also now in and in
10 the future.

11 On 9-11 terrorists attacked our
12 country. They targeted the people of lower
13 Manhattan. In the days followed people of
14 unparalleled courage made incredible sacrifices in
15 the face of terrible risks. I speak of the heroic
16 responders who climbed the pile and also of the
17 men, women and children of uncommon courage and
18 resolve who brought this community back to life by
19 returning to lower Manhattan and embracing the
20 process of recovery and rebuilding, the community
21 made sure that the terrorists did not win.

22 They did their part now it is long
23 time for the federal government to step up and
24 provide the resources that will give a fuller
25 meaning to the word recovery for so many who are

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2 struggling to recover their health.

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CO-CHAIRPERSON CHIN: Thank you so
4 much for your testimony and for all the work that
5 you've been doing for all these years for the
6 Community Board and for the community
7 organization. I just saw that you're also doing
8 this email sign on to Senators across the country
9 to get...

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MS. FLYNN: My organization has a
petition online at change.org and I would like to
actually distribute to everyone here a flier that
explains how you can access that petition. So the
first thing we ask everyone to do is to sign the
petition. Change.org will then send an email to
your senator but the second thing that we ask is
that you send out this information to friends and
family in other states because obviously we have
to jump outside of New York and New Jersey. We
have the potential to get hundreds of emails into
the email boxes of every senator in the country.
We need that immediately.

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CO-CHAIRPERSON CHIN: I think also
we will talk to Speaker Quinn about getting a
letter together from the Council to Harry Reed,

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2 making sure that he's schedule the hearing. Then
3 the other thing is we'll get a delegation together
4 to go down with you and really make a strong
5 impact.

6 MS. FLYNN: Thank you so much.

7 [off mic]

8 CO-CHAIRPERSON CHIN: Right,
9 schedule this month, 2010.

10 MS. FLYNN: In two weeks.

11 CO-CHAIRPERSON SANDERS: A list of
12 the responders and how they responded please, of
13 the Congress, the Senators.

14 MS. FLYNN: A list of everyone who
15 signs? I think we can do that.

16 COUNCIL MEMBER NELSON: And how
17 they signed on. We'll defeat Harry Reed next time
18 hopefully if he doesn't go along with this, this
19 time.

20 CO-CHAIRPERSON CHIN: I think the
21 support is there. We just need one or two more.
22 Right? So we'll focus and we'll get it done
23 before the end of the year. So Thank you so much
24 for being here and Thank you for your testimony.

25 ALL: Thank you.

1
2 COUNCIL MEMBER NELSON: Now if
3 Harry Reed doesn't go along with it. There's no
4 reason why we shouldn't have the Senate.

5 CO-CHAIRPERSON CHIN: Is there
6 anybody else here who wants to testify on the
7 Zadroga resolution? Did you sign up?

8 COUNCIL MEMBER NELSON: We got to
9 leave. We have to vote.

10 CO-CHAIRPERSON CHIN:
11 Representative from Congressman Jerry Nadler's
12 office, Celine Midri. Thank you for being here.

13 CELINE MIDRI: Thank you. Thank
14 you Council Member Chin, Council Member Sanders
15 for holding this joint hearing. Thank you also to
16 Speaker Quinn for introducing this resolution.
17 Congressman Nadler unfortunately could not be here
18 today but I'm going to read some remarks on his
19 behalf.

20 On September 11, 2001 Osama bin
21 Laden orchestrated the deadliest terrorist attack
22 in American history, killing almost 3,000 people
23 and wounded thousands more. The attacks created
24 an environmental nightmare for lower Manhattan,
25 propelling thousands of tons of asbestos, nearly

1
2 half a million pounds of lead and untold amounts
3 of glass fibers, steel and concrete into a massive
4 cloud of toxic dust and smoke into the air.

5 Into this toxic crowd ran fire
6 fighters and police and other first responders.
7 During the terrible aftermath of the attacks,
8 thousands of brave and selfless workers and
9 volunteers came from all 50 states to aid in the
10 rescue and clean up. They worked incredibly hard
11 and under unfathomable conditions and they did not
12 ask questions because there was a critical job to
13 be done.

14 The Environmental Protection
15 Administration, the EPA, despite ample evidence of
16 the contrary kept falsely proclaiming that the air
17 was safe to breath. It wasn't. The terrorists
18 caused environmental catastrophe but the federal
19 government compounded the damage by telling people
20 the environment was safe when it wasn't. Area
21 residents, workers and students were encouraged to
22 return home to help in the resurrection and
23 rebuilding of lower Manhattan and now thousands of
24 people are sick and in need of special care.

25 On September 29, 2010 members of

1
2 the House put aside politics and made history by
3 passing the 9-11 Health and Compensation Act and
4 finally voting in favor of justice and care for
5 the first responders and survivors of 9-11. I'm
6 so proud of this victory and moved by the prospect
7 of finally after nine long years, delivering what
8 thousands of ailing Americans have been waiting
9 for.

10 We as a country have a moral
11 obligation to treat those that became ill and
12 that's what this bill is all about. Now we must
13 turn to the Senate to also do the right thing, the
14 moral thing and pass the 9-11 Health and
15 Compensation Act. New York Senators Gillibrand
16 and Schumer and New Jersey Senators Loudenberg and
17 Menedez are working hard to bring this bill to the
18 floor and to pass it, finally providing the
19 responders and survivors of 9-11 the relief they
20 need and deserve. Thank you for your support of
21 this bill and for your support of the responders
22 and survivors of 9-11. Thanks.

23 CO-CHAIRPERSON CHIN: Thank you.
24 Please express our utmost gratitude to Congressman
25 Nadler for his leadership on this bill. Both him

1
2 Congressman Maloney they were the lead on this and
3 they fought so hard with all the responders and
4 community folks down in Washington and we were so
5 happy and excited when it passed the House. Now,
6 we just got to get over this hurdle in the Senate.

7 MS. MIDRI: I know I can speak for
8 the Congressman and saying that a real debt of
9 gratitude goes to the responders and area
10 residents and survivors who have worked so hard to
11 rebuild lower Manhattan and for the rescue efforts
12 at the time of the attacks as well.

13 CO-CHAIRPERSON CHIN: We also
14 wanted to ask Congressman Nadler to really join us
15 to really convince the Senate. I'm sure he'll be
16 there and we look forward to working with him on
17 this.

18 MS. MIDRI: Absolutely. Thank you
19 so much.

20 CO-CHAIRPERSON CHIN: Thank you.
21 We also are joined by Council Member Levin from
22 Brooklyn, who's on the Lower Manhattan
23 Redevelopment Committee. We're going to have the
24 next panel on the other resolution.

25 CO-CHAIRPERSON SANDERS: We're

1
2 doing two resolutions this morning. Of course,
3 the first one we've spoken about. The second
4 resolution we are hearing is proposed resolution
5 245-A, which will also help New York City's
6 workers and indeed workers statewide. The Wage
7 Theft Protection Act would enhance criminal and
8 civil penalties against employers who violate
9 state wage laws. We are talking about employers
10 who, among other violations, do not provide their
11 employees with overtime or even in some cases the
12 minimum wage in this day and age.

13 This bill is also non-partisan and
14 non-controversial. It has passed in both houses
15 of the state legislature but with a different
16 version of the bill. The resolution calls upon
17 the Assembly and the State Senate to reconcile
18 these bills and send it to Governor Patterson for
19 his signature. Thank you for everyone here for
20 coming.

21 Before we begin--we have already
22 done that. We will call the first panel on this.
23 I will let Matthew call it in a minute.
24 Absolutely. This joint business is interesting.
25 We got to get used to this more. There are seats

1
2 in front if anyone wants one. Council Member
3 Ulrich has been kind enough to give his.

4 Ulf: Chivalry is not dead.

5 CO-CHAIRPERSON SANDERS: Not dead,
6 but you have to fight for that. But there are
7 seats in front if anyone wants to sit down. Call
8 anybody please. Call any panel first, anyone
9 first.

10 [Pause]

11 CLERK: We're calling Annette
12 Bernhardt, PhD, Policy Co-Director National
13 Employment Law Project, Amy Traub, Director of
14 Research, Dromm Major Institute and Deborah Axe,
15 Make the Road New York Deputy Director.

16 CO-CHAIRPERSON CHIN: In the order
17 that you were called if you could begin.

18 ANNETTE BERNHARDT: Good morning,
19 Good morning. Good morning Chairperson Sanders
20 and members of the Committee. Thank you so much
21 for the opportunity to testify on the problem of
22 wage theft and the Wage Theft Prevention Act
23 supported by Resolution 245-A. I promise to be
24 brief because I know there's a whole bunch of
25 folks that you guys want to hear from. I am

1
2 Policy Co-Director of the National Employment Law
3 Project and I hold a PhD in Sociology from the
4 University of Chicago. For more than 15 years
5 I've been studying low wage work and economic
6 inequality in the United States.

7 My current research focuses on
8 tracking the growth in wage theft here in New York
9 and across the US. I'm lead author of the report,
10 Working Without Laws, which you guys have in front
11 of you which documents abysmally high rates of
12 wage theft in New York City. It's based on a
13 survey of more than 1,400 low wage workers. It's
14 a landmark survey because for the first time we
15 were able to reach vulnerable workers like
16 undocumented immigrants and people paid in cash,
17 people in the informal sector that are usually
18 missed by government surveys.

19 You have copies of the report, I
20 just want to lift up a few of the key findings
21 that can help frame the discussion here. We found
22 that wage theft in New York is not incidental,
23 abhorrent or rare; committed by a few rogue
24 employers. Instead it has become standard
25 business practice in industries throughout our

1
2 economy. It affects all workers regardless of
3 race, gender or immigration status. The sheer
4 scale of the problem as well as the concrete
5 impact on workers and their communities demands
6 urgent attention.

7 Some of the statistics from the
8 report, we found that 21% of low wage workers were
9 paid less than the state's minimum wage. Of
10 tipped workers in our sample, 37% were paid less
11 than the tipped worker minimum wage. Of those who
12 worked overtime 77% were not paid time and a half.
13 69% did not receive any pay at all when they came
14 in early or stayed late. Of the workers who made
15 a complaint to their employer or to the State
16 Department of Labor, 42% experienced a legal
17 retaliation from their employer like being fired.

18 It's important to understand how
19 widespread these practices are. We found
20 significant rates of violations in a range of
21 industries, many of which your constituents work
22 in, including retail, restaurants and grocery
23 stores, caregiver industries like home health care
24 and child care, construction, manufacturing and
25 wholesale trade, personal services like laundries,

1
2 car washes and nail salons and building services
3 like janitorial and security guard services, so
4 really the swath of New York City's economy.

5 This survey is also the first time
6 that we've been able to measure accurately the
7 cost of wage theft and it is truly staggering. We
8 estimate that in a typical week more than 300,000
9 workers experience wage theft in New York City
10 alone. They lose an average of \$3,000 a year out
11 of what are already poverty wages of just \$20,000
12 a year. That translates into wage theft of 15%,
13 which is truly staggering for people who are
14 already making below the poverty line.

15 The key here is if you aggregate
16 that up to the New York City level, we estimate
17 that in a given week wage theft costs workers in
18 this city \$18.4 million a week, which translates
19 into almost \$1 billion a year. I should flag that
20 ours are very conservative estimates and I'm sure
21 the numbers are actually higher.

22 The upshot is that everyone has a
23 stake in the fight to end wage theft. First and
24 foremost of course the workers who are impacted by
25 it but I also want to emphasize the cost to

1
2 responsible employers who are paying a minimum
3 wage. They're forced into unfair competition that
4 starts a race to the bottom that, in my opinion,
5 then cascades throughout the rest of the labor
6 market, even beyond low wage industries. And in
7 the process it robs state coffers of really
8 precious vital revenues.

9 The state legislature has a prime
10 opportunity to address the problem as it considers
11 the Wage Theft Prevention Act. You're going to
12 hear more about the bill. I just want to very
13 briefly in closing highlight two provisions that I
14 think are especially important based on our
15 research. First, the bill significantly increases
16 the cost to employers violating the law, which in
17 my mind is probably the most urgent thing that
18 legislators can implement. When we've talked with
19 low wage employers throughout the last five years
20 in New York City, we heard over and over again the
21 calculus that results in wage theft. What we hear
22 is that if I get caught, I basically will just end
23 up paying the wages I already should have owed so
24 what's to lose in breaking the law. We have to
25 change that calculus.

1
2 Second and equally important, the
3 bill also provides strong protections for workers
4 who come forward to assert their rights and make
5 sure they actually get paid. That's really
6 critical because for every worker who comes
7 forward, there's another worker who doesn't come
8 forward and can't take the risk. In our survey
9 the two main reasons why workers said they
10 couldn't come forward is one, they were really
11 afraid of losing their jobs and they had already
12 seen retaliation on the job and two, they didn't
13 think it would make a difference and they didn't
14 think they would actually get their wages back.
15 So any robust system of enforcement has to protect
16 workers and has to make sure they actually get the
17 wages they are due. The Wage Theft Prevention Act
18 will address and strengthen the law on both
19 fronts.

20 So in closing, at the National
21 Employment Law Project, we believe that economic
22 opportunity is built on strong labor standards
23 that are fully enforced. We therefore
24 wholeheartedly support Resolution 245-A, calling
25 on the New York State legislature to pass and the

1
2 governor to sign into law the Wage Theft
3 Prevention Act. Thank you so much and I'm happy
4 to answer questions after this.

5 AMY TRAUB: My name is Amy Traub
6 and I'm Director of Research at the Dromm Major
7 Institute for Public Policy, a non partisan think
8 tank based here in New York City. I appreciate
9 this opportunity to speak about Resolution 245-A,
10 urging the State of New York to enact the Wage
11 Theft Prevention Act.

12 It's difficult to imagine anything
13 that's more basic to a free economy than the right
14 of an employee to be paid for their work, for his
15 or her work and yet the text of this resolution
16 itself cites evidence indicating that fundamental
17 right is routinely being violated in the city
18 today. We've already had an opportunity to hear
19 from Annette Bernhardt about her research on this.
20 I won't repeat her findings.

21 Clearly, low wage workers and their
22 families are hurt very deeply when income they've
23 earned is stolen from them but an environment of
24 pervasive lawlessness at the bottom of our labor
25 market also harms New York small businesses, it

1
2 drains revenue from already depleted city and
3 state budgets and it retards the city's overall
4 economic recovery.

5 When enforcement of workplace laws
6 is as lax as it is now and penalties are this low,
7 corrupt employers can simply factor the risk of
8 getting caught into their cost of doing business.
9 As a result, businesses that cheat their employees
10 can come out ahead and that leaves responsible law
11 abiding business owners at a competitive
12 disadvantage. Small businesses with low margins
13 really face the greatest difficulty competing
14 against rivals that are willing to break the law
15 in order to lower their own costs. Enforcing the
16 law, as this bill enhances that enforcement, would
17 level the playing field for everyone and it would
18 boost our small businesses here in New York.

19 As we're all painfully aware, both
20 New York City and New York State face daunting
21 revenue shortfalls that have led to very tight
22 budgets. New York's epidemic of wage theft makes
23 the situation worse. The state loses an estimate
24 \$427.9 million a year and I actually think that
25 figure is too conservative but it's a low ball

1
2 number. And that's only from reduced unemployment
3 insurance payments, workers compensation premiums
4 and personal income tax revenue that's a byproduct
5 of wage theft. New York City also loses income in
6 sales tax revenue when employees get cheated out
7 of their wages.

8 By improving enforcement of wage in
9 our laws, New York can begin to reclaim a portion
10 of this lost revenue. There are also broader
11 economic consequences when money is taken from the
12 pockets of New York's lowest income workers. As
13 Annette noted, workplace violations rob low wage
14 workers of more than \$3,000 annually out of
15 average wages of just \$20,644 a year.

16 New Yorkers living on such low
17 incomes tend to spend their pay checks quickly
18 buying food, clothing and other essentials in
19 their communities. By deterring violations, the
20 Wage Theft Protection Act will keep these wages
21 from being sucked out of our neighborhoods as they
22 are now. Enabling workers to support their
23 families and put those dollars to work rebuilding
24 New York's economy. This bill hasn't been
25 discussed as an economic development bill but I

1 think we can really see it as one.

2
3 To conclude, the status quo of
4 inadequate enforcement of fundamental employment
5 laws damages working New Yorkers and their
6 families, law abiding businesses, the city and
7 state budgets and our overall economy. It's not a
8 surprise at all that legislation to address the
9 problem bypassed both the Assembly and the Senate.
10 Now it's crucial that these bills be reconciled so
11 that workers and their advocates get the tools
12 they need to enforce the law. With this
13 resolution, the Council alerts state legislatures
14 that this must be a priority. Thank you.

15 DEBORAH AXE: Thank you so much
16 Chairman Sanders and the rest of the Committee.
17 It's great to see so many of our outstanding
18 legislative Allies here and Thank you so much for
19 spending the time on the Wage Theft Protection
20 Act. My name is Deborah Axe, I'm Deputy Director
21 at Make the Road New York. Our legal department
22 is the primary drafters of the Wage Theft
23 Protection Act.

24 Make the Road New York is a
25 community based membership organization of about

1
2 8,000 low income immigrant families and about 600
3 small businesses as well. For the last 15 years
4 we've been doing battle against wage theft. In
5 the courts there's our litigation team tracking
6 hundreds and hundreds of cases through the
7 Department of Labor to make sure they're handled
8 properly. And in the streets, picket lines,
9 community pressure, boycotts to put pressure on
10 unscrupulous employers. Our members have backed
11 up thousands and thousands of workers in their
12 efforts to come forward and claim the wages that
13 they are rightfully owed.

14 We've been successful and able to
15 collect around \$5 million in unpaid wages. But
16 sadly we've also experience first hand in many
17 different ways the obstacles to workers coming
18 forward, the obstacles to actually collecting
19 unpaid wages and the obstacles to law abiding
20 responsible businesses being able to compete when
21 the guy down the street is robbing their workers
22 and therefore cutting their expenses by hundreds
23 of thousands of dollars a year.

24 It's a bad situation for employees.
25 It's a bad situation for decent employers trying

1
2 to do the right thing and the Wage Theft
3 Protection Act is an omnibus bill, broad sweeping
4 designed to target bad actors and make enforcement
5 wage and hour law real for the first time in New
6 York State.

7 Basically the law does three
8 things. It increases penalties, first of all, to
9 put a real price tag on wage theft for the first
10 time. You might be surprised and dismayed to
11 learn that the much maligned Arizona is actually
12 leaps and bounds ahead of New York in their
13 protection for low wage workers in the area of
14 wage and hour law. The Wage Theft Protection Act
15 increases what is currently a pathetic 25%
16 liquidated damages amount that's available to low
17 wage workers who actually win a wage theft case.
18 It's currently at 25%, the bill increases that to
19 either 100% or 200%. We'll see how the
20 reconciliation goes and that will bring us much
21 more closely in line with the dozens of other
22 states that are currently far ahead of New York in
23 enforcement.

24 The second big piece is protection
25 from retaliation. Currently, it is really

1
2 ridiculously easy to terrorize an entire
3 workforce, indeed an entire industry, with one
4 well publicized and well rumored act of
5 retaliation. Fire one person, threaten to call
6 the immigration authorities on one person's
7 family. Word spreads quickly in a community.
8 Work spreads quickly across an industry. Those
9 kinds of actions are not penalized properly under
10 current law. The amount of damages are really
11 miniscule for retaliation and many things that are
12 the worst forms of retaliation, threats, stalking,
13 having your wife threatened and take retaliatory
14 acts against your employees are not currently
15 unlawful in a clear way. So we tighten up and
16 close those loopholes and then increase the
17 penalties for retaliation and to really take into
18 account the drastic impact that one act of
19 retaliation can have on hundreds and hundreds of
20 workers.

21 The third piece that the Wage Theft
22 Protection Act does is it makes it more difficult
23 for the worst and most unscrupulous employers to
24 hide their assets. What we see often is once a
25 court case or a DOL investigation looks serious,

1 suddenly all the assets are in the hands of the
2 girlfriend, the cousin or sort of disappear. So
3 that's a real obstacle to employees being able to
4 collect what's actually owed to them. So there
5 are a number of provisions in the act that help to
6 tighten up the DOL and court's abilities to
7 prevent that kind of shady activity, including
8 automatic 15% increase in the amount of a judgment
9 if it goes unpaid and defaults for more than 90
10 days to really add a price tag to refusing to pay
11 judgments once it's found that you owe them.
12

13 We think this is clearly economic
14 stimulus and community development at its best and
15 we Thank you so much for giving us the chance and
16 lending your support to this critical initiative
17 on the state level.

18 CO-CHAIRPERSON SANDERS: I'm going
19 to respond in three different ways. I'm going to
20 respond personally. I'm going to respond as an
21 American and as a New Yorker. This Act, this
22 theft is very personal with me. I come from the
23 very group that you speak of. My mother was a
24 domestic, my father a janitor so I understand that
25 what some people may say is only a few dollars,

1
2 why are we getting so mad. It's only a few
3 dollars. Can be the difference between dinner so
4 I feel very strongly about this.

5 Now as an American, there are some
6 basic concepts that we are supposed to hold and
7 where do you even start. You can start with an
8 honest day's dollar for an honest day's work,
9 which is a fundamental. One of the things of
10 capitalism is that if you don't have that then you
11 really are threatening the whole system. That is
12 one of the fundamentals of this business. That in
13 this day and age that we still have this
14 conversation. You would think that it would be
15 over by now. Certainly Charles Dickens would say
16 that it can't be possible, even in this day. So
17 we need to move on these things.

18 There is a Serbian saying that says
19 heaven is high and the emperor is far away, which
20 means that there's no justice which is the feeling
21 of people who feel that there's no one that they
22 can turn to, that no one cares and that it's just
23 a--you better just go ahead with it and lucky to
24 get the few pennies that you get. This City
25 Council doesn't take that position. We understand

1
2 that we are the people's house. We understand
3 that we are the people's voice, that we have an
4 obligation to the people of New York to make sure
5 that the playing field is even, that while we
6 respect the rights of employers we also respect
7 the rights of employees. That anyone who is
8 willing to get out there and work and put
9 themselves forward has a right to go home, safe
10 and sound, with a full day's pay, not to be
11 threatened with deportation or any of these other
12 things.

13 So with that, we also understand
14 that whistle blowers need to be protected, that if
15 you can not protect those who come forward then
16 you have sent the message that no one should come
17 forward. That there is no neutrality in a
18 situation like this; you're either on the side of
19 the angels or you're not. In this one, this is
20 also a no-brainer. I'm only sad that this day and
21 age we have this problem but the City Council is
22 clear and wishes in a few days to take this
23 resolution and go further to say that we, too,
24 join New York State and say that this one needs to
25 be passed. We need to do this quick, fast and in

1
2 a hurry. I'll see if my colleague has anything to
3 say on this one.

4 CO-CHAIRPERSON CHIN: Thank you. I
5 just wanted to make a comment. I'm proud to be a
6 sponsor of the resolution. I think it's so
7 important what you testified earlier about
8 economic development. It is so unfair to
9 businesses in the community who do the right thing
10 and pay the right wages and treat their workers
11 well with sick days and other benefits and they
12 can't compete with the guys who are cheating. So
13 I think it's so important to have this legislation
14 so that we can reward the good guys and punish the
15 bad ones and that's what America is all about. We
16 got to really do the right thing. I'm glad that
17 we can get this resolution and hopefully we'll get
18 it passed. I'm sure we'll get it passed.

19 CO-CHAIRPERSON SANDERS:

20 Absolutely.

21 CO-CHAIRPERSON CHIN: And really
22 work on getting this bill done and signed by the
23 governor before the new governor comes in and to
24 really put some justice back into our community.
25 And Thank you for all the advocacy work that you

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guys do.

ALL: Thank you.

CO-CHAIRPERSON SANDERS: I also wanted to join in that thanks. Great report. As a historian I was really looking, charts and graphs too. Great report. Thank all of you for the great work that you have done. Will you call the next panel, sir? And Thank you my co-chair for doing a great job as usual.

CO-CHAIRPERSON CHIN: Thank you for agreeing to co-sponsor this meeting.

CO-CHAIRPERSON SANDERS: Absolutely.

CO-CHAIRPERSON CHIN: I just wanted to thank the staff of the Lower Manhattan Redevelopment Committee, Lyle Frank the counsel and Patrick Mulvy the Policy Analyst. I always forget to do that but thank you.

CO-CHAIRPERSON CHIN: Why don't we start with that? Thank my staff so I don't forget because I'm terrible. Would you be kind enough?

CLERK: I'm Matthew Carl and I'm counsel to the Civil Service and Labor Committee. Eisha Wright is our finance analyst and Kim Thai

1
2 is our press officer. I'm going to call a few
3 workers to testify. I have Eloise Olivo, Edocio
4 Alvarado and Manuel Santiago. I also had Sergio
5 Guzman on here but I didn't get a slip for Sergio.
6 If you could all come up.

7 CO-CHAIRPERSON CHIN: We have been
8 joined by Council Member Jim Gennaro from Queens.

9 [Pause]

10 As soon as you are ready my friends
11 we can begin.

12 FEMALE VOICE: Based on the order
13 that we're called?

14 CO-CHAIRPERSON CHIN: Sure, why
15 not? Well, I'll tell you what, I'll let you guys
16 pick your order. We'll break some rules here.
17 What the heck.

18 EDOCIO ALVARADO: Good morning my
19 name is Edocio Alvarado and I'm a member of Make
20 the Road New York. I worked for seven years at
21 Village Farm Grocery, a popular 24 hour grocery
22 store in the East Village of Manhattan. For seven
23 years I worked for 12 hours a day for seven days a
24 week with only two days off a month. My starting
25 pay was about \$3.33 per hour and I was never given

1
2 time and a half for the over 40 hours of overtime
3 that I worked every week.

4 After a year on the job, I asked
5 for a \$20 per week raise. Reluctantly, my manager
6 gave it to me that year and each year after.

7 After I had been working there for more than six
8 years I was making \$420 each week at about \$5 an
9 hour and still no overtime. In other words my
10 employer was stealing about \$391 a week from me,
11 more than \$20,000 each year. My request for a
12 raise upset the manager. He forced me to take on
13 new work without more pay. He even made me wash
14 his car and pay the cost of a parking ticket for
15 my wages.

16 The manager would always say things
17 to us like you're nobody. I can do whatever I
18 want. I can pay you or not and other things like
19 that. Eventually I got frustrated with this
20 situation and I went to Make the Road New York to
21 find out about my rights and get some advice.

22 I began to speak to my co-workers
23 and I encouraged them to fight to enforce the law.
24 The day after I had this conversation with my co-
25 workers I was fired. The manager told me that

1
2 there was no more work for me and they had to let
3 me go. Later on, my boss claim that he had fired
4 me for drinking on the job. I'm diabetic so I
5 can't drink alcohol and this accusation had never
6 been made before. That's not what they told me
7 the day I was fired. The next day after the boss
8 fired me, a new worker was working at my old job.

9 This was a very difficult
10 experience for me. In addition to being kicked
11 out of a job where I had worked for so long, I had
12 to look for a new job. After six months I found
13 another job and I'm glad I don't work at Village
14 Grocery anymore but the stores owners fired me for
15 educating my co-workers about my rights and I want
16 them to face a penalty for that. That's one of
17 the things the Wage Theft Protection Act would do,
18 it would add a \$10,000 penalty paid to the worker
19 for each time an employer fires someone in
20 retaliation for standing up against this kind of
21 abuse. This penalty would make it easier for
22 workers to stand up for their rights and harder
23 for employers to get away with breaking the law.

24 I just wanted to add one more thing
25 to wrap up was that the manager, knowing that I'm

1
2 diabetic and knowing that my leg was injured and
3 very enflamed, made me work anyway, doing
4 difficult manual labor, carrying heavy things. He
5 said work and if you don't work you're not going
6 to get paid. But he didn't even pay me anyway so
7 I just wanted to add that in terms of the
8 conditions. I was working, like dragging my
9 enflamed leg behind me and working and doing the
10 best that I could. And I just wanted to add that
11 as far as the working conditions.

12 MANUEL SANTIAGO: Good morning, my
13 name is Manuel Santiago and I'm a member of Make
14 the Road New York. I'm here because I've
15 experienced problems with the wage theft with
16 several different employers. I work in a deli
17 grocery in Queens. I worked there for 13 hours a
18 day, six days a week. The owner said that he was
19 going to pay me \$6 an hour but at the end of the
20 first week he only paid me \$300 for the whole
21 week, in other words, less than \$4 an hour. I
22 worked there for three weeks and then he let me go
23 but he never paid me the two other weeks. His
24 wife told me that I had to come back later to get
25 paid but when I came back the owner told me that

1
2 he wasn't going to pay me anything. Then he
3 threatened me and told me that he was going to
4 call the police and immigration.

5 More recently I worked in another
6 restaurant in Manhattan. I worked there for eight
7 months. I was hired as a dishwasher but I did a
8 little bit of everything. I painted and fixed up
9 the kitchen and other things as well. The owner
10 made me work 50 to 56 hours a week but when I went
11 to get paid he only gave me \$20 or sometimes \$40
12 for the whole week. He said because he didn't
13 have enough monies to pay us. He will say I'll
14 pay you tomorrow, I'll pay you tomorrow but he
15 never paid me what he owed me. The restaurant
16 closed down in January. There are six of us who
17 used to work there who he never paid for the last
18 three weeks of work. He didn't say anything to
19 us. He just disappeared.

20 It's very important to me that you
21 support us with this law to stop employers' abuse.
22 I'd like to ask for your help on behalf of all
23 explorio [phonetic] workers in New York. Thank
24 you.

25 SERGIO GUZMAN: My name is Sergio

1
2 Guzman and I'm here because of a claim that I have
3 with the Associated supermarket 4407 in Queens.
4 When I started working there they told me I was
5 going to get paid \$400 for six days of work and
6 that I would get raises in the future. I
7 continually asked the manager for a raise because
8 I've been there for six months and I hadn't seen
9 anything and also because my dream is to start a
10 business in my country and to be able to go back.

11 But as you have all noted, it's
12 very sad that the supermarkets continue to break
13 the law like this. This is all due because of the
14 capitalistic things you've seen in this country.
15 I was fired from my job because I asked for a
16 raise and I was fired unjustly.

17 At this moment I'm trying to work
18 with my co-workers at the supermarket to be able
19 to organize and to file a claim against the
20 supermarket but they haven't been able to do so
21 because it doesn't exist something to protect
22 them. They're so afraid because the other
23 managers in the supermarket are also part of the
24 family of the owners. These owners own
25 supermarkets in Connecticut and throughout the

1
2 city.

3 That is all, Thank you. Thank you
4 very much for your support. We expect your
5 support so that this state can be a city of just
6 laws.

7 CO-CHAIRPERSON SANDERS: Thank you,
8 we have been joined by Brad Lander of Brooklyn. I
9 will say this, lo siento mucho, mi amigos. Hablo
10 un pequito espanol so forgive me for staying in
11 English so I won't insult you.

12 ELOISE OLIVO: Good morning, my
13 name is Eloise Olivo and I'm a member of Make the
14 Road New York. I worked at the Fine Fair
15 Supermarket for seven years and eight months and I
16 worked there from about 7:30 in the morning until
17 9:00 at night. I was a bagger and they didn't pay
18 the baggers anything. We just worked for tips so
19 we would take the bags to the customers' houses
20 and we had to go up sometimes five or six flights
21 of stairs with no elevator. Then sometimes people
22 would give us a tip and sometimes they wouldn't
23 but the supermarket wasn't paying any of us.
24 There was five of us. I've spoken with my co-
25 workers, they weren't being paid either so they

1
2 didn't pay no salary whatsoever and just working
3 for tips.

4 So finally I saw actually on TV
5 something about Make the Road so I went and tried
6 to find out what my rights were. It's a really
7 great organization. They supported us as workers
8 100%. I'm here in support of the wage theft bill.
9 I ask you for your support because us as baggers
10 at the supermarket, a lot of us are not paid at
11 all. There's other people who are paid a little
12 bit but still way under the minimum wage so I'm
13 asking for your support on supporting this wage
14 theft bill. It's very, very important to us.
15 Thank you very much.

16 CO-CHAIRPERSON CHIN: Thank you.

17 COUNCIL MEMBER LANDER: Muchas
18 gracias, Thank you very much for being here. I'm
19 Council Member Brad Lander. I'm proud to be one
20 of the primary co-sponsors of the resolution
21 calling on the state to pass the Wage Theft
22 Protection bill. Boy, if we could just get more
23 folk to sit and hear and listen to these stories
24 and see what an outrage it is. You're not asking
25 for anything other than to get paid what you've

1
2 earned and the notion that we can't in this state
3 guarantee that you get paid a day's wage for a
4 day's work is outrageous.

5 We're going to keep working to get
6 this resolution passed in the City Council and
7 then work closely together with you and Make the
8 Road and NELT and all the advocates to get the
9 state to pass this law so that we can make sure
10 that this doesn't keep happening in our city.
11 It's embarrassing to me. I Thank you for your
12 time and I apologize for the struggle you've had
13 and promise that we're going to work closely
14 together to try and get this law passed.

15 CO-CHAIRPERSON CHIN: For your
16 courage, I commend you. I know it's hard to come
17 in and speak on occasion but it shows a true
18 courage to stand up to injustice and I Thank you
19 very much. This is the people's house. This is
20 your house. We are here to do the people's
21 business so we thank you for bringing this to us.
22 We will act on it. I want to thank this panel for
23 coming and I'm going to call my next panel.

24 CLERK: We have Phil Andrews,
25 RWDSU, Pat Burcell, UFCW Local 1500 and Camille

1
2 Rivera SEIU 32BJ.

3 CO-CHAIRPERSON CHIN: Usually when
4 we're trying to end injustice we seem to keep
5 seeing the same people here, the same folk on the
6 side of the angels as usual. It's good to see you
7 all.

8 CAMILLE RIVERA: I'll be brief. I
9 was told to be brief.

10 CO-CHAIRPERSON CHIN: encouraged is
11 a better word.

12 MS. RIVERA: Encouraged? No, I
13 think I was told. My name is Camille Rivera. I'm
14 the Deputy Political Director for SEIU 32BJ. 32BJ
15 has 120,000 members all across eight states. We
16 represent janitors, security officers, engineers,
17 porters and pretty much help run the city and
18 serve many of the people in commercial and
19 residential buildings.

20 I want to thank the members of the
21 City Council and the Speaker for holding this
22 hearing about the resolution for the Wage Theft
23 Protection Act. We all kind of talked about all
24 these different reasons why we should pass this
25 bill in the Assembly and the Senate and get the

1
2 governor to sign. I know there's two pieces of
3 legislation but I just want to read a portion of
4 my testimony and then I'll leave it to my fellow
5 colleagues in labor to finish off.

6 Across our state, these low road
7 employers and making illegal profits by
8 withholding payments for workers. They garnish
9 their tips, they make illegal deductions from
10 their wages and they compensate their employees at
11 rates far below the minimum wage, something that
12 we in New York pride ourselves against and have a
13 whole enforcement division that's geared towards
14 protecting workers. Obviously our workers are
15 falling through the cracks.

16 The average New York low wage
17 worker makes about \$3,000 or a full 15% of their
18 income. That \$3,000 would give a family \$250 more
19 a month for food, health care, rent and other
20 necessities. Recent studies show that every week
21 nearly 3,000 low wage workers in New York City are
22 victims of wage theft. That 3,000 hard working
23 New Yorkers who will likely struggle to make ends
24 meet because their employers fail to pay them what
25 they rightfully earned. And it also cheats people

1
2 out of their tax revenue, the New York State tax
3 revenue, something that at this point in the
4 fiscal crisis that New York State is in and is
5 going to continue to face, it's something that I
6 think we desperately need. I think should be
7 looked at as an opportunity, to look at this as an
8 economic benefit for New York State.

9 A study by Cornell University found
10 that nearly 7,000 workers in the state were
11 misclassified as independent contractors meaning
12 that they were not necessarily, although they were
13 viewed as someone that could work independently
14 they actually weren't. They worked for
15 restaurants and stuff like that.

16 I think we should take a strong
17 stance against this. I think that 32BJ is in the
18 support of this Wage Theft Protection Act. We've
19 lobbied on it in the Assembly and the Senate. We
20 also have our own prevailing wage bill that is
21 still lingering in the assembly and needs to get
22 done. We, as laborers, have continued and will
23 continue to fight for workers and we're asking the
24 City Council to do the same. As you know, the
25 Assembly doesn't know if they're coming back and

1
2 we need to make sure that. We know people are
3 tired from the elections but we need to make sure
4 that they come back and they continue fighting for
5 workers, which is what their commitment was.

6 Thank you.

7 PHIL ANDREWS: I'm Phil Andrews. I
8 work for the RWDSU. I'm an organizer so I work
9 directly with the workers. I represent a couple
10 of hundred workers, all of whom have experienced
11 wage theft at some point. Thank you to the
12 Committee and to the Chairman.

13 I just want to give two examples.
14 The point of what I'm going to talk about is this
15 isn't really an isolated problem in just immigrant
16 communities or in some hidden corners of the five
17 boroughs. It's not just young teenagers and not
18 just undocumented immigrants. It's everywhere.
19 I'm going to give you two examples that I've
20 worked with personally.

21 One, in 2007 I met workers at a
22 store called Yellow Rat Bastard. It's right here
23 on Broadway and Spring Street, in the middle of
24 fancy SoHo shopping district. Those workers were
25 working about 66 hours a week for as little as \$5

1
2 an hour. The Wireby is a chain store. It has
3 nine stores in SoHo, Brooklyn and in Queens Center
4 Mall and nearly 200 workers. They had a national
5 magazine, website, millions of sales, nationally
6 known brand. The workers were teenagers, college
7 students, parents, older people, native New
8 Yorkers, immigrants, every ethnicity you could
9 think of. It took two years and the Attorney
10 General investigating and eventually arrested that
11 owner to get those wages back.

12 A couple of years later in 2009, I
13 started to meet workers from another chain called
14 Mystique. They have six stores all along Canal
15 Street and Broadway, here again SoHo, about 100
16 workers, same situation, 66 hours a week, \$5 an
17 hour, again a mix of native New Yorkers and
18 immigrants. And again the Attorney General
19 investigated this place. The day after they got
20 the letter about the investigation, the owners
21 fired 35 people and spread a rumor that
22 immigration had come, not the Attorney General, so
23 many more people left. It just goes to show you
24 what kind of retribution we are talking about.

25 If this can happen in SoHo, right

1
2 on Broadway, one of the stores the Yellow Rat
3 Bastard is literally six blocks from here. I'm
4 going to go there right after this because now
5 they're union and I represent them. But I can
6 walk up and down this street and find you a wage
7 violator in five minutes. That's kind of the
8 point. The reason they break the law is because
9 it's easy and the penalties just aren't enough. I
10 hope we can change that. I thank you guys for
11 everything that you do.

12 PAT BURCELL: I will move this
13 along. My name is Pat Burcell. I'm Assistant to
14 the President for UFCW Local 1500. We represent
15 23,000 grocery workers. You have my statement.
16 It makes wonderful bed time reading so you can
17 read it then if you choose to. Let me just simply
18 say this. This has been our number one priority,
19 working with Make the Road over the past year.
20 This was our number one priority at the state
21 level.

22 Because of the incredible hard work
23 done by the folks at Make the Road and a number of
24 other organizations working together with 32BJ,
25 the RW, we were able to move this bill much, much

1
2 quicker than anyone ever thought we would. The
3 great news though, it's now passed and we can not
4 leave that bill without it being reconciled and
5 passed this year. Time is of the essence on this.
6 I greatly appreciate the Chair, the Council
7 Members, the Speaker for moving on this
8 resolution. Just as important, though, I would
9 ask you to please call the Speaker. If you could,
10 that would be great in addition to the resolution.
11 We really need to move on this.

12 Theft is theft. It's as simple as
13 that and I say that to people all the time. If
14 you're going to steal money out of somebody's
15 paycheck you might as well go into their house and
16 steal the money out of their home. It doesn't
17 matter. Theft is theft and this is an extremely
18 important thing for our members. It is a rampant
19 abuse. We need to catch up to the times. We're
20 all working hard on things like living wage,
21 prevailing wage. These are all incredibly
22 important things that we are working on but it
23 doesn't matter what the law tells you must pay
24 somebody. It doesn't matter unless you get paid
25 that money. You can make the minimum wage \$30 an

1
2 hour but if the employer's not paying it, it
3 doesn't matter.

4 So this is extremely important.
5 This is what we need to move forward on. Again,
6 we really greatly appreciate your support but
7 calls from the Council Members into Speaker
8 Silver's office would be extremely helpful, even a
9 bit quicker again because time is of the essence.
10 Getting people back to Albany; they're tired;
11 we're all tired. I don't think we're ever going
12 to not be tired. I'm looking for that day when
13 I'm not but I don't see it happening so we're all
14 going to have to push through our exhaustion and
15 get back to Albany and get this done. This can
16 not be left. This has to get done now. This
17 needs to get reconciled now. Calls into the
18 Speaker, great appreciation for hopefully the
19 passage of this resolution but time is of the
20 essence. Thank you.

21 MS. RIVERA: I'm sorry. I know I'm
22 out of order but I just want to reiterate. This
23 hearing is just one of many issues that are still
24 pending. I know he just talked about it but if
25 there's one thing that the Council can do, it's to

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2 send a message to the Assembly. A lot of this is
3 in the Assembly and we are friends with the
4 Speaker and with the leadership but we need local
5 people do to grass roots organizing to say to the
6 Speaker that we really do need to go up and finish
7 business for workers, especially now with the
8 climate of the Senate.

9 CO-CHAIRPERSON SANDERS: I will
10 take it upon myself as the Chair of the Committee
11 to call the Speaker, Speaker Silver of course, to
12 put our position across. I want to thank several
13 people. Of course, I want to thank Make the Road
14 New York for doing a great job. I want to thank
15 the workers who were bold enough to come in and to
16 got through so much and still be able to come in.
17 To thank 32BJ, RWDSU, UFCW, to Speaker Quinn, our
18 own Speaker, the committee as a whole and all of
19 these well people, the progressive caucus of
20 course in the City Council. All of us have taken
21 the position. I will let you have the pin
22 ultimate word and then I will dismiss.

23 COUNCIL MEMBER LANDER: I was just
24 going to suggest that maybe we can work on a
25 letter together. In addition to this resolution

1
2 let's get a letter from our colleagues to the
3 Speaker asking him to come back into session and
4 get this bill passed.

5 CO-CHAIRPERSON CHIN: I want to
6 just inform people that today is a day filled with
7 hearings. There are hearings all over the place,
8 even now I'm supposed to be voting on something
9 but that's a different story. If you saw my
10 colleagues move around a great deal it's A,
11 because it's very squeezed up here, tight up here
12 and B, we had to go to many different places to
13 vote on things. It does not mean they do not
14 care.

15 We spoke of two very critical
16 things today. I know that the Speaker has been
17 moving, our Speaker has been moving heaven and
18 earth to make sure that these hearings were held
19 so that these resolutions can come up. We
20 certainly, I look forward to voting on them and I
21 believe Monday is the day that we're going to. I
22 want to thank you for your discipline. Today,
23 being a crazy day, an extra crazy day I Thank you
24 for your discipline and I appreciate that you wont
25 hold it against us forever. Ten years, perhaps

1
2 Of course, wait, wait, wait. To
3 Martin Technology, we thank our translator. I
4 think that the idea that we can be in many
5 different languages is fantastic. It's a great
6 day that we live in. We just need to get even
7 more translators in even more languages up here,
8 maybe even one that I know.

9 Having said that my friends, I'm
10 going to Thank you very much, thank everyone for
11 coming out here and Thank you for watching. Thank
12 you very much. This hearing is now called to an
13 end.

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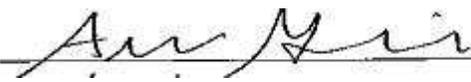
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C E R T I F I C A T E

I, Amber Gibson, 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 December 3, 2010