

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

-----X

January 30, 2012

Start: 1:10pm

Recess: 5:20pm

HELD AT: 250 Broadway
Committee Room, 16th Floor.

B E F O R E:
ERIK MARTIN DILAN
Chairperson

COUNCIL MEMBERS:
Gale A. Brewer
Leroy G. Comrie, Jr.
Elizabeth S. Crowley
Lewis A. Fidler
James F. Gennaro
Robert Jackson
Letitia James
Brad S. Lander
Melissa Mark-Viverito
Rosie Mendez
James S. Oddo
Joel Rivera
Eric A. Ulrich

A P P E A R A N C E S

COUNCIL MEMBERS:

Jumaane D. Williams
Domenic M. Recchia, Jr.
Ruben Wills
Daniel Dromm

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

Mathew Wambua
Commissioner
New York City Department of Housing Preservation and
Development

RuthAnne Visnauskas
Deputy Commissioner of Development
New York City Department of Housing Preservation and
Development

Douglas Apple
Deputy Commissioner
New York City Department of Housing Preservation and
Development

Michael McGuire
Mason Tenders District Council

Nicole Vecchione
Senior Strategic Researcher
Laborers Eastern Region

Shanita Wells
Homeowner

James W. Versocki, Esq.

Karim Hutson
Managing Member, Genesis Companies
NYSFAFH

Kendrick Jobe
Jobe Development

Robert S. Altman
QBBA/BIANCY

Ted Houghton
Executive Director
Supportive Housing Network of New York

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

Sheila Martin
Housing Partnership Development Corp.

Leonel Lopez

Benedicto Flores

Jonny Zeta

Anthony Bartolacci
Government Relations Senior Specialist
Cozen O'Connor Public Strategies
American Council of Engineering Companies of New York
Metropolitan Region

Jose Castillo
Pelham Place Homeowners Association

David Debosz
GREC

Frank Lang
Director of Housing
St. Nick's Alliance

Ben Robles
GREC

CHAIRPERSON DILAN: Good afternoon, everybody. My name is Eric Martin Dilan and I'm the Chairperson of the City Council's Committee on Housing and Buildings, and today the Committee will conduct a hearing on one item before us, which is Intro 730, that's a local law to amend the administrative code of the City of New York in relation to disclosure of certain information regarding construction projects. What we expect to hear today from HPD and the public as well as members who have an opinion, is essentially an oversight hearing with legislation on HPD's funding pipeline for capital projects. We expect the Commissioner to testify around the issues of the quality and quality controls in the Mayor's New Housing Marketplace Program, as well as additional information regarding labor standards for that pipeline, and how he feels the overall capital plan will be affected in view of consideration for the introduction before us. In short, Intro 730 would bring transparency to the developer section process at HPD by requiring the agency to post online information regarding the prequalified list of vendors HPD used when

1
2 selecting developers for construction projects
3 with over \$100,000 in financial assistance
4 provided by the City, or with a financial value of
5 over \$100,000. HPD would be required to post
6 certain information online the description of the
7 funding sources for the project, information on
8 how the developer was selected, background
9 information on the project, the contract
10 registration number, information on the members of
11 the development team, and whether or not federal
12 and New York State wage laws apply to the project,
13 and other information regarding wage complaints
14 and code violations. HPD would also be required
15 to request that developers, contractors and
16 subcontractors report payroll information for
17 workers on their HPD-sponsored projects. The
18 Committee expects to hear testimony from the
19 Commissioner of HPD, who is present here with us
20 today, as well as affordable housing developers,
21 contractors, and other persons interested in the
22 item before us today. Like I said at the outset,
23 please have all cell phones set to silent mode.
24 And if anyone wishes to appear before the
25 committee and testify either in favor against,

1
2 please see the sergeant-at-arms to fill out an
3 appearance card. And at this time I'd like to
4 turn to the bill's sponsor, Council Member Domenic
5 Recchia for a brief opening statement on today's
6 agenda.

7 COUNCIL MEMBER RECCHIA: Thank you,
8 Chairman Dilan and Members of the Committee for
9 being here today to discuss this very important
10 legislation. This bill will mandate that data
11 information in relation to HPD projects will be
12 made available online and HPD will make known on
13 their website information regarding, you know, the
14 reasons why a developer was selected, the bidding
15 process, what was exactly transpired, the wages,
16 description of the work for each employee in
17 connection with the project, you know, the source
18 and value of financial assistance and the City
19 connection, and exactly, you know, what kinds of
20 funds were used--were they City Council funds,
21 funds from the administration--exactly where they
22 came from, and the dollar amounts of each contract
23 into the project. These points and several, many
24 other pieces of data that the HPD will post online
25 will be easily accessible, and it's for the public

1
2 to know exactly what's going on in projects, not
3 where they have to wonder, and wonder if they're
4 paying, what they're paying for prevailing wage,
5 if it is prevailing wage, and exactly who is being
6 hired and for what. You know, this is not to hurt
7 anyone. This is not to put anyone out of
8 business. This is just to make people to have
9 knowledge of exactly what's going on on projects
10 and so people could know where everyone stand and
11 how this project was given out. Thank you very
12 much. I look forward to hearing from the
13 Commissioner, the Deputy Commissioner, and like I
14 said, it's a work in progress. We want to work
15 with HPD and with everyone involved so we can have
16 a good transparency piece of legislation.

17 CHAIRPERSON DILAN: Thank you,
18 Council Member Recchia. We've also been joined--
19 I'll take a moment to introduce the members of the
20 Committee who are here. We've been joined by
21 Council Member Gale Brewer of Manhattan, to my
22 left. Council Member Tish James, of Brooklyn next
23 to her. Council Member Brad Lander, of Brooklyn.
24 Council Member Jumaane Williams, of Brooklyn. Ben
25 Goodman, Policy Analyst to the Committee, seated

1
2 beside me. Laura Rogers, Counsel to the Committee
3 on my right. The Assistant Majority Leader, Joel
4 Rivera, from the Bronx. Council Member Jim
5 Gennaro, of Queens. Council Member Eric Ulrich,
6 of Queens, as well as the Republican leader from
7 Staten Island, Jimmy Oddo. And Council Member
8 Leroy Comrie, of Queens. So, at this point,
9 Commissioner Wambua, welcome. Good to see you
10 before the Committee to testify on today's agenda.
11 And even though I introduced you, you can
12 introduce yourself in your own voice as well as
13 the young lady seated beside you, and you can
14 begin your testimony.

15 MATHEW WAMBUA: Thank you,
16 Chairman. So, thank you Committee. Thank you
17 Chairman. Thank you, Council Member Recchia for
18 your authorship of this bill. I'm Mathew Wambua,
19 Commissioner of HPD, and with me today is RuthAnne
20 Visnauskas, Deputy Commissioner of Development at
21 HPD. We're thankful for the opportunity to be
22 here today to discuss the merits of Intro 730,
23 relating to the disclosure of HPD's development of
24 affordable housing. For the purposes of today's
25 testimony we've prepared a couple of things for

1
2 you. First, you should have a PowerPoint in front
3 of you. Secondly, there is a written version of
4 my testimony, which is going to be submitted for
5 the record, however, I'm going to be working off
6 of the PowerPoint, so if you can follow along on
7 the PowerPoint, that would be great. However,
8 prior to jumping in, let me take a moment to
9 unequivocally note my support for the shared goal
10 of creating greater transparency with regard to
11 HPD's operations. As the nation's largest
12 municipal developer of affordable housing, it's in
13 all of our interests that the public knows how
14 local, state and federal funds are used to produce
15 apartments and homes for low- and moderate-income
16 New Yorkers. In our estimation, this legislation
17 is a first step towards achieving this shared goal
18 of transparency. Moreover, we're optimistic that
19 today's hearing will serve as an opportunity to
20 further refine the legislation in order to achieve
21 our collective ends. So, as mentioned, you have a
22 PowerPoint in front of you. The PowerPoint is
23 basically broken up into three different sections,
24 starting with an overview of HPD's development
25 functions in order to provide the Committee with a

1
2 context, followed by a summary of ways in which
3 Intro 730 can help us achieve greater transparency
4 as well as a short discussion of some unintended
5 consequences associated with certain requirements
6 that are currently included within Intro 730. So,
7 why don't we jump in, starting with page 1 of the
8 PowerPoint?

9 So, as you know, the main function
10 of HPD's Office of Development is to facilitate
11 the creation and the preservation of affordable
12 housing throughout the five boroughs. Towards
13 that end, the agency employs a variety of means,
14 including the provision of low interest rate loans
15 for rehab and new construction projects. We also
16 award federal tax credits. We administer certain
17 real estate tax benefits, and in some instances we
18 dispose of city-owned land and property, which
19 then in turn is developed into affordable housing.
20 In all of these instances we work directly with
21 not-for-profit as well as for-profit developers,
22 who in turn choose their own contractors and
23 assemble their own teams. So, how are developers
24 selected? Depending on the program, developers
25 are generally selected through one of three means.

1
2 One, an application process. Two, a request for
3 proposals process, otherwise known as an RFP
4 process. And three, a request for qualifications
5 process, otherwise known as an RFQ. More
6 specifically for the financing of our loan
7 program, such as our 8A program, developers submit
8 applications and to the extent that those
9 applications and the proposed projects are
10 consistent with programmatic parameters as well as
11 term sheet requirements, then we finance the
12 project. Secondly, in instances where HPD conveys
13 city-owned land for housing development,
14 developers are generally selected through an RFP
15 process. In an RFP process, development teams
16 submit proposals that typically consist of two
17 parts: one, materials delineating the team's
18 experience, the team's organizational capacity, as
19 well as the team's financial strength, and two,
20 materials regarding how the team will develop the
21 site. Developers are then selected utilizing
22 criteria reflecting both of these categories. And
23 as you know, subsequent to being selected, the
24 disposition of the land as well as the approval of
25 the project is subsequently subject to mayoral

1 approval as well as Council approval through the
2 ULURP process. Lastly, certain ongoing
3 development programs, like the Third Party
4 Transfer Program, and the TIL program, utilize a
5 request for qualifications process. In an RFQ
6 process, developers submit their qualifications to
7 the agency before any specific project has been
8 identified. If the developers meet the
9 programmatic qualifications, then they're included
10 in a prequalified list of firms, which are
11 eligible to develop the projects. As an example,
12 when a new round of properties are identified
13 under the Third Party Transfer Program, once
14 identified, the properties are then clustered and
15 they're assigned to developers on the prequalified
16 list based on developer capacity, developer
17 experience, as well as geographic location. So,
18 these, along with our tax credit and our real
19 estate tax and inclusionary zoning programs
20 represent the bulk of HPD's development resources
21 and operations through which the housing plan is
22 implemented. So, moving on to page 2. Oh, is it
23 5? Got it.

MATHEW WAMBUA: Moving on to the one that says HPD is Supportive of New York City Council Goal to Make Agency Operations Transparent. So, as mentioned already and in keeping with the headline that I just read, the goal of transparency is a shared one, and we think that with better ongoing reporting, HPD can in fact be more effective at explaining to the general public as well as to our partners how we're making decisions about the use of public resources, as well as how we select developers that we work with. Accordingly, there's a number of reporting details outlined in Intro 730 that we're looking forward to providing to the general public and to our partners on an ongoing basis, including project description, information, funding information, borrower, owner, and contractor information, all of which we're very happy to oblige with and we think that it helps all of us. Now, that said, as we expand our disclosure information and processes, it's imperative that we do so in a way that allows us to meet the stated objective of increasing transparency while simultaneously maintaining the

1 integrity of our programs and our selection
2 processes. We also need to be able to ensure that
3 any new reporting process or protocol is, one,
4 legally durable, and two, can be officially
5 administered given our dwindling resources at HPD.
6 Along these lines, there's a number of reporting
7 requirements in Intro 730, which concern us,
8 because of some potential unintended consequences.
9 So, next page. Among the provisions which concern
10 us are the requirement to disclose taxpayer IDs as
11 well as contact information, which if misused
12 could lead to fraud or theft, as well as legal
13 exposure for HPD. Additionally, certain
14 provisions of 730 go as far as requiring detailed
15 information on developers who over the last five
16 years were denied inclusions in our programs or
17 suspended from our programs. In this instance,
18 we're not really sure how this necessarily meets
19 the stated objective of the bill in terms of
20 transparency. Moreover, it could dissuade good
21 developers from seeking more affordable housing
22 work for fear that their reputations are going to
23 be harmed, if in fact, for instance, they're not
24 necessarily chosen for an RFP. And then similarly
25

1 could also open up HPD to litigative risk.

2
3 Finally, the bill requires reporting on a monthly
4 basis, including employment and wage data for
5 every employee of every development, you know, by
6 every developer, every GC, every sub, every single
7 job, again, on a monthly basis. Candidly, we
8 don't have the resources to support that heavy of
9 an administrative burden. Over the past two
10 years, I think as many of you know, our personnel
11 has been cut by about 10%. And again, as many of
12 you know, we're primarily an organization or an
13 institution that is financed through federal
14 sources. And the combination of our home and our
15 CD, iterative cuts over the course of the last 12
16 months, means that basically we're going to be
17 facing a newly formed \$90 million hole in our
18 budget for the upcoming budgetary cycle. So, that
19 probably is also going to correlate with having to
20 take another 15% in terms of reductions with
21 respect to headcounts. This is all to note that
22 in final form, we have to collectively make sure
23 that Intro 730 is implementable within the
24 resource constrained environment in which we're
25 operating. And it's an environment in which we

1
2 are desperately trying to figure out how we are
3 going to continue to provide core services, while
4 simultaneously also running our development
5 programs. With that, I'd like to close by
6 reiterating our commitment to the shared goal of
7 greater transparency. We're optimistic that 730,
8 with the right modifications, can help put in
9 place reporting processes and disclosure
10 protocols, which will allow our development
11 processes to be better understood by our partners
12 as well as the general public. So, thank you.

13 CHAIRPERSON DILAN: Thank you,
14 Commissioner. I and I believe that there have
15 been several members that have joined us since you
16 begun your testimony. Robert Jackson of
17 Manhattan, being one. And I believe that's all.
18 So, we'll get right into questions on the bill and
19 on the selection process. And I was going to save
20 this, you know, I will continue to save it for
21 last. I was going to do my last question and move
22 it up forward, but I won't. As it stands right
23 now in the past five years, how many developers
24 has HPD selected to conduct projects within the
25 prequalified vendor list for your development

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

pipeline?

MATHEW WAMBUA: I don't know the total number of individuals who have been placed on the RFQ list. We'd be happy to forward that to the Committee.

CHAIRPERSON DILAN: No, not the RFQ, the actual number of awardees.

MATHEW WAMBUA: For?

CHAIRPERSON DILAN: That were actually selected, not just the ones that were, say, bidding competitively for a project. I guess, how many different developers were actually awarded? If you don't have it, you know...

MATHEW WAMBUA: We could--I mean, there's two pieces of information that we could get to you. In terms of RFPs, we could put together everybody that has been selected for an RFP. Secondly, in terms of RFQs, we could put together the list of all individuals who have been awarded projects once placed on the RFQ list.

CHAIRPERSON DILAN: Okay. And then my question now, I'll shift to, I wanted to get, to try to at least get a picture of how many potential developers or contractors that are

1
2 actually doing work in your pipeline. I'm pretty
3 certain that we'll have that in short order, just
4 to get a broader sense of how many individuals
5 potentially are impacted. After a developer is
6 selected and awarded a project, what is HPD's role
7 in the project after the selection, and what type
8 of follow-up does HP do in terms of construction
9 or financials or any sort--what type of
10 responsibilities does the agency have after a
11 developer has been selected?

12 MATHEW WAMBUA: Oh, broadly
13 speaking, to the extent that a developer has been
14 selected, then--particularly if they're going
15 through an RFP process or an RFQ process, the
16 developer as noted brings their own team, they
17 bring their own contractors, GCs and contractors.
18 Ultimately the role that we have on an ongoing
19 basis is to work on the financing plan to ensure
20 financial feasibility and execution of the plan as
21 well as to ensure that upon lease up, the property
22 once completed, is actually going to be leased up
23 to the types of AMI tenants that it is supposed to
24 be leased up to. On an ongoing basis then we
25 obviously oversee the building on a regulatory

1
2 basis to ensure ongoing affordability commitments.

3 CHAIRPERSON DILAN: Okay. And then
4 in terms of quality control for the unit that was
5 constructed, what is HPD's role in that process?

6 MATHEW WAMBUA: So, in terms of
7 quality control to the extent of--I mean, the vast
8 majority of what we do do, we've got punch list
9 items as well as engineers that actually go
10 through the punch list items in order to provide,
11 you know, what would basically be passing grades.
12 We do this in conjunction though with the banks
13 that we finance with and their engineers as well
14 as the tax credit financiers that are also
15 involved and their engineers. So, we tend to be a
16 part of a team that oversees the requisitioning
17 process, as well as the quality control relative
18 to the final product.

19 CHAIRPERSON DILAN: Okay, after a
20 unit is constructed or a building is constructed,
21 in your opinion, how would your process be
22 different for a project that has come through your
23 pipeline? How would your process be different
24 than say a new construction of a new home that was
25 built totally private or renovated totally

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

private? Is there a difference?

MATHEW WAMBUA: Well, yeah. I mean, I think there is a difference, the difference being that much of the way that we tend to finance a lot of our buildings requires a layering of financiers. We are one layer of the financing. There tends to be a bank in there, and often there is a tax credit financier in there. The combination of all those financing entities tends to lead to greater eyes on the ground and greater architecture and engineering review. Additionally, to the extent that our projects have problems subsequent to completion, then I think it can be argue that we serve as somewhat of a backstop for those problems, which wouldn't necessarily exist in an instance in which it was simply a privately financed project.

CHAIRPERSON DILAN: Okay, so my question just off of that is who is ultimately in your process responsible for obtaining the architects and the engineers? Would that be the developer, the bank or HPD?

MATHEW WAMBUA: That would be the developer.

1
2 CHAIRPERSON DILAN: So that's on
3 the developer?

4 MATHEW WAMBUA: Yeah. The
5 developer contracts with all of the direct
6 contractors and, you know, subs, etcetera. I
7 mean, the GCs contract with the subs.

8 CHAIRPERSON DILAN: Okay. But
9 obviously to do the due diligence on what the
10 engineer who signs off on the project and what the
11 architect who designs--due diligence would also be
12 done by the banks and financing partners and the
13 agencies, I would assume?

14 MATHEW WAMBUA: That's exactly
15 right.

16 CHAIRPERSON DILAN: Okay. And you
17 and I have worked on this in my district. To the
18 extent that a project is constructed with
19 deficiencies, say for home ownership opportunities
20 and for rental opportunities, what is HPD's legal
21 authority to step in and intervene after a
22 developer has been selected, and say the job
23 wasn't as satisfactory as it should have been?

24 MATHEW WAMBUA: So, in an instance
25 where there is insufficient construction quality

1
2 or the construction quality is lacking, generally
3 we tend to follow one of two routes. To the
4 extent that the developer is still around, we work
5 with the developer to force the developer to make
6 any kind of corrections at no cost to home
7 purchasers, or if a developer is one that
8 continues to own the building because it is a
9 rental building, we make them make the
10 corrections. If in fact there is an unwillingness
11 on the part of the developer, particularly in
12 instances of home ownership projects, where they
13 are not going to be willing to come back, then
14 sometimes we're stuck holding the back. Sometimes
15 we, recognizing the importance of rectifying bad
16 situations with faulty construction simply have to
17 come up with our own solutions and bring in new
18 developers and cover the costs, and in some
19 instances work consultatively with the Council to
20 get additional capital expenditure funds to cover
21 this stuff.

22 CHAIRPERSON DILAN: In the
23 instances when you're left holding the bag and you
24 have to essentially--and you can correct me if I'm
25 wrong--you have to essentially backstop any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

construction deficiencies.

MATHEW WAMBUA: Yeah.

CHAIRPERSON DILAN: Which will cost you resources that technically you've already laid out. How often has that occurred, say, over the past two or three fiscal years?

MATHEW WAMBUA: I couldn't give you a specific number, but I'd be happy to follow up and give you a specific number.

CHAIRPERSON DILAN: Okay.

MATHEW WAMBUA: I think that probably the fair characterization would be as follows. We, as you know, I mean over the course of the last eight years, we have financed the preservation and construction of about 130,000 units. On average we do about 15,000 units a year. The vast majority of the units that we finance are quality, represent quality work product. It would be disingenuous to suggest that every single unit represents quality work product. There are problems, and albeit in the minority of instances, and when there are problems, then it's a problem for all of us. RuthAnne and I obviously did not get into this business to, you know, to be

1
2 facilitating the construction of crappy units.
3 Ultimately to the extent that there is a problem,
4 then we recognize it. It is incumbent upon us to
5 find some kind of a solution. But again, I'd like
6 to say the vast majority of what we do represents
7 quality construction product. In terms of your
8 specific requests, we'll get you some numbers
9 about how many units we have had to go back to and
10 invest more money subsequent to closing.

11 CHAIRPERSON DILAN: I also, I think
12 you've known, I said this to offline, I've said it
13 publicly, you know, I believe your development
14 pipeline is an invaluable asset to this City and
15 it has done great work in revitalizing
16 neighborhoods. But we do have to, you know, do
17 our diligence--

18 MATHEW WAMBUA: Oh, yeah, and I--

19 CHAIRPERSON DILAN: --and ask the
20 questions.

21 MATHEW WAMBUA: I take no offense
22 whatsoever. I'd actually like to request that
23 crappy be struck from the--

24 CHAIRPERSON DILAN: [Interposing]
25 Don't worry about that.

1
2 MATHEW WAMBUA: --record. That was
3 extemporaneous and not close to the context.

4 CHAIRPERSON DILAN: We'll move on.
5 And I think you certainly have the right to make
6 the case for your agency's work, whether it be
7 good or bad. I believe the majority of what you
8 do is good. But that being said, when you have an
9 \$8 billion development pipeline, not every project
10 is going to be perfect. So, how do we better
11 manage what goes on when things don't go right,
12 and how can we make sure that one, your agency is
13 not left holding the bag when a developer walks
14 away, because basically it's going to cost the
15 City twice the amount in some cases--I'm sure it
16 won't be 100% of the project cost, but still, it's
17 a significant amount of dollars that the City is
18 spending to chase an initial investment that we
19 made, so we're concerned about that. So, after
20 you've decided and the agency has made the
21 determination that, you know, the developer has
22 done a poor job, how does your agency document it
23 on the developer? What prohibitions are made
24 against that developer in the future, if any?

25 MATHEW WAMBUA: So, usually the

1
2 sequence of events is as follows. And I would use
3 the project, the homeownership project in your
4 District, Chairman, as an example. So, in that
5 instance, you know, the construction deficiencies
6 are brought to our attention by homeowners as well
7 as representatives, such as yourself, which we
8 rely on significantly, because we're not always
9 going to have the kind of eyes that are necessary
10 to be out in the field. So, in that situation,
11 you brought to our attention, obviously you
12 brought me and others out--

13 CHAIRPERSON DILAN: [Interposing]

14 The Putnam Avenue Homeownership--

15 MATHEW WAMBUA: Exactly. And what
16 we saw was clearly unacceptable and deplorable.
17 What we had, I mean in many instances, we have
18 developers who, you know, have ongoing vested
19 interest and that we work with, and we will go to
20 them and say, this needs to be corrected, you need
21 to find a way. At which point we will, you know,
22 we'll muscle them into doing what is right. In
23 this instance, as you know, the developer is not
24 as reputable in terms of their work product, and
25 we have not continued to work with them. So, we

1
2 don't have much leverage to force them to come
3 back. As a consequence, what we've done is we've
4 just gone into our budget to figure out how to
5 make the money available, and we've gone out and
6 got a third party contractor to come in, assess
7 the situation, and we're going to go ahead and
8 make the corrections ourselves.

9 CHAIRPERSON DILAN: So speaking
10 broadly, that would be generally the tools that
11 you have?

12 MATHEW WAMBUA: That would be it,
13 yeah.

14 CHAIRPERSON DILAN: Do you have any
15 other tools to maybe seek litigation to bring the
16 developer to court to try to correct the
17 situation? Is that an arsenal that you have at
18 your disposal?

19 MATHEW WAMBUA: It is. It's one of
20 the things that we look at. And in some instances
21 I think we've had some success. In other
22 instances we just haven't been as successful. But
23 it is without a doubt one of the tools within our
24 arsenal.

25 CHAIRPERSON DILAN: Okay. And I

1
2 guess, I don't know if you have it available with
3 you today, but if you could provide the Committee,
4 and if you do have it available, obviously please
5 come forward and answer, but if you have the
6 number of instances where your agency has
7 commenced a litigation against a developer for
8 under performance and you have to chase resources,
9 we'd like to certainly know that information as
10 well.

11 MATHEW WAMBUA: We can get you
12 that, chairman.

13 CHAIRPERSON DILAN: Okay. So, I'm
14 going to move on to just some quick questions on
15 labor in terms, as it relates to your pipeline. I
16 think we both would agree, and I guess you can
17 answer this for yourself, that there should at
18 least be some minimum labor standards and wage
19 standards that go along with construction projects
20 that are in your pipeline. Is that something that
21 you agree?

22 MATHEW WAMBUA: We would agree with
23 that statement wholeheartedly.

24 CHAIRPERSON DILAN: Okay. So just
25 in general, as it stands now, say outside of this

1
2 law. What type of guidelines do you give
3 developers that you select that they should follow
4 when it comes to wages, when they have received an
5 award from your agency?

6 MATHEW WAMBUA: You know,
7 fundamentally we have a basic believe as
8 principles of this organization and as an
9 organization in total, and that is that all
10 construction personnel should be at all times
11 treated with dignity and should at all times be
12 paid what they have been promised. And to the
13 extent that it is a prevailing wage job or non-
14 prevailing wage job, irrespective of the
15 situation, if promises have been made, then those
16 promises should be adhered to. What we have are a
17 number of measures in place, to the extent that we
18 are informed of potential wage violations, much of
19 which will come from a number of different
20 sources. We send people out. We have a unit that
21 goes out and investigates, that does field surveys
22 and interviews to substantiate any potential
23 allegations. If substantiated, then we work to
24 withhold payment to the contractor, to the GC, to
25 the developer, until the issue is resolved and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

payments that are due to the personnel are made.

CHAIRPERSON DILAN: And, I guess again to your knowledge, over the last several years, how many projects that have gone through the agency's pipeline have been cited for wage violations?

MATHEW WAMBUA: I don't have that with me and I will get that to you.

CHAIRPERSON DILAN: Okay. We'd like to know that and in pretty short order. So, obviously you, as it stands now, say on your non-prevailing wage jobs, developers have to at least pay a minimum wage. Is that correct? At minimum.

MATHEW WAMBUA: Yes.

CHAIRPERSON DILAN: And, I guess, how do you inform them on wage guidelines and what do you do in instances where--and maybe I asked already, but I'll ask it maybe in a different way--what do you do in instances where you know a developer has clearly used labor that was non-sufficient, where they paid below a minimum wage and they had labor that was maybe not as exactly qualified? Let me frame it this way.

MATHEW WAMBUA: Yeah.

1
2 CHAIRPERSON DILAN: How much of a
3 problem do you think it is in the broad sense of
4 your whole development pipeline? How pervasive do
5 you believe it is?

6 MATHEW WAMBUA: In the broad sense,
7 I don't think I could give you a percentage of how
8 much.

9 CHAIRPERSON DILAN: Yeah, and I'm
10 not looking for a percentage on this.

11 MATHEW WAMBUA: But I think it's a
12 problem. I think it's a problem. It's something
13 we take extremely seriously. We don't always have
14 the resources to be able to be the first ones to
15 know about it. But to the extent that--but we do
16 dedicate the resources to the extent that there
17 are referrals made to us, be it from elected or be
18 it from folks on the site, or be it from organized
19 labor. And we send out folks to figure this out,
20 to interview, to try and substantiate. In some
21 instances the allegations are not substantiated.
22 In some instances they are. And it's a real
23 problem. I think that the problem is a large one,
24 not necessarily because of the percentage of
25 projects, but because of the depth of the issue

1
2 and how much it impugns all of our integrity to
3 the extent that anybody is not being treated with
4 dignity or being paid what they are promised to be
5 paid.

6 CHAIRPERSON DILAN: Okay. And how
7 does this generally--you said, you gave two
8 instances in your last answer. But how does this
9 information generally come to be knowledge at the
10 agency? How do you find out?

11 MATHEW WAMBUA: So there's usually
12 three ways. Usually, I mean, we send people out
13 and, you know, we take surveys, do interviews, and
14 often we uncover it ourselves. In other instances
15 referral--

16 CHAIRPERSON DILAN: [Interposing]
17 Not to interrupt you.

18 MATHEW WAMBUA: Yes.

19 CHAIRPERSON DILAN: So you do have
20 a proactive component to this?

21 MATHEW WAMBUA: We do have a
22 proactive component.

23 CHAIRPERSON DILAN: Okay.

24 MATHEW WAMBUA: In other instances,
25 referrals are made to us and those referrals are

1
2 made to us by people on the jobsite. In other
3 instances referrals are made to us not by people
4 on the jobsite, but by organized labor, which
5 obviously has an interest in ensuring integrity
6 and labor standards and payment rates. And then
7 in select instances the elected will reach out to
8 us.

9 CHAIRPERSON DILAN: Okay. So, on
10 the prevailing wage jobs for a second, how
11 pervasive of a problem do you believe it is
12 throughout that universe of jobs where the workers
13 are promised to be paid a prevailing wage, and
14 then in actuality turn out not to receive
15 prevailing wage. Do you view that as a problem?

16 MATHEW WAMBUA: Again, I couldn't
17 quantify how big a problem in terms of, yeah--

18 CHAIRPERSON DILAN: [Interposing]
19 In general.

20 MATHEW WAMBUA: But, yes, this is a
21 problem. I wouldn't say it is a problem because
22 it is an issue that is endemic to the majority of
23 our projects. I would say it's a problem because
24 we do run into instances in which people violate
25 prevailing wage standards, and when that happens,

1
2 it is completely unacceptable and we have a zero
3 tolerance policy for it.

4 CHAIRPERSON DILAN: So, when you do
5 uncover that, what steps does the agency take
6 against the developer? What type of action does
7 the agency take?

8 MATHEW WAMBUA: So, traditionally
9 what we've done is once substantiated we, as I had
10 noted, we will withhold payment to the party. So,
11 say we'll withhold--say there's a labor dispute
12 over \$150,000 that should have been paid out to
13 laborers. We will withhold, for instance,
14 \$500,000 until all situations have been rectified
15 and until we're sufficiently satisfied that
16 obligations have been met. There's a number of
17 other things that we're going to be doing to try
18 and increase monitoring as well. We're going to
19 be creating a watch list, and this is really
20 moving forward, a watch list of anybody that has
21 had any kind of problems with respect to labor
22 conditions and labor standards and wage standards.
23 And that watch list is going to be utilized to
24 influence future business, whether people are
25 going to be doing business with us or not doing

1
2 business with us. And then in instances,
3 especially moving forward, where there are
4 substantiated situations of wage violations and
5 labor violations, we're also going to be beefing
6 up our remediation plans and forcing people to be
7 it developers, GCs, contractors, to adhere to
8 remediation plan to prior to being able to move
9 forward with future business. A remediation plan,
10 for instance, might require that, you know, a
11 contractor or a GC hire an independent third party
12 that serves as a labor monitor throughout the
13 entirety of a job.

14 CHAIRPERSON DILAN: Okay. I'm of
15 the sense, and maybe you can give me your opinion,
16 but I'm of the sense that most of the developers
17 that you select throughout your entire pipeline do
18 a credible job. And I believe that that is your
19 sense as well.

20 MATHEW WAMBUA: The folks that we
21 work with, I think, represent a very responsible
22 segment of the development market, specifically
23 that being affordable housing developers. When I
24 speak to the importance of this problem, again, I
25 speak to the importance of the problem not as, you

1
2 know, not to infer that it is endemic throughout
3 the entire industry, but simply to state that even
4 if there is one violation, I mean, that
5 fundamentally undermines our principles and what
6 we are about at HPD. And there isn't just one
7 violation, there's more than one violation. In
8 those instances it's completely unacceptable.

9 CHAIRPERSON DILAN: And I largely
10 would agree with that assessment, but I think as
11 we go through the process of hearing this bill and
12 work that will be done offline and some of the
13 follow-up information that you provide us will
14 give us a clearer picture of how large or small
15 that that actually is, and I look forward to
16 receiving some of that data. I want to just
17 follow up on one question. I asked about punch
18 list items for homeownership units. I forgot to
19 ask about rental. I would assume that on the
20 rental units that come out of your pipeline you
21 also try to get the developer back to the table or
22 the managing agent back to the table to make the
23 corrections. I would assume that your answer to
24 that would be yes. But, should they not, what
25 happens then? Do you have to backstop it through

1
2 capital monies or through the emergency repair
3 program?

4 MATHEW WAMBUA: Well, so that's a
5 good differentiation to start with, the
6 homeownership versus the rental projects. We have
7 more difficulty in terms of construction quality
8 to the extent that, you know, you have to assign
9 difficulty to one or the other. We have more
10 difficulty with the homeownership stuff, some of
11 the conventional, you know, row houses, two- to
12 three-family row houses, partnership-oriented
13 stuff. And part of the problem there is that it's
14 for-sale product. To the extent that it's been
15 sold, then a developer that was previously vested
16 has the liberty to no longer be that interested.

17 CHAIRPERSON DILAN: So at that
18 point it becomes a private asset, where as--

19 MATHEW WAMBUA: [Interposing]
20 Exactly. So at that point it becomes a private
21 asset. And what we try and do as noted, we try
22 and do the right thing. You know, if we've got
23 ongoing business interest, we try and muscle
24 somebody into doing the right thing. If they're
25 not going to do it, then we go in and make the

1
2 repairs. When it comes to a rental building,
3 that's a different situation to the extent that
4 the developer that we have financed to build that
5 rental building is still around. They're around,
6 they have a vested financial interest, and we have
7 a number of hooks, including, you know, in terms
8 of the financing that we have provided, that allow
9 us to exercise the leverage to extract the right
10 reaction from them. It's just a little easier
11 because their skin is still in the game.

12 CHAIRPERSON DILAN: Okay. So, I'm
13 going to move on to just one or two administrative
14 questions, and then I'll open up the questioning
15 to my colleagues. Just the bill as it stands
16 right now, how do you think it will impact how you
17 manage your development pipeline and how do you
18 believe you can make this a better bill?

19 MATHEW WAMBUA: So, you know, I
20 think the crux of our message is we embrace the
21 stated intent here. Two, there's definitely
22 things here that we can do better in terms of
23 ongoing reporting and disclosures that help people
24 better understand what we do. And three, there is
25 components that are either administratively

1
2 burdensome or that we don't quite understand how
3 they support the underlying intent. Specifically
4 with respect to some of the administratively
5 burdensome stuff, we've estimated that as
6 structured, for instance, this bill would
7 basically translate into about 7,200 additional
8 man hours, which is close to about a 4.25 full
9 time equivalent, assuming, something like \$75,000
10 upon average for, you know, somebody being hide to
11 do this, this is like \$325,000. In our current
12 state where we are literally laying off close to
13 15% of everybody because we have a \$90 million
14 hole, I don't see that we're necessarily going to
15 be able to assume the burden of that kind of
16 administration.

17 CHAIRPERSON DILAN: Okay. So, can
18 I take that--what did you say? \$325,000 number,
19 would that be your estimate right now as to what
20 this bill would cost?

21 MATHEW WAMBUA: Right now.

22 CHAIRPERSON DILAN: Right now.

23 MATHEW WAMBUA: Preliminarily.

24 Yeah.

25 CHAIRPERSON DILAN: Okay. And as

1
2 it stands right now administratively, would you
3 have enough data on file from your developers to
4 do this without having to go back to them to seek
5 more information, or would you indeed actually
6 have to go back to them and seen more info to
7 comply?

8 MATHEW WAMBUA: Well, as it's
9 structured now, I think a lot of the wage
10 reporting would have to be placed heavily on the
11 GCs, the contractors, as well as the developers.
12 So, it would probably be on both sides.

13 CHAIRPERSON DILAN: Okay. Outside
14 of the wage requirements, is that the only data
15 that you would need to go back to the developer to
16 then get? Would you need to get other information
17 besides...?

18 MATHEW WAMBUA: Do you know what
19 I...? I think probably--I qualify it to the extent
20 that there's always smarter people than me who
21 read everything more carefully than I do--but I
22 think that, yeah, the answer is yes.

23 CHAIRPERSON DILAN: I could say the
24 same on my side. There's a lot of smart people
25 around me. So, at this point, I have some members

1
2 signed up. I want to give the bill's sponsor the
3 privilege to go next, if he so chooses. Council
4 Member Recchia?

5 COUNCIL MEMBER RECCHIA: I'll just
6 ask some questions, then we'll let other members
7 go, then I'll come back. Commissioner, good
8 afternoon and thank you for coming to be here
9 today.

10 MATHEW WAMBUA: God afternoon,
11 Council Member.

12 COUNCIL MEMBER RECCHIA: You know,
13 one of the issues with this bill is about the
14 general contractors. You know, we want to find
15 out information about them. And there are
16 instances where developers get awarded, they hire
17 their general contractors, and then a job starts
18 and then information comes out about these general
19 contractors, about they weren't paying prevailing
20 wage, they have this violation, they have that
21 violation. If we don't move forward with this
22 bill, then how could the public find out about
23 those contractors that are not living up to their
24 job and still getting awarded contracts from HPD,
25 or working with developers getting, you know--how

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

do we handle that if we don't move forward with this bill?

MATHEW WAMBUA: So, Council Member Recchia, forgive me for--but can you reframe? The question is--

COUNCIL MEMBER RECCHIA:
[Interposing] Yeah.

MATHEW WAMBUA: How do we get this information without going through this bill?

COUNCIL MEMBER RECCHIA: Right.
Because this bill...

MATHEW WAMBUA: Yeah, if you can specifically...

COUNCIL MEMBER RECCHIA: We have contractors, we have general contractors out there that developers hire them, they start a job and then we learn all this information about them. How do we, you know, like prevailing wage violations, do we--not doing, you know, up to par work and so forth. If we don't move forward with this bill, then how would you address those?

MATHEW WAMBUA: Can I specifically ask what specific piece of information through this bill in terms of the GCs and performance you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

guys would want? Because that--

COUNCIL MEMBER RECCHIA:

[Interposing] I'm just saying all around, about everything, about the GC. You know, because this is a problem where contractors, general contractors, are getting awarded jobs and then all this stuff comes out about them, not safety-- project--you know, they're not safe. They have safety violations, they have other information.

MATHEW WAMBUA: So.

COUNCIL MEMBER RECCHIA: I'm just trying to show you why we need this bill. Okay? Because, you know. This is a problem that we need to know, the public needs to know about this.

MATHEW WAMBUA: I think where I'm a little lost is because I agree with you, we need this bill. And I think there's aspects of this bill that are going to go a long way towards helping everybody better understand what we do. It's the specific information that you're talking about that I'm not positive what information that is that you're honing in on. I mean, there's components of the bill that ask for requirements that are either too administratively burdensome or

1
2 that, you know, for which we're not positive how,
3 you know, it helps with the transparency. But, in
4 general, we think that, yes, we need this.

5 COUNCIL MEMBER RECCHIA: Let me
6 give you an example.

7 MATHEW WAMBUA: Yeah.

8 COUNCIL MEMBER RECCHIA: In your
9 testimony you say that you're against for the
10 public to know the principal officers and the
11 principal owners of a company. Is that correct?

12 MATHEW WAMBUA: Of a company? So,
13 the taxpayer information, the offices, all the
14 kind of stuff?

15 COUNCIL MEMBER RECCHIA: I'm not
16 talking about the taxpayer identification numbers.
17 I'm talking about the principal officers and the
18 principal owners of a company.

19 MATHEW WAMBUA: So, RuthAnne has
20 some good points. RuthAnne is talking about the
21 fact that part of our problem here is that a lot
22 of the time these are - - structures that are
23 relatively vacuous structures for which there
24 really are all kinds of addresses that don't
25 necessarily correlate with anybody, any real

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

principal. And that is part of the--yeah.

COUNCIL MEMBER RECCHIA: All right.
Let me just draw your attention to the general
contractors.

MATHEW WAMBUA: Yeah.

COUNCIL MEMBER RECCHIA: Let's
focus on the general contractors and
subcontractors. Okay? We need to know who the
principal owners are and the principal officers.

MATHEW WAMBUA: I don't think we
have a problem with that.

COUNCIL MEMBER RECCHIA: Well, you
put in your testimony--

MATHEW WAMBUA: [Interposing] I
think we have a problem with taxpayer IDs, you
know, specific, like, home addresses.

COUNCIL MEMBER RECCHIA: Well, let
me explain.

MATHEW WAMBUA: Personal
information. I--

COUNCIL MEMBER RECCHIA:
[Interposing] Let me explain to you why some of
that information is important. Okay? Because--
I'll give you an example. Contractor A opens up

1
2 under Smith Corporation. Okay? They get in
3 trouble, they get jammed up because they didn't do
4 work properly, they didn't have safety--they had
5 safety violations--they close up and they go open
6 up another corporation. Meanwhile, you never know
7 who the officers or the principal owners are,
8 because they're just going to go do business under
9 another corporation. And we need to get to those
10 people that are doing bad work.

11 MATHEW WAMBUA: So can I--

12 COUNCIL MEMBER RECCHIA:

13 [Interposing] And it's not fair to everybody else
14 in the corporation, and this is what we're trying
15 to address, is who are the people out there that
16 keep on getting these contracts, and they just do
17 it under different names, and we're trying to
18 address and say, you have to stop.

19 MATHEW WAMBUA: Council Member, I
20 don't think we're saying different things. Our
21 objective is exactly the same as your objective,
22 which is to the extent that there are principals
23 and entities which are simply recycling themselves
24 under different names and coming back in different
25 iterations for different projects, we do put every

1
2 single one of these GCs, as well as the developers
3 through sponsor review in order to identify those.
4 All I'm suggesting is that what we were objecting
5 to is the highly personal information like
6 taxpayer ID, you know, personal information, any
7 kind of information that could be utilized in a
8 way that leaves us liable.

9 COUNCIL MEMBER RECCHIA: Well, we
10 don't want you to be liable. What we want to do
11 is to send the message out to those subcontractors
12 and those contractors that are not doing what
13 they're supposed to be doing, okay, and who
14 constantly get violations and get awarded
15 contracts, to let them know that they can't hide
16 behind the corporate shield anymore, that we're
17 going to find out who exactly you are. And the
18 only way for them to know is--for people to know
19 who the officers are and the principle owners are.
20 And that's the only way. Now, I can understand
21 the taxpayer ID, I can, you know. But to find out
22 who these people are, we need to know, and that's
23 why this bill is very important, so we can go
24 after those contractors who keep on getting--I'm
25 going to repeat myself, but I want you to try and

1
2 understand where I'm coming from. Okay? And, you
3 know. So, do you agree, disagree?

4 MATHEW WAMBUA: I agree that we
5 have the exact same objective. We don't--we have
6 a very thorough sponsor review process where we
7 don't want those people to recycle themselves, and
8 we take very concerted efforts to ensure that they
9 don't recycle themselves. So yes, I think that,
10 you know, if you guys want to sit down and go
11 through the specific pieces of information and
12 what we'd consider personal, what isn't personal--

13 COUNCIL MEMBER RECCHIA:

14 [Interposing] Yeah, I think that would be very
15 good for us to do that, because that is of great
16 concern, you know. Moving on. HPD is already
17 collecting much of this information, as required
18 by law. Right? What is going to be the impact,
19 just by making it available to the public? I
20 don't understand. If you're already collecting
21 this, what is the over, you know, putting this all
22 together? Is that the...?

23 MATHEW WAMBUA: We think that the
24 impact is going to be that--we're assuming the
25 stated intent of the legislation is that this is

1
2 going to help everybody better understand.
3 Putting in one place, creating a repository,
4 allowing people to know where to go for it helps
5 everybody better understand exactly what it is
6 that we do and how we do it.

7 COUNCIL MEMBER RECCHIA: And you
8 say this is going to cost your agency. Do we have
9 an exact number how much it's going to cost,
10 about?

11 MATHEW WAMBUA: About \$325,000 to
12 \$350,000 is our preliminary estimate.

13 COUNCIL MEMBER RECCHIA: Right.
14 But I know this is an inconvenience and
15 everything, but wouldn't it offset to ensure the
16 public that the transparency is clear and it could
17 help us on projects?

18 MATHEW WAMBUA: Look, there are so
19 many things here that we think we can report on
20 that you guys are asking for that ultimately will
21 achieve these ends and will provide the amount of
22 disclosure as well as an illumination of what's
23 going on that is not going to be particularly
24 costly, because as you're noting, it's information
25 that is collected that we already have that, you

1
2 know, we simply would need to reformat. Our
3 primary point is that this is worth it, as you
4 would suggest.

5 COUNCIL MEMBER RECCHIA: Right.

6 MATHEW WAMBUA: And we would only
7 ask that we figure out how to make it worth it,
8 continue to make it worth it, while simultaneously
9 being able to absorb this as an administrative
10 task rather than a burden that is very difficult
11 to handle.

12 COUNCIL MEMBER RECCHIA: Now, the
13 subcontractors, okay? There are a lot of bad ones
14 out there. You know? And again, I just want to
15 point out, we need to--if they get awarded, if
16 they get hired on another job, we need to be able
17 to go to that general contractor and say, look,
18 this person was in violation on this, this, this
19 and that. They shouldn't be doing work here. You
20 know, this is an HPD job. You know what I mean?
21 You understand what I'm trying to get at? We're
22 trying to cut out these subcontractors too. This
23 is why we need additional information, because the
24 subcontractors are a problem also.

25 MATHEW WAMBUA: So, what is the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

specific additional information you're asking for?

COUNCIL MEMBER RECCHIA: No, I'm just trying to explain to you why we need all the information on the GCs--I mean, on the subcontractors. I want to make sure my point is clear.

RUTHANNE VISNAUSKAS: If I could just jump in for a second?

COUNCIL MEMBER RECCHIA: Yeah.

RUTHANNE VISNAUSKAS: I think in terms of volume, so just to put that in a little bit of--

CHAIRPERSON DILAN: [Interposing] Since this is your first time speaking, you do have to identify yourself in your own voice.

RUTHANNE VISNAUSKAS: Sorry. Sure. My name is RuthAnne Visnauskas. I'm the Deputy Commissioner for Development at HPD. I just want to add a little context to what Mathew was saying in terms of the volume. So we do about 200 loans a year. And assuming every deal has a general contractor and any deal can have between 1 and, I don't know, 30 subcontractors. So, you'd be talking about sort of a substantial number of

1
2 subcontractors on in any given year. And
3 obviously we do this every single year. So in
4 terms of the administrative burden, it is a lot of
5 volume.

6 COUNCIL MEMBER RECCHIA: So, are
7 you saying that this is going to be hard to do?

8 RUTHANNE VISNAUSKAS: Well, I think
9 you're talking about tracking over 600 or more
10 subcontractors every year as we do new deals every
11 year, and those subcontracts maybe last two, to
12 three, to four years, so yes.

13 MATHEW WAMBUA: On a monthly basis.

14 RUTHANNE VISNAUSKAS: On a monthly
15 basis. I think that's substantial.

16 COUNCIL MEMBER RECCHIA: Well. You
17 know. If we don't do it like we recommend in this
18 bill, then how would you recommend for us to do
19 it? Do you have another idea?

20 MATHEW WAMBUA: Our idea would be
21 that we report on this on a regular basis, but not
22 on a monthly basis, and that we--

23 COUNCIL MEMBER RECCHIA:

24 [Interposing] When you say on a regular basis...?

25 MATHEW WAMBUA: I would say--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER RECCHIA:

[Interposing] Every quarter? Every half? You know.

MATHEW WAMBUA: We have basically two closing seasons, December and June. So, it wouldn't even make sense for us to be reporting on a monthly basis, because the incremental benefit of doing so, you know, wouldn't be that great in that--

COUNCIL MEMBER RECCHIA:

[Interposing] So, would you want to report, like, in January so you're after your closing, and then in July?

MATHEW WAMBUA: I think January would make sense, and I think it would make sense for us to, as you were suggesting, get together and go through and tic and tie what we are going to be reporting. There are certain things that we're going to want to report that we think really get us a long way towards our collective ends, and other things that, again, we don't quite understand why they make sense.

COUNCIL MEMBER RECCHIA: Okay.

Well, I can explain why it makes sense, but I'm

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

not going to take up the time here.

MATHEW WAMBUA: I appreciate it.

COUNCIL MEMBER RECCHIA: All right.

Mr. Chairman, thank you. I'll come back if there's more time.

CHAIRPERSON DILAN: Thank you Council Member Recchia. We have Council Member James. Council Member James, and we've also been joined by Council Members Mendez, Council Member Dromm, Council Member Wills for a brief moment, as well as--that's it. So, we have Council Member James, followed by Lander if he returns, and Council Member Mendez wants to be added to the questioners list. Council Member James.

COUNCIL MEMBER JAMES: Thank you, Mr. Chair. So, Commissioner, thank you for your testimony. So, basically my position is as follows. In an effort to curb abuses, I believe sunshine is the best disinfectant. Let me also go on to say that the recommendation that you mentioned earlier about self-policing by the industry, generally in my opinion, does not work. And so, obviously I believe the conversation that you just had with Council Member Recchia leads me

1
2 to believe that hopefully we'll get to some
3 reporting requirement. But let me just spell out
4 to you some of the issues that I have seen and
5 documentation that has been forwarded to my
6 office. One, contractors that were misclassified,
7 contractors that misclassified workers in order to
8 underpay them. I hope that you can get at that.
9 Two, a contract that was found to owe
10 approximately \$1.5 million in back wages. I hope
11 that you can get to that. Subcontractors that
12 unfortunately consistently and historically have
13 underbidded and then have a long list of--and then
14 obviously submit requests for more money or just
15 leave the project altogether. There was one
16 contract that I remember, and that's included in
17 the briefing papers, that underpaid 32 workers by
18 approximately \$329,000. I hope that you can get
19 at with this reporting requirement shoddy work,
20 work that has been reported to my office as being
21 substandard. And as you know, Commissioner, prior
22 to your arrival, in my district alone there were a
23 number of fatalities on projects where they were
24 non-union jobs, and I hope that we can report on
25 the number of fatalities, which is rather

1
2 unfortunate. And last, but not least, as you
3 know, Commissioner, and I think we've had a
4 conversation, since I've been in office, and I've
5 been in office now going on almost eight years,
6 and from my first day there's a project that was
7 once transferred to an organization, it was a
8 number of brownstones in central Brooklyn, I
9 believe it's about 30 to 40 homes, and they were
10 transferred to one organization, then transferred
11 to another, and then transferred to another, and
12 all of these homes were purchased by homeowners.
13 And unfortunately each and every building has yet
14 to be closed on, and all of these homeowners,
15 unfortunately, have not had homes--do not have
16 homes, and it's sort of embarrassing, and it's
17 really a disgrace, because a lot of these
18 homeowners come to my office asking when are they
19 going to be able to close on their property. So,
20 I guess my first question is for the homeowners
21 who are purchasing homes, what kind of disclosure
22 is there about problems sponsors or contractors
23 have had on previous projects and also what
24 tracking is currently in place to catalog and fix
25 these issues?

1
2 MATHEW WAMBUA: So, in terms of
3 disclosures, I think the same disclosures tend to
4 be made via the AG [phonetic] process. If we know
5 about something, then we would disclose it. I
6 think the issue tends to be that the quality of
7 construction issues are not really known until
8 they are uncovered by the homeowner, which is the
9 biggest tragedy, because obviously somebody who is
10 trying to live the American dream and buying their
11 first home shouldn't be subject to, you know, that
12 kind of a rude awakening and being the primary
13 source of informing us. The second question
14 being--I'm sorry.

15 COUNCIL MEMBER JAMES: I just
16 listed to you a number of requirements--

17 MATHEW WAMBUA: [Interposing] Oh,
18 what are we doing, what are we cataloging.

19 COUNCIL MEMBER JAMES: About the
20 homeowner issue in my district. In my district,
21 Council Member Vann's district, and Council Member
22 Mealy's district, about 30 to 40 homes that
23 unfortunately were--I forget the name of the
24 program, but individuals purchased these homes
25 almost ten years ago, eight to ten years ago, and

1
2 they have yet to close on these buildings, and
3 they're in various states of disrepair.

4 MATHEW WAMBUA: So, that sounds
5 like a slightly different situation, not one that
6 is insubstantial, one that is worthy of attention,
7 just a little different than something that has
8 been completed for which there is substandard
9 quality--both of them very important. In terms of
10 the question that you had asked about what
11 cataloging occurs when there is substandard
12 construction, basically, to the extent that
13 complaints are brought to us we send folks out,
14 and we catalog and try and determine or
15 substantiate if in fact those complaints represent
16 systemic problems and construction quality issues.
17 When they do, then we follow up and try and come
18 up with a plan to get rid of them, to rectify the
19 situation. In instances such as the one that you
20 are mentioning, if we haven't already been a part
21 of that dialog, then I would invite the
22 opportunity to sit down with you personally to go
23 through each one of these so that we can come up
24 with a plan to try and address them and better
25 understand what the scope of the issues are.

1
2 COUNCIL MEMBER JAMES: I've been in
3 touch with Deputy Commissioner, Assistant
4 Commissioner Hendrickson. I have the list of
5 buildings. These homeowners come to my office,
6 usually around Christmas. It's around 30 to 40
7 buildings. Some of them are in neighborhoods that
8 we've landmarked, and they are eyesores. And
9 there is no disclosure requirement. There is--you
10 know, these homeowners, potential homeowners, or
11 putative homeowners, cannot go to any website to
12 find out the status of their building, and it's
13 consistent with this hearing here today that there
14 should be some sort of disclosure as to the
15 problems associated with the sponsors and or the
16 contractors. And in this particular instance that
17 I just described, it's been problems with both,
18 problems with sponsors, problems with the
19 contractors, but the victims are 30 to 40 families
20 who are relying upon, who are holding on to these
21 homes because of the equity that has been added to
22 the value of their home, and they refuse to give
23 them up and they're in prime property. So, I
24 guess the question is, you know, there is no
25 tracking in place. There's nothing. There's no

1
2 disclosures anywhere for anyone to go to find out
3 about these homes.

4 MATHEW WAMBUA: Well, there is
5 tracking in place to the extent that it's brought
6 to us and we start working on it, then that's a
7 tracking, we are going to, you know, try and work
8 through some kind of a resolution to ensure that
9 this situation is rectified. And actually, if
10 you've got, if you have a bunch of other instances
11 that you feel represent things that are off the
12 radar for us, I would encourage you to come sit
13 down with me personally. We will go through it
14 and we will commit to figuring out how we can
15 contend with these issues.

16 COUNCIL MEMBER JAMES: Thank you.
17 Second question. I read an article some time ago
18 about a problem that you're having with bed bugs.

19 COUNCIL MEMBER BREWER: Bed bugs?

20 COUNCIL MEMBER JAMES: Yeah.

21 Council Member Brewer just...

22 CHAIRPERSON DILAN: Find a way to
23 make this germane to today's topic.

24 COUNCIL MEMBER JAMES: It is. Just
25 let me finish. The bed bugs, unfortunately, were-

1

2

-

3

COUNCIL MEMBER RECCHIA:

4

[Interposing] Who was the subcontractor?

5

CHAIRPERSON DILAN: Council Member

6

James has the floor.

7

COUNCIL MEMBER JAMES: Yeah, thank

8

you. Apparently the bed bugs were in there when

9

it was a box of data, and this box apparently was

10

not safeguarded, it was some documentation, and

11

the bed bugs were found in some of your files.

12

And from what I understand the files were

13

discarded. And my question after I read the

14

article is why wasn't there a computerized system,

15

and why did we still continue to have these files

16

in these boxes where the bed bugs...? So tell me

17

about the bed bugs.

18

MATHEW WAMBUA: Let me answer that

19

question.

20

CHAIRPERSON DILAN: I think that's

21

a different oversight. I think that's a different

22

oversight hearing.

23

MATHEW WAMBUA: I would like to

24

note that, yes, we were under the impression that

25

this is a transparency hearing. That said, I

1
2 would be happy to answer this question. Yes, we
3 had bed bugs. And...

4 COUNCIL MEMBER JAMES: In your
5 office?

6 CHAIRPERSON DILAN: All right guys.

7 COUNCIL MEMBER JAMES: No, no.
8 It's relevant in that--

9 MATHEW WAMBUA: [Interposing] It
10 is.

11 COUNCIL MEMBER JAMES: It goes to
12 disclosure.

13 CHAIRPERSON DILAN: This is
14 absolutely irrelevant to today's topic.

15 COUNCIL MEMBER JAMES: No, I don't
16 think so.

17 CHAIRPERSON DILAN: Commissioner
18 you can answer the question.

19 MATHEW WAMBUA: I'll humor her.

20 CHAIRPERSON DILAN: You can answer
21 the question, but then we're going to stick to the
22 subject matter of the hearing.

23 MATHEW WAMBUA: Yes, we had bed
24 bugs. It isn't pretty for anybody. It's
25 embarrassing for all of us, as is the case for

1
2 anybody that has bed bugs, because nobody likes to
3 be victimized by bed bugs. And yes, there were a
4 bunch of files that had to be moved offsite,
5 because of the fact that the bed bugs were on a
6 floor that was file intensive. No, the files were
7 not lost.

8 COUNCIL MEMBER JAMES: So, okay.
9 So, it's relevant in that, you know, if we had
10 gone to disclosure, if we had gone to a more
11 computerized system, there would be no need for
12 hard copies, and therefore it would not be
13 subjected to bed bugs. So I think that's the
14 relevant connection.

15 CHAIRPERSON DILAN: Okay.

16 COUNCIL MEMBER JAMES: And so, I'm
17 not trying to be funny, Mr. Chair.

18 CHAIRPERSON DILAN: I know you're
19 not, but I'm not certain that the files had to do
20 with the development projects. They may have been
21 other files.

22 COUNCIL MEMBER JAMES: Okay. Let
23 me move on. So.

24 CHAIRPERSON DILAN: Council Member
25 James.

1
2 COUNCIL MEMBER JAMES: Yes. Just
3 last two questions. With respect to the failure
4 to pay prevailing wage, what is your relationship
5 and how do you work in coordination with the
6 Controller of the City of New York?

7 MATHEW WAMBUA: Actually with
8 respect to the prevailing wage processes, I have
9 to admit that I would like to defer to Doug. I
10 mean we, the specifics of engaging with the
11 Controller, yeah.

12 COUNCIL MEMBER JAMES: With respect
13 to failure to disclose, we have a number of
14 contractors, as I mentioned earlier, that do not
15 pay individuals back wages and or prevailing
16 wages, or in sometimes underpay them altogether.
17 And the question is, what is the coordination
18 between your office and Controller John Liu, who
19 has ultimate responsibility and oversight with
20 respect to this issue?

21 CHAIRPERSON DILAN: Just identify
22 yourself for the record before answer.

23 DOUGLAS APPLE: Douglas Apple,
24 Deputy Commissioner, HPD. As it relates to
25 coordination with the Controller, as you know, the

1
2 Controller has oversight for City capital funds
3 and the requirements of prevailing wage. When the
4 Controller identifies an issue, we work closely
5 with them, whether it be a case where they've
6 identified and made a referral, we will work
7 closely with them, provide them with information
8 follow-up. And we do the same, by the way, with
9 the State Department of Labor, with the Federal
10 Department of Labor, and any other jurisdiction
11 that has oversight of prevailing wage. We will
12 also consult with the Controller. So, the
13 Controller is responsible, as you know, for
14 keeping track of contractors who have been--I'm
15 sorry, contractors, let's be clear, contractors or
16 subcontractors who have been barred, so we'll
17 refer to any lists that they might have of
18 individuals that have been barred from doing
19 business with the City of New York, so there is a
20 number of ways we consult with them.

21 COUNCIL MEMBER JAMES: And given
22 all of the issues that I raised and others have
23 raised today, and I guess, do you believe that by-
24 -if we were to move to a reporting system, that
25 that would assist you in barring some of these

1
2 contractors that continue to have a history of
3 engaging in violations?

4 MATHEW WAMBUA: I'm not sure that
5 it would necessarily help us continue barring
6 people. I mean, I think that what we currently
7 engage in is, you know, any time that some kind of
8 a wage violation or a labor violation is referred
9 to us, we follow up on it, to the extent that we
10 investigate and we make references to the
11 Department of Labor and those investigations are
12 substantiated, those allegations are
13 substantiated. We have in place a policy to
14 remediate and or not do business with those
15 organizations anymore. I'm not positive that this
16 is necessarily going to change our efforts. If it
17 does in fact help others, third parties, such as
18 yourselves, and the public, better understand what
19 it is we do and how we do it and how they can help
20 us in achieving our ends, then maybe in that
21 respect it could be helpful. The more
22 information, the more eyes. But certainly it's
23 not going to change our efforts, because our
24 efforts are very focused on trying to ensure that-

25 -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER JAMES:

[Interposing] So, to the extent that your efforts are focused, obviously this will help with disclosure, and obviously be more transparent, and you believe that's a good objective.

MATHEW WAMBUA: I think disclosure, transparency to the extent that it helps people better understand what we're doing is absolutely a worthwhile objective.

COUNCIL MEMBER JAMES: And all of the requirements that we are trying to disclose under this legislation, are they disclosed currently under Vendex?

DOUGLAS APPLE: I can probably address, the level of - - just to be clear, development agreements and our loans are not subject to Vendex--

COUNCIL MEMBER JAMES:
[Interposing] They're not subject to Vendex.

DOUGLAS APPLE: --and procurement process. However, let me just--however, both we and DOI in the process of sponsor review, review Vendex, all the Vendex information relevant for a contractor developer, as well as for

1
2 subcontractors as we're aware of it. To your
3 particular question, Council Woman, about--I'm
4 sorry--

5 COUNCIL MEMBER JAMES:

6 [Interposing] Do you think these contractors
7 should be subject to Vendex?

8 DOUGLAS APPLE: These are
9 development agreements, not procurement, and
10 therefore not subject to Vendex. We do a process
11 that involves both DOI and ourselves, that we
12 consult--actually more wide ranging than Vendex.
13 We do a more wide-ranging review than just that.

14 COUNCIL MEMBER JAMES: Okay. And
15 then lastly, you indicated the amount that it
16 would cost to conform with this law. Are you,
17 assuming that this bill passes in the City
18 Council, and becomes a law of the City of New
19 York, would you submit a budget request to address
20 the staffing needs?

21 MATHEW WAMBUA: My guess is that
22 that wouldn't be a fruitful path, given the fact
23 that we have such a huge budgetary hole right now.
24 I think the most fruitful path would be one in
25 which we agree collectively on objectives and

1
2 agree collectively on the wide array of
3 information that is going to be reported, and find
4 a way to achieve those ends that actually can be
5 done within our budgetary constraints.

6 COUNCIL MEMBER JAMES: Okay, thank
7 you.

8 DOUGLAS APPLE: And if I could just
9 sort of, Council Woman, having the responsibility
10 and having the staff oversight to sort of monitor
11 this, we obviously, as the Commissioner said,
12 embrace transparency and agree that that is a goal
13 we both share. I think, however, there is
14 transparency and then there is overwhelming
15 mountains of information that don't allow you to
16 get to the real outcome, and I would be worried,
17 as RuthAnne said, we in a given year do business
18 with potentially thousands of subcontractors.
19 They have hundreds and maybe even thousands of
20 employees that work--

21 CHAIRPERSON DILAN: [Interposing]
22 Thank you, Mr. Apple.

23 DOUGLAS APPLE: --so to keep track
24 of all that would be very difficult.

25 CHAIRPERSON DILAN: We're going to

1
2 move on. Thank you, Council Member James. We
3 have Council Member--I believe we had Crowley
4 before Brewer. Is that correct?

5 COUNCIL MEMBER CROWLEY: Yes.

6 CHAIRPERSON DILAN: Council Member
7 Crowley, followed by Council Member Brewer.

8 COUNCIL MEMBER CROWLEY: Thank you
9 to our Chair. I have a question. Earlier,
10 Commissioner, you said you think in order to get
11 your department to be as transparent as this bill
12 is requiring for it to be, it would cost \$300 and
13 some odd thousand. Is that what your estimate
14 was?

15 MATHEW WAMBUA: That was our
16 estimate, yes, Council Member.

17 COUNCIL MEMBER CROWLEY: Now, do
18 you have an idea of how much money the City has
19 been losing because people are being underpaid or
20 taken advantage of on many different construction
21 sites?

22 MATHEW WAMBUA: I'm not positive
23 how you would characterize the loss of that money.

24 COUNCIL MEMBER CROWLEY: From
25 reports that have been given by Council Members or

1
2 reports that have been given by unions, or even
3 people that are living in these affordable housing
4 units, whether it be the condition of the work
5 never--the construction work done on those units
6 never being done efficiently and often with the
7 contractors cutting corners, the monies that are
8 lost that way, when later issues arrive after the
9 work has been somewhat completed. So, in terms of
10 the City dollars lost by not efficiently doing the
11 construction work the right way the first time,
12 that type of--then later following up on this and
13 finding out that it's costing the City a lot more
14 money and these contractors, you know, we're
15 trying to figure out as City Council
16 representatives or those that are living in these
17 spaces, who actually did the work and how we can
18 hold them accountable--would save the City money.
19 Would you agree?

20 MATHEW WAMBUA: I would agree that
21 we have the same exact collective goals, which is
22 to ensure that we are transparent, that people
23 understand what we're doing and that we're working
24 with developers who represent the most capable and
25 the most responsible developers. And ultimately

1
2 our only position is that we would love to have a
3 bill that allows us to achieve those ends and
4 further those ends, and that allows us to actually
5 administer it.

6 COUNCIL MEMBER CROWLEY: How often
7 do you find your contractors are not performing to
8 the ability or to the standards that the City
9 would want them to perform to?

10 MATHEW WAMBUA: I think it's a
11 small percentage. I think it's a small
12 percentage. As I noted--

13 COUNCIL MEMBER CROWLEY:
14 [Interposing] But it's a percentage, so it's at
15 least 1% or is it 3%?

16 CHAIRPERSON DILAN: I just want to
17 ask the chambers to come to order so that the
18 Council Member can continue her questions
19 uninterrupted.

20 COUNCIL MEMBER CROWLEY: It's a
21 percentage. How much of a percentage?

22 MATHEW WAMBUA: I would be happy to
23 sit down with you and to refine those numbers, but
24 what is important, what's important is that I do
25 state that HPD does an incredible job of providing

1
2 affordable housing to New York City and to ensure
3 the people who need affordable housing have
4 quality and safe affordable housing. Again, we do
5 15,000 units every single year. Some of those
6 units are not going to be up to standard. And
7 when they're not up to standard, it's incumbent
8 upon us to assume responsibility and to make sure
9 that those situations are rectified. But, on the
10 whole, our track record is one that we're proud of
11 and one that we stand behind.

12 COUNCIL MEMBER CROWLEY: So, how
13 often? You don't know how often out of the 15,000
14 some odd units that you're producing, that's how
15 many said per year?

16 MATHEW WAMBUA: Council Member, I
17 don't have that number. I'd be happy though to
18 work on getting that number to you.

19 CHAIRPERSON DILAN: And for the
20 Committee as well.

21 MATHEW WAMBUA: Okay. Absolutely.
22 That would be my pleasure.

23 COUNCIL MEMBER CROWLEY: I think
24 that we get a lot of complaints in our City
25 Council offices by the residents, the people of

1
2 the City of New York, who are living in the units.
3 And they'll say, oh, you know, I thought it was a
4 brand new unit, I moved in only a year ago, but
5 there's leaks here and there, and there's mold
6 buildup and my kids are not safe in this unit.
7 And for us it's very frustrating, because we feel
8 that the City is wasting millions and millions of
9 dollars because we hear it from our constituents.
10 We see it when we visit their units, and then we
11 hear it from other reports, reports that these
12 contractors are not paying prevailing wages when
13 they should be, or they're not even paying on the
14 books; they're paying under the table. So we lose
15 money, again, in the City because they're not
16 paying payroll taxes. I think that if we were to
17 invest in a system where they could report, maybe
18 we could push the money, the cost that it would
19 incur to the City, that \$300 some odd thousand, we
20 would be able to put a program together where the
21 contractors would absorb this cost, then in the
22 long run it would save us millions of dollars.

23 MATHEW WAMBUA: Council Member, I
24 think that you very articulately basically
25 outlined our frustrations as well. Those are the

1
2 same frustrations that we have, and those are
3 frustrations around which we are aligned with you.
4 So, our only point has been that to the extent
5 that we have a disclosure bill, there's lots in
6 that disclosure bill, lots of information that
7 we're more than happy, that we do think makes a
8 big difference in terms of creating greater
9 transparency and working towards or collective
10 ends. Our only point has been, please give us a
11 bill that we actually have the resources to
12 implement. That's it. But we--you were very
13 articulate in basically outlining or delineating
14 the frustrations that we feel. Those are all the
15 things that we want to achieve also.

16 DOUGLAS APPLE: Councilwoman, if I
17 could just add a point about cost. The 352 would
18 be the cost of the HPD staff that we would have to
19 hire new staff, staff at a time, as you know,
20 we're almost down by a third in headcount, so
21 struggling. So if I could also--

22 COUNCIL MEMBER CROWLEY:

23 [Interposing] Well, if there was a system, like we
24 all, as elected officials we do reportings twice a
25 year. We do fundraising. And the burden is on us

1
2 to fill out the system's paperwork and process
3 that or it's on our Committees. And if I was to
4 be a contractor wanting to do work with the City,
5 part of that incentive would be to fill out and do
6 the majority of the work. If somehow you could
7 create a system where the burden is on the
8 contractor and the cost is on the contractor,
9 therefore it wouldn't cost your agency money, and
10 in fact it would save the City tens of millions of
11 dollars in--

12 DOUGLAS APPLE: [Interposing] We
13 would agree with that, except to the extent that
14 we create a burdensome system for the contractor.
15 That cost will end up being passed on to the
16 development project. You know our goal is to
17 better serve the lowest income we can serve, so
18 therefore there's a tension there that we'd have
19 to work through together, because if we create a
20 system that passes that cost on to the developer
21 that's burdensome, their cost will go up. We will
22 end up seeing less affordable units. You know our
23 goal is to create as much affordable housing as we
24 can. So, we agree that there's a way to structure
25 this that creates a less than burdensome system

1
2 for everybody and transparency, but just to make
3 that cost borne by the developer may not be the
4 only solution.

5 MATHEW WAMBUA: I think I would
6 like to add to this point. As Deputy Commissioner
7 Doug Apple was noting, so the 325, yes, that
8 really has to do with the resources that would be
9 consumed on the HPD side, and of course difficult
10 for us, given this budgetary situation. But we
11 haven't even done any kind of an accounting of the
12 as currently written cost that would be borne by
13 the contractors, the subcontractors, the GCs, the
14 developers, for instance to engage in all of the
15 requirements from their side. Part of the
16 unintended consequences here, that I don't think
17 people would necessarily be seeing--

18 COUNCIL MEMBER CROWLEY:

19 [Interposing] I understand that you believe that,
20 but I don't think that it would actually cost--

21 MATHEW WAMBUA: [Interposing] Can I
22 finish?

23 COUNCIL MEMBER CROWLEY: --the
24 contractors more money.

25 MATHEW WAMBUA: Can I finish?

1
2 COUNCIL MEMBER CROWLEY: That they
3 should have these records to begin with.

4 MATHEW WAMBUA: So, my point being,
5 there will be people who can do this.

6 COUNCIL MEMBER CROWLEY: Right.

7 MATHEW WAMBUA: On the development
8 side. And those are people that ultimately are
9 going to be highly capitalized that do most of our
10 big projects. The people that are not going to be
11 able to do this as effectively are the people who
12 look like me, and the people who look like you--
13 MWBEs, smally capitalized organizations, which we
14 have worked very hard to try and cultivate. What
15 we don't want is a situation in which cost burden
16 is disproportionately borne by the people who are
17 the least capable of being able to bear it. And
18 inadvertently, the large highly capitalized
19 organizations become beneficiaries.

20 COUNCIL MEMBER CROWLEY: I disagree
21 with that, because I don't think it's too much to
22 ask who is on your payroll, which you should
23 already have in this day and age electronically,
24 and how much they're getting paid and when their
25 last paycheck was cut, and that things should be

1
2 paid in terms of traceable with records, banking
3 records. Any business that is doing work with the
4 City of New York should have at least that,
5 regardless of whether they're a minority or a
6 woman-owned business or not.

7 MATHEW WAMBUA: Oh, no. I think
8 they have that; I'm not suggesting that they
9 don't. What I am talking about is the--

10 COUNCIL MEMBER CROWLEY:

11 [Interposing] Well, that's the information that
12 we're really looking for, that people are actually
13 getting paid.

14 MATHEW WAMBUA: --is the ease of
15 administration for in essence reporting on every
16 single job for every single sub, GC, sub of a sub,
17 developer, every single month. We have at any
18 given time 600 jobs going, multiply that by the
19 entire range of individuals who are employed
20 through those processes and then multiply that by
21 the fact that every 30 days somebody is going to
22 have to be reporting on that. Now, I'm not
23 suggesting that people should not have records,
24 that they should not be keeping records, that they
25 should not be reporting, that there should not be

1
2 a level of responsibility that is required--and a
3 high level of responsibility that is required in
4 order to engage in public benefit projects. What
5 I am suggesting is that we need a provision or a
6 law that allows us to achieve our collective ends,
7 which we agree on, but that allows us to do it
8 within the resource bases that we have, and that
9 doesn't have unintentional consequences for those
10 people--particularly on the contractor side--that
11 are least capable of bearing this kind of a
12 burden, if it is not structured correctly.

13 COUNCIL MEMBER CROWLEY: Okay. So,
14 we'll agree to disagree, and hopefully we'll
15 arrive at an agreement--

16 MATHEW WAMBUA: [Interposing] I
17 actually think that we agree.

18 COUNCIL MEMBER CROWLEY: --sooner
19 or later where we could find a feasible way that
20 these contractors could report. Just last
21 question because I know a lot of my colleagues
22 have more questions. If I heard you correctly
23 earlier, Commissioner, I think that you stated
24 there are contractors or construction companies
25 doing work with the City right now through HPD

1
2 that we don't know who the people are behind these
3 corporations.

4 MATHEW WAMBUA: I've never said
5 that.

6 COUNCIL MEMBER CROWLEY: No. So,
7 every corporation, you know who--

8 MATHEW WAMBUA: [Interposing] I've
9 said that I can give you an address and that
10 address and the name of a corporation which is BS
11 LLC at, you know, some random address. It doesn't
12 necessarily lead you to the individual who is--

13 COUNCIL MEMBER CROWLEY:
14 [Interposing] But you know who the individuals
15 are.

16 MATHEW WAMBUA: We do, yes.

17 COUNCIL MEMBER CROWLEY: Okay.
18 That's all I wanted to know. Thank you.

19 MATHEW WAMBUA: Thank you, Council
20 Member.

21 CHAIRPERSON DILAN: Thank you,
22 Council Member Crowley. Council Member Brewer,
23 followed by Mendez.

24 COUNCIL MEMBER BREWER: Thank you
25 very much. One of the questions is, how many

1 requests do you get now for this kind of
2 information? Because I think, to be honest with
3 you, and you're being very open and I appreciate
4 this, but one of the problems is you're getting
5 requests now for this kind of information, I guess
6 through FOILs. And so, that's the frustration in
7 the room. The politics in this room right now is
8 mind blowing if you want to look at who is in the
9 room. So, the question is, do you answer those?
10 I don't think you've been able to--no, you haven't
11 answered them all, that's why you get all these
12 people here. They've all been coming to us,
13 stating some of these things are not answered.
14 So, I'm wondering, how may FOILs do you get to try
15 to get this information now? Because it's the
16 unions, primarily, they have good reason. We like
17 working with them, it's that they do good work and
18 you can feel good about the product. My question
19 is, do you know how many FOILs you get for this
20 information now and whether they've been answered?
21 That's one of the problems, just so you know.

22
23 MATHEW WAMBUA: So, Council Member,
24 this is a good question. I don't have that answer
25 for you. I'd be more than happy to get that

1
2 answer and to provide it to the Committee.

3 COUNCIL MEMBER BREWER: Okay. I'm
4 letting you know you're behind in the FOILs. Not
5 to say that every other agency isn't also.

6 MATHEW WAMBUA: So who is the
7 worst? I want to know. Are we?

8 COUNCIL MEMBER BREWER: I don't
9 know if you're the worst or the best, but
10 everybody is behind.

11 MATHEW WAMBUA: All right.

12 COUNCIL MEMBER BREWER: On the
13 FOILs situation. That's why we're in this
14 legislation situation today, is because of the
15 FOILs--even though Doug doesn't believe me. My
16 other question is--

17 MATHEW WAMBUA: [Interposing] You
18 can tell because Doug turns red.

19 COUNCIL MEMBER BREWER: I know Doug
20 before everybody was born almost. My question is,
21 next question, is just the technology. I mean, it
22 is a little hard to understand why this is so
23 hard. If, and I am very concerned about the non-
24 profits working for affordable housing, just like
25 you are. But if we have a little bit more

1
2 technology, which I would say in a year or two is
3 possible, with hopefully more hotspots, less dead
4 spots, etcetera, etcetera. I can't quite
5 understand if everybody is on a payroll, why it is
6 so hard to submit this information
7 technologically. If there was no technology the
8 paper would be in file cabinets and it would be
9 terrible. But technologically, supposedly
10 everybody is on the payroll, right? The subs, the
11 sub subs. Right? So I'm kind of confused why is
12 this so hard. Now if you need an in-field
13 hardware software situation, I understand that.
14 So, I'm just wondering, you know, do other large
15 companies do this? Do the people in Iraq do this?
16 Do the people in Afghanistan do this, etcetera? I
17 don't know. I'm just saying that's what I'm
18 thinking. Now, god knows the Department of
19 Defense doesn't answer any FOILs, so I understand.
20 But what do we do? Why is this technology so
21 hard, is I guess what my question is.

22 MATHEW WAMBUA: So, I can't argue
23 for the--answer for the Department of Defense or..

24 COUNCIL MEMBER BREWER: No, we
25 can't talk about DOD; it's a horrible place.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MATHEW WAMBUA: Or Afghanistan.

COUNCIL MEMBER BREWER: No, I understand.

MATHEW WAMBUA: And I couldn't even necessarily definitively provide an answer for the array of developers that are currently engaged in this in terms of their individual reporting systems and how sophisticated they are and whether they would actually mesh with ours. I can answer for us, and that is, we have not made the strides that we need to be making with respect to electronic reporting.

COUNCIL MEMBER BREWER: Okay.

MATHEW WAMBUA: That is one of the things that over the course of the next year we're going to be focusing on. It would be disingenuous though to assert that we were there.

COUNCIL MEMBER BREWER: Okay. So one of the issues might be to work with the sponsor, looking obviously at the timeframe. I agree that a month is often, etcetera. So, working on the timeframes and the tech.

DOUGLAS APPLE: But on the technology, Gale. So, as Commissioner said, we

1
2 may do business with thousands of subcontractors
3 in a given year. Those subcontractors are using
4 one of hundreds of different electronic payroll
5 systems.

6 COUNCIL MEMBER BREWER: I
7 understand. So the platforms don't, aren't...

8 DOUGLAS APPLE: They're all
9 different. And, on a given job, workers will go
10 on and off of a jobsite at a regular basis.

11 COUNCIL MEMBER BREWER: No, I
12 understand that.

13 DOUGLAS APPLE: So, you have to go
14 from a payroll back to actually who worked where.
15 Not every company, as you know, keeps their data
16 in that format. So, we'd have to actually ask
17 every one of our subcontractors to change the way
18 they do business. All of this is possible, but
19 just to think about the enormity, the complexity,
20 and frankly the potential cost of installing a
21 whole new set of systems on our end to receive
22 data from hundreds is significant.

23 COUNCIL MEMBER BREWER: Well, you
24 may not have to do that. The platforms, as you
25 know, might be able to talk to each other. But I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

understand the back and forth.

DOUGLAS APPLE: Well, we could as DoITT to do it, but as you know, that's a very expensive and costly endeavor.

CHAIRPERSON DILAN: All right, guys. I have to--

COUNCIL MEMBER BREWER: I don't want to keep going, I'm just saying--

CHAIRPERSON DILAN: [Interposing] Yeah, because we have to get back to today's topic and not go too far off.

COUNCIL MEMBER BREWER: I am talking about today's topic--transparency.

CHAIRPERSON DILAN: I know you made it related, but we need to get--

COUNCIL MEMBER BREWER: [Interposing] Okay. My final question is, given the fact that you are trying to be transparent, you have a lot of FOILs to answer. Wouldn't it also to make sense to try to get rid of the FOILs and make this as open data as possible? Isn't that another way to look at the cost?

MATHEW WAMBUA: I think that's definitely another way to look at the cost.

1
2 COUNCIL MEMBER BREWER: Okay. I
3 have an open data bill very soon coming up, just
4 so you know. Thank you very much, Mr. Chair.

5 COUNCIL MEMBER RECCHIA: You see?
6 If we can pass this, we kill two bills in one
7 shot.

8 CHAIRPERSON DILAN: Well. All
9 right. I just have--I just want to go back to
10 something that I asked before and you answered,
11 but I want to just expand on it a little bit. You
12 said one of the tools that you have to encourage
13 developers to come back to the table to finish
14 jobs that were either had punch list items or were
15 just structurally flawed, one of the tools that
16 you have in your arsenal is to disbar them. I
17 believe your answer was yes earlier. If not, you
18 can correct me now.

19 MATHEW WAMBUA: To be technical, we
20 don't disbar. What we do do is we refuse to do
21 business with you. The disbarment really was a
22 reference to instances of wage and labor
23 violations that once investigated and
24 substantiated by the Department of Labor would
25 lead to a disbarment of a contractor from being

1
2 able to do the work.

3 CHAIRPERSON DILAN: Okay, good. So
4 I'm glad I asked. So the disbarment only comes
5 into place when there are violations of wage
6 issues, for clarity. Right?

7 MATHEW WAMBUA: Correct.

8 CHAIRPERSON DILAN: And then the
9 other one is just a tool that you use selectively
10 to say, hey, we're not going to do business with
11 you anymore. Now, I think--does that have the
12 ability to change? Like, since I've been the
13 Chairman of this committee, there have been three
14 different Commissioners. Is that subject to just
15 the Commissioner's position? Or is it Agency reg?
16 How loose is that policy?

17 MATHEW WAMBUA: I think that's a
18 good question. It's Agency policy.

19 CHAIRPERSON DILAN: Agency policy.

20 MATHEW WAMBUA: I don't think it's
21 a policy that we would change moving forward, but
22 yes, it's Agency policy.

23 CHAIRPERSON DILAN: So, it would
24 survive you as Commissioner, so to speak, if you
25 were to leave, like, say unwillingly at the end of

1
2 the Bloomberg Administration.

3 MATHEW WAMBUA: I can't imagine
4 that would happen, right.

5 CHAIRPERSON DILAN: Yeah, I don't
6 think so either, but it's also a possibility the
7 next Mayor may want his own Commissioner.

8 MATHEW WAMBUA: Yes.

9 CHAIRPERSON DILAN: Would the reg
10 survive this administration, so to speak?

11 MATHEW WAMBUA: The honest answer
12 is, it's policy. It is not statutorily or
13 regulatorily dictated.

14 CHAIRPERSON DILAN: It could
15 change. Fair enough.

16 MATHEW WAMBUA: Yeah.

17 CHAIRPERSON DILAN: So, I guess, in
18 light of that policy, what do you do to give
19 developers a chance to cure? Say the Agency
20 decides not to do business with, is there a cure
21 process internally with the Agency to get back on,
22 or...?

23 MATHEW WAMBUA: So, as noted,
24 there's a couple of things. One, you know, if
25 you're going to go on the watch list and we

1
2 substantiate that you actually have real wage and
3 labor issues, then in essence we start with the
4 fact that you're not going to get more jobs, and
5 you're not going to get more jobs until you have
6 rectified the situation, assuming these are
7 substantiated allegations. To the extent that
8 we're asking people to rectify it, then they need
9 to sign up for a remediation program. That
10 remediation program would be to, you know, make
11 right what has been wrong. So, if people need to
12 be paid, they need to be paid, and it has to be
13 done to a point of our satisfaction. Secondly, if
14 there's a job that you need to finish up or a job
15 that you might be eligible for moving forward,
16 we're likely going to force you to hire a third
17 party monitor, and that third party monitor will
18 then serve as our eyes and ears and report to us
19 on labor and violation issues.

20 CHAIRPERSON DILAN: So just to see
21 if I understand correctly, you have the ability to
22 cure on quality of work issues, provided that you
23 go back and correct them, and labor issues as
24 well? Or is it just quality of work issues.

25 MATHEW WAMBUA: Well, in both

1
2 instances our expectations are that you're going
3 to make things right. I mean, we start with the
4 fundamental assumption that you're going to make
5 things right and you have the ability to cure in
6 both those situations. When it comes to the
7 construction quality, that is much more of a
8 straightforward conversation. Scoping the
9 insufficient items, and coming up with a price,
10 and forcing somebody to do it. When it comes to
11 the labor monitoring it's more oriented around a
12 compliance plan.

13 DOUGLAS APPLE: Okay, and maybe if
14 I could just on the prevailing wage side, because
15 we have staff, staff that report to me, that
16 monitor prevailing wage on jobs that have
17 prevailing wage requirements. That staff goes out
18 in the field, that staff reviews payrolls. And
19 when they find the possibility of a violation, as
20 the Commissioner said, we withhold money.

21 Oftentimes contractors or developers quickly make
22 restitution, quickly, you know, realize they made
23 a mistake, because it is a very complex law that
24 requires prevailing wage payments in terms of
25 titles. And there's jurisdictional issues across

1 titles, so oftentimes folks remedy it quickly.
2
3 When we see persistent ongoing, contractors that
4 ongoing don't pay and it happens again and again,
5 that's when we're going to stop them from doing
6 business with us. That's when we're going to take
7 those steps. So it's not as if there's sort of a
8 simple mathematical formula that if there's more
9 than one or more than two we make those steps, but
10 we take it very seriously. We have staff full
11 time associated with this review, on a constant
12 basis consulting with RuthAnne as development
13 deals are being considered.

14 CHAIRPERSON DILAN: And my last
15 question, then I'll get to Domenic Recchia for one
16 question and then we'll end the questioning for
17 this panel. Last question is, they're disbarred
18 by what entity? By the Agency or any other
19 outside agencies in terms of...?

20 MATHEW WAMBUA: The labor issues?

21 CHAIRPERSON DILAN: The labor
22 issues.

23 MATHEW WAMBUA: Yeah. In terms of
24 the construction stuff, we're basically saying
25 we're not doing work with you. In terms of the

1
2 labor issues, disbarment happens through the
3 federal investigatory process that is levied by
4 the Department of Labor.

5 CHAIRPERSON DILAN: So your ability
6 to cure is limited once that happens, right? They
7 have to straighten it out with the appropriate
8 agencies. Is that correct?

9 MATHEW WAMBUA: Yeah.

10 CHAIRPERSON DILAN: Okay. Council
11 Member Recchia?

12 COUNCIL MEMBER RECCHIA: Yes.
13 Commissioner, I turned to page 5 of your
14 PowerPoint presentation to the bottom where it
15 says Intro 730 requires a number of new
16 disclosures about the developers selected by HPD
17 for development projects. And you respond, we
18 agree that we should report a general description
19 of each project. All right. What part of those
20 new disclosures are you objecting to?

21 MATHEW WAMBUA: So that was--there
22 were a couple of things.

23 CHAIRPERSON DILAN: If you could do
24 it into the mic? We have to do it for the record.

25 MATHEW WAMBUA: Oh, sorry. So,

1
2 there were a couple of things, some of which we've
3 already covered, such as the personal information
4 that could potentially be abused. One of the
5 things, for instance, that we objection to is the
6 notion of reporting over the last five years, for
7 instance, on developers who didn't win RFPs and
8 why they didn't win RFPs. In an instance like
9 that, we just don't see how it's relevant and to
10 the extent that that kind of information is put
11 out there.

12 COUNCIL MEMBER RECCHIA: So you
13 think that there should be no reason given why
14 they didn't win?

15 MATHEW WAMBUA: I think that to the
16 extent that we are engaging in development we've
17 got a couple of objectives. Our first objective
18 is to develop quality affordable housing and safe
19 affordable housing. Our second objective is to do
20 it in conjunction with developers who are the most
21 responsible and the most capable developers. To
22 the extent that a determination, say through an
23 RFP process, has been made that somebody is not
24 ready to work with us or they weren't as
25 competitive as somebody else, we make that

1
2 determination so that we can ensure we're working
3 with the most capable and quality developers. We
4 don't make that determination so that we can put
5 together a list that's punitive and potentially
6 damages somebody's reputation because they didn't
7 win a competition.

8 COUNCIL MEMBER RECCHIA: Okay. The
9 hour is getting late. There's many people that
10 want to testify. But what I think--we should
11 definitely have a meeting with us, with the
12 staffs, but I think you guys really need to put a
13 list together of what--to make clear what parts
14 you do not agree with, and we should go over it
15 with your staff, page--you know, point by point,
16 and discuss it to see what we can live with what
17 we can't live with and why, because that's what's
18 important to me. Okay? I don't want to take up
19 any more time. Thank you.

20 MATHEW WAMBUA: And I would agree
21 with that.

22 CHAIRPERSON DILAN: Thank you,
23 Council Member Recchia. Thank you, Commissioner
24 Wambua and Staff. We look forward to the follow-
25 up on--the follow-up that's due to the Committee,

1
2 and we look forward to working with you on this
3 item. Thank you.

4 MATHEW WAMBUA: And again, Chairman
5 and Committee, thank you. I tell you in all
6 sincerity, this is something that will serve all
7 of us. We think that this is a good start. I
8 think that the suggestion that was made by
9 Councilman Recchia makes sense. You know, hammer
10 out the details, but we're fully behind getting
11 this done.

12 CHAIRPERSON DILAN: Sure. Thank
13 you for your time.

14 COUNCIL MEMBER RECCHIA: Mr.
15 Chairman, can I say one other comment?

16 CHAIRPERSON DILAN: Actually, we
17 need to, we really need to move on.

18 COUNCIL MEMBER RECCHIA: I just
19 want to make one quick comment. On Thursday the
20 Mayor comes out with his budget. I just want you
21 to know we're going to recommend to the Mayor that
22 he sticks some funding in for this project, for
23 this bill.

24 MATHEW WAMBUA: I would also
25 appreciate that we get \$90 million to fill the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

hole that we have.

CHAIRPERSON DILAN: He cares more about his CD budget than \$300,000 in this bill, trust me.

COUNCIL MEMBER RECCHIA: Okay.

CHAIRPERSON DILAN: Thank you.

Okay, so next we will have--we'll alternate panels, panels for the bill, panels against the bill. The first panel will consist of Michael McGuire, of the Mason Tenders District Council, Nicole Vecchione, Laborer's Eastern Division. Okay. Shanita Wells, a Homeowner in Brooklyn, as well as James Versocki, Esq. And If I mispronounced any of the names, you know, certainly please feel free to correct me on the record. Okay. And just for notification, what we'll do is we'll put everybody on a loose three-minute clock. There are tons of people signed up to testify. I want to give everybody a chance to make their pitch, whether it be pro or con to the bill. I ask that you get directly to your points, and if there is something that has been repeated, if you could try to refrain from repeating it and try to create any new points that may have not

1
2 been covered yet. And to the extent that there is
3 written testimony, we will make sure in every
4 instance that all written testimony will be
5 entered into the record in its full form. So, if
6 the next panel is ready, we can begin and you can
7 start in the order that you were called up, and
8 please introduce yourself in your own voice when
9 you begin your testimony.

10 MICHAEL McGUIRE: Mike McGuire,
11 Mason Tenders District Council. And I would
12 actually, I understand the need for brevity at
13 this point, but when Ms. Vecchione speaks, I would
14 hope you give her a little extra to try to explain
15 these funding charts, which are actually very
16 convoluted.

17 CHAIRPERSON DILAN: We're going to
18 give everybody a little leeway--

19 MICHAEL McGUIRE: [Interposing]
20 Appreciate it.

21 CHAIRPERSON DILAN: --but
22 understand there may be a point in time where I
23 ask everybody to sum up and move on.

24 MICHAEL McGUIRE: Absolutely.

25 CHAIRPERSON DILAN: So we'll use

1
2 discretion. But I do want to set parameters.

3 MICHAEL McGUIRE: Fair enough. And
4 I have not submitted writing and testimony because
5 Commissioner Wambua seems to make a very good
6 faith effort to try to resolve this problem, so
7 I'm not going to submit what was admittedly rather
8 blistering testimony about HPD. I am going to
9 address several things I heard stated here today.
10 As far as the RFQs and RFPs, my colleague Nicole
11 Vecchione will go into more detail about funding
12 and contractors and developers in a few minutes.
13 The Commissioner states that good developers may
14 not seek work if they need to disclose this
15 information. I believe the truth to be just the
16 opposite. Right now, few good developers bid on
17 HPD work. The status quo is for corrupt bottom
18 feeders bidding this work. This transparency will
19 have the opposite effect. It will chase the
20 crooks and thieves out of HPD and allow good
21 honest developers to be able to be competitive.
22 The reason for disclosures of EINs and principal
23 officers is simple. I've been in the business of
24 chasing crooked contractors and developers for
25 more than 15 years. As Council Member Recchia

1
2 stated, these types of businesses show an amazing
3 propensity for going out of business and popping
4 up under a different name rather quickly. This is
5 the only way to track where the bad actors are
6 going. We need, absolutely as the Commissioner
7 states, we need to figure out a way to do it. I
8 would suggest debarring individuals as well as the
9 companies they're connected to, so this way a
10 debarred principal of one company pops up with
11 another company, that company is out of the
12 running to. And as far as, you know, the concern
13 about their home addresses being available to the
14 public; well, I can go home now and go onto the
15 internet tonight and look up Gale's home address,
16 and RJ's and yours and Elizabeth, and everybody
17 else, right? Because elected officials, it's
18 right there on the Board of Elections website. So
19 if you're going to do business with the City,
20 that's the cost of doing business. As far as the
21 objection to tracking payroll for all the
22 contractors and the subs, I will point out to the
23 Committee Members that there's a report included
24 in that binder you were handed that states that--
25 it was written by the Fiscal Policy Institute--

1
2 that states, and it's entitled the Affordable
3 Housing Construction Industry in New York City,
4 and they concluded that 68% of the people involved
5 in construction of affordable housing are in the
6 underground economy. That's seven out of every
7 ten workers are being exploited in this industry,
8 and it's mostly done by the subs. You know, we
9 got started on this again because of a contractor
10 called Nick Lettire, who was doing a stimulus job
11 up in East Harlem a couple years ago. And that's
12 what got us on this bandwagon again. And Lettire
13 is now--the Feds are after him for \$1.4 million
14 stolen from the workers. The money was actually
15 stolen by the subcontractors at Lettire's
16 direction. So you're not going to track the subs,
17 you might as well forget this whole thing. It
18 goes right out the window. And if I may just
19 really quickly, I want to touch on two or three
20 other things that Council Members said. Tish
21 James, she mentioned health and safety records,
22 they should probably be also disclosed in this
23 legislation. I think it's a good idea. Also, she
24 talked about homeowners whose homes are under
25 temporary C of Os, Certificates of Occupancy, for

1
2 eight years. If the City of New York builds a
3 house, maybe it shouldn't be allowed to be sold
4 until there's a certificate of occupancy for it
5 and that it's in decent shape. The bed bug
6 question, while it seemed a little silly, I read
7 that article too, and the fact of the matter is,
8 the New York Post article said, there was isolated
9 bed bug infestation at HPD and they shipped--not a
10 few boxes--they shipped 5,000 boxes of records
11 away from their headquarters. And this happened
12 in the time between this transparency bill and the
13 Wendell Walters indictment. I just want to know
14 what safeguards are in place to make sure those
15 5,000 boxes of records actually come back. And
16 the Commissioner seems to say that--oh, right. So
17 the Commissioner seemed to say also that the
18 bidding process, you know, if a bad contractor
19 gets caught they have to make good, and then they
20 can come back and bid again. Well, I say if a
21 contractor gets caught stealing a million dollars
22 or two million dollars from the work and then they
23 get forced to pay back that million or two million
24 they should have paid in the first place, they
25 shouldn't be allowed to come back. They've proven

1
2 themselves to be a crook and they should be out of
3 the mix. You know, as I said, I went away from my
4 written, so I'm sure I'm missing some--oh. One
5 other point I would like to make on the bill, just
6 a technical point. We realized after the bill was
7 drafted, and I was looking at it the other night,
8 that under the way the language is written,
9 architects and engineers might be captured as
10 contractors on this bill. I don't think that was
11 the intent. We have found no problem with
12 architects and engineers on HPD housing. These
13 people are consummate professionals. They draw
14 the blueprints to spec and to code, and then these
15 corrupt contractors and developers are the ones
16 who don't follow those blueprints. So, I would
17 think an amendment, a good and friendly amendment
18 to the bill would be to specifically exclude
19 architects and engineers from being defined as
20 contractors. And with that, I'll turn it over to
21 Nicole.

22 NICOLE VECCHIONE: Hello. Thanks,
23 Mike. I am the Senior Strategic--oh, can you hear
24 me now?

25 CHAIRPERSON DILAN: Yeah. Either

1
2 mic you can use, just as long as you speak into
3 it.

4 NICOLE VECCHIONE: I am the Senior
5 Strategic Researcher with the Laborers Eastern
6 Region. And over the last five years I have
7 worked on complex financial and real estate
8 analysis in public agencies in New York State, New
9 Jersey and Delaware. I have never seen an agency
10 with such complicated procurement and financing as
11 HPD, nor as lacking in transparency. Something we
12 have always been told as we were researching HPD
13 is that there were gray areas in HPD financing.
14 And that was due to the complexity and the nature
15 of the processes, and that even within HPD only
16 certain people knew certain parts of the
17 information, and not everyone had the whole
18 picture. This is something that we accepted as
19 true until the Wendell Walters scandal. As you
20 know, Walters was the Assistant Commissioner of
21 New Construction at HPD, who was indicted by the
22 Federal Government for selling projects to
23 sponsors and builders. After Walters it became
24 apparent to us that these gray areas resulting
25 from a lack of transparency allowed for

1
2 inappropriate relationships and transactions to
3 take place. The four charts I'm about to share
4 with you represent the financing and procurement
5 structures on four projects which are
6 representative of a much larger body of work
7 undertaken by HPD in the New Housing Market Plan.
8 I will show you the gray areas that we have
9 identified and explain how this lack of
10 transparency is denying the public their right to
11 know the true value of public subsidies being
12 invested into affordable housing, as well as the
13 true nature of relationships between HPD sponsors,
14 builders and financiers. This first chart over
15 here--that's okay. Thank you. This first chart
16 is the Hobbs Ciena Project, and it's actually one
17 that Mike referred to in his testimony with
18 Lettire Construction. It was part new
19 construction, part rehabilitation. And the first
20 thing I want to point out in this chart, which
21 will be a trend on all of the projects I talk
22 about today is about the private financier. In
23 this case, JP Morgan and Chase provided a letter
24 of credit for the sponsor in exchanged for being
25 assigned the first building mortgage issued by

1
2 HDC, which was a \$72 million loan funded through
3 bond revenue. And like we'll see in other
4 examples, the true benefit to JP Morgan and Chase
5 is indeterminable. In this chart, we can also
6 follow the lack of transparency to eventual labor
7 law infractions. The further down the line we go
8 from HPD to the sponsor to Lettice Construction as
9 general contractor and down to the subcontractors,
10 the less transparency and accountability exists.
11 We believe that this lack of transparency on the
12 Hobbs Ciena Project manifested itself into the
13 \$1.4 million in back wages owed to workers. The
14 second project, over here, is the Grand Street
15 Guild Project. And this chart represents the
16 refinancing and rehabilitation of three Mitchell
17 Llama buildings in Manhattan. Again, on this
18 project there is no transparency in financier
19 selection. In this particular case, the benefit
20 to the private lender is known, and that's 6.5% of
21 loans, worth about \$100 million. What we don't
22 know is how much of this benefit to the financier
23 is coming from subsidies. An indeterminable
24 portion of the payment is derived through the
25 decoupling interest reduction payments and the

1
2 release of HPD's future interest in the original
3 mortgage. It is our belief that this lack of
4 transparency here and in Hobbs Ciena denies the
5 public the right to know what they're actually
6 investing into the projects. On the procurement
7 process in this project the process of selection
8 for the general contractor, which is MDG Design
9 and Construction, was not transparent, and perhaps
10 this is the process that Mr. Apple was referring
11 to that's taking place between HPD and the DOI.
12 As we see in Hobbs Ciena, again, labor laws are
13 being broken. We have directed many workers from
14 this project to the US Department of Labor. And
15 actually I believe one of those workers is
16 testifying later, Leonel Lopez. Could you change
17 to the next part? Yes, BedStuy. So, the BedStuy
18 Partnership Homes, which Mike is holding for me,
19 are 29 new two-family homes built by Delight
20 Construction. One of those homes was sold to
21 Shanita, and she's going to testify next about her
22 experience as an HPD client. Once again, here we
23 have the selection of a financier where we're
24 unsure how that choice was made. In relation to
25 this project is important, because all of the

1
2 direct public subsidies are passing through the
3 bank. There is also an unquantifiable land
4 subsidy. The project land was sold to Delight for
5 the nominal fee of \$500 a unit, and the balance of
6 the land debt is passed on in a subsidy. This
7 land debt in itself is below average, at \$669,000
8 for the whole project; that's about \$23,000 per
9 parcel. And that difference between that price
10 and the market rate is another indeterminable
11 subsidy. Again, we have a sponsor selection
12 process that's unclear. In the Partnership for
13 New Homes Program it's conducted through that
14 Request for Qualification process referred to
15 earlier. And that process is unique to HPD,
16 wherein the sponsor applies and then is selected
17 and paired to a project by HPD. One thing that's
18 not reflected in this chart, which I think is
19 really important to note, is that after signing
20 their closing deals, six homeowners were
21 approached by HPD officials, including Wendell
22 Walters, and asked for an additional \$10,000 on
23 their project. This payment was for apparent cost
24 overruns incurred by Delight Construction. I
25 would like to note that that \$60,000 is only a

1
2 small portion of the total revenue that Delight
3 would have made on the project, but at \$10,000 per
4 building that was 10% of the city subsidy that the
5 homeowners would have benefitted from. To me this
6 is a clear example of where those inappropriate
7 relationships have been allowed to develop, and I
8 think it's important to take this on to my final
9 project that I would like to show you guys. Thank
10 you.

11 COUNCIL MEMBER RECCHIA: Do you
12 have copies of all these charts for us?

13 NICOLE VECCHIONE: These charts
14 have been passed out with my testimony.

15 CHAIRPERSON DILAN: Oh, we didn't k
16 now that. We're looking.

17 NICOLE VECCHIONE: Sorry. So, this
18 final project is the Guy Brewer North Homes, it is
19 also part of the New Homes Program, like the
20 BedStuy partnership homes. And you'll see some
21 significant similarities in funding sources as
22 well as the same gaps in transparency. There are
23 two significant additions to this chart that I'm
24 going to point out to you. First is that only
25 five of these units have been sold; the rest are

1 sitting vacant. And the second is the insertion
2 of Wendell Walters into the RFQ process. Federal
3 officials have attested that Walters approached
4 MCR Restoration and solicited a bribe of \$250,000
5 to sell this project to MCR. Ultimately Walters
6 received \$175,000. This bribe in and of itself is
7 significant because it represents corruption
8 masked by the lack of transparency, but it's also
9 important because it combats the fallacy of the
10 razor thin profit margins in affordable housing.
11 We often hear from people in the affordable
12 housing industry, and you might well hear more of
13 it today, that the reason for poor quality
14 construction and worker underpayment is that there
15 just isn't enough money. We have always had to
16 accept this as true. How could we prove any
17 differently when the total value of subsidies
18 being invested is masked? We now know better. We
19 now know that profit margins are at least great
20 enough to support hundreds of thousands of dollars
21 or bribes. The public has the right to know the
22 extent of public investment into affordable
23 housing and how those funds are being spent. We
24 need to pass this transparency legislation to
25

1
2 transform HPD from an agency that refuses to
3 disclose information into an agency with
4 accountability and a reformed and clear path to
5 procurement and financial decisions. Thank you.

6 CHAIRPERSON DILAN: Start with your
7 name and then you can begin your testimony.

8 SHANITA WELLS: Okay. I'm Shanita
9 Wells, a homeowner in the Bedford Stuyvesant
10 program. And I purchased my affordable home in
11 2006. And I say quote unquote affordable because
12 after living there just five years there were many
13 issues in the construction that revealed
14 themselves to be very costly to repair. These
15 were not typical home maintenance issues that you
16 would expect in a brand new home, but far more
17 serious structural issues which would be costly to
18 root out and let alone to repair. My home was
19 built as part of the New Housing Marketplace Plan,
20 put forth by Mayor Bloomberg and administered by
21 HPD. As I said, there were many issues with my
22 home and my home and all of my neighbors, we've
23 all had issues of some sort. I'd like to share
24 those issues, but today I'm here to speak in favor
25 of transparency and why it would be directly

1 helpful to me and hundreds of other homeowners who
2 are in the same and similar situations. Potential
3 new HPD homeowners deserve to make an informed
4 decision when embarking on a long-term financial
5 investment and commitment to occupy HPD housing.
6 I would like to share with you how a lack of
7 transparency within the HPD has personally
8 contributed to my financial hardship, detracted
9 from my quality of life, and destroyed the
10 enjoyment of my first home. Just after closing on
11 my home I began to notice problems. The
12 contractor repeatedly ignored my concerns. I
13 began reaching out to HPD for help, but they
14 delivered little more than verbal commitments,
15 which were never realized. After many years of
16 ongoing correspondence between myself, my
17 neighbors, and HPD, finally HPD conceded and they
18 came out to perform an inspection. HPD official,
19 Lenny Seif, who is the Director of the New Homes
20 Program, and HPD architect Mr. Park, came to my
21 home and that of a few of my neighbors. They
22 conducted an inspection, and this was in March
23 2011. We were told that the results would be made
24 available to us in a timely fashion. It was our
25

1
2 hope that the report would point out issues which
3 were outstanding since the day that we moved in.
4 Weeks and months passed and we emailed, we called,
5 we were told that they were working on the reports
6 and they would come. Nine months passed and no
7 inspection reports were supplied. HPD again
8 scheduled a visit to our homes. Lenny Seif, Mr.
9 Park, and two principal developers from Delight
10 Construction arrived together. WE were again
11 asked--we again asked if we could receive the
12 report. This time both officials from HPD scoffed
13 and said that we were not to receive the reports
14 because reports were confidential, even if you
15 purchase a car, you can get a Carfax report of the
16 history of the car, but in our City-sponsored and
17 taxpayer-funded housing programs here in New York,
18 blueprints are not being made available,
19 inspection reports are not furnished, and many
20 times people are told that if they bring their own
21 inspectors before closing, the deal is off the
22 table. I have since come to discover that Delight
23 Construction had other problems in their
24 development history with affordable housing before
25 they built my home. They were unable to obtain

1
2 certain certificate of occupancy for a group of
3 homes in my very same neighborhood due to issues
4 in construction, and had problems with wage
5 violations for non-payment of workers. Why then
6 were they given contracts to build our homes?
7 This information would have been made available to
8 me as a taxpayer and a potential homeowner. I
9 have a year's worth of correspondence with HPD in
10 regards to quality issues with my home, and yet
11 HPD claims to have no records of these issues, and
12 they continue to give the contractor more and more
13 projects. It is my impression that HPD views
14 itself as much more of a partner with the
15 developers than an advocate for the very people of
16 the city who pay their salaries. We need
17 transparency to be able to inform ourselves before
18 venturing forth on a path of American dream of
19 homeownership and prevent it from becoming a
20 nightmare. It's just good government, plain and
21 simple. And if I may, I'd like to ask the
22 homeowners, affordable homeowners to stand, who
23 weren't able to testify today.

24 CHAIRPERSON DILAN: All from the
25 BedStuy cluster?

1
2 SHANITA WELLS: From several
3 clusters.

4 CHAIRPERSON DILAN: Several
5 clusters.

6 SHANITA WELLS: Yes, around the
7 City.

8 CHAIRPERSON DILAN: I certainly,
9 while time may not allow, I'm certainly interested
10 to hear your stories. If you do have anything in
11 writing that you can submit, please submit it.
12 And then if this hearing doesn't allow, we'll
13 certainly find a way to hear from your stories.
14 But I've dealt with it myself in my district, so I
15 pretty much know what I'm going to hear, but I
16 think it will give me an idea of how broadly
17 issues may be going on throughout the City. This
18 Committee did have an oversight hearing on HPD
19 repairs and punch list items, I believe in 2005 or
20 2006. And this is certainly a follow-up to that.
21 I do believe it's being taken much more seriously
22 this time, I will say at this juncture. So, thank
23 you for attending. Thank you for standing.

24 SHANITA WELLS: Thank you.

25 CHAIRPERSON DILAN: I just have one

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

or two questions.

NICOLE VECCHIONE: We have one more person to testify, sorry.

CHAIRPERSON DILAN: Oh, I'm sorry. It was a four-person panel. I'm sorry.

JAMES VERSOCKI: Thank you very much, Chairman Dilan, Chairpersons who are still here. Thank you so much for allowing me to speak today. I'm here to give you a little bit of a different perspective today. My name is James Versocki. I'm an attorney, now in private practice. I think this is very important legislation. I'm here to speak in favor of it. I'd like to thank Council Member Recchia for introducing this legislation. I think it is very timely. I have a bit of a unique background in that for almost nine years I was a prosecuting attorney at the New York State Attorney General's Office assigned to the Labor Bureau, where my primary focus was in investigating wage and hour cases, not only in the prevailing wage world, but also in representing state agencies. I was Counsel to the New York State Department of Labor. For the last five years I've been in private

1
2 practice, and for approximately a year now, I've
3 started to receive numerous complaints from
4 workers on what I have determined are HPD
5 projects. I'm here to basically tell you how
6 difficult it is, as what I think is a pretty--I
7 like to think I'm competent--an experienced
8 litigator to get information from HPD. Council
9 Woman Brewer, I am one of those people who served
10 many of those FOILs, and it's very difficult to
11 get the information. It is not a transparent
12 process. And the true people who I think are
13 often victims are those on the lowest of the totem
14 pole, and I'm here to speak for those workers who
15 can't be here today. I'm pleased to hear that
16 there are some workers who will be here today. I
17 also--this reminds me of some hearings I attended
18 years ago involving NYCHA. At the time, the
19 Attorney General's office was conducting a major
20 investigation of contractors at the Housing
21 Authority, and Council Woman James and Council
22 Woman Mendez were at that hearing, and it's almost
23 a repeat of those same exact issues. I can tell
24 you, I've spoken with hundreds of workers who have
25 worked at HPD projects. I've referred them to

1
2 appropriate agencies. I've tried to litigate with
3 some of them on their behalf. The ability to find
4 information at HPD is difficult, including who are
5 contractors. The structure of HPD is to have
6 developers who then have no obligation to report
7 anything--and that's not the way government
8 contracting should work. There are literally
9 billions of dollars, not only in direct subsidies,
10 but in land subsidies, and financing benefits that
11 are going to these developers, and they should be
12 able to report this information or have their
13 contractors report this information to an agency.
14 I'll advise you that the School Construction
15 Authority has an electronic payroll submission
16 system. It's being done in government, it should
17 be done here. There's no reason that it can't. A
18 report by Fred Kotler of Cornell ILR talked about
19 the underground economy a few years ago. The New
20 York Economy in 2008, I believe the excess was
21 \$800 million in unrecoverable revenue because of
22 cash off the wage system. That type of system is
23 going on on these projects, whether they're
24 prevailing wage or not. I want to let you know
25 that the amount of pure overtime violations that

1
2 I'm uncovering are also there, so this is not
3 purely going to be--it's not purely prevailing
4 wage or a non-prevailing wage issue. I believe
5 that the section 6-116.3D should not have--it
6 should be mandated that there be wage reporting
7 requirement in this bill, right now it requires
8 HPD to request that contractors submit their
9 payrolls. You might as well strike it, because
10 that's just pointless. So, I thank you for your
11 time today. I did submit more detailed written
12 testimony and I know that the Council will
13 consider it, and I appreciate your time today.

14 COUNCIL MEMBER RECCHIA: Yeah,
15 thank you very much. And I just want to go over
16 that one line in there. It says request.

17 JAMES VERSOCKI: Yeah. Under the
18 last--

19 COUNCIL MEMBER RECCHIA:
20 [Interposing] Was that an oversight the way that
21 was written? Or...?

22 JAMES VERSOCKI: You know, I
23 reviewed the legislation after it was published,
24 Councilman, and I noticed that immediately that it
25 was in there and it doesn't make sense to me to do

1
2 it. If you look at Labor Law 220, if you look at
3 the Davis Bacon Act, I mean, contractors and
4 subcontractors are required to submit it, and
5 quite frankly, I mean without calling out the
6 Commissioner, for the Commissioner to sit here and
7 say that contractors can't submit records, it's
8 insulting.

9 COUNCIL MEMBER RECCHIA: All right,
10 so you think it should be made...?

11 JAMES VERSOCKI: Mandatory.

12 COUNCIL MEMBER RECCHIA: To
13 mandatory.

14 JAMES VERSOCKI: In that section.
15 And that section, again, was the last section, 6-
16 116.3D. It says, developers and contractors
17 prepare, maintain, and file with the department
18 the following information. And it's payroll
19 records. But it wasn't mandatory.

20 COUNCIL MEMBER RECCHIA: I'll make
21 sure we have that correct.

22 JAMES VERSOCKI: I think it's
23 request that developers and contractors submit the
24 information.

25 COUNCIL MEMBER RECCHIA: Yeah. It

1
2 says section D for that part, for each project the
3 Department shall request that each developer. So
4 you say for each project shall mandate that each
5 developer--is that what you're saying?

6 JAMES VERSOCKI: Absolutely.
7 Mirror the Davis Bacon Act, mirror 220.

8 COUNCIL MEMBER RECCHIA: And that's
9 under 220 of the Labor Law, correct?

10 JAMES VERSOCKI: Yes, that's
11 correct. I apologize.

12 COUNCIL MEMBER RECCHIA: No, no.
13 I'm with you. Okay. All right. Anybody have
14 questions? I just want to... All right, Liz
15 Crowley, you have a question? Council Member?

16 COUNCIL MEMBER CROWLEY: Thank you.
17 I just have a question for Nicole Vecchione. Your
18 charts are very thorough. I'm curious to know how
19 much time you spent putting them together and
20 where you had to go to find all this information?

21 NICOLE VECCHIONE: The primary
22 source of information for the charts was the City
23 registry, where mortgages are recorded, as well as
24 regulatory agreements with HPD. But I also had to
25 go to the Department of Finance to follow up on

1
2 tax issues and land value subsidies, the
3 Department of Buildings to find out about
4 contractors--of course only general contractors,
5 because I'm not sure that everyone knows who the
6 subcontractors are anywhere. To find out more
7 about procurement I also tried HPD's website to
8 see if I could find press releases on older RFPs,
9 RFQs or anything that's listed there. We've been
10 looking into HPD as an agency for about five
11 years. I've been looking into it for about a
12 year, and I've been putting those charts together
13 for maybe three or four months since the Wendell
14 Walters indictment.

15 COUNCIL MEMBER CROWLEY: No further
16 questions. Thank you.

17 COUNCIL MEMBER RECCHIA: Okay.
18 Council Member Brewer, you have a question?

19 COUNCIL MEMBER BREWER: Thank you.
20 I just was wondering, you mentioned SCA or other
21 agencies that do this. I just wanted to know if
22 you could elaborate? I am convinced that this is
23 possible to do technologically, although people
24 sometimes think I'm nuts, but I do think it's
25 possible on that topic. So I just want to know if

1
2 you know other agencies that are doing something
3 similar. SCA, I don't know, they certainly have
4 lots of subs.

5 JAMES VERSOCKI: Sure, they do.
6 And they have an electronic payroll reporting
7 system. It runs through their Inspector General's
8 office. They have--which is a part of the
9 Department of Investigation. The technology has
10 been there since I was at the state. I left in
11 '07 and we were at that point contemplating trying
12 to go through OGS to get a certified payroll
13 electronic system. It pays for itself, quite
14 frankly. There are some initial data startup
15 costs, but once that system is in place it's so
16 much more cost effective than having a human being
17 collect this certified. You can have contractors
18 submit it electronically.

19 COUNCIL MEMBER BREWER: Okay.

20 JAMES VERSOCKI: The City is very
21 intent on moving forward. We can certainly do it
22 here, and I think that would more than compensate
23 for the dollar values that the Commissioner was
24 talking about that they would need.

25 COUNCIL MEMBER BREWER: In terms of

1
2 FOIL, have you gotten responses? Have they been
3 relevant to some of the topics that we're talking
4 about today, etcetera? They're very limited
5 payroll records that HPD collects. I have seen--
6 the only project that I recall seeing certified
7 payroll records on, and I've served over 26 FOIL
8 requests is on the Ciena Hobbs, which is an ARRA,
9 American Recovery Act, project where the federal
10 government told contractors, if you're going to
11 get dollars you have to submit these payroll
12 records. Otherwise I have yet to see a certified
13 payroll record.

14 COUNCIL MEMBER BREWER: Thank you
15 very much. I just want to say, Mr. Chair, I know
16 several people in the same situation as this
17 wonderful homeowner, so I will have them submit
18 you that same information.

19 COUNCIL MEMBER RECCHIA: Yeah, you
20 know, we're going to look into all these
21 complaints and see what we can do. To the lady,
22 the homeowner who testified, how did you leave off
23 with HPD? Where are you right now? Are they
24 helping you with...?

25 SHANITA WELLS: They've come to my

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

home twice.

COUNCIL MEMBER RECCHIA: When was the last time they were there?

SHANITA WELLS: In December. In December, I believe. And up to now I haven't received anything. I was under the impression the purpose of the visit was to give me a report so I'd have a point of reference to what problems I was having in my home, but they told me that the report is confidential, so I was supposed to receive a summary of the report, but nothing as of yet.

COUNCIL MEMBER RECCHIA: Did they say they would help correct the defects?

SHANITA WELLS: Okay. They said that they would leave it up to the developer to correct the defects, but it was the developer, in my opinion, that caused the defects.

COUNCIL MEMBER RECCHIA: Okay, so we have representatives from HPD here who are here today. I think you should really take the names of these people and try to get back to them, because I think they deserve to know where they are, what's happening. I would greatly appreciate

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that.

CHAIRPERSON DILAN: I think HPD is well aware of what's going on in the BedStuy cluster that she's talking about. I've received letters from people there in terms of other homeowners, that my office has received a letter, so I'm sure HPD is aware of it. I guess the question is what type of follow up, and that will be addressed offline. It won't be subject to our inquiry. She certainly as a citizen has the right to, you know, make public her plight. I do have, if you're done...?

COUNCIL MEMBER RECCHIA: Just one or two questions. Just so I'm clear. The part with the architect and the engineers, you believe that they should be out of this bill?

MICHAEL McGUIRE: Yeah. It's been our experience in looking at these projects that the blueprints, when we do get to see them, which also they don't, they've also been FOILED for on several occasions and we're told they don't exist. Copies of prints we've seen are up to spec and up to code. So the architects and the engineers, as near as we can tell, are drawing things properly

1
2 and the right way, and the incompetent or crooked
3 developers or contractors just ignore the
4 blueprints and do whatever they choose to do,
5 whatever they can do to cut corners. Stuff like--
6 we've come across houses where we've opened up the
7 walls for the homeowners, there's no insulation in
8 there, so they're spending 800 or 900 bucks a
9 month in heating oil. We opened up some walls, we
10 found bags of garbage in there. On multi-dwelling
11 units we've opened up the walls and found asbestos
12 containing materials. These were rehabs, where
13 instead of disposing of the asbestos the proper
14 legal way, the contractor just stuck the asbestos
15 in the walls and sheet-rocked it over. So, you
16 know, there's nothing like that in any kind of
17 blueprint or spec. You know, the blueprint calls
18 for so much insulation at so much of an R value,
19 we're not finding it. We're finding sewer pipes
20 pitched downwards from the sewers in the streets
21 to the house, so there's fecal matter running out
22 of the sewers in the streets into the peoples'
23 homes. We're finding sidewalks pitched down to
24 the house, so every time it rains people have to
25 put a line of sandbags in front of their front

1
2 door to keep the water from running in. There is
3 no engineer and no architect in the world who is
4 drawing plans like that. It's the contractors and
5 the developers. So, I would say, it doesn't
6 specifically address this, but in re-reading the
7 bill it occurred to me that perhaps the engineers
8 and the architects could be construed of as a
9 contractor, and I wouldn't think the intent of
10 this bill is to capture them.

11 COUNCIL MEMBER RECCHIA: And also I
12 think it's an issue for the Buildings Department,
13 how they give the C of O's when they see these.

14 MICHAEL McGUIRE: Well, that's a
15 good question too. I think right after we're done
16 with HPD, maybe we should be looking at Department
17 of Buildings.

18 COUNCIL MEMBER RECCHIA: We should
19 look at that. And with the subcontractors, how
20 much information--I'd like to have a conversation
21 with you, not necessarily today, to go on exactly
22 the information that you would like to see in this
23 bill required? And I know what's in the bill, you
24 know, is there any of that--of course the
25 Commissioner feels that certain portion of that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

should be not required. How do you...?

MICHAEL McGUIRE: Do you want to address it or...?

JAMES VERSOCKI: May I just, Councilman? I think that the issue here is that this is a MOCs agency, but they're not disclosing because they're not considering it procurement. So everything that's required under Vendex could easily be transcribed here, and the rules of the City of New York for HPD allow HPD to determine exactly how they want to let, how they want to choose people. They could very easily say, just follow Vendex, and then the Mayor's Office of Contracts can report every single bit of information that's required on any other contract in the City, which it is, you know, who it is, who the principals are, who the ownership is, just go to the Vendex screens. That's what I do to track people.

MICHAEL McGUIRE: And if I may, Council Member, not to be incendiary about this, but you know, I look at this and I see this whole system set up like a drug cartel, all right? And the subcontractors are the street corner drug

1
2 dealers. Right? And then the people at the top
3 are the guys in South America running the cartel.
4 And they've removed themselves several, several
5 times from the drug transaction in the street;
6 they're still benefiting from it, they're
7 profiting from it, they know it's going on and
8 they're encouraging it. So to cut out the
9 subcontractors from this, as I stated, in the
10 Lettire case, it was the subcontractors that were
11 actually taking the money, but the federal
12 government is going after Lettire for the \$1.4
13 million he stole from those workers. So, you
14 know, you might as well just cut the legs out from
15 under this if things go the way they are if you
16 take the subs out of this.

17 COUNCIL MEMBER RECCHIA: No, no. I
18 hear you loud and clear. We need to know who the
19 subs are and who the--their actual names. That's
20 important.

21 MICHAEL McGUIRE: And what they're
22 paying the workers. You know? I mean, and even
23 that's not foolproof, because on the few jobs that
24 are actually prevailing wage jobs, you know, where
25 they actually have to, there's a mandated wage, we

1
2 find that generally what happens is they'll pay on
3 a prevailing wage job, they'll pay by check.

4 Almost everybody gets paid in cash on these jobs.

5 But on prevailing wage jobs they need to really
6 back up what they're paying, so they pay by check.

7 They pay the full amount per hour by check, and

8 that's a large amount, because if you're a

9 contractor and you have a--you know, prevailing

10 wage is prevailing wage and benefit package,

11 right? So, if you're a big contractor, a union

12 contractor, you're paying a certain amount of that

13 number into your benefit funds, your pension fund,

14 your healthcare fund. If you are a small

15 contractor and you don't actually have a pension

16 fund and a healthcare fund, you have to pay the

17 worker the full dollar amount in the envelope. So

18 this is what we find; they give them a check for

19 the full dollar amount. In the case of

20 construction craft laborers, that's about \$56 an

21 hour. Then pretty much the industry standard is

22 they give them the check, they escort them to a

23 check cashing place where the worker goes in,

24 cashes the check, comes out, and kicks back a

25 portion of the amount that was on the check to the

1
2 contractor. What we found is the industry
3 standard for that \$56 an hour, the worker gets to
4 keep \$12, and he has to kick back the rest, over
5 \$40 an hour. Now, that explain why a contractor
6 would be willing to pay Wendell Walters \$175,000
7 to buy a job, because if you have 20 laborers on a
8 job, you're taking \$9,000 a week cash into your
9 pocket. On top of that, to make it more
10 egregious, they don't take taxes out on that \$57
11 that they give the workers, so that come tax time,
12 the worker owes taxes on \$57 an hour, when he got
13 \$12. So, you know. It's... I don't know, I'm kind
14 of speechless sometimes when I talk about it.

15 COUNCIL MEMBER RECCHIA: I agree.
16 Thank you very much. I have no further questions.

17 CHAIRPERSON DILAN: Thank you,
18 Council Member Recchia. I just have a few, and
19 I'll start with Ms. Wells. You said something
20 that struck me in the testimony. And I think a
21 lot of what was presented, you know, I expected to
22 hear. I didn't expect to hear it in this level of
23 detail that's provided. But I think the one thing
24 that really struck me is when you said, when you
25 tried to get your own engineer to look at the home

1
2 before you purchased it, which is common practice
3 in the private market; I don't think anybody does
4 that, buys a home in the private market without
5 getting some sort of engineer so they know what
6 they're buying. You were specifically told if you
7 did that the deal was off?

8 SHANITA WELLS: I experienced it
9 myself, and several of the other homeowners, when
10 it came time to have an inspection, I was told
11 that I couldn't come on the property, that for
12 financial reasons--insurance--

13 CHAIRPERSON DILAN: [Interposing]
14 For their inspection.

15 SHANITA WELLS: Right, so--

16 CHAIRPERSON DILAN: [Interposing]
17 What about--were you ever told that you couldn't
18 bring in your own engineer to review the property
19 prior to purchasing?

20 SHANITA WELLS: Definitely. And
21 when we were at the closing, the developer was
22 very aggressive, confrontational. When I brought
23 up certain points he told me that basically if we
24 didn't back down the deal was off. So.

25 CHAIRPERSON DILAN: You know, my

1
2 perspective, and you know, I'm not putting anybody
3 at blame here. My perspective is there would be
4 no deal. But the fact that that even came up is,
5 I think, egregious in and of itself. And I think
6 what we can do to clarify that, and I don't think
7 anybody has a problem with letting outside
8 individuals bring in their own professionals to
9 make sure that they're buying a solid quality
10 project. Now, the City obviously should be
11 guaranteeing that. That's part of what their
12 inspection is. So, if they don't want to allow
13 you on for insurance purposes because you're not
14 quite yet the owner of property--in the private
15 market everybody has the right to do this. I
16 think we can add language to clarify that outside
17 individuals in fact indeed have the right and are
18 encouraged to bring in their own professionals
19 prior to closing. If you choose to do that or
20 not, it's certainly your discretion and that would
21 happen at your cost; the City wouldn't pick that
22 up, but you certainly should have the right to do
23 that. So, I find that to be very, very troubling.
24 Because if it turns out that while it may be a
25 great deal, say you got the house several years

1
2 ago for \$250,000 with a little subsidy--and that
3 used to happen many years ago, it doesn't happen
4 anymore, but many years ago--it sounds like a
5 great deal.

6 SHANITA WELLS: Definitely.

7 CHAIRPERSON DILAN: But if you
8 inherit a money pit, it's not such a great deal.

9 SHANITA WELLS: That's what we're
10 dealing with now.

11 CHAIRPERSON DILAN: So, certainly I
12 think that's one thing that consumers can do to
13 make sure they protect themselves, whether it's
14 public or private, make sure you have your own
15 engineer look at the house and go through it
16 thoroughly. And you can make a decision to either
17 bring down the price, or you can not buy it at
18 all. Mr. McGuire, you obviously, you know, are
19 passionate about this issue; you've worked on it
20 for many years, you've talked to me about it for
21 many years. And you can see that the charge that
22 you put--have taken many hours and have done a lot
23 of work in great detail on this. I guess, what do
24 you know just from all the research that you've
25 done? And I think this is a question that I

1
2 failed to ask HPD, and I can certainly ask other
3 witnesses about this question when they come up.
4 What do you know about HPD's process in terms of
5 after the project is complete and the developer is
6 ready to close and sell? What research do you
7 have on general warranties given on the property?

8 MICHAEL MCGUIRE: You know, I
9 couldn't tell you off the top of my head. I
10 believe on the warranty on the home there's a
11 standard one-year warranty. And very often
12 contractors and developers just keep pushing off
13 the homeowner until the year is gone. You know,
14 or problems don't manifest themselves until a
15 certain amount of time in. We have some houses
16 now, we've been talking to people down in the
17 Rockaways where the houses, after the big
18 rainstorms last fall, the houses are starting to
19 collapse--there's no foundations. Apparently they
20 filled in the front yards with just rough debris,
21 and now the ground is collapsing around the
22 houses. That didn't show up for well over a year
23 into it. You know, it's an interesting question.
24 One would think that a homeowner--and for Ms.
25 Wells, this is an important point. As you said,

1
2 your perspective would have been deal off if I
3 don't get to have my own home inspector; mine
4 would be the same. But, you know, this is a
5 person who seemingly won the lottery and is
6 getting the American dream of being a homeowner
7 with a home, essentially built by the City of New
8 York. You know, if you trust your City, you think
9 the thing's okay. And when they tell you you
10 don't need your own inspector, you probably say
11 all right, because you're worried about not
12 actually getting the American dream. I think
13 there should be some sort of legislation. I've
14 been talking to legislators in Albany. You know,
15 in New York State we have a lemon law for cars.
16 We have a lemon law for pets. We have no lemon
17 law for houses. And I think absolutely we should
18 look at a piece of legislation like that. Like I
19 say, I'm working with members of New York State
20 Assembly and the New York State Senate to put
21 together a piece of legislation like that, which
22 ultimately, if you build a house, you sell it to a
23 homeowner here and they cannot, you know get
24 satisfaction out of it after a certain amount of
25 time, well, congratulations, HPD, you own a house;

1
2 it's going back to you, the homeowner gets their
3 money back.

4 CHAIRPERSON DILAN: So this is just
5 publicly financed projects--

6 MICHAEL McGUIRE: [Interposing]
7 Absolutely. Publicly financed. Because this is
8 where we're seeing it. I would think that there
9 should be a greater level of customer care on
10 publicly financed homes. You know, people have a
11 trust in their government. And these are people
12 who, you know, we're talking about, you know, the
13 folks living in the multi-dwelling units are
14 sometimes the neediest cases. People come in,
15 they're formerly homeless, people aging out of the
16 foster care system. In the case of the one-, two-
17 and three-family homes, middle-income folks, hard
18 workers, a lot of public employees who, you know,
19 are looking at their chance at the American dream,
20 and basically they step up and they get screwed.
21 So, you know, at some point, the government who is
22 actually when you take it right back to the root,
23 it's HPD, is doing this to them, has to step up
24 and fix it.

25 CHAIRPERSON DILAN: I don't

1
2 disagree, but I also do believe that even though
3 it is s government deal and the banks certainly do
4 their due diligence on the property, the developer
5 will do their due diligence on the property; you
6 know, having that third instrument to have the end
7 user also do their due diligence on the property
8 is another check that we can add in that--

9 MICHAEL McGUIRE: [Interposing]

10 What I would suggest, I just wrote a note to
11 myself here, is some sort of a homebuyer's, HPD
12 renters', bill of rights that the tenant or
13 homeowner would have to be given by HPD before any
14 closing is done or before it gets too far into the
15 process. They would sign off on it. You're
16 entitled to your own home inspector. You're
17 entitled to this, you're entitled to that. It
18 would have to be drafted, but we would definitely
19 like to see everybody who is purchasing a home
20 that is sponsored by HPD or renting an apartment
21 that's sponsored by HPD, be fully informed of
22 their rights as a tenant or as a homeowner and,
23 you know, have that on file in writing and signed
24 by both HPD and the homeowner.

25 CHAIRPERSON DILAN: I don't

1
2 disagree. A lot of times, you know, members of
3 the general public do get a great asset, provided
4 that it's built correctly. And I think in a lot
5 of cases they are built correctly, but there
6 certainly are cases where things go wrong. When
7 they do go wrong, everybody should step up and
8 correct it and make good. But with that being
9 said, I certainly will have to follow up with HPD
10 on the warrantee provision. I know there are some
11 end users here from HPD's system that may have
12 more information. I'll certainly ask them, but I
13 want to get HPD's official position on warrantee.
14 Now, in terms of labor conditions and on the
15 larger prevailing wage jobs, and the other smaller
16 jobs, you know, there will be an argument made,
17 and it's been a concern of mine for a very, very
18 long time--as you well know, I've shared it with
19 you privately--that HPD's pipeline could be
20 adversely affected. How would you argue or refute
21 that question? On the larger jobs where--more the
22 80/20 deals, you know, I certainly think that on
23 the luxury jobs, so to speak, prevailing wage
24 probably could be paid, or some sort of project
25 labor agreement could be paid. But my concern,

1
2 and I'll say it straight, frankly, is HPD's
3 continuance on developing an affordable pipeline
4 that my constituents certainly could afford. I'd
5 like to see more low-income projects come out of
6 their pipeline, and I'm going to press them to do
7 that and have been pressing them for years to do
8 that, to my frustration. But just, if you could
9 answer how the impact of this from where you sit
10 would affect their pipeline in terms of affordable
11 development, I'd be very interested.

12 MICHAEL MCGUIRE: Certainly. Well,
13 I mean, we certainly agree with you on that. You
14 know, everybody, I think everybody understands
15 that unionized construction workers are probably
16 amongst the best-paid blue-collar workers. It's
17 one of the really good still blue-collar jobs.
18 We're in an economic downturn. Construction
19 laborers in my union are averaging gross pay right
20 now about \$37,000 a year. That's one of your best
21 paying blue-collar jobs. My workers need these
22 homes too. Right? They're right in the wheel
23 well for this. You know, somebody else mentioned
24 the myth of the razor-thin profit margin. And
25 they mentioned it in the context of when the

1
2 Wendell Walters getting \$175,000 bribe per
3 project. If you think about it, you're risking
4 going to jail by doing this bribe deal. So, okay,
5 you're ponying up \$175,000 right out of your
6 pocket. Now, you've got to turn a profit to make
7 that worth your while, worth going to jail--

8 CHAIRPERSON DILAN: [Interposing]

9 Yeah, what I'm saying in regard to that, and I'll
10 let you finish.

11 MICHAEL McGUIRE: Yeah.

12 CHAIRPERSON DILAN: I don't think
13 this is going to stop anybody from doing anything
14 wrong, and if anybody does anything wrong,
15 obviously they're going to get caught and there's
16 no way around it.

17 MICHAEL McGUIRE: Well, you know,
18 with all due respect, Council Member, we informed
19 Commissioner Donovan about these problems in 2003
20 and 2004, and 2008. And it's now eight years
21 later and it's still going on, so nobody is
22 getting caught. And as the Commissioner said, if
23 somebody does get caught, they just have to pay
24 the wages back that they were supposed to pay, and
25 then they can turn around and do more HPD work,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

which is absolutely absurd.

CHAIRPERSON DILAN: Well, he didn't say that.

MICHAEL McGUIRE: That was my interpretation of what he said.

CHAIRPERSON DILAN: I think we pressed him for clarification, and I think what he says is when they get disbarred for major egregiences [sic], disbarred by the federal Department of Labor, and they have no ability to cure at that point. I think after I pressed him that was his answer, because at first that is indeed what he said. And I was a little bit unsure, but when pressed, that's exactly what he said.

MICHAEL McGUIRE: Well, I would then ask why HPD doesn't have a process of disbarring contractors themselves.

CHAIRPERSON DILAN: Well, they may. They may.

MICHAEL McGUIRE: Well, we'd certainly like to see who is on that list and why they've been disbarred. And who is under investigation, frankly? You know. And if

1
2 somebody has been found guilty of ripping off
3 workers and they've made whole, are they still
4 allowed to build for HPD. Or, if somebody has
5 been found guilty of doing substandard work, and
6 they've come back and made whole, why do they keep
7 getting contracts? You know, it's a downward
8 spiral that we're talking about here that seems to
9 be just the status quo. I don't mean to, you
10 know, go off topic here. As I said when I started
11 my statement, it seems like Commissioner Wambua is
12 really going to make a good faith effort--and he's
13 new there. You know, so I take him at his word.
14 I think he wants to clean up that agency, and it's
15 in dire need of cleaning. But, you know, until I
16 see some really solid concrete steps I'm just not
17 going to believe it, based on my experiences with
18 Commissioner Donovan.

19 CHAIRPERSON DILAN: Well, I trust
20 that he will, and I appreciate your answer about
21 the concern of the affordable pipeline, because
22 those are, you know, obviously my constituents.
23 And while I'm not anti-labor, certainly I do want
24 something that they can afford and can be able to
25 live in, and I'm glad that you share that goal.

1
2 MICHAEL McGUIRE: And actually, let
3 me address something on that too. We feel, again,
4 the same way. And in the past when we've been
5 asked this question, you know, there's an
6 organization called NYSFAFH, New York Association
7 For Affordable Housing.

8 CHAIRPERSON DILAN: We know them
9 well, yeah.

10 MICHAEL McGUIRE: Yeah, and they
11 put out a public statement that said that they
12 can't pay union wages because our wages are 30%
13 higher than what they pay. What we found is that
14 our wages are actually about 80% higher than what
15 they pay. We, in the building trades, actually
16 came up with an affordable housing rate, a project
17 labor agreement affordable housing rate that would
18 shave 30% off. We offered it, nobody would take
19 it. Because what we're finding in our
20 investigations are, you know, if you're paying
21 70%, you're paying about \$42 an hour. We're
22 finding they're paying somewhere between \$6, \$8,
23 \$10, \$12 an hour. We're finding construction
24 laborers, when the area standard wage is \$56 an
25 hour, getting paid less than minimum wage on these

1
2 jobs. So, you know, the myth, again--the money is
3 getting pumped out. Here's the thing; the money
4 is getting pumped out by the City and State to do
5 this. It's not making it to the workers. It's
6 not making it into the construction of the jobs;
7 it's lining these developers' and contractors'
8 pockets. Our research, during our research on
9 some of these contractors, we found contractors--
10 affordable housing exclusively--affordable housing
11 developers living in multi-million dollar homes.
12 We found one with a private jet. We found one who
13 just bought his own golf course. Now, you know, I
14 think I make a nice salary and it's definitely not
15 a razor thin margin, my salary. I don't own a
16 golf course. I don't own a jet. I don't own a
17 multi-million dollar house. I'm barely making it
18 day to day. So, there's this myth that the money
19 is not there. The money is there. The money is
20 being stolen. That's the problem.

21 CHAIRPERSON DILAN: You're saying--

22 MICHAEL McGUIRE: [Interposing] And
23 better oversight would stop that theft.

24 CHAIRPERSON DILAN: I don't
25 disagree with you, but what I will say is I

1
2 personally don't have a problem with anybody, you
3 know, making a profit.

4 MICHAEL McGUIRE: I don't either.

5 CHAIRPERSON DILAN: But they
6 certainly shouldn't be allowed to make a profit by
7 cutting corners on a governmentally sponsored
8 project. So, I don't begrudge anybody of their
9 wealth or their ingenuity and their willingness to
10 work hard. But when you cut corners to get there,
11 that's another story. And I think--

12 MICHAEL McGUIRE: [Interposing]

13 And, Council Member--

14 CHAIRPERSON DILAN: And I think
15 even though you specifically named NYSFAH,
16 they're up next, they'll get a chance to certainly
17 make their pitch clear as to what you just said,
18 and I look forward to hearing from them.

19 MICHAEL McGUIRE: Well, I
20 completely agree with you, and I think this
21 transparency bill will actually help in that
22 respect. We'll actually be able to see how much
23 money is going to various contractors and
24 builders. An informed public is the best policing
25 for any of this. So, you put it up on a website

1
2 where the general public can look at it, where a
3 homeowner can look at it and say, you know,
4 there's \$500,000 put forward for this house that's
5 falling apart on me? You know, I think that's the
6 best way to police it. And, you know, NYSAFAH can
7 get up and have their say. A member of their
8 board of directors is on the hook right now for
9 stealing \$535,000 from his workers. Last year in
10 their annual newsletter they welcomed Nick
11 Lattiere to their board, who is the gentleman I
12 talked about who stole the \$1.4 million from the
13 workers; so their credibility is compromised at
14 best.

15 CHAIRPERSON DILAN: Thanks, Mr.
16 McGuire. If there are no more questions? I would
17 like to thank you all for your time and for your
18 testimony. So, let's do four, and we'll put two...

19 [pause]

20 CHAIRPERSON DILAN: Okay. Next
21 we'll call up Alison Badgett [phonetic]? Is she
22 here? Oh, you're not testifying. Oh, okay. So,
23 yeah, I have it. Karim Hutson of NYSAFAH, Robert-
24 -it looks like Sanborn, Kendrick Jobe, and Sheila
25 Martin. All right. Let me just see who is still

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

present.

[pause]

CHAIRPERSON DILAN: All right. If I understand, Mr. Sanborn is not with us anymore. Is that correct? Or left. Yeah.

[pause]

CHAIRPERSON DILAN: All right, so that gives us three.

[pause]

CHAIRPERSON DILAN: All right, so we--and also, is Mr. Ted Houghton? If you're Ted Houghton, come on down.

[pause]

CHAIRPERSON DILAN: Mr. Altman, are you testifying on behalf? Okay, you got it. Okay. Just because I didn't see your card. Okay. So, I guess we can begin. We'll begin in the order that I called you up. Just state your name and your position, or just your name for the record. And you can get right into your testimony.

KARIM HUTSON: Good afternoon, Mr. Chairman. My name is Karim Hutson. I'm the managing member of Genesis Companies and Genesis

1
2 Partners, which is a full service real estate
3 development construction company, as well as a
4 certified minority business enterprise in the City
5 of New York. I have done some work with HPD, and
6 am also on the executive board of NYSAFAH. And I
7 will say, I'll go off my written comments for a
8 second to say I take--

9 CHAIRPERSON DILAN: [Interposing]
10 You're allowed personal privilege. I think that's
11 where you're going.

12 KARIM HUTSON: I appreciate it.
13 You know, I will say that I take a personal
14 offense a little bit to being told that I'm
15 involved with a development scheme that's almost
16 like a drug cartel. You know, I was born in
17 Harlem, in Lincoln Projects. I grew up in the
18 Bronx, and I'm very used to the demonization that
19 happens in our communities. And I will say that I
20 not only grew up there, I actually live in Harlem
21 still, and I work in Harlem, and so every day I go
22 into my buildings, I talk to my tenants, and I run
23 into my community and I take great pride in what I
24 do as a developer. And so it's very offensive to
25 me to be told that I'm somehow involved with some

1
2 sort of a drug scheme or Ponzi scheme. That's not
3 what we're doing. I'm here and I got involved
4 with this business to improve the lives of people
5 in my community. In Lincoln Projects I saw
6 firsthand the effects of not good affordable
7 housing and not good projects. And I got into
8 this business to change that, not be involved with
9 it. And so we make sure that everything we do is
10 of the highest quality and the highest standards.
11 And so, I'm a member of NYSAFAH, just like other
12 people are. I can't speak to what everybody does,
13 but I'll tell you right now that we do not in any
14 way want to do things to undermine the community.
15 I'm very much involved with empowering the
16 community, and that's the reason why I'm here, and
17 that's the reason why I became a developer; and
18 that's the reason why I started my company. My
19 mom did nothing but sacrifice everything so I
20 could have that opportunity, and so I want to take
21 advantage of that. Just to go back to my written
22 comments, I know many of the members of this
23 Committee have been strong supports of small
24 businesses, especially minority- and women-owned
25 businesses and enterprises, including my

1 Councilwoman, Inez Dickens, and Councilman Robert
2 Jackson, who I know is on this Committee, in whose
3 districts we live and work. I want to thank all
4 of you for your support and I want to talk today
5 about how Bill 730 Housing Preservation and
6 Development and Disclosure Bill would adversely
7 impact small and minority- and women-owned
8 business enterprises. As we are all aware, this
9 is an extremely tough economic environment for all
10 businesses, but it is even more so for small,
11 minority-owned businesses. As the economy has
12 suffered, it has become tougher for small and MWBE
13 firms to compete for scarce private capital, for
14 bank financing and other financing including city
15 subsidy for affordable housing. In general,
16 increases in regulation that require multi-layered
17 and burdensome reporting works to disadvantage
18 small and minority, women business enterprises,
19 because their ability to absorb the costs
20 associated with this increased reporting is
21 limited since they often do not have the economies
22 of scale to absorb these costs into a large
23 administrative structure like their larger
24 competitors. I'm concerned about the impact that
25

1
2 the additional reporting requirements of this bill
3 will have on my company, on the affordable housing
4 industry. I'm most concerned with the provision
5 mandating that we provide HPD with monthly reports
6 on the weekly gross wages and net wages paid to
7 employees, contractors, subcontractors, and so
8 forth, as has been outlined several times here.

9 First, as a small business, I hire contractors and
10 subcontractors from the marketplace like everybody
11 else, but my ability to influence them is limited
12 as compared to my much larger developers and
13 contractors that I compete with. So, it's
14 difficult for me to persuade potential contractors
15 in a competitive market to work with me and
16 provide all these disclosures without the
17 contractor forcing me to absorb 100% of the
18 increased costs associated with this reporting. A
19 large company, on the other hand, may be able to
20 do this reporting work in house or persuade the
21 contractors on the strength of their repeat
22 business and scale to absorb these costs and not
23 charge anything extra. As a result, I'll be
24 forced to charge a higher price for my services
25 vis-à-vis my larger competitors, which puts me and

1
2 other small businesses at a distinct disadvantage.
3 Second, these disclosures will make HPD projects
4 more risky from the perspective of financing
5 institutions. They will now be, quote unquote,
6 worried about whether a developer can accomplish
7 this extra reporting and the implications if there
8 are hiccups in the reporting administration. As
9 financing institutions perceive increased risk in
10 a project, we know that that typically means they
11 work less with MWBEs and small businesses. We
12 already know that small and minority and women
13 business enterprise have historically had trouble
14 attracting capital, and I hope that this Committee
15 will not do anything to exacerbate that problem.
16 While disclosure reporting in and of itself is not
17 a bad thing, we need to work together to make sure
18 that the reporting that is mandated is absolutely
19 necessary and fair for all firms and takes into
20 account oversight and disclosures already in
21 place, requiring things like--and we talked about,
22 I think, even the gentleman who spoke before
23 talked about maybe having some leniencies on this,
24 but requiring names, addresses, telephone numbers,
25 taxpayer IDs, that type of thing, to be disclosed

1
2 to the public, does not seem to meet what's
3 required for fair and necessary disclosure. But
4 we need to work together to look at it to figure
5 out what is fair and necessary. And I think that
6 we need to figure out ways to not do things that
7 are going to ultimately hurt the MWBEs. That's
8 all I have. Thank you for your time.

9 CHAIRPERSON DILAN: Okay, thank
10 you, Mr. Hutson. I believe I called up next, I
11 believe it was Mr. Houghton--or was it Mr. Jobe?
12 Mr. Jobe. Okay. Just into the mic one more time.

13 KENDRICK JOBE: My name is Kendrick
14 Jobe from Jobe Development. I'm a small
15 contractor with HPD. And I've been working with
16 HPD for the last 20 years. I did a lot of
17 affordable homes with HPD and the partnership.
18 I've heard a lot of things here this afternoon
19 that I couldn't believe. However, I'm not much of
20 a speaker. I will turn the mic over to Bob Altman
21 and he will address the problems that we have in
22 the Queens Build Association.

23 CHAIRPERSON DILAN: Bob, just do me
24 a favor, fill out an appearance card on your way
25 out.

1
2 ROBERT ALTMAN: I did fill out an
3 appearance card. I don't know where it is.

4 CHAIRPERSON DILAN: Yeah, we don't
5 have one. If you can fill it out, another one for
6 us, that would be good.

7 ROBERT ALTMAN: You know, I was
8 listening to the testimony of almost all the first
9 panel and I wanted to know what fantasy was being
10 said on a number of different things. First of
11 all, where they get these numbers that--when we
12 construct a unity, generally we talk about how
13 much it costs per square foot. And Kendrick and I
14 were talking about the different numbers on
15 affordable housing, about it costing \$100 a square
16 foot, or \$105 a square foot and the like. And
17 looking at a 2,000 square foot home, you're
18 talking about construction costs of a couple
19 hundred thousand. Now you have different other
20 elements involved in that, but it's not getting up
21 to this \$500,000 figure that gets into these
22 things which people are talking about, unless of
23 course you're talking about less of a subsidy on
24 different elements of it. You know, I was also
25 offended by the drug cartel, which I sort of found

1
2 funny coming from organized labor, which has had
3 its own organized crime element indictments that
4 have been well publicized throughout the year.

5 And I mean, that is documented. The people at
6 this table are not part of a freaking drug cartel.

7 Comparisons to SCA is just not appropriate. SCA
8 does things, almost everything with a union-backed
9 wage, and here we're trying to do things with--

10 over the past few years there have been some
11 affordable projects because of federal stimulus

12 money that had to comply with Davis Bacon, but
13 over the years you have not necessarily had

14 affordable housing projects be subject to Davis
15 Bacon or be subject to prevailing wage. A number
16 of these projects don't pay prevailing wage.

17 Almost everybody has to pay a living wage, at
18 least, and often they do pay. It generally is 30%

19 less. Sometimes a little more, sometimes a little
20 less. The interesting statistics about talking

21 about an average of \$37,000 a year. Right now

22 Mason Tenders have a high level of unemployment.

23 And if you're making zero, \$37,000 as an average
24 means that you have a high level of unemployment.

25 They're making zero. How does it factor in with

1
2 that \$37,000 for the number of workers who are
3 making zero? I just got all these wild
4 accusations that were part of this testimony that
5 are part of a fantasy. I mean, I don't even get
6 into my written testimony here because it's just
7 amazing what I heard. And just, I just don't know
8 who is shoveling this and who is accepting this,
9 but it just isn't reality.

10 CHAIRPERSON DILAN: Thank you, Mr.
11 Altman. I believe I called Ms. Martin next, but I
12 think it may be a little bit easier to do Mr.
13 Houghton, since he's sitting there, and then we
14 can swap out seats and allow you to sit at the
15 table to testify.

16 TED HOUGHTON: I'll do whatever you
17 like. Hi. I'm Ted Houghton. I'm the Executive
18 Director of the Supportive Housing Network of New
19 York. We represent over 200 non-profit providers
20 and developers of supportive housing across the
21 state. We have about 24,000 units in New York
22 City in a couple hundred buildings and it's also
23 scattered site. In any case, we're not drug
24 dealers. We don't own any jets. We don't own any
25 golf courses. We just try to build housing for

1
2 homeless people. And it really pains me to hear
3 some of the stories about people getting houses
4 that are sub-par condition. It hurts me to hear
5 workers not getting paid when they should. I'm
6 not naïve. I know that this happens in this
7 business. It's a rough business sometimes. But
8 the fact is, is that my experience with this, and
9 it's extensive, 20 years of doing this with a lot
10 of the people named in these stories and a lot of
11 the people who have not been named; it really is
12 the exception to the rule. The fact is, is that
13 people try really hard. Contractors try really
14 hard to comply with prevailing wage requirements.
15 It's very difficult. The people that are not able
16 to do that tend to be smaller groups, non-profit
17 groups, and smaller contractors and MWBE
18 contractors, the people we like to hire from the
19 community, because we're trying to come into the
20 community and say, we're going to build housing
21 for homeless people, but we also have something
22 for you, other units that we can give to people
23 that are in the neighborhood, jobs that we can
24 give to people in the neighborhood. When
25 prevailing wage comes into this it makes it much

1
2 more difficult for doing that. Now, when you talk
3 about prevailing wage, you're talking, I mean,
4 maybe \$37,000 is how much somebody might make
5 annually, but the fact is, is that for the most
6 part laborers are making \$40 and over an hour for
7 their wages. Contractors on prevailing wage are
8 making much--carpenters are making much, much
9 more. We're not making a whole lot of money. Our
10 profit is non-existent. We're non-profit. We
11 make about \$7,500 per unit when we build housing,
12 from the developers' fees. That doesn't nearly
13 pay for the cost of actually developing, which can
14 take, like, five years to do these things. This
15 is going to cost us a lot of heavy administrative
16 burdens for us to comply with the thing as
17 written. It's going to have a disproportionate
18 effect on non-profit development. It really could
19 put a lot of us out of the development business,
20 and I think that would be a shame. I think we've
21 got a really good history of doing this. The
22 database, I love transparency. I think that would
23 be a good idea. I'd like to get the bottom of
24 many of these stories that I hear on the
25 affordable homeownership side, but the fact is, is

1
2 that let's go in there with our eyes wide open and
3 make sure that there's enough money to develop the
4 database, to maintain it, to do the reporting,
5 because it's a big, big job. When you talk about
6 that many contractors and subcontractors and there
7 are so many moving parts. I think that more
8 likely the unintended consequences are very
9 serious. I've been on the receiving end, and I've
10 seen other people on the receiving end of the
11 Laborers Union when they have attacked contractors
12 and developers, and it's not pretty. I mean, it's
13 disappointing to me, because I've always been very
14 pro-union. I used to work in the City and I had a
15 unit that was all unionized workers that we proved
16 that we could do the job better than non-profits.
17 One of my employees used to work for the Laborers
18 Union and was an advocate for them. We care a lot
19 about prevailing wage. 90% of our projects are
20 prevailing wage with HPD. I mean, we can do it.
21 But you got to go in with your eyes wide open. If
22 you do prevailing wage, it's going to cost 30%
23 more than it does if you go non-prevailing wage.
24 That's going to be about 30% of the total costs
25 are paid for with City tax levy subsidies. So

1
2 that basically means that you are going to double
3 the cost to the city if you build prevailing wage.
4 That may be the right move, but the fact is we
5 desperately need housing, so you've got to make
6 that decision. Do you want to spend a billion
7 dollars to build 100,000 units, or do you want to
8 spend two billion dollars to build 100,000 units?
9 It's up to you. I think that's the City Council
10 and the Mayor should decide that, but that's
11 really what the rule is. Also, when you build
12 prevailing wage, because of the added
13 requirements, it takes about on average six months
14 longer to build a prevailing wage project than a
15 non-prevailing wage project. We've gone through
16 all our data for the last five years to find that.
17 What I worry about most is just the way that the
18 information on a public database could be used
19 against good developers. I mean the fact is, you
20 could be a contractor, you've got 50 different
21 subs. It's your job to oversee those subs and
22 make sure they comply with the law, and I think
23 you've got to take that seriously. Most
24 contractors I know that I've met really do. But
25 occasionally something is going to happen. If

1
2 something happens and a subcontractor rips off
3 some workers, they don't go after the
4 subcontractor. The unions go after the
5 contractor, and they really do everything they can
6 to destroy them personally. And I've seen that
7 happen. It's seeing those requirements for lists
8 of unproven allegations put on the internet, past
9 housing code violations--which are already on the
10 Department of Buildings for listing who didn't
11 win. I mean, it's not that you--you might have
12 had a bad application, but more likely somebody
13 else had a better one. There's a lot of good
14 housing applications that go unfunded, so I'm not
15 sure why we have to shame people into--that didn't
16 win those things. The procurement process is very
17 difficult to put together a deal, and I'm just
18 speaking realistically here. You've got to get
19 all sorts of different financing from so many
20 different sources, and you've got to get an
21 architect that can build the way you want to build
22 and an engineer and a contractor, and there's all
23 sorts of issues with land and everything like
24 that. You need some flexibility to do that. You
25 can't have all of that done through a procurement

1
2 process; that would be unrealistic and it would
3 delay things even further. So, yes, to
4 transparency. I hope you guys come up with a good
5 bill that will give us that, because obviously
6 there is some work to be done, but be very careful
7 to address the unintended consequences of such a
8 thing. Thank you.

9 CHAIRPERSON DILAN: Thank you. And
10 Ms. Martin?

11 SHEILA MARTIN: Good afternoon. My
12 name is Sheila Martin. I work for the Housing
13 Partnership Development Corp. I've worked there
14 since 1987. And working with HPD on the New Homes
15 Program and later programs, we've developed over
16 about 30,000 units of housing. Now, we weren't
17 the contractor, but we were the owner of the
18 property. We worked with all of the applicants
19 and the buyers, and I have to say, I was surprised
20 when I heard Ms. Wells say that we prevented her
21 from getting her home inspected. Not we
22 personally, but that she was prevented. The
23 Housing Partnership Development Corp. is also a
24 HUD-certified counseling agency, and my counselor
25 would be jumping up and down crazy saying it's

1 obviously one of the things that we tell
2 homebuyers before they buy, that they should in
3 fact get the home inspected, that as part of the
4 program she actually has a home inspector come to
5 speak to the would-be homeowners to tell them what
6 it is they should be doing as part of the process.
7 As the owner, if any of the homebuyers had a
8 problem getting access, they all know my number,
9 I'm pretty sure; I've spoken to any number of
10 them, Ms. Wells in particular, I have to say.
11 But, beyond that, I agree that transparency is a
12 great thing more often than not. And I don't know
13 if the point of this bill in transparency is to
14 weed out the bad developers by making everybody
15 tell us what they're paying their employees; I
16 don't see how that happens. As far as the
17 percentage of the New Homes Program units that
18 have problems, and I don't disagree that we have
19 more than we would want to have problems, it would
20 have to be less than one percent of the 30,000
21 units that we've done. So, all in all, I don't
22 understand really in reading the bill what the
23 purpose in getting wage information is, how that
24 ties into a better product for the people that are
25

1
2 having problems with their homes. Down the line,
3 obviously, we want them to have a product that
4 they're proud of. And we work with HPD to get
5 that accomplished. Being transparent in wage
6 information I don't see would address that. And
7 as far as what the warrantee provisions are, it's
8 attached to everybody's contract. There is a
9 warrantee that every new homes buyer is entitled
10 to, and it's beyond the one year. The roof
11 actually goes up to six years, and I don't
12 remember what the other two--for systems and
13 structure--but they're definitely more than one
14 year, and Ms. Wells has been in--any number of
15 them have been in their houses for more than five
16 years and we're still trying to work with them.

17 CHAIRPERSON DILAN: I guess I'll
18 give Council Member Recchia the privilege of going
19 first. I do have some questions for this panel.

20 COUNCIL MEMBER RECCHIA: Thank you
21 very much. I appreciate you all coming to testify
22 today. But I just want to, you know, this is not
23 attack on the affordable housing industry. Let's
24 first set the record straight. I did not
25 introduce this bill because I'm attacking you.

1
2 The industry caused this bill to be introduced.
3 Because houses and buildings were being
4 constructed that were failing, and all those
5 people here who have problems, that's why this
6 bill is introduced, Mr. Altman. That's why.
7 Because of the people here today. And for the
8 Partnership to say there's a warrantee and Ms.
9 Wells still coming before us crying her eyes out,
10 why wasn't the matter corrected? Could you answer
11 me that question, since you say there's a
12 warrantee? Why wasn't the matter corrected for
13 Ms. Well?

14 SHEILA MARTIN: She doesn't want
15 that developer to do the work.

16 COUNCIL MEMBER RECCHIA: Well, I
17 wouldn't want it either.

18 SHEILA MARTIN: Well then--

19 COUNCIL MEMBER RECCHIA:
20 [Interposing] Well, you have to figure out a way
21 to get this done, you and HPD. It's not right.
22 It's not fair.

23 SHEILA MARTIN: We didn't have the
24 other 29,000 homeowners--or the owners of the 29
25 other thousand units come to say that they love

1
2 the homes that they have. We only have the ones
3 who have the problems.

4 COUNCIL MEMBER RECCHIA: And I can
5 tell you, I can give you a list of other houses
6 that were built in East New York, and I could go
7 on and on, where there were thousands of people,
8 in Bushwick, okay? I could go down, when I'm out
9 there in the streets going door-to-door, speaking
10 to people. Councilman, you've got to help me
11 because the sewers are backed up because it wasn't
12 built properly. That's why this bill. This is
13 not an attack on affordable housing.

14 ROBERT ALTMAN: If I could address
15 the sewer issue. In fact a lot of what happened--

16 CHAIRPERSON DILAN: [Interposing]
17 Hold on. If you could do it into the mic, we do
18 have to do it for the record.

19 ROBERT ALTMAN: Because this is an
20 issue that came up on a prior hearing. What's
21 happened in these sewers were built and there's a
22 homeownership association for many of these
23 projects. The sewer system is supposed to be
24 flushed out by the homeowners' association,
25 preferably annual. It is the homeowners'

1
2 association's responsibility to do it. Some
3 homeowners' associations are responsible and that
4 was done; others were less responsible. It's been
5 10, 15, some of them now going on 20 years--

6 COUNCIL MEMBER RECCHIA:

7 [Interposing] And then how about those sewers and
8 how--

9 ROBERT ALTMAN: --and they have not
10 flushed out the system and the backup occurs.

11 COUNCIL MEMBER RECCHIA: And how
12 about those where the piping wasn't put in
13 properly.

14 ROBERT ALTMAN: I'm talking about--

15 COUNCIL MEMBER RECCHIA:

16 [Interposing] And I could give you a list. I can
17 give you a list.

18 ROBERT ALTMAN: You can't know
19 that. You can't know that. You can't necessarily
20 know that.

21 COUNCIL MEMBER RECCHIA: Yes.

22 Listen. You want--listen.

23 ROBERT ALTMAN: The homeowners'
24 association doesn't necessarily--

25 [crosstalk]

1
2 CHAIRPERSON DILAN: I've got to ask
3 you guys to speak one at a time and not talk over
4 each other. If you guys--you know, you can argue
5 tooth and nail, point counterpoint, but I just
6 want it to be done organized.

7 COUNCIL MEMBER RECCHIA: You know
8 what? I all I have to say is, just by hearing
9 your testimony, I am proud to be the sponsor of
10 this bill, because you know why? It's about time
11 the people whose houses that they bought, they
12 worked hard, weren't getting what they paid for.
13 And you know what? I'm proud to introduce this
14 bill. And I just have to say, okay, listening to
15 what your testimony--you're giving my every
16 reason. And as far as MWBE, this is going to help
17 MWBE. All right, small businesses, get more jobs
18 and see how much other people are paying. And
19 they're going to be able to use it so they can
20 know how and what's going on out there in the real
21 world, so.

22 KENDRICK JOBE: Councilman, may I
23 say something about that sewer backing up?

24 COUNCIL MEMBER RECCHIA: No, no.

25 CHAIRPERSON DILAN: I think--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER RECCHIA:

[Interposing] I said what I had to say.

CHAIRPERSON DILAN: I want to be careful, because while sewer issues are certainly part of construction, a lot of the sewer issues that I've experienced in my district, particularly in Bushwick, had nothing to do with the developers; they had everything to do with DEP.

KENDRICK JOBE: Exactly.

CHAIRPERSON DILAN: So, I think that's a subject for a different hearing, and that was actually germane to the hearing that we held in 2005. And that's another thing where we need both agencies to work on. In my district, the cluster of homeowners that are on Putnam, certainly know I brought HPD in terms--to the table in terms of repairs, which in my view, in my case--not every case is the same--those were punch list items and they got, they haven't been corrected; they will be corrected. I don't think they're major structural deficiencies, but punch list items are part of any job. I don't think anybody is going to ever build the perfect unit, whether they build it union or non-union. I think

1
2 what we're trying to get at, simply, is one, it's
3 an \$8 million investment pipeline, and there's few
4 details to show us where the majority of it goes.
5 So I don't think anybody on either side of this
6 argument is opposed to a little bit more
7 disclosure from HPD. I think there certainly are
8 disagreements on what needs to be provided and how
9 it needs to be provided and how often it needs to
10 be provided, and then there are certainly
11 disagreements as to whether you can do it at a
12 certain rate or not a certain rate, but I think we
13 should have the discussion in a manner where we're
14 actually listening and hearing each other and not
15 shouting and yelling at and over each other. And
16 I think maybe we may be able to find a resolution
17 in that regard. And people may disagree with what
18 we have to say and what we ultimately do, but at
19 least we can hear each other. So, that's just the
20 point that I want to make. And I want to set the
21 tone for the rest of the hearing. You can scream,
22 yell, you know as loud as you want and fight for
23 your point, but let's just at least be as
24 respectful to each other as we possibly can.

25 TED HOUGHTON: May I respond to the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Council Member's...?

CHAIRPERSON DILAN: Well, I think--

TED HOUGHTON: [Interposing] I
won't talk about sewers.

CHAIRPERSON DILAN: As long as it's
on the subject of the bill.

TED HOUGHTON: Yes. And I haven't
yelled or anything. Just, in Washington, the
Washington Post ran two very sensationalistic
articles on the Federal Home Program that pays for
affordable housing, that pays for a lot of the
housing that is built in HPD, and it really looked
at a very small subsample of the 28,000 projects
that had been funded by that, but it really zeroed
in on them and how they had been delayed and
everything. As a result, two months later,
Congress cut the Home program by 38%, because of
formula changes. It's a 46% cut to HPD's program.
It's a \$30 to \$40 million dollar hole that we're
facing now for supportive housing construction,
and the reporter said, why are they cutting Home?
I don't understand. And, you know, the fact that
she didn't realize that, you know, when you talk
about these things, most people just read the

1 headlines and these headlines have consequences.

2 So, I appreciate anything we can do to help you
3 fight for affordable housing, while we fix to make
4 sure that it's a well run system. You know, I'd
5 really appreciate any help you can do, because
6 right now all these affordable housing programs
7 are really at risk, nationally and locally and at
8 the state level, and we need to make sure that
9 they come, because there's such a need.

10
11 CHAIRPERSON DILAN: I certainly
12 don't think there's anybody in the room that
13 disagrees with that point. And you know, if I
14 have to--

15 TED HOUGHTON: [Interposing] But
16 let's make sure we work.

17 CHAIRPERSON DILAN: If I have to go
18 to Washington to yell for more capital funds for
19 the City, I'll do that. I don't have a problem
20 with that.

21 TED HOUGHTON: Appreciate it.

22 KARIM HUTSON: And let me say this
23 to Councilman, I mean, I appreciate your comments,
24 and I wasn't trying to be outraged. All I'm
25 saying is that I certainly care. I can speak for

1
2 my--what I do. Like I said, I live in the
3 communities where I build. I run into my tenants
4 when I'm out and ask them about what's happening,
5 so I take a lot of pride in what I'm doing and
6 want people to have better housing. And certainly
7 we need to make sure that we're building quality
8 housing, period. You know, there's no excuse for
9 not building quality housing. And I think, I hope
10 HPD, and I think people that I know--I've worked
11 with Sheila Martin--I think that there is a
12 commitment to doing that. Whether they're doing
13 it right 100% of the time, I don't know. I don't
14 know about the projects that are happening here.
15 I certainly am not happy to be hearing about the
16 troubles you're having. It's not good for me. I
17 hope it doesn't happen in mine. If I get a whiff
18 of it, somebody has to deal with my anger, right,
19 because I have to run into people who complain
20 about it. So, I guess what I'm saying on the
21 flipside is that please take into account the
22 comments that I made concerning some of my
23 concerns about how I think it could affect people
24 like me in this industry, because I think
25 sometimes it does get over some of the politics or

1
2 whatever--I'm not as involved with that. But I
3 will say that day-to-day, these are the things
4 that I have to deal with, and so I'm telling you
5 that these are the things that I may have to take
6 into account.

7 COUNCIL MEMBER RECCHIA: And we
8 hear you. Like I said earlier, we're not out to
9 hurt anyone.

10 CHAIRPERSON DILAN: Okay, so, I
11 would like to, just to Ms. Martin. You explained
12 during your testimony about the warrantee process,
13 that it exists, and it's beyond one year. You
14 know, I've been dealing with on a personal level
15 since this program started with the Beechwood
16 Homes, quite frankly, in my district, that still
17 may have many unresolved punch list items. Those
18 are beyond, obviously, beyond warrantee. But I
19 guess from where you sit and your standpoint, what
20 tools can we give HPD, whether legislatively or
21 otherwise to make sure that these items get
22 addressed? Now, obviously there's over time
23 there's going to be some wear and tear, which we
24 can differentiate from, but how do we really--what
25 opinion do you have on how we can best address a

1
2 lot of these large, major structural items that go
3 deficient in the pipeline? What more tools can we
4 give HPD to get developers back to the table?
5 Because the Commissioner earlier said that, you
6 know, he has very few tools other than to say,
7 hey, this developer, we're just not going to do
8 business with. So, I'd just like your opinion on
9 that.

10 SHEILA MARTIN: I don't know that I
11 can really speak for HPD on what it is--

12 CHAIRPERSON DILAN: [Interposing]
13 I'm asking for an opinion. You know, I made that
14 clear.

15 SHEILA MARTIN: My opinion would be
16 before they select a particular developer they
17 take into consideration if they do in fact have
18 any complaints lodged against them, serious
19 complaints. But that would be after the fact;
20 we're talking about developers where problems come
21 up after they've completed a home and they didn't
22 have any complaints prior. And the only thing
23 that I can think of is they're new to the program
24 that they have to set aside some of their money
25 before they close that final house, or before

1
2 they're actually out of that project, for--during
3 some kind of one-year period--to make sure that
4 complaints are addressed.

5 CHAIRPERSON DILAN: So they put it
6 in like an escrow account?

7 SHEILA MARTIN: Like an escrow
8 account.

9 CHAIRPERSON DILAN: All right. We
10 can take that under consideration. That seems to
11 be reasonable, and it seems to be a carrot that
12 will help HPD get the developer back to the table.
13 We'll take that under consideration and try to
14 develop that more as we go out. And by looking at
15 the gestures, I don't think people are opposed to
16 that.

17 KARIM HUTSON: Yeah, I mean, on
18 rental housing there's already typically operating
19 reserves and stuff set up that do that.

20 CHAIRPERSON DILAN: Yeah, rentals
21 are easier.

22 KARIM HUTSON: To do that. But on
23 home ownership it does get a little more
24 difficult, and so. But oftentimes, you know, on
25 some of these projects, a contractor is required

1
2 to, you know, keep their bond outstanding for
3 over--you know--past the time that the houses
4 close and things of that sort. So potentially
5 there's sometimes avenues to go back after
6 contractors who don't perform. But obviously we
7 do have some problems, but that can also be a
8 protection.

9 CHAIRPERSON DILAN: And I guess
10 before I go to Gale, you know, the problem that we
11 have is to be able to strike a balance. I think
12 it's clear that, while I believe most people in
13 the development world and most people in the labor
14 world are inherently good, you know, in every
15 case, in every walk of life, there's always a few
16 bad actors, and that goes for government as well.
17 But I think the majority of the people intend to
18 do the right thing. So, how do we strike the
19 balance to keep a competitive advantage for those
20 who want to earn a decent wage and don't have to
21 worry about your competitors cutting wage corners
22 so that you're competitive on jobs? So we have to
23 strike that balance as well as, you know, do these
24 projects in a manner that they can actually reach
25 my constituents and constituents of Domenic's and

1
2 Gale's, to a level where people can actually
3 afford them. And that will be our challenge and
4 that will be our task. It may prove to be a
5 difficult one, but we're going to spend energy
6 doing it. Council Member Brewer?

7 COUNCIL MEMBER BREWER: Thank you.
8 I just want to say that I've been trying to work
9 with some homeless families right now, and there
10 isn't one supportive housing family unit
11 available, so I know about the cuts and I
12 understand that. My question is, you are all
13 fabulous, but are all the developers, non-profit,
14 working in the industry members of either Ted's
15 association or somebody else's? How does that
16 work? In other words, are all the developers part
17 of an umbrella group that basically promotes best
18 practices? I guess that's my question.

19 TED HOUGHTON: Well, I can speak
20 from my perspective. No, you don't--there's no
21 requirement that you belong to a member
22 association. And the member associations do not
23 do some kind of check and qualification for those.
24 It's more of a loose amalgamation of groups. But
25 for the most part I would say most private

1
2 developers in affordable housing do participate in
3 NYSFAFH, if they don't fully belong. And then
4 most of the non-profits that do supportive housing
5 are part of our organization. There's a few out
6 there that aren't that I would like to join, but
7 no. But, you know, there's a lot that we could
8 all do to try to police this more. And what I
9 find is that while a database may be the answer,
10 but you do really need to go in with your eyes
11 wide open about implementation, because I mean
12 we're looking at--you know, I'm looking at another
13 database that costs \$60 million, and they really
14 didn't talk to the providers much, and it's as we
15 predicted it would be, it's really becoming a
16 problem. And so you really want to go in there
17 and make sure--

18 COUNCIL MEMBER BREWER:

19 [Interposing] What database is that?

20 TED HOUGHTON: We'll talk some
21 other time.

22 COUNCIL MEMBER BREWER: Okay.

23 CHAIRPERSON DILAN: He was being
24 tactical there.

25 TED HOUGHTON: But there's other

1 things that can be done. I mean, one other fact
2 is that HPD is really dependent on federal funding
3 for its staffing, and it really has taken a very
4 big hit on line staff lately, and it's going to be
5 facing another one, because CDBG no longer allows
6 as high administration costs. They lost money
7 there, 8% cut, all sorts of things. And so you
8 really need to help HPD have the capacity to do
9 this if they're going to do it. Another factor, I
10 think that when you look at the funding, the fact
11 is, is that a good program like the Supportive
12 Housing Loan Program that we mostly work under, I
13 mean, we worked with HPD and created design
14 guidelines and said these are the expectations.
15 This is about how big the rooms are going to be.
16 This is about what you need to put in those rooms.
17 This is what kind of materials we need to use.
18 And that really helps us get a handle on costs.
19 And so we are looking at, we worked on it and
20 we've been able to reduce costs of the new
21 supportive housing by looking and trying to be
22 strategic about where we spend our money. You can
23 do a lot there if you take a look. And the fact
24 is, a good program head at HPD--and there are a
25

1
2 lot of good ones--are able to negotiate and they
3 know exactly what it's going to cost square foot,
4 and they're going to be able to manage that. And
5 so you really just need to make sure you have good
6 people there and they've got the capacity to
7 manage those projects.

8 COUNCIL MEMBER BREWER: See, I
9 don't know who is doing the home programs. I'm
10 more familiar with Supportive Housing, and--

11 TED HOUGHTON: [Interposing] Home
12 is a funding stream that feeds many of these
13 programs.

14 COUNCIL MEMBER BREWER: No, I'm
15 just saying, but I will tell you, unfortunately, I
16 get constant complaints. I'm going to be honest
17 with you, it's not just the people in this room,
18 about the individually owned developers. In other
19 words--

20 TED HOUGHTON: [Interposing] The
21 homeownership.

22 COUNCIL MEMBER BREWER:
23 Homeownership of units as opposed to the rentals.
24 I have no complaints personally--I don't know,
25 Mike may--but of supporting housing, larger multi-

1
2 family, but I'm just letting you know. So that
3 somehow, I don't know if it's a different set of
4 developers, I don't know. But that's where the
5 complaints come in primarily. Again, the unions
6 may have other larger picture than I do. And I
7 think we really--you know, I'm big on
8 transparency. I don't really understand why I has
9 to cost so much. Maybe there are limits to what
10 needs to be reported and that might be the
11 compromise that the Chair is talking about. But,
12 there are some bad apples in this group right now,
13 and they really do need to be weeded out, and
14 sometimes transparency does it. So, I guess the
15 balance is how do you do it so that it doesn't
16 cost a lot, and get at the problem that we're all
17 trying to address. And so I would say I'm glad
18 it's not my bill to have to work out. Thank you
19 very much.

20 TED HOUGHTON: Well, I don't know
21 much about the homeownership end of affordable
22 housing development, but I would say that a lot of
23 this is, from where you sit, the fact is, is that
24 whenever somebody has a problem of this time, I
25 tell them to call their city councilman. And so

1
2 you guys are getting all the problems coming
3 through your doors and not hearing the success
4 stories.

5 COUNCIL MEMBER BREWER: Believe me,
6 the people who find me find me anyway, it's not
7 because you tell them, Ted.

8 TED HOUGHTON: Exactly. But there
9 are an awful lot of success stories in
10 homeownership as well as multi-family that are out
11 there. And so, let's try to figure out how to
12 solve the problems.

13 COUNCIL MEMBER BREWER: This
14 gentleman should build everything. That's what I
15 think.

16 CHAIRPERSON DILAN: You know, we
17 certainly hear about the success stories.
18 Bushwick is filled with them, but they just don't
19 make the cover of the daily papers. And I wish
20 that's the way it were. I wish everybody can
21 build and everybody can work and there's no
22 problems and we can move on. But unfortunately
23 it's not that simple.

24 ROBERT ALTMAN: I have one point.

25 CHAIRPERSON DILAN: Mr. Altman.

ROBERT ALTMAN: It will be short.

You know, there's a lot of already existing affordable housing that's going to be covered by this, because if somebody takes out a loan to do a major renovation for the building, that's going to affect the co-ops, affordable housing co-ops and things such as that. So, if I have to do a major renovation project, this is not just for new construction. This bill also captures that renovation. I don't know if some of the co-ops that are in your various districts that were affordable housing co-ops, years back, would be happy that they have to do all of this reporting.

CHAIRPERSON DILAN: What renovation programs do you think may be captured by this bill?

ROBERT ALTMAN: Any loan program that we have. At my old law firm we used to do a lot of different programs with HPD where a loan would close. And HPD wanted to close the program, especially when the Mayor announced the thing, because if you refinanced, renovated your place and everything else got put into the numbers category. So, as a result what happens is a lot

1
2 of these affordable housing co-ops have been
3 refinanced over the past few years, used--cashed
4 out, was able to use money to renovate their
5 premises. So, this is not just new construction.
6 This is also a significant portion of this money
7 will--it goes to your affordable housing Mitchell
8 Lama rentals, co-ops, whatever. And all of those
9 already existing units will have to be compliant
10 with this, and I don't know if your co-op building
11 managers are going to be so happy about that. So,
12 it's just something to keep in mind.

13 TED HOUGHTON: I noticed the
14 \$100,000 and up limit, and I thought that that
15 seemed a little low. I mean, if you take into
16 account that a unit, to build a unit is about
17 \$200,000 to \$400,000 per unit that you're
18 building, affordable housing. So, \$100,000, yes,
19 you could replace the boiler and a couple other
20 things, and all of a sudden you're reporting here.
21 So, it may be that raising that limit would be one
22 place to look.

23 CHAIRPERSON DILAN: Thank you all.
24 Thank you for your time. Okay, next we have--oh,
25 this is it. We have Leonel Lopez, Jonny Zeta,

1
2 Benedicto Flores, and is there an Anthony
3 Bartolucci [phonetic]?

4 ANTHONY BARTOLACCI: Bartolacci.

5 CHAIRPERSON DILAN: Bartolacci.

6 That will be the panel. All right, Mr.

7 Bartolacci, you'll be last on the panel. We'll go
8 with the other three gentlemen. We'll start with
9 Mr. Lopez. Say it again? Yeah, just push the
10 button. The light should be on. Say your name
11 for the record and then you can get into your
12 testimony.

13 LEONEL LOPEZ: Leonel Lopez.

14 CHAIRPERSON DILAN: Okay. If you
15 can move it a little? You can move it closer, if
16 you want. There you go.

17 LEONEL LOPEZ: Good afternoon, Mr.
18 Chairman, Councilmen and Councilwomen, and
19 everybody else in this room. Thank you for the
20 opportunity. My name is Leonel Lopez and I'm a
21 construction worker for the last 14 years, and a
22 member of the Union Local 79, and I've been hired
23 for companies, contractors, who does HPD jobs. I
24 keep track of the hours I work, the days that I'm
25 paid and the type of the work that I do, other

1
2 information about the projects. During that time
3 I've been working in this HPD jobs, and jobs for
4 public agencies and also private owners too.
5 During the last year I worked on HPD project known
6 as Grand Street Guild. The project is in
7 Manhattan. I worked there as a laborer and a
8 painter. This was a large renovation project at
9 three sites. At this job I was moved between
10 companies, including a company called Omega
11 Construction and New York Acoustic. I was paid
12 \$120 per day for my work, with no benefits. I
13 know this project, because the company's foreman
14 would make us sign our paychecks. They will then
15 cash them and pay us in cash for less than what
16 was on the check. This is known as kickback of
17 wages. There are no postings in the projects that
18 it was prevailing wages, and all the other workers
19 I worked with were paid the same way, or less
20 money. We had to sign our checks and kickback
21 wages. In addition, I was required to work the
22 first three weeks without pay, and I was paid in
23 the fourth week for my work. I worked for months
24 receiving these illegal wages in the City-funded
25 HPD project, and I can't believe that workers are

1
2 paid in cash with no taxes withheld, no pay stubs,
3 and no government oversight. This is a
4 transparency hearing, and I want to thank you all
5 for you holding it. I can't believe that a
6 taxpayer funded agency is allowed to operate like
7 this, where workers on the projects are totally in
8 the dark. Thank you very much.

9 CHAIRPERSON DILAN: Thank you.

10 JONNY ZETA [THROUGH INTERPRETER]:

11 Hi. Good afternoon. My name is Jonny Zeta. I am
12 a union member, and I was hired to work on non-
13 union jobsites by contractors. When I'm employed
14 on these jobs, I keep track of the hours that I
15 work, the days that I am paid, the type of work I
16 perform and other information about these jobs.
17 During this time I have worked both on HPD jobs
18 and jobs for other public agencies and private
19 jobs as well. In the last year I've worked on at
20 least three HPD jobs. The HPD jobs are the only
21 ones on which workers like myself don't know from
22 the get go whom we're working for. From the
23 beginning, they paid me \$12 an hour on these HPD
24 projects, cash. I worked for many different
25 companies, including ones named Skyline, Metro,

1
2 and another called MC&O. I know that some of
3 these jobs that I was working on for \$12 an hour
4 cash were prevailing wage jobs. I never received
5 a paycheck, a pay stub, or a check for any of
6 these jobs. There were no postings that this was
7 a prevailing wage job anywhere on the jobsite.
8 Every other worker that I worked with on this job
9 was also paid cash off the books. And I worked in
10 projects both in Brooklyn and in the Bronx. I
11 worked for several months, receiving illegal wages
12 on City-funded HPD projects. I can't believe that
13 they are allowed to pay us cash off the books
14 without paying any taxes. And without pay stubs
15 and without government oversight. This is a
16 transparency hearing, and I'd like to thank you
17 all for holding it. I can't believe that a
18 taxpayer funded agency is allowed to operate in
19 this manner, and where the workers are kept
20 completely in the dark.

21 BENEDICTO FLORES [THROUGH
22 INTERPRETER]: Ladies and gentlemen, good
23 afternoon. I have worked on at least five HPD
24 projects. My name is Benedicto Flores. I have
25 worked on the Elton Project in Brooklyn, 198th in

1
2 the Bronx, with subcontractors Larino and JAB. I
3 believe that the general contractors that I was
4 working for were Cheever and Galaxy. All of these
5 HPD projects paid me \$120 cash a day. No matter
6 how many hours I worked or whether they were
7 prevailing wage jobs, they never paid me more or
8 overtime, even though legally they were prevailing
9 wage. If they weren't prevailing wage, then they
10 paid me in cash. On prevailing wage jobs they
11 would pay me in a check, but they would pay me
12 less hours than I had actually worked. I knew
13 that these were prevailing wage projects, but I
14 didn't know what sort of recourse I could search
15 for help. There were no announcements that they
16 were prevailing wage jobs, and all of the workers
17 were paid in the same manner. In cash. So, in
18 cash or with the hours underreported. I worked
19 many months receiving these illegal wages from HPD
20 projects. And it is incredible to me as well that
21 they pay people on these jobs with no records and
22 no taxes taken out in cash on government-funded
23 projects. Thank you so much for allowing me to be
24 part of the transparency hearings. And I can't
25 believe that people using tax money are allowed to

1
2 operate in this manner, where we are truly in the
3 dark as workers. Thank you, and good afternoon.

4 CHAIRPERSON DILAN: Okay. Thank
5 you. So I'm actually going to stop here and I'll
6 ask a few questions to these gentlemen, and then
7 I'll allow you to make your presentation. So, if
8 I understand correctly, and you could translate if
9 you like, I can do it in Spanish, but I think it's
10 better for the record that I do it in English and
11 you translate. If I understand correctly, all you
12 gentlemen are members of a union. Is that
13 correct?

14 CHAIRPERSON DILAN: Just two, and--
15 no, okay. All right. So, I would assume that
16 with the wage discrepancies, you reported the wage
17 discrepancies to your union for those that are
18 members of a union?

19 CHAIRPERSON DILAN: To the union
20 specifically.

21 LEONEL LOPEZ: Not really, because
22 when we were hired as workers, the union didn't
23 send us to work there.

24 CHAIRPERSON DILAN: Oh, so these
25 were non-union.

2 LEONEL LOPEZ: Yeah, they were non-
3 union jobs with prevailing wages.

4 CHAIRPERSON DILAN: Okay.

5 LEONEL LOPEZ: And we knew that we
6 were supposed to make the money that we were
7 supposed to make; we didn't report it because we
8 needed to support our families.

9 CHAIRPERSON DILAN: How did you
10 know then that you were supposed to make the
11 prevailing wage?

12 LEONEL LOPEZ: Because the jobs
13 that we were--the Department of Labor, sometimes
14 came and asking is it prevailing wage, but we're
15 not allowed to say it, because if the foreman
16 knows that we say it, then we were fired.

17 CHAIRPERSON DILAN: I got his
18 answer.

19 INTERPRETER: So this gentleman,
20 the reason that he knew that it was a prevailing
21 wage job was that the contractor came to them and
22 said if anybody comes from the city--

23 BENEDICTO FLORES [THROUGH
24 INTERPRETER]: So, if they come, then to tell them
25 they were making \$50 or \$60 an hour.

CHAIRPERSON DILAN: And I guess were these accusations eventually reported to HPD or the Department of Labor?

LEONEL LOPEZ: Mine was reported to Department of Labor, yes.

CHAIRPERSON DILAN: Yes?

LEONEL LOPEZ: Yes. I haven't heard nothing from the company or from...

CHAIRPERSON DILAN: No, I just want to know if they have been reported. And in the case of the other two gentlemen?

INTERPRETER: Si.

CHAIRPERSON DILAN: Yes, in all cases. Okay. Thanks, gentlemen. Thank you all for your time and testimony. Okay, now we have Mr. Bartolacci. You can make yourself a little more comfortable, if you like, and you can state your name properly for the record, and you can get into your testimony.

ANTHONY BARTOLACCI: Thanks. All right. Good afternoon, Chair Dilan and staff. My name is Anthony Bartolacci, and I work at Cozen O'Conner Public Strategies. My colleague Ken Fisher was here earlier, but he had to leave. We

1
2 represent the American Council of Engineering
3 Companies of New York Metropolitan Region. ACEC
4 is an organization representing leading
5 professional design services firms. ACEC New York
6 represents 280 member firms throughout New York
7 State that collectively employ more than 20,000
8 people statewide, with a concentrated presence
9 within the five boroughs of New York City. ACEC
10 New York believes that the definition of the term
11 contractors in Intro 730 is overly broad and
12 should be revised to exclude technical
13 professionals. As currently written, the term
14 contractors include any entity that contracts with
15 a developer to perform work in connection with an
16 HPD project. This expansive definition includes
17 community consultants, engineers, lawyers,
18 architects and other professionals. ACEC New York
19 does not believe that it serves a public purpose
20 to require technical professional firms to comply
21 with the reporting and disclosure requirements
22 contained in Intro 730. These professionals are
23 not part of the HPD prequalification process, nor
24 do they contract directly with HPD. Also, as one
25 of the earlier panels testified, the conduct of

1
2 technical professionals such as engineers do not
3 cause the type of issues that gave rise to this
4 bill. There is simply no reason a technical
5 professional firm should have to disclose names
6 and salary information for each employee who works
7 on an HPD project. Consultant fees in total are a
8 line item for soft costs in a particular
9 development budget and are not reimbursed on a
10 cost plus basis. The developer is at risk for any
11 overruns, not the City. Furthermore, because sub
12 part B of this bill appears only to apply to
13 contractors and potential contractors on
14 prequalified lists created by HPD, it is actually
15 unclear as to whether these disclosure
16 requirements are even applicable to technical
17 professionals. Additionally, ACEC New York is
18 concerned that complying with Intro 730's
19 disclosure and reporting requirements may be an
20 undue burden for small firms that perform work on
21 HPD projects. For example, some smaller
22 engineering firms contract with the developer to
23 provide environmental testing or design, but do
24 not actually install any of the physical systems.
25 Under Intro 730, these firms would be subject to

1
2 report, among other things, all complaints,
3 charges, allegations, judgments, injunctions or
4 other relief filed or retained within the prior
5 five years and any judicial action or proceeding.
6 Preparing and filing this type of information,
7 along with the employee information and wage data
8 is a substantial task for a firm of any size, and
9 ACEC New York is concerned that smaller firms will
10 no longer be able to compete for HPD work because
11 of the onerous paperwork and privacy burden. ACEC
12 New York is available to work with Housing and
13 Buildings and the City Council to draft this
14 legislation in a way that excludes professionals
15 who are not in the construction trade. However,
16 in its current form, ACEC New York does not
17 support Intro 730. Thanks a lot for your time.

18 CHAIRPERSON DILAN: Thanks. And I
19 think there's just been a broad consensus on all
20 sides that have testified here today that, you
21 know, indeed these professionals should not be
22 covered. We'll explore you know, proper ways of
23 exclusion of these individuals from the bill. I'm
24 pretty sure that the Committee Council will be
25 contacting you in short order. So I just wanted

1
2 to just say that for the record. I have no
3 questions. I think your request was
4 straightforward. We'll take it under
5 consideration.

6 ANTHONY BARTOLACCI: Great. Thank
7 you very much. And again, if you need to contact
8 the Engineers, I'm sure you have our information.

9 CHAIRPERSON DILAN: Thanks. This
10 is the final panel. I have Frank Lang, Ben Robles
11 and David Debosz. And what's your name, sir?
12 Okay, well. Yeah, no he can come up. He signed a
13 form. Okay, you can come up with this panel, if
14 you like. We're actually going to begin. You can
15 give it to this gentleman. Okay, well, if he has
16 testimony, we can certainly have it submitted for
17 the record. Mr. Castillo, we actually skipped you
18 by accident, so you'll be first to testify on this
19 panel. Okay, Mr. Castillo, why don't you begin?
20 And just for the record, is there a Mr. Harvey
21 Epstein still with us? Okay, we have his
22 testimony, and that will be submitted for the
23 record. How about a Moises Gates? Same. Okay.
24 So then this will be the final panel. Mr.
25 Castillo, you may begin. Just identify yourself

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

in your own voice.

JOSE CASTILLO: My name is Jose Castillo and I'm here representing Pelham Place Homeowners Association in the Bronx. I have a written statement, testimony I want to read.

CHAIRPERSON DILAN: Is that Jimmy Vacca's area? Is he the Council Member there, out of curiosity?

JOSE CASTILLO: No. Helen Foster.

CHAIRPERSON DILAN: Helen Foster.

JOSE CASTILLO: Yeah. Okay. My name is Jose Castillo, and I'm here today because my family purchased a home through the HPD New Homes Program and we are experiencing serious issues with the quality of our home. It is my hope that transparency in HPD would help my family, our block association and the countless others who are experiencing the same kind of problems, to achieve a resolution. My mother and father won the lottery and a chance at the American dream. As an immigrant family that came to New York in the 1990s in search of the American dream they had worked as hard as anybody to reach this dream. The family home is in Pelham Place in

1
2 the Bronx, and this is part of a block of 13 homes
3 on Pelham Place, and every single home in the
4 development is experiencing the same problems--
5 serious leaks from the roof, windows, piping,
6 everything else. Sometimes we have to use pots
7 and pans to cover the floor to capture the melting
8 snow in the winter. At first, not knowing our
9 neighbors, everyone on our block contacted the
10 developer individually. The developer would send
11 people with a caulking gun or a small bucket of
12 tar, but the leaks just got worse. Then, you
13 know, when we found out about each other, we
14 formed the block association, contacted HPD about
15 the issue. At one point the architects stood up
16 on our roof and said that the roofs were not built
17 to the specification of his plans. But when we
18 approached him to put that in writing, he
19 declined, worried that it could affect his future
20 work with the developer and the partnership. We
21 pooled our limited resources to hire an
22 independent engineer, and in his report he stated
23 that at least the back 20 feet of the roof was not
24 pitched properly and it had to be redone. That's
25 what was causing the water to pool at the center,

1
2 as opposed to running off the back, and would need
3 to be replaced to correct the problem. We got in
4 contact with HPD and then got a meeting with the
5 developer. At this time the developer promised to
6 remedy the situation, but again, the repair was
7 shoddy, as it was from the beginning. They came
8 and they actually did a patchwork of about two
9 feet in the back of the roof, and that actually
10 just made it worse, because now the water doesn't
11 even go into the gutter. It was a backward job
12 they did over there. So, we also began working
13 with a housing advocate. And here is where I come
14 to the issue of transparency in HPD. She
15 requested information on other homeowners'
16 complaints and issues with our developers. We had
17 a FOILs request submitted to HPD. We were hoping
18 that the information would help us negotiate a
19 better resolution, but HPD claimed to have no - -
20 correspondences or records. We as homeowners this
21 isn't true, because we contacted HPD about our
22 issues. Where then is this information being kept
23 and why is it not accessible to my family and the
24 rest of the homeowners? My parents came from the
25 Dominican Republic, again in the mid 1990s, and we

1
2 all know that becoming a homeowner is the American
3 dream. And to enter a lottery process and win
4 that opportunity from the government is a dream
5 come true. But when the family bought their
6 house, they trusted the City to have their best
7 interest in mind, not those of the developer. The
8 developer blames the roofer, the roofer blames the
9 developer. Subcontractors have since claimed
10 bankruptcy and reopened under new names, and no
11 information is being made available to us, the
12 taxpaying citizens of New York. The application
13 process for these homes, overseen by HPD, is long
14 and arduous, and the financial requirements are
15 rigid. I only ask the same scrutiny to be put
16 upon the developers, and that information be
17 shared with the homeowners, who in the end are the
18 ones entering into a contract with them. The
19 developer told us we should be more grateful that
20 we got a good deal. He constantly quotes our
21 purchase price and asks where else could you get a
22 house for so cheap? Well, he fails to calculate
23 the land he received from the city for next to
24 nothing and the subsidy they provided, which sits
25 at the top of our mortgages, often making it

1
2 difficult to take out any sort of loan for home
3 repairs, which he has clearly made necessary, and
4 requiring that we occupy the homes for 20 years.
5 My family would be happy to occupy the homes for
6 generations to come, if you would just do one
7 basic thing, and that is to keep us dry. We need
8 transparency to protect the hardworking families
9 who purchased these homes. Without information we
10 are powerless to protect ourselves from predatory
11 developers who seem more interested in stealing
12 from workers than creating quality homes. And I
13 also want to make a remark that the sewer issue
14 that they were talking about before, that's
15 usually happening with homes that were built in
16 the last five years, and I happen to know somebody
17 in Ms. Wells' development that has this issues,
18 and that are paying \$35,000 to actually correct
19 the--fix the issue with the sewers. Thank you.

20 CHAIRPERSON DILAN: I would say
21 sewer issues has been, I guess at least in my
22 district--I can't speak for the rest of the City,
23 we've certainly heard about other clusters of
24 Bronx homeowners in Maria del Carmen Arroyo's
25 district, and sewer issues are just pervasive in a

1
2 lot of these project. But they're, again, not
3 under the scrutiny of HPD; it's DEP that needs to
4 coordinate better. And HPD probably should
5 coordinate better with DEP to make sure that the
6 City's main sewer lines are built properly. Now,
7 obviously if the home sewer line is inadequate,
8 then it's an HPD problem and they can come back
9 and correct. But I've found in instances that it
10 indeed was the City sewer main, and it's been just
11 a sore point that I've been dealing with my entire
12 career. So, we're definitely mindful of that. I
13 guess, gentlemen, you have the privilege of
14 deciding who goes first among you.

15 DAVID DEBOSZ: Okay. Council
16 Member Dilan and Committee Members, I'm David
17 Debosz, a member of GREC, The Greenpoint
18 Renaissance Enterprise Corporation. GREC is a
19 coalition of North Brooklyn community groups who
20 have worked for over 30 years to implement a
21 community-based plan for senior affordable housing
22 as well as community services on the former
23 Greenpoint Hospital site. We know that if the
24 full and complete transparency provisions on
25 project selection in this Intro 730 bill had been

1
2 in place in '07, our community would be
3 celebrating a building on this site now, by our
4 local community development group, St. Nick's,
5 with an over 30-year track record of real
6 accountability and public services to our
7 community. GREC is utterly serious about the
8 importance of non-profit CDC development on public
9 land. We already have an Article 78 legal action
10 against HPD for the arbitrary and capricious
11 decision to designate a private developer to the
12 important Greenpoint Hospital property. Why?
13 During this hidden process, the City has, number
14 one, issued an RFP in '07 for the site, but
15 delayed the designation until 2010; two, refused
16 all efforts by our Williamsburg District 1, for an
17 open review of the status of the application;
18 three, suddenly designated in the spring of '10, a
19 corrupt, unaccountable for-profit private
20 developer, TNS Great American, and ignored the
21 proposal of a local Williamsburg CDC development
22 team; four, in addition, a fortunate FOIL request
23 revealed that HPD actually assisted their hand-
24 picked private developer, TNS Great American, to
25 revise its proposal to make it competitive with

1 the CDC applicant, St. Nick's Alliance.

2
3 Meanwhile, the TNS Great American Proposal, even
4 after this revision, provided fewer affordable
5 housing units and required more government subsidy
6 than the St. Nick's plan, but was given the site
7 anyway. A backroom deal with an outrageously
8 irresponsible developer must not happen again. To
9 conclude, GREC and thousands of our local
10 Williamsburg Residents have called on HPD to
11 remove their designation of TNS Great American.
12 GREC insists that an unamended Intro 730 become a
13 City law to protect the development of our public
14 land and resources. In return, we promise our
15 unflagging effort on behalf of a just, fair and
16 completely new and open RFP process for the
17 Greenpoint Hospital site as soon as possible.
18 What has happened to GREC here must not be allowed
19 to happen to other communities. We must get this
20 new assignment for the Greenpoint Hospital site as
21 soon as possible. Thank you for your support.

22 CHAIRPERSON DILAN: Thank you.

23 FRANK LANG: Good afternoon. My
24 name is Frank Lang. I'm the Director of Housing
25 for St. Nick's Alliance. We're a 36-year-old not-

1
2 for-profit CDC in North Brooklyn. And, you know,
3 I've been doing this job in community development
4 for 18 years, and speaking not about all the
5 construction and the prevailing wage issues, I'd
6 respectfully like to say that this bill, we are in
7 support of this bill regarding the transparency in
8 the process by which HPD designates developers and
9 disposes of its properties and its funding. It's
10 an opaque process that allows for capricious
11 decision-making or willful abuse at time. And we
12 get a lot--we've done 1,800 units of housing with
13 HPD and we continue to manage 1,100 units. What
14 we've found, and I'll give you four cases. In the
15 case that David talked about, the Greenpoint
16 Hospital, HPD made a decision that it was not
17 going to share information with the community
18 board. There were four applicants to the process
19 we found only after a FOIL. How the provisions
20 about transparency, where all four applicants,
21 where the basic aspects of their project were up
22 there, the financing, number of units, it would
23 have been impossible for HPD to assist that
24 developer to change their unit count from 200
25 units to 240 units and revise their infeasible

1 project to make it financially feasible. In 2005
2 and '06, St. Nick's went to HPD to get site
3 control for properties and HPD refused, saying it
4 had to go through an RFP. That same Ten-Eyck and
5 Maujer sites were allocated to a for-profit
6 developer in 2007. They are, instead of us
7 developing with the State of New York and having
8 35 units that are occupied by low-income families,
9 we still have two vacant properties that have yet
10 to be built. HPD's process for the third party
11 transfer program has been capricious and willfully
12 negligent. We had a 7A property that we were
13 managing and it finally went through that program
14 in foreclosure. HPD did not designate us the ten-
15 year manager of that property to develop it; they
16 designated a for-profit developer. And it was
17 only under questioning from City Council that HPD
18 changed their mind and designated us for that
19 eight-unit building. Lastly, the Neighborhood
20 Redevelopment Program and the Neighborhood
21 Entrepreneur's Program, the entrepreneur's program
22 is for for-profit builders; the Neighborhood
23 Redevelopment Program for non-profit. That's the
24 program that Wendell Walters was--one of the
25

1
2 programs that he was paid off, allegedly, paid off
3 to designate and give buildings to for-profit
4 builders. The for-profit projects have done more
5 than 6,000 units of housing in NEP, whereas the
6 NRP has been around 4,000 units of housing. Why
7 HPD makes those decisions is opaque, and we
8 believe that this bill would open it up, and we do
9 not see any hardship in that process.

10 CHAIRPERSON DILAN: Thank you.

11 Thank you all for your time and testimony. Does
12 my colleague have any questions for this panel?
13 Council Member Jackson?

14 COUNCIL MEMBER JACKSON: Mr. Chair,
15 let me thank you for all your time and effort. I
16 don't have any questions, but just like you said
17 when you were responding a little earlier when I
18 arrived, about we heard cases regarding the whole
19 sewer plumbing situation in the Bronx around Maria
20 del Carmen Arroyo's district, and clearly in the
21 little time that I heard these three individuals
22 speak about their homes and about the groups, and
23 looking at the documentation, it's clear to me,
24 clear to me, absolutely clear, that transparency
25 and accountability is absolutely--and local Intro

730 is the one to do it. So, I thank you.

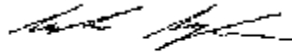
CHAIRPERSON DILAN: Thank you, Council Member Jackson. I'd like to thank you all for your time and for your testimony here today. I do have some record keeping that has to be done before we adjourn. We've received testimony from Enterprise on this item. And just by looking at the first few lines, I cannot tell if it's in support or in opposition. Oh, it's in opposition to today's agenda item. From the AIA Chapter of New York, American Institute of Architects. I believe also in--yeah, is in opposition to this bill. I guess regarding the provisions surrounding architects and engineering professionals, which are captured at this time in the bill. As well as testimony from ANHD on the bill, which is in favor of today's item, as well as from the Urban Justice Center from Mr. Harvey Epstein, which is in favor of today's item. Manhattan Borough President Scott Stringer, providing testimony for the record in support of today's agenda item. From LISC on today's item-- and I can't immediately tell if it's in support or in opposition, as well as testimony for the record

1
2
3
4
5
6

from the Real Estate Board of New York, in
opposition to today's item. That covers all
testimonies that are to be entered into the
record. At this time, Intro 730 is laid aside,
and that will conclude this hearing.

C E R T I F I C A T E

I, Erika Swyler, 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 2/23/2012