

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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March 11, 2013
Start: 1:07 p.m.
Recess: 1:28 p.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
ERIC MARTIN DILAN
Chairperson

COUNCIL MEMBERS:
Council Member Vincent Ignizio
Council Member Letitia James
Council Member James Oddo
Council Member Eric Ulrich
Council Member Rosie Mendez
Council Member Brad Lander
Council Member Lewis Fidler

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

Thomas Fariello
Deputy Commissioner
Department of Buildings

Gus Sirakis
Executive Director
Department of Buildings - Technical Affairs

Marla Tepper
General Counsel and Deputy Commissioner for Legal
Affairs
Department of Consumer Affairs

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2 CHAIRPERSON DILAN: Good morning.
3 We'll begin in a minute. I'm not sure if the
4 sergeant-at-arms went over the details but if
5 there's anybody that wants to testify on today's
6 agenda item please fill out an appearance card,
7 give it to one of the sergeants-at-arms so that we
8 know you want to testify and we'll queue you up
9 for testimony.

10 Once the hearing begins if cell
11 phones could be put to silent mode or off and all
12 private conversations would have to happen outside
13 of the hearing room. So with that, Sergeant,
14 we'll begin.

15 Good morning everyone and welcome.
16 My name is Eric Martin Dilan and I'm the chair of
17 the city council's Housing and Building Committee.
18 Today the committee is meeting to consider
19 proposed intro 1007(a) which is titled, "A local
20 law to amend the administrative code of the City
21 of New York and the building code of the City of
22 New York in relation to the raising and moving of
23 a building". This comes about in the wake of
24 Hurricane Sandy. Some property owners will choose
25 to elevate their homes or buildings to comply with

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2 building regulations in flood zones and guard
3 against flood damage or save money on flood
4 insurance. The elevation of a structure is not
5 always an easy thing to do, as one can imagine and
6 doing it improperly can result in a damaged
7 foundation or collapsed home which we all seek to
8 avoid.

9 Proposed intro 1007(a) is intended
10 to protect owners who choose to elevate their
11 homes or buildings. The bill is sponsored by
12 Council Member Ignizio, Council Member Oddo as
13 well as the Speaker of the City of New York and
14 will require four things:

15 First, the title page of the
16 construction plans submitted to the Department of
17 Buildings would have to indicate whether a project
18 will include elevation work.

19 Second, the contractors will be
20 required to give 48 hours' notice to the
21 Department of Buildings before commencing such
22 work.

23 Third the elevation work would be
24 subject to periodic special inspections. That
25 means inspections by a qualified person who's

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2 chosen by an owner or contractor and authorized by
3 the Department of Buildings.

4 And lastly the Department of
5 Consumer Affairs would have to provide information
6 about home improvement work and home improvement
7 contractors to homeowners and the public. This
8 would include more information about the types of
9 work that home improvement contractors can do and
10 the licenses and permits that they need to engage
11 in certain types of work.

12 Today we expect to hear from
13 representatives from the Department of Buildings
14 as well as the Department of Consumer Affairs and
15 the construction industry as well as members of
16 the general public.

17 As I said at the outset if anyone
18 would like to testify please see the sergeant-at-
19 arms and fill out the form. I'd like to thank
20 everyone for attending today's hearing and I would
21 now like to turn to the bill's sponsor for a brief
22 statement. Council Member Ignizio?

23 COUNCIL MEMBER IGNIZIO: Thank you,
24 Mr. Chairman. I appreciate you holding the hearing
25 today on this bill.

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2 I just wanted to point out that a
3 couple of weeks ago Council Member Oddo and I
4 traveled to New Orleans to learn from the issues
5 that they had down there after Katrina, and to not
6 replicate them here in New York in the wake of
7 Sandy.

8 One of the main things that kept
9 recurring was before of the elevation process. In
10 New Orleans there was a lot of fraud relating to
11 the elevation process whereby people would come
12 in, somebody who was renovating your bathroom and
13 then he came back and said, "You know, I could
14 raise your home for you. No problem," for \$30,000,
15 for \$40,000. They would take the money, do a
16 slipshod work and it wasn't under the watchful eye
17 of a good city agency or any professional and they
18 ended up with a very difficult situation whereby a
19 lot of homes were condemned.

20 That's what led to myself, Council
21 Member Oddo, Council Member Ulrich, the Speaker,
22 to get together and try to make a situation
23 whereby the elevation process, which is going to
24 be for thousands of homes in New York is one that
25 is done right and one that is free of potential

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2 fraud and I think we have a great relationship
3 with the Department of Buildings and the
4 Department of Consumer Affairs and the mayor's
5 office and I think we're all on the same page and
6 we built a better mousetrap with this bill.

7 Thank you, Mr. Chairman, for
8 allowing me to speak and I look forward to the
9 hearing.

10 CHAIRPERSON DILAN: Okay we've been
11 joined by Council Member Tish James who's a member
12 of the committee, Council Member Jimmy Oddo for a
13 statement.

14 COUNCIL MEMBER ODDO: Council
15 Member Ignizio referred to the trip to New Orleans
16 that we took. We spent 48 hours on the ground in
17 late January. I was a reluctant traveler; I
18 really didn't want to go because I wasn't totally
19 convinced that what we would see would translate
20 and New Orleans' experience would translate up
21 here. Vinny was right and I was wrong and it was
22 an amazing 48 hours.

23 As he said, we got to see in person
24 the things that New Orleans got right and the
25 things that they got wrong and the things they got

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2 wrong badly. In every conversation about Sandy
3 since we've been back, which is a conversation
4 it's every day I have referred to that trip. So
5 frankly it's a credit to Council Member Ignizio
6 for pushing it and setting it up.

7 I've referred back to something
8 I've seen, or something that was said to us. As
9 Vinny said time and time again they preached to us
10 how bad actors came out of the woods in elevating
11 homes. There's an infamous house that we showed
12 during the press conference with the speaker; I
13 have a picture there that folks could see if they
14 want. It's a house that they showed us: they
15 literally drove us down to a road in the Gentilly
16 section of Louisiana and said, "What do you notice
17 about the house?"

18 So Vinny looked at the house; I
19 looked at the house. "The house is jacked up",
20 I'm like, "The house is jacked up." "But what
21 else? What's missing?" Well what was missing was
22 a staircase. The point of the story is seven-and-
23 a-half years later they went in, they paid a bunch
24 of money, the jacked up the house and they bolted.
25 They never finished the job and it's seven-and-a-

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2 half years later and whoever owned the house has
3 given up on it.

4 What we're trying to do through
5 Council Member Ignizio's bill, thank you to him
6 and thank you to the staff, is trying to avoid
7 additional heartache for our constituents. With
8 the base flood elevation maps coming out, with the
9 need to raise houses we're concerned that we want
10 to ensure that the people engaging in this
11 construction are the right ones.

12 I will close with this: I had a
13 conversation with a national contractor Thursday
14 night. He basically said, "Anyone can jack up a
15 house. Doesn't mean they're going to do it
16 right." What Council Member Ignizio is concerned
17 with and what we're all concerned with is that we
18 get this right so that people who have been
19 victimized or impacted by the storm aren't
20 victimized a second time. So thank you, Mr.
21 Chairman.

22 CHAIRPERSON DILAN: Thank you
23 Council Member Oddo. We've also been joined by
24 Council Member Eric Ulrich. I would like to take
25 a look at that photo in a second.

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2 We've been joined by
3 representatives from the Department of Buildings
4 headed by the first Deputy Commissioner Thomas
5 Fariello as well as individuals from the
6 Department of Consumer Affairs and I believe it's
7 Maria -- can you pronounce the last name? Marla
8 Tepper.

9 Okay so why don't we begin with the
10 Department of Buildings and if DCA has testimony
11 they certainly can add that. And even though I
12 introduced you if you could begin by introducing
13 yourself in your own voice and then you could
14 begin your testimony.

15 THOMAS FARIELLO: Thank you. Good
16 afternoon, Chairman Dilan and the members of the
17 committee. My name is Thomas Fariello, I'm the
18 first deputy commissioner, Department of Buildings
19 and I have with me Gus Sirakis, our executive
20 director of technical affairs. Thank you for
21 allowing me the opportunity to testify on this
22 issue.

23 In the aftermath of Sandy many
24 homeowners may look for ways to protect their
25 homes from future storms and comply with insurance

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2 requirements. One of the most common retrofitting
3 methods is elevating a house to a required or
4 designed flood elevation. When a house is
5 properly elevated delivering area will be above
6 all but the most severe floods such as a 500-year
7 flood.

8 While several elevation techniques
9 are available this proposed legislation looks to
10 offer homeowners some regulatory and quality
11 assurance protections from the process known as
12 house raising or lifting.

13 The Department will require a
14 licensed design professional to follow the work on
15 an alteration application, in most cases via an
16 Alt-2 [phonetic] for structural work. This
17 creates a responsible party, the engineer, or
18 architect in this case, whom the Department can
19 hold responsible for planning and sequencing
20 lifting operating.

21 The contractor lifting the home
22 would then need to notify the Department in
23 writing 48 hours of notice in advance of start of
24 operations. Similar to our excavations
25 notifications we would accept this via a letter or

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2 fax, however for this important matter we'll also
3 set up a separate email address so that the
4 applicant can use that and go directly to the
5 engineering enforcement units inside the
6 Department that will be responsible for oversight
7 of the operation. So as per the operation this
8 process involves lifting the house and extending
9 the existing foundations below to a level above
10 grade.

11 During the elevation process houses
12 are separated from the foundation, raised on
13 hydraulic jacks and held temporarily by supports
14 while a new or extended foundation is constructed
15 below. The living area is raised and only the
16 foundation remains exposed to flooding.

17 When houses are lifted with this
18 technique the new or extended foundation consists
19 of continuous walls or separate piers, posts,
20 columns or pilings.

21 First holes are made at intervals
22 in the foundation wall so that a series of steel
23 I-beams can be installed at critical points under
24 the floor framing. The I-beams are placed so that
25 they run perpendicular to the floor joists. The

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2 second set of beams is then placed below and
3 perpendicular to the first set.

4 The two sets of beams extend the
5 width and length of the house and form a cradle
6 that supports the houses as it is being raised. A
7 tower of cribbing is created and jacks are set on
8 top. Once the beams and jacks are in place the
9 elevation process begins. The jacks will extend
10 only so high, so at intervals during the process
11 the house and jacks are supported temporarily on
12 cribbing while the jacks are raised.

13 After the house is elevated it is
14 again supported on cribbing while the foundation
15 walls are extended to the desired height with
16 concrete blocks or poured concrete. The house is
17 then lowered onto the extended foundation walls,
18 the I-beams are removed and the holes where the
19 beams pass through are filled.

20 Before this work can be permitted
21 by the Department the proposed legislation would
22 require a special inspection. According to the
23 2008 New York City Construction Code special
24 inspections are inspections of selected material
25 installations and construction operations. These

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2 inspections confirm compliance with approved
3 construction documents and reference standards
4 required by the building code or its reference
5 standards.

6 In section 1704.4.27 a periodic
7 inspection shall be required to ensure the lifting
8 operation is being performed according to the
9 plans filed with the department. We will
10 promulgate rules for special inspections with a
11 minimum of two inspections, one during operation
12 and the second at completion will be mandatory.

13 In addition the special inspector
14 will be required to certify the work was completed
15 according to the plans before the work is signed
16 off by the Department.

17 The Department supports this
18 proposed legislation. We understand that while
19 this operation may be one that can be done
20 efficiently and often without incident it is
21 important to have a responsible party and quality
22 assurances for homeowners.

23 Thank you and I'd be happy to
24 answer any questions you may have.

25 MARLA TEPPER: The proposed

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2 legislation -- oh, let me introduce myself. My
3 name is Marla Tepper, I'm general counsel and
4 deputy commissioner for legal affairs at the
5 Department of Consumer Affairs.

6 The proposed legislation provides
7 that the Department of Consumer Affairs will
8 provide public education to all interested
9 stakeholders with regard to this new type of
10 activity to prevent the victimization that you
11 described. We're delighted to have this
12 opportunity and to work with Department of
13 Buildings to accomplish the goals of the
14 legislation.

15 As you know, we routinely engage in
16 such public outreach, we regularly meet with
17 consumers, business representatives as well as
18 elected officials to further the goals of the
19 Department of Consumer Affairs. In this instance
20 we will be working directly with the Department of
21 Buildings to make sure that the information we
22 post accurately and comprehensively describes that
23 consumers need to know about this particular type
24 of home improvement. We think that the
25 legislation appropriately includes the Department

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for that purpose.

[Off mic]

MALE SPEAKER: Will the Department of Buildings send some of their own inspectors periodically to these sites to ensure, or will they just rely on the certification by the architect or engineer on record?

THOMAS FARIELLO: So we'd model this as we do today. We have an excavation unit that does underpinning, which is another similar operation that's a little onerous. So when we get notified by the contractor we will have a unit that goes out there like, you know, we won't go out there at a set time or anything like that. We know that you're working and so we'll go as much our unit can go out there.

MALE SPEAKER: Okay so I think it's just important to note to the chairman, to the committee and those that are watching is that the Department of Buildings will also inspect at their ability to do so these sites that are in various stages of the elevation which I think is an added benefit. And I wanted to thank the commissioner for that. Thank you.

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2 CHAIRPERSON DILAN: And we've also
3 been joined by Council Member Mendez of Manhattan.
4 Council Member Oddo?

5 COUNCIL MEMBER ODDO: I don't have
6 a question, Mr. Chairman; I just have comment that
7 today both Council Member Ignizio and I were
8 having pieces of legislation that will be voted on
9 this week that are actually supported by the
10 administration. This may impact all of our
11 reputations if we keep this up. But I just wanted
12 to thank the administration and thank the council
13 staff for working together to get both of these
14 bills, one out of the public safety committee and
15 one here obviously, Housing and Building, to help
16 protect our constituents. Your cooperation is
17 very much appreciated.

18 CHAIRPERSON DILAN: Thank you,
19 Council Member Oddo.

20 I just want to start out with
21 questions surrounding the special inspectors.
22 What are their qualifications that they will need
23 to conduct this type of work? Who chooses them,
24 and are they indeed employees of the Department?

25 THOMAS FARIELLO: Okay, so the

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2 special inspectors would be hired by the owner;
3 they cannot be hired by the contractor, that's in
4 our special inspection rules. So they've be a
5 licensed design professional, either a registered
6 architect or a professional engineer with
7 qualifications set by the state.

8 CHAIRPERSON DILAN: Okay so
9 therefore it won't be DOB employees? I just need
10 that on the record. I've got [crosstalk]. Very
11 good.

12 THOMAS FARIELLO: No it won't.

13 CHAIRPERSON DILAN: Okay. How many
14 companies currently in New York conduct this type
15 of home elevation work that's prescribed in the
16 bill? How many are based in New York City? Do
17 you anticipate some coming from outside of the
18 city? And how much work do you think will be done
19 in this regard in the affected areas as a result
20 of Sandy?

21 THOMAS FARIELLO: I mean most
22 recently we've had three cases, three applications
23 that came to us for house raising and they were
24 all from outfits that were out of state. That's
25 the ones we had most recently. So how many are in

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New York State? I wouldn't have that number.

CHAIRPERSON DILAN: Okay and then for both agencies what kind of licenses, registrations and permits are needed to conduct home elevation work?

MARLA TEPPER: The proposed legislation contemplates that home improvement contractors would be performing this work under the supervision described by the Department of Buildings. In most instances a home improvement contractor will enter a contract with a consumer through a home improvement salesperson that is also a person who is licensed to perform that activity by the Department of Consumer Affairs.

CHAIRPERSON DILAN: And I would take, Commissioner by your statement, there would be an Alt-2 permit that would be required to conduct this work?

THOMAS FARIELLO: Yeah, at the very least there'll be an Alt-2. You know, I mean it would go up. If they were doing some change of use or egress they could do it under an Alteration Type 1 application.

CHAIRPERSON DILAN: For the most

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2 part it'd be Alt-2 and potentially Alt-1? Okay.
3 Back to the special inspectors again, are the
4 qualifications only registered architect or
5 engineer or could there be other professionals
6 that can do this type of work?

7 THOMAS FARIELLO: So the answer is
8 no, it would have to be a registered design
9 professional, so a licensed architect, registered
10 architect or a licensed professional engineer.
11 But you could have somebody that works within the
12 firm. So I'm the professional engineer; I could
13 have Gus work with me but I'm still responsible
14 for what he does.

15 CHAIRPERSON DILAN: For the job.

16 THOMAS FARIELLO: And that's
17 typical for even designing buildings and stuff
18 like that.

19 CHAIRPERSON DILAN: Okay. And then
20 as it relates to the special inspector again, will
21 requiring this inspector for home elevation work
22 increase project costs or is this special
23 inspector already part of a construction team?

24 THOMAS FARIELLO: The special
25 inspection, it would be part of the structural

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2 stability, special inspection that would be
3 required under the code today. So this would be
4 that similar person. So I don't think it would
5 raise the cost.

6 CHAIRPERSON DILAN: Okay. I'm done
7 with my questions. If there's no more we've done
8 by -- we've been joined by Council Member Brad
9 Lander and we are in the process of being joined
10 by Council Member Lew Fidler. I'm ready to close
11 questions unless I see a member that wants to add
12 anything. If not, you know, certainly want to
13 thank you for your time and testimony, and I
14 certainly believe that the job that Council Member
15 Ignizio has done and the trip to New Orleans will
16 bring some sense of order to this type of work and
17 some sense of uniformity to this type of work in
18 the City of New York. So I want to thank him off
19 of that. And I know he's doing it on behalf of
20 his constituents that he represents.

21 So with that we'd like to thank you
22 and thank you for your testimony. Is there anyone
23 else signed up? Is there anyone else that wants
24 to speak on today's agenda item?

25 If not, Intro 1007(a) will be laid

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aside and that will conclude this hearing.

C E R T I F I C A T E

I, Daniel Louk, 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

A handwritten signature in cursive script, appearing to read "Daniel Louk", written over a horizontal line.

Date March 25, 2013