

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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December 1, 2010

Start: 10:15am

Recess: 2:17pm

HELD AT: Council Chambers  
City Hall

B E F O R E:  
ERIC MARTIN DILAN  
Chairperson

COUNCIL MEMBERS:

- Council Member Gale A. Brewer
- Council Member Leroy G. Comrie, Jr.
- Council Member Elizabeth S. Crowley
- Council Member Lewis A. Fidler
- Council Member Robert Jackson
- Council Member Letitia James
- Council Member Brad S. Lander
- Council Member Melissa Mark-Viverito
- Council Member Rosie Mendez
- Council Member James S. Oddo
- Council Member Eric A. Ulrich
- Council Member Peter F. Vallone, Jr.
- Council Member Jumaane Williams

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

James P. Colgate  
Asst. Commissioner, Technical Affairs/Code Development  
New York City Department of Buildings

Mitchell Albaum  
General Counsel, Deputy Commissioner  
Dept. of Information Technology and Telecommunications

John Jefferson  
Vice President of External Affairs  
AT&T, New York City

Jane Builder  
External Affairs Representative  
T-Mobile USA

Dan Mullen  
Executive Director of State Public Policy  
Verizon Wireless

Robert Breyer  
Network Group Representative  
Verizon Wireless

Leslie Snyder  
Attorney  
Snyder & Snyder

Nancy Freedman  
Resident of City Island  
In favor of bills

Thomas Moran  
Resident, Upper East Side  
Member, East 79th Street Neighborhood Association,  
Environmental Committee

Evi Hansopolis  
New York City Resident  
In favor of bills

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

Mari Secaji  
Brooklyn Resident  
In favor of bills

Sylvester Giustino  
Director of Legislative Affairs  
Building Owners and Managers Association of Greater  
New York

Doug Dimitroff  
Member, Board of Directors  
New York State Wireless Association

Chrissy Moore  
Director of Government Affairs  
Partnership for New York City

Michael Santorelli  
Director, Advanced Communications Law and Policy  
Institute  
New York Law School

Joan Bondell  
Manhattan resident  
In favor of bills

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2

[pause, background noise]

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CHAIRPERSON DILAN: Okay, good

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morning, everyone. My name is Eric Martin Dilan,

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and I am the Chairperson of the City Council's

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Housing and Buildings Committee. And today the

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Committee will conduct a Hearing on three bills,

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and at the conclusion of this Hearing, these three

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items will be laid aside. I know none of my

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Committee Members are here at this time, but

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they'll be coming in and I'll repeat, at the end

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of this hearing, these items will be laid aside,

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and there will be no disposition of these items

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this morning. The first would be Intro 57, that's

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in rel--all bills are in relation to cellular

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telephone service equipment. 57 in particular,

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involves the inspection of exterior walls of

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buildings greater than six stories in height. The

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essence of this bill should that, there needs to

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be repairs on exterior walls, may require that the

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carrier work with the building's owner and the

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Buildings Department to power this equipment down.

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Intro 104--and that is, I'm sorry, sponsored by my

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colleague Council Member Peter Vallone--Intro 104

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sponsored by Council Member Lewis Fidler, requires

1 notification to community boards and local council  
2 members of the application for issuance of an  
3 alteration permit for cellular phone antennas and  
4 equipment. And then finally, Intro 237, also  
5 sponsored by my colleague, Council Member Peter  
6 Vallone, also has to do with notifications of  
7 cellular phone antennas and equipment. And all  
8 three bills on the agenda, again have to do with  
9 cellular antennas. Cell phone towers and antennas  
10 have increased in appearance on buildings and  
11 roofs throughout the City of New York, due to  
12 great demand for faster internet speeds and more  
13 cellular phone service and coverage. Currently,  
14 the DO--Department of Buildings requires permits  
15 for the erection or placement of these antennas,  
16 but do not have any rules pertaining to the  
17 placement of cellular antennas on buildings. The  
18 Committee today expects to hear testimony from  
19 representatives from the Department of Buildings  
20 from the cellular service providers, as well as  
21 members of the real estate industry and any others  
22 interested on any item of today's agenda. Again,  
23 I'd like to ask anyone wishing to testify to  
24 please see the Sergeant-at-Arms, and fill out an  
25

1  
2 appearance card. And at this time, I'd like to  
3 turn to my colleague and the sponsor of two items  
4 on today's agenda, Peter Vallone, for a brief  
5 opening statement.

6 COUNCIL MEMBER VALLONE: Thank you,  
7 Mr. Chair, and first let me thank you for having  
8 this hearing. It's a very complicated matter for  
9 you and your staff, and I'm glad you took it on, I  
10 think you can see how important it is to a lot of  
11 people. It's something I've been working on for,  
12 for a long, long time. And let me start off by  
13 saying that I am not opposed to cell phones or  
14 cell phone towers. As Public Safety Chair I  
15 absolutely recognize the need for these things,  
16 the need to reach 111. But we need to roll this  
17 system out responsibly. These cell phone towers  
18 should not be across from schools, across from  
19 hospitals, across from bedrooms, until all of the  
20 health effects are known--and they are not known.  
21 We cannot continue to use our kids and our most  
22 vulnerable as guinea pigs in a worldwide  
23 experiment. That's what this hearing is about,  
24 the responsible placement of these cell phone  
25 towers. Now, I got involved in this back in 2003,

1  
2 just a local group came to me, Evi Hansopolis  
3 [phonetic] was her name, I think she's coming in  
4 today, and started to tell me about these cell  
5 phone towers that were popping up, and I like most  
6 people who first hear about this issue through  
7 they were probably a little nuts. And you know, I  
8 didn't take 'em seriously at first, but they  
9 continued to come to my office, and they got me to  
10 read the material, and I learned. And I it took a  
11 long time, but I finally understood the dangers  
12 of, the potential dangers, of these cell phone  
13 towers. And from that, that day I actually called  
14 up the City and said, "You know, how many of these  
15 cell phone towers are in my district?" and they  
16 said, "We have no idea." And I said, "How many  
17 are in the City?" they said, "We have no idea."  
18 So the first thing I tried to do was very simple,  
19 was just, "Let's keep track of where these cell  
20 phone towers are." So, I put in a bill that  
21 would--right now, a table on the sidewalk, an  
22 outdoor café gets more scrutiny than these cell  
23 phone towers do, which is ridiculous, it's not the  
24 same in other cities, but that's the way it is  
25 here. And so, all I did was put in a bill to make

1  
2 a special type of permit that they would have to  
3 get to put these towers up, so we would know where  
4 they were. And the advocates came in here, and  
5 screamed bloody murder, "This is going to, this is  
6 going to make these buildings terrorist targets,"  
7 they actually said that, they actually--please  
8 don't say that today, 'cause I'm not going to  
9 stand for that today. They actually said that on  
10 the stand at the last hearing that this would  
11 make, these two and three family homes with Nextel  
12 towers or whatever it was, terrorist targets.  
13 Subsequent to the hearing we found out that Israel  
14 has the location of every cell phone tower on the  
15 web. But it's just the kind of misstatements and  
16 the kind of fear mongering that people have said  
17 in the past. So, I had to fight for years just to  
18 get that one bill passed, so that we could keep  
19 track of how many cell phone towers are in New  
20 York City. And since then, since 2005, I've been  
21 working on these bills, working to try to get them  
22 moved to this point today. Has not been easy, but  
23 there are a lot of forces aligned against us, this  
24 is a huge, the cell phone tower industry, which  
25 is, I don't oppose, but it's a multi-billion

1  
2 dollar industry. Real estate industry is opposed  
3 to this because landlords make a lot of money,  
4 that's a good thing, landlords should make money  
5 because they can charge less rent if they make  
6 money. But these are powerful interests that  
7 don't want to see any, any restrictions on these  
8 towers. And they have every right to take that  
9 position as long as they take it responsibly and  
10 don't bring up the terrorists looking to hit two-  
11 and three-family homes because there are cell  
12 phone towers on them. So, the first, the main  
13 piece of legislation that we're looking at today  
14 is one of mine, that will require companies to  
15 give notice to the elected officials and to the  
16 community before they put these up. And to show  
17 evidence of their best efforts to locate them in  
18 industrial areas. That's what we're talking about  
19 there. Let's, let's--if you need to put them  
20 someplace in a residential area because you can't  
21 cover it any other way, fine, we understand we  
22 need, we need the service. But don't put it there  
23 because you're getting the, you're getting the  
24 best real estate deal in that location, when  
25 you're putting it across the street from

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2 somebody's bedroom or somebody's school. So, my  
3 bill would do that. Do I want to do a lot more?  
4 Absolutely. I would love to do more than actually  
5 just get notice of these cell phone towers going  
6 up, but we're prevented from doing almost anything  
7 on cell phone towers by the FTC, who have ruled  
8 basically that no municipality can--no  
9 municipality can take any action on cell phone  
10 towers that are based on health concerns, and so  
11 many local governments have passed resolutions  
12 throughout L.A., Santa Fe, San Francisco, have  
13 passed resolutions, which is another thing I'm  
14 looking for today, asking for the FTC to change  
15 its ruling, start looking at the new evidence,  
16 evidence it based its rulings on from this, the  
17 medical evidence from the '70s and the '80s.  
18 Other countries and areas have banned these cell  
19 towers near schools, the Province of British  
20 Columbia, New Zealand, Palm Beach, California,  
21 have already banned them near schools. So, New  
22 York should be leading the way here, and that's  
23 what this is about, leading the way and protecting  
24 our citizens, until we know more. The responsible  
25 placement of these towers. No one wants to shut

1  
2 down the industry, I've got my cell phone on me  
3 right now, I understand the need for cell phones,  
4 I understand the need for service everywhere we  
5 are, but let's do it as responsibly as possible  
6 until we know the dangers that we face. So, thank  
7 you, Mr. Chair, and thank you for letting me go  
8 over the little, the brief opening I was supposed  
9 to make, also.

10 CHAIRPERSON DILAN: That's fine,  
11 and just to clarify something that the, the  
12 Council Member said, he did mention health  
13 impacts. None of the bills today deal with the  
14 health impacts because we are preempted by federal  
15 law, so the items before us do not deal with  
16 health impacts. However, if people want to have a  
17 discussion on health impacts I guess that's fine,  
18 but there's nothing that we can legislatively do  
19 to address that. We've been joined by some of my  
20 colleagues, to my far right, appropriately, the  
21 Republican leader from Staten Island, a good  
22 friend of mine, Jimmy Oddo; next to him, Council  
23 Member Eric Ulrich of Queens; and Council Member  
24 Elizabeth Crowley of Queens, also. And I do want  
25 to take this time to just thank the Committee

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2 staff to my immediate right, Bob Hom, the Counsel  
3 to the Housing and Buildings Committee; and to my  
4 left, Ben Goodman, the Policy Analyst; as well as  
5 Laura Rogers, who's sitting in the back, who's  
6 Assistant Counsel to the Committee. They were  
7 here till 11:00 o'clock last night preparing for  
8 this hearing and here bright and early in the  
9 morning. I just want to give a public thanks to  
10 them for all their hard work on this and other  
11 items. So, we'll get right to it. Today we have  
12 with us representatives from the Buildings  
13 Department and I do want to give another reminder  
14 that if all cell phones are on, please turn them  
15 to, turn them to the vibrate mode or off, so that  
16 we can get through these proceedings in a orderly  
17 and quick manner. We have today with us Mr. James  
18 Colgate, Assistant Commissioner from the  
19 Department of Buildings, who will testify on  
20 behalf of the Administration on these bills. And  
21 I know I have introduced you, but if you can  
22 introduce yourself in your own voice for the  
23 record. And introduce members of the panel who  
24 are with you, then we can hear your testimony.

25 JAMES COLGATE: Okay. Good

1  
2 morning, Chairman Dilan and Members of the  
3 Committee of Housing and Buildings. My name is  
4 James P. Colgate, I'm the Assistant Commissioner  
5 for Technical Affairs and Code Development and the  
6 New York City Department of Buildings. I am  
7 joined today on my right by Donald Ranjti  
8 [phonetic], who's the Director of  
9 Intergovernmental Affairs at the Department, and  
10 representatives on my left from the Department of  
11 Information Technology and Communications, DoITT.  
12 Thank you for taking this opportunity to allow us  
13 to discuss Intros 57, 104, 237, regarding the  
14 installation of cellular antennas. As you know,  
15 where cellular antennas are sited, that's governed  
16 by the Zoning Resolution, and their placement on  
17 rooftops has to adhere to regulations of the  
18 Building Code, our Department's published  
19 interpretations, and the New York City Fire Code.  
20 First, I would like to address Intro 57. The  
21 Buildings Department already requires that all  
22 buildings and cities over six stories tall file  
23 with this Department a critical examination report  
24 of the condition of the exterior walls and roof of  
25 a building. We have commonly called this a Local

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2 Law 11 filing. It's mandated to be performed by  
3 an architect or engineer every five years. The  
4 details of this are described in Section 28302.1  
5 through .6 of the Administrative Code. This  
6 report must include all details of the exterior of  
7 the building, including any defects in the walls,  
8 cracks, and placement of devices attached to the  
9 building, such as cellular antennas. Intro 57  
10 would amend Section 302 by adding 28302.7. This  
11 Intro would require the owner of property  
12 underdoing a Local Law 11 examination to notify  
13 the Department if, of the cellular and--I'm sorry--  
14 -to notify the Department if the placement of  
15 cellular equipment is causing a delay in the  
16 filing of the report. The Department, however, is  
17 of the opinion that the placement of this  
18 equipment has not significantly impacted the  
19 undertaking of these inspections. Moreover, with  
20 building owners having ample time, up to five  
21 years, and a variety of methods to undertake these  
22 inspections, the Department cannot support adding  
23 an extension to the amount of time to file and  
24 delay our receiving these very critical safety  
25 reports. At this point, I would like to turn to

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2 Intro 104. This bill would mandate that the  
3 Department notify Council Members and community  
4 boards within five business days of a permit  
5 application for a cellular antenna installation  
6 and require a public comment period of 30 days  
7 before permit issuance. As I alluded to earlier  
8 in my testimony, the siting of cellular antennas  
9 is governed by the Zoning Resolution, and their  
10 installation by the Department published  
11 interpretation in Building Code. The Department  
12 is required to determine the application's  
13 conformity to these laws, and must approve them if  
14 they comply. It's purely a ministerial action.  
15 That is what is commonly called "as of right"  
16 status, and therefore is only dealing with these,  
17 the bill would only delay these applications  
18 another 35 days. The idea of public notification  
19 is something that my Department has taken very  
20 seriously. Our commitment to transparency is  
21 evident in the amount of data that we have  
22 included on our website. In the last legislative  
23 session, Council put forth similar notification  
24 concept, we worked along with the Council to enact  
25 Local 85, which created a separate permit type,

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2 that's what Member Vallone spoke of earlier, for  
3 cellular antenna placement. And to that end, we  
4 created a list on our website, and a weekly and  
5 monthly report that presents the public in  
6 spreadsheet form all cellular permits issued by  
7 the Department by borough, by community board and  
8 by address. Currently, the Department has no  
9 capacity or personnel to fulfill the proposed  
10 additional notification requirement. However, our  
11 website is already supplying that information and  
12 it is only a few mouse clicks away for anyone who  
13 is interested. Finally, I would like to discuss  
14 Intro 237. We feel that this bill hopes to  
15 accomplish two main goals: One is to have the  
16 Department promulgate rules regulating the  
17 installation of cellular equipment, and a second  
18 to attach an identification tag to the equipment,  
19 which will contain the permit number and under  
20 which the installation took--took place. And  
21 also, an advisory to call 311. With regard to the  
22 mounting of these antennas, the Building Code is  
23 already explicit in its regulations of attaching  
24 these accessory structures to buildings. The  
25 engineering relating to wind loads, earthquake

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2 loads, bracketing, mounting and bolting is  
3 contained in the code. Second, the advisory tag  
4 is problematic in that according to the Fire Code,  
5 each piece of equipment must already have a unique  
6 identifier. This identifier allows FDNY to know  
7 which company the equipment belongs to and  
8 contains a phone number for the installer. At  
9 this time, we also feel that having the call 311  
10 advisory on the tag may work at cross-purposes  
11 with the information already available. In any  
12 case, any member of the public could treat this  
13 like any other complaint and call 311 at any time,  
14 anyway. So, in conclusion, it is the position of  
15 the Department that we cannot support these bills.  
16 Thank you once again for allowing us to testify on  
17 these Introductions. We will be happy to address  
18 any questions you may have.

19 CHAIRPERSON DILAN: Okay, thank you  
20 for your testimony, Mr. Colgate. We've been  
21 joined by Council Member Jumaane Williams of  
22 Brooklyn, and I'll lead off with a few questions,  
23 and then allow the bill's sponsor to follow me,  
24 and just for the benefit of the members, after  
25 Council Member Vallone, the list is open. First,

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2 I take the--you have the clear position that  
3 you're opposed to all three items on today's  
4 agenda. And I want to look at Intro 57 first.  
5 How much of a problem is it, and how many, how  
6 many reports of anybody that is looking to do  
7 repairs on exterior walls in the City, how often  
8 has your department received any notification that  
9 a piece of cellular or any other equipment, for  
10 that matter, got in the way of completing repairs?

11 [pause, background noise]

12 JAMES COLGATE: We don't have any  
13 specific information about how many times it's  
14 caused a problem. Every building over six stories  
15 tall has to do these reports every five years.  
16 And the building owners work with a number of  
17 things. Sometimes you have different co-op--

18 CHAIRPERSON DILAN: Okay, so let me  
19 just rephrase.

20 JAMES COLGATE: Okay.

21 CHAIRPERSON DILAN: How, how--I  
22 guess then how common--is this something that's  
23 common? Are, are there often requests to have, is  
24 this a common--

25 JAMES COLGATE: We don't, we, we

1  
2 don't have reports of large numbers of people  
3 saying, "I can't get my reports done because the  
4 cellular equipment is causing me problems. You  
5 know, there are a lot of things attached to  
6 buildings, you have flagpoles and you have  
7 elevator things, you have cellular antenna things,  
8 you have all kinds of things attached to  
9 buildings, you have signs from retail. The whole  
10 thing has to be inspected every five years, and  
11 the building owner usually works through a program  
12 to make sure that he can complete it in the time  
13 allotted. And there's a deadline. At the end of  
14 the deadline, if it's not completed, then they get  
15 a violation from us. That's how we, we operate.  
16 And there is an ability for a building owner, in a  
17 specific case, to come to us and say, "I need an  
18 extension." It could be for any number of  
19 reasons, whether it's a cell antenna or whether  
20 it's some other problem they're having, they can  
21 always apply to us for an extension. And we do  
22 get those kinds of applications.

23 CHAIRPERSON DILAN: Okay, so just  
24 in general, you don't find that it's a common  
25 problem that DOB deals with on a day--

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JAMES COLGATE: No.

CHAIRPERSON DILAN: Okay. So, then, when somebody, when a carrier comes in and looks for a permit for the erection of a cell antenna, and they, when they file, what information is, needs to be provided to the Department of Buildings?

JAMES COLGATE: The Department's requirements for the approval of construction documents is contained in Section 28104 of the Administrative Code, and it sets forth requirements for structural details for the types of attachments, all those kinds of things, an engineer has to certify a series of plans demonstrating compliance with the building code and providing all those details. I think that's what you're asking, is that--?

CHAIRPERSON DILAN: Yeah, basically, essentially, is there some type of application? What's just the basic information that a provider has to--

JAMES COLGATE: Oh, well, there's a--there's a four page form that requires data and information first. And then, and attached to that

1  
2 is a signed and sealed plan from an architect or  
3 engineer that shows the location of the cellular  
4 equipment, how it's attached, what it's attached  
5 to, how tall the building is, all the information  
6 that would demonstrate compliance with the  
7 structural and zoning requirements of the building  
8 code and zoning resolution.

9 CHAIRPERSON DILAN: Okay, so I'll  
10 just ask a question that Council Member Vallone  
11 stated in his opening. I guess several years ago,  
12 he claimed the Department had no information as to  
13 how many cell towers existed in the City of New  
14 York. Do you have any idea how many cell towers  
15 exist, that are erected in the City today?

16 JAMES COLGATE: We don't have that  
17 information but we can provide to you, if you  
18 want, the information of how many cellular  
19 antennas have been approved since that last bill  
20 that we worked with, that created the requirements  
21 for us to be able to report specifically which  
22 applications - -

23 CHAIRPERSON DILAN: [Interposing]  
24 Do you have that number today?

25 JAMES COLGATE: I don't have it

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with me today, but I can get it to you.

CHAIRPERSON DILAN: Yeah, we would like to see that information, absolutely.

JAMES COLGATE: Yeah, it should be also on our website, but we'll, we'll get it to you.

CHAIRPERSON DILAN: Well, I understand it's on the website, but I--

JAMES COLGATE: We'll get it to you.

CHAIRPERSON DILAN: I think we have the right to ask.

JAMES COLGATE: And we're happy to give it to you.

CHAIRPERSON DILAN: Okay. What factors does the Department take into consideration when this, whether deciding to approve an application for the attachment or installment of a self-service antenna?

JAMES COLGATE: There are two issues. One is zoning and one is building code. First, the zoning, it has to be within certain height limits and things like that, and if it complies with the zoning, it passes that first

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2 check. The second check is the building code, it  
3 has to have sufficient details on the plans that  
4 demonstrate that it complies with the structural  
5 loading, the wind loads and all the other things,  
6 to, to support the thing and make it a safe  
7 installation.

8 CHAIRPERSON DILAN: Okay. And I  
9 know 104 has some, Intro 104 has some potentially  
10 personnel impacts, and some expense impacts, and  
11 I'll ask the question for all three items on the  
12 agenda. At this time, do you have any idea of  
13 what the fiscal impact would be to the Department  
14 on these items before us at this time?

15 JAMES COLGATE: We haven't assessed  
16 specifically how much it would cost. When you  
17 look at, for instance, Intro 104, what it's asking  
18 us to do is to set up a new computer process and a  
19 new notification process, where we would have to  
20 collect information, send information to the  
21 community boards, and, and to the Council Members,  
22 and, and be the one to provide that information.  
23 Right now we have it on our website, and anyone  
24 who wants to go can say, "I'm interested in  
25 Community Board, you know, Eight in Manhattan," I

1  
2 can look at that and I can see what the cell  
3 antenna activity is for that week. It's all  
4 there, that's how we've done it. For us, it's a  
5 very efficient use of government services to  
6 provide it in that manner, to have clerks and  
7 staff members call the information, send letters  
8 or do other things like that, it's not for us a  
9 very efficient way of disseminating information in  
10 this, in this way.

11 CHAIRPERSON DILAN: All right, well  
12 I, I--I would think that over the years, just  
13 going back to the number of towers and pieces of  
14 equipment that are in the City, I would imagine  
15 you've worked with my colleague Peter Vallone, to  
16 try to get this information. And I would hope  
17 that, that he would be able to get it, if it's  
18 publicly available on the website, that someone  
19 from the Department should've at least given him  
20 an answer as to how many pieces of equipment  
21 existed, aside from any legislative item. So I'll  
22 go on the record stating that.

23 JAMES COLGATE: We'll get you the  
24 information.

25 CHAIRPERSON DILAN: Yeah, well, I

1  
2 would appreciate that, that you get it to us,  
3 because I believe he's been asking for several  
4 years, and maybe we could've avoided this hearing  
5 had he--and maybe, maybe not. [laughter] But  
6 maybe we could've avoided this hearing had he had  
7 this information. So, I asked earlier, what does  
8 DOB take into consideration when they approve an  
9 application. To you knowledge has DOB ever  
10 disapproved an application? And what factors  
11 would be considered into, into a decision for  
12 disapproval?

13 JAMES COLGATE: We disapprove them  
14 fairly regularly. What happens is the application  
15 is submitted to our examiners, we'll look at it,  
16 and realize that either it doesn't comply with the  
17 zoning, or it doesn't comply with the structural  
18 loading requirements, or it doesn't provide enough  
19 information for us to determine whether it  
20 complies with either of those two requirements.

21 CHAIRPERSON DILAN: Okay, so aside  
22 from those two requirements, are there any other  
23 factors that could lead to disapproval of a  
24 permit?

25 JAMES COLGATE: Sure, if the

1  
2 building happens to be, let's say, in a landmarked  
3 district, our examiners will not approve it unless  
4 Landmarks has given us okay first. If it's,  
5 happens to be in a single room occupancy multiple  
6 dwelling, it might require another level of  
7 review. There are other types of things that flow  
8 into it. But in a normal, ordinary, standard  
9 building, it's just the zoning and the building  
10 code, and my Department is obligated under our  
11 mandates to approve it if it complies.

12 CHAIRPERSON DILAN: Okay, I am,  
13 we've been joined by Council Member Fidler who's a  
14 sponsor of one of the items. We've been joined  
15 also by Council Member Melissa Mark-Viverito on  
16 these--and at this time, I will go to Council  
17 Member Vallone, and then we'll, we'll open the  
18 list for members, and I may have some questions at  
19 the conclusion. Council Member Vallone.

20 COUNCIL MEMBER VALLONE: Thank you,  
21 Mr. Chair, and the clarify, it wasn't that they  
22 were not giving me information that I asked for,  
23 they didn't have the information prior to 2005,  
24 and that's what I was asking. Since then, I want  
25 to commend them for having their website up, to

1  
2 put this information out there to people, and I  
3 haven't asked them since, since they put the  
4 information on the website. But prior to that  
5 they just didn't have the information, they had no  
6 idea. Neither did the federal government, by the  
7 way, because I called them up and they said,  
8 "Well, we don't know." And then I said, "Well, I  
9 want an inspection done on this certain corner  
10 because there's cell phone on every, on every  
11 building." And they said, "We only have two  
12 inspectors." I said, "All right, two inspectors  
13 for, you know Queens, that's not bad," and they  
14 said, they said, "No, two inspectors for the  
15 entire northeast coast." So that's what's in  
16 charge of our cell phones right now, the, nobody  
17 has any idea what's going on, it's like the wild  
18 west out there. So, let me just discuss two, bill  
19 237 with you. You didn't support it, but you gave  
20 some reasons which are not clear to me. You  
21 stated that your approval of these, these towers,  
22 you stated is purely ministerial, and you're  
23 absolutely right, you must approve them once they  
24 meet the standards you mentioned, zoning and  
25 building code, that you must approve them. Is

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that correct?

JAMES COLGATE: That's correct.

COUNCIL MEMBER VALLONE: All right, so you have no discretion once they meet those codes. And you stated therefore that notification, that the notification that my bill calls for would only delay the process 30 days. Which is true, and I've said many times I'd love to do a lot more than just be notified, I'd love to have the community have some say in this. But we can't. So, we're trying to do what we can. So, you just said it will only delay the process 30 days. But in those 30 days, the community is getting notified. This notification is not for your benefit, the community--the notification is for the community's benefit. We understand we can't, we don't have any say in this, but we do have a say in where we live. And if somebody feels strongly enough and wants to know where these things are coming, they will be able to move, they will be able to take whatever action they deem appropriate, once they have the information. That's what the 30 days is for. Not for the City to do anything with it, not for the,

1  
2 you know, it's not for your benefit, it's for  
3 their benefit, it's for the community's benefit.  
4 And so, I don't understand why you would oppose it  
5 on that ground, because it's, it wasn't supposed  
6 to give you or I any benefits. You also said the  
7 information is on the web. Well, it is, after it  
8 gets put up, number one; and number two, nobody  
9 should be expected to continually check your  
10 website, as good as it is, constantly to see if,  
11 if new cell phone towers are going up, or have  
12 already been put up around them. They should get  
13 notification. So, I don't think that is an  
14 actually valid concern of yours. Your other  
15 concern is that the City would have to put out  
16 this notice; in fact, in my bill, in 237, it's the  
17 carrier. In Mr. Fidler bills, Fidler's bill,  
18 which is, which is similar to mine, it's the City.  
19 And I think the carrier should bear that cost,  
20 which would eliminate that concern of yours. So,  
21 I mean, that was really the only--oh, the other  
22 thing you mentioned was that these wires already  
23 have an identification on them. Well, that's not  
24 been the case to many homeowners and people that I  
25 have spoken to, they have no idea who these wires

1  
2 belong to. So you're saying that the Fire  
3 Department has some code on these wires? What  
4 type of code is on these wires? Is it something  
5 that the Fire Department understands but the  
6 regular person would not understand?

7 JAMES COLGATE: The Fire Department  
8 has told us that their regulations require that  
9 the equipment be identified with a identifier that  
10 permits them to figure out who it is who owns the  
11 equipment.

12 COUNCIL MEMBER VALLONE: What sort  
13 of identifier is that?

14 JAMES COLGATE: I, we'd have to get  
15 back to you from the Fire Department on that.

16 COUNCIL MEMBER VALLONE: Okay. I'm  
17 going to have to look into that, too, because I  
18 receive so many, you know, complaints of people  
19 who have no idea who these wires belong to. And  
20 when they're getting put up, I mean, the  
21 homeowners, the neighbors are actually being lied  
22 to, they're told they're solar panels, they're  
23 told all sorts of things - -

24 JAMES COLGATE: [interposing] I  
25 don't think the wires get notified, it's the piece

1  
2 of equipment, so it should be on the equipment  
3 itself.

4 COUNCIL MEMBER VALLONE: On the  
5 equipment, okay.

6 JAMES COLGATE: On the equipment.

7 COUNCIL MEMBER VALLONE: I'll look  
8 a little bit more into that, but whatever's there  
9 right now is not, is not sufficient. So those are  
10 the only reasons you discussed to oppose this  
11 bill. I would have assumed you would've taken no  
12 position. But now that you're clear on that,  
13 maybe you will take no position on it in the  
14 future. I would actually like to know the latest  
15 on how many cell phone towers are in the City. Is  
16 it, other Council Members will be asking  
17 questions. Isn't it possible for somebody that's  
18 here with you today to check this website, since  
19 they know exactly where the information is, and  
20 get that information to us right now?

21 JAMES COLGATE: We'll get it to  
22 you, but I will tell you that our information is  
23 limited to 2005 forward.

24 COUNCIL MEMBER VALLONE: Oh, I  
25 understand that, yes.

1  
2 JAMES COLGATE: It doesn't include  
3 the ones from before, unfortunately, we don't have  
4 that.

5 COUNCIL MEMBER VALLONE: I  
6 understand that, and that's a huge problem. But  
7 we, we can only do what we can do, and it took me  
8 two years to get that bill passed, because of  
9 intense, intense opposition, which--and all that  
10 bill did was keep track of the amount of cell  
11 phone towers. And the communications industry did  
12 not want us to even know how many there were.  
13 I've got a lot more, but I want to move on to the  
14 other Council Members. Thanks.

15 CHAIRPERSON DILAN: Council Member  
16 Williams, followed by Council Member Lander.

17 COUNCIL MEMBER WILLIAMS: Thank  
18 you, Mr. Chair. Thank you for your testimony. I  
19 came a little late, so I apologize if some of this  
20 stuff is going to be repetitive. But I was just a  
21 little--when I, you know, just hearing more about  
22 the bill, it's a little confusing. I also can't  
23 understand why you're opposing some of it. So, I  
24 may ask just to repeat like maybe in one line,  
25 like Intro 57. It seems me if there is a problem

1  
2 with the cell towers, all this is saying is to try  
3 to help prevent the problem, try to help cure the  
4 problem. And if there isn't, the bill wouldn't be  
5 that much of a problem. So why would you be  
6 opposing?

7 JAMES COLGATE: I guess the reason-  
8 -57 is the bill regarding the critical  
9 examination, every five years--

10 COUNCIL MEMBER WILLIAMS: Yeah.

11 JAMES COLGATE: --but no other  
12 buildings have to be inspected. And the building  
13 owner is responsible during that five year period  
14 to ensure that that building owner's own architect  
15 or engineer who does the inspection, can gain  
16 access to all the parts of the building, they can  
17 do the scaffold drops on different sides of the  
18 building, they can get to certain areas of the  
19 roof. And if the cell antenna has to have some  
20 kind of, will cause some kind of delay in that  
21 inspection, most owners will arrange their  
22 schedule for their inspection regimen to  
23 accommodate whatever problems might arise from  
24 scheduling. So, it's very simple, they plan their  
25 five years schedule, they do their inspections at

1  
2 the right time. If the cell antenna's going to  
3 cause them to have an extra additional amount of  
4 time to do the inspection, they schedule it  
5 properly. If there's a, at the last minute, they  
6 have a problem, they can always come for an  
7 extension for any number of reasons, whether it's  
8 a cell antenna or whether it's, they realize that  
9 there was a crack or whether their architect got  
10 sick. Whatever it is, they can come to us for an  
11 extension.

12 COUNCIL MEMBER WILLIAMS: So was,  
13 why, if they do it anyway, what's wrong with  
14 codifying it?

15 JAMES COLGATE: Well, it's already  
16 in the code generally, and to pull it out for this  
17 one specific case, sets up a statutory scheme  
18 which is a little bit uneven and strange. You  
19 look at it and say, "Well, why is--why is this  
20 here?" And it, it almost allows people, and gives  
21 them the expectation that we're going to give them  
22 extensions for this particular thing, and it gives  
23 us, gives owners and expectation that they're not  
24 actually required to complete on time. And if I  
25 have a cell antenna, I get some extra time. And

1  
2 this is important stuff, this is whether the  
3 bricks fall on people's heads from the, from the  
4 street. The examinations of these buildings is  
5 very important. And we don't want to delay them,  
6 if at all possible, and leave it for the excep--  
7 real exception.

8 COUNCIL MEMBER WILLIAMS: I sort of  
9 understand what you're saying, I just, my  
10 confusion is if there's no problem, it's not going  
11 to be an issue, and if there is a problem, this is  
12 just giving us a way to fix it. But, I'm going to  
13 go on. On 104, which I'm signed onto, I'm a  
14 little confused about that, as well. My biggest  
15 question was how do I know to check the website  
16 and how often should I check it?

17 JAMES COLGATE: Every week, every  
18 week new, you know, antennas--I do have a note  
19 from my colleague on my right here. Year-to-date,  
20 we've approved 1,500 cell antennas in New York  
21 City. That gives you the scope of how often they  
22 come, they're--

23 CHAIRPERSON DILAN: Calendar year?

24 JAMES COLGATE: Calendar year?  
25 Calendar, yeah, yeah.

1  
2 COUNCIL MEMBER WILLIAMS: So, what  
3 this is saying, at the point of application, if  
4 I'm correct, 'cause I, I had--

5 JAMES COLGATE: Yeah.

6 COUNCIL MEMBER WILLIAMS: --though  
7 I had, I had different information yesterday. So,  
8 at the point of application, where it's saying,  
9 "To inform the community boards and the Council  
10 Members."

11 JAMES COLGATE: Right, what--

12 COUNCIL MEMBER WILLIAMS: You're  
13 saying now that it's on the website, so the  
14 Council Members and the community boards should  
15 just check it every week.

16 JAMES COLGATE: And then they'll  
17 know what's happened in their, in their community  
18 boards. It's all broken by the community boards,  
19 it's in a spreadsheet, they can sort and sift any  
20 way they want. It has all the information there.  
21 This bill--

22 COUNCIL MEMBER WILLIAMS: So what,  
23 does it seem a little funky that I now need to  
24 check every single week, of the website to check,  
25 when you can just inform me that something's going

1  
2 up?

3 JAMES COLGATE: Well, it requires  
4 my Department to expend the resources to notify  
5 you in writing. Okay, so now I've got to assign  
6 clerks, I've got to reprogram my computers. I  
7 have to spend the City's money to set up a system  
8 of notification, having people getting this  
9 information to you. That doesn't seem a very  
10 efficient way of distributing information in this  
11 day and age. The information's right there, it's  
12 easy to get to.

13 COUNCIL MEMBER VALLONE: Council--  
14 scuze, Council Member Williams has the floor.

15 COUNCIL MEMBER WILLIAMS: So,  
16 actually, I should check probably every day, every  
17 City website, to see what's going on in my  
18 community, basically is what you're saying.

19 JAMES COLGATE: Well, for cell  
20 antennas. If cell antennas are--

21 COUNCIL MEMBER WILLIAMS: No, but I  
22 have a lot of other issues, so I need to check  
23 every single website of every City agency every  
24 single day.

25 JAMES COLGATE: The Department's

1  
2 position is that the cellular antenna information  
3 is very easily available.

4 COUNCIL MEMBER WILLIAMS: That's a  
5 very bad position [laughs] just so you know.

6 JAMES COLGATE: I respectfully  
7 disagree.

8 COUNCIL MEMBER WILLIAMS: And then,  
9 237, can you just tell me again the synopsis, kind  
10 of one line why you're opposed to that?

11 JAMES COLGATE: Okay. 237, it's a  
12 little bit longer than 104, it has two parts to  
13 it. One of them is the notification and the,  
14 putting a plaque on a, with a number on it, which  
15 we feel is already addressed by the Fire  
16 Department, and the 311, which I guess if you  
17 happen to be going on your roof and want to look,  
18 and you want to file a complaint with 311, that's  
19 one half of it. The other half is, is kind of,  
20 well it has a little bit of overlap with 104. And  
21 let me just take a quick few seconds. It deals  
22 with promulgating rules regulating how these are  
23 installed. It wants the Department of Buildings  
24 to go through a process with our lawyers to  
25 describe, if you're going to put on a cell

1 antenna, this is how you attach it, this is what  
2 you have to do, this is how you bolt it. We think  
3 that's already covered in our building code. So,  
4 this doesn't serve any purpose for us, our  
5 regulations tell you, if you're going to attach a  
6 cell antenna this is how you bolt it, this is how  
7 you attach it, this is the wind, loads, this is  
8 the live loads and dead loads, this is how it, the  
9 building will hold up or not, and this is--you  
10 know. That's why. We don't see it as doing much.

11  
12 COUNCIL MEMBER WILLIAMS: So you're  
13 just saying that this is repetitive.

14 JAMES COLGATE: Yeah.

15 COUNCIL MEMBER WILLIAMS: Thank  
16 you.

17 CHAIRPERSON DILAN: Okay, I have  
18 Council Member Lander, followed by Council Member  
19 Fidler.

20 COUNCIL MEMBER LANDER: Thank you,  
21 Mr. Chairman. A couple of questions which in some  
22 ways are not as directly related to the bills  
23 before us. The first I guess, and I'd appreciate  
24 it if you would just remind me your more general  
25 opportunity to kind of comment, kvetch, complain,

1  
2 you promulgated a new rule I guess last year, that  
3 sort of clarified the process for from the moment  
4 of application approval, how community members,  
5 Council Members and others can, can weigh in and  
6 say, "We think you made a mistake," and you'll  
7 review it. And I'm not, I don't remember exactly  
8 where you came out. So, can you just remind us  
9 what the, what the current practice is on the rule  
10 for, in general, then I assume that would include  
11 cell phone applications currently, as it would. I  
12 think it includes all--anyway, just why don't you  
13 remind us first what the, what that process is.

14 JAMES COLGATE: Sure. The  
15 Department put in place a rule that establishes a  
16 procedure for constituents, community members,  
17 Council Members, whoever wants to, you said,  
18 kvetch, complaint, whatever, that the--

19 COUNCIL MEMBER LANDER: Praise,  
20 they might say you did a great job on this  
21 approval, but-

22 JAMES COLGATE: Praise, well, to  
23 allege that the application is deficient in a  
24 manner which renders the approval to be in error.  
25 That's the more legal way of saying it, but yes,

1  
2 that's, that's how--and that rule applies, and  
3 sets forth a timeline and a schedule that allots a  
4 certain amount of time for people to complain, so  
5 that we can get that information up front in the  
6 beginning of the process. That only applies when  
7 you're adding floor area to a building or building  
8 a new building. It doesn't apply to changing a  
9 balcony, putting up a fence, putting a cell  
10 antenna. Those are small alterations, and those  
11 people can complain to us at any time, there's no  
12 schedule, they can write a letter to us, we review  
13 it. If the, if a permit was issued in error, then  
14 we will revoke it after we audit the, the  
15 application. So, the cell antennas and other  
16 minor alterations are outside the ambit of large  
17 new developments. Large new developments have a  
18 set process that's dealing only with those big  
19 issues.

20 COUNCIL MEMBER LANDER: Okay, so  
21 that new rule only covers the larger ones--

22 JAMES COLGATE: Well, not  
23 necessarily all the ones, it's when you're adding  
24 floor area to a building--

25 COUNCIL MEMBER LANDER: Okay.

1  
2 JAMES COLGATE: --or a new  
3 building.

4 COUNCIL MEMBER LANDER: And how  
5 long is the period post-approval that you sort of  
6 allowed for people on those to give feedback that  
7 you'll respond to?

8 JAMES COLGATE: Okay, so it's, I'm  
9 being told it's 45 days from the time we issue the  
10 construction document, approval for the zoning.  
11 Right?

12 COUNCIL MEMBER LANDER: Okay. And  
13 I mean, that's not a waiting period, the  
14 applicants can begin their construction, obviously  
15 they're at some--

16 JAMES COLGATE: That's right.

17 COUNCIL MEMBER LANDER: --little  
18 bit of risk--

19 JAMES COLGATE: There is some risk.

20 COUNCIL MEMBER LANDER: --in that  
21 if someone finds a mistake and you revoke it,  
22 they're out there doing it, and it could still be  
23 revoked, but there's not - -

24 JAMES COLGATE: [interposing]  
25 That's what I'm saying, correct.

1  
2 COUNCIL MEMBER LANDER: Okay. But  
3 that doesn't specifically apply here, although if  
4 someone did file a complaint and say you had acted  
5 in error, you know, within that 45 day period,  
6 even on a smaller, on a cell phone antenna, you're  
7 saying you would review it, and--

8 JAMES COLGATE: Yeah.

9 COUNCIL MEMBER LANDER: --consider  
10 revoking it if you had issued it in error, even  
11 though it's not specifically covered by the  
12 complaint period.

13 JAMES COLGATE: 100 percent  
14 correct.

15 COUNCIL MEMBER LANDER: Okay, so  
16 then I guess my, this gets back to a broader set  
17 of notice issues that I had raised when I came to  
18 the rulemaking hearing and commented on that  
19 testimony, because I feel like that 45 day period  
20 is difficult for people to make use of, and this  
21 gets to Council Member Williams' question, if they  
22 don't know that the approval has been granted.

23 JAMES COLGATE: Right.

24 COUNCIL MEMBER LANDER: And the  
25 challenge is, you know, if you're a neighbor of a

1  
2 project, you're pretty unlikely, you're not, I  
3 mean, we might think we should have our staff  
4 check the website frequently, the neighbor of a  
5 new project, whatever it is, new building or new  
6 cell phone antenna, pretty unlikely to even know  
7 that that approval has been issued, in many cases  
8 until the 45 days are gone, if they don't see  
9 something active taking place on the site.

10 JAMES COLGATE: Right.

11 COUNCIL MEMBER LANDER: So, I do  
12 think we have a challenge figuring out how we  
13 provide notice of actions that people might want  
14 to use the immediate, you know, window of time to  
15 respond to, but they're extremely unlikely to have  
16 any knowledge of it in the important window of  
17 time. So, have you guys looked at technology, it  
18 doesn't seem to me that it would be that  
19 difficult, this bill or not, on the broader, you  
20 know, set of approvals, some automated technology  
21 whereby you could choose either as a community  
22 board member, or a City Council Member, using some  
23 geography, to say, "I'd like to get, I'd like to  
24 get notified by auto-email, when you've done some  
25 set of things, in a geography that I've chosen."

1  
2 So whether that would be by community board or by  
3 Council district, I'd like to be able to sign up  
4 and say, "I'd like some automated service to let  
5 me know when you guys have approved--" you know,  
6 some, all of your actions. Have you, I mean, yes  
7 there would be some programming--

8 JAMES COLGATE: That's--

9 COUNCIL MEMBER LANDER: --but it's,  
10 that's not sophisticated technology, and it  
11 doesn't seem like it would be hard to do.

12 JAMES COLGATE: It's, it's not that  
13 sophisticated in today's day and age, and we're  
14 all about trying to automate and make things  
15 easier with a computer. That is something that  
16 could be done, it's a matter of resources and, and  
17 priorities in our Department, we have a lot of  
18 things that we need to do on a technology to  
19 improve our delivery of safety issues and other  
20 things. You know, we fight very hard, that's a  
21 great idea, I'll bring that back to my  
22 Commissioner and suggest it.

23 COUNCIL MEMBER LANDER: All right,  
24 thank you, and we may develop that idea further,  
25 further here as well, because I think that would

1  
2 go--and you know, that would go to some of the  
3 issues here, and more broadly to enable people to  
4 know what's going on. And then my, my last  
5 question surrounds the placement of towers, and  
6 sort of what the rules are governing for them. I  
7 think we all have sort of the anecdotal experience  
8 that there are--well, I shouldn't say we all--from  
9 my own experience, there are plenty of cell phone  
10 towers that are, you know, set back, you know, on  
11 a roof, you know, not especially obtrusive, seem  
12 like they get the job done, you know, and--And  
13 then, every so often, you come across a building  
14 where it seems like ten of them are stapled to the  
15 external façade, in a way that like screams at  
16 you. And are just much more obtrusive. And so I  
17 wonder what are the rules that govern sort of set  
18 back invisibility? And have you considered, it  
19 seems to me those are not most of them, I have to  
20 say those ones where it's a big apartment building  
21 with ten towers really right on the outside  
22 façade, in my experience those are the minority of  
23 towers in the City, and that most of the ones that  
24 we have actually are sort of set back in a less  
25 obtrusive way on the roof. And I wonder if you've

1  
2 looked at something that would enable us to just  
3 reduce that condition, so that the most visually  
4 offensive of these would get set back on the roof  
5 and would be something that, you know, we would  
6 see less of. I mean, obviously, I don't know what  
7 the impact would be on, on cellular service, but  
8 since my impression is most of them are anyway,  
9 getting more of them or all of them there might do  
10 a lot for communities without meaningful harm to  
11 providing cellular service.

12 JAMES COLGATE: Mm-hmm. Well, the  
13 questions you ask about are really outside of the  
14 purview of the Department of Buildings. When you  
15 talk about where they're sited and how they're  
16 placed, that's all under the Zoning Resolution,  
17 and would require changes to the Zoning  
18 Resolution. It's not something that's under our  
19 jurisdiction. Do you have anything to add to that  
20 about placement or location?

21 COUNCIL MEMBER LANDER: Okay, and  
22 so, so Council Member Vallone has just pointed out  
23 that his bill would, amongst other things, which  
24 one is this?

25 JAMES COLGATE: Which one?

1  
2 COUNCIL MEMBER LANDER: 234, would  
3 require you to sort of provide--

4 CHAIRPERSON DILAN: 237.

5 JAMES COLGATE: 237?

6 COUNCIL MEMBER LANDER: --237,  
7 sorry, would require you to put forward some  
8 aesthetic guidelines that might address this  
9 issue, and I wonder if you've had an opportunity  
10 to look just at that specific provision of 237 and  
11 comment on it?

12 JAMES COLGATE: Oh. [pause] Yeah.  
13 The, the thing you're asking us for to do overlaps  
14 a lot of other regulations that are not governed  
15 by the City, but are federal, right, I mean, you  
16 have issues here that are big. [crosstalk

17 CHAIRPERSON DILAN: I think  
18 there's, there's federal, I guess there's federal  
19 case law that upholds a municipality's authority  
20 over aesthetics on this. So there is, there is  
21 some federal case law that deals specifically with  
22 aesthetics. So, I think it's been established  
23 that municipalities do have the authority. I'm  
24 just not sure if it's the Buildings Department or  
25 some other department that has--

1  
2 JAMES COLGATE: If you ask me, the  
3 Buildings Department's role is not really to come  
4 up with guidelines about how things should look;  
5 it's our job to enforce what those regulations  
6 are. We can do that, we have lots of zoning  
7 regulations and other laws that say you're  
8 supposed to make it look a certain way. We can  
9 enforce that, that's what we do. But for us to be  
10 the ones to come up with what those guidelines  
11 are, that sounds a little--

12 CHAIRPERSON DILAN: That's why I  
13 bring that up, but just to say that we're  
14 preempted by federal government on aesthetics is,  
15 there's federal case law that's [remainder off  
16 mic]

17 JAMES COLGATE: Uh-huh.

18 CHAIRPERSON DILAN: --look at  
19 aesthetics, the question is, is it your department  
20 or some other department. That's just for  
21 information.

22 COUNCIL MEMBER LANDER: Okay. Are  
23 you, are you--Thank you.

24 CHAIRPERSON DILAN: I just had a  
25 brief question before I get to Council Member

1  
2 Fidler, and I'll be very brief. We've also been  
3 joined by Council Members Comrie of Queens and  
4 Mendez of Manhattan. So, I guess, is there a  
5 particular agency or, I'm sorry, a particular  
6 division within the Buildings Department, that  
7 oversees the installation of these antennas, or  
8 does it just go to a Plan Examiner?

9 JAMES COLGATE: It just goes to a  
10 Plan Examiner, if you were to repair a balcony, if  
11 you were to put an air conditioner on the roof.  
12 Same all over town.

13 CHAIRPERSON DILAN: All right, so--

14 JAMES COLGATE: We have the same  
15 examiners who are trained to look at the Building  
16 Code issues for all those things.

17 CHAIRPERSON DILAN: Okay, thank you  
18 very much. Council Member Fidler.

19 COUNCIL MEMBER FIDLER: Thank you,  
20 Mr. Chairman, and I apologize to everyone for  
21 coming in a little late. It's a long trip from  
22 Sheepshead Bay, people forget how to drive when it  
23 rains. I am the prime sponsor of 104 and the co-  
24 sponsor in the other two, and the reason, and you  
25 know, actually I think these are all

1  
2 reintroductions, if I'm not correct, because we've  
3 been having issues in our communities surrounding  
4 cell phone antennas for as long as most of us have  
5 been in the Council. First let me start by  
6 saying, "My bad," on 104. I have absolutely no  
7 intention of imposing additional costs on the City  
8 of New York. I guess when you multiply by 1,500,  
9 there would be some nominal cost to the City, I  
10 wouldn't want to the City to have to bear a dime.  
11 So let's hypothetical for a second. Let's say we  
12 amend 104, minor way, to require the applicant to  
13 notify the Council Member and the community board  
14 by certified mail. Have a problem with that?  
15 That take care of your objection?

16 JAMES COLGATE: I don't think so.  
17 I don't know that that would be a problem, I don't  
18 think so. It doesn't impose an obligation on our  
19 department.

20 COUNCIL MEMBER FIDLER: All it does  
21 is then you get the application and it'll be, you  
22 know, I mean, heaven forbid we use the term "self-  
23 certification" in the Buildings Department, that  
24 the applicant, maybe even provide the certified  
25 mail receipt that they mailed to the community

1  
2 board and to the Council Member. And just so, you  
3 know, as you're looking at the application, just,  
4 you know, check. No, no additional cost to the  
5 City, right?

6 JAMES COLGATE: I don't think our  
7 Department has a position on that, no.

8 COUNCIL MEMBER FIDLER: Well. I'm  
9 asking you, Commissioner, I mean, you're, you  
10 know, this is not, your position, I won't hold the  
11 Commissioner to it, you know, the Buildings  
12 Department. But just, you're the guy on, you're  
13 the front line guy here. Is it going to cost you  
14 any money?

15 JAMES COLGATE: It does not cost us  
16 any money--

17 COUNCIL MEMBER FIDLER: Okay.

18 JAMES COLGATE: --except that our  
19 examiners would probably have to check to make  
20 sure that a copy of the certified letter is  
21 included in the application; if it's not there,  
22 then we would object, and there may be some more  
23 bureaucratic--

24 COUNCIL MEMBER FIDLER: Oh, listen-

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JAMES COLGATE: It's not something-

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COUNCIL MEMBER FIDLER: --come on.

JAMES COLGATE: That's not so bad.

COUNCIL MEMBER FIDLER: Let's not be quibbling. We all know that, you know, on other Land Use matters--

JAMES COLGATE: Yeah.

COUNCIL MEMBER FIDLER: --it is not, it wouldn't be the first time that someone mailed an empty envelope and said, "Here's my proof." So, I mean--

JAMES COLGATE: We would not see that as a major-

COUNCIL MEMBER FIDLER: --clearly, we know there are problems with self-certification of those kind of things, we're not expecting you to send an inspector out to make sure that they complied, but you know, it's not a huge burden on the applicant, either, right?

JAMES COLGATE: What I will say is that--that removes the objection that our Department has regarding the cost of City resources for the notification.

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2 COUNCIL MEMBER FIDLER: Excellent,  
3 so we're making progress. You indicated that  
4 you've approved 1,500 cell phone antenna permits  
5 this calendar year.

6 JAMES COLGATE: That's correct.

7 COUNCIL MEMBER FIDLER: How many  
8 have you denied?

9 JAMES COLGATE: We don't know. We  
10 can get that information, I don't know.

11 COUNCIL MEMBER FIDLER: But can you  
12 get in ballpark to me--

13 JAMES COLGATE: Normal--No.

14 COUNCIL MEMBER FIDLER: --five?  
15 500?

16 JAMES COLGATE: I don't know.

17 COUNCIL MEMBER FIDLER: Well,  
18 that's, you know, seems to be a pretty pertinent  
19 piece of information.

20 JAMES COLGATE: Well, what usually  
21 happens is we deny them, then they alter it, their  
22 plans to be able to show conformance with our  
23 objections, they come back then they do eventually  
24 get their approval. In some cases, they're  
25 completely unable to get their approval, and then

1  
2 they go away. I don't think that that's a very  
3 large number because generally by the time you've  
4 hired an architect and an engineer, you've gone  
5 through the leasing with the industry  
6 representatives who are--they've already done  
7 their legwork. By the time they've come to us,  
8 it's because they think they have--

9 COUNCIL MEMBER FIDLER: Okay.

10 JAMES COLGATE: --complied with the  
11 code, and--

12 COUNCIL MEMBER FIDLER: All right,  
13 that's pretty much what I expected, that most,  
14 most applications, even if they're denied  
15 initially, are amended to some fashion, and of  
16 course that takes extra time to do, as well,  
17 right?

18 JAMES COLGATE: Right.

19 COUNCIL MEMBER FIDLER: Now, is  
20 there--just enlighten me in case I'm wrong,  
21 there's no emergency crisis now that requires like  
22 the immediate installation of cell phone antennae  
23 in the City, is there? I'm going to the 35 day  
24 delay, and we don't like to delay business  
25 unnecessarily either, but--

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2 JAMES COLGATE: That's not an issue  
3 for my Department, it's either for DoITT or the  
4 Fire Department, and the Fire Department has, they  
5 have some projects going for the 911 services.  
6 Right? But I don't know. That's not--do you have  
7 anything to say on that? No. I--from my  
8 Department, no, but we're not the experts in  
9 emergency services and those kinds of things, it's  
10 not--

11 COUNCIL MEMBER FIDLER: I, I would,  
12 you know, upon hearing that, that's an issue for  
13 the Fire Department, I'd exempt the Fire  
14 Department if necessary, so, or other emergency--  
15 I'm talking about cell phone towers, you know,  
16 for, I don't want to pick on, you know, Verizon,  
17 you know, whatever. I mean, there's no, no crisis  
18 that, you know, that you're aware of that, that  
19 delaying them by 35 days is a, is an issue, is  
20 there? As far as you know.

21 JAMES COLGATE: In the City,  
22 generally, our Department strives for compliance  
23 of the law. The law is for the applicants that  
24 come to us, but we also don't want to  
25 unnecessarily slow people down when they're in the

1  
2 business of doing whatever business they're doing,  
3 whether they're opening a restaurant or putting a  
4 antenna on the roof, or fixing their building.  
5 Whatever it is, we want to be able to provide that  
6 service quickly.

7 COUNCIL MEMBER FIDLER: I agree  
8 with that principle entirely, Commissioner, but  
9 you know, by the same token, I think you've heard  
10 the expression, "All deliberate speed." All  
11 right, and that means that, you know, you don't  
12 want to rush to approve something, let it happen,  
13 then find out there's a problem with it. And I'm  
14 just wondering whether or not--and by the way, I'm  
15 sure that all the applicants would adjust to a 35  
16 day period of, you know, having to notify people  
17 and, you know, just adding that to the process. I  
18 imagine that if they didn't get it right the first  
19 time, the delay in fixing the application's a lot  
20 longer than 35 days, anyway. It just, look, I  
21 think you're getting my point here, which is that  
22 you know, we have a lot of these things, we have  
23 1,500 approved this year alone, I mean, and you  
24 know, I don't--everybody wants good cell phone  
25 service, everybody, you know, wants businesses to

1  
2 be able to move efficiently. But communities also  
3 want to know if there's a particular issue. Now,  
4 your website now only posts the permit after it's  
5 been approved, am I correct?

6 JAMES COLGATE: That's correct.

7 COUNCIL MEMBER FIDLER: Right, so,  
8 I don't really see why you would object to, you  
9 know, cost being borne by the applicant, of them  
10 telling the Council Member or the community board  
11 that a particular antenna is being applied for at  
12 a particular location, and allowing the community  
13 a month to come, maybe even to the applicant, not  
14 necessarily to the Department of Buildings, but to  
15 come to the applicant and saying, "This location  
16 is particularly egregious." Maybe it's  
17 aesthetics, maybe it's some other reason, maybe  
18 it's just a feeling that it's the, it's not safe,  
19 in which case they would come to you. You might  
20 be able to allay those fears and concerns, maybe  
21 you wouldn't. All right, maybe the applicant  
22 would agree if the, if the issue is aesthetic, to  
23 either move the antenna or to decorate it in some  
24 fashion, that would make everybody happy. So, I  
25 just really don't understand your objection to

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104. It's kind of like I don't wanna.

JAMES COLGATE: State your name.

MITCHELL ALBAUM: Well, my name is Mitchell Albaum, I'm Deputy Commissioner--

COUNCIL MEMBER FIDLER: I think you need to talk into the mic, Commissioner Albaum.

CHAIRPERSON DILAN: I'm sorry, you, you need to, yeah, you need to speak into the record. Identify yourself and your agency.

MITCHELL ALBAUM: Yeah, my name is Mitchell Albaum [phonetic], I'm General Counsel, Deputy Commissioner at DoITT. I just want to reiterate the Administration's opposition to this provision. I hear what you're saying about the 35 days, I think it also creates a potentially very unwieldy situation with a lot of different objections, some potentially relevant, some not, coming from a lot of different folks about a lot of different things, and I'm not sure exactly how that process is to be managed. And, and what happens when those objections come forward. Some, some may be legitimate, but I think in our own experience, with our own franchise, for example, on pole top antennas, it can become very unwieldy

1  
2 when, when this happens, so you know, we want to  
3 be transparent but at the same time we don't want  
4 to set up a system that just invites bringing the  
5 process to its knees. - -

6 COUNCIL MEMBER FIDLER:

7 [interposing] Oh, but, Commissioner, it sounds to  
8 me like you just don't want to hear it. Okay? I  
9 mean, that's really not fair. I mean, you know,  
10 you said some legitimate, some not. I mean, you  
11 know, the Bloomberg Administration does a great  
12 job of managing dissent. But every now and then  
13 you got to hear from people who actually live in  
14 the neighborhood, who can say, "This is the wrong  
15 place for this antenna. Let me tell you why."  
16 And maybe, just maybe, someone will say, "You know  
17 what? You're right." All right? You're right,  
18 we're not going to do this, we're not going to  
19 make this mistake, we're going to stop it before  
20 it happens. So, I mean, you know, in the name of  
21 35 days, when we're putting up thousands of these  
22 things a year, all right, cost to be born by the  
23 applicant, I still don't understand the objection.  
24 That someone might come up and make a legitimate  
25 objection to an application, that's a problem?

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2 MITCHELL ALBAUM: The, the  
3 objection isn't to transparency or to potentially  
4 setting up a way of allowing input from the public  
5 and making sure that it's a transparent system.  
6 The problem is to, or the challenge, is to come up  
7 with a system that is manageable. And it's not  
8 clear that this system, this 35 day system, which,  
9 you know, it's not even a system, it's just--

10 COUNCIL MEMBER FIDLER: Well, what-

11 -

12 MITCHELL ALBAUM: --it's just--

13 COUNCIL MEMBER FIDLER: You're  
14 right, it's not even a system--

15 MITCHELL ALBAUM: I'm trying to  
16 understand--

17 COUNCIL MEMBER FIDLER: --so I  
18 don't understand.

19 MITCHELL ALBAUM: Well, and I don't  
20 understand. I'm trying to understand what, what  
21 transpires over those 35 days.

22 COUNCIL MEMBER FIDLER: In those 35  
23 days, a community board, a Council Member will  
24 discuss with their community whether or not they  
25 have an objection. All right? And if, if they're

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2 going to bring that objection, maybe they bring it  
3 to DOB, maybe they bring it to the applicant, say  
4 "Hey, Verizon," I got to tell you, we got a great  
5 relationship with Verizon in my community, they've  
6 been very, very responsive, so I'm not picking on  
7 Verizon. "Hey, Verizon, this cell phone antenna  
8 on top of this building over here, we don't like  
9 it, and this is why." And maybe Verizon comes  
10 back and says, "Well, let me listen to your  
11 objection." Maybe Verizon voluntarily says, "Hold  
12 on to my application for another 30 days, we're  
13 working this out with the people, our customers,  
14 in the community." Maybe that happens, what's  
15 unworkable about that?

16 MITCHELL ALBAUM: No, but I think  
17 it's exactly what you said, maybe it goes to  
18 Verizon, maybe it comes to DoITT, maybe it goes to  
19 City Hall, it's 35 days of--how does the process  
20 work? You kind of just--

21 COUNCIL MEMBER FIDLER: It's 35  
22 days, if you don't hear from anyone at the end of  
23 the 35 days, life continues.

24 MITCHELL ALBAUM: But, but who is--

25 COUNCIL MEMBER FIDLER: What's the,

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what's the problem?

MITCHELL ALBAUM: But who is we?  
What you're, what you're talking about is a system  
of 35 days where there's not a clear protocol.  
People are reaching out to various, to various  
companies, to various agencies, throughout the  
City and I think without more, and without a  
better understanding of what this means and  
specifically how--

COUNCIL MEMBER FIDLER: Well,  
Councilman Vallone's bill is too much--

MITCHELL ALBAUM: --so it's just  
that I do want to make clear that, that you know,  
I think you are trying, and maybe I didn't express  
myself well. I'm not trying to portray, portray a  
sense of trying to hide something, of not giving  
people an opportunity to, to know what's going on  
in their communities, to speak up about what's  
going on and raise objections. It's just putting  
in place a more specific framework around that,  
rather than for 35 days in, in a very willy-nilly  
way, with all due respect, complaints are, are--

COUNCIL MEMBER FIDLER: With all  
due respect, it's not willy-nilly, it's actually

1  
2 very, very simple, and it's really consistent in  
3 what we as Council Members know is likely to  
4 happen. All right, a community organization is  
5 likely to raise an objection, bring it to either  
6 the community board or the Council Member, and the  
7 Council Member will, or the community board, make  
8 a decision, whether or not it's an objection that  
9 belongs going to Department of Buildings, or if  
10 they're building something that's clearly going to  
11 be as of right, and is correct, but it's an  
12 aesthetic objection, they're going to go to the  
13 applicant. All right? The applicant, nothing in  
14 this bill, nothing in 104, says the applicant can  
15 give us the middle finger, tell 'em we're going  
16 ahead anyway, we don't care. All right. But at  
17 least it gives the community the opportunity to  
18 know before it's been approved, and then to go to  
19 the applicant and say, "Hey, maybe we can work  
20 something out here." What's willy-nilly about  
21 that?

22 MITCHELL ALBAUM: Again, without  
23 more, and I appreciate the frank conversation  
24 about this, I'm not sure that the Administration  
25 understands how this would work and what the

1  
2 implications would be. Frankly speaking, there  
3 is, as I said, we have no objection to being  
4 transparent--

5 COUNCIL MEMBER VALLONE: Council  
6 Member Fidler has the floor.

7 MITCHELL ALBAUM: --and receiving  
8 information. But it should be done in a  
9 structured way, and there should be, I believe,  
10 more around this, and a better understanding of  
11 what this is.

12 COUNCIL MEMBER FIDLER:  
13 Commissioner, with all due respect, I mean, I  
14 think we've made the point clear. I don't think  
15 there is anything more. I think it is what it is.  
16 It's simply asking that the community be advised  
17 of the application before it's a fait accompli, so  
18 that they can do whatever they think they need to  
19 do, and it's placing no further burden on any city  
20 agency than it already has, which is to enforce  
21 the law. So, I, you know, I mean, I've kind of  
22 heard that, you know, Council Member Vallone's  
23 bill does too much, it overreaches, whatever; and  
24 then you have 104 which is largely included in one  
25 of Council Member Vallone's bills, you know, as

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2 not doing enough. You know, maybe we need to find  
3 out what the happy medium is. I quite frankly  
4 think that 104 is a minimum, I'd love to do more.  
5 But, you know, when we can't even get over the  
6 hump of the minimum threshold, people should know,  
7 giving people the right to know, then we'll never  
8 get to the rest of it. So, I really wish that  
9 DoITT and DOB would rethink their position on  
10 that, particularly, you know, with my commitment  
11 that, that the bill would be amended to reverse  
12 the notice obligation and put it on the applicant,  
13 and not on the Department.

14 CHAIRPERSON DILAN: Thank you,  
15 Council Member Fidler. We have Council Member  
16 Viverito, followed by Council Member Comrie.

17 COUNCIL MEMBER VIVERITO: Thank  
18 you, Chairman Dilan, and thank you for the  
19 testimony. I want to thank my colleague, Fidler,  
20 Council Member Fidler, because I think what he has  
21 presented as a concession is a reasonable one, and  
22 I have signed onto his bill and I believe very  
23 strongly in community notification as well. And I  
24 believe that we should be doing more, and saying  
25 that people should go to the website, I think is

1  
2 not a reasonable request of communities. Some  
3 communities have more connectivity than others,  
4 and that is a reality. And so we, we have to take  
5 that into account, and really providing as much  
6 information to all aspects of this community and  
7 this City of New York. And not just those that  
8 have privileged access to certain resources. Let  
9 me ask you a question, so the Department of  
10 Buildings also have to provide permits to NYCHA.

11 JAMES COLGATE: [off mic] To what?

12 COUNCIL MEMBER VIVERITO: To NYCHA,  
13 if people want to put antennas on NYCHA buildings,  
14 New York City Housing Authority buildings--

15 JAMES COLGATE: Yes.

16 COUNCIL MEMBER VIVERITO: --do they  
17 have to receive a DOB permit?

18 JAMES COLGATE: Yes, they do, NYCHA  
19 is subject to the New York State Public--Housing  
20 Law, which requires them to follow all local  
21 regulations, which means that whenever NYCHA does  
22 anything, they have to file with the Department,  
23 just a private owner would.

24 COUNCIL MEMBER VIVERITO: Okay,  
25 well that's--because, you know, going along the

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2 lines of what some of Councilman Fidler has  
3 mentioned, you know, I have gotten a lot of  
4 concerns by my public housing residents, I have a  
5 lot of public housing in my district, about the  
6 way that the amount of antennas that are going up  
7 on public housing development buildings. It'd be  
8 interesting to ask them, obviously, how much  
9 revenue they are garnering from these antennae,  
10 but that leads me to another question: Is the  
11 City of New York also placing antennas on public  
12 buildings? Is that something that you are aware  
13 of at all? Is that something that, obviously, do  
14 you internally have to get approval for that?

15 MITCHELL ALBAUM: I can only speak  
16 for the installations that are done as part of  
17 DoITT projects, which are our Channel 16 wireless  
18 network, and our NYC - - public safety network.  
19 The vast majority are on private buildings and  
20 very tall private buildings, because of the nature  
21 of, of the technology. A small number are on City  
22 buildings or NYCHA buildings. And I should just  
23 be clear, those, those licenses aren't held by the  
24 City but by the systems integrators, the  
25 contractors who have actually constructed the

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networks for us.

COUNCIL MEMBER VIVERITO: But other than DoITT, do we know if antennas are being put up on public buildings, whether it's school buildings, whether it's any other buildings, I'm wondering if there's, you know, can you provide that information to us through DCAS? You're issuing the permits, you should know.

JAMES COLGATE: We issued the permits, the--any cell antenna on a city owned buildings, let's say it's managed by DCAS, would be required to follow the same regulations as everyone else, they would file with us. I don't know.

COUNCIL MEMBER VIVERITO: I mean, I'm curious know--

JAMES COLGATE: Yeah.

COUNCIL MEMBER VIVERITO: --whether or not we are allowing our public buildings to have these antennas as a way of garnering revenue, whatever options it may be. I mean, it'd be great to know what, to what extent our public buildings are being used to, for this purpose. So, I don't, if that's something that you could kind of get,

1  
2 gather that information and provide to us, I think  
3 we would really welcome it.

4 CHAIRPERSON DILAN: I think it's  
5 maybe more appropriately we can do it along with  
6 the Chair of the Public Housing Committee, 'cause  
7 I think it would be more appropriate for the  
8 Public Housing Committee to ask revenue questions  
9 of--

10 COUNCIL MEMBER VIVERITO: Well, for  
11 public housing, but I'm talking about other city  
12 owned buildings, too.

13 CHAIRPERSON DILAN: Oh, I'm sorry.

14 COUNCIL MEMBER VIVERITO: Yeah.

15 JAMES COLGATE: The appropriate  
16 agency is DCAS. DCAS would be aware of those  
17 issues, wouldn't be something our, that DoITT or  
18 DOB has at our fingertips. Now what we are, we  
19 treat a DCAS building like a private building,  
20 when they come to us, they have to follow the same  
21 regulations, and we apply the same requirements.

22 COUNCIL MEMBER VIVERITO: No,  
23 understood, but you in your data collection and  
24 gathering--

25 JAMES COLGATE: Yes.

1  
2 COUNCIL MEMBER VIVERITO: --you  
3 don't decipher whether or not it is a public, city  
4 owned building, of which you are an agency? Or  
5 whether it is a private entity?

6 JAMES COLGATE: We could, we'd have  
7 to get our programmer to pull that data out for  
8 us.

9 COUNCIL MEMBER VIVERITO: Okay, so  
10 then you can do it?

11 JAMES COLGATE: I guess we could.  
12 I think so.

13 COUNCIL MEMBER VIVERITO: Okay.

14 JAMES COLGATE: If we--

15 COUNCIL MEMBER VIVERITO: What I,  
16 I'm asking if this Committee, we could follow up  
17 and ask, you know, for that information.

18 JAMES COLGATE: Well, let's find  
19 out what we can do.

20 COUNCIL MEMBER VIVERITO: Sure.

21 JAMES COLGATE: I'm--I'm afraid to  
22 say yes we can do it, because if it would require  
23 DCAS to identify all the building identification  
24 numbers of their buildings, and we would have to  
25 have someone spend a week, you know, checking in a

1  
2 computer, that would be a big difficulty to do,  
3 if we can do it quickly, I would want to provide  
4 that information to you, because--

5 CHAIRPERSON DILAN: I would think  
6 Council Member Viverito, we could make the  
7 request--

8 COUNCIL MEMBER VIVERITO: Okay.

9 CHAIRPERSON DILAN: --of Council  
10 Member Mendez and Council Member Brewer to gather  
11 that information and get our Finance Divisions on  
12 that, I think it's something that we can get.

13 COUNCIL MEMBER VIVERITO: Okay.

14 And I think you may have, I just want to, you may  
15 have answered this earlier, I did come in also a  
16 little bit late, but if you could just go over  
17 exactly what are the factors that you do take into  
18 consideration when deciding whether or not to  
19 approve an application. If there's anything that  
20 would be considered a red flag and basically a  
21 permit would be denied. If you could just provide  
22 a little bit more clarity. Or, you say, I see in  
23 the testimony, the word "as of right," which  
24 always alarms me a little bit. But that is just a  
25 given right, so to speak, that anybody could ask

1  
2 for this, and would be granted. So, if you could  
3 just maybe speak to that, and that would be my  
4 last question, Mr. Chair.

5 JAMES COLGATE: Sure, the, the  
6 statutory scheme we have is "as of right," meaning  
7 that if they can show compliance, to my department  
8 that they comply with the zoning regulations and  
9 the Building Code, and whatever other applicable  
10 regulations there might be, for instance,  
11 Landmarks or whatever, then my agency's obligation  
12 is to issue the building permit. What happens is  
13 the applicant submits to us an application form,  
14 and they submit to us plans submitted by an  
15 engineer, or an architect, that demonstrates  
16 compliance with the applicable laws, in this case,  
17 in most cases, all we're talking about is zoning  
18 regulations that determine where and how high and  
19 making sure it's under a certain envelope, and it  
20 doesn't exceed too much of a height. That's a  
21 zoning compliance check. And then a Building Code  
22 compliance check that shows that the details in  
23 the steel beams and the bolts and the connections  
24 are going to withstand wind loads and, you know,  
25 structural loads, and that the building is strong

1  
2 enough to with--to accept the equipment. That's  
3 what my Department does. And then if they can  
4 show compliance with those two things, we issue  
5 them the permit.

6 COUNCIL MEMBER VIVERITO: Right,  
7 thank you, and I think just the last thing I would  
8 say, you know, leading to some of the community  
9 review, although this still is contentious and  
10 maybe controversial, there are concerns about the  
11 health factors of these towers. And I think that  
12 that is still up for debate, and in certain  
13 communities, especially if you have a large  
14 congregation of these towers in particular areas,  
15 that is one of, some of the reasons that my  
16 constituents have raised as concerns about the  
17 placement of these towers, particularly in the  
18 public housing development. So, you know, that is  
19 also something to take into account. And as that  
20 brand of research kind of continues, I mean,  
21 that's something that we have to be very concerned  
22 about.

23 JAMES COLGATE: Yeah.

24 COUNCIL MEMBER VIVERITO: As  
25 representatives. Thank you, Mr. Chair.

1  
2 CHAIRPERSON DILAN: Thank you,  
3 Council Member Viverito. We have Council Member  
4 Comrie followed by Council Member Oddo.

5 COUNCIL MEMBER COMRIE: Okay, well,  
6 I just heard the answer to one of my questions,  
7 which is the, each provider now has to give the  
8 Buildings Department a detailed plan, and a  
9 construction plan, of what--a detailed  
10 construction plan of every site that's being put  
11 up, every cell site.

12 JAMES COLGATE: That's correct.

13 COUNCIL MEMBER COMRIE: And how is  
14 that reviewed? Is that reviewed prior to  
15 construction, during construction, or after  
16 construction?

17 JAMES COLGATE: We have a standard  
18 process for the review, it's submitted to our  
19 examiners who review it prior to what we call  
20 construction documents. Well, once the  
21 construction documents are approved, meaning that  
22 the zoning checks out, the building code checks  
23 out, everything's okay, only after the  
24 construction document approval, is the contractor  
25 permitted to obtain a building permit. They go to

1  
2 a different window, pay a fee, and then they  
3 collect a building permit. That authorizes them  
4 then to start construction work. And they're not  
5 permitted to start construction work until after  
6 the permit is issued.

7 COUNCIL MEMBER COMRIE: Okay. And  
8 then once the construction work is done, is there  
9 a inspection done by DOB of the construction site  
10 to ensure that everything was done according to  
11 scope?

12 JAMES COLGATE: The current laws  
13 are set up so that the applicant can elect one of  
14 two methods for sign off. One they can request  
15 that the Department do the inspection, or two,  
16 they can identify a professional engineer or a  
17 registered architect to perform the inspection,  
18 and certify to the Department that everything was  
19 done in accordance with all the approved plans.

20 COUNCIL MEMBER COMRIE: Okay. And  
21 who can, who can request the installation of an  
22 antenna in the City? And what, what is the  
23 minimum requirements for someone to request an  
24 installation? If I wanted to put up an antenna  
25 for a boy scout troop, is that possible? Or

1  
2 what's the qualifications to request putting up a  
3 cell site antenna?

4 JAMES COLGATE: For, when you say  
5 for the--

6 COUNCIL MEMBER COMRIE: Well, for--

7 JAMES COLGATE: --boy scouts, you  
8 mean, they own the building, but they want to put  
9 up a cell antenna that's going to be used for  
10 general cell antenna purposes for people who  
11 aren't necessarily on the side of the building,  
12 right? That's--we're talking about? Because the  
13 zoning treats it differently if it's like, you  
14 know, a radio antenna accessory to, you know, your  
15 house and your broadcasting from there, or whether  
16 or not you are broadcasting, cellular signals but  
17 it's not related to the people who are in the  
18 building.

19 COUNCIL MEMBER COMRIE: Okay, so  
20 what is the, what is the requirements for both?  
21 What is the minimum requirements for--well, let's  
22 start with a person who wants to put up a cell  
23 tower. What--?

24 JAMES COLGATE: Okay, so, that's  
25 the normal thing, we don't usually put up radio

1  
2 antennas in New York City. If you, you know,  
3 maybe Fordham has one or something. But let's  
4 talk about cell antennas, that's what really this  
5 issue is. The, if I own a building and I want to  
6 put up a cell antenna, it's, it's not so difficult  
7 in this City. All you have to do is hire an  
8 architect or engineer, to perform a zoning and  
9 building code assessment. And that architect or  
10 engineer is going to do an analysis, and say,  
11 "Gee, your building is this high, this is where we  
12 can place it, it will comply with zoning if we do  
13 it this way; it will comply with Building Code if  
14 we do it this way." Or maybe the building isn't  
15 strong enough to withhold it, you know, hold up  
16 the equipment and I can't put it on the building,  
17 or maybe if I put in extra supports I can do it.  
18 And once the architect or engineer does the  
19 assessment, they draw up the plans, they submit  
20 the application to us, they get the construction  
21 document approval. Once the construction document  
22 approval, then they get the, the contractor pulls  
23 the permit, then it's signed off. I mean, it's  
24 not a very difficult process, if you have a  
25 engineer or architect who understands the

1 requirements for structural safety and understands  
2 the zoning regulations.

3  
4 COUNCIL MEMBER COMRIE: Okay, so  
5 how many, how many providers are there within the  
6 City? Do you know how many providers have been  
7 requested or are operating cell towers in the  
8 City?

9 JAMES COLGATE: I don't have that  
10 information. Do you know?

11 MITCHELL ALBAUM: There are various  
12 kinds of services.

13 CHAIRPERSON DILAN: And I just want  
14 to ask if you could speak directly in the mic.

15 MITCHELL ALBAUM: Yeah, I  
16 apologize. I think, you know, one thing that's,  
17 and this has a little bit--

18 JAMES COLGATE: No, the name, I  
19 think he wants you to--

20 MITCHELL ALBAUM: I thought you,  
21 oh, I thought you said--

22 CHAIRPERSON DILAN: No, his name  
23 is, his name has been stated before.

24 JAMES COLGATE: Oh, I'm sorry.

25 CHAIRPERSON DILAN: But I just--

1  
2 MITCHELL ALBAUM: You want me to  
3 speak up a little bit.

4 CHAIRPERSON DILAN: Or bring the  
5 mic closer.

6 MITCHELL ALBAUM: Or bring the mic  
7 closer. There are various different kinds of  
8 antennas going up, in different industries. In  
9 the cell industry, you know, there are the big  
10 four or five players. There are a few other,  
11 smaller companies coming in. There are also  
12 companies that are operating over on unlicensed  
13 frequencies, for example providing wi-fi, some of  
14 those may be signing, placing antennas and it  
15 would be impossible, really, to know how many  
16 companies are doing that kind of thing.

17 COUNCIL MEMBER COMRIE: So--

18 MITCHELL ALBAUM: There are, there  
19 are many different wireless services, there are  
20 dispatching services, there are services that  
21 provide wireless connectivity for, for private  
22 use, among companies within very large companies,  
23 for example. So, I think, you know, to get a  
24 handle on the number of different companies and  
25 providers, putting up antennas, be a very

1  
2 difficult thing to do because it's not just what  
3 we typically think about, you know, using the cell  
4 phone, antennas are being put up for a lot of  
5 different voice and data and other purposes, right  
6 now.

7 COUNCIL MEMBER COMRIE: So, this  
8 has the potential of exploding exponentially  
9 because you don't know what the density will be  
10 needed for all of these different services that  
11 you've just described. Has the City attempted at  
12 any point to map out, to map out the density of,  
13 or the range, or the amount of bandwidth or  
14 physical equipment required in order to probably  
15 cover any of those entities? Has there been a  
16 joint meeting between DoITT and the providers to  
17 create a minimum mapping so that there can be  
18 complete coverage within a, within the municipal  
19 area, within the City area?

20 MITCHELL ALBAUM: Well, I mean, I  
21 would only say, and I mean, I would turn this back  
22 to Buildings, it can, I understand your point, but  
23 it's, as far as this exploding exponentially, it  
24 can only increase to the extent that zoning would  
25 allow. So, if, you know--

1  
2 COUNCIL MEMBER COMRIE: Well, yeah,  
3 but then, but you just described a situation where  
4 you have wireless providers, wi-fi providers, you  
5 know, internal networks that are being created for  
6 internet or wi-fi access. So you just expanded  
7 the pool, in other words, from beyond what we were  
8 just thinking of, the big five or the big six  
9 wireless provides.

10 MITCHELL ALBAUM: Right.

11 COUNCIL MEMBER COMRIE: So I'm just  
12 curious to know if the City is planning a project,  
13 which I think should be done, to try to create  
14 either a bandwidth discussion or a, trying to  
15 figure out some type of mapping so that we don't  
16 wind up with the need for every building in the  
17 City to require some antenna to meet one of those  
18 twelve or 14 different needs that you just  
19 described. So, you know, I would think that at  
20 some point, you know, the City would sit down and  
21 create--'cause I still don't understand why the  
22 providers are not sharing bandwidth. Or sharing  
23 antennas, why they're separating antennas. And  
24 now you're talking about the need for multiple  
25 separating antennas for multiple different types

1  
2 of, and needs. So, you know, that concerns me  
3 that almost every major building would need, or  
4 minor company, would need an antenna. Or some  
5 type of distribution device to do whatever is  
6 necessary so that they can have the proper  
7 technology to be competitive. So, while I'm not  
8 against folks being competitive, I'm concerned  
9 about the proliferation of towers and how it, how  
10 can that be done, is the City taking a global view  
11 to look at how we can increase bandwidth and maybe  
12 decrease the amount of physical material that's  
13 being built around the City. I know it's a  
14 multiple question.

15 MITCHELL ALBAUM: No, I think your,  
16 your suggestion that, that an initiative be  
17 undertaken to get an idea of who in the City is  
18 providing or what companies are providing what  
19 kinds of services, over what times, what types of  
20 frequency, is a good one.

21 COUNCIL MEMBER COMRIE: Right.

22 MITCHELL ALBAUM: With respect to  
23 forcing companies or, to combine from, I can't  
24 say, from a technical standpoint, from a technical  
25 standpoint whether that's feasible.

1  
2 COUNCIL MEMBER COMRIE: Oh, I - -  
3 companies--

4 MITCHELL ALBAUM: But certainly,  
5 what you're suggesting makes sense, and I'll bring  
6 that back, because it would be interesting to  
7 know, as you said, with the proliferation of  
8 services and providers, who is operating in the  
9 City.

10 COUNCIL MEMBER COMRIE: Yeah, who  
11 is operating, what's the total bandwidth needed,  
12 so that everyone can operate at full strength?  
13 Because the other issue to my understanding is  
14 that if you're not operating at full strength,  
15 your equipment is strained, or your cell phone  
16 coverage is, works harder and creates more  
17 radiation, so I think that there is more stress on  
18 the providers. So I think that at some point the  
19 City should convene either a taskforce or a summit  
20 or a mini-conference to talk about future  
21 planning. Because it seems to me, from what has  
22 just been described, that the need is going to  
23 continue to expand, everyone sooner or later is  
24 going to want to have a cell tower or bandwidth  
25 access. And you know, I think that at some point

1  
2 we need to look at this holistically. And then,  
3 you know, maybe at the end of the day we can  
4 reduce all of the multiple towers going up, but  
5 then still increase bandwidth so that everyone can  
6 have the internet, wi-fi, whatever access they  
7 need to be competitive.

8 MITCHELL ALBAUM: Your point is  
9 well taken, and more information is good.

10 CHAIRPERSON DILAN: Okay, we're  
11 going to go to, we've been joined by Council  
12 Member Jackson of Manhattan. We'll go to the  
13 Republican leader Jimmy Oddo, and then I'm going  
14 to allow sponsor's privilege for a quick question  
15 to Council Members Vallone and Fidler. Then after  
16 that we'll get a chance to hear from the  
17 providers. And the first three we'll hear from  
18 will be from AT&T, Verizon and T-Mobile, that will  
19 be the next panel. Council Member Oddo.

20 COUNCIL MEMBER ODDO: Mr. Chairman,  
21 I'll pass and allow the sponsors to ask their  
22 questions, 'cause I actually had more of a snarky  
23 comment than a question. [laughter] Unless,  
24 unless you want to give me the liberty of trying  
25 to formulate the--

1  
2 FEMALE VOICE: We want the snarky  
3 comment.

4 CHAIRPERSON DILAN: Well, [off mic]  
5 if you can put this comment [on mic] in the form  
6 of a question, I would greatly appreciate it.

7 COUNCIL MEMBER ODDO: Yeah, I will,  
8 I will. [laughter] You've energized me, I will.  
9 I guess my question is, will the, our friends in  
10 DOB share their sentiments about the 35 days  
11 without friends at DOT and the other agencies,  
12 because it strikes me in the conversation that  
13 Council Member Fidler had with our good friends at  
14 DOB, that 35 days seems like an inordinate period  
15 of time to them. That strikes us as odd, because  
16 as we sit here as Council Members, we have to wait  
17 six months to twelve months to 18 months to find  
18 out about a study about an all-way stop sign. And  
19 I'm just, I sat here, and I'm, I'm a little bit  
20 confused as to why 35 days sounds like an  
21 irrational period of time, to allow a community to  
22 have its voice heard. And as Council Member  
23 Comrie said, as more and more people decide they  
24 don't want home lines, and they're going to do,  
25 they're getting rid of their home lines, and the

1  
2 demand increases, and we're going to, we as  
3 Council Members are going to face this problem  
4 more and more. So, to me, you know, and I,  
5 forgive me for belaboring the point, 35 days is  
6 not an irrational period of time to ask to give us  
7 a chance to represent our communities. And if 35  
8 days is long to you, then I beg you to go talk to  
9 Commissioner Sata Kahn [phonetic] and tell her  
10 that if 35 days is long, 18 months for us to hear  
11 back on a request is absolutely too long. [off  
12 mic] Thank you, Mr. Chairman.

13 CHAIRPERSON DILAN: Okay, I take it  
14 there's no--Council Member Fidler, followed by  
15 Vallone.

16 COUNCIL MEMBER FIDLER: Yeah, so,  
17 apropos of that, I was going to ask: What's the  
18 average period of time from the time that you get  
19 the application to the time that you grant it? I  
20 mean, I know you guys don't have a lot of  
21 inspectors and, you know, and all that. You get  
22 an application, you have 1,500 of them you  
23 approved last year. You know, what does it take,  
24 couple of months?

25 JAMES COLGATE: It depends. If the

1  
2 application is, is complete, and shows clear  
3 compliance with the zoning and the Building Code,  
4 it goes very, very quickly.

5 COUNCIL MEMBER FIDLER: What's  
6 very, very quickly?

7 JAMES COLGATE: And if the  
8 application--

9 COUNCIL MEMBER FIDLER: What is  
10 very, very quickly, before you get to the, if it's  
11 not?

12 JAMES COLGATE: Maybe two or three  
13 weeks.

14 COUNCIL MEMBER FIDLER: Okay, so--

15 JAMES COLGATE: If there's problems  
16 with the application, where they don't show  
17 things, then it can take longer.

18 COUNCIL MEMBER FIDLER: And how  
19 often is that?

20 JAMES COLGATE: Very often.

21 COUNCIL MEMBER FIDLER: Okay. So,  
22 in the very often scenario, since there's nothing  
23 in Intro 104 that prevents you from working on the  
24 application, while the 30 days is running, we're  
25 not really delaying the applications at all, in

1  
2 the real world, are we?

3 JAMES COLGATE: I'm not so sure I  
4 agree with that.

5 COUNCIL MEMBER FIDLER: Well, why?  
6 I mean, there's nothing in 104 that says that you  
7 can't start working on that application. Very  
8 often, I'm just quoting you, right, very often--

9 JAMES COLGATE: Yeah.

10 COUNCIL MEMBER FIDLER: --the  
11 application's not perfect. When it's perfect, it  
12 takes three weeks.

13 JAMES COLGATE: Yeah, two or three,  
14 two or three.

15 COUNCIL MEMBER FIDLER: So, at, at  
16 worst, you know, we're talking about a week or two  
17 on the perfect application, which is the exception  
18 to the rule. So when you really get down to it,  
19 right, if we're amending 104 to put the burden on  
20 the applicant, so there's no cost to you, all  
21 right, there is no delay in the very often  
22 applications. What in God's name is DOB's  
23 objection to 104?

24 JAMES COLGATE: So, so the, 104  
25 asks for that timeframe so that comments can be

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submitted.

COUNCIL MEMBER FIDLER: Right.

JAMES COLGATE: Is there a framework? Is that comments, is the Department going to receive complaints from people who say, "I don't like the way it looks." That's not in my purview.

COUNCIL MEMBER FIDLER: You, you might say that, it might, and quite frankly a comment that, "I don't like the way it looks" is probably better directed, as I explained to Mr. Albaum, to the applicant, and not to DOB.

JAMES COLGATE: Right.

COUNCIL MEMBER FIDLER: Not your job, right? So this gives the community an opportunity to seek some redress someplace. So, what is DOB's objection to an amended 104?

CHAIRPERSON DILAN: Okay, Council Member Fidler, I'm going to ask you to sum up, so that--

COUNCIL MEMBER FIDLER: That, that was my sum up.

CHAIRPERSON DILAN: Okay.

JAMES COLGATE: And we're going to

1  
2 have to take that under advisement and review  
3 that. You know. [laughter]

4 COUNCIL MEMBER FIDLER: Sounds good  
5 to me.

6 CHAIRPERSON DILAN: Council Member  
7 Vallone.

8 COUNCIL MEMBER VALLONE: Well, I'm  
9 going to go even further, I'm going to break down  
10 every one of their arguments quickly. You said  
11 you objected based on, to the community  
12 notification portion, that it's based on a few  
13 things. Number one was the notice that you had to  
14 give, that's gone. So, that objection is now  
15 gone. You said you objected because the, the  
16 information was out there on the website. Well,  
17 number one, we've, we now know that the  
18 information is only out there after it's up; and  
19 number two, we now know, since we, Brad Lander and  
20 I have spent the last 45 minutes or so trying to  
21 get this information, that's it not user friendly,  
22 it takes multiple clicks, it's a huge down--  
23 spreadsheet download. In fact, it gets your own  
24 community board, it's not even broken--each  
25 community board is broken down by numbers that I

1  
2 had never even heard of before. Council Member  
3 had to explain to me that three meant Brooklyn and  
4 06 means I don't know what. But there's no way  
5 for a community member to get in there and get  
6 this information. And there may be a way, but it  
7 would take hours. So this, the information being  
8 out there is not a legitimate reason for you to  
9 reject anymore. I'm glad you have it out there,  
10 and it's useful to people like me who have staff  
11 who can break down these numbers, but it's not  
12 useful to people out on the street. Your other  
13 objection was the delay. You said, Mr.  
14 Commissioner said that was, it was unwieldy and  
15 noisy, which is basically saying it gives the  
16 peasants a chance to revolt. And I think you  
17 really need to--

18 JAMES COLGATE: I'm sorry.

19 COUNCIL MEMBER VALLONE: --rethink  
20 that, because you can't object based on the fact  
21 that people might raise legitimate objections.  
22 Let me just--

23 CHAIRPERSON DILAN: I think we need  
24 to just be careful and make sure that people's  
25 words are not twisted the wrong way.

1  
2 COUNCIL MEMBER VALLONE: I quote  
3 him as saying the pea--the, I was the peasants,  
4 that was the snarky part, I'm sorry [laughter] I  
5 quoted him as saying it was unwieldy and noisy,  
6 and that is really not any reason to, for a  
7 legitimate objection to a bill which gives people  
8 notice. And what Council Member Fidler, who did a  
9 great job of cross-examination didn't mention  
10 during his time period is people may just use this  
11 to move if they want. They don't have to raise  
12 objections. If they want to raise objections with  
13 their elected officials, and if we want to deal  
14 with the companies or the landlords, we can do  
15 that. It's not your concern what free people do  
16 with their right to free speech. Not your  
17 concern. And so that's really not an objection.  
18 Now, we did not discuss whether or not you have an  
19 objection to the carriers proving that they had  
20 made an effort to collate in industrial areas.  
21 You brought, I brought, I did find out that there  
22 are 4,000, there were 4,613 cell phone  
23 applications since 2005, if I'm reading this  
24 correctly. 62 percent of those in residential  
25 areas, from R1 to R10, 62 percent. So, do you

1  
2 have any objection to the portion of, of the bill  
3 that says that they have, the cell carriers have  
4 to submit to you proof of effort to collocate?

5 [pause, background noise]

6 MITCHELL ALBAUM: I apologize,  
7 proof of an effort or confirm that the carriers  
8 need to make an actual effort to collocate?

9 COUNCIL MEMBER VALLONE: [off mic]  
10 - - right now, [on mic] my Chair is saying I have  
11 to finish up, but the bill reads right now--

12 MITCHELL ALBAUM: Best efforts to  
13 collocate, okay.

14 COUNCIL MEMBER VALLONE: --the  
15 requirement that the permit applicant makes best  
16 efforts to locate in a non--I'm sorry, to locate  
17 in a non-residential district, or to collate,  
18 collocate in an area that already exists.

19 MITCHELL ALBAUM: Right.

20 COUNCIL MEMBER VALLONE: I'm more  
21 concerned right now to locate in a non-residential  
22 district.

23 MITCHELL ALBAUM: Okay.

24 COUNCIL MEMBER VALLONE: Do you  
25 oppose, are you opposed to that?

1  
2 MITCHELL ALBAUM: That, that is  
3 something that the industry will need to speak to.  
4 I would not speak to--

5 COUNCIL MEMBER VALLONE: But do you  
6 have an objection as the City, to that portion--

7 MITCHELL ALBAUM: We have no  
8 position on that.

9 COUNCIL MEMBER VALLONE: Okay,  
10 that's what you should on the whole bill, by the  
11 way, no position at a minimum. No position. Not  
12 an objection to a bill which gives, you know,  
13 notice. I've got a lot more to go, but the Chair  
14 was very, let me go twice, I'm going to end.

15 CHAIRPERSON DILAN: Yeah, we just  
16 need to sum up for the need to listen to the  
17 number of witnesses signed up today. The next  
18 will be providers, some of the providers may have  
19 the answers to the question, and I'm sure that it  
20 will be a dynamic exchange. [laughter] I'd just  
21 like to say, just in listening, it seems that the  
22 biggest problem that I see is I don't think, so  
23 far, and I don't know that we have the purview,  
24 and I know this concerns about the health impacts.  
25 Obviously, we can't do anything about that. But I

1  
2 don't know that, that a case has been made about  
3 the health impacts. I think the big hole and the  
4 big problem that I see here, is that we have a  
5 wild, a wildly unregulated system, the agencies  
6 apparently don't know even how many, how many of  
7 these towers are even in the City? Who's  
8 providing the service? And zoning resolution  
9 appears to be pretty open, pretty allowable. And  
10 that's okay, I'm not saying that we should  
11 restrict. But what I am saying is that we should  
12 at least know what's going on within the borders  
13 of the City, so that we can provide some of the  
14 information. So, so after this exchange, those  
15 are the holes that I see. I'd like to thank the  
16 Department of Buildings and DoITT for coming in,  
17 and providing your testimony. We have heard your  
18 objections, we'll take your objections into  
19 account. And then we'll decide what the  
20 procedures will be following the hearing,  
21 regarding the discussion of any changes to the  
22 legislation before us. I'd like to thank you all.  
23 Okay, next, we have Mr. Dan Mullin from Verizon  
24 Wireless, Mr. John Jefferson from AT&T, and Jane  
25 Builder from T-Mobile. [long pause, background

1  
2 noise] Okay, so we're receiving your testimony,  
3 is this a joint, a joint statement from the three?

4 MALE VOICE: [off mic] Yes.

5 CHAIRPERSON DILAN: So is one  
6 person going to provide the testimony, or are you  
7 going to share in the duties of--You can proceed  
8 however you like, I just want--so, this is  
9 testimony on behalf of all three carriers, plus,  
10 plus--Plus Sprint/Nextel? Okay. Who would like  
11 to begin? Okay, just begin by identifying  
12 yourself in your own voice, for the record, and  
13 then, and then you can begin your testimony.

14 [pause, background noise] If, yeah, push the  
15 bottom the front of the mic, on the base of the  
16 mic.

17 JOHN JEFFERSON: Oh, okay.

18 Testing.

19 CHAIRPERSON DILAN: Yeah, that's  
20 good.

21 JOHN JEFFERSON: My name is John  
22 Jefferson, I'm the Vice President of External  
23 Affairs for AT&T in New York City. I think I can  
24 still say good morning. The following comments  
25 are with respect to Intros 237, 104 and 57, and

1  
2 are offered on behalf of those members of the  
3 wireless telecommunications service providers  
4 commonly known as Verizon Wireless, T-Mobile,  
5 Sprint/Nextel and AT&T. Please note that on  
6 behalf of the carriers, we have official memos  
7 with detailed comments on each of the bills, which  
8 we will submit for the record. And I'm here today  
9 with my colleagues to present an overview of our  
10 objections as an industry. I first want to thank,  
11 on behalf of my colleagues, Chairman Dilan, and  
12 the members and staff of the Housing and Buildings  
13 Committee, the other Council Members present, the  
14 sponsor of the bill, his staff, for providing us  
15 the opportunity to present our position today. We  
16 are united in strong opposition to the three  
17 pieces of legislation as follows. Due to the fact  
18 that there are already a myriad of rules in place  
19 governing cellular telephone antennas and related  
20 equipment, including notice of the permit  
21 applications, these bills are unnecessary,  
22 discriminatory and would impede the steady  
23 deployment and enhancement of the wireless  
24 infrastructure in New York City, vital for  
25 businesses, consumers and emergency responders.

1  
2 Of utmost importance to the industry and New  
3 Yorkers is the potential impact these bills could  
4 have on emergency services communications  
5 infrastructure. The need to accurately pinpoint  
6 precisely when and where a New Yorker is in need  
7 of emergency help is becoming more and more  
8 critical. As we all know, the ability to do this  
9 improves as technology and the speed of data  
10 transfer improves, ultimately leading to the  
11 improvement of response times. Seconds can make  
12 the difference between life and death. During the  
13 last year alone, the wireless providers handled an  
14 average of approximately 250,000 wireless 911  
15 calls a month, over their networks in New York  
16 City, and that number's growing steadily.  
17 Moreover, Notify New York, New York City's  
18 emergency alert system, sends real time,  
19 neighborhood specific emails, phone calls and text  
20 messages to City residents affected by storms,  
21 fires and other hazards. The ubiquity of cell  
22 phones and the public's reliance on them by tech  
23 savvy populations like that of New York City,  
24 further demands a cautious approach to regulation  
25 that could impact wireless network evolution. New

1  
2 Yorkers are increasingly relying on state-of-the-  
3 art, third and fourth generation wireless  
4 networks, which give them access to the latest in  
5 voice, data and video applications all running on  
6 mobile devices. In order to meet the needs of New  
7 Yorkers, the wireless providers deploy and upgrade  
8 their cellular telephone installations throughout  
9 New York City, and these bills would cause delays  
10 in the providers' ability to meet those needs. In  
11 fact, one in every four U.S. households rely on  
12 cell phones as their primary form of communication  
13 and the ratio in urban areas like New York City is  
14 even higher. Another important example is  
15 internet usage. Increasingly, New Yorkers are  
16 using wireless data as the means to access the  
17 internet anywhere, anytime, and underrepresented  
18 groups utilize wireless devices to access the  
19 internet at a higher rate than do other groups, so  
20 that the deploying wireless broadband has been  
21 seen as another way to bridge the digital divide.  
22 The bills themselves are problematic because of  
23 their direct and indirect consequences on wireless  
24 networks and their users.

25 JANE BUILDER: Hello. I'm Jane

1  
2 Builder from T-Mobile USA. And I'm here to speak  
3 specifically about the pieces of those bills which  
4 cover residential neighborhoods. Reliable cell  
5 phone coverage is needed everywhere in New York  
6 City, and the bills' attempt to impede, slow down  
7 and create obstacles to wireless network  
8 development in residential zones is bad policy--

9 CHAIRPERSON DILAN: If you could  
10 speak more directly in to the mic, I'm sorry.

11 JANE BUILDER: --is bad policy and  
12 just doesn't make any sense. New Yorkers want the  
13 peace of mind of knowing that they can use their  
14 cell phones no matter where they are. Many of the  
15 City's residents rely on wireless phones as their  
16 primary means of communication, including  
17 emergency communications. In fact, the majority  
18 of 911 calls now, estimated between 55 and--of 911  
19 calls between 55 and 65 percent comes from  
20 wireless phones. And 43 percent nationwide of all  
21 renters are wireless only households. Roughly 60  
22 percent of all wireless calls are made at home.  
23 So to enact regulations intentionally discouraging  
24 service in residential zones would slow the  
25 process of meeting residents' communication needs,

1  
2 and place them at risk of being without the kind  
3 of service and reliable service when they need it  
4 the most, at home and in emergencies. The reason  
5 that wireless installations are placed throughout  
6 the City and in residential communities is because  
7 that's where people use them. It should be a  
8 priority to ensure that everyone in New York City  
9 can connect to 911 using a wireless phone in any  
10 borough, even those areas which are completely  
11 residential in nature. This is not the time to be  
12 implementing legislation that will stymie reliable  
13 service to City residents by requiring that  
14 service providers, as one of the bills states,  
15 "use best efforts to locate in a non-residential  
16 zone." In fact, reliable wireless service in  
17 residential areas in New York City is more  
18 important than ever. As my colleague stated, just  
19 the four carriers represented here handle a  
20 quarter of a million, you know, wireless 911 calls  
21 on their networks every month in New York City,  
22 and that number is growing. About 50,000 people  
23 have signed up for Notify New York, including  
24 22,000 parents who want school notification, and  
25 that service depends on the technology and

1  
2 infrastructure via the wireless networks. As a  
3 mother of two adult New York City residents who  
4 are wireless only, it should not be a priority of  
5 this body to enact legislation which would have  
6 the effect of impeding the development and  
7 enhancement of wireless networks in the City's  
8 residential neighborhoods. There's a Times  
9 article from April 2010 quoting the Police  
10 Department's chief spokesman saying that officers  
11 found cell phones to be more convenient, more  
12 accessible and more portable than the  
13 communications of old, where it was either the  
14 police radio or a payphone, continuing that they  
15 more convenient, portable, and ubiquitous. The  
16 need for reliable networks have been evident  
17 during emergencies in this City. Remember when  
18 the passengers were stranded and trapped on the  
19 Roosevelt Island Tram, stalling in midair, which  
20 the tram was just put back in service yesterday,  
21 there was a twelve year old child who was able to  
22 call his mother to let her know that he was  
23 trapped in the tram. And when US Airways flight  
24 1549 crashed into the Hudson River and a survivor  
25 was able to climb out on the wing and call her

1  
2 husband, and numerous other critical times in this  
3 City, wireless has been there for New Yorkers. My  
4 second point is that the barriers to the  
5 deployment of wireless technology will only  
6 further the digital divide. These bills take,  
7 taken together, send the message that New York is  
8 not open for the business of the future, that New  
9 York City is not following its own initiative to  
10 embrace the technologies that are enhancing our  
11 competitive edge by allowing businesses to grow  
12 and create jobs. Contrary to much of what was  
13 heard in the recent Technology Committee hearing  
14 on broadband adoption. The efficiencies for  
15 businesses, small, medium and large alike, gain by  
16 the use of wireless technology and mobile  
17 broadband are well documented. These bills will  
18 also add to the burden--I'm sorry. These bills  
19 will also add burdens to the City's attempt to  
20 modernize schools and libraries, and improve  
21 access to information. The more burdens placed or  
22 obstacles to overcome, the slower will be New  
23 York's ability to provide reliable wireless phone  
24 service and broadband, wi-fi and the wireless  
25 technologies of the future. Discouraging sites in

1  
2 residential zones, and creating impediments  
3 resulting in delays to the development of wireless  
4 networks is at odds with bridging the digital  
5 divide through wireless broadband. We should not  
6 embrace the policies of the last century, putting  
7 up barriers to growth and not expect that we as a  
8 City will be left by the side of the digital  
9 highway. Thank you.

10 DAN MULLEN: Good morning. Can you  
11 hear me?

12 CHAIRPERSON DILAN: I guess, yeah,  
13 I am, you guys are summarizing these documents,  
14 right, you're not exactly reading off these--

15 DAN MULLEN: Yes, right, yeah.

16 CHAIRPERSON DILAN: Yeah, see,  
17 that's what's happening. Okay.

18 DAN MULLEN: Can you, can you hear  
19 this?

20 CHAIRPERSON DILAN: We heard it the  
21 first time.

22 DAN MULLEN: Oh, how's that?

23 CHAIRPERSON DILAN: Sergeant, is  
24 that--Maybe--

25 JANE BUILDER: Testing. Shut this

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off.

CHAIRPERSON DILAN: Yeah, well I think you shut it off in the back now. Just touch that button in the back. [background noise] Sergeant ,why don't you provide some assistance.

DAN MULLEN: That button, thank you, sorry.

CHAIRPERSON DILAN: There you go, there you go.

DAN MULLEN: Good noon [laughs] I believe it's noon right now. My name is Dan Mullen, I'm an Executive Director of State Public Policy for Verizon Wireless. I, Chairman and other Members of the Committee, and other Council Members here, I really appreciate the opportunity, on behalf of Verizon Wireless and the wireless carriers to allow us to speak on behalf of these bills. I'm going to raise two points. Oh, before I get into that, I just want to mention, too, I have Leslie Snyder with me, who signed up from Snyder & Snyder, not to testify but to be available for questions. She's familiar with the laws and the zoning, I'm here primarily as a policy witness and discuss policy but happy to

1  
2 have her join me in answering some of the detailed  
3 questions you may have. Point number one is,  
4 there was concern by the wireless carriers that  
5 there are many out there that feel and have said  
6 that there are no requirements in place for the  
7 wireless carriers, and I believe we've heard from  
8 Department of Buildings that there are a number of  
9 requirements in place and they do notification, so  
10 I'm not, I have that written here, but I'm not  
11 going to go into that to save the Committee  
12 members time. The, in addition, though, to  
13 Department of Buildings, there was a brief mention  
14 of need to comply with Fire and Electrical Codes,  
15 Land Line Preservation Commission requirements,  
16 the, some FAA requirements and the National  
17 Environmental Policy Act. The wireless carriers  
18 feel that any additional regulations to what we  
19 already comply with are contrary to New York  
20 City's policy of streamlining government and  
21 helping to stimulate business. There's also  
22 concern from the wireless carriers that the bills  
23 are discriminatory and contrary to public policy.  
24 Intro 237 has an exemption for government agencies  
25 to put up the same types of facilities. It's, we

1  
2 feel that the way that bill is written, it  
3 recognizes that it has the potential to hinder  
4 development in the public wireless infrastructure.  
5 During an emergency, both public and private  
6 wireless infrastructure is used, and essential in  
7 protecting and saving lives of people and property  
8 throughout New York City. We're, we're unaware of  
9 any other applicant being required to abide by a  
10 30 day, let's call it wait, wait period. There  
11 are rooftop satellite dishes, radio and TV  
12 antennas, microwave dishes, water tower and air  
13 conditioning units, billboard solar panels, and  
14 other things that go on buildings as well, and to  
15 the extent that only wireless antenna facilities  
16 are out there, you know, shows sort of  
17 discriminatory nature of these requirements. In  
18 sum, as I've said, the wireless carriers are  
19 opposed to these bills. They are contrary to the  
20 City's goals of improving emergency  
21 communications, and broadband accessibility in  
22 every neighborhood. And we're open to any  
23 questions you may have. Thank you.

24 CHAIRPERSON DILAN: Okay, I'm just  
25 going to begin. I'm going to begin and then we'll

1  
2 be followed by Council Member Williams. I'm going  
3 to be extremely brief at the beginning, and I may  
4 come back at the end. But just help me, and I  
5 guess it's to, to any member of the panel, just  
6 maybe with a little bit of technical advice as to  
7 what these antennas actually do. I have a general  
8 concept of what they do, but maybe in some detail,  
9 what's the, what's the benefit to the public with  
10 the actual function of the towers? And why the  
11 need for so many? And if you could also explain  
12 their functions as it relates to the City's  
13 response to emergencies and how your equipment  
14 helps. And if you could also maybe explain any,  
15 any other technical questions as to how they help  
16 with things that were mentioned, such as, you  
17 know, helping solve the digital divide. I guess  
18 could you make the case, in essence, as to why  
19 there's so many, why they're needed, and why the  
20 need for the growth of these antennas in buildings  
21 throughout the City?

22 JANE BUILDER: I'll start off by  
23 handling that question and by saying I'm not an  
24 engineer. But the antennas that, that handle the  
25 traffic, the phone and data traffic that you see

1  
2 on the rooftops, those are transmitting devices,  
3 they, they are transmitting and receiving radio  
4 waves. It's radio technology, it's been part of  
5 America's history, and it's been with us for many  
6 decades. The, the phones that you use need, are,  
7 have to be in some proximity to the antennas that  
8 receive the signal, and, and so it goes. And why  
9 are there so many? It used to be, when I first  
10 testified before this Committee, that there was  
11 maybe one wireless phone per household. Now,  
12 there are an average of four phones in a  
13 household. So, we are just keeping up with the  
14 customer demand. And the customers, especially  
15 New York City residents are data hungry, and  
16 they're using the internet, using the mobile  
17 broadband, you know, intensely, and this covers  
18 all ages from ages ten and up. The text messaging  
19 function on, in the technology is a public, is  
20 also a public safety feature. As you know, Notify  
21 New York uses the wireless networks to send out  
22 text messages. On the digital divide issue, I  
23 will defer to my colleague.

24 CHAIRPERSON DILAN: If I could stop  
25 you there, 'cause I think--

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JANE BUILDER: Yeah.

CHAIRPERSON DILAN: --you hit on what I was looking for, and I wasn't sure if I asked the question right, but you seem to have got it. So, the basic functions that are handled by these antennas are your average phone call, a text message, would it involve internet transmissions and other data transmissions, as well?

JANE BUILDER: Yes.

CHAIRPERSON DILAN: Okay, so there's, are there any other functions that, that come off that?

DAN MULLEN: Yes, I would like to add that roughly 1996/1997, the FCC required that all wireless carriers provide location information when folks dial 911. And carriers have implemented those in our system, so that when somebody calls 911 today, that information goes. So, not only is it important for people to be able to access 911, but that PSAP, public safety answer points, be able to have that information when people call. Just to further add to that, the FCC has just opened a docket recently, I believe this week, looking at the issue of being able to

1  
2 provide even more information to public safety  
3 answer points, including picture messages, video  
4 messages, from scene of an accident, fire, what  
5 have you. So the sort of role of wireless phones  
6 and 911 is ever evolving and ever growing and  
7 becoming even more important.

8 CHAIRPERSON DILAN: Okay, so then  
9 you also, also stated that proximity is an issue.  
10 I guess at what point does--I guess what's the  
11 range, I guess, on the average antenna, and at  
12 what point does, say a group of people become out  
13 of range? I know you clarified, if the Committee  
14 could come to order a little bit. I know that you  
15 clarified that you're not an engineer, so if you  
16 don't have the answer I understand, but if you  
17 could just maybe give us a detail, as best you  
18 can, as to what the range is on these?

19 JANE BUILDER: Yeah, I mean, I can  
20 just start off by saying that in a vertical world,  
21 which New York City is a vertical world, you can't  
22 have any obstacles in the way in order to transmit  
23 effectively. So, the range in a flat area with  
24 nothing around it is quite different than it is in  
25 New York. And I'll defer to Verizon if he wants

1  
2 to go into any more specifics, but, but the  
3 buildings can block signals--

4 CHAIRPERSON DILAN: Or, or if you,  
5 if you have any technical people with you that may  
6 be suited, better suited to answer the question,  
7 I'll allow them - -

8 DAN MULLEN: [interposing] Well, I  
9 can see if that answers the question, we have a  
10 fellow here in the audience who could probably  
11 further help, but if this helps, there are two  
12 primary considerations in towers and number of  
13 towers you have, and a third perhaps, what Jane  
14 just mentioned, but you have range and you have  
15 capacity. So, out in rural parts of the State,  
16 less populated portions of, of any given  
17 geography, you're primarily subject to range. So  
18 you can have a couple miles range on a tower. As  
19 you get more and more demand on a given tower, you  
20 need to add more sites for capacity. Each site  
21 has a limited amount of capacity, so as you have  
22 more people calling in from a given area, the area  
23 by which a single tower will cover becomes smaller  
24 and smaller. So as you add new cells to the area  
25 to cover capacity, you need to tone down, tune

1  
2 down the radio antennas so that they cover less  
3 area, but they can handle more capacity. So you  
4 can imagine in a heavily populated City  
5 environment, such as New York City, you need more  
6 sites per area to handle the capacity of the calls  
7 that you can expect. And now that calls are more  
8 than calls, they're data messages, text messages,  
9 video, whatever, you know, you talk about that,  
10 that those capacity demands grow even greater and  
11 require a lower range, but more capacity, if  
12 that's helpful to you. So they're, in a City  
13 area, your range might be a couple of blocks, or  
14 it can be less if you are blocked by line of site  
15 because you have a building in the way, so you may  
16 need another site.

17 CHAIRPERSON DILAN: All right, so  
18 it would vary, but I guess--is there a way you  
19 could give us an estimate in terms of the New York  
20 environment? In an urban environment? Or you  
21 want to--it looks like they want to try to bring  
22 someone up here.

23 DAN MULLEN: Yeah, yeah, if I can,  
24 if it's okay, to--

25 CHAIRPERSON DILAN: It's fine.

1  
2 DAN MULLEN: He hasn't signed up,  
3 but I'm happy to have Rob--

4 CHAIRPERSON DILAN: Yeah, he just  
5 needs to identify himself for the record, and--and  
6 that's if he's willing, if he's not willing,  
7 that's find. [laughter]

8 ROBERT BREYER: Hello. My name is  
9 Robert Breyer, I'm with Verizon Wireless, I am not  
10 an engineer, but I am in the Network Group for  
11 many, many years. And to answer your question, a  
12 lot of the things that Dan here just advised is  
13 absolutely true, it is a line of sight technology.  
14 It is also a frequency re-use technology, so  
15 that's why they call it cellular, you're broken  
16 down into smaller geographic pockets, but it also  
17 impacted by topography. In the normal design,  
18 you're not looking to try to bounce signals off of  
19 things, you want to see it directly. And so  
20 therefore, you're going to be impacted by traffic  
21 patterns, you're going to be impacted by  
22 topography, buildings, and even changes throughout  
23 a given day. So you may have a cell that covers a  
24 certain amount on a certain part of the day, and a  
25 busier part of the day it serves less. To answer

1  
2 your question directly, in let's say a busy urban  
3 environment, let's say for example in Manhattan  
4 streets, you may have a site, for example, at  
5 every block. And, and to go one step further, you  
6 may have in-building environments where you have a  
7 dedicated cell just for a particular building. So  
8 it can vary tremendously, whether you're out in  
9 the suburbs, versus in the City environment, and  
10 what specifically you're trying to cover. You may  
11 have something put in just for a parade route, to  
12 cover one small section of a street. But in a  
13 normal city environment, you may have a, like  
14 Manhattan, you may have a site, for example, you  
15 know, every block or two.

16 CHAIRPERSON DILAN: Okay. So, just  
17 moving on, I know there was, it was brought, up  
18 the idea of digital divide, and it looked like you  
19 were about to refer to a member of the panel, so  
20 we could address that. Thank you.

21 ROBERT BREYER: Thank you.

22 JOHN JEFFERSON: Similar to  
23 comments made on behalf of the industry, during  
24 the broadband adoption hearing held by the  
25 Technology Committee, previously, I believe it was

1  
2 in October, one thing that's key to note, in terms  
3 of underserved and underrepresented communities,  
4 traditionally when it comes to accessing the  
5 internet, where there has not been a high adoption  
6 rate of wire line, meaning copper wire to the  
7 home, broadband access, fiber to the home,  
8 broadband access and cable to the home, broadband  
9 access, there has been a higher rate of adoption  
10 of access to the internet, both broad and narrow  
11 band access to the internet, via wireless devices.  
12 This makes a lot of sense because of the ubiquity  
13 of wireless phones. Many, if not all New Yorkers,  
14 within a reasonable estimate, have--or parameters,  
15 I should say, carry cellular phones, PDAs, there  
16 are also laptops and tablets now that people have  
17 that can all access the wireless internet, and  
18 receive broadband speeds. So, that is enabling  
19 individuals from underrepresented groups such as  
20 African-Americans, Hispanics, Asians, to gain  
21 access and bridge the digital divide. Whereas the  
22 dialogue previously was mainly about wire line  
23 access. And this is backed up by a Pew Internet  
24 broadband usage study that was recently produced  
25 in 2007, and updated in 2010.

1  
2                   CHAIRPERSON DILAN: Okay, so, I'm  
3 going to, I'm going to move on. I know some of my  
4 colleagues may ask this question, and it was a  
5 question that was asked of the Administration, and  
6 it has to do with the 30 day notice. I guess is  
7 there an objection by the industry to providing  
8 the communities in some orderly fashion that maybe  
9 we could create, is there an objection by the  
10 providers to maybe create some sort of  
11 notification? And if there is, and there are cost  
12 implications, could you maybe roughly give us an  
13 idea of what it may cost you? If, if we were to  
14 amend the bill and go in that direction?

15                   DAN MULLEN: There is concern, I  
16 guess among the industry, to add more time to a  
17 process to bring services that'll add some of the  
18 benefits that we talked about. I think what's  
19 worth taking a look at is what underlies the need  
20 for that. They were raised by a couple of  
21 committee members, concerns about health effects.  
22 And I think there's a lot of misunderstanding,  
23 lack of understanding of what the science is  
24 that's out there. And I would suggest that  
25 perhaps before we go adding more steps to an

1  
2 already existing process, that we take a look at,  
3 you know, the science that's behind the concern  
4 about health effects, so that people better  
5 understand that, so that, so that we--

6 CHAIRPERSON DILAN: Yeah, what I  
7 would say about the health effects I said at the  
8 outset. I know members are concerned about it, I  
9 think it's pretty clear that this Committee and  
10 this Council doesn't have jurisdiction over the  
11 health effects. I think if some members, you  
12 know, want to join in writing a letter to the FCC  
13 to maybe get, get them to provide us their report  
14 on the health effects, I'm willing to work with  
15 them and do that. But that's something that  
16 unfortunately we can address, I know members have  
17 concerns and people will bring that up. I think  
18 more what I'm looking at is, and I'm not sure if  
19 the industry is at fault here, or if the  
20 Administration is at fault here. It was just told  
21 to this Committee that for this calendar year,  
22 which is not even completed, there've been 1,500  
23 new towers installed. They don't know--they don't  
24 know at the, there's no report that says who's  
25 operating them, how many players are in the

1 market, where they are, where they are by  
2 community board. I mean, they have some of the  
3 data, it took some members and their staffs a good  
4 amount of time to do it. Now, I'm not sure that,  
5 that you guys should provide it, and there's some  
6 argument as to whether we do it retroactively or  
7 prospectively. I think some of my colleagues  
8 would like to see it prospectively, but I don't  
9 even think we have it available retroactively. So  
10 I think the problem that I see so far is that the  
11 City knows pretty much nothing as to where they  
12 are, how many players and how many there are.  
13 They claim to have the data, but they don't have  
14 it in any organized manner that's useful in some  
15 sort of report that can be provided to  
16 representatives of the public or the public  
17 themselves. So that's concerning to me. I'm not  
18 sure that that's an industry problem. It may be a  
19 City problem, but one way or another I think we do  
20 need to get to the bottom of that part. So, I  
21 think that's why I started this discussion. I  
22 anticipate that you guys would be opposed to it.  
23 But I would like to hear your opposition. And  
24 maybe, you know, maybe, and I would imagine you  
25

1  
2 probably don't have the answer now, but what would  
3 it cost each provider, generally?

4 JOHN JEFFERSON: If I could, I'd  
5 like to first comment on the 1,500 figure.

6 CHAIRPERSON DILAN: Sure.

7 JOHN JEFFERSON: I understand from  
8 what I heard earlier that that was a figure year-  
9 to-date.

10 CHAIRPERSON DILAN: Yes.

11 JOHN JEFFERSON: And I suggest to  
12 say that it's a possible that that many  
13 applications or new sites added, year-to-date, I  
14 understand that each application, or many of the  
15 applications, if not most, are reworks. So, if  
16 companies have to go back and change out their  
17 antennas or make some adjustments, add equipment--

18 CHAIRPERSON DILAN: Okay, well  
19 that's fair, we didn't clarify whether they were  
20 new or reworks. So we can, you know, we can go  
21 and get that data, and maybe ask more  
22 specifically, to the Buildings Department. But  
23 they did throw the 1,500 number out there. And  
24 they weren't, again this is them, they, this is  
25 the Buildings Department, they weren't able to

1  
2 give us an answer as to how many that were  
3 operating. And again, this is just from my  
4 perspective, from a general information  
5 perspective, not to say that I have the opinion  
6 yet, 'cause I don't, whether we need to add more  
7 or whether we need to further regulate, or what  
8 steps need to be taken, but I see my colleagues'  
9 concern, 'cause there's a big hole in the lack of  
10 information that's out there. So, and again  
11 that's more directed towards Buildings. But I'd  
12 like to again hear your, the industry's take on,  
13 on the 30 day requirement.

14 DAN MULLEN: To answer that  
15 question specifically, the process for applying  
16 for a permit for a cellular antenna site, is, it's  
17 part of a highly technical process, with a lot of  
18 interdependent steps, so while the one stop is the  
19 Department of Buildings, depending on where the  
20 antenna is, you have FA, the FAA, you have EPA,  
21 you have Landmarks, and some of this was put in  
22 the testimony, is in the--but there are multiple,  
23 at least twelve different agency check steps that  
24 have to be considered. The 30 day process, it's  
25 not clear to me that the waiting period is, you

1  
2 get your application filled right after that ends,  
3 or whether that starts the new normal, as the  
4 Council Member pointed out, two to three week  
5 period if everything works fine. So now you're  
6 delaying further these sites, and again it's part  
7 of getting to a earlier question you had about,  
8 "Well, what do these antennas do? Why do we have  
9 them out there?" It's in the industry's interest  
10 to have as few as possible, maximize as the  
11 Councilman Comrie was saying, maximize the amount  
12 of bandwidth and communication capability, both  
13 for emergency services as well as consumer and  
14 business services. So it's not in our interest to  
15 generate as many of these, they're very costly,  
16 very complicated. So we're trying to make this as  
17 efficient as possible. Delays cause delays in  
18 service effectiveness, in new products and  
19 services, upgrades that come out, things that the  
20 FCC requires us to do now with emergency  
21 communications. New Yorkers don't like to wait  
22 five minutes extra for their Big Mac, three  
23 minutes extra time for their subway train to  
24 arrive, and certainly they don't want to wait two  
25 minutes for their download and god forbid have any

1  
2 delay if they're making emergency communication.  
3 So, the delay is significant to us, and we think  
4 it is to all New Yorkers, better informed,  
5 perhaps, we could all agree to that. And  
6 understand that maybe the best thing to do is not  
7 add any extra time to the process.

8 CHAIRPERSON DILAN: Okay, I promise  
9 to be brief and I wasn't, so I apologize.

10 [laughter] Just maybe another quick question with  
11 maybe a direct--you know what? I'll hold till the  
12 end, I'll try to keep to my promise. We have  
13 Council Member Williams, followed by Council  
14 Member Fidler.

15 COUNCIL MEMBER WILLIAMS: Thank  
16 you, Mr. Chair. Thank you for the testimony. And  
17 welcome to the City Council.

18 DAN MULLEN: Thank you.

19 COUNCIL MEMBER WILLIAMS: I have a-  
20 -that was my best James Earl Jones impression.  
21 [laughter] Thank you very much. I have a couple  
22 of questions. I do, I don't, in terms of 237, I  
23 don't have enough research under my belt to know  
24 if it really is duplicative or not, so I'm, all my  
25 questions are going to probably be around 57 and

1  
2 104. I do understand that 237, from what I was  
3 told, is kind of codifying some policy and  
4 procedures that may exist and strengthen some,  
5 which seem to kind of make sense. But my, my  
6 specific question was, you mentioned in 237 that  
7 it's discriminatory because it only includes  
8 private and not the public. So, if the public  
9 were included, would you support it?

10 DAN MULLEN: No, we wouldn't, but  
11 that just points out, our point was that that  
12 points out that it would be problematic even for  
13 the City to get up its own towers and therefore  
14 they were exempt. But there is concern, other  
15 discriminatory concerns about other, many of the  
16 other things on buildings that I listed:  
17 satellite dishes, microwave dishes, other, other  
18 similar types of devices. And those sorts of  
19 things.

20 COUNCIL MEMBER WILLIAMS: Well,  
21 just so I have, personally I have problems taking  
22 consideration in objection that if the objection  
23 was removed, you still wouldn't have, you would  
24 have issue with it, so I don't know how serious  
25 that objection is.

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DAN MULLEN: I just--Oh, go ahead.

JOHN JEFFERSON: I think, I think, to clarify, it's not just, although that's a glaring example, that the City's excluded, but there are various types of rooftop equipment that aren't being considered for similar regulations and rules. So unless there's some underlying reason why you would single out our industry and our equipment, then that seems to be discriminatory.

COUNCIL MEMBER WILLIAMS: Well, so, I, you know, I'm asking these questions, one as a person with two cell phones and an iPad, and understanding the need for getting these services. But also as somebody representing 153,000 roughly citizens in New York City, trying to make sure that they also have the opportunity to speak on things that are happening in their neighborhood. And the glaring, you know, kind of elephant in the room it's, there are some concerns about health that I think are, haven't, you know, fully been studied or known, but I'm trying to make my questions devoid of that, because we don't have jurisdiction over that. I did kind of want to ask

1  
2 similar questions, from what I asked DOB. With  
3 57, I don't fully understand the objection,  
4 because all that's being said is if there is a  
5 tower and it somehow is preventing work that needs  
6 to get done from being done, then this helps  
7 provide provisions to fix that. If there is no  
8 problem, there'll be nothing to fix. So what is  
9 the objection, clearly?

10 LESLIE SNYDER: Good afternoon,  
11 it's Leslie Snyder. I think DOB actually stated  
12 it very appropriately. What they're saying is  
13 that by highlighting that the cell phone antennas  
14 would be held to be given additional time, a  
15 landlord, you'd essentially be delaying out the  
16 critical reports. And the reality of the  
17 situation is that I don't believe there's been any  
18 situation where, at least these providers, were  
19 holding up a landlord from providing these  
20 critical reports. But I think--

21 COUNCIL MEMBER WILLIAMS: So you--

22 LESLIE SNYDER: --DOB stated it  
23 very accurately, as to how the effect would be.  
24 Because you're not requiring this, there's a lot  
25 of rooftop installations in addition to cellular

1  
2 phone antennas. There's TV antennas, there's  
3 satellite dishes, there is numerous other objects,  
4 and why aren't those objects being--

5 COUNCIL MEMBER WILLIAMS: So, I  
6 have two questions. One, so if we identify a  
7 problem with one thing, we shouldn't address it  
8 because we haven't addressed the problems of all  
9 other things?

10 LESLIE SNYDER: No. What the DOB  
11 is saying is in their own law, they actually  
12 provide that if you have a problem because of  
13 something that's on--

14 COUNCIL MEMBER WILLIAMS: Wait,  
15 wait, let me just back up, because you just said  
16 there are other things on the roof.

17 LESLIE SNYDER: Correct, and what--

18 COUNCIL MEMBER WILLIAMS: So, I'm,  
19 put that specifically, so if we've identified an  
20 issue with one thing, we shouldn't go forward  
21 because there are other things that we haven't  
22 addressed.

23 LESLIE SNYDER: Well, let me, let  
24 me back up for one second. First of all, there's  
25 been no incidents where the cell phone carriers

1  
2 have been stalling some owner from being able to  
3 provide the critical report. That was actually  
4 testified to today. They didn't know of any  
5 instances that they could recall where that  
6 occurred. Second of all was that the DOB was  
7 stating its own policy right now in its own law,  
8 if the landlord can--the owner of the property can  
9 provide that report, because something is impeding  
10 him, whatever that may be, whether it's a cell  
11 phone antenna, whether it's a satellite dish,  
12 whether it's a TV, there's a process. So there's  
13 no need for this legislation, nor should, in our  
14 opinion, you be involved in sort of the  
15 landlord/tenant relationship, between the cell  
16 phone carrier and the property owner.

17 COUNCIL MEMBER WILLIAMS: So if the  
18 procedure exists, what's wrong with codifying it?

19 LESLIE SNYDER: Because then you  
20 should codify it for everything again. If you  
21 want to have two, then you should say anything  
22 that's on the roof--

23 COUNCIL MEMBER WILLIAMS: I got  
24 you. But that brings me back to my first  
25 question, which you didn't kind of really answer,

1  
2 which was if we see one thing wrong, should we not  
3 go forward because there are other things.

4           LESLIE SNYDER: But you don't see  
5 anything wrong, 'cause the DOB testified they  
6 didn't have any incident where a cell phone  
7 antenna was impeding them from being able to  
8 provide the critical report.

9           COUNCIL MEMBER WILLIAMS: Okay.  
10 And the other thing, the other kind of testimony  
11 you made about the lengthening of the time, so  
12 what do you, are you saying that a landlord may  
13 dupe the Department of Buildings into saying  
14 there's something wrong with it when there isn't,  
15 and they will fool the DOB?

16           LESLIE SNYDER: No, I think what  
17 the DOB was--

18           CHAIRPERSON DILAN: Ms. Snyder,  
19 could I suggest that if you could kindly have a  
20 seat.

21           LESLIE SNYDER: Oh, sure.

22 [laughter]

23           CHAIRPERSON DILAN: Thank you.

24 [laughs]

25           LESLIE SNYDER: Sure. I'm sorry.

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Your question again was--?

COUNCIL MEMBER WILLIAMS: What was the question? [laughter]

CHAIRPERSON DILAN: I'm sorry for interrupting, I'm sorry.

COUNCIL MEMBER WILLIAMS: Oh, yeah, sorry, were you saying that the, the owner, thank you very much, 'cause it's a good question.

[laughter] Are you saying that the owner is going to fool the Department of Buildings into thinking that there is a problem just to extend the time and the DOB will fall for that fool?

LESLIE SNYDER: No, no, I'm not saying that at all, I'm just saying, you know, obviously the DOB testified, so I'm going to indicate what their, you know, repeat their testimony, I'm not speaking on behalf of the DOB. So, I, that's--

COUNCIL MEMBER WILLIAMS: So how will it be extended, unless they get fooled by it?

LESLIE SNYDER: I guess--No, I don't think there's a fooling or anything like that. I think what the point is, is that why is cellular phone antenna--why are you picking on

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this industry?

COUNCIL MEMBER WILLIAMS: All

right--

LESLIE SNYDER: There has been no

incidence--

COUNCIL MEMBER WILLIAMS: --that

was one point you made, you made roughly three,  
and I brought up two, and then you go back to this  
one. Just--

LESLIE SNYDER: Because, because it

all revolves around the same thing.

COUNCIL MEMBER WILLIAMS: Okay.

LESLIE SNYDER: You don't have,

there's no problem, there has been testimony that  
there's been no problem, this bill is only  
pinpointing cellular phone antennas, nothing else.

COUNCIL MEMBER WILLIAMS: Okay.

LESLIE SNYDER: And so there's

absolutely, in our opinion, no need for it.

COUNCIL MEMBER WILLIAMS: And then

for 104, what exactly is the objection when a  
application is filed, to letting the Council  
Member and community board to know?

LESLIE SNYDER: I don't know if you

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want to speak or you want me to do it, but--

COUNCIL MEMBER WILLIAMS: And I have a more specific, more specific. Is the--how much would it cost the industry if there's a 30 day extension? And is the fear the 30 day extension, or the fear that the community may react and delay it more?

LESLIE SNYDER: Well, I think, yeah, - - opposed to.

DAN MULLEN: We, we have a--we have a very complex process involving multiple agencies. So again when you think about adding a 30 day extension, I would, I would submit that we don't think about that as that 30 days being exhaustive of the time it will take to build out critical infrastructure. Cost is associated with every day of delay of any business process.

COUNCIL MEMBER WILLIAMS: So back that up and say it again. You don't consider the 30 days--

DAN MULLEN: I don't, I don't believe that that is exhaustive. I don't believe that what this legislation is proposing that is, once the 30 days is, is complete, you get your

1 application approved. Because the DOB and all  
2 these other agencies we've mentioned still have to  
3 do their work, and you've got an uncertain process  
4 that just goes on for 30 days, at--

5  
6 COUNCIL MEMBER WILLIAMS: So  
7 without the 30 days, it would, they wouldn't still  
8 have to do their work?

9 DAN MULLEN: Well, they, they--  
10 well, the testimony was that they do it within two  
11 to three weeks under the normal case. As I  
12 remember what was said.

13 COUNCIL MEMBER WILLIAMS: Okay, let  
14 me, okay, I got two more. All right, so I'm going  
15 to skip over to some--But I did want to know, the  
16 digital divide, most of the towers, do you know  
17 where they're located? Are they in places of  
18 communities with more color? Are they in places  
19 with people with less color?

20 JOHN JEFFERSON: I can speak for  
21 AT&T, we have 3G coverage, which is broadband  
22 coverage, throughout all of the five boroughs of  
23 New York City.

24 COUNCIL MEMBER WILLIAMS: Right,  
25 okay, and then, in Hempstead, there was a new cell

1 facilities, they required new cell facilities to  
2 have a special use permit issued by the Building  
3 Department. They have now various criteria to  
4 meet. Has the ordinance impacted your business or  
5 ability to provide cellular service in Hempstead?  
6

7 CHAIRPERSON DILAN: Just for a  
8 moment, I just need to acknowledge that we've been  
9 joined by Council Member James and Council Member  
10 Brewer. If you could answer the question, I'm  
11 sorry.

12 JANE BUILDER: The particular  
13 legislation that you're referring to that was  
14 enacted by legislation, is now being contested in  
15 federal court by all wireless providers. Has it  
16 impacted the business to-date? I would say, I  
17 would venture to say yes, it's a drastic slowdown,  
18 and a very disappointing development for, for that  
19 part of the island, which doesn't have the  
20 cellular level of service--

21 COUNCIL MEMBER WILLIAMS: I got to  
22 wrap up, but I, I'm sorry, I just--you ventured to  
23 say, has it or hasn't? Have you lost money? Have  
24 you been able, not been able to provide the  
25 service that you would've provided?

2 JANE BUILDER: Well, it's, it's in  
3 its very early stages, so the applications are not  
4 moving as, as we would like them to move through  
5 the process. And, and that's, you know, that  
6 particular piece of legislation, because it's  
7 designed to delay, is being litigated right now--

8 COUNCIL MEMBER WILLIAMS: Thank  
9 you.

10 JANE BUILDER: --and I can't  
11 comment on it.

12 CHAIRPERSON DILAN: Well, maybe,  
13 maybe just to get that, what, how are you  
14 operating in Hempstead? Is there a, is there a  
15 stay? Have you gone to federal court and asked  
16 for a stay? And are you operating under the same  
17 rules you did in Hempstead prior to the  
18 legislation being passed? Or are you operating  
19 under the law of the locality?

20 JANE BUILDER: I'd have to get back  
21 to you on the specifics, I don't believe that  
22 there is a stay, I believe that it's a, it's  
23 something filed under the Telecommunications Act.

24 CHAIRPERSON DILAN: Okay.

25 JANE BUILDER: And we are abiding

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by the existing regulation, but it's very new.

COUNCIL MEMBER WILLIAMS: So right now you're abiding by Hempstead regs, is that--?

JANE BUILDER: Right.

COUNCIL MEMBER WILLIAMS: Okay.

JANE BUILDER: There's been nothing approved--

COUNCIL MEMBER WILLIAMS: I think I--

JANE BUILDER: --there's been nothing approved under those regulations.

JOHN JEFFERSON: If I may, I could, if you want, I could bring Robert back up to talk about the practical impacts.

CHAIRPERSON DILAN: Sure, well now, it's--it's for an answer, I would like the Council Member to get a most comprehensive answer as possible, so--

COUNCIL MEMBER WILLIAMS: Thank you, I appreciate that.

ROBERT BREYER: Good afternoon, again, as I mentioned earlier, I'm not an engineer, but I do manage implementation and emergency, emergency response. And within any

1  
2 large jurisdiction, such as the City of New York,  
3 or the town of Hempstead, where we are going to  
4 always augment our services to provide the latest  
5 and greatest, either by way of modifying an  
6 existing site, that may require an application to  
7 a local building department, or by putting in a  
8 new application for a new site, absolutely a bill  
9 such as that, that was adopted by the town of  
10 Hempstead, would impact our ability to provide  
11 service to our customers, which is first and  
12 foremost, beyond any unquantitative, monetary  
13 analysis, which would also of course be impacted  
14 as we talked about the matter being legis--the  
15 matter being challenged in court, and other things  
16 that must be done to try to work around it, beyond  
17 the monetary part, it clearly impacts our ability  
18 to provide services to our customers, which is  
19 first and foremost.

20 COUNCIL MEMBER WILLIAMS: All  
21 right, well thank you, I think I have overstayed  
22 by questions. I do have more, but I appreciate  
23 it. I hope one of my colleagues may follow up one  
24 of the questions that weren't answered, was  
25 whether the delay you're worried about is 30 days

1  
2 or the community actually inputting in that 30  
3 days.

4 CHAIRPERSON DILAN: Well, I think  
5 that--[background noise] Well, I think they  
6 should, if you want to attempt to answer it, I  
7 think it should be allowable now.

8 JANE BUILDER: Well, our concern is  
9 why are we slowing down when the whole world is  
10 speeding up? [background noise]

11 JOHN JEFFERSON: And there, and  
12 there is opportunity for community input, we, we  
13 get it, believe it.

14 CHAIRPERSON DILAN: Well, what's,  
15 what's the current--I guess, then, aside from,  
16 aside from the legislation, what do you view as  
17 the community input process now?

18 JOHN JEFFERSON: There, there are  
19 co-op boards that we hear from, there's organized  
20 communities that voice opinion, there are hearings  
21 that are held by community boards. The delay, the  
22 delay is what we addressed. We have, we, we did  
23 not, in our memos, make any statement about  
24 transparency or hearing from the community. There  
25 are, and I believe that Council Member Fidler very

1  
2 accurately stated they are our customers, as well  
3 as your constituents.

4 CHAIRPERSON DILAN: Okay, so I'm  
5 going to go to Council Member Fidler, followed by  
6 Council Member Vallone.

7 COUNCIL MEMBER FIDLER: You know, I  
8 have to say, I, I read the New York Post every  
9 day, so it, it's almost impossible to offend me as  
10 a Council Member. [laughter] But you guys  
11 managed to do it twice in your opening statement,  
12 it really did. First, the issue, the suggestion  
13 that by attempting to regulate you in any way we  
14 are endangering the lives and safety of New  
15 Yorkers, because they use their cell phones to  
16 call 911 is insulting to the intelligence of every  
17 person in this room, except for the lobbyists who  
18 told you to say that. That is absolutely nuts.  
19 By the same logic, I would tell you we should get  
20 rid of cell phones, because terrorists use them to  
21 communicate with each other. That's just as  
22 equally stupid as saying that because we have cell  
23 phones, that people use for 911 calls, you  
24 shouldn't regulate us at all. So let's get rid of  
25 the zoning resolutions completely, let's get rid

1  
2 of the Building Department, build what you want  
3 because people need to use their cell phones for  
4 911. That's patently ridiculous. I've called 911  
5 on my cell phone, and in fact when Council Member  
6 Davis was shot down on the floor of the City  
7 Council, the first thing I did was, when I got out  
8 of the building, was use my cell phone to call my  
9 wife to tell her it wasn't me and it was okay.  
10 So, frankly, that's just ridiculous. All right,  
11 second, the notion that by regulating you as you  
12 roll out the technology of tomorrow, somehow is  
13 going to stop us from doing that, that makes us  
14 Luddites of some kind, is also absolutely  
15 ridiculous. I have four cell phones, I use wi-fi,  
16 I want my technology, my constituents want their  
17 technology, but to suggest that we, as we are in  
18 fact moving to this brave new world, that we don't  
19 do it in some fashion in which you're regulated,  
20 that it might slow you down for 30 days, and I  
21 will get to that in a second, is completely  
22 absurd. And it's absolutely an outrage, and I  
23 have a feeling I'm expressing the sentiments of a  
24 number of my colleagues at that. Don't insult us  
25 in that way, it's ridiculous. Now, have any of

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2 you actually read Intro 104? Okay. Well, let me  
3 do it for you. It says when the Department  
4 receives an application for issuance within five  
5 days, they're going to notify the community  
6 board, all right, and the Council Member. We're  
7 going to change that, we're going to make you do  
8 that. I hope you don't mind sending out two extra  
9 certified mail applications. Such community board  
10 and council members shall have 30 days within  
11 which to make comments to the Department on such  
12 application, and no permit may be issued by the  
13 Department during such comment period. End of  
14 bill, end of section. Nothing here that says that  
15 the process may not continue at any of the twelve  
16 check off spots at the Buildings Department. All  
17 it says is, that for that 30 days, which I heard  
18 the Commissioner say, is not the typical period of  
19 time that your application will be at the  
20 Buildings Department, it will be there for  
21 significantly longer than that, they may not issue  
22 a permit. Now, you may get feedback from some  
23 lady who says that your cell tower's going to  
24 interfere with the transmission she gets on the  
25 aluminum foil she's wearing in her hat. I don't

1  
2 imagine that's going to slow you down very much.  
3 But every now and then, somebody is going to come  
4 forward with a legitimate mistake that the  
5 Buildings Department might make, or might not  
6 make, and point out to the Buildings Department  
7 that there is actually a Buildings Department  
8 objection. If that slows you down, do you have a  
9 problem with that? Anybody? I don't hear  
10 anybody. You have a problem if a legitimate  
11 Building Department objection is raised, with  
12 having the Buildings Department adjudicate the  
13 application based upon correct information.

14 JANE BUILDER: That's part of the  
15 normal process already. If Building Department,  
16 if it doesn't comply with zoning regulations, with  
17 structural regulations, with all of the various  
18 architectural and engineering specifications, it  
19 doesn't get approved.

20 COUNCIL MEMBER FIDLER: Every  
21 person in this, on this panel, has had experience  
22 where the Buildings Department has missed  
23 something. I asked you whether or not it's a  
24 problem if a Council Member or a community group,  
25 or the community board, brings forward to the

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2 Buildings Department a legitimate buildings  
3 objection to the installation of your cell tower.  
4 Buildings Department may have missed it, maybe  
5 they were going to get it, but they hadn't seen it  
6 yet. You have a problem with that?

7 JOHN JEFFERSON: I specifically  
8 have an issue with the bill as drafted, because I  
9 believe that there's a great deal of concern and  
10 unknown within what might take place within the 30  
11 day period, and I think for every possible  
12 instance that you come up with that falls into  
13 what you just described, I think there would be an  
14 overwhelming majority that would not fall into  
15 that category.

16 COUNCIL MEMBER FIDLER: Yeah, but  
17 you know what? The bill doesn't say that if  
18 someone raises an objection as ridiculous as the  
19 911 argument I heard here, that you have to pay  
20 attention to it. It doesn't prohibit the  
21 Buildings Department from issuing an as of right  
22 permit if it's as of right. Nor does it prohibit  
23 you from reacting to your customers who come to  
24 you directly and say, "You know what? Maybe you  
25 didn't realize this, but this cell tower is going

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2 to obstruct the view of this magnificent church  
3 that has been in this, in the neighborhood for 150  
4 years. Maybe you can move it over here." Or,  
5 "You know what? This is a particularly ugly  
6 installation. Can we work with you to do  
7 something?" It doesn't, this doesn't striate the  
8 legitimate from the illegitimate. The  
9 illegitimate can still be ignored. Your customers  
10 can be ignored at your own peril. I'm not someone  
11 who's, you know, look, the health issue, I'm not  
12 sure about, I really am not. You know? I mean,  
13 obviously, I carry a cell phone, you know, there  
14 are, there's legitimate science on both sides and,  
15 you know, I guess, 'cause it's Woody Allen's 75th  
16 birthday, it'd be appropriate to mention him, the  
17 movie "Sleeper," set far in the future, right, you  
18 know. "Well, we now know today that chocolate and  
19 red meat are good for your health." Who knows  
20 what we're going to find out 200 years from now?  
21 I don't know, maybe we'll find out that  
22 fluorescent lights cause cancer, god forbid. All  
23 right? The issue here, all right, in 104, is  
24 whether or not the community, whether or not the  
25 community can, with proper notice, comment on one

1  
2 of your applications. We've already established  
3 that as amended, it will not cost the taxpayers  
4 money, and we've also established from the  
5 Buildings Department, that absent a legitimate  
6 complaint, it will not slow down your process one  
7 bit. All right, as, is it Mr. Jefferson, or  
8 Jeffers?

9 JOHN JEFFERSON: Jefferson.

10 COUNCIL MEMBER FIDLER: Jefferson.

11 As he's testified, is a very complicated long  
12 process. You apply to the Buildings Department,  
13 you notify the community Council Members, they  
14 have a legitimate objection at the Buildings  
15 Department. It may slow you down, because there's  
16 a legitimate objection. But if it's not, as the  
17 Assistant Commissioner said, very often, very  
18 often, most cases, the application is going to  
19 take longer than 30 days anyway, because it  
20 doesn't come in perfectly correct. And if it  
21 comes in perfectly correctly, we're talking about  
22 a delay of two weeks. What's the big deal?

23 JOHN JEFFERSON: Councilman Fidler,  
24 I do believe that I answered your question a  
25 moment ago, in that what my concerns were with the

1  
2 bill as drafted, but I do want to point out to  
3 another matter that you're stressing is that as  
4 someone who's been in the implementation group for  
5 many years, I do, we do spend an awful lot of  
6 time, Verizon Wireless, and I'm assuming the other  
7 carriers as well, with landlords and engineers and  
8 design folks to try to do the best that we can  
9 before we ever submit the application. And I'm  
10 not suggesting that there aren't some out there  
11 that may not be as great as some objective person  
12 looking at it would say, but we spend a lot of  
13 time trying to, you know, locate them and set them  
14 up in the areas that we think makes the most sense  
15 from a lot of different angles, not just the  
16 technical angle, but certainly from concerns from  
17 aesthetics and issues that the landlords have with  
18 spacing and appearances and things like that. So,  
19 I don't want you to think that that in any way  
20 gets ignored, 'cause we - -

21 COUNCIL MEMBER FIDLER:

22 [interposing] And nor am I suggesting it, and in  
23 fact I've worked with at least one of your  
24 companies on exactly that matter, you know, and  
25 yes, you can, is that a hand wave from Richard or

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someone? I can't see back there. No.

[background noise] Oh, it's, Kio [phonetic] stop it. [laughs] You know, and there's nothing in this bill that would stop you from doing that, or slow you down while you're doing that. All right, the fact is, that we talk about your, you know, so often communities find out that you're antenna is going up when it's going up. All right?

CHAIRPERSON DILAN: All right, what I need to do is just keep a little order. Council Member Fidler has the floor. And if, you're certainly allowed to continue questioning, but I don't expect that their answer to this question--

COUNCIL MEMBER FIDLER: You don't expect they're going to agree with me.

CHAIRPERSON DILAN: I don't expect that they're going to agree with you.

COUNCIL MEMBER FIDLER: I'm shocked.

CHAIRPERSON DILAN: So instead of asking it over and over and over and over again--

COUNCIL MEMBER FIDLER: All right, I, well, yeah, okay.

CHAIRPERSON DILAN: --we'll move

1  
2 onto a different question.

3 COUNCIL MEMBER FIDLER: Well, I  
4 mean, I don't, I don't, I just respectfully would  
5 say I don't think you answered my question, and I  
6 think you're just objecting to object. And, you  
7 know, to quote to the Assistant Commissioner of  
8 DoITT, your process is kind of willy-nilly. All  
9 right, and this would at least put people on  
10 notice, so they could come to you in a timely  
11 fashion, discuss with your customers whether or  
12 not they had an objection other than the Building  
13 Code, give your customers the opportunity to make  
14 an objection if they have a legitimate building or  
15 zoning issue to raise, in a timely fashion, so you  
16 could move on and install your cell phone antenna,  
17 as of right. All right? But give people a fair  
18 opportunity to comment. And I just don't  
19 understand why you wouldn't be supportive, at  
20 least, Intro 104.

21 CHAIRPERSON DILAN: If--Cou--if you  
22 care to respond. Just, just time.

23 DAN MULLEN: Just, just one,  
24 Council Member Fidler, we, you suggested some  
25 changes of the bill that we haven't had an

1  
2 opportunity to consider, and we'd like to  
3 consider, consider what you've suggested here.  
4 And I do want to also add that we don't want to  
5 have to deal with problems after the fact, we've  
6 all been doing this a long time, and in general we  
7 have a fairly good understanding of where the  
8 problems will come up, and we have worked with a  
9 number of folks here and on the Council on issues  
10 that have arisen. So, we'd just like an  
11 opportunity to talk to you about it.

12 COUNCIL MEMBER FIDLER: Well, thank  
13 you, Mr. Chairman, now we've had DOB and the  
14 industry say that they would like to reconsider  
15 thinking about 104, so--[laughs]

16 CHAIRPERSON DILAN: I don't, I  
17 don't know that I've heard DOB say that.

18 COUNCIL MEMBER FIDLER: Oh, yeah,  
19 no, they did, they said they had to go back and  
20 check with the, if as amended.

21 CHAIRPERSON DILAN: Okay.

22 DAN MULLEN: I speak for Verizon  
23 Wireless for that.

24 CHAIRPERSON DILAN: Council Member-

25 -

1  
2 COUNCIL MEMBER FIDLER: All right,  
3 well then we'll work with Verizon Wireless, and  
4 only Verizon Wireless.

5 CHAIRPERSON DILAN: Council Member  
6 Vallone.

7 COUNCIL MEMBER VALLONE: I have  
8 Verizon, so that's a good thing. Let me associate  
9 myself with the Council Member Fidler's remarks  
10 regarding the fear mongering, so I'll skip pas  
11 that. There is no one up here who wants to, who's  
12 opposed to you providing service. As I said in  
13 the opening, we just want it done responsibly and  
14 safely. There may be people in this room who  
15 don't want any service, and maybe 50 years from  
16 now there'll be, they'll be proven right, but  
17 that's not the people up here. You also, you said  
18 a couple things, you said be aware of the, we  
19 should be aware of the health effects. Please  
20 don't patronize. There's probably no group of  
21 people in the world that are more aware of the  
22 health effects of cell phone towers than the  
23 people in this room. And for every study you'll  
24 cite, they'll cite another one that's, that'll say  
25 that there are health effects. And I think the

1  
2 only thing we can agree on right now, is that--  
3 well, you wouldn't agree, but most people would  
4 agree who don't work for the industry--the health  
5 effects of these towers are unknown and unclear.  
6 And that's why I have a list here as long as my  
7 arm of cities and countries and municipalities,  
8 including European Parliament, have called for  
9 more studies, because it's unclear. And while the  
10 health effects are unclear, you need to stop using  
11 our kids as guinea pigs. That's what we're saying  
12 here. And you asked why discriminate against your  
13 equipment on the roof when it comes to  
14 inspections, because your equipment is the only  
15 one that says, "Don't come within six feet of it,"  
16 for fear of being burned to death or something  
17 like that. Okay? That's why, 'cause your  
18 equipment says, "Don't come anywhere near this  
19 equipment." Because your equipment stops people  
20 from doing inspections and can't, and inspections  
21 can't be done until they're turned off in many  
22 instances, and that is a very difficult process to  
23 have them turned off. That's why we don't do this  
24 with air conditioning equipment, we do it with  
25 your equipment. So, do you want me to answer any

1  
2 more questions, you know, we can do it later. Now  
3 into some of the questions I have, you've made it  
4 sound like 911 deployment is going to be, 911,  
5 calling 911's going to be hurt by this. You made  
6 it sound like there are vast swaths of the City  
7 that don't have, that can't reach 911 from a cell  
8 phone. Is that the case? Where in City right now  
9 can you not reach 911 from a cell phone?

10 JOHN JEFFERSON: I think that the  
11 statement was that it could negatively impact the  
12 ability for the emergency services infrastructure  
13 to perform optimally, as we continue to upgrade  
14 it, there are more and more requirements put on  
15 carriers to provide this vital public service.  
16 I'll give you one example. When a plane landed in  
17 the middle of the Hudson River, I think most  
18 people are familiar with that, cell phone usage  
19 was critical, not just to the people on the plane,  
20 but to the first responders.

21 COUNCIL MEMBER VALLONE: We're well  
22 aware. Don't, please, don't give me--

23 JOHN JEFFERSON: AT&T--

24 COUNCIL MEMBER VALLONE: --how many  
25 instances are there going to be where cell phones

1  
2 helped? That's not really what this hearing is  
3 about. We understand they help. I want to know  
4 how this is going to hurt. Can everyone in the  
5 City reach 911 by--

6 JOHN JEFFERSON: If I could--

7 COUNCIL MEMBER VALLONE: --right  
8 now.

9 JOHN JEFFERSON: If I could  
10 continue, without being interrupted.

11 COUNCIL MEMBER VALLONE: Not if  
12 it's off topic. Okay?

13 JOHN JEFFERSON: I would say, to  
14 complete my sentence, that AT&T was called out to  
15 provide additional capacity, which it did, so that  
16 the first responders could communicate with the  
17 ferry boats that were buzzing around, with all of  
18 the helicopter--everybody that was addressing that  
19 need. It is critical, and it is not offensive to  
20 note that the 911 infrastructure must be  
21 constantly upgraded, maintained, and we have to  
22 take precautions and emergency steps to provide in  
23 a disaster, there's no calendar for disasters--

24 COUNCIL MEMBER VALLONE: And how  
25 would that be affected? How would that be

1  
2 affected by these bills? How? How would you be  
3 affected?

4 JOHN JEFFERSON: By slowing the  
5 development of the infrastructure by making it  
6 more--

7 COUNCIL MEMBER VALLONE: By one  
8 week.

9 JOHN JEFFERSON: --difficult to  
10 site, to upgrade to the newer technologies that  
11 allow visuals, which are being considered by the  
12 FCC as it was stated. I mean, it's clear to the  
13 industry that we have continued and provide 911  
14 services on wireless phone at a greater and  
15 greater increasing rate. That means there's more  
16 capacity required, more speed required, and the  
17 speed and the capacity, the ability to deliver  
18 those messages more effectively saves lives.  
19 Seconds saves lives. Now some people might not  
20 agree with that, but if you know the person in the  
21 disaster situation, and the second saves their  
22 life, it's significant to you, and there are many  
23 examples of that, I just brought up the Hudson  
24 River, where people were standing on the wing of  
25 an airplane--

1  
2 COUNCIL MEMBER VALLONE: Please,  
3 I'm hurting my head, please.

4 JOHN JEFFERSON: --awaiting to be  
5 rescued.

6 CHAIRPERSON DILAN: I think--

7 COUNCIL MEMBER VALLONE: Oh, god--

8 CHAIRPERSON DILAN: Well, I think,  
9 and I'm going to call, I'm going to call [gavel]  
10 I'm going to call the Committee to order. I think  
11 what we need to do is, regardless of anybody's  
12 opinion on the bill, I think we need to remain  
13 cordial. And allow people to answer. Whether you  
14 agree or disagree with the answer. And I'm going  
15 to take the privilege as Chair here a little bit.  
16 And I think what we could use is maybe a more  
17 direct response to the question without--but then  
18 at the same token, I'd like to ask members to do  
19 the same. Let's ask a question and let's not lead  
20 with these long statements, so that we can  
21 actually conduct this hearing in a, in a manner  
22 that's respectful both to the industry and of this  
23 institution. So, I think, Mr. Jefferson, your  
24 point was, in the case of an emergency, a 30 day  
25 requirement in an emergency would be a hindrance.

1  
2 I got that part. But I don't think that was the  
3 Council Member's question. Say, absent an  
4 emergency, how does the 30 days hurt? I believe,  
5 and if, my, if my intent is wrong, Council Member  
6 Vallone, please correct me.

7 COUNCIL MEMBER VALLONE: Well,  
8 yeah, first of all, my intent here is just to be  
9 respectful of my colleagues, because I don't mind  
10 letting him ramble on, but I don't, I have a lot  
11 of questions to ask, and I don't want them to take  
12 up all that time. We, and what I'm upset about is  
13 I'm the Public Safety Chair of the New York City  
14 Council, no one is more concerned, no one, about  
15 the ability to reach 911 than I am. So don't sit  
16 there and tell me how important 911 is. Okay? My  
17 question, my first question was, is there a place,  
18 place in the City where people cannot reach 911  
19 from a cell phone? And where is that?

20 DAN MULLEN: If I could help answer  
21 that question, and I'll speak for Verizon  
22 Wireless, the issue at least for Verizon Wireless  
23 is not one of coverage, it's one of capacity. So,  
24 for the most part, adding new sites, upgrading  
25 sites, adds capacity, so there are locations where

1  
2 you might reach capacity sooner. So that's part  
3 of their--

4 COUNCIL MEMBER VALLONE: And  
5 neither of these bills would stop you from putting  
6 a cell tower anywhere where you need to put it.  
7 Okay? Do we all understand that? Neither of them  
8 would prevent, at most, it'll delay you a week.  
9 That's it, but you can put them anywhere. Now you  
10 mentioned that we--

11 DAN MULLEN: Oh.

12 COUNCIL MEMBER VALLONE: Yes.

13 DAN MULLEN: I just had one other  
14 part, there's a new entrant to the area, Metro  
15 PCS, so any new wireless entrants that come in are  
16 adding cells for gaps that they need to fill, so  
17 you do have some of that going on.

18 JANE BUILDER: I mean, it may work  
19 for you, wherever you want it to, but it doesn't  
20 work for everybody with every type of service,  
21 everywhere in the City, at all times, and when  
22 they need it. So, it's a matter, as John referred  
23 to earlier, of a, a kind of a service degradation,  
24 in certain instances, and it's also, there are new  
25 entrants.

1  
2 COUNCIL MEMBER VALLONE: And they  
3 won't be stopped, they won't be prevented from  
4 putting these towers in any location that they  
5 need to put them. Now, you mentioned that we, we  
6 wouldn't be able to serve residential areas.  
7 That's not what my bill says, it says, "Before  
8 putting it in a residential, you need to show best  
9 efforts to locate it in an industrial area." And  
10 if you can prove that you can't serve that  
11 residential area because the industrial area is  
12 too far away, you can put it there. So how are  
13 you affected?

14 JANE BUILDER: Well, it, the bill  
15 actually calls for agencies to promulgate rules,  
16 to, to create this kind of environment, or a  
17 statutory framework, where by the carriers would  
18 have to put forth proof that we actually needed to  
19 be in residential areas. And that, in itself, the  
20 statutory framework, the regulations, is--

21 COUNCIL MEMBER VALLONE: So you're  
22 opposed to it, and you have every right to because  
23 it's more--

24 JANE BUILDER: It's intended to  
25 delay, with all due respect, the demand is

1  
2 happening in the residential areas, not in the  
3 commercial areas, as much, because as we see from  
4 the statistics and the data, most 911, most calls  
5 are being made from homes.

6 COUNCIL MEMBER VALLONE: Right.

7 So--

8 JANE BUILDER: And if it's  
9 nationwide, one quarter, you know, of all people  
10 are wireless only. Can you imagine what that  
11 number is, 40s and under, it's almost up to 40  
12 percent. Wireless only. And they're using them  
13 in their homes. And those are residential  
14 neighborhoods.

15 COUNCIL MEMBER VALLONE: Right, so  
16 how would you, you would not, my point is, which  
17 you've missed again, is you would not be prevented  
18 from any, in any way, from serving those  
19 residential areas if you could prove you needed to  
20 serve those residential areas. That's, that's  
21 what the bill says. If you could locate in an  
22 industrial area, because it's a few blocks away,  
23 and serve that area, do it. If you can't, then  
24 you got to go in the residential area, because you  
25 have to provide the service. So you're not

1  
2 stopped, so don't, I don't like you trying to  
3 scare people by saying they can't get it in their  
4 homes. This bill does not stop you from doing  
5 that. Might make it a little more expensive for  
6 you, a little more work for you, but it doesn't  
7 stop you. How's service in Chicago, by the way?  
8 Chicago doing well? They have service everywhere  
9 they need it?

10 JANE BUILDER: I'm not sure, I  
11 can't speak to Chicago.

12 COUNCIL MEMBER VALLONE: Yeah,  
13 because they've got much stricter requirements  
14 than we even have here in these bills, just so you  
15 know. Have they fallen apart? Are people jumping  
16 out of buildings 'cause they can't reach 911?  
17 What's happening in Chicago? Yeah, they--

18 JANE BUILDER: I can't - -

19 COUNCIL MEMBER VALLONE:  
20 [interposing] I've got the rule, I've got the law  
21 here, by the way. And the Alderman, which is the  
22 Council Member, has to be provided notice and  
23 drawings and all sorts of stuff before the  
24 application. All property owners within a 250  
25 foot radius must be provided a copy of the

1  
2 building permit by the operator, ten days before  
3 filing an application. So this all exists, so the  
4 world is not going to end if these things were  
5 passed. Okay, this all exists, you know it  
6 exists, you're doing fine in Chicago, everybody in  
7 Chicago has cell phone service. I've got so much  
8 more, but as I say, I want to get to my  
9 colleagues, and that's all, I'll do the, I'll--

10 CHAIRPERSON DILAN: Thank you.

11 COUNCIL MEMBER VALLONE: I'll save  
12 them for some other time. Thank you.

13 CHAIRPERSON DILAN: Thank you,  
14 Council Member Vallone. Council Member Comrie,  
15 followed by Mendez.

16 COUNCIL MEMBER COMRIE: The, you  
17 were here earlier when I, when I brought up my  
18 comments about the increase of the need for  
19 towers, and I think it was the lawyer from DoITT  
20 that talked about all of the other need for  
21 putting up antennas or towers or bandwidth. Why  
22 isn't there some attempt to share services and  
23 antennas now? And has the City ever convened what  
24 I suggested, a think tank or a conference to talk  
25 about mapping out for the future so that there can

1  
2 be adequate bandwidth without having 20 antennas  
3 on a building?

4 JOHN JEFFERSON: Yeah, at a high  
5 level, as a policy specialist more than a  
6 technical specialist, there are different  
7 protocols that different carriers use, and so that  
8 is one clear example of why, say, Company A can't  
9 share an antenna with Company B.

10 COUNCIL MEMBER COMRIE: Okay, but  
11 now what about all of the other usages that are,  
12 people are putting up antennas about?

13 JOHN JEFFERSON: Well, one thing in  
14 a competitive environment, which I think is good  
15 for the consumers and, as well as business and  
16 government, even, is that we provide different  
17 services over our networks, have different  
18 capacities, and that distinguishes carriers, one  
19 from another. We also are able to operate  
20 different devices because of that. That highly  
21 competitive nature drives us to have networks that  
22 address our specific needs as carriers, and our  
23 customer specific needs.

24 COUNCIL MEMBER COMRIE: So you  
25 don't see a future in that antennas or networks

1  
2 could be shared, too, so that you could increase  
3 bandwidth and coverage?

4 JOHN JEFFERSON: I, I wouldn't flat  
5 out say that that's not some vision of the future.  
6 But I would say presently, in the current  
7 environment, and at least for me in the  
8 foreseeable future, I don't see that happening.

9 COUNCIL MEMBER COMRIE: But don't  
10 you see the, in the proliferation of individual  
11 wi-fi networks, which would take away from the  
12 desire to have cell phone devices, if everybody  
13 goes to a wi-fi system, and then they can just use  
14 their netbooks to communicate, then there would be  
15 no need for cell phones, if they all get netbooks  
16 or tablets. I mean, there's got to be some way to  
17 integrate over time. I mean, I'm thinking, you  
18 know, out of the box here, I--

19 JOHN JEFFERSON: Comrie.com

20 COUNCIL MEMBER COMRIE: Yeah,  
21 Comrie.com. [laughter] Yeah, I know, well  
22 that's, well I was going to go there, also, I  
23 mean, most of our communities, as, you know, the  
24 Chair has so happily pointed out, can't afford,  
25 you know, those types of services. So, but there

1  
2 is a need, I think, even from a competitive edge.  
3 So, to prevent competition, I don't, you know, but  
4 I think there's a need to reduce the amount of  
5 infrastructure and also increase the ability for  
6 bandwidth. Because I think, not even dealing with  
7 the safety issue of what the infrastructure is,  
8 and, you know, that's a whole nother, I think,  
9 detailed conversation because I have yet to hear  
10 if the City is testing the equipment to understand  
11 the amount of radiation or whatever. You know,  
12 but that's a whole nother discussion. But just  
13 to, at some point, there's only so many roofs,  
14 there's only so many buildings, you're dealing  
15 with the need for higher bandwidth desire, you're  
16 dealing with a digital divide where our  
17 communities can't afford netbooks for their  
18 children and to maintain bandwidth for--even if  
19 they do get bandwidth, they can't afford the cost  
20 to maintain it because once a 13 year old gets a  
21 new cell phone, their bandwidth goes out the, out  
22 the window, as you know, I've expressed, or  
23 experienced personally, 'cause I gave my son a new  
24 cell phone this summer, and all of the sudden his  
25 bandwidth went up exponentially, and the company

1  
2 also snuck in and limited the bandwidth for the  
3 new cell phone, which is something I didn't  
4 understand. How are you going to give somebody  
5 state-of-the-art material and limit their access  
6 to the material? So, there's a need to, at least  
7 in my mind, increase bandwidth, create an  
8 opportunity so that the signal can be at higher  
9 power enough to include all of the needs and all  
10 of the technology necessary, and but to also make  
11 sure that there's not a oversaturation of, that  
12 would limit the quality of life for people as  
13 well. So, and I think that those three things are  
14 possible, if there was some more communication.

15 JOHN JEFFERSON: Councilman Comrie,  
16 if I could just add, outside the rooftop  
17 environment, the carriers do often, and have  
18 incentive to, collocate on a tower structure, so  
19 while we have to have separate antenna, you'll see  
20 along the highway lots of towers with various rows  
21 of antennas, so there are not multiple tower  
22 structures out there. So we do, there is an  
23 effort to collocate, again outside the building  
24 environment. But we do need to have separate  
25 antenna because we all operate at different

1  
2 frequencies and we transmit and receive on those  
3 frequencies.

4 COUNCIL MEMBER COMRIE: So, is  
5 there opportunity to collocate on rooftop  
6 equipment as well? Or is that done around--

7 JOHN JEFFERSON: Well, my  
8 understanding, and I, this could clarify further,  
9 there are limitations to the amount of space that  
10 is available on building rooftops. So--

11 COUNCIL MEMBER COMRIE: Well, I  
12 think that needs to be looked at, for, you know,  
13 the reasons I've stated, I think you're dealing  
14 with, you know, competition from multi-  
15 environments. The City also needs to increase its  
16 own internal bandwidth for its own in-house  
17 wireless systems. I mean, they're putting up  
18 antennae, the federal government in this area is  
19 putting up antennae, the--now companies are  
20 putting up antennae. I think that there truly  
21 needs to be some type of citywide strategy to look  
22 at this. And also, you know, maybe led by your  
23 companies, just so that you can be ahead of the  
24 curve. But you can get my consulting fee later  
25 on. [laughter] Thank you, Mr. Chair.

CHAIRPERSON DILAN: They may need help with the federal regulatory change, as well. Council Member Mendez followed by Council Member James.

COUNCIL MEMBER MENDEZ: I'm, I'm going to pass.

CHAIRPERSON DILAN: Council Member James.

COUNCIL MEMBER JAMES: Thank you. So, according to the testimony that has been provided for me, and I apologize for being late, but I had to attend a funeral. It's my understanding that most of the wireless providers object to the regulations on the following grounds, in sum: they discourage service, the regulations would discourage service in residential zones; they are in violation of the Telecommunications Act of 1996; and they're onerous and basically represent bad policy. Are those the objections in sum?

JANE BUILDER: The--

COUNCIL MEMBER JAMES: You want a word?

JANE BUILDER: There--there are

1  
2 also, there is also an existing framework of  
3 rules, by the DOB, and other agencies, as well.  
4 So that, that's an additional piece of, of the  
5 objections.

6 JOHN JEFFERSON: But I would not,  
7 in toto, agree with all of those, as the  
8 objections that we have. Some of the references  
9 I'm not personally familiar with.

10 COUNCIL MEMBER JAMES: Okay. Do  
11 you agree that, do you believe--Well, is it true  
12 that the, right now, in order to install a antenna  
13 on the top of a building, only requires a permit?  
14 A filing with the Department of Buildings, one  
15 permit? Is that the only regulation that is  
16 currently required?

17 JOHN JEFFERSON: I would say no to  
18 that. There are a myriad of check steps involved,  
19 and I mentioned some of the agencies, depending on  
20 where the antenna is, there's the EPA, there's the  
21 FAA, there are Fire Department, there's the Fire  
22 Department Code, there's, as you mentioned,  
23 Department of Buildings, there's several.

24 COUNCIL MEMBER JAMES: And do you  
25 believe that in the City of New York the FCC rule

1  
2 does not preempt this jurisdiction from enacting  
3 regulation? Do you agree with that statement?

4 [pause] We are--

5 DAN MULLEN: To the extent the  
6 regulation is based on radio frequency emissions,  
7 yes.

8 COUNCIL MEMBER JAMES: Okay. Any  
9 other comments? Okay. So, so based upon this  
10 statements and the regulations that have, that are  
11 before you this afternoon, do you believe that  
12 these regulations are in violation of the FCC  
13 rules? Or the Federal Telecommunications Act, I  
14 should say. [pause, background noise] No? No.  
15 Yes or no. Does anyone believe that it's in  
16 violation of the Federal Telecommunications Act?

17 DAN MULLEN: It's not clear, it has  
18 the potential.

19 COUNCIL MEMBER JAMES: It has the  
20 potential. Can you elaborate a little bit more?

21 DAN MULLEN: As I mentioned, and we  
22 heard from other members here, that what underlies  
23 this is concern about radio frequency emissions,  
24 so to the extent that there are prohibitions,  
25 they're viewed as prohibitions based on radio

frequency emissions, then, then--

COUNCIL MEMBER JAMES: So, so to the extent that these regulations have no impact on radio frequency waves, you believe that for the most part they're legal. I'm getting conflicting views. Does anyone--?

JANE BUILDER: I would ask counsel on - -

COUNCIL MEMBER JAMES: [interposing] Where's counsel? The question is simple, are these regulations in violation--

LESLIE SNYDER: We, yes, we believe that--we believe that some of these regulations are, are not legal, for various reasons.

COUNCIL MEMBER JAMES: They're preemptive?

LESLIE SNYDER: For, for various reasons. For various reasons.

COUNCIL MEMBER JAMES: And what's the basis of your opinion?

LESLIE SNYDER: Depends. There's, there's very different goals. You've got three different bills before you.

COUNCIL MEMBER JAMES: Okay, but

1  
2 you, okay. Okay, and--Okay, fine, I'll leave it  
3 at that.

4 CHAIRPERSON DILAN: And I would  
5 just share with the Council Member that with our  
6 research, we have found that some jurisdictions  
7 ordinances were upheld by, by a federal court and  
8 some jurisdiction had their ordinances struck down  
9 by federal court.

10 COUNCIL MEMBER JAMES: And can  
11 counsel tell me, based upon those jurisdictions  
12 where the ordinance have been struck down, and  
13 those that have been upheld, is there a fine line?

14 CHAIRPERSON DILAN: Well, I don't,  
15 I don't know if they have it, but we have it.

16 COUNCIL MEMBER JAMES: We have it?

17 CHAIRPERSON DILAN: Yeah, I'd be  
18 happy to, to share.

19 COUNCIL MEMBER JAMES: Does  
20 counsel, can, in a sentence, no one--

21 LESLIE SNYDER: Yeah, I mean, I  
22 think, I think the question is too vague. 'Cause  
23 there's many different reasons.

24 COUNCIL MEMBER JAMES: Okay.

25 LESLIE SNYDER: Every, every

1  
2 statute is different.

3 COUNCIL MEMBER JAMES: Okay, fine.  
4 I want to go to the, the statute or the  
5 recommendation with respect to--Well, let me just  
6 tell you. My experience in the district that I  
7 represent, I have a serious concern with respect  
8 to the placement and the siting of cell towers in  
9 my district. One, because they take away the  
10 power of tenants. A number of cell towers were  
11 put on residential developments where there's  
12 tenants. And it was just a relationship between  
13 the landlord and the, the wireless provider. The  
14 tenants were left out of the discussion. In those  
15 buildings, where there were co-ops and condos, and  
16 they decided, you know, not to go forward with the  
17 cell tower, the cell tower was not installed. But  
18 in those situations where you have low and  
19 moderate, mid- to lower [phonetic] rent controlled  
20 buildings, the landlord totally left out the  
21 tenants. None of these regulations go to those  
22 issues, but that's, that is my objection. Two,  
23 the aesthetics. I represent a brownstone  
24 district, where we celebrate our brownstones.  
25 It's been landmarked, three-quarters of my

1  
2 district's, district is landmarked. By the time  
3 that I finish my tenure in City Council, the  
4 fourth one will be. The question is, why is there  
5 no regulation with respect to aesthetics? Even  
6 though I believe this regulation, this bill goes  
7 to that issue, why is there an objection to that?  
8 Consistent--

9 JANE BUILDER: I'll ask Leslie to  
10 comment on extensive regulations for landmarks.

11 CHAIRPERSON DILAN: Leslie, why  
12 don't you make yourself comfortable. I think the  
13 Council Member's going to have a lot of legal  
14 questions.

15 LESLIE SNYDER: There is a  
16 framework, extensive framework for landmarks  
17 jurisdiction. With respect to landmarks, just  
18 like any other installation in a landmark  
19 district, we have to comply with those  
20 regulations. And we do. I can only, speaking  
21 from the carriers, they're all required to comply  
22 with the landmark regulations, there is very  
23 particular requirements, and this is in addition  
24 to the Zoning Code, the Building Code, the Fire  
25 Code, the Landmark Preservation, we have FAA

1  
2 filings, FCC filings, we have to comply with the  
3 National Environmental Policy Review Act. Please  
4 know, these installations go through tremendous,  
5 tremendous time period.

6 COUNCIL MEMBER JAMES: Isn't it  
7 fair to say that most of the regulations that you  
8 cite are basically self-reporting regulations?

9 LESLIE SNYDER: No, they are not.

10 COUNCIL MEMBER JAMES: They're not  
11 self-reporting.

12 LESLIE SNYDER: No, Landmarks, we  
13 actually go when we have--

14 COUNCIL MEMBER JAMES: You go  
15 through, who are you referring to?

16 LESLIE SNYDER: We are the  
17 carriers, I'm speaking for the, if I can, I'm  
18 speaking for the, the four carriers that have  
19 presented the material here. We go through the  
20 full landmark process like any other installation  
21 that's on a landmark district. And we have, they  
22 go through our applications, we have extensive  
23 plans, we show photographs, we spend a  
24 considerable amount of time making sure that it  
25 blends in. And Landmarks spends a considerable

1  
2 amount of time, and it is a very time consuming  
3 process.

4 COUNCIL MEMBER JAMES: So, so based  
5 on that, based on this extensive filings that you  
6 do in these hearings, don't you see it's, don't  
7 you see why it is necessary to notify the  
8 community board and the local City Council Member,  
9 if in fact a constituent wants to come forward to  
10 object?

11 LESLIE SNYDER: Well, in New York  
12 City, actually, our permit applications are  
13 online, there's a notice, and I know we did talk  
14 about that before, and I know you, you weren't  
15 here this morning, but actually our permit  
16 applications, when we file them, DOB puts them  
17 onto a listing on their website. So, anyone can  
18 go look at the DOB website and they can go and  
19 find our application.

20 COUNCIL MEMBER JAMES: Okay. Well,  
21 I don't want to further this any longer, I did  
22 come late and I apologize, and I thank the Chair  
23 for allowing me some discretion. But let me just  
24 say this, I again also, even though I represent a  
25 brownstone district, I also represent a

1  
2 significant number of constituents who  
3 unfortunately are not online. It represents that  
4 gap that we talked about earlier. But again, I  
5 want to thank the Chair and I also want to thank  
6 the sponsor of these bills, and would urge that we  
7 move, we move them forward, posthaste.

8 CHAIRPERSON DILAN: All right, and  
9 for, for the benefit of the Council Member, just  
10 our research, just finds that for aesthetics, it's  
11 been ruled, I think San Diego had similar  
12 ordinance about aesthetics, and it was upheld by  
13 the federal court. So, you may or may not have  
14 known that, I'm not sure. I'd like to thank the  
15 carriers for coming in and providing their  
16 testimony. While there was major disagreement  
17 between your position and the position of maybe  
18 members of the Council and this Committee, I  
19 certainly want to commend you for your bravery,  
20 and standing in the line of fire, especially to  
21 the members to my left. And my Committee will be  
22 in contact, should we move forward on these bills.

23 JOHN JEFFERSON: Thank you, and  
24 thank you, Mr. Chairman.

25 CHAIRPERSON DILAN: Thank you. I'm

1  
2 sorry, if you permit me, and it has to be, it has  
3 to be quick.

4 COUNCIL MEMBER FIDLER: It will be  
5 very quick.

6 CHAIRPERSON DILAN: And hopefully  
7 it's not the same que--

8 COUNCIL MEMBER FIDLER: No, it's  
9 not [laughter] I just want to--promise. Mr.  
10 Jefferson, you indicated there are like twelve  
11 different stops in an application. Do they go on  
12 simultaneously?

13 JOHN JEFFERSON: There are twelve,  
14 well, I--specifically twelve, it depends on where  
15 you're siting, but there are interdependencies,  
16 and sometimes it takes one approval to begin the  
17 process for another - -

18 COUNCIL MEMBER FIDLER:  
19 [interposing] And where does Buildings come into  
20 that process?

21 JOHN JEFFERSON: Buildings, not  
22 being exactly familiar with where they come in, I  
23 would just say that they're part of the process.

24 COUNCIL MEMBER FIDLER: Do any of  
25 the stops take longer than 30 days? I'm just

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curious.

JOHN JEFFERSON: It can, as you noted, it can take much longer.

COUNCIL MEMBER FIDLER: So, I guess you get the point, right? The bill doesn't stop you from proceeding. Right.

CHAIRPERSON DILAN: Are we back to questions - -

COUNCIL MEMBER FIDLER:  
[interposing] That's it, I just wanted, I wanted to understand the process, that's all, I just--

CHAIRPERSON DILAN: Thank you, thank you, Council Member Fidler; thank you, thank you all.

JANE BUILDER: Thank you.

CHAIRPERSON DILAN: Okay, so now we're going to have a panel, I believe in support, and then maybe before you come up, I have [interference]--I'm going to call on--yeah, that's my, that's my phone. I have, is Nancy Freedman still here?

NANCY FREEDMAN: Yes, I am.

CHAIRPERSON DILAN: Are you testifying in favor or opposition to today's

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legislation?

NANCY FREEDMAN: In favor of the bills.

CHAIRPERSON DILAN: In favor, okay, that's--

NANCY FREEDMAN: - - thank you.

CHAIRPERSON DILAN: Why don't you come up. Thomas, Thomas Moran, in favor or opposition?

THOMAS MORAN: In favor.

CHAIRPERSON DILAN: In favor, why don't you come up. And then, Evi Hansopolis [phonetic], in favor?

EVI HANSOPOLIS: Yes.

CHAIRPERSON DILAN: And I believe Mari--

MARI SECAJI: Secaji.

CHAIRPERSON DILAN: --Secaji. In favor. [background noise] And before--before we-- [pause, background noise] And just before we begin, I just got one housekeeping item. All right, why don't, why don't we begin and I'll--Oh, I'm sorry. Is Mr. Robert Holden still here? No? Okay. Michael Santorelli still here? Are you in

1  
2 favor or opposed to the items on today's--? [off  
3 mic comment] All right, so would that make you in  
4 opposition or in favor? [off mic comment] All  
5 right, no problem. Okay, why don't, why don't you  
6 begin? We'll start in order, you were called up.  
7 And just for the, for the record, just, even  
8 though I introduced you, introduce yourself in  
9 your own voice, and then you can begin your  
10 testimony.

11 NANCY FREEDMAN: My name is Nancy  
12 Freedman, I'm from a small seaside community in  
13 the North Bronx. And I'm, I would like to thank  
14 City Council Member Vallone for taking the  
15 public's interest to heart and following through  
16 and doing this research, because we should all be  
17 doing research on this, it's--these cell phone  
18 antennae are coming up everywhere. The tele--We  
19 on City Island are being bullied by the  
20 telecommunications companies. They've been  
21 putting up antennae, they put some antennae up  
22 across the street from me. I didn't know they  
23 went up, they went up, it was night work, it was  
24 illegal. They put it up on Saturdays, and the  
25 reason everybody's asking why they don't want this

1  
2 bill passed, and the reason is that, because the  
3 communities will object. And they would object  
4 for good reasons. The safety is one reason, the  
5 integrity of the community is another.

6 Communities should, should have a say in what goes  
7 up in their neighborhoods. What's happening in  
8 City Island right now is pretty unbelievable, but  
9 T-Mobile has had the nerve to propose a 25 foot  
10 antenna on top of a three-story building, in the  
11 middle of a small, seaside community. And when  
12 District, when the Community Board Ten objected,  
13 they voted, and they decided against this, putting  
14 up this T-Mobile, for valid reasons, first of all  
15 everybody in the room who had T-Mobile had no  
16 problem with their service. There was really no  
17 reason that T-Mobile could represent, could  
18 present why we needed that 25 foot antenna.

19 Anyway, Community Board Ten voted against it, and  
20 we met with the lawyer from T-Mobile, and they had  
21 the nerve to say, "Well, we know you voted against  
22 it, but we really don't care, but we want to be a  
23 good neighbor and find out what color you would  
24 like it, or you know, what we can do to disguise  
25 it. But the fact is, we're going to do it

1  
2 anyway." And that's exactly what they said, it's  
3 pretty unbelievable. So, obviously,  
4 telecommunications companies need to be regulated,  
5 their concern is not, is money, the concern is not  
6 for the public. They have disdain for the public  
7 and I've seen it firsthand, particularly with this  
8 Community Board Ten decision, and them just  
9 ignoring it. So, I think there's no question that  
10 they need regulation, to even consider the fact  
11 that they would self--could self-regulate  
12 themselves is bogus. Their out for the money, and  
13 I also wanted to mention that everyone here is  
14 subject to having an antenna outside their window,  
15 if, without these regulations. I think they  
16 should even go further, but this is a great  
17 beginning. Right now, I know many people, you  
18 look out your window and you see these  
19 transmitting antenna, and they are dangerous.  
20 They're transmitting radio frequency 24 hours a  
21 day, to our children. The one that's across from  
22 me is across from a public school, and a new park.  
23 So people are full, that's full exposure. You  
24 know, I've done what I can to keep myself safe,  
25 'cause it's not so easy to move, you know, I have

1  
2 an elderly mother downstairs, she's 87, and I  
3 don't want to make her move. And it's not just,  
4 just not so easy, especially with the economy the  
5 way it is. Believe me, I would, and when I  
6 noticed them, as I said, they were done illegally,  
7 with night work. I don't know how, what the  
8 Department of Buildings is up to, but it was  
9 allowed. Also, the building that's across from  
10 me, 'cause I went to the Fire Department, and I  
11 said, "What's the story with this? How can you,  
12 you know, allow this?" And they said, well,  
13 they've been instructed to evacuate, not to fight  
14 the fire, because if a fire started in that  
15 building, they would have to evacuate, it would be  
16 too dangerous for anyone to go into the building.  
17 How the landlord could allow that [laughs] I don't  
18 understand. But that's, and how the Department of  
19 Buildings could allow that, I don't understand,  
20 either. So, I mean, obviously, these bills are a  
21 good beginning, they can go further. We in City  
22 Island, as I said, are being bullied by the  
23 telecommunications company. I don't know the  
24 status of their 25 foot tower yet, but they said  
25 they were going to go ahead with it, regardless of

1  
2 what the community feels. And without  
3 regulations, that's what's going to happen. And  
4 each and every one of us, as I said, when you,  
5 tomorrow you could look out your window and you  
6 could have a cell phone antenna, and you're going  
7 to have to make a decision whether you're going to  
8 move or you're going to get cancer. So. Thank  
9 you.

10 CHAIRPERSON DILAN: Thank you.

11 THOMAS MORAN: I think I'm up next.  
12 Hi, my name is Thomas Moran, I live on the Upper  
13 East Side, actually 79th and 1st. I'm also a  
14 member of the East 79th Street Neighborhood  
15 Association, I'm on their Environmental Committee.  
16 I spoke at our October meeting. A representative  
17 of our Councilwoman Lappin was there. I was  
18 amazed at the response that I got when I did  
19 speak, about the people who are concerned with  
20 them going outside their windows, on the rooftops  
21 nearby. And not just one, multiple. I got  
22 involved with this, I got a cold once on vacation,  
23 about ten years ago. And I read a book by George  
24 Carlo. He was hired by our friends here, with the  
25 Wireless Trade Association. And from 1993 to

1999, Dr. Carlo worked on researching the health effects of cellular phones. Both the thermal effect, when you have it next to your head, which you're actually kind of heating up your brain, and there were a lot of issues with that; and also the non-thermal effect of the electromagnetic radiation traveling through the air. One of the ladies here from the Trade Association, she, she said that the world is speeding ahead with technology, and that we're kind of staying behind. Well, I'd like to point out that the world is not speeding ahead as far as we are. As a matter of fact, in Austria, the F--their FCC, allows about 10,000 times less radiation from antennas. That's also true in many other European countries, it's hundreds of times less than we allow. So, we're not exactly being lagging behind, we're actually the worst. And Manhattan is one of the worst areas I've ever seen. I've been researching this for over ten years. I want to applaud Peter Vallone, by the way, and the people in Astoria, for their work in their fighting to get it off a school where it shouldn't be. I have an eight year old son on the Upper East Side. There is

1 multiple cell phone antennas within 30 feet of his  
2 window. There's studies in Israel and in Germany  
3 and in other countries that say the cancer rate is  
4 up to two or three times higher when you're within  
5 1,000 or 2,000 feet of these things. In  
6 Greenwich, Connecticut, they're looking for a rule  
7 that you can't have one near a residence, church,  
8 etc., unless you're over 1,000 feet, and they're  
9 only saying 1,000 feet because they know this FCC  
10 baloney will keep them from doing any more than  
11 that, and it won't go through their state  
12 legislature, it'll get shot down in Hartford. But  
13 in Greenwich, Connecticut, in Hempstead, in many  
14 other places across the country, there is a lot of  
15 opposition to this. And it's based on some pretty  
16 good science, including George Carlo. And I'd  
17 like to point out, too, that George Carlo was  
18 working from 1993 to 1999. Well, it was in 1996,  
19 after \$50 million of lobbying, I believe, from  
20 just Verizon, you can correct me on that, they put  
21 through, in that huge telcom deregulation bill, it  
22 was bipartisan, but there was a lot of pressure  
23 for it, that you can't resist these things on  
24 health benefits. Now, Carlo was working from '93  
25

1  
2 to '99 and this was put through in '96. And he  
3 was telling them there was problems. And finally  
4 in '99 they cut off his funding, because they  
5 didn't like the answers they were getting. Now,  
6 like Mr. Vallone said, I have a Blackberry, and  
7 I'm not against wireless, and I understand that  
8 there are safety issues with 911, although I do  
9 find it insulting that that is brought up--our  
10 safety--when that's really the reason we're here.  
11 And I think the large numbers of people who are  
12 using wireless communication, their safety is put  
13 in jeopardy, we are guinea pigs right now. I'd  
14 like to point out, too, to Councilwoman James,  
15 that she, I think she hit on this, and maybe  
16 Councilman Williams before he left, that in the  
17 minority and low income areas it's even worse  
18 because I'm on East 79th Street, but I promise you  
19 at Mr. Bloomberg's end there are very few cell  
20 phone antennas. The condo and the co-op boards  
21 won't have 'em there. And my dad, even, who lives  
22 in a nice condo on West 74th Street, and you know  
23 what, his condo shut it down immediately.  
24 Although the Beacon Theater put one up right next  
25 to him. [laughter] But, and that's kind of the,

1  
2 I guess the Dolans needed the money, but the thing  
3 is with me, I'm in a nice building on West 74th  
4 Street, but I got four tenements, where antennas  
5 were put up during the middle of the night, so  
6 there'd be no opposition, at least before the  
7 fact, and now I got four of 'em. Now, the FCC  
8 does have regulations on the radiation from these  
9 things. Okay? But they, they haven't told me how  
10 they can figure out that four different buildings  
11 within 30 yards of my apartment building, with  
12 multiple antennas on each one, if that's upping  
13 the ante a little bit. And again, their  
14 regulations are far higher than the rest of the  
15 world. So, I think we have some major issues  
16 here, and we need more research, we need to push  
17 the FCC for more research, and we have to ask our  
18 providers, 'cause most of us are wireless  
19 customers, to stop buying off our congressmen from  
20 conducting research. And I applaud you Council  
21 people 'cause it's the local government level,  
22 right now, that's making a stand. Their hands are  
23 somewhat tied, but not entirely. So I want to  
24 thank you and push. The one last thing I'm going  
25 to say, which Evi mentioned to me, in a

1  
2 conversation, was that we can't have too many put  
3 together in the same place, because that can just  
4 make the problem worse for those people who live  
5 near them. That's not a solution in many cases,  
6 unless you're in an industrial area, or along the  
7 highways. But I promise you that in the wealthier  
8 areas, this is not going on in Manhattan right  
9 now, wealthy or not, it's the wild, wild east, and  
10 we need more regulation until there is more  
11 research. Thank you very much.

12 CHAIRPERSON DILAN: Okay. [off  
13 mic] Thank you, Mr.--

14 THOMAS MORAN: Moran.

15 CHAIRPERSON DILAN: [off mic] Mr.  
16 Moran. I believe--[on mic] Thank you, Mr. Moran,  
17 I believe Ms. Hantonopolis [phonetic] is next.

18 EVI HANSOPOLIS: Hos--[laughs]

19 CHAIRPERSON DILAN: Please correct  
20 me.

21 EVI HANSOPOLIS: It's Hansopolis.

22 CHAIRPERSON DILAN: HANSOPOLIS.

23 EVI HANSOPOLIS: Hi. I [laughs] I  
24 do have some prepared remarks, but first I  
25 actually need to address some of the points that

1  
2 were made by the industry representatives, as well  
3 as the Department of Buildings, which were very  
4 misleading. First of all, I would like to say  
5 that my experience with the Department of  
6 Buildings, two cases, one set of antennas in front  
7 of me and one set of antennas in back of me, in  
8 both cases the sites were not in accordance to the  
9 DOB and the FCC regulations. Ms. Jane Builder,  
10 who I met seven years ago, who's from T-Mobile,  
11 who came, and when she saw how the site was  
12 constructed, shut it down, had two antennas  
13 removed two days before the FCC was going to come  
14 and do the first inspection, and that was in  
15 Astoria on 33rd Street, across from me, only  
16 because we asked for it. So that's one thing. So  
17 to say that the DOB is capable of determining  
18 whether these plans actually conform with the  
19 different levels of regulation that need to happen  
20 before they issue the permit is just simply  
21 incorrect. With the building in back of me, I  
22 went and got the plans, I saw that the antennas  
23 were not constructed according to the plans. I  
24 contacted the Department of Buildings, I said, you  
25 know, "The plans say one thing, the way they were

1  
2 constructed is another way." The inspector came,  
3 guess what? Landlord didn't let him go up to  
4 inspect the building. So he said, "Oh, you know,  
5 can't do anything, don't have access." I lodged  
6 another complaint. "Can't get up to the building.  
7 It looks okay to me, from the ground." This was  
8 ridiculous. I could tell from where I lived that  
9 these weren't constructed properly. So the DOB to  
10 say, you know, here's this process, it's very  
11 rigorous, is completely a mischaracterization.  
12 They don't understand the plans, they don't  
13 understand the different levels of guidelines, and  
14 they just don't have access to really do these  
15 inspections when they're asked to do these  
16 inspections. To the Department of Buildings, and  
17 I'm sorry that they've gone, I'm sure they're all  
18 fine people in their everyday lives, but I was  
19 actually astounded by the comment that it would be  
20 very unwieldy for there to be any kind of process  
21 for the public to give input. What's been  
22 unwieldy is what's been going on for the past 13  
23 years. Back in 1998, the Depart--Assistant  
24 Commissioner for the Department of Buildings  
25 issued an exemption to the telecommunications

1 industry, so that they could install these rooftop  
2 antennas without going through what was specified  
3 in the City Charter, which would've required  
4 public review, public input, studying the  
5 environmental impact. They were exempted from  
6 this. And since then, they have been able to do  
7 what they want through a very easy rubberstamp  
8 approval, through the Department of Buildings.  
9 And I heard, it's a not a 12 step process, believe  
10 me it's not. They have their own architect, their  
11 own engineers devise their plans, they submit  
12 them, they DOB rubberstamps, and then they self-  
13 certify that it was done. There's no independent  
14 agency who's doing this. And like I said, even  
15 though this--and my case is, they said that we are  
16 in compliance, they were not. Okay, sorry, I just  
17 was so angry when I was listening to this, to this  
18 stuff, and the question is, you know, "Now is not  
19 the time to enact policy," when is the time?  
20 They've had 13 years with no policy, with free  
21 rein, and that's really what it is. Okay, sorry,  
22 I just had to get that off my chest. And also,  
23 also the DOB, the DOB also said that, or I believe  
24 it was Ms. Snyder, there were no cases where a  
25

1  
2 landlord was unable to make repairs because they  
3 couldn't get the equipment shut off? I suggest  
4 that you contact former Council Member Helen Sears  
5 because that actually happened within her  
6 district, and I knew all about that. So there are  
7 cases out there. Okay. So, you know, as you can  
8 tell--

9 COUNCIL MEMBER VALLONE: This is  
10 actually, this was actually her bill, which I  
11 resubmitted, so I want to give her credit for  
12 that. And--

13 CHAIRPERSON DILAN: Yes, but you  
14 know, unfortunately, you don't have the floor at--

15 EVI HANSOPOLIS: Okay. [laughs]  
16 And I want to thank Council Member Vallone for  
17 being so supportive because, and he'll admit this  
18 in the beginning he really knew nothing about the  
19 issue, and I think was a bit skeptical, and  
20 educated himself, which I hope, I know everybody  
21 here on the Council has done as well. And I have  
22 to, you know, seven years ago, when T-Mobile  
23 constructed a cellular antenna base station on the  
24 rooftop across the street from me, my neighbors  
25 and I had no idea what was going on, and we were

1  
2 told by the workers that it was for, you know,  
3 cable TV. And it was only because the blueprints  
4 from the site blew into my neighbor's backyard,  
5 and he happened to be an engineer, that we  
6 actually found out that it was for a cell antenna  
7 base station, or cell towers, as everyone's  
8 calling them here. So, I have to admit, at first  
9 I thought it was no big deal, it was just, you  
10 know, these nine panels on the rooftop, big deal.  
11 But that same neighbor, whose wife was a breast  
12 cancer survivor, said, you know, "They admit radio  
13 frequency radiation, maybe you should check it  
14 out." So, I did, I started to do research. And  
15 yes, there is no one study that will pinpoint  
16 whether this is good or bad, but to say that, you  
17 know, there's really nothing to worry about is  
18 very, very misleading, and I think, like this is a  
19 new technology, and these antennas have  
20 proliferated at such extent to say that it's  
21 something that we really shouldn't talk about, I  
22 know we can't, in that way, but it's something  
23 that is a concern, of course, for people in the  
24 community. When we contacted City Planning, City  
25 Planning did not know where these antennas were.

1  
2 The Department of Building had no idea how many  
3 there were. And we couldn't believe that it was  
4 only a simple alteration permit, really, was all  
5 that they needed to put these sites up. So, I'm  
6 grateful that five years ago we did manage to get  
7 a bill passed, thanks to the leadership of Council  
8 Member Vallone and other members here, that  
9 required them to track them. And you heard a  
10 figure today that there were 1,500 sites put up  
11 this year alone, or work being done on some so  
12 sites. But if you go back to July of 2005, and  
13 that's when the tracking started, midway through  
14 July of 2005, over 4,600 sites have gone up. That  
15 doesn't mean 4,600 antennas, that actually means  
16 4,600 sites. Each site typically has nine  
17 antennas on it. So, just kind of do the math,  
18 we're talking about, you know, over 41,000  
19 antennas that have gone up in the City since 2005  
20 of July. And of course, that doesn't include the  
21 numbers of antennas before that. The initial  
22 legislation was the right stuff, but it is not  
23 enough. There have been cases of building's  
24 structural integrity being compromised by the tons  
25 of rooftop equipment. We've heard from landlords

1  
2 who are afraid to make repairs on their roofs  
3 because they can't get the companies to turn them  
4 off while work is done. We've heard from  
5 landlords where once they hear about the community  
6 objection, wish that they could then withdraw  
7 their permit, and they're not allowed to 'cause  
8 they're threatened with a lawsuit by the  
9 telecommunications industry. We've heard from  
10 parents who want to know why antennas are pointed  
11 in the direction of their children's schools, when  
12 it is well accepted by the medical community that  
13 children are more vulnerable to the effects of  
14 radio frequency radiation than the general  
15 population. The industry is looking to put up as  
16 many of these sites as possible without having to  
17 prove there's an actual need or whether the area  
18 is already saturated. And here's one thing that  
19 they didn't tell you, but this is true 'cause you  
20 can read about it in industry literature. What  
21 they do is they scope out sites for the future.  
22 So whether there's a need or not, they're going to  
23 say, "I want to get that building on the corner of  
24 33rd and Broadway because if I don't get it, guess  
25 what, AT&T is going to get it." Or, "If I don't

1  
2 get it, then Sprint will get it." So there's this  
3 competition, you know, it was so nice that they  
4 all joined together, you know, today, that  
5 collaboration, 'cause you really don't see that.  
6 This is a very fierce, competitive industry,  
7 they're not going to cooperate but they will  
8 cooperate to fight any piece of legislation when  
9 it helps, which will help make them more  
10 accountable and make their practices more  
11 transparent. They don't even want to identify on  
12 their permit. If you go and look at the permits,  
13 it doesn't say who the carrier is. It just says  
14 who the contractor is. So, I don't know what  
15 they're saying when their equipment is labeled.  
16 Well, I can't get up on the roof to see that  
17 equipment because I'm prohibited from doing so.  
18 Right? And it does say, "Stay away from this  
19 area, there's radiofrequency radiation." I as a  
20 person cannot go up and see that site who's  
21 equipment that is. One, it isn't labeled, it's  
22 not labeled in a way that says T-Mobile or AT&T or  
23 Nextel or whatever it may be; and two, when I go  
24 pull up that permit from the DOB website, it  
25 doesn't say who the carrier is. So, it's not

1  
2 easy. And even though you have the information in  
3 terms of the permits that are going, that have  
4 been applied for, they've already been approved.  
5 Once you approve that permit, you cannot ask the  
6 landlord then to say, "You know what, maybe you  
7 should rethink your contract, here are some of the  
8 things," or, "Maybe you don't really need it here,  
9 maybe actually it could be positioned this way, or  
10 on this site." It's already a done deal. Getting  
11 these contracts broken is next to impossible, and  
12 landlords won't do it because, you know, they're  
13 concerned that they're going to be sued. I'm a  
14 new member and I'm not against technology, I know  
15 that wireless communication is a very important  
16 part of everyday life, so I really want to state  
17 that, because I think sometimes it's presented by  
18 the industry that, you know, we want to stop  
19 technology, we want to stop progress, and that's  
20 certainly not the case. But you know, I'm a new  
21 member of Community Board One in Queens, and  
22 monthly we get applications to look at how many  
23 sidewalk, you know, café tables should we put out  
24 there. And like we look at that, okay, we think  
25 about, "Okay, what's the interests of business?"

1  
2 What's the interests of the community?" and we  
3 weigh that and make decisions. And I don't see  
4 why something like this, we were talking about  
5 something that is very controversial, why there  
6 would be no community input. Public notification  
7 and community input regarding the placement of  
8 cell antennas should be a no-brainer. Tagging  
9 equipment so that carriers can be identified  
10 should be a no-brainer. And requiring companies  
11 to make a best effort, a best effort, that's what  
12 we're asking for, to locate sites away from  
13 residential areas, should be a no-brainer. It is  
14 possible to balance different interests, but right  
15 now the scales are tipped well in favor of the  
16 industry, at the expense of the public. And many  
17 of us have asked the City to form a taskforce, a  
18 planning committee, the industry will fight on  
19 that tooth and nail. You did, you know, you heard  
20 about the scare tactics that they use, and you  
21 know, I don't know if a couple of 'em are still  
22 here, you know, and I'm glad that you're looking  
23 out for us, but we're also looking out for us, as  
24 well. And so, what I ask is that we really look  
25 at a way to improve transparency, democratic

1 participation, and accountability. Imagine if the  
2 industry spent as much time and money on working  
3 with the people and our government to create a  
4 plan together. For years, they've worked in  
5 isolation, without any meaningful regulation, and  
6 have been unable to satisfy most of their clients.  
7 So perhaps some oversight may actually provide  
8 everyone with better service. So I thank you for  
9 your support, I thank Council Member Vallone and  
10 all the Council Members who are cosponsors in this  
11 bill and have been doing great work on this issue,  
12 and we urge you to pass this legislation.

14 CHAIRPERSON DILAN: Okay, Mari.

15 MARI SECAJI: Hello, my name is  
16 Mari Secaji, and I live at 130 8th Avenue, in  
17 Brooklyn, in an eight story co-op building. My  
18 first encounter with cellular antennas started in  
19 July 2005, it was shortly before the construction  
20 of 6 T-Mobile antennas on our building, was to  
21 begin. Many of the shareholders after finding out  
22 about this project were extremely upset, and a  
23 meeting was held with the shareholders and T-  
24 Mobile. Many questions were asked about why T-  
25 Mobile did not make an effort to inform residents

1  
2 in the neighborhood. Had this occurred, there  
3 would have been a public disclosure and public  
4 hearing before the contract was signed. The  
5 senior project engineer for the company answered  
6 that the T-Mobile's policy was to notify local  
7 community boards, so that those boards may inform  
8 the constituents and call for hearings. This was  
9 not true. We checked with our Community Board Six  
10 in Brooklyn and were told that they had not been  
11 informed by T-Mobile. In our case, there was to  
12 be six antennas and nine tons of equipment to be  
13 installed. The contract was for 15 years, but no  
14 option for us to cancel the contract. My daughter  
15 was four years old back then. If this contract  
16 had gone through, she would have been 19, a long,  
17 long time. These antennas were going to be placed  
18 in a neighborhood where we have two schools, both  
19 a block away from our building, we have  
20 residential buildings adjacent on both sides, that  
21 stand higher than ours, which would be in direct  
22 line of the radio frequency radiation from the  
23 antennas. Our neighbors' apartments would have  
24 been showered with radiofrequency radiation  
25 continuously, 24 hours a day. I understand that

1  
2 there is a lot that is not understood about  
3 radiofrequency radiation, and its long term  
4 effects on human health. These antennas emit  
5 radiofrequency radiation, 24/7, every single day,  
6 year after year. In our case it would have been  
7 for at least 15 years and possibly many more.  
8 Since cellular antennas are so prevalent and have  
9 potentially health risks, it makes sense to  
10 disclose their placement. It took a group of  
11 dedicated shareholders three years in court to  
12 defeat the plans for installing the antennas by T-  
13 Mobile. Unfortunately, many antennas are still  
14 popping up all over New York City, because there  
15 are virtually no regulations on where these  
16 antennas are placed, and cell phone companies are  
17 not required to notify the community. I believe  
18 that it is very important that community boards  
19 and elected officials be notified before the site  
20 is built, and that there is a transparent,  
21 thoughtful and accountable process for placing and  
22 maintaining these in residential neighborhoods.  
23 It is critical that there is more oversight as to  
24 how and where these antennas are placed, because  
25 they emit radiofrequency radiation and impact the

1  
2 character of neighborhoods. I strongly urge you  
3 to support these bills. Thank you very much.

4 CHAIRPERSON DILAN: Thank you very  
5 much. And I'm going to defer to the bill's  
6 sponsor, Council Member Vallone, to open up.

7 COUNCIL MEMBER VALLONE: Thank you,  
8 again, Mr. Chair. I just want to thank all four  
9 of you for your hard work. I've been working  
10 closely with Cloud [phonetic], and especially Evi,  
11 Evi's the one I mentioned in my opening statement,  
12 who brought this to my attention. And it's not  
13 easy, I know it's not easy, you must have all been  
14 though crazy at one point. I know I thought Evi  
15 was crazy when she came to me. And then after she  
16 convinced me, everyone thought I was crazy.

17 EVI HANSOPOLIS: [laughs]

18 COUNCIL MEMBER VALLONE: But  
19 because of your hard work, we're here today where  
20 most rational people believe that there are  
21 concerns. But now we're up against a very  
22 powerful industry. I don't think people think  
23 we're crazy anymore, but it's just a very tough  
24 fight. And you guys started it a long time ago,  
25 and I want to thank you for waiting. And waiting

1  
2 to testify. Now, you mentioned you want us to go  
3 further, and Lew and I would love to further. But  
4 as you all know, we can't because of the  
5 Telecommunications Act of 1996. I've written  
6 letters, I've got copies here, to Senator Schumer,  
7 Gillibrand, Senator Harry Reid, Pelosi, although  
8 that I one I have to resend, the Pelosi one. But  
9 I've written letters to everyone at the federal  
10 level asking them to amend the Telecommunications  
11 Act. I haven't even heard back regarding it. So,  
12 we are working to, and I've got resolutions in,  
13 calling on that to happen. So, we are working to  
14 try to get permission to go further, but we're  
15 trying to go as far as we legally can, and do  
16 things that will withstand court challenges down  
17 the road. We would love to, you know, do more  
18 than community notification, get some community  
19 input would actually be nice, but legally doesn't  
20 look like we can do that. But we're on your side,  
21 and we're going to continue to work with you, I've  
22 got a lot I can learn from you. I know you said  
23 you had a problem with collocation, I understand  
24 that. And perhaps I can amend the bill to be  
25 collocation in industrial areas only, as opposed

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to residential. We'll talk about it.

EVI HANSOPOLIS: Yeah, because since those, first the nine antennas that went up across the street, like I said, three were removed and replaced with one single antenna, so the ones that T-Mobile put up, there are now seven antennas, six more were added from another carrier on that building. And then six more were added in the building across from me. So, to add more antennas to the building, there's cases out in Eastern Parkway where they have 27-30 antennas on a building, in residential buildings, people living directly across from them. So, collocation is different than sharing the technology, so you have fewer antennas; collocation is you're just adding more antennas to a site, and in a residential community that doesn't make sense, it makes sense to do it on a highway where you have those cell towers and people aren't in close proximity. But in terms of a densely populated area, it's, it's, you know, it's very detrimental, 'cause you're just increasing the levels.

COUNCIL MEMBER VALLONE: So, I'll work on amending that to address those concerns.

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EVI HANSOPOLIS: Thank you.

COUNCIL MEMBER VALLONE: Thank you  
all.

CHAIRPERSON DILAN: Any of my other  
colleagues have anything else they--Well--

MARI SECAJI: I have one other--

CHAIRPERSON DILAN: I have to stop  
you because--

MARI SECAJI: Oh.

CHAIRPERSON DILAN: You've had a  
chance to testify. There's others that have been  
waiting since 10:00 a.m. to get a chance to  
testify and I have to keep, keep going at this  
point. Do any of my colleagues have anything  
they'd like to ask.

COUNCIL MEMBER JAMES: No, just a  
note that maybe--

CHAIRPERSON DILAN: Council Member  
James.

COUNCIL MEMBER JAMES: --to the, to  
the sponsor of this legislation, since there's  
been a change in Washington now, this, the  
amendment may go forward.

CHAIRPERSON DILAN: Okay, with

1  
2 that, I'd like to thank you all for your time and  
3 testimony.

4 PANEL: Thank you.

5 CHAIRPERSON DILAN: Okay, next,  
6 we'll have Mr. Sylvester Giustino, Mr. Douglas  
7 Dimitroff, Mr. Michael Santorelli and Mr. Mike  
8 Seamus [phonetic]. And they'll be followed by--  
9 Okay, and they'll be followed by Joan Bondell  
10 [phonetic]--Oh, no, this is, this is--Okay, well  
11 hold on a second, I believe, did you have a  
12 request to testify along with ABNY? Is that--Oh,  
13 is that for, I believe that was Mr.--

14 FEMALE VOICE: Sartelli.

15 CHAIRPERSON DILAN: Sartelli, San--

16 FEMALE VOICE: Santelli.

17 MALE VOICE: Yes.

18 CHAIRPERSON DILAN: You did have a  
19 request to testify along with Association for a  
20 Better New York, is that accurate?

21 MALE VOICE: Yes.

22 CHAIRPERSON DILAN: Are they still  
23 here? [off mic comments] They had to leave?  
24 Okay, so you can go on now. [off mic comments]  
25 Okay, why don't we begin with Mr. Giustino.

1  
2 SYLVESTER GIUSTINO: Thank you, Mr.  
3 Chairman, Members of the City Council, my name is  
4 Sylvester Giustino, Director of Legislative  
5 Affairs for the Building Owners and Managers  
6 Association of Greater New York, or BOMA New York,  
7 as we're known. We represent more than 700  
8 owners, property managers and building  
9 professionals who either own or manage 400 square,  
10 four million square feet of commercial space.  
11 We're responsible for the safety of over three  
12 million tenants, generate more than \$1.5 billion  
13 in tax revenue, and oversee annual budgets that  
14 exceed \$4 billion. Respectfully, BOMA New York  
15 opposed the proposed Intro No. 57 and Intro 237.  
16 Intro 57 states that if a property owner cannot  
17 perform a critical examination of an applicable  
18 building's exterior walls and appurtenances due to  
19 cellular telephone service apparatuses, then the  
20 owner shall immediately notify the Building  
21 Department and the carriers shall immediately  
22 permit such examination and shut off such  
23 apparatuses for such period of the time as  
24 necessary. We believe that this is an unnecessary  
25 infringement on the relationship between the

1 cellular telephone provider and our commercial  
2 property owners. Additionally, our members would  
3 need to revise license agreements to include  
4 removal of a structure, to remain in compliance  
5 with Local Law 11 inspections. The examination of  
6 the building's exterior should be coordinated  
7 between the provider, our commercial building  
8 owners and managers, and should be in accordance  
9 with the contractual relationship, and not be  
10 directed by government agencies, or shut off when  
11 a--when an apparatus must be shut off and when it  
12 may resume in connection with the building  
13 examination. In regard to Intro 237, BOMA New  
14 York is opposed to the additional mandatory  
15 reporting requirement to give written notice of  
16 even an intent to locate wireless infrastructure  
17 to Council Members and/or community boards. We  
18 believe that this is unnecessary in light of  
19 reporting requirements already in place. We  
20 believe that the current reporting regime is  
21 sufficient and transparent. If this proposed bill  
22 is enacted, it would create an unusual precedent,  
23 and exert undue pressure on our members. In  
24 conclusion, the Building Owners and Managers  
25

1  
2 Association of Greater New York believes that the  
3 existing rules and regulations with respect to  
4 cellular telephone antennas and related equipment  
5 are sufficient. Respectfully ask that this  
6 Committee reject these proposed bills and not  
7 jeopardize the ability to provide a robust,  
8 wireless infrastructure in New York City. Thank  
9 you, Mr. Chairman.

10 CHAIRPERSON DILAN: Okay, why don't  
11 we go in the order that you were called up. I  
12 forgot in which order I called you guys up, so if  
13 you guys remember, you can help me out a little  
14 bit. All right.

15 DOUG DIMITROFF: Thank you, Mr.  
16 Chairman, my name is Doug Dimitroff. We  
17 appreciate your time and all of the Council Member  
18 staff and everyone, frankly, in the room. I  
19 represent the New York State Wireless Association.  
20 It's a state association that is the voice of the  
21 wireless industry in New York, in the State. We  
22 represent not only the carriers, from whom we  
23 heard earlier today, but about 1,400 other folks,  
24 including not only architects, engineers, lawyers,  
25 bankers, but construction contractors, real estate

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2 professionals, insurance professionals,  
3 environmental service folks, electricians, steel  
4 fabricators, and the list goes on. The industry  
5 is much broader, and I wanted to convey that to  
6 you folks, than just the carriers. There are all  
7 sorts of economic data about the size of the  
8 industry, some information suggests that it's  
9 actually in New York, larger than the real estate  
10 industry. So there is an ecosystem which is  
11 significant that you probably don't hear from.  
12 So, I'm here today just to give you the  
13 perspective of the New York State Wireless  
14 Association. And I'm not going to repeat a lot of  
15 the other testimony from the wireless industry  
16 that you heard, but I'll sort of focus on a couple  
17 of key points. The first is that, and this is  
18 maybe a different perspective on what we heard  
19 earlier. And it is not my intent to offend  
20 anybody, either behind the dais or in the room.  
21 But essentially, any regulation that slows or has  
22 the potential to slow deployment of upgraded  
23 wireless networks, at a time when more New Yorkers  
24 than ever are relying on their wireless phones, is  
25 bad public policy and perhaps bad for public

1  
2 safety. One of the things you might want to think  
3 about is, and it's I think analogous to what this  
4 sort of regulation does is impose mandates that  
5 for reasons you heard earlier from the industry,  
6 are not necessary, they're duplicative, and what  
7 that does, essentially, is similar to what you  
8 folks have to do deal with from the State  
9 government and the federal government, on a  
10 regular basis. When the City is mandated to take  
11 on certain regulations, certain mandates that  
12 simply are duplicative or don't make sense or  
13 don't help the root cause, then we think that that  
14 is analogous to what's happening here. So I  
15 wanted to point that out. The other thing is  
16 carriers in particular don't have unlimited  
17 budgets. There was some references to some other  
18 communities around the country. What tends to  
19 happen, and this is what we see from a New York  
20 State Wireless perspective, and other states with  
21 which I'm familiar, if additional regulation is  
22 imposed, the forces of the market will essentially  
23 require--dictate in some way or another that  
24 capital is going to be deployed elsewhere. So, we  
25 just have to be, I want the Committee to be aware

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2 that one impact could be that if there are  
3 restrictions, limitations, or hoops, additional  
4 hoops that we don't think are necessary or  
5 duplicative, to overcome, what could happen is  
6 carriers could decide that their dollars, because  
7 it's going to take longer, be more costly,  
8 whatever, are going to be deployed elsewhere, in  
9 other neighborhoods within the City, or frankly  
10 within other cities around the State and beyond.  
11 We're here, ready to assist the Council, in any  
12 way, as you consider these bills, and happy to  
13 answer any questions you may have, now or sometime  
14 later. Thank you.

15 CHAIRPERSON DILAN: Thank you.

16 I apologize, my colleague Mike  
17 Seamus from the Partnership actually had to leave  
18 early, so I'm going to read our testimony for the  
19 record. So thank you, Councilman Dilan and  
20 Members of the Committee--

21 CHAIRPERSON DILAN: Okay, you--  
22 --for the opportunity to testify.

23 CHAIRPERSON DILAN: You do have to  
24 testify, you do have to state your name for the  
25 record.

1  
2                   CHRISSEY MOORE: Oh, yes,  
3 absolutely, my name is Chrissy Moore, I'm Director  
4 of Government Affairs for the Partnership for New  
5 York City. The Partnership for New York City  
6 represents leadership of international and  
7 regional businesses that are headquartered in New  
8 York. Our members employ 775,000 people in New  
9 York City, and contribute to over \$140 billion to  
10 the annual gross City product. A strong,  
11 redundant, wireless communications system is  
12 absolutely essential to the continued growth of  
13 our City's economy. This is a matter of, a matter  
14 where decision to restrict services, service  
15 providers from installation of equipment and  
16 facilities, will have an immediate consequence to  
17 our City in terms of lost jobs and tax revenues.  
18 New York City's central role in the national and  
19 global economy is very much defined by the  
20 strength of our telecommunications system. These  
21 are the tools of the trade of our City's most  
22 important industries: financial services, media  
23 and professional services. The speed and  
24 reliability of wireless access is a top priority  
25 in business location decisions in each of these

1  
2 sectors. In addition to broadband, businesses are  
3 increasingly reliant on different forms of  
4 wireless technology. In the past year, we have  
5 seen an explosion in the use of iPads and tablet  
6 PCs. While these devices provide even greater  
7 convenience and productivity, they require robust  
8 wireless network. Not only does wireless  
9 connectivity have an impact on the existing  
10 drivers of our economy, it also plays a  
11 significant role in the, in our economic future.  
12 New York is positioned to be a hub for innovation  
13 and communication technology, and digital media in  
14 the coming years, thanks to a large number of  
15 small and growing entrepreneurial firms, who lead  
16 in Web 2.0 and social media applications. The  
17 success of these burgeoning businesses is  
18 dependent on the availability and accessibility to  
19 wireless spectrum. In 2008, Nielsen reported the  
20 top U.S. markets for voice and 3G data service.  
21 New York lagged behind other leading cities. In  
22 addition, a 2010 ranking by Forbes Magazine, named  
23 America's most wired cities, which identified the  
24 top 20 cities in terms of broadband connectivity  
25 and access to wi-fi hotspots. New York was not on

1  
2 the list. For New York City to maintain its  
3 competitiveness, our infrastructure must keep pace  
4 with global cities around the world. When it  
5 comes to wireless access, we are in real danger of  
6 falling behind. That is why we urge the Council  
7 to take a balanced approach to the issue, and to  
8 consider how to improve and increase the capacity  
9 and reliability of the existing system, rather  
10 than imposing new obstacles to its growth. Thank  
11 you.

12 CHAIRPERSON DILAN: Thank you.

13 MICHAEL SANTORELLI: Thank you, Mr.  
14 Chairman, for allowing me to testify here today.  
15 My name is Michael Santorelli, I am a Director of  
16 the Advanced Communications Law and Policy  
17 Institute at New York Law School. The ACLP is an  
18 interdisciplinary public policy program that  
19 focuses on analyzing key legal and regulatory  
20 issues in the advanced communications arena, in  
21 order to help facilitate the development of sound  
22 policies that benefit all consumers. Immediately  
23 prior to joining the ACLP, I served as the  
24 legislative policy analyst for the City Council's  
25 Committee on Technology in Government. Over the

1  
2 past few years, we at the ACLP have focused much  
3 of our work on the issue of broadband adoption, in  
4 particular the barriers to and benefits of using  
5 this technology among specific user groups, like  
6 senior citizens and people with disabilities, and  
7 discreet sectors of the economy, like healthcare  
8 and education, demographics in sectors that are  
9 incredibly important to New York City. The  
10 overwhelming conclusion of our inquiries, which  
11 were included in the report that we issued to the  
12 FCC last year, is that policy makers and  
13 regulators should focus on policies to spur not  
14 only the availability of broadband, but also the  
15 adoption of it by as many people as possible.  
16 Increasing broadband adoption and utilization  
17 rates are critically important to ensuring that  
18 all New Yorkers have a meaningful opportunity to  
19 participate in our emerging digital society.  
20 Today's hearing touches on a number of issues  
21 related to wireless broadband. My remarks are  
22 focused on the importance of mobile broadband to  
23 consumers in New York City. And with the  
24 Chairman's permission, the ACLP would like to  
25 submit more comprehensive written comments for

1  
2 consideration by the Committee in follow up to  
3 today's hearing. We are lucky to live in a City  
4 where next generation mobile data services are  
5 already widely available. Most wireless carriers  
6 have already deployed third generation network  
7 infrastructure throughout the five boroughs, and  
8 soon these companies will begin to deploy next  
9 generation, or fourth, fourth generation, or 4G  
10 networks, to enhance the mobile broadband  
11 experience. This is good news for all of us as  
12 consumers. From a public policy standpoint, the  
13 benefits delivered via wireless broadband matter a  
14 great deal. Mobile broadband has the ability to  
15 deliver all the same life enhancing and  
16 increasingly lifesaving services as wired  
17 broadband, but without being tethered to a  
18 landline. These benefits are of particular  
19 importance to local businesses, especially the  
20 smaller firms that drive job growth in the City  
21 and across the country. A recent report from the  
22 U.S. Small Business Administration concluded that  
23 broadband is as essential to small business as  
24 other utilities such as water, sewer and  
25 electricity. The mobility inherent in wireless

1  
2 broadband only amplifies these impacts. Ensuring  
3 that the City has a robust and cutting edge  
4 wireless infrastructure could provide it with a  
5 competitive advantage in a rapidly globalizing  
6 economy. These benefits also matter to the many  
7 sectors on the verge of being transformed by  
8 broadband. For example, the ways in which  
9 educational services are provided to students is  
10 rapidly changing due to wireless broadband.  
11 Advanced computing devices like the iPad and  
12 netbooks are bolstering the opportunities  
13 available to students inside and outside the  
14 classroom. Indeed, wireless broadband will likely  
15 play, or could likely play a key role in the  
16 City's stimulus funded connected learning  
17 initiative. Students and their parents could use  
18 their new laptops to access the internet via  
19 wireless broadband connections in an effort to  
20 extend learning into the home. These benefit--the  
21 power of wireless broadband to transform  
22 industries also extends to healthcare, energy and  
23 many others. But most importantly, however, these  
24 benefits matter to individual residents of this  
25 great City. Wireless broadband enables a wide

1 range of benefits unique to various demographic  
2 groups. For example, this technology is  
3 increasingly popular among senior citizens, as  
4 they learned how to use mobile tools to stay in  
5 better touch with family and friends. In the not-  
6 too-distant future, this technology will likely be  
7 the primary vehicle for delivering an array of  
8 healthcare and other critical services to seniors.  
9 People with disabilities rank text messaging,  
10 email and internet access as the most important  
11 features on their cell phones. African-Americans  
12 and Hispanics rely on mobile broadband networks to  
13 access the internet more than any other  
14 demographic group. Indeed, without wireless  
15 broadband, a far larger percentage of minorities  
16 might not be using the internet at all. But  
17 despite the seemingly endless promise of wireless  
18 broadband, it faces a number of unique challenges  
19 that other broadband technologies do not.

20  
21 Wireless broadband relies on a scarce and finite  
22 resource spectrum for the delivery of data  
23 services. The bandwidth inherent in each slice of  
24 spectrum is harnessed and leveraged by the  
25 physical infrastructure of the networks, which

1  
2 include cell towers and other devices that relay  
3 information to and from users. Without robust  
4 wireless networks, and without the right set of  
5 tools and resources, innovation in the wireless  
6 ecosystem could come to a sudden halt. In light  
7 of how critical wireless broadband is becoming in  
8 this City and around the country, such a slowdown  
9 could be devastating to consumers. This is where  
10 policymakers come in. Officials at every level of  
11 government have a role to play in ensuring that  
12 our nation's wireless sector realizes its  
13 limitless potential. At the federal level, the  
14 President has specifically identified wireless  
15 broadband a key ingredient to spurring economic  
16 growth. To this end, the Commerce Department and  
17 the FTC have both released plans for freeing up  
18 additional spectrum resources for innovators. The  
19 FCC has also identified a number of related areas  
20 ripe for reform. Key among them is more efficient  
21 deployment of broadband infrastructure. To this  
22 end, the FCC in its national broadband plan,  
23 called on Congress to establish a harmonized  
24 access policy for all rights of way in order to  
25 assure the timely build-out of network

1  
2 infrastructure. There's also a role for  
3 municipalities to play. Local officials possess  
4 the unique ability to raise awareness of the  
5 benefits of broadband, support innovative training  
6 programs that help to bring non-adopters to  
7 broadband, and otherwise help provide a clear  
8 value proposition for using this technology. In  
9 conclusion, the City Council should do everything  
10 in its power to not only speed the deployment of  
11 next generation wireless broadband networks, but  
12 also to ensure that no one is left on the wrong  
13 side of the digital divide. Thank you very much.

14 CHAIRPERSON DILAN: Thank you all  
15 for your time and testimony. Again, I'm going to  
16 defer to bill's sponsor, this time it'll be  
17 Council Member Fidler, followed by Council Member  
18 Vallone.

19 COUNCIL MEMBER FIDLER: Thank you,  
20 and first Ms. Moore, please send my best to Cathy  
21 Wild, and tell her I appreciate the fact that  
22 she's calling for a balanced approach, and I think  
23 that is exactly what we are trying to do. Mr.  
24 Dimitroff, I know you don't mean to offend. Let  
25 me start by asking if you know how many gang

1  
2 members use cell phones to be in touch with other  
3 gang members in the furtherance of crime.

4 DOUG DIMITROFF: I don't.

5 COUNCIL MEMBER FIDLER: Do you have  
6 any idea what percentage of terrorist acts involve  
7 the use of cell phones?

8 DOUG DIMITROFF: No.

9 COUNCIL MEMBER FIDLER: Do you  
10 think those questions are relevant to the bills  
11 before us today?

12 DOUG DIMITROFF: Not at the moment.

13 COUNCIL MEMBER FIDLER: Then I  
14 don't think the statistics on the number of people  
15 who use 911 calls is relevant, either. I think  
16 that argument is specious and disingenuous and I  
17 really am sorry that you felt the need to, to  
18 submit this for the record. I think it's  
19 absolutely absurd. So let me just ask you this.  
20 I'll be parochial, I'll just ask you about Intro  
21 104. I'd like to know in what way Intro 104 would  
22 restrict wireless deployment resulting in more  
23 dropped calls, slower download speed and weaker  
24 in-home service.

25 DOUG DIMITROFF: Well, the addition

1  
2 of regulation, timeframes, I know there's been a  
3 lot discussed about timeframes, but the concept of  
4 an additional layer of regulation and additional  
5 process will, by almost necessarily in, on a macro  
6 level, result in the inability to deploy in the  
7 same manner, in the same speed, that you would  
8 have otherwise deployed without the, without the -  
9 -

10 COUNCIL MEMBER FIDLER:

11 [interposing] Mr. Dimitroff, there's no, there's  
12 no additional regulation here, other than the, you  
13 know, as we've discussed, and you were in the  
14 room, having to mail to two government offices, by  
15 certified mail, a notice of your application.

16 DOUG DIMITROFF: Yeah, the issue I  
17 think is, is what's the framework that occurs  
18 during that period? What's the policy? What are  
19 standards? And at the moment, I don't see what--

20 COUNCIL MEMBER FIDLER: We haven't  
21 changed the standards. The standards for the  
22 current regulations will continue to exist as they  
23 exist. If somebody can point out that the  
24 Buildings Department, as has been mentioned here,  
25 every now and then misses something, and point out

1  
2 that they have missed something, what's the harm  
3 in that?

4 DOUG DIMITROFF: If, if that  
5 happens, and it can happen today, what I heard the  
6 Department of Buildings say, is that exists today,  
7 that ability to do that.

8 COUNCIL MEMBER FIDLER: Yes, but  
9 the ability to--No, actually what you heard the  
10 Department of Buildings say is, you have the  
11 ability to do that, but no ability to know that  
12 it's pending, because they don't post it on their  
13 website until after it's granted. That's what you  
14 heard them say today. So, I mean, you know,  
15 let's, let's, you know, I know that your job here  
16 is to speak for the industry, to try and beat back  
17 every possible, you know, regulation of the  
18 industry. But let's try and keep to the real  
19 merits and skip the rhetoric. There is no, you  
20 are not, we're not, you know, to suggest to  
21 somebody that this is going to cause them to drop  
22 calls because you're going to have to send a  
23 certified letter to the Council Member, so that  
24 the Council Member can make sure that the City  
25 agency's doing the job, or possibly speak on

1  
2 behalf or with the customers of Verizon or T-  
3 Mobile, with T-Mobile about whether or not this  
4 particular plan, you know, this particular  
5 location is suitable, you know, it's just  
6 gibberish. You know, I--let's move past it, and  
7 let's admit what we're really talking about here.  
8 Thank you.

9 CHAIRPERSON DILAN: Council Member  
10 Vallone?

11 COUNCIL MEMBER VALLONE: Thank you.  
12 I actually was going to mention all that, so now I  
13 won't, thank you, Council Member Fidler. So,  
14 yeah, as long as you continue to send out flyers  
15 that say that the Public Safety Chair and others  
16 are jeopardizing public safety, then we really  
17 don't have much to discuss, and that's  
18 unfortunate, 'cause we could've worked together on  
19 these bills. Partnership, thank you for coming  
20 down. As Lew Fidler said, hopefully you're now  
21 going to report back accurate information to the  
22 Partnership, not disinformation, accurate  
23 information, and--I'm sorry, not you guys--  
24 accurate information, and report back to her that  
25 this is a balanced approach, that we're just

1 asking for notice, and if they can prove need,  
2 which is very simple, they can put it anywhere  
3 they need to put it, to provide 911 service, or  
4 any type of service;. Very simple, nobody's  
5 getting hurt, so when you report that back, I look  
6 forward to your support. Regarding the Buildings  
7 groups, I completely understand your opposition to  
8 this. I would probably, if I were in your  
9 position, and it's, you know, well thought out, it  
10 brings up the problems that you may have to face  
11 with this. I understand that. But there may be  
12 ways for us to work together, for example, the one  
13 I introduced is 57, which basically says if a  
14 property owner can't perform an examination, then  
15 the owner shall notify the Buildings Department  
16 and the carriers can, shall immediately permit the  
17 examination. The reason that was put in, by Helen  
18 Sears originally, is because too many owners could  
19 not get the company to do anything. You know,  
20 they, they'd get their 20 year contract, they  
21 disappeared, a multi-billion dollar company, and  
22 they, they were in trouble with the Buildings  
23 Department 'cause they couldn't do inspections.  
24 Now, you represent these owners who came to us and  
25

1  
2 asked for this. Perhaps if we changed it to then  
3 the owner shall immediately notify, to the owner  
4 may immediately notify, would that be something  
5 that--

6 SYLVESTER GIUSTINO: I, I think  
7 that's something we, we could definitely agree to.  
8 And thank you, Councilman, for giving us the,  
9 giving me the backstory on this. Our main concern  
10 with Intro 57 was on the Local Law 11 compliance.  
11 You know, you attach a structure to external part  
12 of the building, there's rules and regulations.  
13 Our industry is currently tackling, you know, the  
14 roles that the Department is making to Local Law  
15 11, so we just don't want to further complicate  
16 the issue. So, that was our, that was our  
17 members' concerns. But absolutely, we'd be open  
18 to that, so.

19 COUNCIL MEMBER VALLONE: We're  
20 going, you're going to work with the Counsel to  
21 this Committee--

22 SYLVESTER GIUSTINO: Yes.

23 COUNCIL MEMBER VALLONE: --and my  
24 legislative director, Jonathan Chung, who's done a  
25 lot of work on this, and hopefully we can make it

1  
2 less, much less objectionable.

3 SYLVESTER GIUSTINO: That would be  
4 great.

5 COUNCIL MEMBER VALLONE: Thank you  
6 all for coming down and testifying.

7 CHAIRPERSON DILAN: Okay, just one  
8 question I have for Mr.--oh, I'm sorry, Council  
9 Member James, and then I have a brief question.  
10 Council Member Letitia--

11 COUNCIL MEMBER JAMES: Yeah, it's  
12 really not a question, but it's also a comment,  
13 let me, let me add also my, my sense of outrage  
14 with respect to the comments that were made that  
15 if in fact Council Members enact legislation that  
16 deals with accountability and notification and  
17 democracy, the notion that the cell, the providers  
18 will basically pick up their toys and go  
19 elsewhere, I think is really offensive. And that  
20 this is going to have a major impact on a  
21 significant number jobs in the City of New York,  
22 is also ridiculous. The reality is, is that I  
23 just, I don't understand why there would be so  
24 much objection to just including and notifying  
25 community boards so that they can be at the, at

1  
2 the table, and also ensuring that any construction  
3 of any cell towers, to any exterior buildings, is  
4 done in a proper fashion. And I don't, I really  
5 don't understand the objection, I really don't.  
6 But that notwithstanding, I just wanted to add my  
7 voice to the choir.

8 CHAIRPERSON DILAN: Thank you,  
9 Council Member James. Just one question for Mr.  
10 Giustino, if you know the answer; if you don't  
11 know the answer, that's fine.

12 SYLVESTER GIUSTINO: I'll take a  
13 stab at it.

14 CHAIRPERSON DILAN: But is there,  
15 is there a standard amount that building owners  
16 are paid to erect this equipment on their  
17 buildings? Or does that amount vary?

18 SYLVESTER GIUSTINO: You know,  
19 Councilman, I don't have that information at this  
20 time, but I can certainly find out for you and  
21 I'll poll our members to see what that cost is,  
22 and I'll certainly get back to you on that.

23 CHAIRPERSON DILAN: Okay, great,  
24 thank you.

25 SYLVESTER GIUSTINO: Thank you.

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CHAIRPERSON DILAN: Thank you all.  
Okay, final--is there just one? All right, final person we have to testify is Joan, Joan Bondell [phonetic]? All right, then is there, is there a Mr. Robert Holden, who is here to testify? No. Okay. All right, is there, is there anyone else that wishes to testify on today's agenda? All right, if not, this will be the final witness on today's agenda.

JOAN BONDELL: Okay, I just want to say that, thank Council Member Vallone and the others that I accidentally checked the wrong box there, I am in--

CHAIRPERSON DILAN: Yeah, we figured that, yeah. [laughs]

JOAN BONDELL: --yeah, yeah, okay. But I do have some objections to this not having an amendment in there that--

CHAIRPERSON DILAN: Before you continue, I just need you to identify yourself in your own voice for the record.

JOAN BONDELL: Okay, my name is Joan Bondell. And I live 350 Central Park West.

CHAIRPERSON DILAN: No, you don't

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have, you don't have to give you address.

JOAN BONDELL: Okay. This is what Sprint/Nextel put on my bedroom window six years, or seven years ago. And I don't see anything and I think we need an amendment to prevent them from doing something like this to people. This is the middle of the building, it's the eighth story in a 17 story building, that has lots of available roof space.

CHAIRPERSON DILAN: If you don't mind, the Sergeant's just going to pass so we can take a better look, we can't quite see it.

JOAN BONDELL: And this is the view from my window. [pause] These are the signs on the roof where the antennae are not. There is just the GPS system located there. And this is a roof to which we always had access, and there are two penthouses up there. Now, it's very well, and I appreciate the fact that you want to notify the community. However, my Council Member who put in approximately ten minutes here today and did not speak, has repeatedly told me and others, and put in writing, that she thinks this is good because it brings money into the City. Now in a case like

1  
2 that, how would I be notified before this  
3 happens? I think some--something has to be  
4 amended to let the peop--somebody's who's in,  
5 who's affected in this way, be notified. Not  
6 simply trust that my Council Member will take care  
7 of me, or my Council Member has no way of even  
8 knowing that that is my bedroom window. I  
9 understand it really can't be done, but I would  
10 like something in there--

11 CHAIRPERSON DILAN: Can I, can I  
12 interrupt you for a second. I'd like to request  
13 your permission so that we can make copies of your  
14 photos, so that--

15 JOAN BONDELL: Sure, mm-hmm.

16 CHAIRPERSON DILAN: --they can be  
17 entered into the record. Okay, thank you.

18 JOAN BONDELL: Lost my train of  
19 thought.

20 CHAIRPERSON DILAN: You can  
21 continue, we'll return your original photos.

22 JOAN BONDELL: Okay. I just heard  
23 somebody from the industry testify about how all  
24 this was good for seniors. I'm a senior citizen,  
25 obviously, and I'd like to know how that exposure,

1  
2 which has been measured in my bedroom, is good for  
3 me, when I'm in there, seven nights a week. As a  
4 senior citizen, I am more vulnerable than others.  
5 And I have health problems that could very well be  
6 associated with living with that. Also, I'm a  
7 tenant, so I have no recourse, the landlord gets  
8 the money, I take the risk. And as a rent  
9 stabilized tenant, I really cannot move in this  
10 City. And I, thought I am very thankful to this  
11 Committee, and particularly to Peter Vallone, I  
12 really think an amendment in there has to be that  
13 the people involved, and affected by it, are  
14 notified by be it the community board or their  
15 City Council. Because my safety or my wellbeing  
16 would be, depends on who my Council Member is, and  
17 how he or she feels about it, which I think she  
18 has shown again today how she feels about it.

19 CHAIRPERSON DILAN: Okay, thank  
20 you, Ms. Bondell, we'll have your pictures  
21 returned to you. If at all permissible by Council  
22 rules, I'd like to request that her address, which  
23 she did say for the record, be stricken from the  
24 record. With that, we do have some--

25 COUNCIL MEMBER JAMES: [off mic]

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Could I just ask her one question?

CHAIRPERSON DILAN: Oh, I'm sorry,  
Council Member James.

COUNCIL MEMBER JAMES: Do you rent?

JOAN BONDELL: Yes.

COUNCIL MEMBER JAMES: Okay.

JOAN BONDELL: Rent and rent  
stabilized, which is why I have no say in the  
matter.

CHAIRPERSON DILAN: Absolutely an  
important question.

JOAN BONDELL: And the other thing  
is, I mean, I am begging you people to find some  
way to do something retroactively, even if it's  
just to get the industry to insulate in back of  
us. I don't think that a community board member  
or Council Member on just seeing a plan  
understands the back splatter that comes off this  
stuff. And the expense I went to in having it  
measured. Thank you.

CHAIRPERSON DILAN: Thank you, Ms.  
Ms. Bondell. Do any of my other colleagues have  
any questions before I dismiss the witness. Thank  
you. Thank you. And we've received testimo--

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Yeah, have a seat, somebody will bring it to you.

We've received testimony from Mr. Jordan Ans--

MALE VOICE: Eisenstadt.

CHAIRPERSON DILAN: --Eisenstadt

from the Association of, Association for a Better

New York. And that will be entered into the

record in full. And the testimony is in

opposition. And we'll have all written testimony

that was submitted to the Committee be entered

into the record, in full. And at this time, all

three items before the Committee, Intro 57, Intro

104, and Intro 237, will be laid aside, and that

will conclude this hearing.

[gavel]

[silence for remainder]

C E R T I F I C A T E

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

A handwritten signature in cursive script that reads "John David Tong". The signature is written in a dark ink and is positioned above the printed word "Signature".

Signature

Date December 22, 2010