

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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March 9, 2011  
Start: 1:10 pm  
Recess: 2:40 pm

HELD AT: 250 Broadway  
Committee Room, 16th Floor

B E F O R E:

ERIK MARTIN DILAN  
Chairperson

COUNCIL MEMBERS:

James Vacca  
James S. Oddo  
Joel Rivera  
Gale A. Brewer  
Brad Lander  
Jumaane D. Williams  
Melissa Mark-Viverito  
Leroy G. Comrie, Jr.  
Lewis A. Fidler  
Elizabeth Crowley  
Eric Ulrich  
James F. Gennaro

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

Vincent Grippo  
Chief of Staff  
New York City Department of Buildings

Andrew Salkin  
Deputy Commissioner for Operations  
New York City Department of Finance

Brad Bishop  
Executive Director of Strategic Planning  
New York City Department of Buildings

Angela Sung  
Senior Vice President, Management Services and  
Government Affairs  
Real Estate Board of New York

Jessica Handy  
Codes and Regulations Government Affairs Committee  
Building Owners and Managers Association of New York

Robert Altman  
Legislative Consultant  
Building Industry Association of New York City

Stephen Lutsen

2 CHAIRPERSON DILAN: Good morning--  
3 or good afternoon, I'm sorry. My name is Erik  
4 Martin Dilan and I am the chairperson of the City  
5 Council's Committee on Housing and Buildings.

6 Today the committee will conduct an  
7 initial hearing and at the close of the hearing,  
8 this item will be laid aside for potential  
9 disposition at a future date--and that's just for  
10 the benefit of the members.

11 Three 79 is a Local Law that would  
12 amend the administrative code of the city of New  
13 York, and this is in relation to the denial of  
14 building permits to property owners with  
15 outstanding charges owed to the City of New York.  
16 The Council and the bill's sponsor, Council Member  
17 Jimmy Vacca, is concerned with the Department of  
18 Buildings' current practice of issuing permits to  
19 applicants irrespective of whether or not they  
20 have outstanding fines or civil penalties owed to  
21 the city.

22 Intro 379 would prohibit the  
23 Commissioner of Buildings from issuing any permit  
24 for property that has in total more than 25,000  
25 owed and outstanding to the City in ECB

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2 violations, and these are fines, civil penalties,  
3 or judgments imposed or entered against the  
4 property. It will also include fees or other  
5 charges assessed by the commissioner, fees and  
6 fines or liens related to emergency repairs or  
7 repairs performed on or on behalf of the  
8 Department of Housing Preservation and  
9 Development, tax arrears owed to the city, as well  
10 as unpaid water or sewage charges.

11                   During today's hearing, the  
12 committee expects to hear from testimony from  
13 representatives from the Department of Buildings  
14 who are here at this time, from real estate  
15 professionals, developers, property owners,  
16 members of labor, and anyone else who has a  
17 particular interest in the item before this  
18 committee today.

19                   As the Sergeant-at-Arms said at the  
20 outset, if you have a comment that you'd like to  
21 make on this bill, whether in favor or opposed,  
22 please see the Sergeant-at-Arms and fill out an  
23 appearance card and please indicate whether you're  
24 in favor or opposed.

25                   Before I turn over to Council

1  
2 Member Vacca for an opening statement, who is the  
3 lead sponsor of today's item, I want to  
4 acknowledge the members of the committee who are  
5 present. The Republican Leader Jimmy Oddo of  
6 Staten Island; the Democratic Majority Leader Joel  
7 Rivera of the Bronx; Council Member Gale Brewer of  
8 Manhattan; to my immediate right, Baaba Halm, the  
9 counsel to the committee; Ben Goodman next to me  
10 on the left, policy analyst to the Housing and  
11 Buildings Committee; and we have Laura Rogers, who  
12 is also counsel to the committee sitting in the  
13 back row.

14 So with that, Council Member Vacca,  
15 if you have an opening?

16 COUNCIL MEMBER VACCA: Thank you,  
17 Chair Dilan, and thank you everyone for your  
18 attendance.

19 This legislation came about because  
20 of a realization I had based on a local project in  
21 my own district. We had an individual who came to  
22 the buildings department, filed an application to  
23 build a high-rise and most people in the  
24 surrounding community of one and two-family homes  
25 thought that the density was too great, but the

1 zoning allowed it to be built. And we then looked  
2 into the application further and we began to find  
3 that he had significant tax arrears with the City  
4 of New York owing HPD money for the emergency  
5 repairs on other buildings he owned, owing real  
6 estate, water, sewer, and other charges. So I had  
7 requested that the buildings department not grant  
8 a permit based on the money owed and that the  
9 money be paid before permit was considered, and I  
10 was told that the buildings department does not  
11 have the power to do so.  
12

13 So I came to the realization,  
14 number one, that New York City is losing out on  
15 significant revenue because time and time again  
16 this situation occurs in the city of New York.  
17 And I also realized that here we had a possibility  
18 of putting some teeth into a law that would not  
19 just get the city revenue, but would also hold  
20 people accountable for property they own to make  
21 sure that it is in good condition. It would  
22 expedite the payment of violations or perhaps make  
23 sure that the violations don't occur in the first  
24 place.

25 So that's where this legislation

1  
2 came from. I do realize that tracking down who is  
3 building what through an LLC, through an  
4 individual, through a corporation, many of these  
5 issues are difficult. And I've been meeting with  
6 stakeholders for some time, and I thank Councilman  
7 Dilan and the Housing and Buildings Committee  
8 staff for their assistance.

9           So today's hearing is to listen and  
10 to hear. My concept is that, in all fairness,  
11 those who have such arrears and those who have a  
12 history of being bad actors should not be given  
13 the license to do more harm and basically a  
14 license to end up not paying on the next building  
15 they build as well. Where our city can act to nip  
16 that in the bud so to speak, I would like us to be  
17 proactive.

18           Thank you, Mr. Chair. And I do  
19 have to apologize, at a certain point, I'm going  
20 to have to leave and then come back because I'm  
21 chairing a Transportation Committee meeting with  
22 Sanitation and Public Safety, but I will be back,  
23 and I thank the chair for your indulgence.

24           CHAIRPERSON DILAN: Yeah, and I  
25 don't know how I'm going to do this, but I'm a

1  
2 member of one of those other committees and have  
3 to go get marked present.

4 And I think myself and the sponsor  
5 of the bill also recognize that there is the  
6 possibility for some unintended consequences in  
7 the bill, so we want to say to a lot of the decent  
8 stakeholders that we recognize that and we look  
9 forward to talking to you at some point, if need  
10 be, to help mitigate some of these problems.

11 So with that, we have the  
12 Department of Buildings, as well as the Department  
13 of Finance, will both agencies be testifying  
14 or...?

15 MALE VOICE: Yes.

16 CHAIRPERSON DILAN: Okay, so you  
17 can begin in whatever order you'd like, and if you  
18 could identify yourself for the record before you  
19 begin your testimony.

20 VINCENT GRIPPO: Sure, good  
21 afternoon, Chairman Dilan, Council Member Vacca,  
22 and members of the Housing and Buildings  
23 Committee. My name is Vincent's Grippo, I am  
24 Chief of Staff for the Department of Buildings.  
25 I'm here today with Donald Ranshte, who's our

1  
2 Director of Intergovernmental Affairs, and Brad  
3 Bishop, who's our Executive Director of Strategic  
4 Planning.

5 I want to thank you for this  
6 opportunity to comment on Introductory number 379,  
7 otherwise known as the Bad Actors Bill, a proposed  
8 amendment to the building code regarding  
9 conditions for withholding permits. Intro 379  
10 would prohibit the Department of Buildings from  
11 issuing building permits when building owners or  
12 their applicants owe the department fees, fines,  
13 judgments, or penalties, with exceptions for  
14 emergency work, permits to correct outstanding  
15 violations, or where the owner has entered into an  
16 agreement with the city to pay any outstanding  
17 monies owed.

18 The mission of the department is  
19 clear: To ensure safe and compliant development  
20 for New Yorkers. Violations will deter offenders  
21 only if the offenders know that they will have to  
22 pay the fines levied against them or face  
23 consequences for not paying their fines. Code  
24 compliance is our primary goal, and fines and  
25 penalties are the means by which we force a degree

1  
2 of compliance.

3           The bill as written presents many  
4 operational and logistical challenges that would  
5 create a significant burden on DOB staff, as well  
6 as the filing community. Most significantly is  
7 the lack currently of an automated network system  
8 that's capable of aggregating that outstanding  
9 debt and ascribing it to particular properties  
10 across the city. Without such a system, we could  
11 potentially create significant delays in permit  
12 issuance for all applicants, including the tens of  
13 thousands of homeowners, construction workers,  
14 contractors, and businesses that rely on timely  
15 permit issuance.

16           The Department of Buildings strives  
17 to be an effective part of the city's greater goal  
18 of collecting outstanding debts from bad actors  
19 and keeping permits and licenses out of the hands  
20 of owners and contractors who don't pay their  
21 fines and penalties [pause]--sorry [off mic]  
22 [pause].

23           In studying the application of [off  
24 mic] Intro 379 to our operations, the department  
25 is prepared to work with the Council on an

1  
2 alternative bill that would allow DOB to withhold  
3 certain permit types when property or BIN-based  
4 DOB debt exceeds a defined threshold. In doing  
5 this, we would need to be mindful of the potential  
6 unintended consequence that we may push work  
7 underground, that is, applicants avoiding the  
8 permitting process altogether and deciding not to  
9 apply for a permit due to an overly cumbersome  
10 process.

11 In addition, DOB is working with  
12 the Department of Finance and the Mayor's Office  
13 of Operations on a multifaceted effort to help  
14 enhance revenue collection. To that end, the  
15 department continues to pursue any practical way  
16 to deny permits and licenses to owners,  
17 contractors, and others who do not pay their  
18 fines.

19 Thank you for the opportunity to  
20 present testimony on Intro 379. I'll now defer to  
21 Andy Salkin from Department of Finance.

22 ANDREW SALKIN: Good afternoon,  
23 Chairman Dilan, Council Member Vacca, members of  
24 the City Council Committee on Housing and  
25 Buildings. I am Andrew Salkin, Deputy

1  
2 Commissioner for Operations at the New York City  
3 Department of Finance, here today representing  
4 Commissioner David M. Frankel.

5 Thank you for the opportunity to  
6 testify today on Intro number 379, Council Member  
7 Vacca's bill, to deny building permits to property  
8 owners with outstanding charges owed to New York  
9 City.

10 At Finance, we want to help protect  
11 the majority of New Yorkers who pay what they owe  
12 by collecting from those who don't. Under  
13 Commissioner Frankel, our agency is focused on  
14 leveling the playing field. One way to do this is  
15 looking for new methods to get individuals and  
16 entities to pay what they owe. Getting the bad  
17 actors that choose not to pay to do so is often  
18 challenging, and that is why we appreciate the  
19 Council's focus on this important issue.

20 I want to take the opportunity to  
21 explain some of what we hope to achieve at  
22 Finance, which will require the support of this  
23 Committee and Council. Not just limiting  
24 ourselves to fines originating at the Department  
25 of Buildings, Finance wants to make sure that we

1  
2 collect the outstanding fees, charges, fines, and  
3 taxes owed to the City. If we assume that those  
4 who are regulated by or do business with the City  
5 owes some portion of this debt, then developing  
6 tools to encourage these people to pay outstanding  
7 debts is an important objective.

8           We want to do a better job of using  
9 the city's potential leverage to get paid what is  
10 owed. So for example, at Finance we are very  
11 interested in an approach that matches entities  
12 that receive licenses or permits with outstanding  
13 debt owed. If the entity has unpaid parking  
14 tickets or owes ECB fines, we want to make sure  
15 the City collects the money before the permit or  
16 licensee is renewed or issued.

17           Using sophisticated data matching  
18 techniques linking debt held by the same entity  
19 across different agencies is possible. This will  
20 allow the City to develop additional programs such  
21 as placing a hold on a licensee from renewing  
22 their license which will incentivize paying of  
23 outstanding debts. This concept is similar to a  
24 program Finance currently practices with the New  
25 York State Department of Motor Vehicles, where

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2 vehicle registration renewal is placed on hold if  
3 the vehicle owner has three or more judgment  
4 tickets over an 18-month period.

5 So while Finance agrees with the  
6 spirit of this bill, we would prefer if the  
7 Council would instead support a broader initiative  
8 focused on unpaid fines and other charges from any  
9 city agency. The City should be able to use its  
10 powers to collect debt when debtors are asking for  
11 the authorization or license.

12 We look forward to working with  
13 Council on this issue. Thank you, again, Chairman  
14 Dilan, for inviting us here today, I'm happy to  
15 answer questions.

16 [Pause]

17 CHAIRPERSON DILAN: Okay. We've  
18 been joined by Council Member Brad Lander of  
19 Brooklyn, who is also a member of the committee.

20 And, look, I'll say again, like I  
21 said at the outset, like I said in my opening  
22 statement, I think what we're trying to achieve is  
23 a noble goal, but what I'm worried about is the  
24 mechanism that we put in place to achieve this  
25 goal and to make sure that we do not harm people

1  
2 who are acting in good faith and doing the right  
3 thing out there in our city. I'm interested in  
4 the details of a broader initiative, but I don't  
5 know that any of them are here before us today.  
6 So I guess at some point I'd be happy to hear what  
7 they are and see how they work, but between now  
8 and then, I believe, personally, that I need to be  
9 sold on this new system, because while DOB can  
10 trace some things, you said in your own statement  
11 that you lack the technology to do it. Finance  
12 may or may not have the technology to--and you  
13 could elaborate on your own if Finance has the  
14 technology to determine across every city agency  
15 who owes the City money and how much.

16           The bill includes water and sewer  
17 and, from what I can recall, the last time we did  
18 the water lien sale, not the one that we just  
19 authorized, but the one we authorized several  
20 years ago, a lot of those amounts were in dispute  
21 by people throughout the city of New York.

22           So these are the types of  
23 situations that I'm very concerned about and want  
24 to work to avoid and would want to have confidence  
25 in, not only the Buildings department system, but

1  
2 the Finance department's computer systems to know  
3 that this can be done accurately.

4 So to get into my questions, and I  
5 guess the appropriate agency can respond, to your  
6 knowledge, how much in unpaid fines is currently  
7 owed to the city? We got Gale Brewer's estimate  
8 yesterday, how much of that amount is related to  
9 unpaid building code fines and penalties? And  
10 what other types of charges and fines are  
11 currently outstanding to the city? And on  
12 average, how long have these fines and charges  
13 been outstanding? So I guess if Buildings wants  
14 to lead off specifically to the building code  
15 fines and penalties, if you have that, that's  
16 fine; and if Finance wants to take a crack at the  
17 other two parts of the question--

18 VINCENT GRIPPO: Sure--

19 CHAIRPERSON DILAN: --can do it  
20 that way.

21 VINCENT GRIPPO: --in terms of ECB  
22 debt that's owed when a Buildings inspector goes  
23 out and issues an ECB violation--and you guys can  
24 jump in--but I guess there's a seven-year life  
25 that that debt has, so if you look back at the

1  
2 debt that we have accumulated that's unpaid, over  
3 seven years it's approximately \$160 million in  
4 unpaid DOB issued ECB debt.

5           ANDREW SALKIN: Right, so ECB is an  
6 important mechanism for the city, it's in a key  
7 Administrative Court hears many hearings from many  
8 different agencies. Currently ECB has a hearing  
9 and if the debt gets placed in the judgment, it  
10 passes to Finance, so looking at the debt that the  
11 finance department gets--I know there is a report  
12 circulated that I think was focusing on more  
13 current debt, but if you look at it in totality,  
14 there is 1.6 million summonses in that right now  
15 with just under a billion dollars, not including  
16 interest sitting there. And for us, when we think  
17 about the ECB debt, it's given to people that are  
18 either doing business with the city or people that  
19 own a property in the city for the most part. And  
20 it could be people that aren't licensed, they  
21 could be doing something illegal altogether, but a  
22 lot of those folks have some other business with  
23 the city. So that's the ECB debt portfolio is  
24 about a billion dollars plus interest and 1.6  
25 million different summonses.

2 CHAIRPERSON DILAN: Okay. But I  
3 think what I was alluding to for you is, the bill  
4 covers more than ECB debt--

5 ANDREW SALKIN: Sure.

6 CHAIRPERSON DILAN: --could you  
7 talk about the covered types, the other covered  
8 types in the bill?

9 ANDREW SALKIN: Sure. I can talk  
10 about what I do know, we can discuss more again  
11 later. I think one of the--

12 CHAIRPERSON DILAN: Sure.

13 ANDREW SALKIN: --challenges the  
14 city has, and I think you mentioned that in your  
15 comments, is this idea that we can't really do  
16 this now so as we decide that we can do this and  
17 get authority to do this, we'll have to walk into  
18 it and understand exactly what we'll be doing and  
19 how the due process will work and how we get  
20 there.

21 So for parking debt, there is about  
22 almost 6 million outstanding summonses.

23 CHAIRPERSON DILAN: [Interposing]  
24 Yeah, I don't think we need to do that 'cause  
25 parking debt is not covered.

2 ANDREW SALKIN: Well okay, sorry,  
3 for our testimony we're suggesting covering  
4 parking debt. So for other debt I can't speak to  
5 water, because I don't know the water, but and  
6 then in terms of other outstanding charges--

7 CHAIRPERSON DILAN: [Interposing]  
8 All right, so then, if you want--since it's not in  
9 the bill, but maybe you could give us the answer--

10 ANDREW SALKIN: Sure.

11 CHAIRPERSON DILAN: --and then at  
12 some point if you can get back to us in writing in  
13 terms of what are the outstanding charges for all  
14 the facets that are covered currently by the  
15 legislation, and I know it's going to change at  
16 some point, but you can give us what you have now,  
17 and then we can get back to you specifically--

18 [Crosstalk]

19 ANDREW SALKIN: [Interposing] Sure,  
20 well all right, well parking we think is important  
21 'cause there is an extensive amount of debt--

22 CHAIRPERSON DILAN: Sure.

23 ANDREW SALKIN: --and a lot of the  
24 people who owe debt are people who are doing  
25 business in the city. There's about 6 million

1  
2 outstanding summonses for, I think just about--I  
3 want to get the exact numbers for you--for just  
4 about \$700 million. In terms of property-based  
5 charges, which could include taxes, could include  
6 ERP, as was mentioned, it could include sidewalk  
7 repairs, it could include some building fees, and  
8 these are mostly fees, there is about \$3.1  
9 billion, depending how you count. A lot of that  
10 is taxes so a lot of that will flow into the lien  
11 sale over time. And now that would also include  
12 ERP and AEP passed by the law sometime next year.

13 CHAIRPERSON DILAN: All right, and  
14 I believe that part is covered in the bill, but  
15 for both for parking and property, you also for  
16 parking I know clearly you have a mechanism to  
17 collect and there's a certain threshold where the  
18 marshals and everybody comes in and tows people's  
19 cars away. So at some point that gets cleared if  
20 you can find them, the problem is finding them.

21 ANDREW SALKIN: If you're at the  
22 threshold.

23 CHAIRPERSON DILAN: Okay. Well the  
24 threshold is significantly lower than \$25,000 in  
25 the bill so--

2 ANDREW SALKIN: Right, and--

3 CHAIRPERSON DILAN: --it should be.

4 Okay, so I guess, could you update the committee  
5 on the effort by the Mayor's Office of Operations  
6 to improve collection rates? I know we've passed  
7 some legislative proposals to improve collection  
8 rates through the ERP legislation that we passed  
9 and the water lien sale legislation that we  
10 recently passed. Is there any update that you can  
11 give this committee on what the city is doing to  
12 improve collection rates overall in outstanding  
13 debt?

14 [Off mic]

15 ANDREW SALKIN: Well I think you  
16 mentioned the critical piece for the city  
17 collecting--piece to the program for the city  
18 collecting unpaid debt that's tied to property is  
19 the lien sale mechanism, which the Council and the  
20 administration worked hard at passing and that was  
21 passed last week. That will take care of people  
22 who have qualifying charges on water, on real  
23 estate, and now on ERP and AEP starting next year  
24 and the administration is going to--we're trying  
25 to understand all the different changes and try to

1  
2 do something as quickly as we can in terms of  
3 getting to the next lien sale, hopefully sometime  
4 in the midsummer.

5 So that's just this key piece on  
6 outstanding debt that's focused on property. In  
7 terms of other debt that we have focusing on  
8 parking debt--are you interested in parking debt?

9 CHAIRPERSON DILAN: Yeah, well you  
10 can say it, but it's not really covered, and I  
11 guess it's good for you to say it for the record  
12 because if the bill does get amended, at least  
13 we'll have the number for the record.

14 ANDREW SALKIN: Right, so parking  
15 debt, as you mentioned, there is a \$350 threshold  
16 for vehicles getting towed, but there's a great  
17 number of vehicles that aren't part of that that  
18 get towed. We're working on a program--we have  
19 programs with the Department of DMV, which I  
20 mention in my testimony, where we suspend people  
21 for getting their license renewed if they have  
22 three outstanding judgments over an 18-month  
23 period, and that typically we send about 250  
24 different suspension holds or renewal holds to DMV  
25 every month. This is the kind of tool that we

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think is important.

On ECB debt--well I guess more in parking debt we've been working with outside collection agencies to send a bulk of the debt to 'cause a lot of the debt is very small numbers and individuals, many of the people live outside the state. So we're working on beefing up our abilities to get professional services in to collect some of this debt.

On the ECB side, we've been trying to understand exactly what this debt is and coming to terms with where it originated from and how we can best collect it. One of the things we've realized is that there's a lot of entities that have debt that are really good corporate citizens so we've developed programs where we're reaching out to them. I'll give you a good example is any list that you look at, probably one of the biggest debtors in the city would always be Con Edison and what you know is, I think you suggested, it's not malicious or an intent, it's just a matter of do they know and how do you communicate with a large organization like that. So we've been working on consolidating, if you will, kind of a bill or a

1  
2 communication tactics with Con Edison and Verizon  
3 and letting them know what their charges are and  
4 giving them the opportunity to go back to ECB and  
5 clear up what they had outstanding that they  
6 didn't know about or work with us to engage in  
7 payments.

8 CHAIRPERSON DILAN: Yeah, 'cause I  
9 think included in any part of this legislative  
10 package would have to be mechanisms at least with  
11 the agencies that I'm familiar with, which would  
12 be Buildings and HPD, on a process for the general  
13 public to get their general violations cleared on  
14 your systems after--

15 ANDREW SALKIN: Right.

16 CHAIRPERSON DILAN: --after they've  
17 been paid for and taken care of, they still wind  
18 up on computer systems by the city and that's  
19 going to be a major point of concern from people  
20 that I imagine will testify later.

21 So as part of that broader package  
22 that you're thinking of, before it gets my  
23 approval there's going to have to be something  
24 there with, at minimum, the two agencies that this  
25 committee has oversight of and potentially some

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others.

ANDREW SALKIN: Can I just comment on that?

CHAIRPERSON DILAN: Sure.

ANDREW SALKIN: I think it's critical that whatever program the administration and council work out together involves a due process and a communication to the public so the public can easily know where they stand in terms of the city's perspective and know what the necessary steps are to get out of that hold situation or denial situation. And I couldn't agree with what you just said more and I just wanted to say that on the record.

CHAIRPERSON DILAN: Great, I look forward to seeing that. So I guess that leads into my next question is, what challenges exist in tracking property ownership information? Presently the department does request property ownership information and what level of ownership must be disclosed, when is this information sought and how mechanically do you think this will be used to implement whatever's past?

VINCENT GRIPPO: Sure, so when

1  
2 somebody files with us and they fill out a PW1  
3 there is information they need to provide--

4 CHAIRPERSON DILAN: [Interposing]

5 You got to tell us what a PW1--

6 [background noise]

7 VINCENT GRIPPO: Brad, who is my  
8 operations redesign guys--

9 [Crosstalk]

10 CHAIRPERSON DILAN: [Interposing]

11 And before we do that, I'll do a little  
12 housekeeping, we've been joined by Jumaane  
13 Williams of Brooklyn, Council Member Melissa Mark-  
14 Viverito of Brooklyn, Council Member Comrie of  
15 Queens, and Council Member Fidler of Brooklyn.

16 So if you could identify yourself  
17 for the record, and then you can go into the  
18 question.

19 BRAD BISHOP: Sure, I'm Brad  
20 Bishop, the Executive Director of Strategic  
21 Planning at the Department of Buildings.

22 The PW1 application that Vinny  
23 referred to is the initial application that an  
24 architect or an engineer submits to commence the  
25 permitting process, the Buildings department get

1  
2 plan approval. That form requires some basic  
3 ownership information. You know, your kind of  
4 name, address, business name, and that sort of  
5 information and that's pretty much the extent of  
6 the ownership information that we collect on an  
7 application base at the Department of Buildings.

8 VINCENT GRIPPO: So the issue, and  
9 this has come up with logistically handling this  
10 bill, is if you're a partnership or a corporation,  
11 our current application does not necessarily  
12 pierce the corporate veil to the level of detail  
13 we would need to ascribe individual debt to  
14 particular properties in all instances, and that's  
15 what we're trying to resolve with Department of  
16 Finance.

17 CHAIRPERSON DILAN: You have  
18 anything to add, is there anything you're seeing  
19 on your side or you may not--

20 ANDREW SALKIN: Right, I think--

21 CHAIRPERSON DILAN: --I understand  
22 that to be the challenge, but I just want to get  
23 your insight as well.

24 ANDREW SALKIN: So the idea that  
25 there's this challenge of piercing the corporate

1  
2 veil is very significant and important and I think  
3 we were talking about with Department of Buildings  
4 is well maybe if we can't do that that easily,  
5 what if it was more of a broad-based concept where  
6 this idea that you just can't owe the City money  
7 if you want to do business with the City  
8 regardless of who owns your property really. So  
9 this idea of rather than saying Person A owns  
10 property A, B, C, and D, well what if we focused  
11 more on property A, B, C, and D, and just  
12 individually if property A has ERP charges or they  
13 have outstanding Buildings fines against, well  
14 they should be denied their activity until they  
15 get their house in order. And maybe there is a  
16 relationship to property A or property C, and we  
17 might miss that by what we're proposing, but the  
18 idea is we'll eventually catch up with the people  
19 who choose not to follow the rules and become bad  
20 actors.

21 CHAIRPERSON DILAN: So I guess my  
22 final question--and the list is open for members  
23 who are interested--does any other agency  
24 currently have the authority to deny a permit  
25 based on outstanding fees or other charges, and if

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so, what agency is that?

ANDREW SALKIN: My understanding is Department of Transportation has in their rules a practice where if you owe ECB debt to Department of Transportation, they can withhold your ability to get a permit. And I think the way the rule is written, it might be a little more expansive than just Department of Transportation debt within ECB, but I don't think they--we've been discussing them on how this could be practiced and how we would work this. But the idea of kind of having a more broad-based sense where it's denials across different agencies for debt that may be held by different agencies is something that we believe would require some legislation and coordination with Council and the administration.

CHAIRPERSON DILAN: Okay. So to your knowledge, just one agency, right? All right, thanks guys. Council Member Williams, and then after that the list is open.

COUNCIL MEMBER WILLIAMS: Thank you, Mr. Chair. Thank you for the testimony, I apologize I came late, so I missed some of it but I did read it. And I have a question I think was

1  
2 asked already so I apologize, but in the testimony  
3 from Finance it says, use sophisticated data  
4 matching techniques linking debt held by the same  
5 entity across different agencies is possible, and  
6 that's the exact opposition that DOB had saying,  
7 most significantly the lack of an automated  
8 network data system capable of aggregating  
9 outstanding debt with properties across the city.  
10 So are you saying do we have it now or are we  
11 saying we don't have it, is it easy to get?

12                   ANDREW SALKIN: It's a complicated  
13 process to do and I think what Buildings--and I  
14 don't want to speak for Vinny, but responding to  
15 the way the bill is currently structured it would  
16 require the Department of Buildings to do a level  
17 of administration and a level of activity at the  
18 point--

19                   COUNCIL MEMBER WILLIAMS:  
20 [Interposing] So wait, let me just back up a  
21 little. So you say in your testimony, it's  
22 possible, right?

23                   ANDREW SALKIN: It's absolutely  
24 possible.

25                   COUNCIL MEMBER WILLIAMS: Okay.

1  
2 And now you're saying it's possible, but it's  
3 administratively difficult, is that...?

4 VINCENT GRIPPO: Yeah, so from the  
5 Department of Buildings perspective, there are two  
6 logistical issues. One issue is that our debt is  
7 ascribed to a property and not an individual, and  
8 so when you look at an individual--and Council  
9 Member Vacca's example where an individual owed  
10 outstanding monies, when we look at DOB debt, it's  
11 ascribed to a property, so we use Building  
12 Identification Numbers and there's debt ascribed  
13 to Building Identification Numbers. We could  
14 withhold permits fairly easily with some  
15 administrative work on Building Identification  
16 Numbers so that if you try to pull a new building  
17 or an Alt 1 permit on a property that owes  
18 outstanding DOB issued debt, if you gave us the  
19 legal authority to do that, which we don't  
20 currently have, it would be fairly easy--it would  
21 take some administrative work, but fairly easy for  
22 us to do that. We're not able to do the other two  
23 parts, which is ascribe it to an individual and we  
24 don't have any data with respect to other types of  
25 debt that may be owed. There are certain types of

1  
2 debt we can get from Department of Finance now,  
3 but we'd have to work on a system that would take  
4 it from their data system and dump it into ours.

5 COUNCIL MEMBER WILLIAMS: And you  
6 said it--and I'm sorry, I zoned out at that one  
7 point, but what's Alt 1 again?

8 VINCENT GRIPPO: Alteration 1 is a  
9 significant--it's like a gut renovation of a  
10 building.

11 COUNCIL MEMBER WILLIAMS: Okay. So  
12 right now, you can if we gave you legal  
13 permission, stop someone from getting a permit if  
14 they apply for a Alt 1 and they have debt ascribed  
15 to that building?

16 VINCENT GRIPPO: If we were given  
17 the legal authority, we would be able to do that  
18 with a minimal administrative work around on our  
19 side.

20 ANDREW SALKIN: But only for  
21 Building's debt.

22 VINCENT GRIPPO: Only for  
23 Building's debt.

24 ANDREW SALKIN: Only for debt from-

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[Crosstalk]

ANDREW SALKIN: --issued. So what we're talking about that's new is this idea of, if someone had taken out a permit to do work on a building and they put a dumpster on the street and they got a DOT penalty for that, and they didn't pay that debt--

COUNCIL MEMBER WILLIAMS: How much would it cost to be able to aggregate a system?

ANDREW SALKIN: We put through some estimates on how we would put together this idea and put together the matching capabilities to do this and the idea is if we did it on the Finance side, and we were the funnel where all the debt information is coming to and we can begin to link that together and then work backwards to understand who the Buildings population is, who we could then get it to.

The initial estimates are probably I think between 2 and 3 million to set it up and then about \$1 million to keep it going. I think one of the things that we don't understand it fully yet is it's one thing to match the debt, it's another thing to tell someone they owe the

1  
2 debt, but as the chairman mentioned, there's a due  
3 process that has be attached to that to give  
4 people the opportunity to further contest it.

5 So it's one thing to say, oh, dear  
6 Vinny Grippo, did you know you owe Buildings money  
7 and you never paid us and now there's a penalty  
8 for it and he goes, well they got me, I got to go  
9 to ECB and clean it up. It's another thing to  
10 say, Dear Vinny Grippo, did you know you owe the  
11 City money and he's like I didn't know and where  
12 did this come from and I'm not this Vinny Grippo.  
13 So there has to be some very significant--

14 COUNCIL MEMBER WILLIAMS: Yeah.

15 ANDREW SALKIN: --and serious  
16 things that we have to consider as we do this, but  
17 we believe that in certain instances it's very  
18 clear who you are and it's very clear what you did  
19 and you know it and we want to make sure that you  
20 take proper action to clear your name.

21 COUNCIL MEMBER WILLIAMS: Well I  
22 think the numbers you gave seem to be worth it  
23 based on probably the money that's owed throughout  
24 the city.

25 ANDREW SALKIN: We think it's an

1  
2 important tool that would go a long way towards  
3 getting people who do business with the city to  
4 make sure their record is clean as they approach  
5 the opportunity to do business with the city. I  
6 think it's an important tool and that's why we're  
7 very interested in exploring that further with the  
8 committee.

9 COUNCIL MEMBER WILLIAMS: Do any  
10 departments currently use outstanding fines and  
11 fees to prevent getting any types permits?

12 ANDREW SALKIN: It's similar to the  
13 question, there's a lot of agencies I just was  
14 thinking about that within themselves, if you owe  
15 the agency money, they won't do business with you.

16 COUNCIL MEMBER WILLIAMS: There's  
17 no cross.

18 ANDREW SALKIN: But the idea of  
19 cross--and even if you think about ECB, what's  
20 important to understand with ECB, it's a separate  
21 tribunal, so when Buildings issues debt to ECB,  
22 it's for violating the building code or for  
23 violating a building rule, but the debt is, it's  
24 at ECB and so it's actually a different agency.  
25 So that's one level of change there we're talking

1  
2 about, but now we're talking about even going  
3 further.

4                   And one of the things that gets  
5 legally concerning for folks is, it's one thing to  
6 hold debt at Buildings for someone who does  
7 renovations, it's another thing to hold debt at  
8 Buildings for someone who has a penalty for  
9 something that has nothing to do with Buildings,  
10 and what we're looking at doing is just saying  
11 we're agnostic to the debt, you owe the city  
12 money, clear your house, clear your debt before  
13 you start doing business.

14                   COUNCIL MEMBER WILLIAMS: All  
15 right, and the last one actually you said that you  
16 can get towed even if you're lower than the  
17 amount--the 350?

18                   ANDREW SALKIN: No, no, that's a  
19 threshold, if you owe \$350--

20                   COUNCIL MEMBER WILLIAMS: Yeah.

21                   ANDREW SALKIN: --that is the  
22 towing threshold.

23                   COUNCIL MEMBER WILLIAMS: You said  
24 some people can get towed even below that.

25                   ANDREW SALKIN: If I said that,

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that's not what I meant to say--

COUNCIL MEMBER WILLIAMS: Okay.

ANDREW SALKIN: --and I apologize for that.

COUNCIL MEMBER WILLIAMS: All right, thank you.

CHAIRPERSON DILAN: It's possible, and it's not a transportation hearing, but of course, if you're in front of a hydrant--

[Crosstalk]

CHAIRPERSON DILAN: --they might tow you--

[Crosstalk]

COUNCIL MEMBER WILLIAMS: Oh no, I thought he meant the fines.

ANDREW SALKIN: --debt as opposed to being parked illegally.

COUNCIL MEMBER WILLIAMS: All right, thank you.

CHAIRPERSON DILAN: I know it's possible, trust me. We've been joined by Council Member Elizabeth Crowley of Queens. We have Council Member Lander, followed by Viverito.

COUNCIL MEMBER LANDER: Thanks very

1  
2 much for being here. This last exchange with  
3 Council Member Williams put me to thinking about  
4 some of the work that I know the Mayor's Office of  
5 Contracts is doing to try to aggregate a range of  
6 essentially different kind of good and bad action  
7 across agencies and I wondered whether you had  
8 been in dialogue with them. Obviously, there's a  
9 different set of issues with the range of city  
10 contracts than there are with people who owe the  
11 much broader set of fees and fines that we're  
12 talking about, but I know they've been trying to  
13 figure out essentially the same set of questions  
14 across a wide range of contracting agencies, you  
15 know, what's the...

16 ANDREW SALKIN: Well I'm not  
17 exactly sure what particular program you're  
18 referring to, I will tell you that the Department  
19 of Finance, as part of the Vendex process, we  
20 check people who are about to get contracts or  
21 have their contracts modified in significant ways,  
22 we check to see outstanding debt--if they file  
23 their taxes, if they have parking debt--and to do  
24 a check like that as a condition of them getting  
25 their contract getting Vendex approved.

1  
2 And then when it's ongoing we do  
3 periodic checks to make sure they're still in good  
4 standing. If they are, we work with the vendor to  
5 potentially even hold back payments.

6 COUNCIL MEMBER LANDER: So that's a  
7 way in which you feed information on tax  
8 scofflawism--

9 ANDREW SALKIN: Sure.

10 COUNCIL MEMBER LANDER: --to MOC so  
11 that they can avoid issuing a contract to someone--  
12 -

13 ANDREW SALKIN: Rather--

14 [Crosstalk]

15 COUNCIL MEMBER LANDER: --than have  
16 some these--

17 ANDREW SALKIN: --taxes, right.

18 COUNCIL MEMBER LANDER: --flaws. I  
19 think they are like what is being contemplated  
20 here, but with a different set of data also trying  
21 to think about how do we build a cross agency  
22 database that reflects a range of information so  
23 that if someone has done something over here that  
24 we don't like, we're not giving them--we're not  
25 doing business with them over here in that way.

1  
2 In some ways, I think you could  
3 make an argument we should just keep fees and  
4 fines separate and that's debt owed to the city by  
5 a wider range of actors. In other ways it would  
6 be very use--there are these big intersections  
7 with HPD, there's a range of folks who would--and  
8 it would be useful, I think, to at least make sure  
9 if you're designing a system that's designed  
10 across a set of agencies to identify certain kinds  
11 of bad action to avoid doing certain kinds of  
12 business in as much as the City's already got an  
13 effort to do that that overlaps that where it's  
14 [off mic] about whether they intersect with each  
15 other. And they may not, if you come back and say  
16 we talked to them and it didn't makes sense and  
17 here's why and here's how the systems--

18 ANDREW SALKIN: [Interposing] So  
19 one general comment to what you just said, I think  
20 it was well said, and I think that's what we're  
21 trying to explore here. I think the piece, at  
22 least how I understand it, when the city is  
23 engaging in a contract with an entity and for us  
24 to say pay up before we pay you, that's a  
25 different legal relationship than we have than

1  
2 with entities who have permits or entities that  
3 have licenses. And this is what we're talking a  
4 little bit about the Councils, how do we explore  
5 creating the legal authority for the city to have  
6 a similar relationship.

7 And I think you're right, what is  
8 the debt and what is the threshold for certain  
9 debts and what is the process for us holding you  
10 accountable.

11 COUNCIL MEMBER LANDER: Absolutely,  
12 I mean, I think the threshold for denying someone  
13 a building permit is different from the threshold  
14 for denying an entity a contract, you're going to  
15 have a different matching problem yet again,  
16 because those entities are corporate and not  
17 individuals.

18 So I'm not saying they should be  
19 one and the same, only that it seemed like there  
20 should be some--they're confronting some of these  
21 same problems and it seems like it would make  
22 sense.

23 The other question I have--and you  
24 may not know the answer to this--but another way  
25 that I know the administration has been wanting to

1  
2 get at the challenge of outstanding debt on  
3 Buildings is to improve the lien position of the  
4 liens, especially Department of Buildings, ECB,  
5 and HPD liens, which right now, as to my  
6 understanding, are much weaker than tax liens  
7 against property and, as a result, are paid less  
8 or taken less seriously. And in many cases are  
9 seen to fall essentially behind bank debt,  
10 especially on foreclosed properties or properties  
11 facing foreclosure, that means people that treat  
12 them trivially.

13                   So I know that there have been  
14 efforts that I think the administration is  
15 supportive of to change this in Albany and I  
16 wonder if you could speak to those efforts. You  
17 look like you don't know what I'm talking about.

18                   VINCENT GRIPPO: That's correct, I-

19 -

20                   COUNCIL MEMBER LANDER: Which may  
21 be my problem, but [off mic].

22                   ANDREW SALKIN: No, I think the  
23 specific examples and what we're working on in  
24 Albany, I can't speak to right now. I will say  
25 though, the lien and the ability to leverage the

1  
2 lien and having the lien be high on the priority  
3 list is critical and I think the lien sale  
4 legislation that Council passed last week is  
5 immensely important for the city to continue its  
6 high rate of collection--

7 [Crosstalk]

8 COUNCIL MEMBER LANDER:

9 [Interposing] Vinny looked less like he didn't  
10 know what I was talking about so I wonder if you  
11 at least can provide some...

12 VINCENT GRIPPO: I do know that we  
13 have been supportive--

14 [Pause]

15 CHAIRPERSON DILAN: You need to  
16 turn your mic on.

17 VINCENT GRIPPO: Sorry, we've been  
18 supportive in the past of state legislation to  
19 make DOB find some penalties lienable and I'm not  
20 sure, I think it was deferred to a broader effort  
21 which you might be referencing, a citywide effort  
22 to make other types of penalties lienable, but I'm  
23 just not familiar with the details of that effort.

24 COUNCIL MEMBER LANDER: Okay. I'll  
25 ask I guess our counseling committee then if we

1  
2 can--this is a related issue. Obviously, we  
3 shouldn't be granting permits to folks with  
4 outstanding fees and fines, but if we could  
5 connect that to the Council's efforts [pause] to  
6 Albany legislation to strengthen the lien position  
7 of--as I understand it, it's especially DOB and  
8 HPD fines, in some cases, ERP.

9 Our tax bills and our water and  
10 sewer bills have very strong lien position. But I  
11 think there's a lot there's many other things that  
12 come from DOB and HPD that don't and we should  
13 work together to strengthen.

14 Thank you, Mr. Chairman.

15 CHAIRPERSON DILAN: Okay. Thank  
16 you, Council Member Lander, and the committee  
17 staff will follow up on the request.

18 COUNCIL MEMBER LANDER: Thank you.

19 CHAIRPERSON DILAN: We've been  
20 joined by Council Member Erich Ulrich of Queens.  
21 We have Council Member Viverito followed by  
22 Council Member Jimmy Vacca.

23 COUNCIL MEMBER MARK-VIVERITO:  
24 Thank you, Mr. Chair. I'm going to try to  
25 understand a little bit of this and it's been

1  
2 repeated I apologize again, I did come in late and  
3 we're in a million meetings and it's sometimes a  
4 little hard to keep track of all things at this  
5 moment.

6 But with regards to this particular  
7 bill--and just speaking specifically to what Mr.  
8 Grippo was saying--that in terms of the essence of  
9 it is, again, to deny permits to those individuals  
10 or entities that owe money and you're saying that  
11 there's difficulties and challenges in doing that  
12 right now. That's what I'm not understanding  
13 because if a building is identified to a  
14 particular entity or to an individual, if that  
15 entity or individual is applying for a license,  
16 you could easily probably--I mean you can't track  
17 by name of the individual what buildings they own  
18 and whether those buildings do owe outstanding  
19 violations? I know that we also did pass the  
20 multiple dwelling registration bill, which  
21 basically is for those entities, people that own  
22 20% or more of it, that you have to identify  
23 individually the people that own that entity. So  
24 I'm wondering if whether with some of the stuff  
25 that has passed recently there's still the ability

1  
2 to do some level of cross checking and find out  
3 those individuals that do owe money and denying  
4 permits to them?

5 VINCENT GRIPPO: Yes.

6 COUNCIL MEMBER MARK-VIVERITO: Even  
7 if it's not for that particular building, as you  
8 said, but maybe for another building.

9 VINCENT GRIPPO: So the trick is  
10 the way our IT systems work. So when someone's  
11 coming in to pull a permit and the clerk at the  
12 window calls up the field for that particular  
13 permit, that's all going back to a Building  
14 Identification Number. And that's the issue, is  
15 the way we track all of our data, it's tying back  
16 to a Building Identification Number.

17 Now on our application, we are  
18 taking owner information but we're not--our  
19 systems aren't necessarily ascribing four  
20 properties to John Smith and I can easily throw in  
21 John Smith and get those four properties.

22 COUNCIL MEMBER MARK-VIVERITO: All  
23 right, so basically, so I'm just trying to follow  
24 it logically here. So if I come in asking--I own  
25 company ABC and I want to do a permit--you're

1  
2 saying that your system does not allow you to just  
3 look up company ABC and then see all of the BINs  
4 that are ascribed to that company.

5 [Pause]

6 BRAD BISHOP: Just repeat that one  
7 more time for me. So as you're talking about--

8 COUNCIL MEMBER MARK-VIVERITO:

9 [Interposing] So basically, if I come in as  
10 company ABC and I want to apply for a DOB permit--

11 BRAD BISHOP: Right.

12 COUNCIL MEMBER MARK-VIVERITO: --

13 are you telling me that your system does not allow  
14 you to do a search of company ABC and then see  
15 what BINs are attached to that company or that  
16 individual?

17 BRAD BISHOP: No, not in the--so  
18 the ownership information we collect is on an  
19 application basis, so you could have--I like to  
20 use a shopping mall example, so Target may be  
21 applying for a permit, Target may end up on the  
22 application, such and such LLC that owns the  
23 building may be on the application. The way it's  
24 presented is slightly different address or a  
25 different spelling, our system as Vinny has

1  
2 described is not really set up without a lot of  
3 kind of human analysis of dumping all that  
4 information and someone looking at it all to kind  
5 of aggregate it and roll it up to say hey, this  
6 group is touching multiple properties--

7 [Crosstalk]

8 COUNCIL MEMBER MARK-VIVERITO:

9 [Interposing] I mean, I don't know, but that seems  
10 to me kind of a basic--

11 VINCENT GRIPPO: [Interposing]

12 Yeah, the key is we're ascribing the debt to the  
13 Building Identification Number. So we don't issue  
14 a summons the way the police department might  
15 issue a summons to John Smith, we are issuing a  
16 violation to a particular property, it's the way  
17 the system is reading that is it's either linked  
18 to a permit for a new building or it's linked to  
19 an existing building.

20 COUNCIL MEMBER MARK-VIVERITO: No,  
21 and I hear what you're saying but, again, I think  
22 it's very basic if I'm saying if I'm coming into  
23 you as the Department of Buildings of the City of  
24 New York and to say that you have a registered  
25 company, that you can't do a search of the name of

1  
2 that company and then attach all the BINs that are  
3 affiliated with that company.

4 I mean, I don't know I'm not a  
5 technician, I'm not the smartest tool in the shed,  
6 but to me that seems like it's a basic function  
7 that this IT system should be able to provide.  
8 And I'm wondering is there anything that you're  
9 looking at moving forward to change the way your  
10 system is set up, the information it can provide,  
11 is that something that you're planning for  
12 yourselves? I just want to understand where  
13 you're at.

14 VINCENT GRIPPO: What we are trying  
15 to do is work with the Department of Finance to  
16 get enhanced owner information so we can get a  
17 better sense of who owns what properties. And if  
18 we can get the enhanced ownership information  
19 upfront, I think it would be--we would be in a  
20 better position to build a system that would help  
21 us aggregate debt based on individuals or based on  
22 corporations, however we determine we're going to  
23 treat a corporation, and then ascribe it on the  
24 back end to a list of properties. So that is part  
25 of our goal.

2 COUNCIL MEMBER MARK-VIVERITO:

3 [Interposing] I mean, that would be helpful to you  
4 I would assume--

5 VINCENT GRIPPO: Yes.

6 COUNCIL MEMBER MARK-VIVERITO: --I  
7 mean, it would probably would go to this bill as  
8 well. I'm really kind of surprised that you can't  
9 do that kind of a search right now.

10 But I appreciate your information,  
11 hopefully obviously with these conversations, the  
12 intent is always to improve upon what we do and  
13 sometimes I know that we get criticized in the  
14 press that we don't have anything better to do,  
15 but I think that we have helped inform this  
16 administration on a lot of different aspects. So  
17 I'm hoping that this conversation will lead to a  
18 productive end. So thank you very much.

19 [Off mic]

20 CHAIRPERSON DILAN: I think we all  
21 here can take criticism. If you can't, you can't  
22 do this job. Council Member Vacca.

23 COUNCIL MEMBER VACCA: Thank you.

24 CHAIRPERSON DILAN: And I'm sorry,  
25 I'm going to step out and be marked present for my

1  
2 other hearing and will rejoin in a brief few  
3 moments. Council Member Vacca.

4 COUNCIL MEMBER VACCA: Thank you,  
5 Mr. Chair, and thank you. I first want to thank  
6 the administration for working with me on this  
7 bill. I hope that we can get to a place where the  
8 concepts I outlined in my opening statement can be  
9 realized, the basis of my involvement in this  
10 matter can be realized.

11 I do think that the point of  
12 technology and making sure that we have the  
13 technological means to trace people who may have  
14 debt, that's very important to me. That's what  
15 this bill envisions. I know that the Buildings  
16 department may not have that capability.

17 Let me ask the Finance department,  
18 you have ACRIS, you have other means of knowing  
19 who owes taxes, you have other systems. Is there  
20 a way of integrating that, is there a way of  
21 finding out who principals are in certain  
22 corporations that you at a certain point can share  
23 with the Buildings department and, therefore,  
24 there can be this type of situation where we know  
25 who owes what--

2 ANDREW SALKIN: Right.

3 COUNCIL MEMBER VACCA: --as they  
4 file to build more?

5 ANDREW SALKIN: Thank you for the  
6 question. The systems that we have set up at the  
7 Department of Finance are geared towards  
8 determining who to bill and when we look at who to  
9 bill, it's an entity that's been filed with us as  
10 the person who should be billed.

11 [Off mic]

12 ANDREW SALKIN: When you look at  
13 ACRIS, which is a system that's not geared towards  
14 billing, but is a system towards recording  
15 information through the city register, which is  
16 required by all counties to do. We record  
17 information on deeds and mortgages between  
18 entities involved with a particular BBL or a  
19 property.

20 The requirements that have been  
21 passed down to us that we now practice is this  
22 effort and exercise of recording documents, but  
23 not necessarily recording the information that's  
24 on the documents. So what we would need to do in  
25 order to know some of the answers on who exactly

1  
2 is the party of the LLC or who exactly is the  
3 entity that's signing some of the documents would  
4 require going into some of the documents and  
5 reading them and getting to the end. Often it may  
6 even require us doing further research because it  
7 might be signed on behalf of the company by  
8 someone who has power of attorney or submitted by  
9 a title company.

10 So there's a lot of information we  
11 have and I would encourage people to look at it,  
12 there's a lot of information about the property,  
13 the financing of the property, if there's a  
14 mortgage, who the parties are that are involved in  
15 deeds and past deeds and mortgages. But to get at  
16 some of this information exactly who are the  
17 principals and who are the owners within the LLC  
18 is not something we're required to do and not  
19 something we have been set up to do.

20 I think the challenge of getting to  
21 that, which you've outlined I think quite clearly  
22 and emphatically, is how can we get to that vision  
23 is something we need to begin to explore and  
24 understand what are the different tools available  
25 to us and how we can productionalize that so it's

1  
2 not an effort that we're necessarily doing solely  
3 on behalf of Buildings, but doing on behalf of the  
4 city to help ensure that people aren't disguising  
5 themselves and running up lots of debt because we  
6 can't really recognize them as the same person.

7 This is something we're very  
8 interested in trying to figure out how to do. It  
9 may be very hard to do, but it doesn't mean we  
10 shouldn't figure out what we need to do to do that  
11 and put in place that process [off mic].

12 COUNCIL MEMBER VACCA: Do you ask  
13 property owners or--I don't know if you ask, but  
14 do you require property owners to update their  
15 information during certain intervals of time?

16 ANDREW SALKIN: No, we don't have a  
17 rule that says--or we don't reach out to  
18 properties once every three years to say, please  
19 prove to us your debt's correct or--I'm sorry,  
20 your data is correct and your billing address is  
21 correct, we don't do that. We typically rely on  
22 the fact of, if we have the wrong address and  
23 we're sending the bill to the wrong place,  
24 eventually they'll get a knock on the door saying--  
25 --well come back to us maybe or maybe not,

1  
2 depending upon the type of property it is, but  
3 eventually a person might be put up in the lien  
4 sale and then they'll come up and say, wait a  
5 second, we have the wrong information, we need to  
6 fix that, but it can be several years.

7 COUNCIL MEMBER VACCA: Would it be  
8 possible at a certain point in time for the  
9 Department of Finance to require that when LLCs or  
10 corporations file with you that they file the  
11 names of who the principals are, as well as just  
12 saying that they're Corporation X?

13 ANDREW SALKIN: I don't know the  
14 details of the legal ramifications of what you  
15 just said, I would assume if it's possible, then  
16 it's possible, and that's something I think that  
17 will have to require further research and  
18 understanding.

19 COUNCIL MEMBER VACCA: I do think  
20 that our collection method is one thing, but I  
21 think the principle I'm stressing is something  
22 else. The principle namely that bad actors  
23 continue to give good actors a bad name and that  
24 bad actors continue to become worse if they build  
25 more and more and more and never pay up what they

1  
2 owe or correct the violations that are serious  
3 violations. And I know we're talking of  
4 thresholds here, every building will have some  
5 violation and many of those violations are not  
6 major violations and many of the fines are very  
7 small.

8 So other challenge is I want to be  
9 reasonable in considering thresholds. My bill  
10 does not seek to stop development in New York  
11 City, I am not going there and I'm not doing that,  
12 and I want to encourage stable, good housing. But  
13 going forth, I also want the City to collect  
14 what's owed and I also want those who have been  
15 bad actors to understand that by their paying up  
16 the debt and keeping their housing in better  
17 condition, that's the way to get future  
18 applications approved.

19 So I know it sounds complicated  
20 because the technology has to be there and you  
21 have to have a whole bunch of city agencies  
22 working together, we could be talking about HPD,  
23 Buildings, you know, Finance, you know. So I  
24 appreciate in the days ahead, your commitment to  
25 continue to work on this and to listen to various

1  
2 stakeholders, as I have, who are going to come  
3 forth with their concerns and we try to get a  
4 consensus, but I do think we have an important  
5 piece of legislation here today. I thank you for  
6 your help.

7 CHAIRPERSON DILAN: All right, are  
8 there any other questions from members of the  
9 committee? Seeing none, I'd like to thank you for  
10 your time and your testimony today, and we'll  
11 begin to call up some stakeholders.

12 [Long pause]

13 [Off mic]

14 CHAIRPERSON DILAN: Okay. All  
15 right, so I'll call up Angela Sung from the Real  
16 Estate Board of New York and Jessica Handy of  
17 BOMA, and I believe both entities are in  
18 opposition, and if I'm wrong, you can correct me.  
19 [Pause] Then they'll be followed by Robert Altman  
20 and Stephen Lutsen [phonetic]. [Pause] Okay.  
21 You can begin in the order that you were called  
22 and just identify yourself for the record before  
23 you begin your testimony and then you can begin.

24 ANGELA SUNG: I'm Angela Sung,  
25 Senior Vice President, Management Services and

1  
2 Government Affairs from the Real Estate Board of  
3 New York. I'll try and read my testimony quickly.

4 So good afternoon, Chairman Dilan,  
5 bill sponsor Councilman Vacca, and members of the  
6 Housing and Building Committee. The Real Estate  
7 Board of New York, representing over 12,000  
8 owners, developers, managers, and brokers of real  
9 property in New York City thanks you for the  
10 opportunity to testify about Intro 379.

11 As participants in our citywide  
12 community, we support increasing the city's  
13 enforcement to collect delinquent payments owed to  
14 the city and prevent those who attempt to subvert  
15 the system from being able to profit from the  
16 advantages of New York. Although the goal is  
17 laudable, we have serious concerns with many of  
18 the provisions of the bill, the negative effects  
19 it would have on the condition of New York City's  
20 building stock, and the administrative burdens it  
21 would place on property managers and tenants,  
22 preventing new developments, and investment in  
23 existing properties.

24 Our concerns include the following:  
25 Number one--sorry, that should say split

1  
2 responsibilities--the proposed bill assumes that  
3 the primary responsibility for all violation falls  
4 to the building owner or manager. In reality,  
5 many violations may be the responsibility of  
6 tenants that have been assigned to the building  
7 owners. It can be very difficult and time-  
8 consuming for owners and managers to force their  
9 tenants to resolve the violation.

10 Also, violations can sometimes be  
11 assigned incorrectly. For example, a street  
12 vendor may receive a ticket, but since the card  
13 has no address, the violation can get assigned to  
14 the building, which also can be difficult for the  
15 building owner to correct.

16 Number two, thresholds. The bill  
17 sets a threshold of \$25,000 of unpaid fines, civil  
18 penalties, judgments from ECB, fees or liens for  
19 HPD repairs, tax arrears owed to the city, or  
20 unpaid water or sewer charges. As a fixed value,  
21 this or any other threshold disproportionately  
22 burdens large developments, buildings with  
23 elevators, buildings larger than four units, or  
24 buildings with other characteristics that increase  
25 the frequency of city inspections.

1  
2                   Additionally, the \$25,000 threshold  
3 is low. This level could be reached quickly as  
4 many violations from DOB are as high as \$10,000  
5 each. For example, elevator violations range from  
6 \$3,000 to \$5,000 per car; façade violations and  
7 construction shed violations range from \$5,000 to  
8 \$10,000. Violations are constantly issued and  
9 settled on a rolling basis and at any point in  
10 time a building could easily carry over \$25,000 in  
11 violations, many of which are expected to be  
12 addressed and corrected by the landlord and the  
13 city at a later date.

14                   In the face of such steep fines, it  
15 is clear that this threshold would capture  
16 responsible building owners, as well as those who  
17 are in the process of resolving violations, but  
18 attempting to continue to complying with mandated  
19 work and want to avoid compromising public safety.

20                   Suspension. This bill would allow  
21 the commissioner to suspend the permit of any  
22 applicant if he or she finds that the arrears owed  
23 exceed the \$25,000 threshold. By creating a  
24 scenario where construction or repair work may be  
25 stopped in the middle of a project, this provision

1  
2 has the potential to create a serious safety  
3 issues at the work sites, particularly if the work  
4 is critical to building operations or for new  
5 construction.

6           Number four, deterioration of  
7 buildings stock. Although we tend to focus on new  
8 construction or substantial renovations, the  
9 majority of work permits that the Department of  
10 Buildings issues each year are for repairs, tenant  
11 fit outs, work to meet new city mandated  
12 regulations, and other building operations.  
13 Preventing or delaying access to these types of  
14 permits that maintain and keep a building  
15 functioning may lead to be the deterioration of  
16 New York City's buildings stock. It would also  
17 take away the certainty that financing  
18 institutions and potential tenants need in order  
19 to lend money and sign leases.

20           Number five, disclosure  
21 requirements. This bill requires that the  
22 applicant certify that he or she nor any owners  
23 with a 10% or greater stake in the property owe  
24 money to the city. This is a more extensive  
25 disclosure than required by any other level of

1  
2 government and counters the long-standing practice  
3 of creating individual limited liability  
4 corporations for each building in order to prevent  
5 the financial deterioration of one building from  
6 affecting another.

7           Although the bill's goals is to  
8 isolate bad actors, this portion of the  
9 legislation may have the opposite effect by  
10 essentially tying significant number of buildings  
11 together. For instance, it is unclear whether  
12 ownership stake could include mortgage issuers or  
13 lenders. Many new developments can be financed  
14 with 30% equity, meaning that a bank is a 70%  
15 "owner" in a property. If that qualifies as an  
16 ownership and a building defaults, then any other  
17 building that the bank is financing would be  
18 restricted from accessing building permits.

19           Additionally, Real Estate  
20 Investment Trusts, also known as REITs, can  
21 operate similar to stock investments, which can  
22 pool investment monies and distribute to a  
23 portfolio of properties, masking investor  
24 information and making it an administrative  
25 impossibility for each permit holder to identify

1  
2 and verify debt collection.

3 Ownership is additionally  
4 complicated when there is a company with several  
5 partners, when the owner corporation is public, if  
6 they are out of state or international investors  
7 or partners, or if any building or owner is in a  
8 bankruptcy or foreclosure filing, which adds  
9 administrative burdens, time, and costs that need  
10 to be accounted for each time a building needs to  
11 access a permit for renovations, repairs, or  
12 tenant improvement/fit outs.

13 Number six, administration. Many  
14 agencies are looking to convert from the Legacy  
15 data systems to modern systems, however, we are  
16 still working with processes that can make  
17 clearing old violations difficult and a time-  
18 consuming project. It is not uncommon for old  
19 violations to reappear on DOB and FDNY's records,  
20 even after being cleared.

21 Additionally, building owners may  
22 dispute violations and need to appear at the  
23 Environmental Control Board to contest it. This  
24 process can take many months and stopping all work  
25 in a given building due to the ECB can not only

1  
2 delay movements or prevent required work from  
3 taking place, but it also may hurt the economic  
4 development of the city as jobs relying on the  
5 construction industry will be slowed. Without  
6 additional resources assigned to the ECB or  
7 reforming the adjudication process, we do not  
8 think it is prudent to expand its authority.

9           Also, many agencies increase  
10 enforcement of violations due to changing agency  
11 priorities and to meet revenue requirements for  
12 the Programs to Eliminate Gaps, also known as  
13 PEGs. As a result, receiving violations can be  
14 more of a function of change of behavior from the  
15 city than of the building management or ownership.

16           Number seven, the Department of  
17 Buildings. The real estate industry has been  
18 working diligently with DOB on safety, inspection,  
19 development, and construction issues. In recent  
20 years, DOB's resources have been reduced to meet  
21 the financial austerity measures the city has  
22 taken. To additionally require a reduced  
23 workforce to take on the responsibilities of  
24 financial enforcement and correction agency on the  
25 125,000 construction permits issued each year

1  
2 would be an inappropriate use of resources when  
3 the real estate and construction industry need  
4 them to be focused on helping development projects  
5 recover.

6 We are sensitive to the budget  
7 pressures that the city is facing and agree that  
8 the city should have the proper tools to collect  
9 from those who legitimately owe money to the City.  
10 However, tying debt to Department of Building  
11 permits is a complicated proposal and we are  
12 concerned with the unintended consequences the  
13 proposed legislation may create.

14 While the city will gain revenue  
15 and enforcement powers in the short run by forcing  
16 owners to pay, in the long run this legislation  
17 may seriously harm the economic development of the  
18 city. It may cause a chilling effect on the  
19 future developments since owners will no longer  
20 have certainty on projects and banks will likely  
21 not finance on projects if there is an  
22 undeterminable amount of risk associated with  
23 revocable approvals due to previously unknown  
24 fines.

25 Strengthening enforcement and

1  
2 collection by the City would achieve that goal  
3 more effectively while preserving the ability of  
4 the quote good actor building owners to continue  
5 to maintain their buildings safely without unduly  
6 burdening them or the City.

7 Thank you again, and we welcome the  
8 opportunity to have further discussions with the  
9 City Council about this legislation.

10 [Pause]

11 JESSICA HANDY: Good afternoon,  
12 Chairman Dilan and members of the Housing and  
13 Buildings Committee. My name is Jessica Handy, I  
14 am a commercial property manager for one of the  
15 largest commercial owner manager companies in New  
16 York City. I am testifying on behalf of the  
17 Building Owners and Managers Association of New  
18 York, where I serve as a member of the Codes and  
19 Regulations Government Affairs Committee.

20 BOMA represents more than 750  
21 owners, property managers, and building  
22 professionals who either own or manage 400 million  
23 square feet of commercial space. We're  
24 responsible for the safety of over 3 million  
25 tenants, generate more than \$1.5 billion in tax

1  
2 revenue, and contribute over 10 billion to the New  
3 York's gross state product.

4 BOMA New York opposes the proposed  
5 Intro number 379, a Local Law to amend the  
6 administrative code of the City of New York in  
7 relation to the denial of building permits to  
8 property owners--excuse me--with outstanding  
9 charges owed to the City of New York. While we  
10 agree with the spirit of the proposed legislation--  
11 -we don't approve of bad actors either--the bill  
12 in its current form does not effectively handle  
13 the problem that the sponsors seek to remedy.

14 BOMA New York members work very  
15 hard every day to keep their buildings in  
16 compliance with all building codes and  
17 regulations. In the past we have offered our  
18 expertise and insight toward efforts to strengthen  
19 building and construction laws. We believe that  
20 if this bill was to be enacted into law, it would  
21 unfairly hurt those who strive to build in  
22 compliance with the law. Please strike the next  
23 sentence as it was edited improperly. This bill  
24 does not incentivize the efficient payment of  
25 legitimate penalties and it would punish those who

1  
2 have dared to invest their money in New York City  
3 real estate.

4           This bill is called the Bad Actors  
5 Law, but this bill will only prohibit good owners  
6 from performing work; the bad actors will simply  
7 do the work without permits. The bad actors will  
8 not cease doing work, they will just require  
9 tenants to do all the work since tenant work is  
10 excluded from this legislation.

11           The proposed legislation does not  
12 take into account the intricate way that the real  
13 estate partnerships are operated. Our market is  
14 full of large partnerships and an ownership stake  
15 can be held by many, and including banks in the  
16 form of a mortgage or through investments, as my  
17 colleague here mentioned. This provision  
18 effectively ties together every building in the  
19 city.

20           The bill assumes that the primary  
21 responsible party for a violation is the property  
22 owner, however, in reality, tenants may be  
23 responsible for certain violations or tenants may  
24 accrue violations assigned to them. This may  
25 result in the whole building's inability to pull

1  
2 permits and complete work. If a single tenant in  
3 a building fails to pay its fines or is having a  
4 hard time clearing its violations, then that  
5 tenant could impact buildings across the city.

6 Violations are too often issued in  
7 error to base such a sweeping piece of legislation  
8 on pending penalties. For a minor example, but  
9 one that's fresh to me in my role as a property  
10 manager, I just spent three weeks and \$500 on an  
11 expediter to research and get an FDNY violation  
12 dismissed that was issued to one of my buildings--  
13 it had been issued to the wrong building, it  
14 wasn't my building at all. This happens all the  
15 time. In many instances, a violation will be  
16 reduced significantly once the hearing has  
17 concluded. Should this penalty have held up  
18 productive work at a building or many buildings  
19 for that matter?

20 And since this bill does not apply  
21 to buildings seeking permits to resolve  
22 violations, why would a building owner attempt to  
23 be proactive about resolving issues? Why not just  
24 wait to get the violation? It's cheaper to get  
25 the violation and get a permit without paying

1  
2 outstanding penalties and without going through  
3 the expense of filing an owner statement. What  
4 I'm getting at is there are a lot of end runs  
5 around this bill.

6 BOMA New York believes that this  
7 bill is not needed, given already existing  
8 procedures. The 2008 construction code gives the  
9 city of New York and corporation counsel broad  
10 enforcement and foreclosure powers concerning  
11 unpaid fines, penalties, and liens due to  
12 outstanding unpaid fines. This procedure is fair  
13 and equitable and leaves the matter with the  
14 courts.

15 If the City of New York feels  
16 additional legislation is required to reduce the  
17 number of bad actors in our industry, we recommend  
18 the following: Limit this legislation to  
19 residential buildings. If this legislation is a  
20 success, consider expanding it to commercial  
21 properties.

22 Limit the bill to Alt 1  
23 applications, new buildings, major gut  
24 renovations, and change of occupancy or use. Alt  
25 2 applications are the majority of the New York

1  
2 City Department of Buildings permit applications  
3 and they can be anything from installing the  
4 roughing in a new bathroom to building out an  
5 entire floor for a new tenant.

6 Raise the limited partner  
7 requirement to majority owner. Again, if this  
8 proves to be a success and manageable by the  
9 enforcement agencies, then consider adjusting the  
10 ownership percentage.

11 Raise the penalty amount and use a  
12 defensible definition for fines and fees. It  
13 should clarify the terms that only those fines  
14 imposed by a judicial body with all administrative  
15 appeals exhausted are the ones which must be  
16 addressed.

17 Require an owner statement no more  
18 than once a year or other appropriate timeframe.  
19 As the bill is presently written, each owner  
20 statement could cost thousands of dollars in  
21 expediter research fees for each desired permit,  
22 depending on the number of people partners within  
23 the building ownership entity. Again, this would  
24 punish only those desiring to comply with the law  
25 and would not affect the bad actors as intended.

1  
2 And has anyone figured out exactly how many audits  
3 is 25%? This could be prohibitively challenging  
4 for the appropriate city agency to accomplish.

5 In conclusion, I thank the City  
6 Council and this committee for the opportunity to  
7 present our views. This bill has valid  
8 intentions, but will lead to far more harm than  
9 good.

10 CHAIRPERSON DILAN: Okay. I want  
11 to thank you both, and just acknowledge that we've  
12 been rejoined by Council Member Gale Brewer and  
13 joined by Council Member Jim Gennaro of Queens.

14 I think both entities did a great  
15 job in laying out your reasons for opposing the  
16 bill, and they are obviously self-explanatory as  
17 to why you oppose them. And I believe, again, the  
18 goal here is good, but I'm concerned about how we  
19 implement and how we lay out.

20 I could tell you right now we're  
21 not going to separate residential from commercial,  
22 if we do it, we're going to do it for everybody  
23 'cause then I already saw the people in the  
24 audience that represent residential owners saying  
25 no way. So right now, you're a unified front,

1  
2 you're going to divide your forces and you're  
3 probably--once you do that, you're probably going  
4 to get something that's less than satisfactory  
5 should this go further.

6 I want to just talk a second about  
7 threshold, and I know that Council Member Vacca  
8 had discussed this with the administration, and I  
9 think REBNY highlighted in the testimony how for  
10 larger buildings, \$25,000 is a relatively low  
11 level. That's something that I was concerned  
12 about for the larger buildings, and I'm one that  
13 normally sits here and defends--and anybody from  
14 HPD will tell you this--I'm normally the one that  
15 sits here and defends the smaller buildings, the  
16 one, twos, and threes. In this case, I think the  
17 larger buildings should have a problem with the  
18 \$25,000 threshold because, as you stated, it's  
19 very easy for a larger building to receive this  
20 threshold and still be a good actor so to speak.  
21 So I'm concerned about that.

22 I think specifically, there's  
23 nothing for me to really ask, but just let you  
24 know that I'm concerned about that as well. And  
25 obviously REBNY's always been involved, and BOMA

1  
2 as well, in negotiations with the administration  
3 if it gets to that. But in this case, just in  
4 general amongst all the stakeholders, I'm going to  
5 want to know that all of them have some level of  
6 comfort before I move to final passage on the  
7 bill. And I say to the administration, I'm on  
8 board with the concept, but it's the details that  
9 I'm going to be very, very, very concerned about.

10 So I just wanted to thank you for  
11 your time and testimony. And if there are no  
12 other comments or questions from my colleagues,  
13 thank you for your time and testimony.

14 All right, next, and I believe this  
15 is the final panel, we have Mr. Robert Altman and  
16 Mr. Stephen Lutsen. One will speak in opposition  
17 and one will speak in favor of the bill.

18 [Pause]

19 ROBERT ALTMAN: Good afternoon. My  
20 name is Robert Altman, I am the legislative  
21 consultant to the Building Industry Association of  
22 New York City and the Queens and Bronx Building  
23 Association. Our associations are chapters of the  
24 New York City Builder's Association and represent  
25 builders and contractors in the Bronx, Brooklyn,

1  
2 Queens, Staten Island, and we also build in all  
3 five boroughs.

4 I'm here to testify in opposition.

5 Intro 379 is a flawed concept that  
6 is simply too broad. While we understand its  
7 intent, it risks putting legitimate applicants at  
8 risk, and a few examples may help this discussion.

9 Before I start this, I want to know  
10 that part of this bill, I think, has a problem is  
11 that it's sort of like the little Dutch boy who  
12 puts his finger in the dyke to solve one problem  
13 here and it's going to have another problem pop up  
14 there.

15 To start, let's look at a \$25,000  
16 tax delinquency, which could be much more. Those  
17 tax exemptions you get for building affordable  
18 housing, for commercial properties, for market  
19 rate housing and such, the city is not exactly  
20 very efficient in getting them on right away. So  
21 what builders will often do, knowing that they are  
22 getting the break, the City sends out a bill for  
23 \$2 million that should be 200,000. They generally  
24 have a good idea about what it's going to be.  
25 They'll pay what they think it is plus a little

1  
2 cushion. The city will show a bill at 2 million,  
3 so they're million three quarters delinquent.  
4 When the exemption finally gets put on, sometimes  
5 a year later, sometimes two years later, the  
6 exemption's retroactive back, any interest and  
7 penalties are eliminated. So the developer is  
8 well aware that, yes, I'm showing a large  
9 delinquency, but in essence, it's not a  
10 delinquency at all because the city hasn't yet  
11 implemented what I'm entitled--or what the  
12 building is entitled to.

13 So all of a sudden you're showing  
14 this very large delinquency and you can't get a  
15 permit. Even though it's not your fault because  
16 the City is not getting around to implementing its  
17 program properly. And trust me, it happens, it  
18 happens more frequently now than in past years  
19 because the agencies are stretched, so I see this  
20 quite a bit right now.

21 As was already mentioned, I'm not  
22 going to go into long discussion, tenants can have  
23 ECB violations and things such as that, so all of  
24 a sudden we've got a building which has this  
25 amount, which is not the owner's fault, it's the

1  
2 tenant's fault.

3           It's easy to rack up these  
4 violations, as has also been mentioned, but I'm  
5 going to give you a very real example of a  
6 property in Brooklyn where I have a manufacturing  
7 client who did not even know they had 33 DOB  
8 violations for failing to put in a boiler  
9 inspection report because their contractor kept  
10 putting it in late, from the early nineties to the  
11 current day, and they had multiple boilers on the  
12 property. They're looking right now, with  
13 interest, at about \$60,000 in violations and  
14 they're trying to figure out--and they only found  
15 out about this 'cause they did a refinance and  
16 they have to cure this.

17           Well under your bill, they couldn't  
18 do the renovations they need to keep the business  
19 in New York. And they wouldn't have gotten a  
20 permit. What would've been my answer to them on  
21 what they should do? Now I try to get people city  
22 government benefits, my answer would have been,  
23 move, and the city would have lost 80 jobs.

24           And it also has been mentioned the  
25 city recordkeeping is not accurate, I'm not going

1  
2 to deal with the paragraphs that has also been  
3 dealt with previously. City records not being up  
4 to date [off mic].

5 One thing I found interesting is  
6 this is a law that's promoting self-certification  
7 and the ironic thing is over the years I have  
8 heard from the City Council more than any other  
9 body complaints about self-certification. Now at  
10 least with the self-certification that existed for  
11 years over at DOB you had a licensed professional  
12 overlooking the plans. Here, it's going to be an  
13 unwitting property manager, contractor, or other  
14 unsuspecting person who isn't going to know what  
15 he's certifying to. It boggles my mind that that  
16 would be in this bill.

17 Also, if you have a 10% minority  
18 owner in this piece and he does have those  
19 violations, what can you do if you're the majority  
20 owner? You want to go forward, you may want to do  
21 major renovation to the building, this or that,  
22 can you force that person to fix it? It's a  
23 minority owner, you have no way to do it, so all  
24 of a sudden you're stuck. So I don't see how  
25 that's going to work.

1  
2                   DOB conducting an audit. If it's  
3 difficult for our people to conduct this type of  
4 audit, I certainly don't know how DOB is going to  
5 do it. Okay?

6                   Now I don't want to be so negative,  
7 I think there are alternatives and I think there's  
8 a model of an alternative in something that  
9 Council recently passed. You recently passed the  
10 Alternative Enforcement Program for buildings that  
11 have lots of violations, that have lots of  
12 problems, and the idea is to focus on some of  
13 those buildings, get them fixed up, get them  
14 cleaned up, get them done, get them up to shape.

15                   You should really think about since  
16 everybody when we met with Council Member Vacca  
17 when the city complained about a developer or two  
18 in his district, and let's say there are 50  
19 problem developers in the city, that you'd like to  
20 focus on that have big problems. Focus on  
21 Alternative Enforcement Program on those entities  
22 that are problematic. Take like you do in that  
23 bill that you've passed at the City Council where  
24 you take a few properties a year and focus in on  
25 the worst ones. And every year focus on a little

1  
2 bit more, each more and more and dig into the  
3 problem. If you find that you're having success  
4 on this and you find that it's cost efficient,  
5 then you're going to want to in fact dedicate more  
6 resources, double the amount of bad property  
7 owners that you're focusing into.

8 But the model bill that you have  
9 for this already exists in that respect. And this  
10 way when you do that, you know you're going after  
11 the bad ones. Probably each member could pick one  
12 from their district to start and you know you're  
13 going after the bad ones and you're not going to  
14 have a situation where the good ones get caught  
15 up.

16 Because I'm going to tell you flat  
17 out, I represent the good property owners and they  
18 are scared to death of this bill. And ultimately  
19 I think the way it's drafted you have more of a  
20 chance of having a bureaucratic morass which all  
21 these people are going to get stuck in than you do  
22 in having success of collecting money under this  
23 bill. Thank you.

24 CHAIRPERSON DILAN: Thank you, Mr.  
25 Altman. Mr. Lutsen?

[Pause]

STEPHEN LUTSEN: Afternoon. Am I on? Now I'm on, right, thank you. My name is Stephen Lutsen, I've spoken before some of you recently, and I have this concept that I call Easy Escrow, this was a concept that was started at the NYU Polytech Incubator Program, where out of 300 ideas, they accepted 27 and this was one of the 27.

And I basically sort of came at this sort of from left field as they say, and I was really grateful when I saw Councilman Vacca's bill about the bad actors 'cause that, as I say, that's what I'm talking about.

And to put it in a nutshell, I envision a system--and despite all of the criticism that I've heard today and it's kind of like that line about in search of the perfect, we destroy the good. And I'm the last to say you should penalize good people, nor do I believe in suspending commerce, but I really believe that we need a system of advanced enforcement. And to put it in the vernacular, I guess it's a form of having skin in the game, and I use the simplistic

1  
2 model, because I like to think that that gets the  
3 point across, and that is that if tenants have to  
4 put up security deposits, why shouldn't landlords.  
5 And what I mean by that is that tenants, as is  
6 discussed in the bad actor bill language here,  
7 people get their cable shutdown or other bad  
8 things happen to them, but there are no  
9 consequences with owners who run up an enormous  
10 amount of debt.

11           So in a nutshell, I really believe  
12 that your amendment goes far, but not far enough,  
13 which is to say that if you hold up a permit, I'm  
14 not sure that really gets you to where you want to  
15 be.

16           And I heard the Department of  
17 Finance representative Andrew Salkin talk about  
18 the enormous amount of money that's accumulated.  
19 And my sense of it is that if you rely on liens  
20 and then selling those liens, you're not getting  
21 the kind of liquidity that you need. And my  
22 feeling is that if you set aside these funds in  
23 escrow with a third-party agent, it will earn  
24 interest. If you're a good actor, you will get  
25 your money back with interest; if you're a bad

1  
2 actor, we'll be able to isolate the bad actors and  
3 to not only withhold the permit, but to actually  
4 create a mechanism that will be more streamlined,  
5 more telescoped, and that these people will not be  
6 able to come back and in effect continue to  
7 violate the law with impunity.

8           And I have various buzz phrases, I  
9 consider it collateral liquidity, it's a form of  
10 collectonomics. I've tried valiantly to deal with  
11 a variety of city agencies and most people say  
12 good idea and then it kind of gets lost in the  
13 sauce and that's reality.

14           But I really believe that this is  
15 really a façade of enforcement and considering the  
16 fact that at least at the state level, our own  
17 governor tells us the government is functionally  
18 bankrupt, that you need a pre-crisis  
19 responsibility fund. And what I mean by that is  
20 that it is true that you don't want to apply this  
21 concept too broadly so as to in effect ensnare too  
22 many people in this net. But at the same time, I  
23 just use the overt example of the BP escrow fund  
24 and what happened is that that was created after  
25 the crisis. And I've spoken to Councilman

1  
2 Gennaro--I don't want to vary it too much, but I  
3 talk about the context of fracking is just another  
4 example where you want to have emergency  
5 remediation, you want to have damage control.

6           And to get back to the point here  
7 with housing--I saw you shake your head--I think  
8 simply when this HPD pays \$17 million to pay for  
9 repairs and they recover \$4 1/2 million, I think  
10 that's inexcusable, I think it's foolish, I think  
11 we're living in an environment where there's too  
12 much pressure financially. And I guess this is  
13 called the hope of audacity, but I honestly feel  
14 that if we create this receivable reserve, it's  
15 administered fairly, we obey due process, you'll  
16 have a situation where people's fines will be  
17 paid, and at the end over a period of time you're  
18 going to have a smoother process and not a  
19 difficult process.

20           And candidly, with all the  
21 difficulties about collecting information, if you  
22 can collect E-ZPass information and everybody  
23 whose car doesn't have the money, they get stopped  
24 at the E-ZPass. I find it shocking to believe  
25 that we can't create a system with the proper

1  
2 intake to be able to identify building's owners,  
3 whoever is involved to make sure that they don't  
4 fall through the cracks.

5 Thank you very much.

6 CHAIRPERSON DILAN: Thank you.  
7 Council Member Vacca, you have anything you want  
8 to ask of the panel? All right, if not, I would  
9 say thank you both for your time--

10 ROBERT ALTMAN: Thank you.

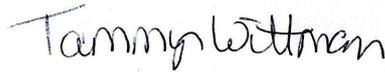
11 CHAIRPERSON DILAN: --and your  
12 testimony. I have one item that needs to be read  
13 into the record and its testimony from Con Edison  
14 today and I believe it is, I believe it is in  
15 opposition, is that correct?

16 [Off mic]

17 CHAIRPERSON DILAN: All right, it's  
18 not necessarily in opposition, but recommendations  
19 to improve the bill in its current form, that'll  
20 be read into the record in full. And Intro 379  
21 will be laid aside, and that will conclude this  
22 hearing.

C E R T I F I C A T E

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



Signature

Date March 22, 2011