

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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April 30, 2013
Start: 1:08pm
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HELD AT: 250 Broadway
Committee Rm, 14th Fl.

B E F O R E:

Erik Martin Dilan
Chairperson

COUNCIL MEMBERS:

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

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

Robert D. Limandri
Commissioner
Department of Buildings

Richard Anderson
New York Building Congress

Kenneth Butner
New York Scaffolding

John Doyle
Senior Vice President for Government Affairs
Real Estate Board of New York

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Duncan McKenzie
Chief Executive Officer

Barbara Ford
Broker and Realtor

Eliador Rodriguez
Associate Executive Officer for the Bronx Manhattan
North Association of Realtors

Amanda Katz
Speaking on behalf of Assemblyman Edward Bronstein

Craig Gurion
Advocate for civil rights.

Warren Shriber
Co-president of the President's Coop and Condo Council

Geoffrey Massel
Attorney

Bob Frederick
President of Glen Oaks Village

Larry Sims
President of ACCO, the Alliance of Condo and Coop
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Frank Profetto
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Isabella Zincroddy
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George Wanaka
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Wanaka Brokers and Appraisers

Phyllis Weissberg
Attorney
Montgomery, McCracken, Walker and Rhodes

CHAIRPERSON DILAN: Good afternoon.

I would like to call this hearing to order. My name is City Council member Erik Martin Dilan and I am the Chairperson of the City Council's Committee on Housing and Buildings. And today the Committee will meet to consider two items both in their initial hearing phase and none will be disposed for a vote today. So I reiterate today that both are in initial hearings and none will be voted on today.

First, we will hear on Intro 1030-A in relation to signs that construction sites with fences or shed and then second, Intro 188-A in relation to sales of cooperative apartments. We will hear first from the Buildings Commissioner Robert Limandri regarding the construction signage bill with what I expect to be very brief public testimony to follow on that bill. And the administration has decided not to provide testimony in person on the coop bill so after the hearing about the signage bill, we will move on to the coop bill as I said. And we do expect to hear testimony from the Human Rights Commission on 188-A in writing will be made public. And I imagine

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2 if there is any member of the public that wants to
3 see their position. If we have it, it can be made
4 available to the public. If we have it. I will
5 go on to-

6 [off mic]

7 CHAIRPERSON DILAN: Let me begin by
8 providing and overview of the two bills and then
9 turn it over to the sponsor of Intro 188-A which
10 is Council member Fidler.

11 First, is proposed Intro 10L3, it
12 aims to streamline current construction site and
13 sign posting requirements to making it easier for
14 New Yorkers to learn about construction projects
15 that are going on in Indian neighborhoods and
16 throughout the city of New York. Proposed Intro
17 1003-A does the following: it requires posted
18 permits to be protected from the elements, it
19 requires the installation of a project information
20 panel at construction sites and closed by fences
21 and a sidewalk shed and a parapet panel for sites
22 having sidewalk sheds. It sets the size,
23 location, material, color and content and
24 maintenance required for such panels and
25 authorizes the Department of Buildings to

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2 establish a best construction site management
3 program and practices as well as a logo that can
4 be posted on the sidewalk shed panels where these
5 practices are implemented. It sets the location,
6 material, color, maintenance requirements for
7 existing fence sign shed and this is an
8 interesting one, sets specifically hunter green as
9 a requirement for all new construction fencing and
10 sidewalk sheds and requires the installation of
11 viewing panels of a certain size in solid
12 construction fencing.

13 The second item, Intro 188 is in
14 relation to the sales of cooperative apartments
15 and attempts to address transparency concerns
16 regarding the sales of coops by establishing a
17 required time line for a response by boards to
18 applicants. Specifically the bill requires
19 cooperative apartment buildings to create and
20 provide to the New York City Commission on Human
21 Rights a standardized housing application and a
22 list of requirements for a complete application.
23 It requires the board of directors or managing
24 agents to accept a completed application or if I
25 could ask the chambers to come to order, it will

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2 provide a notice of deficiencies in the
3 application within 10 days of its receipt. It
4 will require the board of directors or managing
5 agents of the cooperatives to provide a written
6 documentation as to whether an application to
7 purchase an apartment has been approved,
8 disapproved, or approved with conditions within 45
9 days of receipt of a complete application and
10 provides that is applicant requests and does not
11 receive such determination within 10 days of the
12 initial 45 day response window that such applicant
13 will be deemed approved.

14 It also requires the board to
15 provide disapproved applicants with written
16 verification of non-discrimination signed by each
17 member of the board who participated in the
18 decision to disapprove an application. Also
19 provides for a disapproved applicant with a civil
20 cause of action or the right to proceed before the
21 Human Rights Commission in the event that such
22 application is not acted upon within 45 days. And
23 finally, it requires that cooperative apartments
24 maintain books and records for five years which
25 may be audited at the discretion of the Human

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2 Rights Commissioner at this point.

3 Those are our brief synopsis of the
4 two items before us. I expect to hear plenty of
5 testimony both in favor and against this item and
6 I will turn to the bill's sponsor, Council member
7 Lew Fidler for a few comments on Intro 188. Thank
8 you and the Chair would like to recognize Council
9 member Fidler.

10 COUNCIL MEMBER FIDLER: Thank you
11 Chairman Dilan and thank you for scheduling the
12 hearing on Intro 188. It's so good to see so many
13 people here in the audience with concerns about
14 the signage bill. I understand now as I
15 understood and introduced Intro 188 that the topic
16 in and of itself is sensitive and controversial.
17 I also want to acknowledge right up here at the
18 beginning that the bill before you is not perfect.
19 I met, my staff and I met over the last three
20 years with folks on all sides of this issues and
21 many of the technical points that have been raised
22 are valid and should this bill move forward, Mr.
23 Chairman, I would expect many technical changes to
24 be made. However, the one thing that I don't
25 expect to hear today or at least maybe if I expect

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2 to hear I don't expect to agree with it is that
3 there is not problem.

4 I have been amongst other things a
5 practicing attorney since 1979. I've represented
6 buyers and sellers in cooperative apartment deals.
7 No one is going to be able to tell me that
8 discrimination, invidious discrimination does not
9 take place in this process. No one is going to be
10 able to tell me that coop boards are not, as are
11 every board, replete with personal and petty
12 peccadillos. Sometimes interfere with the
13 process.

14 This bill does two things. First,
15 it establishes a transparent and orderly system
16 that people can count on so that discrimination
17 can't take place through the back door. You can't
18 just bury the application. I know that happens.
19 Don't tell me it doesn't because I know it
20 happens. And the second thing it does is require
21 that the board members participating in the
22 decision making process affirmatively assert that
23 no unlawful discrimination took place in the
24 process. That doesn't restrict in any shape,
25 matter or form a coop board's right to reject. It

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2 doesn't in any way require a coop board to give a
3 reason why but yes, it is intended to have a
4 chilling effect that if someone is about to say, I
5 don't want Jews in this coop or I don't want white
6 people in this coop that they will think twice
7 knowing that the other members in the board may
8 have a conscience and may say I cannot sign this
9 piece of paper of asserting that no unlawful
10 discrimination took place in this decision making
11 process. So you know I hope that we will have a
12 good hearing on the substance.

13 I also want to point up front, one
14 of the advantages of waiting three years to have
15 this hearing on this bill is that Suffolk County
16 introduced and passed legislation approximately
17 three years that is extremely similar and what
18 they found was that complaints for prospective
19 purchases virtually disappeared and surprising,
20 surprising, not one law suit was needed against
21 the co-op as a result so the fear that you may
22 articulate that the myriad of lawsuits just didn't
23 bear out in Suffolk County and that fact of the
24 matter is it turned out to be an effective
25 solution to the problem at least on the surface.

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2 Don't expect as with any bill that seeks to
3 regulate any immoral activity that passing this
4 bill will change the world in a day but it will
5 provide a systematic pattern and a system that
6 people can count on to make sure that coop
7 applications are handled in a timely fashion
8 without any unlawful discrimination and I thank
9 you again Mr. Chairman for scheduling this
10 hearing.

11 CHAIRPERSON DILAN: Thank you
12 Chairman Fidler and I am glad you made your
13 statement in that regard because it would make it
14 easier for me to do it as well. Certainly from my
15 perspective we certainly want to insure to all the
16 coop residents and shareholders that we understand
17 that you area a valuable part of the housing stock
18 in New York City. We don't want to create any
19 harm towards you or your businesses. However, we
20 understand that there's many instances that heard
21 of, of discrimination and applications that have
22 gone unanswered.

23 So we view today as a chance for
24 everybody to make their case and state why or why
25 we shouldn't act on this bill. And today will be

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2 exactly that. People will have the burden of
3 making their case as to why we should take this
4 action and we'd like to hear from those
5 experiences from those that have been denied by
6 coop boards and fell like they have been
7 discriminated upon, we would like to hear that but
8 they certainly would have to make that case to us
9 and today is that opportunity to do so.

10 So with that, I will briefly
11 introduce the members who are here. We've heard
12 from the bill's sponsor, Council member Fidler.
13 We are also joined by the Republican leader from
14 Staten Island, James Oddo. Council member Melissa
15 Mark-Viverito of Manhattan is also here with us.
16 To my left, your right, Council member Brad Lander
17 of Brooklyn, the Majority Leader Joel Rivera of
18 the Bronx as well as Council member Leroy Comrie
19 of Queens. Seated to my right, your left is the
20 Committee Counsel Laura Rogers and Committee
21 Counsel Edward Atkin next to her. With that, we
22 will turn it over to the Buildings Department on
23 1003-A. And we have been joined by Commissioner
24 Limandri and even though I have introduced you if
25 you can introduce yourself in your own voice as

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2 well as the members of your agency who are here
3 and expected to testify today. And if you could,
4 I'm sorry, just turn the mike on and begin again.

5 COMMISSIONER LIMANDRI: Good
6 afternoon, Chairman Dilan, members of the Housing
7 and Buildings Committee. I am Robert Limandri,
8 Commissioner of the Department of Buildings and on
9 to my right, Mona Segal, my General Counsel.
10 Behind me is Donald Randsty as you all know.

11 Thank you for allowing me the
12 opportunity to testify on this legislation today.
13 Today, administrative code including Section 28
14 105.11 in the Building Codes Section 3301.9
15 require that a myriad of signs and permits be
16 posted along a construction site fence in order to
17 provide project and safety contact information to
18 the public. Intro 1003-A is designed to minimize
19 the visual impact of construction sites on the
20 urban landscape. The proposed legislation would
21 amend the code to require contractors and building
22 owners to consolidate building posting and
23 contractor signage into one information panel that
24 will improve the overall appearance on the job
25 site.

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2 The proposed legislation will also
3 require new information to be displayed on such
4 signs including a rendering or elevation drawing
5 or zoning diagram of the building and the
6 anticipated completion date of the project. This
7 gives the public immediate information on how long
8 construction activity will continue and how the
9 building will look when completed.

10 This uniform construction fence
11 signage panel is referred to in the legislation as
12 the project information panel. It is important to
13 know that a smaller project information panel is
14 required for smaller construction sites. Those
15 with street signage of less than 60 feet, which
16 would include lots for 1,2 and 3 family homes.

17 The project information panel
18 design will improve the overall appearance of the
19 job sites for our neighborhoods by reducing
20 clutter on construction fences providing important
21 information to the community, improving the street
22 and sidewalk experience, standardizing the look of
23 temporary protective structures. It requires the
24 uniform coloring of construction fences and
25 mandates the viewing panels be provided in the

1 fences installed after June 1, 2013.

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3 The Department is committed to
4 lowering the impact of a construction project may
5 have on its surrounding community. In 2011, the
6 Department launched a construction information
7 panel pilot program to encourage contractors and
8 building owners to consolidate the required
9 construction signage and permits into a single new
10 weatherproof standard.

11 One goal of the program is to
12 communicate important information to the community
13 at the site where there is a construction fence.
14 This legislation continues that effort. The bill
15 is detailed as to the specifications and style
16 guide to the design of the panel as well as the
17 rendering elevation drawing of a building or
18 zoning diagram of the building exterior. The
19 panel must also include the following: a title
20 line saying work in progress, the anticipated
21 completion date, the owner name, address and
22 phone, contact information including website
23 information, the general contractor name and phone
24 for emergencies, 311 information and the primary
25 permit, either a new building or an alternation

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2 permit to the link to the Department of Buildings
3 website, the font coloring and size of the
4 lettering and finally the location, including the
5 height above the ground, size of the panel are
6 also specified in the bill.

7 In addition, the proposed
8 legislation replaces the current sidewalk shed
9 signage with a uniform sign referring to it in the
10 legislation as sidewalk shed parapet panel that
11 will provide information about the construction or
12 demolition site including the address and the name
13 of the property, the name of the responsible party
14 for the site. It further authorizes the inclusion
15 on the sidewalk shed parapet panel of the name or
16 logo of a program acceptable to the Commission for
17 best construction site management practices where
18 such a site participates in a program. A logo
19 reflecting the Department's program acceptance may
20 also be included.

21 The legislation would grant the
22 Department authorization to establish by rule the
23 standards for acceptance for a program that ensure
24 best construction site management practices.
25 Those standards would include minimizing the

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2 impact of certain construction activity, lessening
3 the impact of adjacent residence, to adjacent
4 residence. Like for example keeping pedestrian
5 passageways uncluttered and being responsive to
6 communities by updating the project information
7 with their contact information. The rule will
8 also set for the basis and process for removal of
9 such acceptance and for the removal of the
10 program's name and logo from the sidewalk shed
11 parapet panel located at the particular site.

12 We envision that these programs
13 will lead sites to be better lit, cleaner and help
14 minimize the impact of construction on their
15 neighbors. The bill will also change the visible
16 exterior of the construction site from what New
17 Yorkers typically see today. Standards are set
18 forth for a uniform fence and shed materials.
19 Each construction site will have Plexiglas viewing
20 panels every 25 feet. Construction fences and
21 sidewalk sheds will change from various shades of
22 blue to a consistent hunter green.

23 The goal of the bill is to provide
24 the street and sidewalk experience, provide
25 important and concise information to the community

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2 and provide uniformity and transparency. Thank
3 you for listening to my testimony, Chair.

4 CHAIRPERSON DILAN: Thank you
5 Commissioner and I get right to it with the right
6 questions so that we can kind of take a look at
7 this and move on with the rest of the agenda.
8 Let's talk for a second about the changes in
9 signage requirements. Work sites without fences
10 and sidewalk sheds or sites without fences or
11 sidewalk shed generally do not have to post the
12 contact information for the property, the owner,
13 the contractor, the telephone number for reporting
14 complaints. Under this bill it appears that sites
15 without fences or sidewalk sheds will no longer
16 have any signage requirements? Is that accurate
17 and why?

18 COMMISSIONER LIMANDRI: Well, most
19 of that information that you've just described is
20 on the permit. So the requirement for permit to
21 be posted is still a requirement of the New York
22 City Building code but what we're trying to do is
23 when a temporary construction fence or a parapet
24 for a shed is installed, we are looking for that
25 information to be consistent, a bit bolder than

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2 what it would be normally on a permit so that you
3 can easily read it and then get a sense of what's
4 coming or you know, what's coming soon. And a
5 permit projection of a final date.

6 CHAIRPERSON DILAN: All right,
7 that's a common question that's asked when I walk
8 around my neighborhood and when they walk around
9 and they see sheds they say, hey do you know
10 what's going on in there, what's being built and
11 my common response to them is, hey I will get the
12 address, I will take a look at what's going on, I
13 usually call Mr. Rashdie, find out what's going to
14 be get built and I get back to them. So this
15 would answer all those questions directly for New
16 Yorkers without-

17 COMMISSIONER LIMANDRI: Doing
18 anything else, in other words when you walk down
19 the street you could actually use your smartphone
20 click on the logo, QR code, it brings you directly
21 to our website but not everyone has a smart phone
22 and it's really a way to make it much more
23 transparent.

24 CHAIRPERSON DILAN: My phone is
25 smart as the user and I'm worried about me.

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2 COMMISSIONER LIMANDRI: We can work
3 on that if you'd like with a training session.

4 CHAIRPERSON DILAN: So with that
5 regard the permitting information requirements to
6 still be the same.

7 COMMISSIONER LIMANDRI: That's
8 right.

9 CHAIRPERSON DILAN: So if New
10 Yorkers need to make a complaint at the job site
11 so for instance on 61st Street you guys before the
12 crane accident New Yorkers were able to contact
13 the DOB and call and make complaints prior to that
14 accident. So maybe on things that are less
15 dramatic it will still provide information to New
16 Yorkers in a relatively clear manner to file
17 complaints with the DOB so you can get your
18 inspectors out.

19 COMMISSIONER LIMANDRI: That's
20 right. You can always dial 311 if you don't know
21 the permit number or you don't know or you think
22 there is an illegal construction but it is a
23 requirement that you must post a permit.

24 CHAIRPERSON DILAN: Okay. Sidewalk
25 shed sign requirements under this bill it appears

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2 that site with shed no longer have to again post a
3 telephone number or the property owner of the
4 contractor telephone number reporting complaints
5 and the sidewalk shed permit number and
6 explanation date. I would ask why and I would
7 assume and you can say it for the record that your
8 answer would be the same as to the first question.

9 COMMISSIONER LIMANDRI: Right. In
10 other words, what one of the most important things
11 that people don't realize is that if something
12 does happen. If you are across the street you
13 actually don't know the address of the building,
14 it's not easily and readily available. What this
15 signage does is it makes the address the most
16 prominent so that allows if you were to dial 311
17 and call in a complaint it becomes very clear for
18 our inspectors to be routed accordingly.

19 The second is that there is way too
20 much information that's there and all of that is
21 available today to our inspectors and to any city
22 agency that is called. All of that is available
23 on the Internet. So the idea is to make it clear
24 and concise.

25 CHAIRPERSON DILAN: All right.

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2 Well that, the sidewalk shed permit number and
3 expiration date. Could you speak to that?

4 COMMISSIONER LIMANDRI: Sure.

5 Right now today if there is no work going on on
6 the job site it certainly, we see if there is a
7 new building or a significant alteration. The
8 person in control of the construction job is not
9 the sidewalk-shed contractor. In the case of
10 doing, for example a façade job the person in
11 charge of what's going on there including the shed
12 maintenance is really the façade company. So the
13 only area where you would look to to have the
14 sidewalk shed company is when no work is going on
15 at all. And in that case then that person's
16 information who is in control of this shed would
17 be in that box for information.

18 COMMISSIONER LIMANDRI: So from
19 what I understand as it relates to sidewalk sheds
20 even though I have never seen it, they are
21 required to post currently an expiration date as
22 to when that shed permit is expired. Is that
23 accurate from your standpoint?

24 COMMISSIONER LIMANDRI: Well, they
25 are, the problem is they are required to put up a

1 permit. No one can see the permit up there. It
2 doesn't make any sense so what we want to do is we
3 want the address and we want to know who the
4 responsible party is that's going to control
5 what's going on on that job. Now the owner could
6 decide that they are going to be the one
7 responsible and they will field the calls if the
8 public calls or if the city calls. But certainly
9 we have all the permits that are available to us
10 and it's all electronic now so there's no reason
11 to have you know, several different pieces of
12 information. These regulations were written a
13 very long time ago, way before the computer was
14 invented.

16 CHAIRPERSON DILAN: Okay. So now
17 we'll move on to the renderings of the bill
18 requires that a site with fences post renderings
19 and elevation drawings or zoning diagrams of the
20 proposed building. For what sites would these
21 renderings already be required as part of the
22 construction plans?

23 COMMISSIONER LIMANDRI: Currently
24 today there is no requirement to post any drawing
25 or what we call rendering. A rendering is an

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2 artistic with a rendering with color that explains
3 what it's going to look like. There is a
4 different option which is basically to show us a
5 sketch which comes from the architect's
6 blueprints. It's to scale. Or the third is the
7 zoning diagram which is currently available online
8 which shows you a three dimensional view of what
9 is going to be built there. So today when you
10 walk down the street you only see a small permit
11 and you can't actually tell what's going to be
12 built. You might be able to decipher from the
13 permit that it's a new building. You could maybe
14 tell that it's a commercial versus residential but
15 that's about it. Again we would force you to go
16 to the Internet to be able to do more due
17 diligence. This would allow you to be able to
18 walk by and go, oh it's a 3 family house and it's
19 going to have a garage. I mean those are the
20 kinds of things that New Yorkers want to know.

21 CHAIREPERSON DILAN: Maybe my phone
22 could help me with that.

23 COMMISSIONER LIMANDRI: Well,
24 certainly you don't need your phone to help you
25 with that. That's why we are going to have that.

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CHAIRPERSON DILAN: Just checking.

COMMISSIONER LIMANDRI: Right.

CHAIRPERSON DILAN: So sites with both demolition and new construction, alternation, the rendering requirement in the new bill doesn't apply to demos. What about a site that has demolition followed by new construction or partial demolition followed by an alteration. Will those sites have to post renderings?

COMMISSIONER LIMANDRI: Those sites will have to post first what we expect is that most of the time the demolition that's been approved the new building has not been approved yet. So most likely they will post a demolition sign which there is no rendering because they are taking it down and then when they are ready for approval for the new building a new sign would go up so that New Yorkers would know what's coming.

CHAIRPERSON DILAN: So they would have to an-

COMMISSIONER LIMANDRI: Issuance, right? So in that case there would at two different points in time there would be two different signs.

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2 CHAIRPERSON DILAN: A question on
3 cost of compliance. How much generally would it
4 cost owners or contractors to comply with this
5 bill as compared to what it currently costs them
6 to comply with signage requirements?

7 Well, currently for 1, 2 and 3
8 family homes being built we expect it only to be
9 about less than \$150. You can go ahead and
10 provide that information. You can get it printed
11 at Kinko's. They can put it on the vinyl for you
12 and you can post it with you know, tying it off
13 with grommets or you can affix it with a glue.

14 CHAIRPERSON DILAN: All right. My
15 concern, you know as I said to you privately is
16 for 1, 2, and 3 family homes we'll continue to see
17 the impact on those classification of buildings as
18 we go forward but I am certainly concerned because
19 they are smaller and I understand the need for
20 uniformity throughout the city but I'd like to
21 talk to you more about that. I'll stop my line of
22 questioning here. If any members have questions
23 for the Commissioner on signage and signage only,
24 now is the time. Seeing none, I'd like to thank
25 the Commissioner, sorry Council member Leroy

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2 Comrie.

3 COMMISSIONER LIMANDRI: I didn't
4 move fast enough. [off mic] Right. So by rule
5 the Commissioner will write a proposed rule that
6 will describe for government sites. The thought
7 is to keep it consistent with the color, the size.
8 However what we need to do with all of you is to
9 talk about in those cases government officials are
10 put on those signs we have to come up with a
11 standard. There are different types of projects
12 so EDC is really a kind of an entity than perhaps
13 say NYCHA or HPD so we would go through the
14 process with each of those entities to come up
15 with a standard to make sure that the government
16 officials can be listed in a way that its
17 accustomed to but in a way to make them look the
18 same. So we would do that by rule. [off mic]
19 No, no. The idea would be for example you will
20 have a rendering like you do on these except we
21 have to figure out for EDC what are the list of
22 and types of jobs that they do and we need to
23 accommodate. It's a little bit complicated to
24 figure out what those requirements currently are
25 and what they want to move towards to make them as

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2 similar as possible versus a project that is being
3 sponsored maybe by the housing authority. So what
4 we want to do is we don't want to dictate all
5 those details on the bill. What we thought we
6 would do is we would meet with each of those
7 agencies to make sure that it's consistent with
8 what they produce today with the different
9 officials but make it look almost exactly the same
10 as a private entity. [off mic] That's right they
11 would, correct, correct.

12 COUNCIL MEMBER COMRIE: Can you
13 hear me now? Do you want to hear me now that's
14 the question? Okay, so just to repeat that then
15 the final form the public would have the same
16 information as-

17 COMMISSIONER LIMANDRI: Then why
18 the color scheme. Why are we moving from blue to
19 hunter green or green to hunter blue or whatever
20 the-I mean why are we worried about a color
21 scheme?

22 COMMISSIONER LIMANDRI: Well,
23 currently today I do think that what we're looking
24 for is consistency. There have been conversations
25 that blue is an interesting choice and so is

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2 green. What we are looking for is a color that is
3 you know what maybe psychologists think are
4 soothing colors. And so we chose green.

5 COUNCIL MEMBER COMRIE: Okay.

6 CHAIRPERSON DILAN: That's better
7 than hearing that somebody owns a lot of stock in
8 hunter green paint.

9 COUNCIL MEMBER COMRIE: And then
10 just to, will there be a maintenance you know
11 because some of these temporary construction sheds
12 that are put up once they are there for a year or
13 so they need painting or sprucing or graffiti, is
14 there going to be any part of the bill that
15 addresses the maintenance of these sheds to make
16 sure they stay in a pristine order.

17 COMMISSIONER LIMANDRI: Right. So
18 there's two ways about that. One is that the
19 Department can always write violations for lack of
20 maintenance but I think what you're addressing is
21 that trying to be a good neighbor and making it
22 always look presentable and so that is why we've
23 created this program for the best construction
24 site maintenance, you know that it's well lit,
25 that it's painted, that pedestrians can see their

1 way through the construction site, details, things
2 change to make sure that it's maintained. So
3 that's what we want to do. We want to create a
4 program that make those contractors responsible
5 for those types of things in their neighborhoods.
6 And so it's a way to encourage them to do the
7 right thing as opposed to dictating it.
8

9 COUNCIL MEMBER COMRIE: All right.
10 Thank you. Thank you Mr. Chair.

11 CHAIRPERSON DILAN: Thank you
12 Council member Comrie. We have also been joined
13 by Council member Gale Brewer of Manhattan and
14 Council member Elizabeth Crowley of Queens. I got
15 to Council member Brad Lander for a few questions
16 and I believe that will be all, Commissioner.

17 COUNCIL MEMBER LANDER: So this
18 follows up on Council member Comrie's question. I
19 just want to understand maybe I noticed the best
20 construction site management practices program. I
21 wondered if you could just say a little bit more
22 about how you think that's going to operate, who
23 will be able to apply, will you guys promulgate
24 rules.

25 COMMISSIONER LIMANDRI: Right, so

1
2 the first step would be for us to promulgate a
3 rule what we expect to have happen to do that is
4 we have some ideas of what we might require to be
5 an approved program. What we expect to do is to
6 reach out to our normal construction partners
7 about how they see it fit but certainly things
8 that address neighborhood conditions are at the
9 top of our list.

10 So it's not enough to say that you
11 are going to have a current pick zone in a certain
12 spot and you are not going to have pick over the
13 deliver of materials to the public and you are
14 going to have sidewalk shed. What we'd like to
15 see is we'd like to see something that goes above
16 and beyond that. And so it's not a requirement by
17 the code but what we would expect is a commitment
18 from the construction company. That commitment
19 from that construction company has to be backed up
20 by what they do everyday. So from our perspective
21 if you buy into the concept that you want to be a
22 good neighbor and you have to back it up then I am
23 fine with you becoming part of a program. And
24 that program makes sure that that gets done on a
25 regular basis.

1
2 So simple things like meeting with
3 communities ahead of time before they do something
4 that's part of the program that might include
5 things like a lot of noise. You know those are
6 the kind of things that you know maybe standard
7 practices fine. But maybe there's a particular
8 event that they have to do that maybe is not
9 standard for that program. They tell people in
10 advance what's going to happen. These are the
11 good neighbor kind of things that you would expect
12 that someone that's in the best practice of the
13 business is going to talk to their neighbors on a
14 regular basis.

15 COUNCIL MEMBER LANDER: And will
16 there be any incentive, encouragement, good
17 neighbor seal of approval, I mean I do all those
18 things and I might think I'm going to do them
19 anyway but signing, registering with your program-

20 COMMISSIONER LIMANDRI: You know at
21 the end of the day, right, I think I said it
22 earlier which is I could write violations all day
23 long but you want the incentive, the incentive is
24 that you are going to be perceived by the
25 neighborhood as a good neighbor and a good

1
2 contractor and certainly there are contractors
3 that could use a little bit of good will from
4 their neighbors, right? So they should earn it
5 and that's the way to do it.

6 COUNCIL MEMBER LANDER: So you
7 imagine that at least sort of like being on the
8 information-

9 COMMISSIONER LIMANDRI: =There
10 would be a space on the wall of the parapet that
11 would say I am part of the best practices and I
12 have been accepted and I am following the rules
13 and that I am going to do these things. So there
14 is a new standard set and this is all about
15 encouraging people to do more beyond the code for
16 their neighbors and that's the beauty of that
17 program. You don't have to but there's probably
18 some corporate benefit in the future if you do the
19 right thing by the neighborhood.

20 COUNCIL MEMBER LANDER: Thank you.
21 Mr. Chairman

22 CHAIRPERSON DILAN: Thank you
23 Council member Lander. Thank you Commissioner.

24 COMMISSIONER LIMANDRI: You're
25 welcome. Thank you.

1
2 CHAIRPERSON DILAN: From what I
3 understand we only have one person, oh two
4 individuals that are here to testify in favor of
5 this issue. We will call them both up at this
6 time. They are Mr. Richard Anderson of the New
7 York Building Congress as well as Mr. Kenneth
8 Butner of New York Scaffolding. Good to see you
9 both, gentlemen. And if you have any testimony
10 that you want to give to the Sargent at Arms for
11 the benefit of the members you can give it to him.
12 If not you can just read your statement into the
13 record. Okay. Why don't we begin with Mr.
14 Anderson and even though I have introduced you if
15 you could introduce yourself in your own voice
16 then you could go right into your testimony.

17 RICHARD ANDERSON: Thank you Mr.
18 Chairman, members of the Committee. I am Richard
19 T. Anderson, President of New York Building
20 Congress. Mr. Chairman, I mean this is good
21 legislation. It makes a great deal of sense and
22 my testimony will go at Council member Lander's
23 question directly how we in the industry intend to
24 respond to this legislation.

25 The Building Congress is pleased to

1 support this bill which would require construction
2 fences to display a detailed construction
3 information panel. As we heard a single work
4 permit and use of the uniform green color on all
5 fences and sidewalk sheds and I can tell you that
6 in London that's exactly what they do. It's a
7 deep forest green and if you look at construction
8 sites in London you will find they are uniformly
9 attractive and this is one feature, one reason
10 why. But very importantly this bill would also
11 permit the limited display of signage belonging to
12 contractors and programs encouraging quality
13 construction site management.
14

15 The Building Congress applauds this
16 effort, one of several undertaken by the Bloomberg
17 Administration to encourage more attractive work
18 sites and reduce their negative impacts. This is
19 a serious issue for the city where construction is
20 in effect a permanent part of our landscape. One
21 neighborhood or another is continually undergoing
22 construction hidden behind fences and shed. This
23 ubiquity makes focusing on construction sites
24 aesthetics and impacts as important as focusing on
25 the character of permanent structures.

1
2 The bill will also encourage an
3 ambitious program run by the New York Building
4 Foundation which is affiliated with the Building
5 Congress called Construction for a Livable City
6 and we have displayed and passed out for you the
7 logo and when the Commissioner was talking about
8 industry voluntary compliance with this program as
9 Mr. Lander was asking, this is what we are
10 proposing Construction for a Livable City.

11 CLC is a voluntary program which
12 asks contractors and building owners to implement
13 a checklist of quality construction site
14 management practices that includes maintaining
15 fencing but also goes well beyond this into the
16 kind of things that Commissioner was talking about
17 and Council man Lander was questioning. The CLC
18 checklist encourages participants to prove all
19 aspects of the work site including management of
20 air and noise impacts, site run off, the physical
21 appearance of fencing, sheds, embracing overall
22 site cleanliness, the use of heavy equipment,
23 community relations and engagement and we have
24 been running this program for several years and
25 it's growing and it's turning out to be very

1
2 effective. In short, the Building Foundation
3 asked participants to attain a higher standard of
4 care and cleanliness at construction sites. If
5 implemented faithfully the CLC checklist can
6 improve construction site quality well beyond
7 requirements set out in the administrative code.

8 Your proposed legislation wisely
9 recognizes the importance of programs like
10 Construction for a Livable City. It allows signs
11 bearing the logo of a best construction site
12 management practices program to be displayed on a
13 construction shed for the first time. And that's
14 what we hope to do much more of. The city support
15 for CLC is crucial because the effort and cost of
16 implementing the checklist may not be immediately
17 apparent to the public there must be a clear
18 incentive to encourage contractors and owners to
19 participate in this CLC program. We believe the
20 best incentive is to allow participants to display
21 their affiliation with Construction for a Livable
22 City with a clearly visible CLC banner at the work
23 site. The CLC logo which I have just shown you
24 becomes a direct way to get public recognition
25 that the construction site is living up to a

1 higher standard of upkeep and management.

2
3 Allowing the display of the CLC logo will
4 encourage expansion of this program. Once well
5 established Construction for a Livable City could
6 be transformative. In the same way that LEED has
7 elevated building to a higher environmental and
8 planning standards, CLC can become a city wide
9 standard for clean considerate construction
10 practices demanded by owners and the public. But
11 this cannot be achieved overnight. And the
12 Building Congress cannot do it alone. That is why
13 the city's endorsement is so meaningful.

14 We do recommend one clarification
15 and I think the Commissioner alluded to this. We
16 ask that the Department grant a blanket permission
17 for posting the logo of the best construction site
18 management practices program. We do not want to
19 have a request for permission to display the logo
20 at each individual site one at a time.

21 In summary, the goals of this bill
22 are important. The bill encourages improved
23 fences and sheds, better information about
24 construction work for the public and it support
25 voluntary industry efforts like Construction for a

1
2 Livable City to adopt best practices for
3 construction site management. We thank the
4 Department of Buildings for engaging the industry
5 on this issue. We worked with them on this and
6 promoting legislation that will improve quality of
7 life in New York. Mr. Chairman we thank you for
8 your sponsorship of this bill and your leadership
9 on this and urge its time on the adoption by this
10 Committee and the full City Council. Thank you.

11 CHAIRPERSON DILAN: Thank you Mr.
12 Anderson.

13 KEN BUTNER: Good afternoon Mr.
14 Chairman and members of the Council and the
15 Committee. My name is Ken Butner, I am the
16 President of New York Scaffolding Equipment in
17 Long Island City and I am third generation of our
18 family owned business that's been here for 85
19 years improving New York City and surrounding
20 areas. I am also past President of the Scaffold
21 and Access Industry Association, our industry's
22 national voice. I am currently a member of the
23 Construction and Demolition Safety Technical
24 Committee for the 2011 Construction Code Revision
25 Cycle and was a member of the 2008 Committee which

1 reviewed and update the old 1967 code.

2
3 I applaud the Council's efforts to
4 simplify signage and to enhance construction
5 sites. However I feel it's important to express
6 my concerns regarding the proposed change of
7 content on sidewalk shed signs. The current code
8 calls for a sign with information which is very
9 specific. It requires inclusion of the corporate
10 name, address, telephone number, the shed permit
11 holder, the sidewalk shed permit number and the
12 expiration date of the shed permit. Sidewalk shed
13 contractors often receive telephone calls to
14 report conditions which may require emergency
15 action. These calls come during the day and night
16 and come from passers by as well as FDNY, NYPD and
17 DOB personnel. They allow for prompt attention of
18 the sidewalk shed contractors to deal with such
19 things as shed struck by vehicles or improper
20 possibly dangerous unauthorized amendments to the
21 shed structure.

22 The proposed code to replace that
23 sign with a sidewalk shed parapet panel which
24 would include a street address of the site and the
25 name of the contractor responsible for the site or

1
2 whether there is no contractor the name of the
3 owner. As the sidewalk shed permit holder is not
4 the contractor responsible for the site, the name
5 and contact information for the shed contractor
6 would no longer be readily available for those
7 passers by or emergency service providers to
8 directly contact the party which would actually
9 address problems with the shed. This would
10 seriously delay repair or restoration of a damaged
11 or dangerous sidewalk shed. While it is good for
12 the name of the contractor responsible for the
13 site to be shown to the public it would be a
14 mistake to not include the name and contact
15 information for the shed contractor to also be
16 shown. I urge the Committee to amend the proposed
17 Intro to reflect my concerns.

18 CHAIRPERSON DILAN: And I
19 wholeheartedly agree. That's the reason why I
20 asked the Commissioner those questions. From a
21 comparative nature I think it's best that the
22 appropriate scaffolding companies get a call
23 directly and they can address it before they have
24 to deal with a third party whether it be the
25 contractor or the Buildings Department. It's

1
2 better to hear from you as someone who is in the
3 scaffolding business that you would like to hear
4 the calls directly from the general public so that
5 you can address them yourselves. So we will
6 strongly urge for the amendment and see if it can
7 be included in the original bill which I believe
8 it should. So I will leave that there. If there
9 are any questions for these gentlemen from
10 Committee members. Seeing none I would like to
11 say both it's good to see you again and I look
12 forward to working with you on the final product
13 of this bill. Thank you very much.

14 One other piece of business on
15 1003-A, we received testimony for the record on
16 the signage bill from the Queens and Bronx
17 Building Association and the Building Industry of
18 New York and that testimony will be submitted for
19 the record and at this point Intro 1003-A will be
20 laid aside. And now we can begin hearing
21 testimony on Intro 188 and we have received
22 testimony from the office of the Mayor for the
23 record on this bill. I won't read it but it's in
24 opposition. I believe if anyone wants a copy of
25 the Mayor's testimony the Sargent at Arms may have

1
2 a copy of this testimony. If not we will make
3 sure that he has it by the time the initial panel
4 leaves. So I just want to go the Mayor's
5 testimony from the Office of the Mayor will be
6 entered into the record. We usually do that at
7 the end of hearings but since it is from the
8 Mayor's office and they have taken a position we
9 will do that at the outset. The first panel that
10 I will call up on this issue will be Mr. Leedman,
11 Mr. Peters, Mr. Bisorty and Mr. John Doyle. That
12 will be the first panel that I will call up and
13 Duncan McKenzie on Intro 188-A. Are they here?
14 Okay. They are coming in? When it's initials
15 it's hard to tell if they are male or female. I
16 only have initials. Okay and they will be
17 followed by Mary Ann Rothman, Larry Sims, Gregory
18 Carlson and Andrew Bruckner, that will be the
19 following panel. I will try to give you guys a
20 heads up as to who is on deck. You are up. I
21 have Lieberman, Peters, Bisorty and Doyle? The
22 next panel [off mic] I am giving them a heads up
23 as to when, it's the next panel. All right so why
24 don't we begin and then we won't wait for Mr.
25 Peters when he comes in then he can join your

1
2 panel. So just if you can introduce yourself in
3 your own voice and if you have testimony that you
4 can give to the Sargent you can give it to the
5 Sargent to our benefit. If not you can just read
6 your testimony in for the record. Why don't we
7 begin in any order you would like.

8 JOHN DOYLE: All right, my name is
9 John Doyle. I'm Senior Vice President for
10 Government Affairs for the Real Estate Board of
11 New York.

12 PAMELA LIEBERMAN: My name is
13 Pamela Lieberman I am the CEO and President of the
14 Corcoran Group.

15 MICHAEL BISORTY: My name is
16 Michael Bisorty, I am the owner of Tungsten and
17 Partners which owns Tungsten Property and I on the
18 Residential Board of Directors for Real Estate
19 Board of New York.

20 [off mic]

21 CHAIRPERSON DILAN: That's my job.
22 I'll take care of that.

23 FREDERICK PETERS: My name is
24 Frederick Peters. Nobody has ever asked me to
25 speak louder in my life. And I am the President

1
2 of Warber Realty and member of the Executive
3 Committee of the Real Estate Board of New York.

4 And my wife often tells me to shut
5 up. I listen. Why don't we begin the testimony
6 in any order that you would like.

7 Buying a home in New York City or
8 anywhere can be a very stressful time for anybody.
9 It is the largest purchase that any one will ever
10 make and because they are buying their home, the
11 place they are going to live, the entire process
12 is closely connected to people's sense of
13 themselves and it can be very very personal. The
14 sale transaction therefore is emotional and it's
15 nerve wracking. The provisions of Intro 188
16 requiring coop board to provide a clearly defined
17 list of purchase requirements and a timeline for
18 board response to an applicant's submitted
19 purchase package are fair, reasonable and highly
20 worthwhile. These provisions are in the best
21 interest of all concerned, the buyer, the co-op
22 board, the seller and the city. They will save
23 time and stress by bringing certainty,
24 transparency and timeliness to all coop sales and
25 move the process forward at a pace that is

1
2 reasonable. When a coop is successfully sold, all
3 parties win. Buyers get a new home, sellers reap
4 the rewards of the sale, the coop has an approved
5 shareholder and the city receives tax revenue from
6 the New York City transfer tax. These provisions
7 do not reduce a coop boards; authority in any way
8 whatsoever. They simply define and make available
9 to any applicant who asks what requirements have
10 to be met in order to join the cooperative. Then
11 if a buyer meets those requirements and submits a
12 purchase package to the board, the board is
13 guaranteed to respond to their decision within a
14 specific time frame. Having a list of purchase
15 requirements saves time and needless paperwork for
16 all. It will prevent prospective buyers from
17 submitting purchase packages that won't pass the
18 board and coop boards will not have to spend time
19 reviewing unqualified buyer applications. A
20 timetable for coops to respond to applications
21 will reduce the uncertainty and anxiety that
22 accompanies many coop sales. Currently
23 prospective coop buyers can be left in limbo,
24 waiting for a coop board to make its decision or
25 even to set a meeting. They can wait for not only

1
2 weeks but they can wait for months. These delays
3 are nerve wracking and unfair for both buyer and
4 seller and they needlessly complicate the sale
5 process. Buyer's mortgage commitments will often
6 run out while waiting for a board decision or
7 often just a date when they can meet. It prevents
8 buyers from seriously pursuing other properties
9 and sellers from moving on with their lives. If a
10 timetable is established all parties are aware and
11 can plan accordingly to improve the coop sale
12 process and reap the benefits for all is very
13 simple. Please pass the measures of 188 as they
14 apply to requirements and timeliness. Thank you.

15 MICHAEL BISORTY: My name is
16 Michael Bisorty. Thank you for having us. I will
17 be reading. My colleague Fred is going to be
18 extemporaneous so I hope I won't sound so dry in
19 comparison. So my name is Michael Bisorty and I
20 am the owner and principal of Tungsten and
21 Partners which is a sole owner of Tungsten
22 Property, licensed real estate broker in the state
23 of New York. Additionally, I am on the
24 residential board of directors of REVNY and have
25 been for some years and multiple terms the co-

1 chair of small firms committee at REVNY.

2
3 It is Tungsten's position that we
4 are in support of several aspects of the fair
5 cooperative procedure law. Most specifically the
6 defined processing time as well as more open
7 application requirements which would intend to
8 provide more transparency to the process of
9 purchasing a coop in the city of New York.

10 Nationally with the recent trends regarding the
11 SCC, the VOLCA rule, Jobs Acts, and
12 internationally with respect to transient global
13 tax havens there has been a clear movement towards
14 greater transparency in many arenas of business
15 and government in order to protect individuals and
16 encourage a more equitable market place. The
17 unique and some may say at time quirky attributes
18 of the coop corporation structure are thoroughly
19 woven into the world of New York City real estate
20 that perhaps this area of our business would
21 benefit from these trends as well. The proposed
22 reforms in the standardization of procedure and
23 limitation of the timing of the process would
24 seemingly streamline the process, decrease
25 inefficiency, potentially curtail housing

1 discrimination and likely encourage further
2 transactions and investment and in the end put
3 more New Yorkers in their homes more seamlessly.
4 Anecdotally, in the last quarter my firm has seen
5 the usage of delays and timing, extend the coop
6 application process most assuredly and terminate
7 potential apartment sales. As the multiple month
8 delay discouraged first time buyers and voided the
9 mortgage financing which had it's own defined
10 terms. Extending the financing contingency would
11 require additional fees in the four figures which
12 potential purchasers were unwilling to pay.
13 Further, most real estate sales person brokers are
14 compensated on a commission structure at our firm
15 and others rather than a fixed salary. So more
16 dead deals due to untransparent, ununiform
17 applications processed takes a financial toll on
18 real estate professionals as well, especially at
19 smaller boutique firms.

20
21 To be clear the coop corporation
22 system is an ownership structure which we support.
23 One might think that the long standing distance of
24 the current coop purchasing structure in its
25 current form would lead some to assume it to be

1
2 immutable. However, paradoxically its tenure
3 actually may highlight a consistent and thorough
4 collective opinion at the application process has
5 room to be modified. We have heard enough
6 sentiment from our colleagues and customers to we
7 feel justify some practical and well thought out
8 adjustments to the system. Aspects of the fair
9 cooperative procedure law takes positive steps
10 forward in addressing these concerns and I believe
11 brings greater transparency to the process,
12 potentially reduces housing discrimination should
13 it be occurring and facilitates more transactions
14 to the benefit of buyers, sellers, real estate
15 professionals and the market as a whole. Thank
16 you.

17 CHAIRPERSON DILAN: Thank you.

18 FREDERICK PETERS: Good afternoon.

19 My name again is Frederick Peters. I am the
20 President of Warber Realty. We are a brokerage
21 concerned doing business in Manhattan and
22 Brooklyn. I think the word that both of my
23 colleagues have emphasized is transparency. That
24 word is a critical one in contemplating the
25 importance of this bill for us. Streamlining of

1
2 the application process creates a sort of
3 transparency which simply makes this very anxiety
4 provoking process for purchasers that much clearer
5 from the get go. It seems to me that can only be
6 good for everyone. As Pam said, the buyer, the
7 seller and the board alike.

8 I think the larger issue here for
9 me certainly is the issue of timing. And I have
10 to say to throw a little bit of a monkey wrench
11 into the works even though this bill is
12 contemplated as a coop bill we actually see the
13 issue of timing equally serious in the condominium
14 marketplace where both coops and condominiums will
15 sometimes use delay as way of creating a de facto
16 rather than a de jure board turn down situation.
17 And the problem with this lengthy lengthy process
18 and we've seen it stretch three months, four
19 months, we had one occasion where the board did
20 not render an opinion for six months. Those are
21 always an economic disadvantage to someone. In
22 addition as Pam alluded to the emotional stress
23 this puts on both buyers and sellers there is
24 substantial economic stress as well too.

25 Today we have certain areas of the

1
2 market to have a very little supply and a lot of
3 demand. What that means is if a buyer is turned
4 out months after the original application is
5 submitted they can no longer afford the kind of
6 apartment they were buying before because the
7 market has moved past them while they were
8 waiting. Similarly in a market like the market in
9 2009 if a seller received a board turned down
10 months later when the market values were going
11 down that had huge impact on what the seller
12 actually received. I remember one case in which
13 there was a long period of time where a deal we
14 had ended up getting turned down in a building.
15 It began kind of when Lehman Brothers closed and
16 an apartment we had sold for 29 million dollars
17 ended up selling for 18 million. Because the
18 length of time which it took for the first turned
19 out to place was so stretched out. I am not a
20 believer in abrogating the rights of the coop
21 boards to make their own decisions but it does
22 seem to me that everybody benefits from imposing
23 deadlines of timeliness on those considerations.
24 Thank you.

25 CHAIRPERSON DILAN: I am going to

1
2 go to Council member Fidler. But just briefly
3 because I didn't hear it mentioned. I heard more
4 mentioned of the application process and time
5 lines which both sides of the argument here have
6 to deal with or not depending on which process is
7 set forward. Has it been your experience that you
8 had any of your clients denied on the basis of
9 discrimination of any sort?

10 PAMELA LIEBERMAN: Since there is
11 no reason given for being turned down we would not
12 be able to say that somebody was turned down based
13 on the discriminatory-

14 CHAIRPERSON DILAN: I know it's not
15 definitive but do you have gotten the sense.

16 PAMELA LIEBERMAN: I can't really
17 answer that because it's not-

18 CHAIRPERSON DILAN: Part of the
19 discrimination is part of why I have to ask it.
20 Is that the answer for the rest of the group?

21 FREDERICK PETERS: Yes, it is. I
22 can't say definitively one way or the other.

23 CHAIRPERSON DILAN: Okay. Council
24 member Fidler.

25 COUNCIL MEMBER FIDLER: [off mic]

1
2 =Not answer the discrimination question but
3 equally entertained by the look on your face by
4 responding that way. So I know that I don't think
5 we are taping this one so you know it will just
6 have to be for my colleagues to interpret I
7 suppose what your answer is. I will go to the
8 things that you did testify about. I am sorry the
9 gentleman who spoke extemporaneously. What is
10 your name?

11 FREDERICK PETERS: Frederick
12 Peters.

13 COUNCIL MEMBER FIDLER: Mr. Peters.
14 When you talked about incidents where it was six
15 months before a board issues a determination. Was
16 that from the time of a completed application?

17 FREDERICK PETERS: Well, what
18 happened in that particular case was the
19 application was submitted and then it was a month
20 or six weeks after a month or six weeks additional
21 information was requested. That additional
22 information was supplied. There was another three
23 weeks to a month then additional additional
24 information was requested and then I think at that
25 point whatever the remaining few months were the

1 application was complete at that time.

2 COUNCIL MEMBER FIDLER: Okay. I
3 see. And because that is of course one of the
4 rubs in this bill is making sure that we be fair
5 to the coop board as well that to act on
6 incomplete information.
7

8 FREDERICK PETERS: Absolutely but
9 it seems to me that there are two. The time
10 permitted for requesting additional information
11 can be parameterized.

12 COUNCIL MEMBER FIDLER: I agree. I
13 agree. The environment right now in terms of
14 lending to applicants from my vantage point is
15 rather poor. That banks don't seem so anxious to
16 provide mortgages and coop loans as they were say
17 six years ago. How often do we run into the
18 situation where a buyer gets a loan commitment and
19 can't close, either actually expires as you
20 mentioned in your testimony, Ms. Lieberman, it
21 expires before we ever hear from the co-op board.

22 PAMELA LIEBERMAN: That's not an
23 unusual circumstance. It happens quite often.
24 And people try and lock in rates as well so they
25 suffer on that front and then they suffer on the

1
2 front that the mortgage is expired and as you know
3 banks often arbitrarily change their lending
4 guidelines so you may not be able to go back to
5 the same bank. You may have to start all over
6 again and you may actually fail the second time to
7 obtain a mortgage so it's a very difficult process
8 for the potential buyer.

9 COUNCIL MEMBER FIDLER: And banks
10 you know being in business to make money, they
11 generally charge money for you to lock in your
12 rate, is that correct?

13 PAMELA LIEBERMAN: Yes and also for
14 an extension.

15 COUNCIL MEMBER FIDLER: And I was
16 going to ask that question. Thank you. And
17 frequently that money is not refundable to the
18 buyer, is that correct?

19 FREDERICK PETERS: Always.

20 PAMELA LIEBERMAN: Always. Right.
21 Always.

22 COUNCIL MEMBER FIDLER: So there
23 is an economic prejudice that is being done to a
24 buyer and I am pleased Mr. Peterson you pointed
25 out the economic prejudice that can happen to a

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2 seller as well who might actually have a good
3 deal, maybe the best deal they are going to get
4 and then for a lot of different reasons the board
5 takes a lengthy period of time, turns it down and
6 that deal is not replicated. I am going to ask
7 you a question not specifically about
8 discrimination because clearly Mr. Dewalt is not
9 going to let you answer that question. But-

10 FREDERICK PETERS: He's a stern
11 taskmaster.

12 COUNCIL MEMBER FIDLER: The subject
13 of coop board politics I mean I think maybe the
14 only place worse for board politics is in a
15 synagogue so I remember John Lindsay when he was
16 running for re-election said he had the second
17 toughest job in America. He clearly had never
18 been a co-op board president but the issue of
19 internal personal issues that board members might
20 have with a co-operator who is selling their unit.
21 Have you seen evidence without getting into
22 specifics that occurring and affecting a board's
23 process in decision-making? Come on John, you can
24 let them answer that.

25 PAMELA LIEBERMAN: Yes. Many many

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times.

FREDERICK PETERS: Yes.

COUNCIL MEMBER FIDLER: And would it be helpful to have a transparent and time lined process that perhaps alleviates some of that?

PAMELA LIEBERMAN: Yes.

FREDERICK PETERS: Yes.

COUNCIL MEMBER FIDLER: I have nothing further for this panel at the moment. Thank you.

CHAIRPERSON DILAN: Okay, we have Council member Weprin followed by Lander.

COUNCIL MEMBER WEPRIN: Mr. Peters, how are you? I am just curious besides coops, what other real estate do you sell or represent sellers on?

FREDERICK PETERS: We sell coops. We sell condominiums. We sell houses.

COUNCIL MEMBER WEPRIN: When you have a seller of a house, are they required to sign a document that they are not discriminating against the purchaser?

FREDERICK PETERS: I have never seen such a document.

2 COUNCIL MEMBER WEPRIN: And is that
3 true with condos as well, that you don't have to
4 sign a document?

5 FREDERICK PETERS: I have never
6 seen a document.

7 COUNCIL MEMBER WEPRIN: I know you
8 didn't really address it in your testimony but you
9 know this includes that a coop board has to sign a
10 document after they that they haven't violated the
11 law and they haven't discriminated in any way.

12 FREDERICK PETERS: I am aware of
13 that.

14 COUNCIL MEMBER WEPRIN: Okay. And
15 do you know that New York State probably has the
16 toughest civil rights law of any state in the
17 nation currently.

18 FREDERICK PETERS: Believe me I
19 aware of that.

20 COUNCIL MEMBER WEPRIN: Yes. Okay.
21 So you know it seems like an awful burden to put
22 on a coop who, the coop boards are volunteers.
23 They don't have a vested interest in, their only
24 vested interest is to represent those coop
25 shareholders in trying to get something done. Do

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2 you think they should be held to a higher standard
3 of discrimination then than the rest of your
4 clients?

5 FREDERICK PETERS: No.

6 COUNCIL MEMBER WEPRIN: Good. I
7 have a, I am chairing a hearing currently across
8 the street so I can't really stay but I am just
9 going to get on a soap box for a few seconds, all
10 right. And I apologize and I appreciate this
11 panel coming down and I understand the realtors in
12 the past. And I know the representative from
13 Albany is here. I used to serve in Albany and a
14 lot of the issues they brought up I really agreed
15 with wholeheartedly. People have a right to make
16 a living. They have the right to get a commission
17 when they agree to one in a timely manner. My
18 problem is is that you know coops are an unusual
19 entity in that in my area it's a great way for
20 middle class people to own property. You don't
21 have to spend an enormous amount of money
22 necessarily and you can own a part of your
23 neighborhood and everyone is sort of tied together
24 here. So any binds and any litigation gets not to
25 necessarily the board but to all the shareholders

1 involved and all of my middle class constituents.
2 And the coop boards, they spend an enormous amount
3 of time. They don't get paid a dime. Everyone
4 else in this transaction is getting something out
5 of it. The coop board does not except to get a
6 new neighbor possibly and they have I believe a
7 right to try to make sure that that new neighbor
8 is an appropriate one financially and is not going
9 to have problems that will cost the rest of the
10 coop shareholders a problem. They are not allowed
11 to discriminate under that Human Rights law that
12 you just described which doesn't allow them to
13 discriminate for an enormous amount of reason not
14 the least of which is race, color, origin, marital
15 status, partnership status, alien or citizenship,
16 income, age, source of income, lawful application
17 or because they have children or don't have
18 children. There is a lot of, and that is the law
19 and they have to file that. And I just find that
20 galling a little bit that coop boards get put to a
21 standard that the rest of the homeowners don't.
22 Who is more likely to discriminate? An individual
23 who is selling a house or a group of five people
24 sitting around the table saying, hey let's
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2 discriminate against this person because their
3 race or religion. It just seems to we are trying
4 to find a solution to a problem that doesn't
5 necessarily exist. And I know Mr. Fidler who I
6 love immensely I have to say, sarcastically kind
7 of said I know the problem exists. I didn't
8 interpret Ms. Lieberman's response as, oh this
9 happens all the time in these million dollars and
10 big million dollar coops you described.

11 CHAIRPERSON DILAN: Mr. Weprin. If
12 I could ask you, I know you are the Chair of a
13 Committee that you created around coops but if I
14 could just ask you to get a question at this
15 juncture.

16 COUNCIL MEMBER WEPRIN: I just want
17 to make the statement that that's where I am
18 offended. I understand the idea of time frames.
19 Most coop boards as far as I know, Ms. Lieberman,
20 do you know most co-op boards in New York City and
21 throughout the city, do they usually have
22 different applications for different purchasers?

23 PAMELA LIEBERMAN: Different
24 buildings have different application but within
25 the same building. Yes. It's going to be the

1
2 same purchase application.

3 COUNCIL MEMBER WEPRIN: That's one
4 of the requirements of this thing. It's basically
5 the same thing that is taking place. As far as I
6 have ever seen. I have never seen a building that
7 has different applications for different types of
8 purchasers.

9 PAMELA LIEBERMAN: I think there is
10 a question about whether or not there is a clear
11 presentation of purchase requirements. That's the
12 real issue.

13 COUNCIL MEMBER WEPRIN: And I can
14 live with there being a uniform idea of what
15 should be in a coop application as long as coops
16 get to make changes reasonably and not have to do
17 it within a, send a copy to the State within a few
18 amount of times or they could get fined or I might
19 get fined if I am a shareholder. The issue is I
20 understand the time frame issue and there may be a
21 way to try to address the issue which seems to be
22 your biggest concern is the idea of you know you
23 want to have a reasonable idea of how long is this
24 going to take. Is that right?

25 PAMELA LIEBERMAN: Right. How long

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2 is it going to take and what exactly do you want
3 from me. I can go up to a building now and say,
4 wow I really like that building. I would like to
5 put an offer in. Do you think I can pass the
6 board? And if I am using a real estate agent they
7 might say, well you know tell me how much do you
8 make? How much liquid assets do you have? What
9 do you do for a living? Do you have children? Do
10 you have pets? Typical questions. And I say,
11 what does the board require? And they might say
12 to me let me feel it out. And they may not come
13 back to me with a clear answer. I may not know if
14 I need to make \$50,000 or \$100,000 or a million
15 dollars. I may not know if I need to have
16 \$500,000 in the bank or 10 million. So you have
17 to become overly reliant in some ways on your real
18 estate broker.

19 COUNCIL MEMBER WEPRIN: They won't
20 ask you about the children.

21 PAMELA LEIBERMAN: Right. No.
22 They will sometimes.

23 COUNCIL MEMBER WEPRIN: But they
24 should I mean, I understand within reason. Again,
25 some of our coops are a handful of units

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2 sometimes. You are dealing with a very small
3 amount of people who are very busy and have other
4 jobs, other lives. It's just-I could live with
5 the idea of trying to create uniform, ideas of
6 what a coop application should look like. I could
7 live with the idea of creating ideal time frames
8 to get things done but when you start forcing coop
9 boards who are just average citizens doing their
10 job, which we have a tough enough time getting
11 people to do the job in the first place and
12 putting them in a position where they could get
13 sued or they are going to get hassled by the
14 state, I think that's where my problem comes in.
15 So you know if we can come to some agreement with
16 Council member Fidler on that aspect on the idea
17 of having guidelines but without forcing their
18 hands by making them into criminals.

19 PAMELA LEIBERMAN: Sounds
20 reasonable.

21 COUNCIL MEMBER WEPRIN: Thank you.

22 CHAIRPERSON DILAN: Okay. We have
23 Council member Lander followed by Council member
24 Brewer.

25 COUNCIL MEMBER LANDER: All right.

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2 Well, I will start with the good news. I think
3 Council member Fidler and Council member Weprin
4 and I all believe that a time period for a
5 response might be a wise thing to have as part of
6 sort of just a normal course of business but I
7 think I actually in some ways have concerns
8 slightly different from my other but I share
9 Council member Fidler's concerns that coop
10 discrimination does take place and is a problem
11 that needs to be addressed. But I do have some
12 questions as to whether 188 is the right way to
13 achieve it.

14 I am the sponsor of Intro 326 which
15 would require coop boards to give a reason for
16 rejections when they reject someone and that's
17 actually what the Suffolk County legislation that
18 Council member Fidler referred does which has
19 reduced complaints, dropped dramatically and not
20 led to any litigation, significant litigation that
21 we are aware of. Suffolk County they have this
22 history, we are first to ban cellphones while
23 driving and smoking in restaurants so if we want
24 to follow that. But I guess my question, the
25 reason for that is my concern is that really is

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2 the challenge. You are on the discrimination
3 side, is the secrecy. And that we do have a good
4 set of laws, the Human Rights law is a solid law
5 but because what is different about coops is that
6 they make their decision, so the seller makes
7 their decision to sell his unit or her unit to
8 somebody but then it goes into this space where
9 there is a great amount of secrecy and you don't
10 know what's taking place in there and so 326
11 without changing any of the rules would simply say
12 when you reject someone you have got to tell them
13 why. Just like that Suffolk County legislation.
14 So I guess my question is do you agree or disagree
15 that the secrecy essentially a substantial part of
16 what makes it a stressful situation that what
17 leaves rejected buyers with reason to believe they
18 have been discriminated and still would even if
19 they got a letter telling them they hadn't.

20 COUNCIL MEMBER WEPRIN: The secrecy
21 exists in any sort of deal property purchase.
22 This was [off mic]

23 CHAIRPERSON DILAN: Thank you. And
24 I would like to ask all four of you speakers to
25 make sure you speak directly into the mike

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because-

COUNCIL MEMBER WEPRIN: The secrecy exists in any sort of real estate. It exists with the purchase of a private home. It exists with the rental of an apartment and to single out this type of ownership uniquely to require additional steps doesn't seem terribly fair and I might add that there are other ways to address the issue of potential discrimination across the board. But you have a city agency that is charged with investigating that. They are not here today.

I would be very curious to know how many complaints of this type they have actually gotten and what they do with them and if there were not many then maybe what we should be directing ourselves towards is a way during the purchasing process perhaps with all types of property to alert potential purchasers as to where they can go when they feel they have been discriminate against because if you answer the question honestly what you are looking at here is anecdotal information. You don't have any facts. You don't have any statistics. It's only what people think.

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2 COUNCIL MEMBER LANDER: So a couple
3 of things. To your first point. Isn't this a
4 somewhat different situation and a lot of these
5 situations where the seller has agreed to sell to
6 a buyer which is different in a coop situation.
7 An individual seller has agreed to sell to a buyer
8 which doesn't happen with a landlord or if I'm a
9 homeowner and I choose to sell to someone then I
10 sell it to them. I don't have to get approval
11 from another group of people so it is, there is a
12 different level of appropriate. I mean it's
13 appropriate for that board to make a decision.
14 The vast majority of the time they approve people
15 but in that small percent of time when they reject
16 people. What's wrong with asking them to explain
17 their reason for doing so. So they can actually
18 give any reason at all. Just not one of the ones
19 that is prohibited by the New York City Human
20 Rights Law or any other State or Federal.

21 COUNCIL MEMBER WEPRIN: I think it
22 would be a boon for the attorneys in this town
23 because every single coop board who is going to
24 turn somebody down would call in a parcel of
25 lawyers to try to figure out how to come up with

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2 the reason that was acceptable. It's just not a
3 reasonable-

4 COUNCIL MEMBER LANDER: Recommend
5 that people consult a lawyer when they reject-

6 COUNCIL MEMBER WEPRIN: It's not a
7 reasonable requirement.

8 COUNCIL MEMBER LANDER: Okay but I
9 just do want to point out. I looked at the REVNY
10 suggestion of best practices before and you
11 recommend already that somebody goes to consult a
12 lawyer so that they don't reject someone for
13 discriminatory reasons.

14 COUNCIL MEMBER WEPRIN: And the
15 level of activity of that lawyer in the situation
16 that exists now would be much less than the
17 requirements of the lawyer coming up with the
18 specific answer that they feel would be safe to
19 put in. It's just an unreasonable requirement.

20 COUNCIL MEMBER LANDER: Okay. Let
21 me come off. 326 is not actually in evidence in
22 today's hearing so I just want to ask the inverse
23 question of 188. It's hard for me to believe if
24 you did discriminate, right, that sending someone
25 a letter telling that they hadn't been

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2 discriminated against is any meaningful protection
3 against discrimination. You are always going to
4 send someone a letter that says we didn't
5 discriminate you. Do you really believe sending
6 someone a letter saying we didn't discriminate
7 you, is any meaningful protection against
8 discrimination?

9 COUNCIL MEMBER WEPRIN: We don't
10 favor that provision.

11 FREDERICK PETERS: Can I just throw
12 in a suggestion here? I believe that it probably,
13 we as real estate agents obviously are highly
14 aware of and educated about fair housing laws. As
15 everybody here has pointed out board members by
16 and large are volunteers. They come from many
17 other walks of life. They undoubtedly have
18 nothing like the level of sophistication with
19 regard to which categories are protected that the
20 ladies and gentlemen of the Council have or that
21 we have as practitioners of the industry. It
22 actually seems to me that some kind of education
23 even if that is simply involved handing out a
24 sheet every year to the people who are on a board
25 informing them of what the protected categories

1 would go a long way.

2
3 COUNCIL MEMBER LANDER: I mean the
4 good news is I did look at the REVNY and Council
5 of New York City Cooperatives sheet which provides
6 that information which I am sure you give to your
7 members. I just believe that you know you already
8 recommend on that sheet, first you clearly provide
9 what the categories are and you recommend that
10 people can consult an attorney so I don't think
11 anyway I won't come back to 326 again.

12 FREDERICK PETERS: I think that's
13 the same thing. I think what you are looking at
14 does not bear on what I am suggesting. I do not
15 believe that sheet is something which is
16 distributed to board members.

17 COUNCIL MEMBER LANDER: Certainly
18 not by law. I mean this is a sheet that REVNY and
19 the Council give out to people so I am interested
20 it doesn't sound like there is a strong feeling
21 that the notice you weren't discriminated against
22 provision would address the challenge of
23 discrimination on this panel and I am glad that we
24 are generally in agreement that a time clock and
25 some time limits would be useful in the process.

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2 Broadly and perhaps at another time we can talk
3 further about 326 and how to make reasonable. It
4 seems to me that Suffolk did it and there wasn't
5 extensive litigation. There has got to be a way
6 to make it reasonable, to ask people to provide
7 the reason for rejection. But we won't ask, we
8 won't talk about that today.

9 CHAIRPERSON DILAN: And I
10 appreciate and allowed the indulgence a little
11 bit, recognizing that as the Chairperson of this
12 Committee normally on subjects of this sort when
13 there are more than one piece of legislation we
14 allow for both items to be heard. In this case I
15 failed to do that and I apologize for that which
16 is why I allowed the indulgence for a little bit.
17 Next, we will go to Council member Brewer.

18 COUNCIL MEMBER BREWER: Thank you
19 very much. I do want to associate myself with
20 Council member Weprin who had to leave and I think
21 there around 6,000 coops in New York and they all
22 have boards and I am just wondering how many
23 instances even anecdotally have you had that it is
24 a really slow process and I am just wondering
25 because I must admit I was on a condo board at one

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2 point, a really small condo and the deliberation
3 and the hours and the volunteerism is extensive.
4 It is really, it is one of the hardest, it is not
5 the hardest job in America but it is a really hard
6 job. And I was just wondering how do you expect
7 this particular group of volunteers and I have
8 never met those that are paid to be able to turn
9 around something in even 45 days. Do you think
10 that's a reasonable time? And also do you think
11 that people would serve if they knew some of the
12 other restrictions not the time restrictions but
13 some of the other restrictions that were put on
14 them?

15 FREDERICK PETERS: Well, let me
16 just answer by saying that I actually spent many
17 years as the head of my coop board in Manhattan so
18 I too am aware of how time consuming a job it can
19 be. And I think you know, whether it's 45 days or
20 60 days I do not think it's an onerous window.
21 No, I don't think so.

22 COUNCIL MEMBER BREWER: Okay. And
23 you think others would find the same kind of time
24 frame not onerous because there are small coops or
25 big coops and a great deal of problems come en

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route to the seller.

FREDERICK PETERS: Yes, I was the head of the board of a big coop. And yes I don't think 45 or 60 days is an onerous window.

COUNCIL MEMBER PETERS: Okay, my second question is, how long does it take between who fills out the application for the person who is applying for the coop and how long does it take from that period from you experience currently to be able to get to the coop board in order to get some kinds of decision. Normally now, what is your general experience?

PAMELA LIEBERMAN: Well, that's the exact problem. I can't give you a normal because there is no normal.

COUNCIL MEMBER BREWER: So there are no co-ops that have any rules whatsoever that you have found to be ones that you can work with. None in New York City?

PAMLEA LIEBERMAN: Well, there are some that respond very quickly while there are others that don't respond quickly at all and I think as Fred said before one of the big problems is sometimes you don't know why they are not

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2 responding. On a different deal in the same
3 building they may have responded in 30 days on the
4 next deal they may not respond for 3 months. So
5 that's why we are looking for this consistency
6 which provides a level playing field for every
7 single person trying to buy a co-op in New York
8 City.

9 COUNCIL MEMBER BREWER: And do you
10 find that those where this a consisted time frame
11 that they are ones that there is less
12 discrimination, more discrimination, no
13 discrimination or do you find that is no different
14 from those are taking a longer time period.
15 Because the ones that are taking a longer time
16 period it might be because they are putting more
17 time into making an evaluation. One doesn't know.

18 FREDERICK PETERS: It's a black
19 box. We don't know what the reasons are. I mean
20 that's the point we are trying to make and that's
21 the point we hope that passage of a portion of
22 this bill will address.

23 COUNCIL MEMBER BREWER: And my
24 final question is, do you find that there are
25 other aspects of this bill that you want to deal

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2 with or are you just focusing on what you just
3 described which is primarily the time frame?

4 PAMELA LIEBERMAN: The time frame
5 and the clear requirements for each purchaser.
6 Those are just as important as the time frames.

7 COUNCIL MEMBER BREWER: Thank you
8 very much Mr. Chair.

9 CHAIRPERSON DILAN: Okay seeing no
10 other members with questions I think Council
11 member Fidler did want to a chance to ask a few
12 more and I ask that if we could just be concise
13 and brief so that we can hear from others.

14 COUNCIL MEMBER FIDLER: I will do
15 my very best. First, it would be wrong of me not
16 to acknowledge my deep abiding love for Council
17 member Weprin since he did the same for me. And I
18 would like to point out that since some people in
19 the audience think this bill goes too far and
20 Council member Lander thinks it doesn't go far
21 enough, sometimes that is proof that you have a
22 pretty good compromise. And I did say before
23 Council member Lander walked in that I think
24 making someone affirmatively certify that they
25 were not in the room while any discussions of

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2 unlawful discrimination took place would in fact
3 have a chilling effect and he does correctly point
4 out that there has been absolutely no lawsuits.
5 But Mr. Doyle you asked the question, how many
6 complaints have there been and actually the
7 Mayor's testimony answers it. The Human Rights
8 Commission has filed only 22 complaints alleging
9 discrimination in connection with coop apartment
10 building offers. Is there anyone in this room who
11 believes that's only happened 22 times?

12 MALE VOICE: Yes.

13 COUNCIL MEMBER FIDLER: I mean you
14 are entitled to your view but I will say that you
15 know I knew of a string of coops in this section
16 of Brooklyn some of which reject every Russian
17 speaking applicant and some of which accept only
18 Russian speaking applicants and it's a well known
19 fact in the community. There are more than 22
20 there. I know someone who couldn't sell their
21 coop unit for 4 years for that exact reason. So
22 and then go prove it.

23 MALE VOICE: And I am not trying to
24 suggest to you that there is only 22 instances of
25 discrimination. Rather that it is an

1
2 underutilized tool that I would hope that what we
3 could do is sit down and try to figure out some
4 way to better publicize the availability of that
5 investigative tool so that the actual complaints
6 that are out there get filed and get investigated
7 properly but I don't think requiring people to
8 certify that there was no discrimination nor to
9 give a reason is the answer to that problem. I
10 think the answer to it is figuring out how to
11 better publicize the process itself. 22, that's a
12 sin that only 22 people came forward.

13 COUNCIL MEMBER FIDLER: One man's
14 underutilized might be another man's ineffective.
15 So I would just make that point. And Mr. Peters I
16 have, you answered very succinctly to Mr. Weprin's
17 question whether or not coops should be held to a
18 different standard than private homes or condos.
19 So let me ask you very quickly. The condo boards
20 play the same role as coop boards in approving
21 applications for purchases.

22 FREDERICK PETERS: The answer is in
23 theory no. In practice sometimes.

24 COUNCIL MEMBER FIDLER: But they
25 don't approve purchases because their only weapon

2 in theory is to exercise their right of first
3 refusal to purchase the unit themselves. What we
4 have experienced with condo boards is that they
5 use delay as a tactic when they have a purchaser
6 they don't want.

7 COUNCIL MEMBER FIDLER: But they
8 don't have the same exact same role to play.

9 FREDERICK PETERS: They do not
10 have-

11 COUNCIL MEMBER FIDLER: They have
12 to utilize other methods, backdoor methods to do
13 what they do if they don't want a purchase in
14 their building. So they are not exactly the same.

15 FREDERICK PETERS: They are not
16 exactly the same.

17 COUNCIL MEMBER FIDLER: Can you
18 also tell me when was the last time an applicant
19 to buy a private home was rejected by the board in
20 their purchase application?

21 FREDERICK PETERS: I don't recall
22 that every happen.

23 COUNCIL MEMBER FIDLER: Because
24 obviously as you know there is no such process.
25 And of course the essential difference between a

1
2 homeowner selling their home and a coop deciding
3 whether or not to allow someone into their home is
4 that when someone sells their home, they would be
5 gone. In answer to Council member Weprin's point
6 about who is more likely to discriminate? Kind of
7 obvious. I mean it's unfortunate. I don't want
8 to in any way besmirch coop boards here and
9 especially the volunteer nature of coop boards
10 because I think by and large as with cops and fire
11 fighters and Council men the most of them do their
12 job equitably with integrity and commendable. All
13 right. But the issue here are those that don't
14 and I refuse to accept the fact there are aren't
15 any that don't and that is the point of this
16 legislation and you know quite frankly some of the
17 issues that have been raised here are red herrings
18 and I will turn it back to the Chair. And just, I
19 am sorry, go ahead.

20 CHAIRPERSON DILAN: Thank you
21 Council member Fidler and thank you all for your
22 time and for your testimony.

23 FREDERICK PETERS: Thank you.

24 CHAIRPERSON DILAN: Next we will
25 call up Mary Ann Rothman, Gregory Carlson, I am

1
2 going to add Stuart Saft to this meeting as well
3 as Burt Solomon. And if while the group is
4 exiting the chambers if they can do so in a manner
5 that would keep the proceedings flowing so that we
6 can get a chance to hear everyone.

7 So Ms. Rothman, on a personal note
8 it's good to see you again and every time I see
9 you I have yet to find a piece of legislation that
10 you approve of. I hope to sincerely get to one in
11 my next seven months as Chairman of this Committee
12 but always like seeing you and it's a running joke
13 that we have between each other.

14 MARY ANN ROTHMAN: But I testified
15 just last week in favor of something.

16 CHAIRPERSON DILAN: But it wasn't
17 in my Committee. I laughed at it.

18 MARY ANN ROTHMAN: We will work it
19 out.

20 CHAIRPERSON DILAN: I laughed at
21 it. Okay so we will allow for the group to settle
22 in and just ask if the chambers could continue to
23 stay in order and I guess we will begin with Ms.

24 MARY ANN ROTHMAN: Could we begin
25 with Mr. Brucker?

2 CHAIRPERSON DILAN: It's your
3 deference. So it's your deference. Mr. Brucker
4 want to begin he certainly can. Do I have Mr.

5 ANDREW BRUCKER: You have it, you
6 called it out.

7 CHAIRPERSON DILAN: What's your
8 name again?

9 ANDREW BRUCKER: BRUCKER.

10 CHAIRPERSON DILAN: Oh yes. So
11 that's okay. So there should 5 members. Are
12 there 5 members to this panel?

13 ANDREW BRUCKER: Yes.

14 CHAIRPERSON DILAN: Okay. So I
15 guess let's see if we can pull up one more chair
16 and you may begin sir.

17 ANDREW BRUCKER: My name is Andrew
18 Brucker and I am a practicing attorney in the City
19 of New York. I have spent my entire 35 legal
20 career involved with coops. I represent about 200
21 coops and condos in New York City and the 5
22 boroughs and I also do transactional work so I
23 represent buyers and sellers as well. I have
24 written numerous articles in the law journal.
25 Taught at least 20 classes from CLE to lawyers in

1
2 the coop area and so I think I pretty much know
3 what's going on with coops. The real issues at
4 coops. While there is no question that I and
5 every one of my clients are against discrimination
6 in housing there is actually nothing in 188 to
7 stop discrimination. In fact it's curious because
8 it starts off by saying there is no evidence to
9 believe that housing discrimination is more
10 prevalent in coops than other forms of housing.
11 Yet this legislation would inexplicitly apply
12 distinctly different rules to coop housing than to
13 rental housing for example. I would also mention
14 at this point that after hearing the first panel
15 of four people not one of their testimony seemed
16 to mention discrimination. It was only after the
17 Council people mentioned discrimination that they
18 brought it up. And I thought that this was all
19 about discrimination.

20 In any event I want to reiterate as
21 I think Council man Weprin mentioned, there exists
22 Federal, State and City laws to prohibit
23 discrimination in housing for the 15 protected
24 classes most of which he mentioned. Remedies
25 include various forums, the division of Human

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2 Rights, you can go to the Department of Housing
3 and Urban Development, New York City Commission on
4 Human Rights. You can go to Federal courts, you
5 can go to New York State courts. A victim of
6 discrimination may no even spend any money to hire
7 an attorney because they can make a compliant to
8 the appropriate agency.

9 From my personal experience this
10 system works very well. In my experience the vast
11 majority of denials by coop boards are due to
12 financial inadequacies of prospective purchases.
13 That's a very completely legitimate reason for
14 turning somebody down. Furthermore, most boards
15 make certain that any boards that any decision to
16 withhold consent apply to all laws. One of the
17 things that I do as counsel to coops many times
18 they will say to us this person is on the cusp,
19 what do you think? And it usually has to do with
20 finances. Do we set up escrows instead? Do we,
21 you know, etc. So we are talking about financial
22 issues.

23 The most powerful deterrent against
24 discrimination remains the Bayondi cases. I am
25 not going to go into great details except they

1
2 were awarded punitive damages against the coop
3 member for discrimination and then another court
4 held that the coop could not indemnify the member
5 of the board for such damages. That is an extreme
6 deterrent to discrimination.

7 Let me talk about time limits for a
8 second. Intro 188 introduces time limits on a
9 board that ignore the realities of coop governance
10 and procedures. The requirement that a notice of
11 a deficient application be provided within ten
12 days after the management receives it is
13 unrealistic. Because typically the application is
14 delivered to the management. Management checks it
15 out usually for glaring omissions. Filling in the
16 space they don't fill it in. They don't attach
17 tax returns. Then, only then does management send
18 it to the board. Considering that the board
19 members work and have family commitments it would
20 be impossible for this entire process to take ten
21 days. After all managers sometimes miss some of
22 the items that they should have caught. And now
23 it's up to the board. Everything has to be done
24 in 10 days.

25 It also ignores the fact that many

1
2 coops just don't have managing agents. Handling
3 all the tasks of management can be very intense
4 for a board and these short deadlines do not help.
5 In fact I think a strong case can be made that the
6 188 discriminates against those coops whose
7 shareholders are low-income households. This
8 coops do not have managers because they are trying
9 to save money. The board members take on these
10 tasks. However, they take on these tasks after
11 work and on weekends thus making the strict
12 deadlines nearly impossible to meet and quite
13 frankly unfair burden on volunteers.

14 Moreover legislation ignores the
15 key role of the interview process. Once an
16 applicant meets certain minimal requirements on
17 paper the next step is an interview. The
18 interview typically does not take place until
19 weeks after the review of all paperwork by the
20 review board. Very often as a result of the
21 interview, additional questions may arise and
22 additional information may be requested. Yet
23 under this legislation, a coop board may not
24 request additional information as that stage of
25 the interview has taken place already. The ten

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2 days have gone. You can't ask for additional
3 information.

4 Let me talk for a second about the
5 penalties and legal fees. The penalties imposed
6 by 188 or unwanted and excessive. One provision
7 forces a coop board to accept an otherwise
8 unacceptable applicant if certain deadlines are
9 not adhered to. There is nothing more than of a
10 penalty than ignoring a board's right to decide
11 whether to accept or reject a prospective
12 purchaser. Therefore it violates long-standing
13 law. The contract between the coop board and the
14 shareholders and I think it's unenforceable.

15 In addition the ever increasing
16 penalties of 8-1125-B for subsequent violations
17 goes in three stages I believe that makes no sense
18 at all because what happens is 10 years ago there
19 is a problem and then 3 years ago there is a
20 problem and then this year you miss a deadline by
21 2 days, you are up to now the maximum penalties
22 provided by this law and yet boards change. So
23 the board that broke one of the rules of 188, 10
24 years ago, is nowhere near the same board
25 currently. Those kinds of penalties are extremely

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2 unfair.

3 In regard to possible awards of
4 attorney fees which is included in 188, there
5 award is only to the applicant and not the
6 cooperative that may be unfairly sued. That is
7 blatantly unfair and suggests a strong bias
8 against coop boards. Usually if you are going to
9 have attorney fees it's both ways. Not here.

10 In 188 also imposes a variety of
11 penalties for a board's failure to comply with the
12 timelines or to issues necessary statements but
13 these penalties are totally unrelated to whether
14 the applicant has been approved. This an
15 applicant who has been approved and therefore
16 cannot claim discrimination may be entitled to get
17 their application fees back. This is totally
18 illogical and evidence is what appears to be a
19 punitive attitude towards coop boards.

20 Moreover, the imposition of
21 attorney's fees on a board with that reciprocal
22 right again as I said before is just unfair. I
23 think the true consequences of 188 would be to
24 discourage individuals for serving on as directors
25 of coop boards. They are unpaid volunteer

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2 positions. Their legitimate concerns would be
3 greatly increase the likelihood of litigation and
4 potential liability which may not be covered by
5 liability insurance.

6 Furthermore with unrealistic
7 deadlines and unrealistic penalties boards will
8 undoubtedly not take time to re-review those
9 applicants who may be on the cusp of approval. It
10 would just be simpler to reject them. I have seen
11 this dozens and dozens of times where boards come
12 to me and say what do you think? Well with any
13 kind of deadlines they are not going to bother.
14 They would simply be easier to reject and I can
15 guarantee you that's what you are going to see.
16 After all that the legislation indicates that the
17 board may only reasonably request additional
18 information. Reasonably. What that means is if
19 we ask for additional information for example,
20 appraisals of art work, okay, somebody could come
21 along and say that's unreasonable in light of my
22 other items on the balance sheet and we have to go
23 to court to defend what is a reasonable request
24 for additional information? What board would want
25 to take the chance for asking such additional

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2 information if they know the applicant could bring
3 an action against the board for being unreasonable
4 in their request.

5 In conclusion we believe that the
6 discrimination in housing including apartment
7 cooperatives is abhorrent. We also believe that
8 it is rare in New York City coops. This is after
9 35 years of practicing in this area. There are
10 numerous laws and mechanisms currently in place to
11 protect the public from discrimination. We feel
12 very strongly that 188 will not legitimately serve
13 to prevent discrimination but may instead create
14 more rejections by board members who feel the
15 pressure of unrealistically short deadlines that
16 is provided in 188. 188 also subjects individuals
17 who voluntarily serve in coop boards to increased
18 and potentially frivolous litigation and exposure
19 to personal liability that may not be insurable or
20 idemnifiable thereby chilling board service. To
21 the extent that the sponsors of 188 truly wish to
22 address discrimination their concerns would be
23 better served by a law that requires coops in
24 every rejection letter to have a statement of
25 purchaser rights and remedies that would set forth

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2 among other things the agencies responsible for
3 hearing discrimination complaints. Thank you very
4 much.

5 CHAIRPERSON DILAN: All right. Now
6 I want to set forward is, I know there is
7 individuals in the crowd for both sides of the
8 argument but clearly I want both sides of the
9 argument to make their case without reaction
10 negatively towards the other. If you agree with
11 the position I don't mind and I think everybody
12 should have the right to make their case on their
13 side of the position without hearing a derogatory
14 remark or comments.

15 ANDREW BRUCKER: May I ask the
16 Council. I do have to leave. My mother is in the
17 hospital. I just got an email. Could you ask
18 questions to me now if you have any questions?

19 CHAIRPERSON DILAN: Yes. I think
20 the group would have to field your questions.
21 It's just cleaner for the-

22 ANDREW BRUCKER: I think I know a
23 couple of these guys and they do a good job
24 especially your friend here.

25 CHAIRPERSON DILAN: Certainly if we

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2 need to follow up your contact information is with
3 the committee.

4 ANDREW BRUCKER: And you have my
5 statement. Thank you very much. I am sorry.

6 CHAIRPERSON DILAN: I believe Ms.
7 Rothman?

8 MARY ANN ROTHMAN: Thanks Chairman
9 Dilan and members of the Committee for this
10 opportunity.

11 CHAIRPERSON DILAN: And if you
12 could speak closer and more directly into the
13 microphone for recording purposes.

14 MARY ANN ROTHMAN: How's that? My
15 name is Mary Ann Rothman. I am the Executive
16 Director of the Council of New York Cooperatives
17 and Condominiums which is a membership
18 organization serving more than 2,200 housing
19 cooperatives and condominiums which are the homes
20 of approximately 160,000 New York families.
21 Cooperative housing has been part of our city for
22 over a hundred years and today's cooperative
23 buildings and units are as economically and
24 socially diverse as the five boroughs. We
25 strongly oppose Intro 188 which comes as no

1 surprise to the Chairman.

2
3 Coops are not only individual
4 homes, coops are communities and from their
5 inception New York housing cooperatives have the
6 right and the responsibility to learn about
7 prospective purchasers and to determine whether or
8 not to admit them. This is supported by decades
9 of case law. The vast majority of boards exercise
10 this right judiciously, efficiently and of course
11 legally. They are very well aware of the
12 disruption and dismay that this caused when a
13 prospective purchaser is rejected and they know
14 that a history of rejection clearly brands a
15 cooperatives as a place for brokers to shun and
16 devaluates the apartments in that cooperative and
17 it negatively impacts the bottom line of all
18 shareholders including the board members.

19 Intro 188 sets onerous time frames
20 and paperwork requirements for the admissions
21 process. It requires an affidavit from all board
22 members attesting the discrimination laws were not
23 violated when a prospective purchaser is rejected.
24 It imposes a one-size fits all process,
25 unreasonably dictating how self-governed homeowner

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2 communities should function. If enacted this
3 harsh legislation will discourage individuals from
4 serving on coop board and will undermine the very
5 spirit of community at the heart of cooperative
6 living. It may also lead boards to reject
7 candidates as Andrew Brucker suggested, reject
8 candidates who might otherwise be approved if more
9 time were available to resolve issues or omissions
10 in their applications. It's important to note
11 that Federal, State and City laws already prohibit
12 discrimination in cooperative admissions
13 decisions. And Mr. Weprin went through the
14 various protected categories. I am sure you all
15 know them. And the document that we prepared with
16 the Real Estate board is readily available and
17 readily circulated.

18 The preamble to Intro 188 states
19 clearly the Council has no evidence for housing
20 discrimination is more prevalent among coops than
21 any other form of housing and we object
22 strenuously to impose the unique transactional
23 requirements of Intro 188 on sales of coops.
24 Intro 188 shows great concern for the individual
25 shareholders who sell or buy units in

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2 cooperatives. My concern is with this unintended
3 consequences that this legislation will have for
4 the rest of the cooperative, the shareholders who
5 live there, who may or may not serve on the board
6 in any given time but who all want the coop to
7 succeed both financially and as a community. The
8 requirements of this legislation cast a pall on
9 housing cooperatives particularly those that are
10 self-managed with volunteer board members
11 responsible for the myriad tasks of running the
12 cooperative.

13 To conclude, as we seem finally to
14 be recovering from the worst financial crisis in
15 decade I call your attention to the indisputable
16 fact the cooperative housing has weathered this
17 crisis far better than any other form of home
18 ownership. The stability in the co-op market is
19 due in large part to the careful admissions
20 process and to boards that have acted responsibly
21 where mortgage lenders and real estate brokers
22 have not. By insuring the prospective
23 shareholders will be able to afford the
24 cooperative carrying charges and by prohibiting
25 shareholders from borrowing more than 70 or 75 or

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2 80% of the value of their units, cooperative
3 admissions procedures prevented much of the wild
4 speculation that led to devastating foreclosures
5 throughout the nation. And in so doing protected
6 the financial security of hundreds of thousands of
7 New Yorkers who make cooperative apartments their
8 homes. Cooperative housing works and works well.
9 Intro 188 is burdensome and unnecessary. It
10 should not become the law. Thank you.

11 CHAIRPERSON DILAN: Thank you. If
12 you could just introduce yourself in your own
13 voice. If you could just begin and speak directly
14 into the mike.

15 BURT SOLOMON: Sure. I am Burt
16 Solomon. I am with the law firm of Norse,
17 McLaughlin and Marcus. We are counsel to numerous
18 co-operative housing companies that own and
19 operate buildings with many thousands of
20 cooperative apartments in New York City. Along
21 with providing a full range of services to our
22 clients we act as transfer agents for many of our
23 cooperative clients handling the hundreds of
24 closings every year. We submit this statement to
25 register our objections to the Intro 188, the Fair

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2 Co-operative Procedure Law for the following
3 reasons: the bill's statement of legislative
4 findings intends asserts that there is "anecdotal
5 evidence of instances of housing discrimination"
6 but acknowledges that in fact the "City Council
7 has found no evidence to believe that housing
8 discrimination is more prevalent in cooperative
9 buildings than in any forms of housing.

10 The bill then creates onerous and
11 unrealistic guidelines for volunteer boards on the
12 basis of unsupported anecdotal evidence with the
13 real potential to devastate cooperative housing in
14 New York City. If enacted into law, Intro 188
15 will unfairly and negatively impact literally
16 thousands of cooperatives and their boards of
17 directors. The bill's requirement that all
18 directors who participated in an application's
19 reviewing decision-making process must sign a
20 certification that a rejection was reached for
21 non-discriminatory reasons is outrageous and will
22 require directors to speculate as to what other
23 directors are thinking. An impossible requirement
24 to meet.

25 Furthermore, this certification

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2 requirement will discourage volunteer directors
3 from even serving on boards for fear of exposure
4 to the civil penalties imposed by the bill which
5 may not be covered by insurance. Significantly
6 the bill is likely to result in increased
7 operating costs for cooperatives. All for no
8 reason with no evidence and without providing a
9 means for truly addressing the potential
10 discrimination.

11 The bill fails to meet its stated
12 goal of ending discrimination in the cooperative
13 apartment application process while on the other
14 hand its provisions create time tables, guidelines
15 and procedure for volunteer board members and
16 their managing agents, all of which will interfere
17 with the board management operations and which
18 will expose volunteer boards to substantial
19 penalties and fees for failure to meet unrealistic
20 and burdensome deadlines.

21 Additionally the discrimination the
22 bill purports to address is already
23 comprehensively covered by Federal, State and City
24 Laws and regulations specifically targeted and
25 better suited to address housing discrimination.

2 Intro 188's mandated deadlines
3 are unrealistic for boards which already meet only
4 meet monthly and must address financial,
5 structural, operational management and shareholder
6 quality of life matters at its meetings. The
7 strict time tables will require every board to
8 review and render a determination on apartment
9 applications at virtually each and every board
10 meeting taking away from time to address issues
11 important to the daily operations of a
12 co-operative which every director has a fiduciary
13 duty its shareholders to address.

14 Finally, the bill which provides
15 for the right to recover legal fees will encourage
16 litigation by applicants who are not subject to
17 the same risk of liability for legal fees and
18 costs if they lose as the bill imposes on
19 cooperatives, boards of directors and their
20 managing agents.

21 In conclusion, there are thousands
22 of honest, dedicated volunteer unpaid co-op
23 directors who are involved in the process of
24 reviewing hundreds of applications yearly and who
25 should not be torrid with anecdotal accusations of

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2 discrimination or with impractical and unfair
3 legislation. If any of the members of this
4 Council were to sit on a coop board and be subject
5 to the proposed legislation, they too would find
6 it impossible to comply or to the sign the
7 required certification. For the stated reasons we
8 urge the Council to reject Intro 188. Thank you
9 for your kind attention.

10 STUART SAFT: My name is Stuart
11 Saft. I am Chairman of the Council of New York
12 Cooperatives and Condominiums and I am President
13 of a Coop board. I am going to read you a two and
14 a half minute version of my testimony rather than
15 the 10-minute version I gave you in respect of
16 your time.

17 I am here today to speak about
18 Intro 188. A bill intended to solve a problem
19 that does not exist. Even the City Council admits
20 that it has found no evidence to believe that
21 housing discrimination is prevalent in co=ops and
22 the Human Rights Commission admitted in hearings
23 two years ago that they have not found any
24 significant numbers of cases of discrimination.
25 Intro 188 ignores the fact that a relative handful

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2 of board members in each coop are legally
3 responsible to their shareholders for millions of
4 dollars of decisions. Boards are composed of
5 individual's lives. The Council should be looking
6 for a way to ease their burden rather than add
7 another level of bureaucracy with which they must
8 deal.

9 This is New York City, a city with
10 60,000 lawyers. If there was housing
11 discrimination we would be knee deep in litigation
12 and the Human Rights Commission would have to give
13 out numbers like a bakery. So instead of
14 congratulating ourselves for creating a form of
15 housing that polices itself with the owners elect
16 boards and there are higher turn outs for board
17 elections than any city, state or federal election
18 we are looking at a bill that will cause even
19 fewer people who will want to serve on coop
20 boards. What this bill fails to acknowledge is
21 that admissions creates potential personal
22 liability to the members of the board. Please
23 note that I said personal liability because the
24 members of the board personally liable and their
25 personal assets are at risk if they are found to

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2 have discriminated.

3 Intro 188 is not needed because the
4 law already adequately protects buyers who feel
5 that they have been discriminated against.

6 Perhaps this is the reason why the Council has
7 found so little evidence to believe that housing
8 discrimination exists among coops. The bill fails
9 to acknowledge that buyers will lie on their
10 applications. The bill fails to acknowledge that
11 there are ten units coops and smaller which is
12 self-managed and do not have the time to jump on
13 applications immediately. The bill fails to
14 acknowledge that there are thousand units'
15 complexes where the board may get 25 or more
16 applications a month to process. The bill fails
17 to acknowledge that the members of the board are
18 legally obligated to vet every application
19 themselves and that every application has a great
20 deal of personal information that has to be kept
21 confidential. These are not things that the
22 managing agent can do. The bill fails to
23 acknowledge that no purchaser wants their personal
24 information to be maintained in the basement of
25 the building for 5 years just because the city

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2 agency wants to have it available. The bill fails
3 to acknowledge that the board cannot determine if
4 an application is complete until they meet
5 together and review it. This bill fails to
6 acknowledge that every applicant has to be
7 interviewed by the board. This bill fails to
8 acknowledge that the boards are presently
9 overwhelmed with attempting to comply with all of
10 the unfunded mandates that have been pouring out
11 of city hall for the last few years and finding
12 required funds without making their buildings
13 unaffordable. This bill fails to acknowledge that
14 the boards cannot afford to make a mistake in
15 admitting new owners because it is virtually
16 impossible to evict a troublesome new owner or one
17 that does not pay maintenance. This bill fails to
18 acknowledge that there have been fewer defaults
19 among owners of coop apartments than any other
20 form of housing in New York. This bill assumes
21 that the boards and the owners are somehow
22 involved in a grand scheme to discriminate which
23 the city of New York and its thousands of
24 administrators have been unable to figure out so
25 the solution is to create more paperwork and more

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2 of an opportunity for lawyers to sue boards for
3 missing deadlines and failing to act the right
4 way. Intro 188 is unnecessary, unworkable and
5 unfair and should be shoved back in the drawer
6 where it has been hiding for the last three years.
7 Council member Fidler is correct. The bill will
8 have a chilling effect but on competent people
9 willing to serve on coop boards. Thank you.

10 CHAIRPERSON DILAN: Thank you all.

11 I have-I'm sorry, let's finish this panel.

12 DENNIS DE PAOLO: My name is Dennis
13 De Paolo and I am the Executive Vice President of
14 the Orson Realty Corp.

15 CHAIRPERSON DILAN: I'm sorry is it
16 possible I know there is five and it's a little-
17 that's fine. Just stay there. That's fine.

18 DENNIS DE PAOLO: Mr. Gregory
19 Carlson, the Executive Director of the Federation
20 of New York Housing Cooperatives and Condominiums
21 is unavailable today but he asked me to read this
22 statement in his place. The Federation of New
23 York Housing Cooperatives and Condominiums
24 represents over 62,000 families living in housing
25 cooperatives and condominiums. We urgently

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2 opposed into 188. The Federation's membership is
3 mostly middle class families that make up the
4 backbone of New York City. This Intro is wrong in
5 many ways. It is not for the benefit of sellers
6 and purchasers. It is a benefit for the brokers
7 and salespersons. In a period where government
8 should be cutting waste and not overburdening
9 agencies with undue paper this Intro would
10 unnecessarily put an undue burden on the New York
11 City's Commission on Human Rights. Imagine
12 receiving, storing, and maintaining the
13 applications and list of requirements for more
14 than 6,000 cooperatives.

15 In addition to being the Executive
16 Director of the Federation of New York Housing
17 Cooperatives and Condominiums, I manage
18 cooperative housing. The time period is much too
19 short for management or the board to do their job
20 well. Once a purchase application is received
21 management reviews it for completeness and sends
22 it to the credit agency. The credit agency does a
23 credit background check and my case and many cases
24 home visits. This process could take up to two to
25 three weeks depending on the coordination and the

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2 availability of the potential purchaser. It is at
3 that time when the reviewer might see additional
4 information is needed. Once the application and
5 credit report go to the board. They may spot
6 information that was missed and need further
7 information.

8 The process that is set forth in
9 this Intro will only hurt the purchaser and seller
10 because a board might feel itself pressured to
11 turn someone down instead of working with the
12 potential purchaser. Requiring that board members
13 or admissions committee sign a written
14 certification for non-discriminatory practices
15 will simply mean it will be difficult if not
16 impossible to get shareholders to serve on a board
17 of directors. As mentioned above I manage a
18 co-operative. Board members are already so
19 litigation averse that I cannot get the board to
20 sign anything. The document is unnecessary also.
21 Potential purchasers already have the right to go
22 to the Commission of Human Rights to challenge a
23 rejection and that's where the process should
24 stay.

25 This Intro may have other financial

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2 consequences. A board to lessen its liability may
3 remove itself from the process and turn it over to
4 their attorney at a cost. Refunding application
5 fees while cooperatives spends monies on doing
6 their investigations is another cost factor. The
7 keeping of records for 5 years may be another
8 extensive cost factor as well as a privacy issue.
9 The vetting of a renter in Federal, State and City
10 supervised housing is very strict but does not
11 come close to the level of unnecessary process
12 that this Intro brings. No other form of home
13 ownership is subject to this process.

14 Finally, please remember that these
15 are volunteer board members who give their time to
16 their cooperative community and are concerned who
17 is in their community. Please do not burden the
18 cooperative boards with unnecessary processes as
19 in this Intro 188. Please vote no. Respectfully
20 submitted. Gregory J. Carlson, Executive
21 Director, Federation of the New York Housing
22 Cooperatives and Condominiums.

23 CHAIRPERSON DILAN: Thank you and I
24 believe Council member Brewer, I will start off
25 just generally. Just help me out. I am the

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2 Chairperson. I am actually going through an
3 application for myself not for this instance but
4 for a regular home and so I know a little bit
5 about that process generally. Don't know much
6 about the process that your members go through
7 Mary Ann specifically. Just as quickly as you can
8 give me the broad strokes and include there what
9 you see as common reasons and appropriate reasons
10 for denials and even the time frame that it takes
11 for your in general for the applications that you
12 do approve. Include in your answer how long it
13 often takes for individuals who apply to make, to
14 get the mortgage commitment and how long that
15 commitment is good for as well as and I am sorry,
16 as well as who makes the decision. Is it board or
17 the managing agent and if you do it at monthly
18 meetings? Just kind of frame that for me.

19 MARY ANN ROTHMAN: Wow.

20 CHAIRPERSON DILAN: And if you
21 need- I will jump back in if you miss.

22 MARY ANN ROTHMAN: I need help from
23 colleagues. Let's see. Let's start at the
24 beginning. An awful to of prospective purchasers
25 will be prequalified by a bank and that makes

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things move more quickly.

CHAIRPERSON DILAN: And that would be standard of hopefully across all forms of housing.

MARY ANN ROTHMAN: It's hard to know but it certainly is. I mean I bet the brokers will attest to that.

CHAIRPERSON DILAN: Well, that's my opinion. Just my opinion.

MARY ANN ROTHMAN: If people will want to buy, they talk to a bank and try to get it prequalified. They, buyer and seller have agreed on a purchase price then the buyer does have to go back to the lender that has pre-approved them and iron out the details but at the same time they can be working on putting their application together. Most buildings have an application form that asks about your life, a little bit about your background. Who will be living in the apartment in the unit with you. Most applications also ask for a couple of years of income taxes. Ask for a net worth statement or-

CHAIRPERSON DILAN: This is kind of not what I am looking for. I would imagine that

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2 that's common in all types of housing. I wanted
3 from the perspective-

4 MARY ANN ROTHMAN: Okay. So the
5 coop gets that package.

6 CHAIRPERSON DILAN: From your
7 perspective. Not from the overall perspective.

8 MARY ANN ROTHMAN: I would assume
9 that some 25% of coops don't have managing agents
10 or if they have managing agents it's not a full
11 service managing agent that they vet the
12 application. Larger, higher end buildings are
13 more fortunate and will have a managing agent that
14 will go through and make sure that the items asked
15 for are in the package. And as we have said to
16 Mr. Fidler at that point, management probably
17 could say all the items requested have been given
18 to us but as we process your application there may
19 be more information sought.

20 CHAIRPERSON DILAN: All right for
21 simplicity to help me just for this part. The
22 decision maker ultimately is the board. Are there
23 ever other instances where the managing agent
24 makes the decision for the board? Is that? So
25 it's always the-

2 MARY ANN ROTHMAN: There are
3 decisions of every stripe but it is the
4 responsibility of the board to make these
5 decisions.

6 CHAIRPERSON DILAN: All right. So
7 some boards may allow their managing agent to make
8 that decision?

9 MARY ANN ROTHMAN: Correct.

10 MALE VOICE: The managing agent
11 will simply look at a checklist and make sure that
12 everything on the checklist is there. Now those
13 items might be there but they might be inadequate
14 in the opinion of the board.

15 CHAIRPERSON DILAN: Just for my
16 purposes we have established that it's the board
17 that makes the actual decision. Okay. Go ahead,
18 go ahead.

19 MARY ANN ROTHMAN: Lots of
20 buildings will have an admissions committee.
21 Sometimes committees compose of the whole board
22 sometimes composed of other individuals. The
23 bigger the building the more often the bigger the
24 coop the more applicants you are likely to have so
25 different processes can take place. And

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 2 admissions committee whether it's board members or
 3 not would review the application, would try to
 4 resolve questions. Obviously first and foremost
 5 is the finances and the individual's ability to
 6 pay. When there are borderline cases, a young
 7 couple starting out but clearly at the beginnings
 8 of their careers likely to be able to do okay, you
 9 may talk to them about restructuring the loan,
 10 borrowing less money so that they can afford,
 11 getting a present from mom and dad. Mom and Dad
 12 putting money in escrow, whatever it is you work-
 13 you don't do anything until you are sure the
 14 financials can work.

15 CHAIRPERSON DILAN: I am allowed to
 16 say this but mom and dad I hope you are listening.
 17 Go ahead. That was a personal-

18 MARY ANN ROTHMAN: So first and
 19 foremost, financial, then truly a careful review
 20 of the business references and the personal
 21 references. When somebody's personal references
 22 come from no one but the people that they pay,
 23 their lawyer or their accountant and their
 24 babysitter, you kind of wonder, don't they have
 25 any friends. You can try hard to look beyond

1
2 that. You are part of a community. You want
3 people who will understand what it means to be in
4 a co-op, who are potential board members committee
5 members, etc.

6 CHAIRPERSON DILAN: From a personal
7 perspective that may exclude somebody like me but
8 I think I have no friends and it's job related but
9 that's neither here nor there so help me a second
10 with just to make this simpler and go quicker.
11 Just highlight for me first reasons, common
12 reasons for disapproval and-

13 MARY ANN ROTHMAN: Most common
14 reason will be that the finances don't look as if
15 these people could live in the building and eat
16 anything but peanut butter for the next 5 years.

17 CHAIRPERSON DILAN: Okay. And what
18 are some other reason. Maybe give me the top 4 or
19 5.

20 MARY ANN ROTHMAN: Bad performance
21 and if they were extremely wishy washy lenders you
22 would call the references, you would try to, tell
23 me more about this person but if it seems like a
24 person who does have no friends and who might not
25 be a comfortable person to integrate into your

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2 community you might be very hesitant. You might
3 try to delve further. You might try schedule and
4 interview and try to bring them out and find out
5 more about them.

6 MALE VOICE: Could I assist my
7 colleague in answering this question?

8 CHAIRPERSON DILAN: If she allowed
9 it I have no problem with it.

10 MARY ANN ROTHMAN: Sure.

11 MALE VOICE: Mary Ann. I represent
12 about 80 coops in the city.

13 CHAIRPERSON DILAN: Try to stick
14 straight to the answer.

15 MALE VOICE: Right.

16 CHAIRPERSON DILAN: So we can get
17 to everybody.

18 MALE VOICE: And I limit the
19 membership of the admissions committee to members
20 of the board for two reasons. First in order to
21 limit their potential liability and second of all
22 to make certain there is a maintenance of
23 confidentiality. And that's critically important
24 because of first the risk of identity theft and
25 second you really don't want this information to

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2 get out in the public. As far as reasons for
3 rejections. Mary Ann is correct. The largest
4 reason is that someone cannot afford the
5 apartment. Now some people feel they can finance
6 as much as they can-

7 CHAIRPERSON DILAN: All right.
8 Just been answered. Maybe give me something new
9 to that regard.

10 MALE VOICE: Certainly. I have
11 seen an application package with a reference
12 letter from George Stephanopoulos. The only
13 problem was the name was misspelled. You would
14 think George knows how to spell his name. I have
15 had people in interviews contradict the
16 application that they gave a couple of weeks
17 before as to what they do, how long they are
18 planning on staying in that job.

19 CHAIRPERSON DILAN: So lying on
20 their application being one of the top 5? Give me
21 like the top 5.

22 MALE VOICE: Lying on the
23 application is a huge numbers.

24 CHAIRPERSON DILAN: Well you
25 deserve to get rejected if you lie on the

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application.

MALE VOICE: Especially if you
can't remember the lie to the interview.

CHAIRPERSON DILAN: All right.
What else?

PAMELA LIEBERMAN: I'd argue for
time frames too.

CHAIRPERSON DILAN: I guess that's
established. Let's move on a little bit now the
bill calls for 45-day time frame. Most boards-

MALE VOICE: Before we get to the
45-day time frame. There is a problem with the
10-day time frame. The problem with the 10-day
time frame is that within 10 days the board has to
advise the purchaser as to whether or not the
application is complete. The problem is the only
way that the board can make that determination is
by meeting and going through the application
together.

CHAIRPERSON DILAN: Okay. So let
me just stop there for a second. That sounds
fair. How often do, this would have to happen
during the board's monthly meeting process? Do
most boards meet on a monthly basis?

2 MALE VOICE: Most boards meet on a
3 monthly basis except during the summer. And
4 during those monthly meetings they also have to
5 take up local law 11 reducing the energy output of
6 the building. Staff issues.

7 CHAIRPERSON DILAN: Just broadly.

8 MALE VOICE: Right, and admissions.

9 CHAIRPERSON DILAN: All right so,
10 10 days I could see how that's a challenge on the
11 application so-

12 MALE VOICE: It doesn't work in the
13 small buildings. It doesn't work in the big
14 buildings.

15 CHAIRPERSON DILAN: Okay. I got
16 it. I just want to establish that. And I would
17 imagine that would be the same for the 45 day
18 process if buildings meet on a monthly basis so
19 let's just say theoretically throwing this out, I
20 have no position on the legislation. I don't
21 think I have made that clear. I have no position.

22 MALE VOICE: Let's talk about the
23 45 days for a minute. Because what frequently
24 happens is the application comes in. It goes to
25 the board and something is missing. It's not

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2 complete. So the clock certainly doesn't start to
3 run when the broker first submits the application
4 and of course the legislation says that when it's
5 complete but you don't know, as I have indicated
6 you don't know it's complete until you review it.
7 Then the board meets on a monthly basis. They go
8 through the application and they may have a half a
9 dozen questions. They may have a question about
10 how long somebody's had a job or how big a
11 mortgage they want to get. But the biggest
12 question is how much cash flow will they have
13 after they pay their debt service on their
14 mortgage and their maintenance on the apartment?
15 And that is a critically important and also that
16 they are not plowing in 100% of their assets into
17 purchasing this apartment. That is a critically
18 important quality of life issue because if you
19 have people move into the building that really can
20 not afford to be there, then when the building has
21 to spend a million dollars or two million dollars
22 on local law 11 or has to replace the roof or put
23 in a new heating system, they are not going to be
24 able to pay their share of it and the burden then
25 falls on all of the other unit owners. So it's

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2 not just a question of can they afford this
3 apartment but can they afford to live in this
4 building going forward?

5 CHAIRPERSON DILAN: I think what I
6 am going to do. Kind of the broad strokes of what
7 I needed was answered there so I am going to stop
8 there and allow other members to ask a question
9 for the purposes of moving on. But I think it's
10 clear that if one meets on a monthly basis in
11 fairness a 45 or 55 day time limit is not 60 days
12 so I could see how that could be a challenge. So
13 I will leave that there. We will go to Council
14 member Brewer and then after that the list is, and
15 then we will go to Council member Fidler.

16 COUNCIL MEMBER BREWER: Thank you
17 very much. One of my questions is, from the first
18 speaker, he said something about very interesting
19 passing which is sometimes and this would get to
20 the issue of trying to get even a more diverse
21 perhaps group of cooperators is sometimes you just
22 need more time to make adjustments. And that
23 might be a situation where you want to get
24 somebody in who may not have everything that you
25 are looking for in terms of finances but really

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2 fits into the building itself so I just want to
3 know if you could elaborate on that because that
4 seems to me to kind of run contrary to the bill in
5 the sense that you do need more time in order to
6 have a more diverse building in some cases.

7 MALE VOICE: That's absolutely true
8 an what we have seen is that boards after they
9 review the application and like the purchasers and
10 would like to admit them except for this financial
11 situation so they are looking for either several
12 months of maintenance and escrow or a guaranteed
13 from someone and what happens then is sort of a
14 dance as to how to get the buyer to agree to
15 provide additional either guarantees or escrows.
16 It's certainly not intended to discriminate
17 because if the board wanted to discriminate they
18 wouldn't say could you get us a guarantee for the
19 maintenance or could you put up 4 months or 5
20 months for the maintenance. And of course the
21 reason for this as I indicated if somebody fails
22 to pay their maintenance, the burden falls on
23 everybody else. It's not the landlord in
24 Scarsdale who is going to make a little less
25 money.

2 So the problem is the board has its
3 discussion the second month and then they have to
4 advise the buyer's broker to advise the seller's
5 broker that here's what the issue is and we need
6 some additional support. And you are absolutely
7 right. Boards do want apartments to sell and they
8 do want apartments to sell at a reasonable price.
9 So that the last thing in the world they want to
10 do is allow a sale to fall through for no reason
11 at all.

12 COUNCIL MEMBER BREWER: And just
13 explain to me more about this application fee.
14 How does it work? Does it get returned? Again,
15 time is always of the essence.

16 MALE VOICE: Well, the application
17 fee does not usually go to the board. The
18 application fee usually goes to the managing agent
19 if there is a managing agent for processing the
20 application, sending out credit reports, sending
21 out for Pinkington reports and whatever else there
22 is. The boards as you know are volunteers and
23 they process this material as they get all of the
24 material so the fees usually go to the managing
25 agent.

2 COUNCIL MEMBER BREWER: My other
3 question would be I mean with all due respect to
4 the Commission on Human Rights I think they should
5 be doing more when their indication came from the
6 Mayor's office about 22 filings. I think there
7 are more but I have never heard or maybe I am
8 wrong that they do any testing, that they do any
9 outreach, that they do anything proactive, and to
10 me that's where they should be going and not
11 putting the burden necessarily on the volunteers
12 who are on the coops. And I think to be honest
13 with you as government we are not doing enough.
14 And I think that's the way to go if we are going
15 to do some kind issues regarding discrimination.

16 MALE VOICE: Thank you.

17 COUNCIL MEMBER BREWER: My final
18 question is, how do you, I know Mary Ann Rothman's
19 wonderful conference, but how do you discuss this
20 issue of making sure that the cooperators do know
21 the laws. It is my experience that they do know
22 the laws and they do understand the different
23 classifications and so on. But how do you
24 describe that? How do you set out that
25 information? How do you get that to be clear to

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2 the cooperators?

3 MALE VOICE: In a number of
4 different ways. First of all the Council of New
5 York Cooperatives holds regular seminars
6 throughout the year as well as the all day
7 conference in November in which we have
8 educational, 75 educational seminars and every
9 aspect of operating the building including
10 admissions. In addition, I know I do, and I
11 believe the other lawyers who represent coop
12 boards regularly send out to our clients all the
13 decisions that come along, all the issues that
14 arise. This issue of discrimination has been fore
15 front for all of us ever since the Bayondi
16 decision. And we are on top of it because we too
17 are very worried that we don't want the boards to
18 accidentally do something that could later be
19 considered discriminatory when in fact that was
20 not their intention. And for that matter one of
21 the problems I have with the way the bill is
22 presently written is I don't know how a board
23 member could sign a certification indicating what
24 the mental state of another board member is.
25 Okay. It doesn't say that I didn't discriminate.

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2 You want me and every other board member to sign a
3 statement saying that everybody else didn't
4 discriminate. Well, I don't know how to do that?
5 And I also know that that is going to be a subject
6 of a great deal of litigation. I don't know
7 anything at all about Suffolk County. I live in
8 New York. I have always lived in New York but I
9 can't believe that Suffolk County has the kind of
10 high-rise buildings that we have with 1,000 people
11 living in them. They probably have garden
12 apartment complexes which is very different than
13 the way we are sort of packed in like sardines.

14 CHAIRPERSON DILAN: Okay and before
15 we get to Council member Fidler. I am sorry.
16 Well you know what, in fairness we will go to
17 Council member Fidler and then I will jump back in
18 with my question. Council member Fidler followed
19 by me for a brief one and then Council member
20 Lander.

21 COUNCIL MEMBER FIDLER: [off mic]
22 Being prequalified for a loan is like being a
23 little bit pregnant. You either are or you aren't
24 and it's we all understand that to be a marketing
25 term for we are not going to reject you out of

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2 hand. Come bank with us. That's really what it
3 is. I think everybody knows that.

4 Notwithstanding our difference of opinion, it's
5 good to see most of you again. I met with most of
6 you to discuss this issue. I am particularly
7 sorry that Mr. Brucker had to leave especially for
8 the reason he stated. Because quite frankly some
9 of the points that he made were what I was
10 referring to at the beginning by saying certain
11 technical and practical changes to this bill need
12 to be made to make it work for just one example,
13 the issue of reciprocity of legal fees. I mean,
14 absolutely correct. 100% correct. What's good
15 for the goose is good for the gander. And that's
16 got to be changed. Now, I am looking now here
17 because I am a little stunned that the argument
18 about having to read into the mental state of the
19 other coop board members and perhaps the language
20 in the certification is not as clear as it should
21 be, I don't think it was intended for you to read
22 into people's minds. But frankly was intended for
23 overt evidence of discrimination. I'm not going
24 to allow another Jew into this building. Okay.
25 Well, you can't. I'm sorry I am not going to sign

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2 this certification because I had a fellow board
3 member who openly, clearly indicated that they're
4 voting based upon an unlawful discriminatory act.
5 And perhaps that will chill that effect in the
6 future. So your point on that you know I think is
7 heard and that language needs to be clarified. No
8 one is expecting board members to be clairvoyant
9 and I just want to say one other thing before I
10 ask my question. You know I am a little tired of
11 hearing from this panel that the Council bill says
12 there is no evidence of discrimination. Read the
13 entire sentence. There is no evidence that there
14 is more discrimination in cooperative housing than
15 other forms of housing. No other forms of housing
16 has this process for us to be able to try to
17 regulate. I can't do this in home ownership. I
18 can't do this on condo boards because condo boards
19 and homeowners don't have boards by which they are
20 making a decision whether to accept someone to
21 their community. So there is a difference. And
22 quite frankly to the extent to this problem might
23 exist in other forms of housing maybe we ought to
24 do some legislation there if it's possible. But
25 this legislation is not a pertinent to that. It's

1 not relevant to that. It's not pertinent.

2 So you know Ms. Rothman you were
3 the first one to mention it, that you know it's
4 very very significant and important to a coop
5 board to make sure that an applicant can not only
6 afford the apartment but afford to stay in that
7 apartment. That they are economically
8 responsible. Can you find the provision in Intro
9 188 that takes that power away from coop boards?

10 [off mic]

11 COUNCIL MEMBER FIDLER: Well you
12 both mentioned it. You said, you were talking to
13 Mr. Chairman Dilan but whatever, anyone can answer
14 the question. Did anyone find that provision in
15 the bill?

16 CHAIRPERSON DILAN: [off mic] In
17 response to my question.

18 COUNCIL MEMBER FIDLER: I
19 understand.

20 MARY ANN ROTHMAN: I wasn't arguing
21 that this legislation interferes in any way. I
22 was pointing out that a major deliberation is
23 financial and since you give me the opportunity I
24 will mention one thing that I should have
25

1 mentioned in my testimony. The smaller the
2 building the more serious it is that the
3 admissions process go well because there are so
4 few partners in running the building and providing
5 the financial wherewithal.
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7 COUNCIL MEMBER FIDLER: And so I
8 guess the point being that that is the single most
9 important thing to a coop in making a
10 determination. This bill does not affect it in
11 the least. That's my point. And second-

12 MALE VOICE: Excuse me, Council
13 member. It does affect it.

14 COUNCIL MEMBER FIDLER: How so?

15 MALE VOICE: It affects it because
16 when you are requiring boards to give letters and
17 make certifications you are opening the door for a
18 lot more litigation. And we have more litigation
19 in this city than in the coop housing market than
20 we really need. And if there is anything that we
21 would look to the Council for, is a way of
22 reducing the kind of litigation that we're facing
23 and now what's going to wind up happening is that
24 every rejection is going to be followed with a
25 lawsuit.

2 COUNCIL MEMBER FIDLER: Well, the
3 fact of the matter is that as was pointed out
4 earlier is that a similar legislation was passed
5 in Suffolk County. I am going to submit to the
6 Cahir to put into the record the testimony of two
7 members in the Suffolk County legislation.

8 CHAIRPERSON DILAN: We actually
9 have it. And it will be submitted.

10 COUNCIL MEMBER FIDLER: That there
11 has been no litigation in Suffolk County since the
12 legislation was passed. So I am a lawyer. I am
13 afraid of lawyers too. I mean the fact that they
14 live in garden apartment coops as opposed to high-
15 rise coops I don't really see the distinction.
16 It's a distinction without a difference.

17 MALE VOICE: With all due respect,
18 it's a very significant distinction. When you
19 live in a building that's separate and apart from
20 your next-door neighbor it's very different than
21 when you live within a voice away from the person
22 who lives above you, beneath you, on the sides of
23 you. When you have people roller-skating in the
24 apartment above you.

25 COUNCIL MEMBER FIDLER: Where is

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2 the provision that says you can't have someone if
3 they are going to roller skate.

4 MALE VOICE: What I'm saying is
5 that New York City is very different than Suffolk
6 County. I give a lecture each year on dealing
7 with difficult residents and these quality of life
8 issues are a major factor in people's lives in New
9 York because there's so little that the boards can
10 do about it. Let me just finish. So it's
11 essential that the boards make the correct
12 decisions.

13 CHAIRPERSON DILAN: Sir, I have to
14 bring this back to Council member Fidler. Council
15 member Fidler has the floor. I think we have
16 established already that financial reasons are not
17 affected by this bill. That boards have the right
18 to reject for financial and quality of life
19 reasons. I think that's established.

20 COUNCIL MEMBER FIDLER: I don't see
21 how it relates to, how the unit, the corporation
22 is laid out, how that affects whether or not there
23 is unlawful discrimination or not.

24 CHAIRPERSON DILAN: And in
25 fairness Suffolk County is a guide. We recognize

2 that New York is different from Suffolk County and
3 in my mind what Suffolk County did or did not do
4 is irrelevant to me. It's just there as a guide.
5 Council member Fidler.

6 COUNCIL MEMBER FIDLER: So let me,
7 every member of this panel is a person of
8 impeccable integrity. I am almost not surprised
9 that you would know of few if any instances of
10 unlawful discrimination because I can't imagine
11 someone admitted it to one of you given your
12 reputation. But you have all had lengthy
13 experience in the field of coops. You have all
14 testified that to some degree unlawful
15 discrimination you find to be abhorrent. Can any
16 of you tell me about a complaint that any of you
17 have filed with the Human Rights Commission?
18 [no response] None of you. Is it because you
19 don't know of any or because the Human Rights
20 Commission process is kind of problematic.

21 MALE VOICE: We represent boards.
22 Boards are not likely to file Human Rights
23 complaints against the purchaser.

24 COUNCIL MEMBER FIDLER: Do you
25 don't get a little righteous indignation if one of

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2 the boards that you represent clearly is
3 discriminating. That's never happened, right?

4 MALE VOICE: Well, I can tell you
5 that in the 35 years that I have been practicing.
6 I don't believe I have ever had a discrimination
7 complaint proceed against the board that I am
8 representing. Now maybe it's aberrational but
9 that's what my experience is.

10 COUNCIL MEMBER FIDLER: Well, maybe
11 you're just a very good lawyer. I don't know.

12 MALE VOICE: No better than anybody
13 else.

14 COUNCIL MEMBER FIDLER: I don't
15 know. Just a humble country lawyer. I get it.
16 One other topic. Mr. Bricker actually brought up
17 the Bayondi decision. One you mentioned it as
18 well. And Mr. Brucker characterized it as perhaps
19 the most striking evidence that board members
20 could be held personally liable and therefore the
21 bill is unnecessary. Could you tell me when the
22 Bayondi decision was made?

23 MALE VOICE: I would guess it was
24 about 8 years ago and I will say that the board
25 president was fined \$250,000 as a result of that

2 decision. The other members of the board, \$25,000
3 a piece.

4 COUNCIL MEMBER FIDLER: Could you
5 know describe for me the exodus of membership of
6 members of the boards and directors of co=ops
7 immediately following the Bayondi decision?

8 MALE VOICE: You mean how many
9 board members left and=

10 COUNCIL MEMBER FIDLER: I am
11 talking about the City of New York. I mean this
12 is the most draconian decision that could possibly
13 happen. According to Mr. Brucker it makes the
14 bill unnecessary and yet many of you have
15 testified that it's going to be impossible to get
16 people to serve on boards as a result. After the
17 Bayondi session are there boards without members.

18 MALE VOICE: I will answer that
19 question. And the answer is that there was not a
20 great exodus of board members from boards after
21 Bayondi because Bayondi was an aberration. Board
22 members do not sit around and say the husband is
23 on one racial group the wife is another and it
24 wasn't even on a purchase application. It was on
25 a sublease application. So it makes no sense

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2 whatsoever. So board members didn't leave the
3 board at that point in time because the board
4 didn't feel, at the boards didn't feel that I
5 represent and I'm sure my colleagues had the same
6 experience that they would allow anything like
7 that to happen. We just don't sit back and advise
8 boards and basically say yeah go ahead and
9 discriminate because we have to pay our kid's
10 tuition so it will generate a big fee. We all,
11 every single one of us who practices in this area,
12 those who have spoken already and those who
13 haven't spoken feel a paternalism towards the
14 boards we represent going out of our way to keep
15 them out of trouble.

16 COUNCIL MEMBER FIDLER: I have
17 absolutely no doubt of that. My point is that
18 should this legislation pass, you will have the
19 same paternal feeling towards those boards and
20 have the same regard for keeping them out of
21 trouble. But if the intention of the
22 certification provision is to make sure that
23 people do not have discussions by saying this is
24 an intermarriage. We don't want that here.
25 That's precisely what that certification goes to.

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So I don't really see the difference.

MALE VOICE: With all due respect, the difference is that under this piece of legislation if the board doesn't act by a specific day which they may not be able to act for good reason.

COUNCIL MEMBER FIDLER: If a provision.

MALE VOICE: Let me finish, please. If the board does not act by a specific day. If the buyer tries to play the system and I think we all know there are plenty of people out there who would be more than happy to play the system so that the board misses the deadline there is going to be litigation brought against the members of the board for not meeting every deadline. This is much broader than the Bayondi situation.

CHAIRPERSON DILAN: Council member Fidler what I would ask is this is definitely an important point but just in deference to time if you could move one to another topic which was what I was going to ask.

COUNCIL MEMBER FIDLER: That is the time limits and again I acknowledge that the time

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2 limits are imperfect as written and that one size
3 doesn't necessarily fit all. All right. But I
4 will say that the two provisions of this bill are
5 very different in terms of some of the answers we
6 have gotten. Mr. Brucker mentioned the issue of
7 the boards that have managing agents and the
8 boards that don't. I am going to ask you to
9 hypothetical with me a horrible thing that we are
10 going to pass this bill. Okay. Would you believe
11 that it would make sense for the time lines to be
12 different for boards that are a) either small co-
13 ops or b) do not have managing agents engaged at
14 the time of the application.

15 MALE VOICE: I think that makes
16 sense but I also have to point something else out.
17 There are large complexes particularly in Brooklyn
18 and Queens that have multiple thousands of units
19 that get 25, 35, 40 applications a month. They
20 could spend all of their time just dealing with
21 those applications. You are right. One size
22 doesn't fit all but the problem is just as big
23 among the very large complexes as it is among the
24 very small ones. And that's the problem. The
25 problem is that the system has evolved on its own

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2 and created a very vibrant housing industry which
3 grew out of a lot of odd things happening in New
4 York because we have coops and the rest of the
5 country to a larger extent does not have. But
6 because those coops range from 4 unit coops to 15.
7 Coop City in the Bronx, 15,000 units, 50,000
8 people live there.

9 COUNCIL MEMBER FIDLER: In the
10 interest of brevity then let me ask you will you
11 also then on the flip side of the question because
12 it sounds like you answered yes on the first part.

13 MALE VOICE: Yes I did.

14 COUNCIL MEMBER FIDLER: For larger
15 coops that perhaps receive a certain volume of
16 applications per month that they have a different
17 standard as well.

18 MALE VOICE: Yes.

19 COUNCIL MEMBER FIDLER: Okay.

20 Thank you.

21 CHAIRPERSON DILAN: Thank you
22 Council Member Fidler. What I want to get to is
23 just a general question as it relates to this and
24 all types of applications. I think my position is
25 yes, I do care about discrimination not only in

1 this type of housing but all types of housing.
 2 You know I said at the outset that there was
 3 another piece of legislation that dealt with
 4 discrimination more directly and I take
 5 responsibility for it not being on the calendar
 6 here today. I have said that to Council member
 7 Lander. With that being said I have to stick with
 8 the agenda item that's before us today because I
 9 always ask my colleagues to do that and they
 10 usually do. As a matter of just general fairness,
 11 whether it be a coop application, a regular 1, 2
 12 family home application. A condo application, do
 13 you feel that any one applies for an application
 14 deserves and up or down answer, either yes or no,
 15 as a matter of general fairness do you believe
 16 that that should happen?

18 MALE VOICE: The question being up
 19 or down, yes or no, absolutely. But that's not
 20 what Council man Lander's bill does.

21 CHAIREPERSON DILAN: No, no, no.
 22 It doesn't.

23 MALE VOICE: Yes. I believe every
 24 applicant deserves an answer.

25 CHAIRPERSON DILAN: An up or down

2 answer.

3 COUNCIL MEMBER LANDER: I agree but
4 an answer after the application is complete.
5 Oftentimes it's a long time. [off mic]

6 CHAIRPERSON DILAN: In most case
7 and in general cases, in most cases I would
8 imagine that if an application is never completed
9 it gets thrown out and there's your answer and if
10 the applicant doesn't take the initiative to
11 complete it then they deserve to get it thrown
12 out. But I imagine that most people complete the
13 application at some point get a yes or no answer
14 on their application and that happens I would
15 imagine in most types of housing. It may or may
16 not I may be corrected later on but I just want to
17 get that answer for the record.

18 [off mic]

19 CHAIRPERSON DILAN: Okay. Council
20 member Brewer. It was answered. Are there any
21 more questions for this panel. If not, I would
22 like to thank you for your time and for your
23 testimony.

24 Okay. So next we have Mike Kelly,
25 Duncan McKenzie, Barbara Ford, Julie Hung, and

1 Eliza Rodriguez will also be joining this panel.
2
3 Thumb, thumb, I'm sorry I thought it was Julie T.
4 Hung, I'm sorry. Julie Thumb. Okay and they will
5 be followed by, the next panel will be Amanda
6 Katz, Larry Simms, Craig Gurion, and Geoffrey
7 Massel. That will be the next panel. If I could
8 ask the chambers to come to order so we could
9 being listening to their testimony. I am sorry, I
10 forgot. I failed to ask of the last panel, Ms.
11 Rothman if you have written testimony. We didn't
12 get it so if you could get it to the Sargent at
13 Arms so we could have it. And if any of the
14 members of the panel have written testimony you
15 are not required but if you do if you can give it
16 to the Sargent that would be great. If not you
17 could just begin in any order that you'd like and
18 just state for the record so we can begin.

19 JULIE THUMB: I am going to speak
20 first. I have an appraisal in Brooklyn at 5:00.
21 So I must go. My name is Julie Thumb and I am a
22 licensed realtor and Associate Real Estate Broker
23 with ReMax Metro in Brooklyn. I am also the
24 President of the Women's Council of Realtors for
25 the borough of Brooklyn the second time around.

1
2 And I am also on the grievance committee for the
3 Brooklyn Board of Realtors. Okay. It is the
4 obligation of any good real estate person to
5 prequalify to speak to at great length any buyer
6 who is going to buy any piece of property
7 including a coop. If you do your due diligence up
8 front you know that you are bringing a qualified
9 buyer to whatever it is that they are going to
10 buy. So by the time you get to the application
11 process and you have sat down with your customer
12 or your client and you reviewed the application at
13 great length which is really your obligation to do
14 so for on behalf of the seller and buyer as well
15 as the coop board. Once you have done that seen
16 that all the i's are dotted and all the t's are
17 crossed and you have done the application with
18 them. You have know they are financially solid
19 and they've obtained a mortgage commitment by that
20 point because most coop boards will not interview
21 unless there is a commitment letter attached
22 especially today because it is so difficult to get
23 a mortgage. You know that the banks are not
24 arbitrarily going to loan money to a prospective
25 purchaser so you pretty much know that that buyer

1
2 better be qualified to buy. To the coop board you
3 know this is going to be someone monetarily who is
4 going to be capable. So we review the application
5 to the best of our ability. We give it to the
6 managing agent in most cases a managing agent and
7 in turn will do what they need to do. All the
8 items on the checklist are there. And then they
9 will in turn forward it on to the coop board which
10 generally I find takes you know sometimes up to a
11 couple of weeks. So we understand that.

12 The problem is and I have this
13 particular, specific instance right now trying to
14 sell an apartment for the second time and it's
15 taken a year. Is that my first buyers who are
16 very qualified. They were wonderful. Everything
17 was fine with them. They turned in their
18 application to the managing agent and then in turn
19 the managing agent turned it over to the coop
20 board. The coop board did not review the
21 application until I don't even know how, when, but
22 it took almost three months that it sat with the
23 coop board only to be rejected ultimately without
24 an interview. So I am not up here to talk about
25 discrimination. I'm asking that what is it that a

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2 ci-op board can deny an applicant without an
3 interview. It should be mandatory that the buyer
4 be granted and interview. I mean that's no way
5 around it from what I can see unless financially
6 their application is really bad and there is no
7 way that they are even going to get to an
8 interview. We understand that. But once you have
9 done your due diligence and you have applied to
10 the board you are pretty much knowing that they
11 are good and the managing agent is a buffer for
12 that too. Because the managing agent is the in
13 between party. Once they get the application and
14 they review it they can already tell whether or
15 not the person is going to be an issue as far as
16 from a monetary aspect. So if there is an issue
17 they will stop it right then and there. Then it
18 goes to the board. In my humble opinion and I
19 have been doing this for 26 years, and selling
20 coops is over 50% of my business, I can tell you
21 that the applicant's going to be qualified once it
22 gets past the managing agent. So my issue is it
23 has to be interview and 45 days is not an
24 unreasonable time to ask a coop board to respond.
25 That is a month and a half. That is not

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2 unreasonable and I am speaking from experience
3 because my husband was president of our board for
4 12 years, has a full time job at the Bank of New
5 York Mellon and interviewed applicants regularly
6 along with the rest of the board members and never
7 had an issue. And there was no time issue and
8 there was a building with 60 units. Applicants
9 came in as they did and they reviewed, interview
10 and then either yes or no. So this business of 45
11 days not being enough time, I just don't
12 understand it. Thank you for your time.

13 DUNCAN MCKENZIE: Good afternoon.

14 My name is Duncan McKenzie. I am the Chief
15 Executive Officer for the New York State
16 Association of Realtors. We represent about
17 46,000 agents and brokers across the state and
18 about 9,000 here in the city. With me is Barbara
19 Ford who is going to present our testimony. I did
20 want to make one observation though. There seems
21 to be a presumption that the mere existence of
22 comprehensive anti-discrimination laws is somehow
23 a cure unto itself. I believe that we have
24 comprehensive posting of the speed limits and I do
25 believe that people are still speeding so I think

1
2 this kind of idea that just because the anti-
3 discrimination laws exist that doesn't necessarily
4 negate the fact that there might be issues out
5 there that are very significant. So with that I
6 will pass it over to Barbara.

7 BARBARA FORD: Thank you Duncan.

8 Good afternoon, Council members, committee
9 members. I am a working broker and realtor. My
10 brokerage office is in Floral Park. I do sell
11 properties and list properties in Eastern Queens
12 and in Western Nassau County. I am also a
13 practicing attorney specializing in real estate
14 transactions in civil litigation. I have been
15 recognized in court and Nassau County as an expert
16 in the marketing of residential cooperative
17 properties. I have been an owner, manager of a
18 property management company managing over 1,000
19 units and I converted approximately $\frac{3}{4}$ of a billion
20 dollars of former rented properties to cooperative
21 ownership from a period of 1983 through the early
22 90's. For the record I would like to answer the
23 question that was posed by Councilman Fidler and I
24 believe by Chairperson Dilan as to do I know or
25 does a person know of any instances of

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2 discrimination. Do you want to give me a day? I
3 am going to give you four specific ones off the
4 top of my head. Brooklyn is not the only place
5 where that problem exists where you are Russian
6 maybe you get in, if you are not Russian you know
7 you are not going to get in any buildings. Forest
8 Hills is rampant. With the cooperatives that
9 exist in that particular borough. I can also tell
10 you that I have sat it's what's called a sponsor
11 nominee on a board of directors where the
12 management company was owned by two attorneys and
13 where members of the board brought up the idea
14 that they did not want to allow a particular
15 couple to come in to their coop based on a
16 discriminatory reason, brought it up during that
17 meeting and the two attorneys who owned that
18 company despite some earlier testimony here
19 advised them don't worry about it, we just
20 rejected a mixed couple down in the five towns on
21 Long Island. Myself and the other sponsor
22 nominees, so this isn't anecdotal, this is direct,
23 we said you do that over our dead bodies. I said
24 you are not going there. You are not making any
25 considerations based upon any factor that may be

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2 considered discriminatory. I can tell you as the
3 managing agent as I said over 1,000 units that
4 that question came up with us as managing agent.
5 We had board members that said to us do we have to
6 take these people? And again we never by the way
7 I want to point out we were never terminated for
8 taking positions like this as a managing agent, we
9 said if you take that position we are tendering
10 our withdrawal as your managing agent for cause
11 and we will be the witness. And you know what?
12 They didn't do it and they didn't fire us but it
13 happens. I can tell you of an instance in Queens
14 where an agent, a very well qualified individual,
15 a woman, a professional, to a board considering
16 her application. She was rejected. She
17 ironically ends up with another buyer and the
18 buyer was also a minority woman who was a
19 professional, has excellent financials. She was
20 rejected and the President approached the realtor
21 and said to that realtor, stop bringing
22 Pakistanis. We are not taking them. Hey, I will
23 give you one in Howard beach within the last year.
24 This one was with my own real estate office where
25 a woman of Indian descent who wanted to purchase

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2 into a unit in Howard Beach because she felt it
3 was a very safe area put in an application and we
4 know how to put an application together, doing
5 this a really long time, I am in this business 33
6 years. That application was perfect. The
7 references were perfect. There was nothing with
8 that application that would make anyone decide
9 that this woman didn't at least deserve to meet
10 and have an interview. This board on the basis
11 and I believe to this day on the basis of her name
12 only because that was the only thing, the only
13 criteria that I could see that wasn't black and
14 white, really simple, straight forward financial
15 information, rejected this woman. She didn't
16 want to pursue it. Why? Because like a lot of
17 other people who had been victims of
18 discrimination in prior decades didn't want to be
19 somewhere where she wasn't wanted. It is not
20 isolated. It happens all the time. And one step
21 in the right direction is Intro 188. Because with
22 Intro 188 you don't allow boards to take the
23 position that they don't even have to not only say
24 why, they don't have to get involved in the
25 process. But they simply don't resound. Many of

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2 the comments that we have submitted and we did
3 submit our statements to you. We already
4 addressed I am trying not to be redundant which is
5 one of the reasons why I brought up. I tried to
6 answer, oh the ten days is not enough time. The
7 statement that the ten days is not enough time to
8 review the package to see if it needs anything
9 more. I owned a management company you send a
10 list to the person with the application and it
11 says that you need this this this this. It comes
12 back to me as the managing agent either me or
13 someone else in my company goes, okay, a,b,c,d,e
14 it's all here. That took all of about maybe 15
15 minutes it see if it was in there. Ten days is
16 totally reasonable. This isn't nuclear physics.
17 You are checking a package against a list. 45
18 days to come to some decision. Pardon me, again,
19 that's sufficient time. I have been in every
20 single capacity, a broker, an attorney, I have
21 been a managing agent, and 45 days is sufficient.
22 And there is a provision in this bill that allows
23 for the fact that New York City unlike in the
24 areas that I work there are situations with
25 vacations from the months of July thorough the

1
2 middle of September. This bill addresses that.
3 It allows for those things to be taken into
4 account.

5 The argument the current remedies
6 are sufficient. That we have as Duncan said, we
7 have Federal, State and Local anti-discrimination
8 laws, fair housing laws. They don't work here.
9 You can't test. One of your panel members just
10 said, well then what you will do is you will test.
11 No you won't. No you can't. And I have gone to
12 HUD on this issue because in order to test, first
13 of all it isn't the realtor, the seller or the
14 buyer who is discriminating here. It's a third
15 party that is discriminating and you don't get to
16 the third party until you are in contract, until
17 you have paid a lawyer, until you have paid
18 whatever you needed to pay to get a commitment
19 including an appraisal and HUD said that we are
20 not doing that. We are not going to go do all
21 those things to see whether or not there is
22 discrimination here. You can't test. And if
23 someone does discriminate and you think they have
24 discriminated, well I am a lawyer and I am a
25 litigator. So what happens is you make a

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2 complaint against the coop. The burden shifts to
3 the coop to give a non-discriminatory reason. Do
4 you think they won't come up with one? Well, you
5 know during the interview he seemed hostile. Or
6 if there is no interview, they can even say we
7 don't like people who wear plaid shirts and the
8 reason they can do that is because people who wear
9 plaid shirts is not a protected class. They can
10 come up for the most part any cockamamie reason
11 they want as long as it's not discriminatory. So
12 where is that going?

13 The only way to at least make an
14 attempt to try to control this process and give it
15 predictability, transparency is to accept that
16 Intro 188 works in the best interest of all
17 sellers, buyers, and ultimately coop boards. I
18 just want to check because I was writing comments
19 like crazy during this.

20 CHAIRPERSON DILAN: Just in
21 deference, let's just try to sum it up.

22 BARBARA FORD: Applications. You
23 know the problem about keeping all these
24 applications. I got a flash drive in my purse.
25 Okay. And you can put those 6,000 applications

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2 from these coops where they have to register their
3 applications so that you know that somebody is not
4 deviating from the norm in order to eliminate
5 somebody. Well, I will give you that little flash
6 drive and they are in business. They are done.
7 There is not going to be a lot of paperwork they
8 are going to have to store. They are going to the
9 cloud and so they are fine. They are not going to
10 have those kinds of problems. Yes, purchasing a
11 home is extremely stressful and emotionally
12 endeavor. That you have been told. Due to the
13 high cost of real estate in New York City and the
14 outlying metropolitan area and the bedroom
15 communities. This is one of the few options
16 available to many people who like living in New
17 York and like living down state and enjoy all the
18 benefits it has to offer and we would be
19 applauding the process that allows them to know
20 with some predictability whether or not they can
21 indeed be admitted into that coop. I think I have
22 one or two more and then I am done.

23 CHAIRPERSON DILAN: I think at this
24 point we will have to ask you to, and then q and a
25 you can certainly get-

2 BARBARA FORD: But we did submit.
3 I apologize that I departed from it but there were
4 just so many misstatements during this I believed
5 I felt compelled.

6 ELIASOR RODRIGUEZ: Good afternoon.
7 I want to thank the Council for giving me this
8 opportunity to testify. My name is Eliasor
9 Rodriguez. I am the new Associate Executive
10 Officer for the Bronx Manhattan North Association
11 of Realtors. But today I am here as a private
12 citizen to share with you a Bronx Tale in support
13 of Intro 188.

14 For the past four and a half years
15 I have been troubled by the way a coop handled a
16 transaction where I was a co-buyer. When I went
17 to bed last night I did not think I would wake up
18 feeling compelled to testify today. You might
19 have heard of my dear friend. Doctor Elias, Mr.
20 Bronx Carmen. Since his 75th birthday he would
21 celebrate his birth in the form of a fundraiser.
22 He would then donate all his funds to non-profits
23 located in the Bronx. Mr. Bronx's mind was sharp
24 but his 98-year-old body was failing him. For the
25 last five years of his life if Mr. Bronx was seen

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2 in public it was because I took him there. He
3 called me in April of 2008 and he said Eliador, I
4 want you to buy all of my coops in twigs place.
5 He then gave me a list of non-profits that he
6 wanted me to support once he was no longer able or
7 alive. The sale was to be a vehicle for him to
8 continue giving through me. In June of 2008 I did
9 enter into a contract of sale for Mr. Bronx Twigs
10 Place coops. The contract was contingent upon
11 board approval. The application was submitted for
12 the board of review in July of 2008. For the next
13 2 months numerous calls were made to the board's
14 president regarding the board's interview. The
15 president of the coop did not return our calls.
16 My friend Doctor Elias, Mr. Bronx Carmen, passed
17 away on October 21, 2008, 113 days after we
18 submitted our application to the coop board for
19 approval. The board finally scheduled out
20 interview, 2 months after Mr. Bronx's passing.
21 Our application was rejected for no reason. The
22 interview itself was a joke and no relevant
23 questions were asked to justify the rejection.
24 The fact that Mr. Bronx's son in law was on the
25 board and did not want the sale to go through

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2 might have been a factor. The fact that Mr. Bronx
3 was Jewish and I am Puerto Rican might have been a
4 factor. I believe with all of my heart however if
5 the board had rejected our application while Mr.
6 Bronx was alive, Mr. Bronx would have taken other
7 measures to ensure the end result was to his
8 satisfaction. No one absolutely no one under any
9 circumstances should have to wait 160 days for a
10 board application to be rejected. In this case my
11 dear friend Mr. Bronx died waiting. Thank you for
12 your time.

13 CHAIRPERSON DILAN: Is there anyone
14 else who wants to testify on this panel. I
15 believe that's all. I have two very very brief
16 questions for both Mr. Rodriguez and for Ms. Ford.
17 You both highlighted in my mind, one, a personal
18 case of discrimination and you, discrimination on
19 behalf of clients. On all those instances of
20 discrimination that you perceived had you advice
21 any of your clients to take any steps to depart to
22 contact any government agencies whether it be
23 Human Rights or any other agency.

24 BARBARA FORD: Yes on more than one
25 those.

2 CHAIRPERSON DILAN: Any instance?

3 BARBARA FORD: Well, the one where
4 we were sitting on the board of directors. They
5 just didn't do what they were supposed to do so
6 nothing happened. First of all I wasn't an
7 attorney at that point.

8 CHAIRPERSON DILAN: So who did you
9 refer them to.

10 BARBARA FORD: I tried to get in
11 the instance of the situation in Howard Beach
12 where the woman was actually rejected. On that
13 one. And the one in Queens where the board
14 president indicated that they weren't going to
15 allow any Pakistanis into the building. In both
16 instances I tried to encourage a reporting of this
17 to the Human Rights Commission and/or a lawsuit if
18 they wanted because I believed both the realtor
19 who had standing actually in federal as the result
20 of the fact there is pecuniary interest there,
21 that realtor had standing. So did the obviously,
22 so did the victim of the discrimination. And
23 because of the fact that in each case which was
24 common decades ago before you were born I am sure.
25 But where a person said, I don't want to do this.

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2 It's embarrassing. And if they don't want me I
3 don't want to be there. So part of the problem
4 with that in these cases, the person could be
5 doing this, it's very difficult to prove a case of
6 discrimination with a coop. It just is because of
7 the illustration that I gave you where all they
8 have to do is give a non-discriminatory reason.

9 CHAIRPERSON DILAN: So you referred
10 in this case and in other cases to the where, the
11 federal, which ones.

12 BARBARA FORD: I tell them they
13 have their choice. You can look, you can go to
14 the New York State Human Rights Commission. I
15 said you can go to, we local Human Rights
16 Commissions in Nassau County and they don't take
17 advantage of it because of the reasons I just
18 gave.

19 COUNCIL MEMBER FIDLER: I do want
20 to make one point and that affirmation in order to
21 commit perjury you are sitting there and you don't
22 have knowledge of a misstatement and you don't
23 have intent to misrepresent something you can't be
24 found guilty of anything. You do that affirmation
25 in good faith you are protected.

2 CHAIRPERSON DILAN: All right.

3 Just to get an answer to the federal government
4 and to the local-

5 BARBARA FORD: Federal, state,
6 local governments. In fact in New York City
7 because you have so many more protected classes.
8 Okay, attorneys are protected class in New York
9 City. You know very often I will say to the
10 person go to the New York City, under the New York
11 City Human Rights laws.

12 CHAIRPERSON DILAN: And Mr.
13 Rodriguez, did you report?

14 MR. RODRIGUEZ: No, we didn't. I
15 spoke to the co-buyer about taking action. We
16 just didn't have the financial means to follow
17 this through. Luckily I do have a voice and I am
18 exercising that today.

19 CHIAPRESON DILAN: Okay. Council
20 member Fidler?

21 COUNCIL MEMBER FIDLER: Thank you
22 Mr. Chairman. Mr. McKenzie, I am glad you raised
23 the point about speeding. To take it one step
24 further I know we had cops giving tickets for
25 speeding for many many years. We are now talking

2 about speed cameras so we can have more effective
3 enforcement of the speeding laws and I think that
4 would be the full breadth of the analogy here.

5 COUNCIL MEMBER FIDLER: Ms. Ford, I
6 can't tell you how much I appreciate your
7 testimony today. Both because it is first hand
8 and expert. I want to take you back to that
9 incident where you stood up as the managing agent
10 to board members who openly indicated that they
11 were planning on unlawfully discriminating. That
12 buyer was, were they otherwise a qualified buyer,
13 financially, etc.

14 BARBARA FORD: Absolutely.

15 COUNCIL MEMBER FIDLER: And in the
16 end, did the board approve that application.

17 BARBARA FORD: Yes, they did.

18 COUNCIL MEMBER FIDLER: So the
19 presence of a single person with a conscience in
20 the room affected just as 188 intends it to. That
21 everybody in the room has to say I don't know that
22 any one has done anything unlawful here. That
23 worked for you.

24 BARBARA FORD: More than once. That
25 absolutely worked.

2 COUNCIL MEMBER FIDLER: Okay, that
3 is I think the most salient point that has been
4 made today. Now let me go back to some of the
5 points that the prior panel has made that may have
6 some legitimacy. You have worked as a managing
7 agent and you ticked off that a managing agent in
8 15 seconds will determine whether an application
9 is prima facie complete. What about boards that
10 don't have managing agents. Should they be held
11 to a different standard? Have a different time
12 line, be given more time?

13 BARBARA FORD: Well, when we are
14 talking about a ten-day period. I do think it is
15 a totally reasonable period. I do want to point
16 out a small board, they have almost no turnover.
17 Okay. So when you are saying, do you know there
18 coops that have six units, ten units, okay, maybe
19 once every three years a unit sells there. So I
20 don't think that if you are getting a package and
21 you have ten days to look and see whether or not
22 they submitted you are not at that point
23 evaluating the quality of what was submitted. And
24 there is the difference. You are not looking at
25 that financial statement or the tax returns and

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2 seeing if let's see if they messed around with
3 this. You are saying do we have the three years
4 tax returns. Do I have financial statements. Do
5 I have their bank statements. Do I have the
6 commitment. Because you can't get that interview
7 without it. You have all those other things.
8 That's all you are doing at that initial stage.

9 CHAIRPERSON DILAN: So that of
10 course is kind of the flip side of the point that
11 the panel made about very very large coop having a
12 great volume of applications so I guess in some
13 respects those points are a little inconsistent.
14 Although they may both be legitimate. I have to
15 tell you I am not really sure. Now, what you are
16 doing when that managing agents looks at package
17 initially is verifying that it is prima facie
18 complete. What happens later on at an interview
19 when you look at it and say you know what, this
20 statement of assets, it looks a little fuzzy to
21 me. I need something more. What would you do
22 then and do you think that it would be a
23 legitimate exercise in this bill if the bill
24 permitted specifically permitted because I don't
25 think it prohibits it right now, and extension of

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2 time be mutually agreed to by the parties, the
3 applicant and the board.

4 BARBARA FORD: I think if there was
5 mutual agreement I would think that that would
6 probably be fine. I mean I could tell you what we
7 did when those situations came up. What we would
8 do is if there was something that looked really
9 wrong and the person said, you know what, I didn't
10 understand this, what I am going to do, we didn't
11 have a time frame but we would tell them, look,
12 based on what you are giving us now we would have
13 to reject this. We can do that but we will do it
14 with the right for you to reapply and resubmit
15 this with all the correct information. I mean
16 that is just how we did it in those instances
17 because stuff happens. But if it was something
18 mutually agreed upon you have got that in and
19 there is a mistake or misinterpretation or
20 questions need to be answered regarding a
21 financial statement or another important document.
22 If it's mutually agreed upon between the parties
23 that the time be extended to allow for that. I,
24 on its face, don't see a problem with that.

25 COUNCIL MEMBER FIDLER: Let's play

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2 this out for the viewing audience then. So
3 obviously if an applicant brings a matter to the
4 board and they are bringing their application to
5 the board and the board looks at them and says,
6 based upon the financials that you submitted here
7 we would have to reject you but if you can bring
8 us evidence of this other bank account,
9 hypothecial, how long do you need. Well, I need
10 another two weeks. We extend our time on your
11 application for another three weeks, and four
12 weeks, whatever. If you said no as an applicant
13 you are an idiot. Right?

14 BARBARA FORD: Correct. It's in
15 mutual best interest to agree at that point
16 because they could be getting a really wonderful
17 neighbor and there was just come sort of mistake
18 that was made by this act. Because these are
19 really extensive. The are not easy to fill out
20 which is why most realtors as one of the prior
21 people testified, you typically sit down with them
22 and go through this process and help them with
23 this process. And I as a lawyer tell the person I
24 want a copy of what you're submitting because if
25 there is a question that comes up I want to know

1
2 the answer. I want to see if you did it right.

3 COUNCIL MEMBER FIDLER: And I want
4 to be fully fair in this analogy. There is a
5 third party here and it's the seller. There may
6 be a time limitation that they control. So
7 obviously if the board and the applicant have
8 agreed and you come out of the meeting and your
9 lawyer calls, the seller's lawyer says, we are
10 going to need another 30 days. There is another
11 question of mutual interest they are going to have
12 to agree to, right?

13 BARBARA FORD: Well, if they didn't
14 agree to it-

15 COUNCIL MEMBER FIDLER: They know
16 they are going to lose their buyer, right?

17 BARBARA FORD: I was going to say,
18 they are going to lose their buyer. They probably
19 don't want to do that but in fairness to play
20 devil's advocate here, if the seller could say,
21 look if you were so stupid you didn't fill the
22 thing our right, I got another buyer now because
23 the price is going up. It happens so.

24 COUNCIL MEMBER FIDLER: I'm just
25 being fair to the analogy. Won't always work

2 but if I mean I heard a lot of testimony from the
3 prior panel about buyers that might otherwise be
4 approved given the opportunity not being approved.
5 And of course the seller is sitting there with
6 that ultimate authority as to whether or not to
7 extend. It's just as applicable in that situation
8 and would be under this bill.

9 BARBARA FORD: Correct.

10 COUNCIL MEMBER FIDLER: So I just
11 want to point out that I don't believe the bill
12 prohibits it and maybe it should specifically say
13 it can be done. That the board and the applicant
14 can agree to an extension of time to provide
15 additional information.

16 BARBARA FORD: Upon the mutual
17 written consent so that nobody can dispute later,
18 I didn't really agree to that but, yes.

19 COUNCIL MEMBER FIDLER: Thank you
20 very much, Ms. Ford.

21 BARBARA FORD: You're welcome.

22 CHAIRPERSON DILAN: I just have one
23 other question and it could be addressed by
24 whoever feels it appropriate and it was actually
25 brought up by Ms. Thumb who is no longer here and

1
2 she said that in her experience that most of her
3 buyers came to the process with the mortgage
4 commitment. How often, how prevalent is that in
5 your experience.

6 BARBARA FORD: Actually that
7 touches on not only her comment but the one by Mr.
8 Saft who, I'm sorry I think it was Ms. Rothman who
9 talked about pre-qual. Pre-qual means nothing to
10 this process.

11 CHAIRPERSON DILAN: Well, a
12 commitment is entirely different.

13 BARBARA FORD: Yes, but she was
14 saying that was part, that has nothing to do with
15 the process. Most people do not get, what happens
16 the contract of sale provides for the fact that
17 you have a certain amount of time to get your
18 commitment because there are special coop
19 contracts and then at that point because most coop
20 boards will not even entertain the application
21 unless you now have the commitment. They don't
22 want to waste their time. It's understandable so
23 that's when you submit your application. I mean
24 they have to go through the normal process. Enter
25 into a contract because the bank isn't going to

1
2 issue a commitment without the contract and the
3 appraisal. So they have to go through the normal
4 process that you are going to go through in your
5 purchase. All of that is the same. They pay fees
6 just like you are going to pay for an appraisal.

7 CHAIRPERSON DILAN: But my
8 commitment will come later. At this point the
9 commitment, so what you're saying is there is a
10 contract.

11 BARBARA FORD: Right.

12 CHAIRPERSON DILAN: And then there
13 is a mortgage commitment.

14 BARBARA FORD: There is an
15 application to the bank for financing and then you
16 get a commitment from the bank hopefully.

17 CHAIRPERSON DILAN: So that's where
18 I am at. So at the commitment point is now when
19 the coop board enters the picture. Is that?

20 BARBARA FORD: Typically, yes. At
21 that point, while you are waiting for that.

22 CHAIRPERSON DILAN: Which will be
23 different than most other forms of housing?

24 BARBARA FORD: Absolutely.

25 You have got a third party as the

2 arbiter here. The third party making decisions.

3 CHAIRPERSON DILAN: All right so
4 just to kind of speed this up. Now you are at
5 where I am thinking. Okay, so at the time the
6 coop boards enters the picture there is a
7 commitment. So then the coop board has knowledge
8 that the individual is indeed going to receive a
9 loan.

10 BARBARA FORD: Correct.

11 CHAIRPERSON DILAN: So at that
12 juncture, what is and I guess most people can
13 exhaust themselves and still get a commitment. I
14 would think that the banks all do want to protect
15 themselves but at that juncture the financial
16 viability for the most part has been answered. Is
17 that?

18 BARBARA FORD: People kept
19 referring back to house sales. Yes, in a typical
20 real estate transaction the deal is all but done
21 at that point because you had a seller a buyer you
22 got a commitment for funding you are going to get
23 title report you are going to get a closing. For
24 a coop buyer, the journey has just begun. And at
25 that point after they have spent money as some

2 attorney's take fees up front just to get started.

3 They had to pay for-

4 CHAIRPERSON DILAN: So tell me
5 typically, how long is the mortgage commitment
6 last in these instances?

7 BARBARA FORD: I tell people buying
8 a coop see if you can get a 60-day commitment.
9 They are not always possible. They sometimes only
10 get 30, 45 days to close after the commitment.
11 But you need that board approval. And then as
12 somebody else mentioned earlier, it can be very
13 expensive to extend the commitment. If you try to
14 lock in your rate.

15 CHAIRPERSON DILAN: All right so
16 that's the rationale for the 45 days in the
17 legislation.

18 BARBARA FORD: Absolutely.

19 CHAIRPERSON DILAN: Okay, it is
20 just helping me understand what I am looking at.

21 BARBARA FORD: Absolutely. That's
22 why.

23 CHAIRPERSON DILAN: Okay, I mean
24 that also seems fair. Just in your experience
25 after that's established and we will deal with

2 your set of clients that have the commitment.

3 BARBARA FORD: Yes.

4 CHAIRPERSON DILAN: Everybody else
5 now is out of the picture because they have the
6 commitment. What typically happens on a person
7 that has the commitment that gets approved and
8 what typically happens for a person that gets
9 disapproved in your experience.

10 BARBARA FORD: They get a letter.
11 They get a letter indicating, they kind of
12 sometimes have an idea ahead of time. Sometimes,
13 no. They will get a written confirmation because
14 first of all everybody probably requires it. I
15 do. I want to see a written confirmation that
16 they were approved both as seller or buyer's
17 lawyer. You get that confirmation then what you
18 need to do, the closing process is actually a
19 little more complicated as well.

20 CHAIRPERSON DILAN: All right what
21 I would say is more of what I am look-in for,
22 okay, I have a commitment.

23 BARBARA FORD: Right.

24 CHAIRPERSON DILAN: The boards have
25 a right to do a home visit, per say. Right? Does

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that happen at this juncture?

BARBARA FORD: Not all boards do that. I do know all of them I think in Forest Hills and some other areas in Queens. But that would have happened before they agreed.

CHAIRPERSON DILAN: So let's just say in my instance again, I have a commitment. I am about to apply to this board. I feel great about it. They do a home visit. My house is cluttered. All right. Maybe it's not a discriminatory reason.

BARBARA FORD: They can reject you.

CHAIRPERSON DILAN: They can reject. So that's a lawful.

BARBARA FORD: You are a slob. That is not a protected class.

CHAIRPERSON DILAN: So you would say that and my wife would agree with you that I am a slob. I love you honey, I am making fun of you.

BARBARA FORD: I told you plaid shirt.

CHAIRPERSON DILAN: All right. So that's in my mind if I was on the board, the home

1
2 visit came back bad and there's, I can understand
3 how a board could reject somebody in that process.

4 BARBARA FORD: So can I.

5 CHAIRPERSON DILAN: So you are not
6 against that.

7 BARBARA FORD: No. I am not
8 against them rejecting a person for any reason
9 that is not based on their protected class or that
10 is discriminatory. They absolutely have the right
11 to make those decisions. Some of them are stupid
12 but they have the right to do it and I am not
13 arguing that. I am arguing the fact that they
14 should be held to certain time frames because it's
15 only fair.

16 CHAIRPERSON DILAN: Well, for the
17 mortgage commitment part I could see that because
18 to reapply and to go through that process again.

19 BARBARA FORD: I mean they make you
20 go all the way through underwriting all over
21 again.

22 CHAIRPERSON DILAN: Who wants to do
23 that? Nobody wants to do that. So what are some
24 other reasons besides the site visit that are fair
25 reasons for a board to reject after a commitment

1
2 has been achieved.

3 BARBARA FORD: I have seen people
4 rejected based on the fact that the person says
5 during the interview.

6 CHAIRPERSON DILAN: Plaid shirt's
7 not fair. Let's get into fair reasons.

8 BARBARA FORD: So fair reasons. I
9 have a cute little Yorkie and had them for nine
10 years and the board says we don't allow pets and
11 what are your plans. Oh, okay. Well, I have had
12 boards where they say I really don't believe that
13 the person is going to after nine years going to
14 get rid of the pet. We believe the person will
15 probably sneak the pet in.

16 CHAIRPERSON DILAN: That brings us
17 into another piece of legislation.

18 BARBARA FORD: Yes, it does. But I
19 have seen people who have said the person was
20 evasive and argumentative during the interview and
21 they felt that this person-

22 CHAIRPERSON DILAN: All right, now,
23 let me just sum this up. In your experience, how
24 often do you see someone with a commitment that
25 gets rejected for fair reasons. Say of 100 of

1
2 your clients that get commitments, do 40% get
3 rejected for fair reasons, 60% for discriminatory.
4 Highlight for me percentage.

5 BARBARA FORD: I tried to give an
6 indication to you. I am one person. How many
7 instances of discrimination that I am aware of.
8 We did a survey, the board of relators did a
9 survey probably now it's 8 or 9 years ago. I
10 think we had something like 500 responses from
11 realtors who indicated they had experienced
12 rejections of potential coop purchasers where they
13 believed that there was a discriminatory basis.
14 Now when we read through them, we could kind of
15 glean out which ones were stupid reasons but it's
16 not discriminatory. So I could tell you, we had a
17 couple of hundred.

18 CHAIRPERSON DILAN: Maybe I am
19 asking for something that you can't answer but on
20 a rough percentage of your clients, how many get
21 rejected for legitimate reasons.

22 BARBARA FORD: Most of the people
23 that I deal with in Nassau County on coop sales
24 ultimately do get accepted.

25 CHAIRPERSON DILAN: What about New

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York City?

BARBARA FORD: In New York City?

CHAIRPERSON DILAN: I don't care about Nassau County.

BARBARA FORD: In New York City, I'd say that I really haven't had a whole lot of instances other than the two or three that I mentioned to you where the in Queens where the woman with that realtor had a situation where we couldn't get that person, we couldn't get anybody she was selling to in and the other one that was in Howard Beach.

CHAIRPERSON DILAN: Thanks.

BARBARA FORD: But that's within the last 2 years. One time is too many.

CHAIRPERSON DILAN: Yes, there is no doubt about that. But I am just trying to highlight what is going on. I can't do anything about Nassau County. I can do something about New York City.

BARBARA FORD: But I am on the border community.

CHAIRPERSON DILAN: Any other questions? If not, thank you all for your time

1
2 and for your testimony.

3 BARBARA FORD: Thank you for your
4 time. Thank you very much.

5 CHAIRPERSON DILAN: Thanks. [off
6 mic] What I would say that is that everybody
7 wants to come up. We certainly want to hear from
8 everybody especially board members. [off mic]
9 Sir, look, I would say this. I am going to give
10 everyone an opportunity to speak and in deference
11 to time, yes I do get paid to do what I do here
12 today but I will stay here until 7:00 at night. I
13 am trying not to. Trust me. But I have to deal
14 with this in some sort of order and I have to try
15 to be fair to highlight the problem that is going
16 on here. You are going to have to wait. Next, I
17 am going to call, this was Warren Shriver,
18 Geoffrey Masseli, Esquire, Larry Simms, Craig
19 Gurion and Amanda Katz. [off mic] There is
20 another board group, sir. [off mic] Well, sir,
21 the next panel, I don't know if you are in it or
22 not. But this is kind of the order we have. You
23 have to make a decision sir, I certainly want to
24 hear from you but I can't control time. Maybe if
25 you come to this side you give one of my staffers

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2 your name, we can try to accommodate. That's the
3 best I can do at this juncture.

4 Diane Strombfield, George Wannaka,
5 Christina Taylor, and Duwaana Hughes will be the
6 next panel. [off mic] What's your name, sire
7 [off mic]. We will give you a chance. We want to
8 give everybody a chance. We want to hear from you
9 but everybody has a schedule and I have to try to
10 accommodate everybody.

11 Why don't we, if you could just
12 start by introducing yourself by your name and
13 directly into the record and then you can go
14 directly into your testimony.

15 AMANDA KATZ: Sure. Hi, my name is
16 Amanda Katz and I am speaking on behalf of
17 Assemblyman Edward Bronstein. He represents a
18 large area of Northeast Queens. Hi, Mr. chairman.
19 He states, while he is sensitive to the needs of
20 New Yorkers, especially those who have encountered
21 housing discrimination and have faced barriers to
22 applications to buy a home in a cooperative
23 apartment I am submitting testimony in opposition
24 to Intro 188. The requirements imposed by Intro
25 188 are unduly burdensome and will be difficult to

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2 enforce. Current law already prohibits
3 discrimination housing against 18 groups of
4 individuals. Requiring coop board members who
5 expressly state they have not discriminated
6 against an application is a requirement that
7 creates a presumption that each board member has
8 discriminated against applicants and is certainly
9 redundant in light of the existing civil rights
10 statutes. These coop board members are volunteers
11 who put in a great amount of time to improve their
12 communities and their neighborhoods and therefore
13 can contribute to New York's quality of life.
14 This additional requirement will be unduly
15 burdensome and would discourage individuals from
16 serving their communities. And additional
17 administrative burden is found in the time in
18 which the application must be approved. Because
19 board members are volunteers requiring 45 days to
20 provide a written determination whether the
21 application has been approved or disapproved may
22 in some cases be impractical or even impossible to
23 comply with.

24 Finally the civil penalties are not
25 an adequate incentive for compliance. The general

1 public is permitted to apply for homes in a coop
2 building and the boards' exposure to civil
3 penalties would allow applicants to allege non-
4 compliance with the law and would induce
5 investigations into coop boards by the New York
6 City Commission on Human Rights. The legislation
7 creates several impracticable and burdensome
8 requirements for coop board members. As a result,
9 board members will resign and our city will lose a
10 group of volunteers who commit their time toward
11 the improvement of our communities. Thank you.
12

13 CHAIRPERSON DILAN: Thank you.

14 Thank you for the statement. And what I would say
15 is I don't believe there are any questions for you
16 so if you want to leave at this time, you can do
17 that. Absolutely. That's the reason I did that.
18 We can give her a minute and then get into it.

19 CRAIG GURION: Thank you, Mr.

20 Chairman. My name is Craig Gurion. I am a long
21 time advocate for civil rights. There has been
22 massive information today about how the process of
23 uncovering discrimination works and I hope we get
24 to that in the question period because there real
25 answers to that question. Some of you may know me

1 as the principal author of the comprehensive 1991
2 amendment to the New York City Human Rights law.
3 Others perhaps because of my role as a principal
4 author of the 2005 local civil rights restoration
5 act. I believe deeply in the potential of the
6 Human Rights law to make our city a better place.
7 Just last week I am pleased to say a federal
8 appeals court vindicated the City Human Rights as
9 the only law in the country that doesn't allow
10 judges to kick victims of harassment out of court
11 because they haven't been harassed severely or
12 pervasively enough. So I am very very disturbed
13 that we are here today to discuss Intro 188, a
14 bill that does nothing to address secrecy in coop
15 admissions while the genuine Civil Rights Bill
16 Intro 326, the Fair and Prompt Coop Disclosure law
17 supported by Civil Rights organizations like the
18 National Fair Housing Alliance, the NAACP Legal
19 Defense Fund, the Lawyers Committee for Civil
20 Rights under law remains bottled up and denied a
21 hearing. One of the things that has been handed
22 up to you is the statement of the National Fair
23 Housing Alliance in opposition to 188 and in
24 support of 326. Remember and I think this is a
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2 point that Council member Fidler has made and a
3 couple of the witnesses as well, reciting the fact
4 that coops and their board members are covered by
5 the law is a non-sequitar. Precisely because
6 coops and their board members are covered by the
7 law, it is essential that the law not only exists
8 but be effective.

9 Secrecy and everybody in this room
10 knows that this is true. Everybody in this room.
11 Secrecy deters applicants who don't fit
12 demographically, encourages brokers to engage in
13 racial and ethnic steering, leaves rejected
14 applicants in the dark about whether or not there
15 were legitimate grounds for the coops action,
16 makes it difficult to find an attorney to
17 represent a family who has been wrongfully
18 rejected and leaves the door wide open for
19 discrimination defense attorneys to invent after
20 the fact rationalizations for board decisions.

21 That's just the way the coop
22 industry and its allies like it and Intro 188 does
23 literally nothing to increase transparency about
24 the reasons for coop board denials. That is
25 something there is no disagreement about. The

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2 bill does nothing to increase transparency about
3 the reason for coop board denials.

4 Now the coop industry likes to trot
5 people out and its talking points by the way
6 didn't come from poor be augured coops. The
7 talking points came from one of the key lawyers,
8 Eva Tallel, who works at the large law firm of
9 Stick, Strick and Levan. And an email that went
10 through managing agents to just about every coop
11 board member in the city. So let's not pretend as
12 is the case when there are rent regulation
13 hearings. The small landlords, the grandmothers
14 are trotted out. It's an industry. And the
15 industry likes to trot people out to talk about
16 the special environment to coops and how genuine
17 civil rights enforcement would destroy life as
18 they know it.

19 We have heard it multiple times
20 today. No one is going to serve on coop boards.
21 Think about it? If that were true it would be the
22 most damning admission possible. They are saying
23 that the current system depends on board members
24 being able to continue as a practical matter to
25 shield themselves from accountability contrary to

1
2 the intent of the Human Rights law. Actually,
3 it's very clear the interest of coop board members
4 in maintaining secrecy are very different from the
5 interest of ordinary owners of coop apartments.
6 An independent survey of those ordinary owners in
7 privately owned coops in Manhattan south of 96th
8 Street, a pretty tough audience found that those
9 coop owners favored disclosure by a margin of more
10 than 2 to 1.

11 It is true that coops are
12 different. It is as Ms. Ford pointed out, the
13 only form of real estate transaction where a
14 willing seller and a willing buyer and a willing
15 lender can be stymied in their completing the
16 transaction. And Council member Brewer brought up
17 the idea earlier why doesn't the Commission on
18 Human Rights just test. Well, for one thing, the
19 city funded staffing of the Human Rights
20 Commission has been cut by 90% since it's levels
21 in the Dinkins administration and is lower today
22 in the Bloomberg administration than in any time
23 including the Giuliani administration.

24 But, second, as a practical matter,
25 testing involves putting yourselves in the shoes

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2 of a buyer or a renter. To be able to test a coop
3 you have to enter into a sales contract. So, a
4 fair housing agency or a city or a state
5 enforcement agency is going to enter into a sales
6 contract, pretend that it's going to purchase
7 something from an actual seller, which is not fair
8 to the seller. And then is going to shell out
9 \$80,000, \$100,000, \$150,000 for the test. This is
10 exactly why unlike other forms of real estate the
11 ability to enforce is impaired. Coops unlike
12 other forms of real estate are not subject to
13 testing.

14 Now, I have lived just about my
15 whole life in New York City but anyone who has
16 lived here even briefly knows that coops are
17 hotbeds of arbitrariness. Indeed just to-Mr.
18 Chairman, the gentleman to my right is going to
19 have an opportunity to testify without-

20 CHAIRPERSON DILAN: He hasn't said
21 anything. He just gestured. You know I think I
22 know where this is going. In fairness, he asked
23 on this panel so he can certainly listen to what
24 you have to say. He can certainly disagree but in
25 fairness to him, he hasn't said a word. And I

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2 don't think he has prohibited your testimony from
3 proceeding. So I think, proceed.

4 MALE VOICE: I'll take your counsel
5 on that Chair and I'll gesture accordingly.

6 CHAIRPERSON DILAN: Let me say just
7 proceed and if we can be fair to the person that
8 is giving this testimony, allow him to view his
9 opinion. I think that's the best way to go about
10 it.

11 MALE VOICE: A couple of days ago,
12 a lawyer who represents 250 coop and condo boards,
13 so this is not some civil rights pal of mine. But
14 a lawyer represents 250 coop and condo board was
15 quoted in the New York Times section confirming
16 the common experience that "unfortunately some
17 board presidents allow the position to go to their
18 heads and behave as if they acquired the rights of
19 a medieval European monarch". And any civil
20 rights advocate can tell you that discrimination
21 remains a problem in coops just as it remains a
22 problem elsewhere in the real estate market.

23 Let's be totally clear, it's not
24 unusual for those with power and privilege to seek
25 to maintain that power and privilege. What is

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2 unusual is just how brazenly those interests are
3 being served and what's also unusual is just how
4 completely the civil rights principal is being
5 ignored. We have heard very very little about how
6 to improve civil rights enforcement in coops today
7 because on one side you have people who don't want
8 to improve the enforcement and the on the other
9 side you have a bill Intro 188 that doesn't tackle
10 the core problem of secrecy. The key provisions
11 of Intro 188 regarding a time table and
12 standardized application as has been pointed out.
13 They're entirely consistent with the coop
14 admissions guide that REVNY and the Council of New
15 York Coops and Condos have distributed for years.

16 The hope for an era of actual
17 transparency and better civil rights enforcement
18 as represented by Intro 326, the Fair and Prompt
19 Disclosure law, a bill that is supported by civil
20 rights advocates and civil rights organizations,
21 those hopes will have to await a new Council
22 leadership that is more interested in serving the
23 broad public interest instead of the narrow self
24 interest of a small group of coop board members.

25 Don't buy into the ineffectiveness

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2 of Intro 188. Reject that bill. Deal with the
3 actual problem which is secrecy and stand with
4 civil rights advocates in supporting Intro 326.
5 Thank you very much.

6 CHAIRPERSON DILAN: Thank you Mr.
7 Gurion.

8 WARREN SHRIBER: Okay and thank you
9 Mr. Chairman, Council members. My name is Warren
10 Shriber and I am here today in my role as co-
11 president of the President's Coop and Condo
12 Council, an advocacy group representing 65 of the
13 largest cooperatives and condominiums in Queens,
14 NY. In addition it is my honor to serve as
15 President of the Bay Terrace Community Alliance, a
16 civic group representing approximately 5,000
17 families residing in coops and condos. And lastly
18 for the past 12 years I have been President of the
19 coop I call my home. During my 12-year tenure as
20 President of my coop, we have rejected 2
21 applications. And both of them were rejected for
22 financial reasons. AS a matter of fact it was the
23 coops that first noticed banks that led to the
24 financial downfall of the 2000, that they were
25 giving out loans and they were giving mortgages to

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2 applicants who were absolutely not qualified and
3 we were the first ones to do that.

4 Coop and condo board presidents
5 deserve to take great pride at the work they do.
6 Our communities are better places because of their
7 efforts. The New York Times recently published an
8 article concerning the good and bad of being a
9 coop board president. For me, it's about giving
10 back to my community and providing for future
11 generations. That's all the reward I need. I am
12 not paid. I receive no compensation. I receive
13 no special benefits. When it comes to affordable
14 housing in New York City, coop and condo board
15 presidents and directors have not just talked the
16 talk, they have truly walked the walk.

17 Intro 188 with its onerous
18 penalties and assumptions that board members are
19 automatically guilty of discrimination would
20 create chaos and bring all the progress that has
21 been made to a screeching halt. If Intro 188
22 should pass in its current form coop board members
23 will be forced to resign en masse. The coop
24 community can never recover from such a loss of
25 talented, dedicated volunteers. The legislation

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2 would actually make it more difficult for
3 applicants to meet a corporation's requirements
4 for many middle class families. Affordable
5 housing would no longer be available.

6 If Intro 188 were to become law, my
7 coop would immediately implement the following
8 procedures: our accountant and attorney would be
9 required to review all applications, interviews
10 will be conducted only once a month and at the
11 same time and place. Right now currently our turn
12 around time when we receive an application in my
13 coop from the time we received the application
14 until we set up an actual interview as long as the
15 application meets our criteria from receiving the
16 application to having all the committee members
17 look at it and setting up an interview is normal
18 time, is 2-3 weeks. Any delay that occurs after
19 that has nothing to do with the board of directors
20 because we are finished from that point on the
21 only people involved are the buyer, the seller, if
22 there is a mortgage, the bank that issued the
23 mortgage and the attorneys fro the buyers and
24 sellers. And we tell that to everybody who comes
25 before us. Okay our job is finished. You have a

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2 delay, these are the people. Go to your attorney,
3 go to the buyer's attorney and go to the bank. We
4 have nothing to do with it. In addition our
5 attorney will be required to be present at all
6 interviews. Vetting will be more stringent than
7 ever. All interviews will be recorded. That's
8 going to be for our own protection. Flexibility
9 and financial requirements end. If an applicant
10 fails to meet our requirements by even \$1 they
11 will be rejected and that's because we are going
12 to have to prove consistency.

13 Right now we do allow people with
14 there being a little bit short in the requirements
15 and we actually want them to become members of our
16 community and we allow them to put certain amount
17 of money into escrow that we will hold for 6
18 months to a year and then it's returned to them.
19 That will stop. And the huge cost of these new
20 procedures are going to be charged to the
21 applicant and the shareholders. Just wanted to
22 touch. I think it was Council member Fidler who
23 said that when it comes to discrimination and the
24 protected classes that boards are not as
25 enlightened as attorneys. Now I would never

1
2 diminish the role of the attorneys but I really
3 take exception to that because I can tell you we
4 know the law in and out. As a matter of fact we
5 know it better than a lot of attorneys and I am
6 constantly educating myself and I make sure that I
7 educate my board members and I let them know what
8 they can do, what they can't do, what questions
9 they can ask and what questions they can't ask.
10 So that just never happens and before I just end
11 this. There was one mentioned about board
12 presidents who have a role goes to their head and
13 that was in the New York Times article that I had
14 mentioned and one day I was walking in my own coop
15 and I had a shareholder who came over to me and
16 she came right up to me and pointed a thing in my
17 face and she is going, you know Warren, I don't
18 like what you're doing. You're an out of control
19 dictator and I didn't feel good about it. I said,
20 I'm sorry you feel that way and I walked away.
21 About 2 minutes later I encountered another
22 shareholder who came up to me and said, you know
23 Warren I have to tell you I think you are doing a
24 really really good job but you're too soft on
25 people who break the rules. I don't know how I

1
2 could possibly win that argument but I do know
3 that Intro 188 as currently written would only
4 benefit real estate brokers and must be voted down
5 and the coop and condo community we would
6 absolutely welcome and opportunity to be part of
7 the discussion and possibly come up with some sort
8 of a coop bill of rights that would benefit
9 everyone. Thank you very much.

10 GEOFFREY MASSEL: Okay. Committee
11 members, my name is Geoffrey Massel and I would
12 like to thank you for the opportunity to speak
13 before you about this important issue. By way of
14 background I wear many hats. I am a practicing
15 attorney for 27 years with the firm of Hankin and
16 Massel. We represent coop boards throughout New
17 York City. We represent over 9,000 units of coop
18 housing so my experience is longstanding and I
19 have great experience in all the issues discussed
20 today.

21 In addition I am the Chairperson of
22 the Queens County Bar Association, Coop and Condo
23 committees, I have given numerous lectures on many
24 issues involving coops and condos including many
25 of the issues that came up here today. I am also

1
2 legal advisor to the President's Coop and Condo
3 Council, an organization that reaches to tens of
4 thousands of owners and residents of coop and
5 condos. And finally I have been rejected by a
6 coop board when I was a young law student many
7 many years so I know how that feels too.

8 I have reviewed the revised Intro
9 188 and sorry to say, I see no purpose whatsoever
10 in my experience that this will have any positive
11 effect on coops and condos. In fact it will have
12 deleterious effects and we heard all the reasons
13 and what Stew Saft says I say too.

14 CHAIRPERSON DILAN: So they didn't
15 think you would be a good lawyer, is that it?

16 MR. MASSEL: What's that?

17 CHAIRPERSON DILAN: The board that
18 rejected you.

19 MR. MASSEL: They didn't like the
20 student part. The lawyer part they didn't care.
21 My hair was too short then probably.

22 Understanding coop closing and we heard the
23 descriptions today, it's a dynamic process,
24 complicated parts with a lot of moving parts. In
25 my experience and again my office handles over 400

1
2 coop transactions a year, transfer agent so we see
3 everything. In Manhattan, Brooklyn and Queens
4 mostly. And for the most part the deals go
5 through. They happen. People sweat it out. They
6 are not always clean. It is not always easy.
7 There is a lot of heartache involved but generally
8 speaking the transactions go through. And in my
9 experience the last couple of years in this post
10 subprime disaster world, the lenders are the ones
11 we are waiting for. The lenders are the ones that
12 want additional documentation. That want your
13 most recent pay stubs. The lenders want to see
14 the ground lease, the proprietary lease, the coop
15 budget, the litigation letter, the indemnification
16 letter, that's all work. That's all stuff as a
17 coop attorney I deal with every day and I know in
18 my coops are involved it gets turned around
19 immediately.

20 And another thing about coops the
21 subject to the business corporation law in the
22 state of New York. You got to read the statute.
23 These gentlemen just can't make a decision and say
24 approved. They have to be in a duly constituted
25 meeting of a board of directors either a general

1
2 meeting or a special meeting which requires
3 notice. They all have lead times and at the
4 meeting they need a quorum there. What if they
5 don't have a quorum at a meeting and you go past
6 the 45 days. You just subjected them to civil
7 penalties, fines and basically a lawsuit in the
8 making.

9 As stated before and eloquently put
10 before this legislation does nothing to help
11 discriminated victims. We discussed that length
12 and I am not going to go into that. I want to
13 talk about one thing that has not been discussed
14 today and maybe we are all in agreement in this
15 room, the civil penalties portion has to go. It's
16 overbearing, it's overreaching and quite frankly I
17 believe and I have spoken with attorneys in this
18 room and throughout the city, it's illegal. It's
19 arbitrary and capricious and you are demonizing,
20 criminalizing the coop boards in their decision
21 making process. They serve no purpose other than
22 to provide an outlet for attorneys to bring
23 lawsuits. And there is a legal fee provision and
24 there's lawyers out there, my colleagues know how
25 to do this. They find statutes with legal fee

1
2 provisions and you know what they do, they will
3 get a thousand people together, not even in
4 different suits and just bring the lawsuits. It
5 doesn't matter because when you have a thousands
6 cases and there is no exposure the coops
7 invariably have to settle. They can't have these
8 lawsuits on their books and records and it might
9 not be the most money in the world but it's
10 exposure. It's exposure for the individuals and I
11 don't every board member is going to resign but I
12 think many people will think twice before being on
13 a board of directors.

14 An important distinction that
15 wasn't brought out. The Suffolk County law which
16 you are all talking about doesn't have civil
17 penalties. That's a big difference and the civil
18 penalties although not discussed today to me is
19 the most egregious outrageous part of this
20 legislation. It implies that the board members
21 created a civil wrong and civil harm if they are 1
22 day late. That's shameful and that is not going
23 to stand and I know a lot of lawyers that are
24 ready to write that lawsuit the minute this
25 legislation passes.

In addition we failed to mention one other important document, the contract of sale that is written by the fine lawyers of this city. IT's a boilerplate pro forma document. Read it, it says if the board doesn't make a decision within 30 days after the scheduled closing date you can cancel the contract. So you don't have to wait three months. You can cancel the contract.

And also another thing that hasn't been mentioned today is the boards are fiduciaries. If they act outside their scope authority. If they act ultraviries. The seller has recourse and if they have penalties and damages they can bring a lawsuit against the board. Nobody is taking that right. You don't need a statute to tell them that. All the statute is doing creating another level of litigation. Another level of complexity in already complex relationship.

As I stated before this legislation will wreak havoc on coop boards and seriously harm and entire sector of housing stock with no benefit. The only people that will benefit will be the attorneys who will open up a cottage

1 industry suing coop boards under the statute.
2 Remember applicants are represented by counsel
3 during this process so I know if I represent the
4 buyer of a coop and I think there is
5 discrimination I will say, Google Human Rights
6 law, go get a case worker and bring you own case.
7 It's free. It's a free bite at the apple. I
8 don't think almost any other area of the law you
9 can say you get a free investigation and
10 prosecution of the case. And by the way. Human
11 Rights when they get involved, the first thing
12 they do is ask the coop for their applications.
13 They review 2, 3, 4, 5 years of applications and
14 one of the ways they discern discrimination is
15 seeing who was accepted and who was rejected. And
16 that could be a way of enforcing the Human Rights
17 laws.
18

19 Basically again the big bad coop
20 boards, people love to hate them. I say to you
21 they are hard working people doing the hard work
22 in the city and protecting a valuable valuable
23 housing stock. Intro 188 needs to fail.

24 BOB FREDERICK: My name is Bob
25 Frederick. I am the President of Glen Oaks

2 Village. We are actually the largest garden
3 apartment coop in the city of New York. We have
4 about 10,000 residents.

5 CHAIRPERSON DILAN: What part of
6 the city is that?

7 BOB FREDERICK: Queens.

8 CHAIRPERSON DILAN: What part of
9 Queens?

10 BOB FREDERICK: Eastern Queens.
11 Northeastern Queens. Let me first say when
12 somebody says everyone knows or no one will
13 disagree, I resent that. In his testimony
14 everyone knows, no one will disagree. Please
15 speak for yourself, you are not speaking for
16 anyone else. The 2013 Lawyers for Employment Act,
17 Mr. Fidler's bill, 188, because that's what it is,
18 it's about litigation that's going to run amuck in
19 the city. That's the real world. And Mr.
20 Fidler's bill is based on completely
21 unsubstantiated allegations that discrimination is
22 widespread in coop boards and that has absolutely
23 no basis in fact and thank god for the rule of
24 law. Which makes we don't make laws and we don't
25 pass laws based on anecdotes, whims or hunches and

1
2 that is everything that we see in this bill. And
3 even when you had the table her of people, of real
4 estate brokers, you had to drag out from them some
5 anecdotal evidence of some discrimination and then
6 when you finally asked the question, well, how
7 many people were rejected in your experience? The
8 answer was none. So this constant pursuit of
9 looking for this discrimination simply does not
10 exist. Now I know a lot of board presidents, I
11 actually started the group with Warren called the
12 Presidents Coop and Condo Council and it's
13 basically a group of board presidents. And by the
14 way, contrary to what Geoff said and I love Geoff,
15 that we are loved. We are voted by the
16 individuals at a higher rate than the City Council
17 members that are sitting here in this room. And
18 if the residents in the community don't like what
19 we are doing, vote us out. It's as simple as
20 that. Every year, every two or every three years
21 we run for election. We are elected by those
22 people who live in the community and all we try to
23 do is create a quality of life and serve that
24 community. And we do it for no pay. Everyone
25 here you had at this table today, everyone was

1
2 being paid for what they were doing except
3 actually Warren and myself. I have a board
4 meeting tonight to look at some packages that
5 people had submitted. Now if I don't get to that
6 board meeting, we may not look at them. Which
7 means we won't be able to look at them. We don't
8 have a board meeting May, we have annual meeting
9 so our next board meeting is in June. So I just
10 want to bring those points up.

11 Now, this is very very bad bill.
12 It's terribly burdensome and creates enormous
13 potential liability for volunteer board members.
14 It creates a presumption of guilt on all coops
15 based on perhaps a few bad apples, maybe some of
16 the high end Manhattan coops that are taking a lot
17 of time for whatever their reasons are, and the
18 bill attempts to remedy this presumption of guilt
19 by proposing this burden on all coops that have
20 absolutely zero history of discrimination. It's
21 an absolute outrage. And Glen Oaks Village with
22 our 3,000 families there, we don't have a managing
23 agent. WE are self-managed. We are self-staffed.
24 So Mr. Fidler is trying to look, well if it's a
25 small coop or a large coop, one size does not fit

1
2 all and that's precisely what his bill is trying
3 to do. This bill will produce in the real world
4 and not in the world that the City Council is
5 sitting in but in the real world this bill will
6 produce more rejections rather than fewer
7 rejections.

8 The vetting of occupants will be
9 much more stringent than ever and it removes
10 absolutely all flexibility from the admissions
11 process. Flexibility in financial requirements
12 will end of an applicant fails to meet the
13 requirement by \$1 they will be rejected because we
14 can't take the chance of being sued. That's the
15 reality. That is the reality of what is going to
16 happen when this bill, if it passes. It creates
17 enormous expenses for the coops because
18 potentially every rejection is now going to be met
19 with a lawsuit. That's the reality. You guys
20 know that. This is a litigious city and everyone
21 is looking to sue. And that doesn't mean they are
22 ending soon because they know at the end of the
23 day it may just be cheaper to settle the matter
24 than to actual go fully through court.

25 The additional costs associated

1
2 with these new procedures may be passed on to the
3 applicant. Making the process more expensive for
4 those who can least afford it. Now unlike some of
5 your panel members the coops in Glen Oaks Village
6 are not selling for 29 million dollars. Warren,
7 are your coops selling for 29 million dollars?
8 Right. My coops are selling for \$160,000,
9 \$225,000. So the world that they are talking
10 about is completely a different animal. Now the
11 individuals who are coming into our community
12 don't really have a lot of money. If we now had
13 to start passing through the additional costs it's
14 going to cost them a lot more than it costs them
15 now. And the bill puts directors in legal
16 jeopardy with all kinds of civil penalties that
17 Geoff spoke with very eloquently. And if a
18 director does something wrong unknowingly he will
19 be personally liable and the insurance and his
20 coop will not cover that. Now if you want a
21 disincentive for a volunteer, that certainly is
22 one. And I know how Mr. Fidler talked about how
23 many people left the boards after Bayondi. I
24 would say a lot. You tell me how many left the
25 board. Do you know, Mr. Fidler?

2 CHAIRPERSON DILAN: First what I
3 will do is I-

4 BOB FREDERICK: Let me wrap it up.

5 CHAIRPERSON DILAN: If you could.
6 Because we ask the questions not the other way
7 around.

8 BOB FREDERICK: And the gentleman
9 sitting over here. Coops are not real estate.

10 CHAIRPERSON DILAN: In respect to
11 Mr. Gurion, I am asking you.

12 BOB FREDERICK: Coops are not real
13 estate. You are buying the right to proprietary
14 lease to live in a building owned by the
15 cooperation. That's what it is. It's not a real
16 estate transaction like somebody is buying a
17 house. And by the way, this bill doesn't create
18 the same burdens on homeowners and Mr. Fidler
19 talks about well, a board is very different from a
20 homeowner. A homeowner can be just as
21 discriminatory as anybody else. But this bill
22 does nothing to stop that.

23 And my final point is that this
24 bill is supported by the real estate industry. Of
25 course they are upset about the time frame.

1
2 Because the sooner the deal closes the sooner they
3 get paid. They leave their destruction in their
4 wake for our staff to deal with it on a coop
5 level. The real estate industry is self interest
6 motivated based upon them receiving their
7 commission. They don't receive that commission
8 until the deal closes and as quick as they can do
9 that deal and make it close they will get their
10 commission. The board's responsibility is for the
11 quality of life for the coop at large. Thank you
12 gentlemen very much.

13 Thank you all for your time and
14 testimony. Now I would say that I have agreed
15 with a little bit of what everybody has said here
16 today. Not just this panel but others. And I
17 have disagreed a little bit about what everybody
18 has said so our obligation is to listen to
19 everybody and try to kind of make sense of it all.
20 Now I would say in deference to Mr. Gurion. He is
21 not representing an interest. He is here from the
22 civil rights perspective. He doesn't have any
23 clients in this interest. He is here from the
24 civil rights. So he has no vested interest in
25 saying that no discrimination exists or does not

1
2 exist. His opposition is because he believes we
3 are not going far enough. I believe, oh I thought
4 we got everybody. I am sorry about that. Well,
5 hold on. I am sorry so I will hold my comment
6 until the end. I am sorry, sir.

7 LARRY SIMS: I can wait if you'd
8 like.

9 CHAIRPERSON DILAN: No, no go
10 ahead. It's been the way that we have done it.
11 It is the eclectic panel.

12 LARRY SIMS: Thank you for your
13 patience. It has been a long afternoon. I'm
14 fine. My name is Larry Sims and I am President of
15 ACCO, the Alliance of Condo and Coop Owners. ACCO
16 is a non-profit which is focused on helping owners
17 achieve fair play, transparency and accountability
18 in condominium and cooperative governance in
19 operations. And when I say owners, I mean owners
20 of real property in condominiums and owners in
21 stock, shareholders of coop corporations.

22 ACCO has educated thousands of
23 individual owners through our public forums and
24 our website and we have hundreds of active members
25 in all five boroughs including Glen Oaks Village.

1
2 ACCO has ten directors and 8 of us have served or
3 now serve on our own respective condo and coop
4 boards. I was President of my 165-unit condo for
5 years and continue to serve as a board member for
6 many years after that. And we believe that this
7 collective board experience facilitates a balanced
8 of proposed legislation such as Intro 188 as we
9 have seen the issues from both sides of the fence.
10 I want to emphasize the like Mr. Frederick and Mr.
11 Shreiber I am not paid to be here. I am not a
12 realtor, I am not an attorney, I am not an agent.
13 I have no skin in this game except as a volunteer
14 looking to improve the experience of coop
15 ownership for individual shareholders.

16 Complaints about delinquent coop
17 board decision-making are among the most common
18 that we receive. Some of our ACCO members have
19 carried two mortgages for extended periods of
20 time. Some living elsewhere even living abroad
21 have had to pay maintenance on New York City
22 apartments owned by deceased family members when
23 they were unable to consummate a sale. Some have
24 lost mortgage commitments. Some have lost their
25 place for their kids at a favored school because

1
2 they were stuck in between two different
3 districts. It's clear that when real estate
4 transactions are in limbo for an indefinite period
5 of time the list of unpleasant consequences is
6 long.

7 I have submitted a letter which
8 includes many of our specific positions on such
9 issues as there is not enough time. 45 days is
10 not long enough or nobody will want to serve on a
11 board anymore because of fear of personal
12 liability. I would rather use my brief time to
13 comment on some things that I have heard today.
14 And the first is this notion that there are only
15 22 cases known in New York City of discrimination
16 against purchasers. Until I got here today even
17 people that I have debated this issue with
18 understood that that could not possibly be the
19 case. It's just not.

20 Now Stuart Saft commented that the
21 number is low because coops are self-policing and
22 I honestly don't know what he meant by that. I am
23 aware of no mechanism by which individual boards
24 or groups of boards or groups of coop board
25 members are policed with regard to the decisions

1
2 they make on applications. I agree with Mr. Saft
3 when he said there was no grand scheme of
4 discrimination in New York City against coop
5 purchasers and the reason there is no grand scheme
6 is that there are a thousand tiny schemes and by
7 their nature they are invisible to us. They are
8 invisible to everyone in this room. And there are
9 invisible to the agencies that we like to think
10 would be able to enforce the existing laws.

11 Now we heard a little bit just now
12 and particularly from the second panel in terms of
13 textbook definitions of how a coop approval
14 process should go. And I think that's how it
15 usually goes. That's certainly how it goes at
16 buildings that are run by the people that are
17 sitting on this panel with me and buildings that
18 are advised by many of the attorneys that we have
19 heard from today. But not everybody is advised by
20 those attorneys. In fact I believe Mary Ann
21 Rothman used the number 25%. 25% of coops in New
22 York do not have a managing agent. I can almost
23 guaranteed you that neither do they retain counsel
24 for routine matters. And nobody is getting word
25 to these people. They don't know and if Intro 188

1
2 can reinforce the message about discrimination and
3 make people think about when they are going
4 through this process than it's a worthwhile thing
5 to do.

6 It boggles my mind that no one has
7 thought about or addressed the issue of workflow.
8 Now we have heard talk today about small boards.
9 We have heard talk about enormous communities.
10 Most boards have seven members. A few are a
11 little bit bigger, a few are smaller but I know
12 seven unit coops that have seven board members and
13 there are 10,000 unit coops that may have 9 or 11.
14 It's always an odd numbers but never more than
15 that. It does not scale with the size of the
16 community. And if you have a 7 unit coop they are
17 going to see perhaps 1 application per year and
18 it's not going to be a burden on any one to
19 process at a reasonable period of time. And if
20 you are in an enormous coop and you have as Stuart
21 said 25 to 30 applications per month coming in,
22 they are going to keep coming regardless of how
23 quickly you process them. And if you have seven
24 members on a board and they are all volunteers and
25 they are all unpaid and they are all doing this

1
2 after hours then they can not possibly keep up
3 with that work flow and what they need from their
4 attorney advisors is mechanisms to put admissions
5 committees in place that have teeth that make
6 recommendations to the board members who are
7 fiduciaries and process that kind of flow.

8 Because otherwise it's just not going to happen.

9 And if you have 25 to 30 applications coming in
10 every month and you are taking more than 45 days
11 to process each one you are going to be backed up

12 beyond belief in a very short order. It just

13 doesn't make sense and there is nothing wrong with

14 this law as written. Now I don't disagree with

15 everything that was said. Andy Brucker spoke

16 about the fact that attorney costs were presented

17 in the bill-

18 CHAIRPERSON LANDER: If I could ask
19 you to kind of sum up a little bit.

20 LARRY SIMS: Yes, sir. Two points.

21 He mentioned that attorney costs are not now

22 bilateral and should be. I agree. Otherwise it's

23 an inequitable and it is an invitation to

24 frivolous lawsuits. Mary Ann Rothman made the

25 point that the admissions process for coops is to

2 a large degree responsible for the fact that our
3 housing stock is in better shape than in cities all
4 over the country and I completely agree and there
5 is nothing in this bill that would change that
6 process.

7 Finally, a brief comment about this
8 idea of 188 versus 326. Now when 326 is ready for
9 hearings we will have a lot to say about it.

10 Right now 188 is available for discussion. It is
11 not a perfect bill but we don't believe in letting
12 the perfect be the enemy of the good. It is a
13 worthwhile bill as it stands and we fully support
14 it. Thank you very much.

15 CHAIRPERSON DILAN: Thank you all
16 for your time and testimony. Sir, if you have a
17 meeting that you have to go to if no members have
18 a question for this gentleman, I will allow him to
19 go.

20 [off mic]

21 MALE VOICE: I certainly do care
22 about what you have to say.

23 CHAIRPERSON DILAN: Well, look
24 let's get away from the personal. I'm addressing
25 him. [off mic]

2 COUNCIL MEMBER FIDLER: After he
3 recued my motivation for the bill, Mr. Chairman, I
4 was going to comment but quite frankly I will
5 pass.

6 CHAIRPERSON DILAN: And I
7 appreciate that Lew. Thank you, sir for your
8 time. Thank you for your time and testimony.

9 MALE VOICE: [off mic] And I
10 appreciate you giving me the opportunity.

11 CHAIRPERSON DILAN: Thank you. I
12 believe I will start with Mr. Lander and I will go
13 with Mr. Fidler on this. Just allowing you to get
14 out of here. I know you have to go somewhere.

15 COUNCIL MEMBER LANDER: Thank you
16 Mr. Chairman. I also want to echo thanks to all
17 of you for the time you take to be here and the
18 time you take to serve on your coop boards and I
19 think we all acknowledge that it's a lot of work
20 and the people we are hearing from in the room do
21 it with a lot integrity and that if there is a
22 problem that we are trying to get at it is out
23 there and we hear about it and the fact that it's
24 the folks that are anyway, so Mr. Shriber I guess
25 I want to ask you a question and I don't. You

2 referenced that you guys, your coop board has
3 rejected 2 applicants in the last some number of
4 years as you said.

5 MR. SHRIBER: During my 12-year
6 tenure we have rejected 2 applications.

7 COUNCIL MEMBER LANDER: And both
8 for financial reasons.

9 MR. SHRIBER: Both were for
10 financial reason. Absolutely. One had to do,
11 they were obtaining a subprime mortgage which they
12 absolutely not be able to afford that mortgage or
13 ever satisfy it and we were afraid of a default
14 and the other one was, I don't remember the exact
15 details but we do have financial requirements and
16 they were about 10-15,000 dollars on an annual
17 income short of that. And it was just no way to
18 make up that difference.

19 COUNCIL MEMBER LANDER: So what
20 would have been the harm of providing those 2
21 applicants notice that they were rejected for
22 financial reasons?

23 MR. SHRIBER: It's not something
24 that we do as a matter of policy that to notify
25 them why they were rejected whatever the reason is

1
2 and the problem with that is that there wouldn't
3 be a problem notifying people that they were
4 rejected for financial reasons but then it opens
5 up the door to all the other reasons. Okay, if we
6 have somebody comes into an interview and they
7 smell or they were a slob or whatever reason that
8 was brought up before. Now if you want me as the
9 board president to put that in writing, well, we
10 rejected this applicant because they were emitting
11 a body odor or whatever, well, how long do you
12 think it's going to take that applicant to turn to
13 an attorney and say what can I do about this. Who
14 can I sue over this? So that's the problem with
15 when you open up the door for giving a reason for
16 financial purposes you also have to give any
17 reasons for other disclosures and that which the
18 board has great liability. But as a matter of-

19 COUNCIL MEMBER LANDER: I mean the
20 Chair was you know, that obviously is about the
21 326 and not 188 but because you had referenced the
22 ones that you had rejected I really did think it
23 was I mean I do think from everything I heard here
24 today the vast majority of rejections are for
25 appropriate reasons. They are for financial

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2 reasons, whether or not it's a little awkward to
3 write to someone that it's their hygiene or
4 whatever their roller skates and honestly you are
5 never going to see them again.

6 CHAIRPERSON DILAN: I think the
7 more appropriate way to say that is they failed
8 the home visit. Not that-

9 COUNCIL MEMBER LANDER: I do think
10 that honestly you'd be much better checking off
11 with your lawyer to make sure the reason that you
12 gave was permissible and did not violate the New
13 York City Human Rights law in which case they can
14 go try to find a lawyer to bring a case but if
15 your reasons are permissible, your reasons are
16 permissible and that's why in Suffolk County there
17 haven't been lawsuits brought because anyway. I
18 don't want to go on but hopefully we will have the
19 hearing about 326.

20 MR. SHRIBER: But your suggestion
21 is well taken and we actually, my coop we actually
22 do that. And in those two instances where we
23 rejected applicants it was our attorney who
24 notified their attorney of the rejection because
25 we didn't feel and under advisement from the

1
2 counsel we didn't feel the board should be the one
3 to actually give that notification.

4 COUNCIL MEMBER LANDER: And I think
5 we could explore. I think that's the issue kind
6 of who says it to whom. We can find a way to
7 address that issue.

8 MALE VOICE: But that has been an
9 issue in the past. Having board members sign the
10 reason is a big roadblock to that type of
11 litigation. If it can come from a third party who
12 is an agent for the board, it's more palatable.

13 COUNCIL MEMBER LANDER: So we will
14 come back. I don't want to get into the details
15 about how we would amend 326.

16 CHAIRPERSON DILAN: I think it's
17 relevant because my follow up was going to be they
18 give any type of rejection and they established
19 that they did so I don't have to-

20 MALE VOICE: I just made some notes
21 from before. Reasons for rejections that I have
22 seen is occupancy issues. Somebody lives in a big
23 house somewhere and wants to buy a one-bedroom
24 coop in a different neighborhood. Clearly, it's
25 not for them and coop boards generally want owner

1
2 occupied apartments or they feel somebody is
3 buying it for investment. Financial reasons,
4 false instruments in the application, people
5 submit where they have income from rentals, go to
6 the tax returns they don't pay tax on that money,
7 that type of thing and finally, as Warren said
8 many people appearing I have seen it where they
9 have appeared intoxicated at interviews and things
10 like that. And they felt they wouldn't be good
11 neighbors in able to adhere to the coop rules and
12 regulations.

13 COUNCIL MEMBER LANDER: Absolutely.

14 I think that both 188 and 326 don't touch the
15 reason. I mean all of those are permissible
16 reasons and they would continue to be permissible
17 reasons. Part of the challenge when you have the
18 combination of the secrecy of the board decision
19 without any meaningful notice or information
20 given. It sounds like you guys have a best
21 practice, you gave some information. You provided
22 a notice of the rejection. It sounds like you did
23 it in a reasonable time frame and some information
24 was provided as to why. When those things don't
25 happen then it just allows in places where people

1
2 have less integrity, it allows problems to fester
3 and provides no way for people to address them.

4 There are still many people here
5 and I don't want the Chairman to go late on into
6 the night but I did just want to ask Mr. Gurion
7 down a little bit more into the New York City
8 Human Rights Commission. I mean you mentioned the
9 depth which staff was down. There was a good
10 suggestion earlier. I hadn't, I mean I wish we
11 had an aggressive-

12 CHAIRPERSON DILAN: You know the
13 question, if Mr. Gurion can maybe answer the
14 question in a way that highlights discrimination
15 as it relates to-

16 COUNCIL MEMBER LANDER: This really
17 goes into 188. I think the idea of a testing
18 program for other kinds of housing that would be
19 expanded would be great. But 188 specifically
20 relies on the Human Rights Commission to identify
21 problems that might require additional legislation
22 I mean which sounds good but in my experience the
23 Human Rights Commission doesn't wind up being all
24 that pro-active and sort of helping to identify
25 patterns and I wonder since you had a long

1
2 involvement with the Human Rights law if you could
3 speak directly to that provision of 188.

4 CHAIREPRSON DILAN: Yes.

5 MR. GURION: Thank you for the
6 question and on this one, I mean it is good for
7 victims of discrimination in New York City that
8 they do have to rely on the New York City Human
9 Rights Commission which is widely understood,
10 universally understood in the civil rights
11 community to be entirely ineffectual and in my
12 experience and as I said, I have been doing this
13 for about 25 years. Certainly in the recent
14 period of time, let's say the last two mayors
15 worth, 20 years, the Human Rights Commission has
16 never met a Human Rights Bill that it's liked.
17 And the problem is this provision in Council man
18 Fidler's bill and it is Fidler and not that other
19 pronounciation and I will say though that I
20 disagree with you, sir, on the bill. I empathize
21 with you in terms of some of the criticism that
22 you faced today, you may remember, we are old
23 enough to remember that old Saturday Night Live
24 routine the mock commercial at the beginning of
25 that when there was an oil company and it said do

1
2 what we say and no one gets hurt. That's what we
3 heard today. As long as you don't tamper with our
4 system. As long as you don't try to have any
5 enforcement we will continue to serve on coop
6 boards. But the problem is in respect to
7 Councilman Lander's question, the bill is set up
8 to suggest that if there is a problem that emerges
9 the Human Rights Commission will talk about it.
10 It's not attitudinally interested in doing it and
11 it's not structurally able to do that because in
12 this area it can receive complaints but it can not
13 effectively initiate complaints.

14 One of the most important powers
15 under 8-109 of the City Administrative Code is the
16 power of the New York City Human Rights Commission
17 to initiate complaints. Not dependent on an
18 individual applicant. As I have said before you
19 can't do that in the co-op context because you
20 can't tie up an apartment. So they are not going
21 to find the information and frankly the question
22 posed on the how many complaints really isn't a
23 fair question. And this has been studied
24 actually. It's been studied by HUD. When people
25 feel that coming forward is futile they won't do

1
2 it. It used to be the case that in another domain
3 that of rape and other instances of sexual abuse.
4 That issue, that problem was the scope of that
5 problem was derided. Where are the victims? The
6 victims were invisible because they felt that if
7 they stepped forward nothing effective would
8 happen so complaints made is a poor measure. It's
9 just a fraction of violations.

10 CHAIRPERSON DILAN: What I would
11 say is I wouldn't necessarily disagree with that
12 statement but I do have to ask the people that are
13 submitting their applications about their
14 professional experience about discrimination and
15 complaints. I do have to ask then.

16 MR. GURION: No, I think I have
17 seen it individually. You name the context. I
18 have seen it and people tend to think more in
19 terms of race and national origin but with coops I
20 have seen it with discrimination on the base of
21 age, discrimination on the basis of sexual
22 orientation, discrimination on the basis of
23 disability.

24 CHAIRPERSON DILAN: Mr. Gurion, if
25 you will. I want to just stop for a second to

1
2 allow for Council member Fidler to get some
3 questions in to the panel. Thanks. Council
4 member Fidler.

5 COUNCIL MEMBER LANDER: Thank you
6 very much and for your patience in the hearing.

7 COUNCIL MEMBER DILAN: Thank you
8 Chairman Dilan. I have to tell you if we haven't
9 been sitting here for so long I kind of find it
10 funny that half of our witnesses have testified
11 that Intro 188 is the end of the world and Mr.
12 Gurion is testifying that it is absolutely
13 ineffectual and it's kind of ironic but for the
14 clairvoyant member of the panel who has since
15 left, who probably wasn't paying attention in
16 class when I acknowledge that the reciprocal
17 nature of the legal fees on this bill was clearly
18 an omission and something I use as an example of
19 what had to be amended. And so I am going to ask
20 Mr. Masel the question because you kind of raised
21 it. I'm familiar with phishing statutes I think
22 the Federal Telecommunications Act you send
23 someone a fax you shouldn't send them and-

24 MALE VOICE: Fair Debt Collection
25 Act.

2 COUNCIL MEMBER FIDLER: Exactly.

3 So if in fact there is a reciprocity of attorney's
4 fees don't you think that would have a chilling
5 effect on lawyers seeking to phish for clients
6 here by bringing 1,000 lawsuits. I recognize that
7 when you are the defendant in such a suit and I
8 have represented defendants in phishing lawsuits
9 and the attitude is do you pay me or do you stick
10 it right back up their nose and say this is a
11 sanction able lawsuit I am coming after you. It's
12 a tough choice to make. Don't you think it will
13 have some chilling effect on that notion of
14 litigiousness.

15 MALE VOICE: It may and it
16 certainly a step in the right direction. I just
17 feel the threshold issue of these penalties and
18 the legal fees provision is an invitation to
19 litigation that doesn't exist today. I think it's
20 going to open you know, I have dealt with issues
21 that seemed completely inane. You know people
22 allergic to carpets and they go to Human Rights
23 for that or dog disputes, this and that. Things
24 that start out small.

25 COUNCIL MEMBER FIDLER: But all

1
2 those causes of action are available to them
3 today, right?

4 MALE VOICE: They generally will go
5 to Human Rights on those issues.

6 COUNCIL MEMBER FIDER: The
7 Bloomberg Administration has testified that there
8 are only 22 of them, 22 that have filed
9 complaints.

10 MALE VOICE: I didn't read that.
11 That's for-

12 COUNCIL MEMBER FIDLER: That's in
13 the Bloomberg Administration.

14 MALE VOICE: -For denial of
15 applications. Not for Human Right complaints. A
16 total.

17 COUNCIL MEMBER FIDLER: I am not
18 sure that-

19 MALE VOICE: That can't be because
20 I must have with my 9,000 units I represent, 7 or
21 8 mostly this I'm allergic to carpet and you are
22 discriminating against me type complaint. But I
23 think any time you have a statute with a legal
24 fees provision you are opening the door to
25 litigation and to me that's a dangerous thing.

1
2 Once you have two sides lawyered up.

3 COUNCIL MEMBER FIDLER: If you know
4 you are bringing a frivolous action and your
5 lawyer says to you, you know you could be hit for
6 their legal fees. It takes a moron to continue.
7 I recognize there are morons but you are already
8 telling me that's happening.

9 MALE VOICE: Nebulous guidelines.
10 It's Day 46 at 12:01. It's a technical statute.
11 Somebody comes to an interview on Day 40 and
12 doesn't bring their son or daughter who is
13 supposed to be there but the contract calls for no
14 occupants. There are so many holes in this
15 statute that it-

16 COUNCIL MEMBER FIDLER: And I
17 think, I know we are running late and-

18 MALE VOICE: But I am saying there
19 are technical issues that are going to give rise
20 and again there's that absurdity if someone gets
21 approved too late and they are still subject to
22 these civil penalties.

23 COUNCIL MEMBER FIDLER: You are
24 also not accounting for the sensibility of the
25 arbiter. You are seven minutes late, you are

1
2 technically in violation. I'm fining you a
3 dollar.

4 MALE VOICE: But it costs money.

5 COUNCIL MEMBER FIDLER: I
6 understand that. By the same token to get to the
7 arbitrator could cost you money too.

8 MALE VOICE: But you know what if
9 you are in court and you are the defendant and the
10 other side says just give me \$500 whatever it may
11 be and pay \$500 for legal fees versus paying your
12 own lawyer x amount of dollars to be there to get
13 to the arbiter. You get there at 9:30 first
14 calendar call you might not get heard for a day or
15 two and we all know that.

16 COUNCIL MEMBER FIDER: The real
17 underlying issue here is the balancing of the
18 interest. You are concerned that coop boards are
19 going to be unduly sued. I'm concerned that a
20 percentage of the coop boards and Mr. Shriber, I
21 hope you didn't think it was something I said that
22 impugned coop board members versus attorneys. I
23 have the highest regard for my own profession. As
24 long as Mr. Masel is not your attorney.

25 MR. MASEL: I am actually.

2 COUNCIL MEMBER FIDLER: I'm sure
3 you know more than your lawyer.

4 MR. MASEL: He said it himself.

5 COUNCIL MEMBER FIDLER: So you
6 know, how much discrimination is too much? If I
7 were to sit here and say 98% of co-op boards
8 operate all the time, 100% right is 2% too much?
9 Has it become too much if the person who was
10 excluded was your mother, your brother, your
11 sister? When does it matter? That's the
12 balancing interest here for the people who are
13 telling me they are ending their world.

14 Now I have a question for Mr.
15 Gurion. You know I have to refer to 326 to ask a
16 question, if there are five members of a coop
17 board in a room when a decision is being made and
18 they are all hell bent to be immoral and so they
19 take that interracial couple that they don't want
20 in their building because they are bigots and they
21 write a letter saying we have rejected you because
22 we didn't like you. Because we didn't care for
23 your smell. Because you didn't come with a shirt
24 and tie or any one of those things. For any one
25 of those things to happen even though the real

1
2 reason was invidious discrimination. Doesn't it
3 really just take one honest man or woman in the
4 room to stop it?

5 MR. GURION: Thank goodness you
6 asked that question. We got 3 ½ hours through
7 without talking about how discrimination works or
8 how uncovering discrimination works. Typically it
9 takes a lot more than one honest person and it is
10 going to take a lot more than coop board members
11 saying scout's honor, we didn't discriminate.
12 Because almost always, unlike what had happened in
13 the 1960s even in the 1970s, discrimination
14 doesn't announce itself so are there stray
15 circumstances where one person will say to another
16 I don't want this person because they are Jewish
17 or I don't want this person because he is married
18 to a Latina, yes but much more of the time
19 discrimination is uncovered when the answers don't
20 add up. When the reason given is protectoral and
21 that's why putting cards on the table is so
22 important. You know if you get turned down for a
23 credit card at Macy's you get more information
24 about why you were turned down then if you are
25 turned down for your coop.

2 COUNCIL MEMBER FIDLER: You
3 mentioned a TV show before. I'll mention another
4 one. Do you watch Star Trek ever?

5 MR. GURION: The original one.

6 COUNCIL MEMBER FIDLER: Of course.

7 MR. GURION: Not like-

8 COUNCIL MEMBER FIDLER: Actually I
9 am going to ask you a question about the original.
10 I think we all agree that Mr. Spock is the
11 smartest character of the show. In one episode he
12 says to Captain Kirk. Every revolution is one man
13 or woman with a vision. I think you heard
14 testimony earlier when you were in the room when
15 Ms. Ford stood up the right thing happened. And
16 for you to say that 188 will have no effect. If
17 you don't necessarily you know you may know the
18 other four members of your coop board but you may
19 not trust all four of them, if you are the only
20 one in the room thinking the discriminatory
21 thought you can't communicate it if Ms. Ford is in
22 the room. And so if there is one person and it's
23 the same thing as 26. If everyone in the room is
24 going to sit there and figure out a really good
25 reason that can't be challenged to say this is not

1
2 discrimination? It's the same thing. It's the
3 one honest person in the room theory. All right.

4 MR. GURION: It's not and in New
5 York City unlike on Star Trek there is no Vulcan
6 mind meld.

7 CHAIRPERSON DILAN: All right,
8 guys.

9 MR. GURION: Mr. Chairman, I will
10 update it but it is a very important question that
11 Council member Fidler-

12 CHAIRPERSON DILAN: And I want to
13 be respectful to everyone else. Let's kind of get
14 to the point.

15 MR. GURION: I will be as quick as
16 I could be. There is a reason that as an industry
17 practice universally reasons aren't given.
18 Because once a reason is given that reason is able
19 to be tested. So if the reason, Mr. Chairman is
20 you have not held your job for more than, the
21 applicant, not you as the Chair of this Committee,
22 you have not held your job for more than 3 years
23 and that's why we are turning you down. That's
24 what I need to make an assessment. That's what
25 the family turned down needs to, well I guess I

1
2 haven't been. We can turn around and say what
3 about Mrs. Smith in apartment 1B. You let her in
4 here and she was only working for 2 years.

5 COUNCIL MEMBER FIDLER: But what if
6 the reason is we just didn't like you.

7 MR. GURION: Well, Council member
8 Fidler, Federal courts and state courts have been
9 saying for more than 30 years that it is the
10 obligation of judges and juries when it is a
11 reason that soft to exercise great scrutiny
12 because that can cover everything. And one of
13 the things that is important about an anti-secrecy
14 bill aside from the fact that it requires nothing
15 when somebody has been accepted is that it
16 precludes, it stops a co-op from bringing forward
17 other reasons beyond the reason that's given in
18 the statement. It's easy to comply with an actual
19 transparency statute. Everybody was in the room.
20 They can say what their reasons were.

21 CHAIRPERSON DILAN: What I have to
22 do is I have to move on in deference to time. It
23 is a lot of people and this panel has had a lot of
24 time. I know Mr. Gurion in respect to you, you
25 have been working on this issue since 2004 and

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2 because your bill was not being heard today you
3 are somewhat aggrieved so that's why I allowed him
4 to go on but I think at this juncture. I have to
5 put it to a stop to allow for the remaining people
6 for the chance to say two words. So I thank you
7 and we certainly understand that you are a leader
8 on this issue and we will reach out if we decide
9 to go any further.

10 MR. GURION: Thank you Mr.
11 Chairman.

12 CHAIRPERSON DILAN: Okay. So now I
13 have lost track. Who is next? Okay, so from what
14 I understand there are two more panels and what I
15 am going to do is the next panel I am going to
16 take a rather large panel of six that are in favor
17 I believe are all in favor, Duwaana Hughes, Frank
18 Bethedo, Katie, come forward Katie, Rodmilla
19 Vesnovik, did I say that properly? Isabella
20 Zinocrodgy, and George Wanaka. And then the final
21 panel will consist of Phyllis Weissberg and Neil
22 Daviditz. That would be the final panel. Why
23 don't we begin in the, I guess you guys can decide
24 on the order who wants to go first? Just state
25 your name for the record before you begin your

1
2 testimony.

3 FRANK PROFETTO: Good afternoon.

4 My name is Frank Profetto. I am a life time
5 resident of Brooklyn, New York and I will probably
6 die there. I am in favor of this proposal because
7 I was a resident of Sheepshead Bay. I was on the
8 first floor until the Hurricane came and then I
9 became homeless and right now I have excellent
10 credit, the bank gave me excellent credit, the
11 bank is waiting to close but I am still waiting to
12 hear from the co-op board so whether or not I have
13 been approved. I am still waiting for preapproval
14 to go with the original approval. And sorry that
15 I am not dressed as well as many people are today
16 but I used to have clothes that would rival what
17 you were wearing and I hope to have it again.

18 And I just want to say that every
19 day that goes by is like five days to someone who
20 is homeless right now. And I am willing to be an
21 excellent neighbor if you just give me the
22 opportunity when I reach out to you to have
23 someone say, yes, no, we don't want you here.
24 Yes, we are happy to have you as a neighbor. I am
25 just waiting and waiting and I am talking into the

1
2 void right now. I have my rate is about to expire
3 on my mortgage and I will have to pay more for
4 that. I also have an SBA loan that I have been
5 approved for that I ask for an extension on
6 because I have no place to buy things when they
7 approve this loan you have to insure the property
8 for this loan.

9 So right now the only place I live
10 right now is my head and I am like a plane with no
11 place to land and I feel that I am running out of
12 fuel and if I can at least get a yes or no from
13 somebody, whether it's the management company or
14 the co-op board to say we want you as a neighbor
15 or not. Just let me know where I have to go?
16 This way I can move on if you don't want me but
17 please tell me something because it's been months
18 and months that I have been homeless because of
19 this Hurricane. And thank you for your time.

20 CHAIRPERSON DILAN: Thank you and
21 thank you.

22 KATIE KAO: Good afternoon. My
23 name is Katie Kao, I'm a realtor. I work for
24 Keller Williams. I am also a NYSA member, LIPO
25 member and Chinese American Association of

1
2 Realtors, Asian Real Estate Association of
3 America. I work with a lot of buyers and sellers
4 and one of the instance that happened recently I
5 would like to bring you up to everybody's
6 attention. This is a coop sell for \$170,000 in
7 Queens. There is a young couple that are very
8 interested in this. They came with their
9 realtors. So they submitted their paperwork.
10 Everything the co-op board requirement. After
11 even they pay their mortgage, they put down 25%
12 down. Their credit score is 790 and 700. Okay
13 that's a very good credit score. But we submit
14 the package. I thought everything was perfect.
15 WE wait for the approval. Three weeks later I got
16 a message. You have been rejected. So I ask them
17 why. Why is the rejection? They say, all I can
18 tell you is rejected.

19 CHAIRPERSON DILAN: They were
20 rejected by-

21 KAITIE KAO: The co-op board. Okay.
22 So I persist to ask why and they were not reply.
23 They say, I already told you it's been rejected.
24 And the lady is Asian. The gentleman is Spanish
25 descent. So I couldn't figure out in my mind why

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2 they reject this deal. But for obvious reason I
3 cannot say because I have no proof to that. I am
4 sure that this case, instance happened to a lot of
5 people not just my client, this one. So if we
6 don't pass the bill the Intro 188 to limit the
7 time to tell them to you that I can take the
8 reason there is no way we can improve the co-op
9 economy and also the people, the owner, the buyer
10 and somebody mentioned realtors are only looking
11 for their own money. Which is not true. We gave
12 out educations to the committee member, first time
13 home buyers, we give our seminar helping the
14 people with not just home owner, we work with
15 banks, we work with Fannie Mae, Freddie Mac.

16 CHAIRPERSON DILAN: And I would say
17 it's pretty established. Just so we could save
18 time on this. I think it's pretty established
19 that realtors are not interested in wasting time
20 with clients that can't buy. I think that's
21 established.

22 KATIE KAO: We are helping people.

23 CHAIRPERSON DILAN: That part I
24 agree with you. It's not necessarily about the
25 transaction because you get paid on transactions

1
2 and you are not going to waste time with somebody
3 who is not going to be financially qualified.
4 That part I think you are all in agreement there.
5 So go ahead, continue. I am sorry.

6 KATIE KAO: SO I really want the
7 Committee's thing about this Introduction 188.
8 It's good for the buyer, the seller, for the
9 economy for all our realtors, for everybody.
10 Thank you.

11 CHAIRPERSON DILAN: Thank you.

12 RODMILLA VESLINOVKA: Hi, My name
13 is Rodmilla Vesinovika, I am a real estate agent.
14 I have been doing this for ten years and I am with
15 the Charles Rothenberg Realty. I came here for
16 specific reason because I have been working with
17 the one of the coop boards for the last six year
18 and extremely difficult board and I have seen a
19 lot. The average process of approval is between 4
20 and 5 months. I am still waiting on two sales in
21 the building that I have submitted package in
22 December and now it's April which means that I
23 started working with the buyers in November on
24 their papers. In November we had the contract
25 signed and I started collecting the documents and

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2 then we have mortgage commitment and we submit it
3 in December and I still haven't closed with two
4 sales. We had approval of the buyer like on April
5 9th and we are just waiting for the closing
6 documents to be signed and sent to the attorneys
7 and I still haven't heard from the board. Just
8 for putting the signatures on the papers like
9 three weeks. So it's been like five months.
10 Potential buyers they don't know that when they
11 start purchasing so they expect like they have
12 their own plans and they expect like many 2 to 3
13 months would be like the average to be able to
14 move in. So some of them are renting and I have
15 like two guys now that they lost their lease.
16 They are crashing in their friends' apartments for
17 the last two months trying to wait and see what's
18 going to happen and they keep calling every day
19 and I don't know what to tell them because the
20 only thing that you can not do in the process is
21 to push the board. And that's the only thing that
22 you can answer. We can not push the board. You
23 can not contact the board. You can not call the
24 board and ask why it's taking so long. And the
25 problem is that I have been selling in that

1 building for the last six years. That the
2 president of the board is on the board for last
3 like 20 years and he's the god over there. SO
4 whatever he decides that's what it's going to be.
5 That's the only building that I have been rejected
6 in my ten years of doing real estate. The only
7 building I have been rejected four times for the
8 same apartment because the owner of the apartment
9 is not in good standing with the president of the
10 board. And that's the way to getting back to
11 seller. We had all cash buyers. We had and I
12 know how to approve a buyer. My problem is we are
13 not here to fight against the co-op board. We
14 want to work with them but since when transparency
15 is a bad thing. Since when. What is the reason
16 that you don't want to be transparent. What is
17 the reason they are saying like oh, we have
18 financial problems, we have this, well, what is
19 the reason that you don't want to disclose that
20 reason to the buyer? Why? I mean if you tell me
21 exactly what your requirements are. What are the
22 requirements of the board? How much money you
23 want in liquid asserts after that. How much you
24 want to allow? This board when I tell them like
25

1
2 what is the minimum requirement for the income,
3 they say like we don't have that. But if the
4 person is making 70,000 they tell me it's not
5 enough. Well, it's not enough why don't you tell
6 me how much is the requirement so I know up front
7 the person who is making 70,000 is not enough so I
8 won't approve that person. But they want those
9 legal holes to keep for themselves so that they
10 can say it's not enough. What we usually do we
11 are counting like that three times, if the person
12 has a debt of like \$2,000 times three, 6,000 per
13 year, 72,000. That's the formula that we approve
14 the buyer if he has like 72,000. That should be
15 sufficient he should be able to pay the mortgage
16 and the maintenance. But if the board doesn't
17 tell us that this is the limit or the minimum of
18 the income then we don't know then it leases them
19 a space to reject the person or no reason, not
20 explaining it. Just for like financial reasons.
21 But if I have like 20 requirements and I know
22 exactly that we answered every single requirements
23 and I still get rejected then I want to know why
24 and what's wrong with that? I want someone to
25 explain to me in plain English why that's wrong?

1
2 Why we don't have right to know. The purpose of
3 the law is not to protect one side against the
4 other side. The purpose of the law is to give
5 everybody the same chance. If they have right to
6 reject me I have the right to know why I am
7 rejected. It's not that the current law gives
8 them the right to discriminate. Gives them the
9 green light to do whatever they want without ever
10 explaining what they are doing. And to say that
11 it only benefits us agents that's really like
12 ridiculous because why should I feel guilty to
13 work hard on the deal fro 4, 5,6 months and being
14 sure that I am giving them like excellent buyers,
15 being rejected and losing my deal. Yes, I want to
16 close the deal. One of the attorneys said well it
17 already says that in the contract that if you
18 don't close in 30 days you can walk out of the
19 deal. Well, we don't want to walk out we want to
20 close the deal. That's how we make our living. So
21 188 that's excellent article will give us some
22 guidelines that they should respond in a timely
23 manner and it's a shame that we can not include
24 326 but I think that we have to keep fighting for
25 it.

2 CHAIRPERSON DILAN: It's not
3 impossible to include 326.

4 MS. VESLINOVIKA: I think that we
5 should fight it. There is nothing wrong with
6 being transparent. That's my point.

7 CHAIRPERSON DILAN: Thank you.

8 ISABELLA ZINCRODDY: Hi, my name is
9 Isabella Zincroddy. I actually work for Keller
10 Williams and a broker associated with this
11 company. I am also a member of NYSA and committee
12 members in those committees in NYSA. The reason
13 of my to be here today is to fight for this 188
14 law and see if we can pass. I have two cases, one
15 of them was two years ago. A buyer was rejected
16 twice and everything was okay with her. It really
17 of my colleague's talk, we have to make sure that
18 we have the commitment in our hands to process the
19 file. And no reason why she was rejected and no
20 reason why either because her credit was fine.
21 Her income was fine. Everything was fine but we
22 just received a rejection. Not once but twice in
23 different buildings same location. So I lost a
24 buyer and I lost 6 month work and a gentleman here
25 says that we have, everybody has paid to being

1 here. I don't think, none of my colleagues has
2 been paid to being here today to fight for this.
3 Or rise to have something clear and to go through.
4

5 I have a case that it took me seven
6 months to close. We have the buyer, we have the
7 contracts, we have the commitment and everything
8 has in place in December. I put the file with the
9 board and it took three month because we found
10 some proof that people from the board never took
11 the time to check in this file that we have the
12 opportunity to fight for and they didn't have any
13 other choice but giving to review and pass the
14 buyer. So with the respect of everybody in this
15 room I please ask to pass this law.

16 CHAIRPERSON DILAN: Thank you.

17 DUWAANE HUGHES: Hi, my name is
18 Duwaane Hughes. I am a licensed broker with 24
19 years experience. I am a member of the National
20 Association of Hispanic Real Estate Professionals
21 and I have not only personal bias experience but
22 also with clients and clients on the seller side
23 and buyers.

24 So my personal experience I was, my
25 entire package was submitted. I am sitting at the

1
2 board table for the interview. They are looking
3 obviously they have already had an opportunity to
4 review my paperwork. So they are sitting there
5 and they say to me, well, where did you get the
6 money? So of course I said to them, well, it's on
7 the bank statement that's on the package. And so
8 with that and a few other unseemingly comments I
9 knew that I wasn't going to get past but I was
10 actually very happy to go into the building
11 because I knew that it was not going to be-

12 CHAIRPERSON DILAN: So this was
13 your personal experience.

14 MS. HUGHES: That was my personal
15 experience. Just came off of a deal where the
16 shareholder was having a difficult time working
17 with the board to get just the application. She
18 had lost a child in the unit and was desperate to
19 sell. She was just desperate to get out of there.
20 The unit we had loads of people coming in.
21 Qualified buyers. There is one couple, great
22 couple had all the bells and whistles, totally
23 qualified, great credit, everything, however the
24 board which was really represented by one person
25 decided that we had to wait four months for just

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2 the application. In this four months of us
3 waiting for the application because we kept on
4 getting side tracked, she finally refers us to her
5 attorney who then tells us that we are not giving
6 out applications until your customer has a
7 commitment. So, okay we will jump over that
8 hurdle. We go through the commitment, which is
9 unheard of until you have the application usually.
10 So they do that, you know we go into contract,
11 everything's fine and they didn't even call them
12 for an interview after seven months of holding
13 them hostage. And rejected them just off the
14 application. No rhyme, no reason. [off mic]

15 Working with a board, and instances
16 where you are actually have dual representation
17 where you are working with the seller who is not
18 capable. This older woman, my mother's age
19 actually, I actually referred her to the Human
20 Rights Commission on this, she was waiting for the
21 board to approve her sale. She had already put
22 most of her belongings on a truck to North
23 Carolina because she knew this was going to go
24 through. She was literally living on her couch in
25 this apartment. Almost 2 years later she still

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2 wasn't able to sell her unit. The board and the
3 members were fighting it. They even hired an
4 attorney because they really thought they were
5 being discriminated against and it's interesting
6 because one of the things was because they were
7 educated. Professionals at Columbia University
8 and perhaps just knew too much and the building
9 had maybe some questionable ethics so there are
10 innumerable cases that can be cited where
11 discrimination is prevalent. And I think it's
12 important for us to although just like the social
13 security bill when it was first introduced, it
14 wasn't exactly the way we wanted it to be.
15 However over the time it was tweaked to form a
16 more justifiable use. And so I think 188 has that
17 great potential.

18 CHAIRPERSON DILAN: Put a little
19 bit uncomfortable position there.

20 GEORGE WANAKA: My name is George
21 Wanaka. I'm from Staten Island, New York. I am a
22 broker with Wanaka brokers and appraisers and I
23 was not paid to be here today as well. Unlike my
24 other colleagues. First thing I would really like
25 to kind of get out. There was something that was

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2 said earlier and it was mentioned a little bit.
3 Realtors and the real estate industry as well one
4 of our goals is to protect the private property
5 rights of our clients. Whether it is home
6 ownership, whether it is lease hold, whether it is
7 commercial. That's one of the founding principles
8 of the things that we do. So when someone
9 mentioned earlier that we are only out here for
10 our commissions and things of that nature, no, we
11 are out here to protect for the property right of
12 people we represent. Whether it be taxes or any
13 other types of zoning laws and things that get
14 changed. So that I just wanted to get out on the
15 record.

16 We have had a lot of back and forth
17 on 188 today. I want to give you another personal
18 experience. And this is not from a year ago, this
19 is not from two years ago, this is from within the
20 last 6 to 7 months. We have a property that we
21 represent in Brooklyn. It is a coop. We have
22 sold this property five separate times to five
23 different buyers. Every time we sell the unit we
24 go to contract on the unit. We ask for the
25 application to go in for the board. They go in

1
2 and fill out the application. Two months later
3 every single application there was a rejection.
4 There was no meeting of the buyer or any of the
5 buyers at the given point for any transaction. It
6 was a blanket transaction. After the second
7 rejection, I picked up the phone myself called the
8 management company, which by the way never got
9 returned and asked and left messages, tell us what
10 the criteria is so at least we know and we can
11 make this available to buyers that want to come
12 and purchase this unit. And it's like pulling the
13 string back a little bit to see who's behind the
14 glass wall. You have no idea what's going on when
15 you are trying to sell this individual unit. Now
16 I have a unit on the market for 10 months that any
17 buyer that goes in there. Now it has a stigma to
18 it because it's been on the market 10 months. Why
19 couldn't anybody buy this property? The board
20 keeps rejecting it. It has nothing to do with the
21 unit. It has nothing to do with we had it sold 5
22 times. It's because it continues to get rejected.
23 That has an affect on the marketability and the
24 marketability of the seller. [off mic] Exactly
25 right. So I would just like to say that 188 is a

1
2 great start to this process. I think that if it's
3 passed it will be a welcome addition to our
4 industry as well as helping home owners and buyers
5 throughout New York. Thank you.

6 CHAIRPERSON DILAN: So just to ask
7 blanketly and if everybody could do it as quickly
8 as possible, how many times have those rejections
9 in your experience you believe have been a result
10 of discrimination? I have asked every other
11 panel, I have to ask it?

12 MS. VESLINOVKA: Well, for me it's
13 almost every time because honestly when I am
14 submitting the application, I 100% believe that
15 this a perfect buyer so I am always shocked when I
16 hear that it's very difficult to explain to the
17 buyer-

18 CHAIRPERSON DILAN: And how many
19 times have you referred to Human Rights or any
20 other agency?

21 MS. VESLINOVKA: I never because
22 it's very difficult to prove something because I
23 heard rumors in the building. I have been selling
24 in the building for a long time so I know the
25 tenants. They keep telling me rumors from the

1 building but you can not base anything on that.

2
3 CHAIRPERSON DILAN: Take it from
4 there. Take it from up there. [off mic] He's
5 fine he can talk. Anybody else want to talk and
6 share in just short answer on this matter of time.

7 KATIE KAO: Well, the case that I
8 just mentioned. The selling price is \$170,000.
9 They are making \$150,000 a year. With such great
10 credit score for both of them so I don't see any
11 other reason for rejection. One is Asian, one is
12 Spanish.

13 CHAIRPERSON DILAN: Okay and have
14 you referred at all to-

15 KATIE KAO: No, I haven't.

16 CHAIRPERSON DILAN: No. Anybody
17 else.

18 MS. ZINCRODDY: Yes. In the case
19 that I mentioned two years ago, she was from
20 another nationality and I told her to she can
21 complain, she can proceed with an attorney and she
22 says I don't want to be in a place that they don't
23 want me to be. I mean this is ongoing all the
24 time. This is not one case that, it might not
25 going to be reflected in all the procedures they

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do right now.

CHAIRPERSON DILAN: I understand that the perceived data could be imperfect but you guys are the practitioners in the street, I just want to hear your perspective.

MS. ZINCRODDY: I have a board member calling me and asking me what is the nationality of the buyers so I said they are American citizens, they have an American passport.

CHAIRPERSON DILAN: Well, that should be a prohibited question.

MS. ZINCRODDY: Can you find out about the origin I said I am sorry I cannot find.

CHAIRPERSON DILAN: Mr. Profetto, you said you were in a unique situation.

MR. PROFETTO: Indeed I am.

CHAIRPERSON DILAN: You are in a unique situation. [off mic] You were I assume a homeowner for many years.

MR. PROFETTO: I was a homeowner in Marine Park [off mic] became a renter in Sheepshead Bay for thirteen years and after the hurricane I became a ward of the good hearted people of New York.

2 CHAIRPERSON DILAN: So in your
3 interview you mentioned that you were displaced as
4 a result of Hurricane Sandy or you haven't gotten
5 an interview yet?

6 MR. PROFETTO: I haven't gotten an
7 interview yet.

8 CHAIRPERSON DILAN: All right.

9 MR. PROFETTO: And I knew Mr.
10 Fidler, if you will allow me, one of those
11 properties I have to speak Russian I will take an
12 online course.

13 CHAIRPERSON DILAN: All right.
14 Council member Fidler. Any questions? No. All
15 right if not, thank you all for your time. And
16 you are a unique situation because I could see how
17 yours could fall through the cracks because I
18 would say that a board would have the right reject
19 someone who was homeless. However in your case it
20 is not a true reflection of your status.

21 MR. PROFETTO: My account suggests
22 otherwise.

23 CHAIRPERSON DILAN: And you
24 submitted those document.

25 MR. PROFETTO: The documents are

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2 in. I just want a yes or no. Thank you all for
3 your time.

4 CHAIRPERSON DILAN: I certainly
5 appreciate what you are going through and I hope
6 you get there fast.

7 All right. We are down to it.
8 Okay, you are Phyllis? Is Neill here? Phyllis if
9 I would have known that I would have got you in on
10 the last panel. All right Phyllis the floor is
11 yours. Take your time to get set up. Take your
12 time. Now one is yours and one is on behalf of
13 someone else?

14 PHYLLIS WEISSBERG: It's a group
15 that includes several other attorneys.

16 CHAIRPERSON DILAN: Okay what I
17 will do is the one you are going to read the one
18 that's from you we can allow and the other one we
19 can enter into the record as if it was read in its
20 entirety.

21 MS. WEISSBERG: I wouldn't want to
22 stay here while we read it in its entirety.

23 CHAIRPERSON DILAN: That's why we
24 do it for the record.

25 MS. WEISSBERG: Detailed analysis.

2 CHAIRPERSON DILAN: So we are
3 dealing with the one with your name on top for
4 now.

5 MS. WEISSBERG: Correct. Correct.

6 CHAIRPERSON DILAN: Okay.

7 MS. WEISSBERG: Thank you very much
8 for your time. Hopefully I won't take up too much
9 more of your time. I had a chance about two years
10 ago to discuss this with Council member Fidler.
11 We had a spirited discussion and I know he is
12 acknowledged some of the changes that would have
13 to be made. Let me introduce myself. My name is
14 Phyllis Weissberg. I'm a member of the law firm
15 of Montgomery, McCracken, Walker and Rhodes. I am
16 representing board of cooperatives and
17 condominiums for approximately 35 years. First at
18 Kerslman, Kalston and Frank and now Montgomery. I
19 am the incoming Chair of the Committee on
20 Cooperative and Condominium law at the New York
21 City BAR although I am testifying on my own behalf
22 today and I might add I have been here since
23 before 1:00 and I am not being paid for my time.
24 So I am doing this one my own.

25 CHAIRPERSON DILAN: We are the only

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2 ones getting paid to be here.

3 MS. WEISSBERG: I mentioned on the
4 incoming Chair I am succeeding Andrew Brucker who
5 is on the first panel. I have submitted to you
6 today a statement that has been signed by me and
7 six of my colleagues from other law firms and one
8 of them is Andrew Brucker. All seven of us are
9 attorneys involved in cooperative and condominium
10 law and we together represent approximately 200
11 years of experience in this field and perhaps as
12 many as 1,000 cooperatives in new york City. And
13 I would ask that you read that. It has a detailed
14 analysis of what we think the problems are.

15 I do want to say that in all my
16 years of working with boards of cooperatives I
17 have found most board members to be contentious
18 and hard working volunteers that try to do the
19 right thing. And for those that do go astray the
20 administrative agencies and the courts have ample
21 power and tools to rectify the situation. We all
22 agree that prohibited discrimination is
23 unacceptable. That's not open to debate and
24 that's not what I am here to do. But I believe
25 that the problem that is supposedly being

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2 addressed by intro 188, a problem of
3 discrimination that the law is currently unable to
4 resolve is non existent. I believe that the law
5 can address it and I further believe that even if
6 the law is inadequate this particular bill does
7 not address the perceived problem. And so the
8 only thing in the legislation that deals with
9 discrimination is the certification. And we have
10 discussed a bit about the certification of
11 possible changes to it. The point is, it is very
12 rare for somebody to say I am discriminating.
13 There are people are going to make up reasons,
14 they are not going to publically state at a board
15 meeting they are discriminating. The Bayondi case
16 for that reason was somewhat difficult because he
17 wrote a note that said, black man. And it was on
18 the table and it was on a piece of paper and it
19 was sort of obvious and frankly rather offensive.

20 I think that the problem that you
21 have is the court of appeals of the state of New
22 York has made it clear that the law in New York is
23 that a board of a coop can turn an applicant down
24 for any reason or no reason except for prohibited
25 discrimination. And that's the issue that we are

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2 dealing with. I think that there are some of the
3 people who have spoken have said that, well, they
4 shouldn't be able to turn anybody down. That's
5 the court of appeals that's court of appeals law
6 and it says any reason or no reason means you
7 don't have to give reason. And I understand the
8 frustration. But there is frustration on the
9 other side and you have heard from brokers about
10 these wonderful packages they put together and how
11 they vet out applicants. It's not the real world.
12 I am sure there are some brokers that do. I don't
13 typically get involved in applications unless
14 there is a problem. And the board calls me. And
15 the problems that I have seen are applications
16 where there are inconsistencies. Where there are
17 white outs. Where the tax returns don't match the
18 financial statement or they don't match bank
19 statements or there were unexplained deposits and
20 withdrawals. Where the letters of reference are
21 all a form letter making them look suspect. I
22 think any good broker should know you have
23 personal letters of reference written. You don't
24 have everybody sign the same letter that's been
25 printed off a computer. I have a matter in front

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2 of me now where there is an applicant who on her
3 face would seem to be financially capable and she
4 claims it's a modest co-op and she claims that her
5 incomes is 60-70,000 dollars but if you look into
6 the application. She is showing \$1,500 a year in
7 income and the only verification for her
8 employment is a letter on what looks like not a
9 real letterhead saying that she is employed as an
10 independent contractor at a certain amount. Now
11 to be an independent contractor under the law,
12 your employer can't regulate your hours and
13 apparently she works 9-5, 5 days a week and is
14 guaranteed a salary. So she is no independent
15 contractor so maybe it's tax fraud. I don't know
16 what it is but it's those kinds of issues. And I
17 think that you have to bear in mind that there are
18 maybe good brokers and I have seen some very well
19 put together packages but brokers say well this
20 applicant is perfect and I look at the application
21 because the board has raised an issue and I see
22 all kinds of problems with it. And the problems
23 might have to do with representations concerning
24 use. It may have to do with a credit report that
25 showed up something funny. It may be that

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2 somebody googled that applicant and a lot of
3 boards do now google applicants and they found out
4 that somebody is going through a divorce so it's
5 ostensibly being bought for the husband and wife
6 is probably going to be left to one or the other
7 and therefore for the financial picture is not an
8 appropriate picture. So there is a lot that goes
9 on.

10 When you have those kinds of
11 applications sometimes it's not so obvious the
12 board just turns it down. There is nothing.
13 Nothing to talk about. And I agree it should be
14 done quickly and I tell my boards any time you are
15 delivering bad news do it quickly. Because the
16 longer you take the more people suspect
17 something's going on.

18 CHAIRPERSON DILAN: I hate to do
19 this as an aside but in High School I asked the
20 same of the potential girlfriends that I was
21 looking at. Go ahead.

22 MS. WEISSBERG: But some of the
23 applications where the board has suspicion. For
24 example, an application and somebody mentioned an
25 example like this before where people are coming

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2 from a 20 room home in the suburbs and they have
3 got two kids and they moving into a 1 bedroom
4 apartment in Manhattan and they say it's not a,
5 it's going to be a full time residence. We are so
6 delighted to come back to New York City and you
7 kind of look at that and say, we are a small
8 building we encourage owner occupancy, the banks
9 want owner occupancy, there is something wrong
10 with this application. But sometimes boards will
11 say you know financially these people, their
12 application is impeccable. So rather than turn
13 them down, what boards do is they struggle. Most
14 of my boards when they turn people down, call me
15 up and say we are planning to do this is this
16 horrible what we are going to do because they feel
17 bad for turning down people. They don't get a
18 power trip out of turning down people. They want
19 their community to be happy and they feel an
20 obligation to the seller, to allow the seller to
21 move on. And by the way we haven't really gone
22 into it but if you look at Intro 188 it makes it a
23 lot harder for the seller to move on and I think
24 you are interfering with the seller's rights. But
25 in any event when I am talking to these boards and

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2 they are trying to grapple. It's well, let's
3 figure out what your problem is and let's figure
4 out if there is a way that we can resolve it, if
5 there are representations, if it's financial
6 escrow guarantee that's really easy but if it's
7 non-financial and often it's use, then you have to
8 figure it out. And that takes time. And you are
9 dealing with a bill that we don't believe has a
10 relationship to discrimination. And then you are
11 imposing time limits, which really are going to
12 give boards no choice but to turn down the hard
13 cases. I don't think that's what you want. I
14 don't think that's what you should be doing. The
15 net result, you are going to be turning people
16 down you shouldn't. You are going to make it
17 harder for people to sell their co-op apartments
18 and harder for people to buy. You are going to
19 discourage people from serving on boards and I do
20 believe that after the Bayondi case there were
21 people who did not, you know a lot of my boards
22 hit the panic button and I had to meet with them
23 and explain to them that was really an outrageous
24 set of facts. As I said, the guy wrote down you
25 know, black man on the application, the board had

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2 told the couple that there was no need for a
3 sublet application until the board found out that
4 it was an interracial couple at which point they
5 changed their process totally. We do need an
6 application and we do need an interview.

7 Outrageous facts and I had to explain it to boards
8 but I also used it as a teaching moment. And then
9 recently there was the Fletcher case involved in
10 the Dakota and that was still pending and there is
11 a lot that can be said about it but I have used it
12 as teaching moments but boards get very very
13 nervous and of course the press plays it up like
14 every board member is going to be sued for a
15 trillion dollars out of their own pocket and that
16 scares board members. So I think you are going to
17 have a problem with that. The net result I think
18 if legislation like this is enacted is that you
19 will have an adverse impact on one of the economic
20 bright spots in New York City, the cooperative
21 housing market. And I understand Council member
22 Fidler and his well intentioned in imposing this
23 but I don't think it will accomplish what he wants
24 and I think it will have very very serious
25 implications that you need to consider and I would

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2 urge that this legislation not be adopted. Thank
3 you.

4 CHAIRPERSON DILAN: Thank you. Do
5 you, Council member Fidler.

6 COUNCIL MEMBER FIDLER: At the risk
7 of pissing off the Chair [off mic]

8 MS. WEISSBERG: I have nobody else
9 on the panel to hide behind here.

10 [off mic]

11 CHAIRPERSON DILAN: Actually I am
12 fine. The room is clear now.

13 COUNCIL MEMBER FIDLER: [off mic]
14 Ms., Weissberg and I did have the opportunity to
15 dialogue about that a couple of years ago. And
16 unfortunately we part company at the [off mic]
17 that this bill addresses a problem that doesn't
18 exist. And yet you have sat here since 1:00. You
19 have listened to a myriad of testimony that to the
20 effect that it does exist. And I think in all
21 fairness and I have to say this. I am imagining
22 that the board of Dakota is a little bit more
23 progressive than some of our other co-op boards.
24 I can't imagine, you can't imagine boards that say
25 don't send me another Pakistani. I am not taking

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2 another applicant who only speaks Russian. I
3 don't want Jews in my coop. I can't believe that
4 you can't fathom that is a problem that exists in
5 the city of New York.

6 MS. WEISSBERG: Maybe I was
7 unclear. I don't deny that there is
8 discrimination. Although I see very little of it
9 but I don't think we are without appropriate
10 remedies. Let me tell you, I have been at-

11 COUNCIL MEMBER FIDLER: But that's
12 not what you said. You said it was a problem that
13 was non-existent.

14 MS. WEISSBERG: Right. A problem
15 of discrimination. If you look at my statement.

16 COUNCIL MEMBER FIDLER: I would
17 also say in all due respect that coop boards that
18 will hire you and I say this in a complimentary
19 way will not be the kind of boards that are
20 secretly trying in one of these someone used the
21 term thousand little plots to discriminate.
22 Because they are looking to do things on the up
23 and up. And they are looking to do the right
24 thing. You testified at considerable length about
25 issues related to finances. For gazy applications,

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2 the same kinds of things that got us partially
3 into trouble with the mortgage crisis in this
4 country. People faking applications so that they
5 were approved for things they couldn't afford.
6 What in this bill, what provision in this bill
7 takes the power away from the co-op board to deny
8 someone for any of those reason?

9 MS. WEISSBERG: What it does do, it
10 interferes with the deliberative process by
11 putting time limits on it. When you have an
12 application, it takes a while. Not all board
13 members are financially skillful. There may be
14 questions. As I said, boards don't want to turn
15 people down unless they have to and if there is a
16 financial issue they need to be able to deliberate
17 and to think about it, if one member of the board
18 has some expertise to consult with them, to
19 consult with counsel, to consult with their
20 accountant, to consult with their managing agent
21 and to sleep on it for more than ten minutes.

22 COUNCIL MEMBER FIDLER: You are
23 also in the room when I asked this question.
24 Because I also said this bill's not perfect. And
25 my impression that this bill permits the two

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2 parties in the room to voluntarily extend the time
3 of the co-op board. If it doesn't then it should
4 be amended to specifically say it can. Would that
5 solve the problem of you need to explain why you
6 whited out your income on your W2.

7 MS. WEISSBERG: With all due
8 respect I don't think it would. And one of the
9 problems is that if you are extending the time
10 limit and you are carrying on this process you
11 have a seller sitting there who is getting hung up
12 and you have to remember that the seller want
13 either a yes or a no. If it's a yes, we'll close.
14 If it's a no, I want to put the apartment back on
15 the market. To have the co-op and the purchaser
16 agree, and by the way in my experience if you ask
17 a purchaser to do that most purchasers' lawyers
18 will say go to hell. Rule on the application.

19 COUNCIL MEMBER FIDLER: But you are
20 kind of conflating the points now because would
21 you want is no law at law so that the coop board
22 can sleep on it which doesn't affect the seller in
23 anyway either. Okay. I mean they are still going
24 to wait. They still have to wait. So the seller
25 is not being prejudiced in anyway. At least the

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2 buyer and the co-op board can say to the seller we
3 have now extended the time by 20 days. That's how
4 much more you are going to have to wait as opposed
5 to this open ended we are going to sleep on it.
6 Wouldn't that help the seller?

7 MS. WEISSBERG: You still have a
8 problem with the deadline. Might it help the
9 seller? Perhaps but you still have a problem with
10 deadlines. And I think I have seen all kinds of
11 variations on what comes in on these applications.
12 And frankly I have seen a lot of lousy
13 applications. I have hear brokers-

14 COUNCIL MEMBER FIDLER: Like what?

15 MS. WEISSBERG: You know testify
16 about how great they are. I have seen
17 applications where brokers have not reviewed them
18 or if they reviewed them, they don't know what the
19 heck is in them.

20 COUNCIL MEMBER FIDLER: But I bet
21 you not at the Dakota.

22 MS. WEISSBERG: I don't know. I
23 don't represent the Dakota. But I have seen at
24 very high-end buildings lousy applications. So am
25 talking about multi million dollar apartment where

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2 the brokers say, well you know they can just they
3 are buying it all cash what's the big deal. The
4 big deal might be that the all cash comes from
5 money that's been laundered a few times and a
6 bunch of other stuff. So there are a lot of
7 issues so you see lousy applications. Do you see
8 them more in lower income, maybe I don't know.

9 COUNCIL MEMBER FIDLER: You know
10 the hour is late and I don't want to debate it
11 further other than to say that if the bill
12 specifically allowed the parties to extend the
13 deadlines as it should. I do believe it answers
14 the problem that you raise. And if a buyer who is
15 being asked to grant an extension under the law
16 turns them down then they are an idiot and they
17 should be rejected. Simply because they are an
18 idiot. And at the very least it will put a finite
19 cap with some rational basis on what the quest is
20 for more information. Take you 2 weeks to get me
21 that? Give me four. Two weeks to get me the
22 stuff, two weeks for me to decide. And that helps
23 the seller, it helps the board, keeps things
24 moving and it doesn't allow back door
25 discrimination of we are just not going to act.

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2 MS. WEISSBERG: Boards should act
3 and I agree with you. They should but I don't
4 think this legislation is the way to accomplish
5 it. You are giving buyers rights even if they
6 have been accepted by the coop. It's a very
7 litigious society. You talk about Human Rights
8 and the number of 22 filed cases. I don't know if
9 those are cases that were filed after a probable
10 cause hearing because you have to go through a
11 probable cause hearing at city and state agencies.

12 COUNCIL MEMBER FIDLER: In all
13 fairness I don't know either because the Bloomberg
14 administration chose not to attend today or gave
15 us written testimony that simply says that there
16 were 22 discrimination claims filed.

17 MS. WEISSBERG: Right. I have been
18 involved in some discrimination cases where I have
19 been defending the coop. I had one that actually
20 was brought in federal court. And the person
21 claimed that she was a member of a protected class
22 known as White, Anglo-Saxon and Protestant Women
23 owning prestigious real estate on Park Avenue.
24 That was the case. It was in federal court. It
25 was a woman who had been evicted for non-payment

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2 and she claimed that that was discriminatory
3 because she was member of this protected class.

4 COUNCIL MEMBER FIDLER: And
5 certainly there is nothing in this bill that gives
6 White Anglo Saxon Women with Real Estate any
7 additional right.

8 MS. WEISSBERG: But understand that
9 rights are abused. I have also defended cases
10 before-

11 COUNCIL MEMBER FIDLER: All around.
12 All around.

13 MS. WEISSBERG: I have defended
14 cases at the Human Rights Commissions, the State
15 division of human Rights. I had a case where a
16 couple also White Anglo Saxon claimed they were
17 turned down because of the Jewish conspiracy in
18 the building. The state division threw that out
19 on a finding of no probable cause. I had someone
20 claim that she was discriminated against because
21 she was Italian. It was thrown out on a finding
22 of no probable cause. And this is after
23 exhaustive investigation. We had discussed it
24 when we met with you these agencies have extensive
25 subpoena power. They demanded all kinds of

1 records. We thought they were being abusive. They
2 can get that and if it truly is a case of
3 discrimination then have to deal with it. I will
4 tell you that in my practice. I am aware of one
5 situation where I think somebody on the board did
6 not do the right thing and I saw it in an email
7 and I called him up and I said you can't say that.
8 Just like somebody said there was a phone call about
9 national origins. You can't do that. That's
10 personal discrimination and you win your case
11 automatically if somebody has asked that. This
12 individual said something, which could have been
13 interpreted as borderline unacceptable and I
14 called up the board and I said, you better accept
15 this applicant. Period. End of story. And they
16 did. They did.

18 COUNCIL MEMBER FIDLER: Hence, and
19 I will make this my last word. I promise. It's
20 proof that the one honest person in the room
21 prevents unlawful discrimination.

22 MS. WEISSBERG: But I don't think
23 your bill gets to that because I think people
24 won't acknowledge it. We can agree to disagree.
25 How's that?

2 CHAIRPERSON DILAN: Thank you for
3 your time.

4 MS. WEISSBERG: Thank you for your
5 time.

6 CHAIRPERSON DILAN: I think at 6:30
7 Lew Fidler has finally smiled. Okay just for
8 record keeping purposes we have the additional
9 statement of opposition that is attached to your
10 testimony that will be entered into the record.

11 MS. WEISSBERG: Correct and seven
12 attorneys including myself have signed it.

13 CHAIRPERSON DILAN: And in full we
14 also have a statement for the record from Norris
15 McLaughlin and Marcus Attorneys at Law that will
16 also be for the record. It appears to be in
17 opposition?

18 MS. WEISSBERG: If I may, that was
19 Burt Solomon who testified before.

20 CHAIRPERSON DILAN: Well, I just
21 have it. It's a separate piece and this is just
22 procedural that I have to get done to have
23 people's views that couldn't stay. We have a
24 statement for the record, you are free to go, from
25 the National Fair housing Alliance for the record.

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2 Which appears to be in favor of rejecting 188 and
3 adopting 326. Second statement from the Real
4 Estate board of New York in I believe in favor of
5 intro 188. Statement from New York Apple Seed I
6 believe can't read it off the first couple of line
7 but I believe in opposition to 188 but in favor of
8 adopting 326. Statement from the Suffolk County
9 legislature specifically Lynn Norwich who the
10 County legislative from the 13th district in
11 support of today's item. Another statement from
12 the Nassau County Legislature's office from Dwayne
13 Gregory from the 15th District also in support of
14 this measure. Memorandum, opposition from the
15 Board of Directors of the Carlisle house in
16 opposition of 188, memorandum in opposition of the
17 board of directors at 1105 Park Avenue in
18 opposition to 188. A statement in opposition from
19 the board of directors of 885 Park Avenue in
20 opposition to today's item. Also a statement from
21 the board from 998 Fifth Avenue against today's
22 item. Statement in opposition from the board of
23 directors of the East City Hall Tower Corporation
24 at 258 Broadway, I guess down the block against
25 188. Statement from Kathy Frank, President of

1000 Park Avenue Owners Corporation in opposition to 188. Statement from 100 Park Avenue board of directors in opposition to 188. Statement in opposition from George Folks President of 55 Park Avenue board of directors in opposition. Statement from 19 East 72nd Street in opposition to 188 as well. Let's see, 775 Park , Douglas Squires, I guess Counsel on behalf of 775 Park, which also submitted a statement in opposition earlier. Statement from Richard Stern, President of 117 East 72nd against 188. Statement against from Harvey Bloom. Statement appears to be against from RH Owners Corp at 1175 York Avenue against. Just a few more. Statement of, this is the most I have ever had in here. Statement on behalf of 800 Park, statement against from 800 Park Avenue's board, that's against 188. There is a boilerplate objections, that's why there's x,y,z corporations. 635 Park Avenue against 188. Statement from Michelle Berham against 188. Since she gave her name I won't give her address but against 188. And the final one is Statement appears to be against from the Coop board of 340 East 93rd Street. All these items will be entered

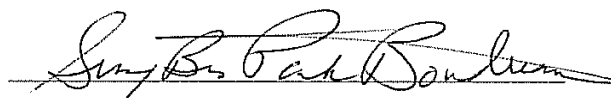
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2 into the record as if read in full. With that,
3 intro 188 of 2010 is laid over. I did this at the
4 beginning but we will do it again at the end.

5 Also a statement from the Office of the Mayor of
6 the City of New York. A statement in opposition
7 that will be entered into the record as if read in
8 full. And intro 188 is now laid aside and that
9 will conclude this hearing.

C E R T I F I C A T E

I, Sung Bin Park 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 "Sung Bin Park", written over a horizontal line.

Date __April 13, 2013