

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS

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HELD AT: Committee Room
City Hall

B E F O R E: Rafael L. Espinal, Jr.
Chairperson

COUNCIL MEMBERS:

Vincent Gentile
Julissa Ferreras
Karen Koslowitz
Rory I. Lancman
Alan Maisel

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

Sanford Cohen
Executive Deputy General Counsel Department of
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Louis Hernandez
Department of Consumer Affairs Legislative
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Donald Ranshete
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Chapter

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COMMITTEE ON CONSUMER AFFAIRS

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CHAIRPERSON ESPINAL: You ready?

[gavel] Good afternoon. My name is Rafael Espinal, I am the Chair of the Consumer Affairs Committee. I'd like to thank you for attending this hearing today on regulating home improvement work for greater consumer protection. Today we will hear from the DCA, Queens Economic Development Corporation and interested members of the public on the regulation and training of home improvement contractors. We will also be holding our first hearing on Intro Number 265 in relation to consumer protections and home repair work which is sponsored by my colleague, Councilman Maisel. In New York City, anyone engaging in or soliciting business for home repair work must obtain a license from DCA. Just last month, DCA announced that home improvement contractors are their most complained about license industry and this is nothing new. Home improvement contractors have yielded some of the highest volume of consumer complaints and violations of any industry in the last five years. In addition to the deceptive practices of licensed

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2 contractors, unlicensed activity has also
3 plagued this industry. In addition to
4 discussing the most common types of violations
5 committed by this industry and the extent to
6 which unlicensed activity takes place, the
7 committee's interested in learning about DCA's
8 outreach to consumers seeking home repair work.
9 We're also interested in hearing how Superstorm
10 Sandy may have affected the hoem improvement
11 industry and whether any of the complaints
12 lodged against contractors in the last several
13 years were made by home owners making repairs
14 as a result of storm damage. We would also like
15 to discuss the type of training that is
16 available to home improvement contractors,
17 training that addressed both skill and
18 capability as well as obligations to consumers
19 under state and local laws. We are also
20 interested in whether or not such trainings are
21 accessible to all New Yorkers including
22 aspiring home improvement contractors with
23 limited English proficiency. Finally, intros
24 265 would also address those individuals doing
25 repair work who are not required to obtain a

1 home improvement contractor license from DCA.
2
3 These individuals such as plumbers and
4 electricians may be licensed by the DOB or
5 another municipal agency and are at times a
6 source of deceptive practices and shoddy work.
7 The Council is interested in assuring that the
8 DCA does its job to address consumer related
9 complaints, whether or not the complaint
10 relates to the DCA licensing and continue to
11 its job to enforce the city's consumer
12 protection law across the board. Again, thank
13 you for being here today to discuss this
14 important consumer issue. I'd like to introduce
15 my colleague, Council Member Maisel who will
16 now discuss Intro 265 in more detail.

17 COUNCIL MEMBER MAISEL: Thank you,
18 Chairman Espinal for holding this hearing and
19 for including my bill which would clarify that
20 DCA should be enforcing the consumer protection
21 laws for every professional that does home
22 repair work. This is simply not acceptable to
23 think that our city's consumer protection laws
24 do not or should not apply to plumbers,
25 electricians or other home repair

1 professionals. There is no special exemption
2 that allows them to advertise falsely or commit
3 deceptive trade practices, and I hope that
4 nobody today will even think to suggest
5 otherwise. The only real question we have is
6 which agency should enforce these laws. Right
7 now we have two city agencies, Department of
8 Buildings and Department of Consumer Affairs
9 pointing at each other and claiming that the
10 other one should be responsible. Meanwhile,
11 homeowners are not being helped or protected.
12 This bill is meant to resolve that finger
13 pointing and focus everyone back on protecting
14 homeowners and honest professionals. When bad
15 apples cut corners in home repairs or violate
16 consumer protection laws to gain an edge
17 they're taking away business from the good
18 apples. They are hurting homeowners and they
19 are hurting honest law abiding professionals.
20 In fact, last week my office received a call
21 from the representative of a professional
22 plumbers organization that was expressing their
23 likely support for this bill. They understood
24 that when other plumbers cut their peers by
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1 cheating homeowners or breaking the law, it
2 steals business from law abiding plumbers and
3 hurts the entire profession. The consumer
4 protection laws are already in place, but if we
5 want everyone in the industry to operate under
6 them equally, then we need to have an agency
7 willing to enforce those rules. Department of
8 Consumer Affairs is the most logical choice.
9 They are the stewards of our consumer
10 protection laws and they believe the experience
11 and capacity to investigate potential
12 violations. In fact, I believe that under the
13 law as it is currently written they probably
14 should be doing this already, but if there is
15 any doubt about that, this bill will remove it.
16 As an Assemblyman for eight years, I can tell
17 you that one of the most frustrating issues
18 that my office had to deal with were
19 constituents who came in with horror stories
20 about how they were handled badly by a plumber
21 or electrician, mostly plumbers I should say,
22 but people who are elderly, people who are
23 inexperienced, people who don't speak the
24 language were constantly being victimized,
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2 spent large amounts of money on repairs that
3 either were not made or repairs that were made
4 shoddily. So I want to thank you again, Mr.
5 Chairman, for holding this hearing and to thank
6 your committee counsel, Rachel Cordell [sp?]
7 for all her work on this issue.

8 CHAIRPERSON ESPINAL: Thank you,
9 Alan. For the record, I got to say this is my
10 first oversight hearing on a bill, and I
11 couldn't be happier that it's your bill, and
12 I'd also like to thank Rachel Cordell for all
13 the work she's done putting this together. With
14 that being said, I'd like to call up the first
15 panel, Sanford Cohen from DCA, Lewis Hernandez
16 from DCA and Donald Ranshete from DOB.

17 SANFORD COHEN: Good afternoon,
18 Chairman Espinal and members of the Consumer
19 Affairs Committee. I'm Sanford Cohen. I'm the
20 Executive Deputy General Counsel for the
21 Department of Consumer Affairs. I'm joined by
22 Louis Hernandez [sp?], our City Legislative
23 Affairs Coordinator and Mr. Ranshete from the
24 Department of Buildings. DCA appreciates the
25 opportunity to speak about the Department's

1 work involving home improvement contractors.
2 While there are many honest home improvement
3 contractors who play by the rules, this is an
4 industry of critical concern to consumers and
5 the department for many reasons. A home may be
6 a single, a family's single largest investment
7 and repairing that home may take a big bite out
8 of a family's budget. In hiring a contractor,
9 the homeowner not only hands over his savings,
10 but literally hands over the keys to strangers
11 entrusting home, belongings and safeties to
12 these strangers. Finally, the need for home
13 repairs may be urgent, limiting the homeowner's
14 opportunity to shop around and making the
15 homeowner particularly vulnerable to abusive
16 conduct. To ensure the consumers are protected
17 and to level the playing field, the department
18 licenses contractors and their sales people,
19 engages in extensive outreach to consumers and
20 contractors, provides robust educational
21 materials, mediates complaints, conducts field
22 enforcement of unlicensed contractors and
23 prosecutes unscrupulous contractors. Let me
24 address licensing first. Home improvement
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1 contractors constitute one of DCA's largest
2 license categories out of the 55 categories
3 that we license. There are approximately 13,000
4 HIC licensees and 14,000 home improvement sales
5 person licensees. In New York City, home
6 improvement contractors who perform or offer to
7 perform home improvement work that costs over
8 200 dollars must obtain a license from DCA.
9 Examples of home improvement work can include
10 the installation of windows or doors, roof
11 repair and kitchen remodeling. While a license
12 is no guarantee that a contractor will always
13 engage in proper business conduct, it gives DCA
14 the authority to act on a consumer's behalf and
15 give consumers important protections. Licensees
16 undergo a criminal history check and pass a
17 written examination to demonstrate their
18 knowledge of the responsibilities and laws they
19 must follow. The licensing process also
20 requires a contractor either to obtain to
21 secure a bond in the amount of 20,000 dollars
22 or to pay 200 dollars into the city's home
23 improvement contractor trust fund, which is a
24 safety net to protect consumers who have been
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2 victims of businesses that have closed or where
3 the contractor can't be located. If needed, DCA
4 can pay a consumer up to 20,000 dollars from
5 the trust fund, but only if they used a
6 licensed contractor. In addition, the code of
7 rules require home improvement contractors to
8 include important disclosures in their
9 contracts to provide homeowners with a three
10 day right to cancel a contract and to obtain
11 necessary permits for their work. A license
12 also provides benefits for contractors,
13 allowing them to pay into DCA's trust fund as
14 the alternative to securing a bond and
15 therefore saving them the expense of that bond.
16 In addition, licensed contractors have greater
17 recourse to defend themselves from false claims
18 or when a client refuses to pay when the job is
19 done. Beginning with the premise that the
20 single most important step for a consumer to
21 protect himself is to hire a licensed home
22 improvement contractor. DCA has taken steps to
23 make sure it's easy businesses and consumers to
24 learn about license requirements and for
25 business to apply for a license. All the

1 information the contractor needs to know about
2 obtaining and maintaining a license can be
3 found online in DCA's business tool box.

4 Contractors also have the opportunity to apply
5 for a license or renew online. DCA is engaged
6 is in extensive outreach and education related
7 to home improvement contractors. Since 2006,
8 DCA has hosted more than 200 events specific to
9 home improvement contractors to educate both
10 businesses and consumers. Consistent with DCA's
11 ongoing education efforts and the Mayor's focus
12 on bringing businesses into compliance through
13 education, we will be mailing out invitations
14 to all of our licensed contractors to invite
15 them to an open house at the Department on May
16 20th. Events like these provide an opportunity
17 for an open dialogue with our Department and an
18 opportunity for businesses to learn about
19 regulations and how to avoid violations. In
20 addition to our own outreach efforts, DCA
21 partners with sister agencies such as the
22 Department of Housing Preservation and
23 Development and the Department of Buildings to
24 let homeowners know about their rights with
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2 respect to contracting issues and to meet with
3 various home improvement contractor
4 associations to hear their ideas and concerns
5 for their industry. We look forward to working
6 with our sister agencies on such events. We
7 also assist contractors by making assistance
8 available through our live chat line, enabling
9 contractors to speak directly with DCA
10 representatives and have their questions
11 answered quickly and accurately. In addition,
12 contractors can find on our website a model
13 contract and estimate, a template spreadsheet
14 for contractors to record information about the
15 clients for whom they do work and a brochure
16 for contractors to learn tips for making
17 senior's home age friendly. We also conduct
18 outreach to consumers. The Department works to
19 ensure that the consumers have the information
20 they need to make the best choices they can
21 when it relates to home improvement work. DCA
22 developed an online tool called Instant License
23 Check so that consumers can see if a contractor
24 is properly licensed before they hire the
25 contractor. We produce and disseminate several

1 publications online and in hard copy all
2 written in easily accessible plain language
3 including a home improvement guide, a bill of
4 rights, home improvement tips and information
5 about required building permits. Homeowners can
6 also view a video online on contracting. DCA
7 has also created and made available online a
8 model contract which is a great resource for
9 contractors and consumers. A transaction
10 between a homeowner and a contractor can go
11 wrong, even if there is good will and
12 competence on both sides unless expectations or
13 responsibilities are very clearly delineated.
14 Our model contract starts with a detailed
15 estimate that includes how long the project
16 will take, what materials will be used, what
17 the payment structure is, what to do if the
18 scope of the project changes and the
19 cancellation policy. DCA will continue its
20 outreach in education events throughout the
21 boroughs and to provide robust materials and
22 support to ensure contractors have
23 opportunities to engage with our Department and
24 receive the information they need to be
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1 compliant with consumer protection laws and to
2 help consumers avoid being the victims of
3 illegal activity. We hope to work with each of
4 you in our outreach efforts, replicating our
5 teamwork with the council on educating the
6 public about paid sick leave. Please let us
7 know about any ideas that you have for us to
8 expand our outreach. Despite a sense of
9 educational and outreach efforts, home
10 improvement contractors are perennially among
11 the agency's top three complaint categories. In
12 2013 complaints against contractors were our
13 number one complaint. DCA received more than
14 530 complaints about home improvement
15 contractors. Consumer complaints focus
16 primarily on poor quality of work or unfinished
17 work, breach of contract and non delivery of
18 services. Through our mediation efforts, we
19 secured approximately 500,000 dollars in
20 restitution for consumers. If a complaint is
21 not resolved through mediation, the Department
22 may issue charges on the consumer's behalf. DCA
23 is frequently successful at settling these
24 cases on the day of the hearing. The
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1 settlements provide homeowner with restitution
2 and require contractors to use the Department's
3 model contract in the business going forward.
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5 If the case does not settle, an administrative
6 law judge may award restitution to the

7 consumer, fines to the Department and may

8 revoke the contractor's license. In 2013, the

9 Department secured more than 2.5 million

10 dollars for consumers through restitution as a

11 result of settlements or as awards following

12 hearing. As discussed earlier, the trust fund

13 may pay the consumer restitution in the event

14 the home improvement contractor fails to pay.

15 In an effort to protect New Yorkers, the

16 Department compliments its outreach and

17 mediation efforts with enforcement aimed at

18 curbing consumer abuses, and most importantly,

19 stopping unlicensed activity. In fiscal year

20 2013 our inspectors conducted 342 field

21 inspections throughout the city issuing 92

22 violations for unlicensed activity and seizing

23 83 vehicles. The seizing of vehicles of

24 unlicensed contractors is the strongest weapon

25 in the Department's arsenal. The Department

1 leverages the issue and violations to
2 unlicensed contractors to foster compliance.
3 The Department offer the home improvement
4 contractor and opportunity to enter a
5 settlement agreement at a reduced fine to
6 resolve the violation. The settlement requires
7 the contractor to address any outstanding
8 complaints, apply for a license and use DCA's
9 model contract. As noted, bringing a contractor
10 under the Department's jurisdiction as a
11 licensed contractor provides consumers with
12 valuable protections. In addition to field
13 enforcement, the Department brings cases
14 against contractors who fail to maintain the
15 standards of integrity, honesty and fair
16 dealing required of licensees. For example, in
17 the case, Department of Consumer Affairs versus
18 Donald Row [sic] Junior Development, the
19 Department brought a case the contractor for
20 accepting money and abandoning work and for
21 other violations. After a hearing, the
22 Department's tribunal issued a decision
23 ordering the contractor to pay restitution
24 totaling 1.5 million dollars to 18 consumers.
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1 the decision also ordered the contractor to pay
2 DCA a fine of 332,000 dollars. The tribunal
3 revoked both the home improvement contractor
4 and the home improvement sales person licenses.
5 DCA's trust fund paid consumers a portion of
6 the restitution ordered by the tribunal. In DCA
7 versus Jayzat [sic] Construction, DCA brought a
8 case against a contractor after receiving
9 numerous complaints alleging that among other
10 things the contractor accepted deposits for
11 work and did not perform any work. After
12 hearing, the tribunal ordered the contractor to
13 pay restitution totaling almost 611,000 dollars
14 to the consumers as well as fines. The tribunal
15 revoked both the HIC and HIS licenses. DCA's
16 trust fund again paid consumers a portion of
17 the restitution ordered by the tribunal. And I
18 should mention, in both cases we worked with
19 the local district attorney's offices in Staten
20 Island and in Queens to bring criminal justice
21 with respect to these contractors. As to
22 Superstorm Sandy, we recognized that
23 unscrupulous contractors might take advantage
24 of homeowners whose homes were destroyed by the
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1 storm. We expedited licensing of home
2 improvement contractors so that contractors
3 could apply for and receive licenses quickly,
4 frequently overnight or in two days and that
5 consumers would receive the benefits of hiring
6 licensed contractors. DCA took additional
7 measures following the storm to help consumers
8 including mailing an information card to
9 200,000 residents in hard hit areas, urging
10 consumers to be aware of predatory scams and
11 providing tips to consumers related to
12 contracting work. In the wake of Sandy, the
13 Council passed a law requiring the Department
14 of Buildings to be notified about work to
15 raise, lift, elevate or a move a house or
16 building as this work requires a special
17 inspection. The Department remains vigilant
18 about addressing consumer complaints in areas
19 impacted by the storm and identifying
20 contractors who may be preying on these
21 consumers. Before I end my testimony I want to
22 provide some feedback of our Department on
23 Intro 265. It's our understanding that the
24 proposed amendment to the code's licensing
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1 provisions seeks to have the Department address
2 issues of consumer protection violations
3 against electricians, plumbers and other trades
4 who are not licensed by DCA. DCA, as well as
5 the Department of Buildings would like better
6 to understand the nature and types of
7 complaints the bill seeks to remedy so that we
8 can work with the Council to best address these
9 concerns. For example, under the proposed bill
10 the Department would refer to DOB decisions and
11 orders based on consumer protection charges
12 issued by DCA against these tradespersons.
13 Under DPA's current code, we understand, DPA
14 would not have authority to revoke a license
15 based on the typical types of consumer
16 complaints that might be subject to a referral.
17 As an example, DPA--DOB currently has no
18 authority to revoke a license based on a
19 contractors having abandoned work, charging a
20 consumer more than the price quoted to the
21 consumer or breaching a contract. If the
22 Department referred an adjudicated complaint to
23 DOB for shoddy workmanship, DOB might determine
24 that the work at issue is not compliant with
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2 the building code and might find that consumer
3 liable for the noncompliance, an outcome that
4 surely is not intended by the proposed
5 amendment. Consequently, further conversations
6 among the Council, DCA, DOB and the law
7 department are necessary to achieve the goals
8 intended by the proposed law. We note as well
9 that our new Commissioner will begin at the
10 agency next Monday and look forward to
11 continuing the conversation in the coming days
12 with her and engaging with the Council in much
13 more detail on Intro 265 in the future. Thank
14 you Chairman and the entire committee for the
15 opportunity to speak today. I welcome any
16 questions you might have for us.

17 CHAIRPERSON ESPINAL: Thank you.

18 Thank you for your testimony. One question I
19 have is that I know that licensed contractors
20 have to pay a--have to pay like a bond for the
21 trust fund in order to repay people who
22 received shoddy work, correct?

23 SANFORD COHEN: Yeah, there's an
24 alternative under our rules and statute. They
25 can secure a bond in the amount of 20,000

1 dollars from Assurity Company [sic].
2
3 Alternatively, they can pay 200 dollars into
4 our contractor, home improvement contractor
5 trust fund as an alternative to the bond. If
6 the HIC is found guilty of a charge, including
7 shoddy work, and our tribunal awards
8 restitution to the consumer and the HIC fails
9 to pay that money, we are authorized by statute
10 to revoke the license of the HIC and then to
11 pay the consumer up to 20,000 of the
12 restitution awarded out of that trust fund.

13 CHAIRPERSON ESPINAL: Okay. Now, are
14 there any protections for consumers who hire
15 non-licensed contractors? DCA offer any--

16 SANFORD COHEN: [interposing] There
17 are no protections.

18 CHAIRPERSON ESPINAL: compensation
19 or?

20 SANFORD COHEN: There are no
21 protections that we can provide with respect to
22 restitution if the consumer hires an unlicensed
23 contractor.

24 CHAIRPERSON ESPINAL: Okay. So--
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2 SANFORD COHEN: [interposing] The
3 fund just doesn't cover unlicensed contractors,
4 and for good reason.

5 CHAIRPERSON ESPINAL: yeah.

6 SANFORD COHEN: We want contractors
7 to be licensed so that they have to provide the
8 full array of protections that is required in
9 the code and that our rules provide for.

10 CHAIRPERSON ESPINAL: Okay, thank
11 you. Before I move on, I also like to recognize
12 my colleague from Queens, Karen Koslowitz.
13 Thanks for joining us. Of the complaints about
14 home improvement contractors received in 2013,
15 how many resulted in violations issued by the
16 Department?

17 SANFORD COHEN: We received--we
18 issued 326 violations in fiscal year 2014,
19 which would have included part of calendar year
20 2013, and so far in fiscal year 2014 we have
21 awarded secured restitution in the amount of
22 about 1.6 million dollars.

23 CHAIRPERSON ESPINAL: 1.6, okay.
24 What's the average fine amount for fine for
25 someone?

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2 SANFORD COHEN: I could only speak
3 anecdotally as to the average fine. I haven't
4 done the math, but we're typically talking in
5 the range of around 6,000--not the fine, the
6 restitution is typically in the range of 6,000
7 dollars. Our fine schedule as set forth in the
8 code provides for fines up to 1,000 dollars for
9 any violation.

10 CHAIRPERSON ESPINAL: Okay. Did DCA
11 suspend or revoke any home improvement
12 contractor licenses last year?

13 SANFORD COHEN: I'm sure we did. I
14 don't know if I have the figures on that but
15 we'd be glad to provide them.

16 CHAIRPERSON ESPINAL: Yeah. What are
17 the reasons you'll revoke someone's license?

18 SANFORD COHEN: A frequent reason is
19 because they don't appear to defend themselves
20 in hearings before our tribunal when they have
21 failed to mediate or pay restitution to a
22 consumer. It could also be for contract
23 violations or for shoddy work, but typically if
24 they engage in the hearing process, defend
25 themselves and there is a result from a

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2 tribunal decision with which they comply, the
3 license is not going to be revoked unless their
4 activity has been fairly egregious. I revised
5 that in fiscal year 2013 we revokes seven
6 licenses and suspended two. I believe the
7 figure is larger because revocations often
8 happen when the licensees fail to pay
9 restitution. That happens quite frequently.

10 CHAIRPERSON ESPINAL: Okay, great.

11 Thank you. I'm going to pass the microphone to
12 my colleagues, and then I'm going to come back
13 and have additional questions.

14 COUNCIL MEMBER MAISEL: Thank you Mr.
15 Chairman. My question really is to DOB and
16 DCA. Do you--does DOB revoke licenses for
17 fraudulent work?

18 DONALD RANSHETE: Good afternoon.
19 Donald Ranshete, Department of Buildings. There
20 are any number of reasons why the Department
21 would revoke a license. Fraudulent work in the
22 broad terms is probably difficult to define,
23 but I would say the answer to your greater
24 questions is yes.

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2 COUNCIL MEMBER MAISEL: Okay. So if I
3 understand Mr. Cohen's testimony, if DCA found
4 that a plumber or electrician was doing the
5 wrong thing in the most general sense they were
6 doing the wrong thing, what you're saying is
7 DOB could not take action on that complaint
8 adjudicated by the Department of Consumer
9 Affairs?

10 DONALD RANSHETE: No, I don't think
11 we're saying that. I think what we're saying is
12 that the two departments will often be looking
13 at different types of fraudulent neglectful or
14 incompetent work. The type of work that we
15 would look at at the Department if we were
16 doing a routine inspection on a complaint that
17 came through 311, for example, would be for the
18 type of materials used and the systems that
19 were being either installed or replaced. And
20 I'll give you a quick example. If I were a
21 homeowner who hired a plumber to replace a
22 plumbing fixture in my bathroom, ad DOB
23 inspector would look at the type of pipe that
24 was installed, whether it's cast iron or PVC
25 and make sure that that was compliant with the

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2 code first, and second was, was it applied for
3 on the permit, and those were the two things
4 that we would look for and potentially write a
5 violation to. An inspector that comes out from
6 Consumer Affairs, for example, may be looking
7 at whether or not they did in the time that
8 they set forth in their contract with the
9 homeowner, they came in under budget, if some
10 of the ancillary things that a plumber would do
11 like closing up walls, for example, or perhaps
12 you're replacing a tile that they may have
13 broken, and again, I don't want to speak for
14 them, but those are two very different things
15 that two different inspectors would be looking
16 at. And so while there's not a great nexus
17 right now between those, it's two parallel
18 tracks.

19 COUNCIL MEMBER MAISEL: Alright.
20 Supposing--let me give you an example.
21 Supposing a homeowner asked for a boiler to be
22 put into place and it turned out that the
23 homeowner agreed to pay for a certain boiler
24 and the plumber put in the different boiler
25 which was under the needs--did not meet the

1 needs of a house, didn't produce enough hot
2 water, whatever, how would you define that? Is
3 that something that DOB would be interested in?
4

5 DONALD RANSHETE: Again, I--

6 COUNCIL MEMBER MAISEL: [interposing]

7 And then they paid for the more expensive
8 boiler. Let's say they put in the cheaper
9 boiler. It didn't meet the needs of the
10 homeowners. Would DOB be interested in that or
11 is that just a DCA--

12 DONALD RANSHETE: [interposing]

13 Again, I don't want to speak for my colleagues
14 at DCA, but I think if I'm just playing this
15 out in my head, I think that's something that
16 both agencies would probably be able to issue a
17 violation for. On the DOB portion of it, we
18 would look at the permit. That's our contract,
19 so to speak. The installer of that boiler would
20 file with us, and they would put on the make
21 and model of that boiler and they would need to
22 install that. Otherwise, they would receive a
23 violation that they were not being compliant
24 with the plans that they filed with us. So,
25 yes, we would certainly write a violation for

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2 that because our contract, the permit, was
3 broken. Sanford, would you want to comment on
4 DCA?

5 SANFORD COHEN: Well, assuming that
6 the contract with DCA was consistent with a
7 permit that was written DOB, then that would be
8 a meaningful referral for DCA to say that there
9 was a breach of contract in installing the
10 incorrect or different boiler, but we have no
11 control over the permit, and DOB doesn't look
12 at our contract to make sure that the permit is
13 consistent with that.

14 COUNCIL MEMBER MAISEL: Well, that's
15 true. I understand that, but again, so if the
16 contractor put in the boiler that wasn't what
17 was agreed to, that contractor is cheating the
18 homeowner. The boiler cost 200 dollars, the
19 homeowner agreed to pay 300, but they only the
20 200 dollar boiler. That's consumer fraud,
21 right?

22 SANFORD COHEN: We could address
23 that, and let me tell you what the limitation
24 of our addressing it are. One is those--a
25 plumber who installs a boiler is not licensed

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2 by us, so we don't have the leverage to revoke
3 a license. Obviously--

4 COUNCIL MEMBER MAISEL: [interposing]
5 Well if they don't have a license you can't
6 revoke it, but if they're licensed?

7 SANFORD COHEN: If we license them,
8 then we can revoke them.

9 COUNCIL MEMBER MAISEL: No, no if
10 they're licensed by DOB?

11 SANFORD COHEN: That's entirely up to
12 DOB, and I assume as Mr. Ranshete's saying, it
13 depends on whether our violation that we write
14 and find is something that DOB can actually
15 address under it's--

16 COUNCIL MEMBER MAISEL: [interposing]
17 But if you investigated it and the consumer
18 went to you and you investigated, why couldn't
19 you just refer that DOB?

20 SANFORD COHEN: We can refer it to
21 DOB, but it may result in something that DOB
22 cannot enforce. Or it may be something that it
23 can enforce. That's--

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COUNCIL MEMBER MAISEL: [interposing]

Let me ask you, how does the homeowner get justice? How do we resolve this issue?

SANFORD COHEN: So let me tell you some of other limitations that we have. Not only is there no licensing, but we can't provide restitution under the trust fund, because they're not licensed contractors, and because we don't have docketing authority for our fines, we're unable automatically to provide restitution through the courts.

COUNCIL MEMBER MAISEL: Even if it's a licensed person?

SANFORD COHEN: Even if--no.

COUNCIL MEMBER MAISEL: I'm not talking about unlicensed, I'm talking about licensed.

SANFORD COHEN: Well, only if the license--not licensed by us.

COUNCIL MEMBER MAISEL: Okay.

SANFORD COHEN: You're talking about businesses that are not licensed by DCA because of the exception in the code. So even for them we cannot provide them--we cannot provide a

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2 grief consumers restitution easily. We can
3 order that to be paid, but we don't have the
4 leverage to actually see that the money gets
5 delivered to them. We're perfectly--we're happy
6 to work with the Council to see how we can make
7 this kind of law most effective and so that the
8 delivery of adjudicated offenses at DCA are
9 something that can be followed up by DOB under
10 its code provisions. But once we make the
11 adjudication at DCA the enforcement that we can
12 do is really quite limited.

13 COUNCIL MEMBER MAISEL: But then you
14 could refer to DOB, but they have the ability
15 to enforce.

16 SANFORD COHEN: Well assuming they
17 have the ability to enforce what we have looked
18 at then DOB can do that.

19 COUNCIL MEMBER MAISEL: What I'm
20 trying to get at--

21 [cross-talk]

22 SANFORD COHEN: The question you're
23 raising is--

24 COUNCIL MEMBER MAISEL: [interposing]
25 Will DOB take DCA's word about having

1
2 investigated such a thing and they were even
3 negligent or they cheated the consumer?

4 SANFORD COHEN: I'll let Mr. Ranshete
5 answer.

6 DONALD RANSHETE: I think the answer
7 to that is probably not on face value. Let me
8 just start taking one step back in saying there
9 is already a mechanism in place for the DOB to
10 receive interagency referrals. We do that with
11 any number of agencies and Consumer Affairs is
12 already one of them. What we would do when we
13 get a referral from Consumer Affairs, even if
14 they have already written a violation to that,
15 to the person conducting the work, our
16 inspector would still go out to that location
17 to make sure that what the work that had been
18 done would be code compliant or done in a
19 matter consistent with the permit application,
20 and if not we would issue a second or third or
21 potentially as many violations as were
22 necessary in that situation.

23 COUNCIL MEMBER MAISEL: Alright. What
24 would you do if the consumer went to court,
25 small claims court perhaps and there was a

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2 finding in favor of the consumer, what would
3 you do then?

4 DONALD RANSHETE: Well our--if it
5 were based upon our violation, our violations
6 are adjudicated at Environmental Control Board.
7 So the--

8 COUNCIL MEMBER MAISEL: [interposing]
9 But that doesn't stop the consumer from going
10 to small claims court.

11 DONALD RANSHETE: No, it certainly
12 doesn't, and then the consumer could follow
13 that through the court system without having
14 any bearing on the violations written at by us
15 and are adjudicated at the Environmental
16 Control Board.

17 COUNCIL MEMBER MAISEL: but if the,
18 if the small claims court examiner found in
19 favor the consumer, would that have any bearing
20 on anything that you did in DOB?

21 DONALD RANSHETE: We were--it would
22 certainly depend on the type of violation that
23 was written, but just in the general sense of a
24 sort of negligence or the type of violations
25 that are more commonly written by the

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2 Department of Consumer Affairs, I would think
3 the answer to that might be no.

4 COUNCIL MEMBER MAISEL: Okay.

5 Alright, thank you.

6 CHAIRPERSON ESPINAL: Thank you. So
7 currently DCA can fine all businesses for
8 violating the city's consumer protection law?

9 SANFORD COHEN: I'm sorry?

10 CHAIRPERSON ESPINAL: If a business
11 violates the consumer protection law, can DCA
12 fine the business?

13 SANFORD COHEN: Yes, it can.

14 CHAIRPERSON ESPINAL: Okay. So has
15 DCA issued any violations to plumbing companies
16 or electricians?

17 SANFORD COHEN: What we typically do
18 with plumbing or electrician compliances if
19 there is a complaint overcharge, our consumer
20 services division will attempt to mediate that
21 complaint and provide some resolution for the
22 consumer. If it's a question about the quality
23 of work that an electrician or a plumber does,
24 we refer those complaints over to DOB.

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COMMITTEE ON CONSUMER AFFAIRS

CHAIRPERSON ESPINAL: Okay, thank you. Karen?

COUNCIL MEMBER KOSLOWITZ: Thank you, Mr. Chair. On home improvements, isn't it, and I happen to know this because I chaired Consumer Affairs for many many years when I was in the City Council before, home improvement, isn't there a law that says a person pays a third, a third, and a third?

SANFORD COHEN: What our rules provide is that the contract must set out the schedule for payments. Typically, that's a third, a third and a third. The amount that has to be paid should be related to the amount of work that's been performed at the time of that payment.

COUNCIL MEMBER KOSLOWITZ: Well, let's say I sign a contract and no work has been done yet, and the contractor wants a deposit, wants money to show my good faith also?

SANFORD COHEN: That's not impermissible under our rules.

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2 COUNCIL MEMBER KOSLOWITZ: I don't
3 understand that. What's not permissible?

4 SANFORD COHEN: Not impermissible is
5 what I said. It's permissible for a down
6 payment, a deposit to start the work, and our
7 contract rules provide for the contractor to
8 offer a schedule of payments on that contractor
9 which should be commensurate with the amount of
10 work that's ultimately done at any given
11 payment period.

12 COUNCIL MEMBER KOSLOWITZ: And why is
13 there so many problems still with home
14 improvement? If I hired a contractor and he
15 started to work, I would see that he was doing
16 shoddy work, he wasn't doing work to, you know,
17 the way I would want him to do work.

18 SANFORD COHEN: Well, one explanation
19 for that may be that the consumer has hired an
20 unlicensed contractor, which is a bad start to
21 begin with. We can't regulate unlicensed
22 contractors except to bring charges against
23 them for engaging in unlicensed work. If there
24 is a problem and the contractor has not
25 complied with the contract terms, that's

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2 something the consumers can bring to our
3 attention through 311 or the other mechanisms
4 for filing complaints and our consumer services
5 division will follow up on that attempt to
6 mediate it, and if that fails, we have the
7 opportunity to bring charges against that
8 contractor for breach of contract and other--

9 COUNCIL MEMBER KOSLOWITZ:

10 [interposing] How does the consumer know this?

11 SANFORD COHEN: Well, we do extensive
12 outreach to consumers, as I testified I think
13 there were over 200 events in the last five
14 years for consumers and home improvement
15 contractors. Our webpage has an abundant amount
16 of material on what are the devices that
17 consumers should utilize to protect themselves,
18 including a very extensive guide sheet for
19 consumers to read. And like anything else,
20 consumers, we try to educate consumers and
21 consumers need also to educate themselves, but
22 we do our best to reach out to them quite
23 extensively and both in person meetings, town
24 hall meetings and with our online literature.

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COUNCIL MEMBER KOSLOWITZ: Are there any pamphlets?

SANFORD COHEN: Yes, we have pamphlets that we distribute both in hard copy and online and I encourage you to look at our website. You'll find I have one with, several with me. Not only do we provide a model contract online and a model estimate. We have a consumer bill of rights which you can get in hard copy.

COUNCIL MEMBER KOSLOWITZ: That's--I did that.

SANFORD COHEN: A home improvement consumer guide, which is I don't know, 15 pages long on all the tips for consumers. We have cheat sheets, both for contractors and consumers to look at. So, yes, our material is abundant.

COUNCIL MEMBER KOSLOWITZ: Do you distribute them to the Council offices that Council Members can have that? Because usually when someone has a real serious problem, they'll call their Council Member.

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COMMITTEE ON CONSUMER AFFAIRS

SANFORD COHEN: If we're not doing that--

COUNCIL MEMBER KOSLOWITZ:
[interposing] They'll know what to do.

SANFORD COHEN: If we're not doing that, we're glad to do that.

COUNCIL MEMBER KOSLOWITZ: I think that would be a good thing to do so that we can related the message. We go to many, many meetings and we can related the message to our constituents so the more people that do know what's available and what's not available and what they can do and what they can't do is very important to them. Do you--the bill of rights, do you hand them out when you go? Do you bring them with you when you're going into a consumer, whether it be a restaurant, whatever it is, before anything is done you hand them their bill of rights?

SANFORD COHEN: To the businesses?

COUNCIL MEMBER KOSLOWITZ: Yes.

SANFORD COHEN: We distribute the bill of rights to businesses when we go around

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2 on community education day, business education
3 day.

4 COUNCIL MEMBER KOSLOWITZ: You don't-
5 -not, I don't mean just to go out, but when
6 you're going into a business and you walk into
7 the door, do you hand them the bill of rights
8 before you start talking to them?

9 SANFORD COHEN: Are you asking about
10 whether our inspectors do that on inspection?

11 COUNCIL MEMBER KOSLOWITZ: Right.

12 SANFORD COHEN: I don't believe
13 that's part of the protocol.

14 COUNCIL MEMBER KOSLOWITZ: I believe
15 that's in the law. I believe that's in the law.
16 So, I would re-read the law, because that's
17 what the law was meant to be because the last
18 years consumers were getting fined where they
19 couldn't even stay in business, some of them.
20 And that's when I introduced that legislation,
21 that when someone goes into a store and they're
22 going to write a ticket before they do
23 anything, they hand them the bill of rights.
24 That was the purpose of the law.

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2 SANFORD COHEN: Well, I'll check with
3 our enforcement division and see if they're
4 doing that.

5 COUNCIL MEMBER KOSLOWITZ: Okay.
6 Thank you.

7 CHAIRPERSON ESPINAL: Thank you,
8 Karen. I have some questions regarding to the
9 exam to become a licensed contractor. What
10 does the exam consist of, the exam itself they
11 take?

12 SANFORD COHEN: It tests the home
13 contractors on their obligations under the home
14 improvement contracting law and related. It's
15 not an exam to test their competency or
16 skillfulness with respect to the type of home
17 improvement work they do. It's really to test
18 them on their knowledge of the administrative
19 code provisions and our rules and their
20 obligations to provide security in the form of
21 a bond or a deposit with our home improvement
22 trust fund. So that's the nature of the test.

23 CHAIRPERSON ESPINAL: So,
24 hypothetically, I could just--I can pick up a
25 book, read things that might be in the exam and

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2 pass the exam even though I've never picked up
3 a hammer in my life?

4 SANFORD COHEN: Well, I'm not aware
5 of any guidebook like you would find for some
6 civil service test, but all of our laws and
7 rules as well as the pamphlets that we provide
8 are online. They're available for the home
9 improvement contractors to review, to study
10 before they come in. Excuse me. And we give
11 more than one opportunity for a home
12 improvement contractor to pass the test. If you
13 fail the first time, they can retake the test
14 at no extra cost.

15 CHAIRPERSON ESPINAL: So, I, what I
16 wanted--was asking, so I can take the exam
17 without having any actual experience on the
18 field of doing construction work?

19 SANFORD COHEN: Yeah, as I said we do
20 not test for competency and skillfulness. What
21 we test for is their familiarity with the
22 licensing law and the consumer protections that
23 are secured by those laws.

24 CHAIRPERSON ESPINAL: So, what was my
25 next question? Sorry, give me one second. Has

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2 there been any talks within the agency about
3 maybe expanding the exam to include any sort of
4 testing on actual skill knowledge?

5 SANFORD COHEN: I'm not aware of any
6 such discussions.

7 CHAIRPERSON ESPINAL: Okay. Now when
8 it comes to the Town Hall meetings you have
9 every year and you invite the licensed
10 contractors in, have you thought about maybe
11 inviting, maybe creating a meeting where you
12 require people who have past violations or have
13 history of being--of doing shoddy work, maybe
14 required them to come in by law and then they
15 can lose their license if they don't show up to
16 this meeting?

17 SANFORD COHEN: With many of our
18 license categories, when we settle cases our
19 typical consent order requires that those
20 licensees attend any training programs that we
21 hold. I'm not sure that our typical settlement
22 agreement with home improvement contractors now
23 provides that, but where the consumer--
24 Department of Consumer Affairs and we have
25 limited expertise in construction and home

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2 improvement work itself and the skillfulness
3 and competency of that. It's not something that
4 we are experts at.

5 CHAIRPERSON ESPINAL: Okay. Thank
6 you.

7 COUNCIL MEMBER MAISEL: Thank you,
8 Mr. Chairman. Mr. Cohen, earlier you had said
9 that DCA will investigate some complaints about
10 plumbers and electricians?

11 SANFORD COHEN: Yeah, we investigate,
12 typically investigate where there are
13 complaints about overcharging, bill disputes
14 and our consumer services division, our
15 mediators will attempt to mediate those
16 disputes.

17 COUNCIL MEMBER MAISEL: Okay.

18 SANFORD COHEN: But if it has to do
19 with the skillfulness or competency of the
20 work, we refer that to DOB>

21 COUNCIL MEMBER MAISEL: Alright,
22 Because on your website you have a whole list.
23 This is your, form your website. The circle
24 with the arrow, with the line means that you
25 don't want to deal with these kinds of

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2 complaints. So you have--basically it says we
3 don't want to deal with plumber complaints and
4 electrical complaints, electrician complaints.
5 That's from your website. So this is confusing
6 to the consumer. So if you're going to
7 investigate some complaints, basically what's
8 going to happen, it's a ping pong match between
9 DOB and DCA. They say we don't handle this. You
10 say you don't handle that, and basically the
11 consumer is left in a muddle, because they
12 don't know what to do.

13 SANFORD COHEN: I understand the
14 objective of the bill is to sure that problem,
15 and DCA is prepared to work with the committee
16 and with DOB and with whatever other agencies,
17 including the law department to see how that
18 problem can be addressed.

19 COUNCIL MEMBER MAISEL: Okay. But I
20 think you need to put an asterisk next to
21 plumbers and electricians and say sometimes,
22 because otherwise the consumer is not going to
23 know. Thank you, Mr. Chairman.

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CHAIRPERSON ESPINAL: I'd like to acknowledge my colleague from Queens, Julissa Ferreras has joined us briefly.

[off mic]

CHAIRPERSON ESPINAL: Well, thank you. I really appreciate your testimony very much and for taking questions. I appreciate it. I'd like to call up the next panel. We have Nicholas Hardie from the Queens Economic Development Corporation, Nicole Arrindell from MFY Legal Services and Steven Hegeman from American Institute of Architects New York Chapter. I'd also like to acknowledge my colleague from Queens, Rory Lancman. Alright, thank you and please state your name before you speak on the mic. Anyone can begin first, yeah.

STEVE HEGEMAN: Steve Hegeman, with the American Institute of Arch--Steven Hegeman with the American Institute of Architects New York Chapter. Okay. Good afternoon, Chairman Espinal and Council Members. Thank you for the opportunity to testify today. My name is Steven Hegeman, I am the Co-Chair of the Professional Practice Committee at the American Institute of

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2 Architects New York Chapter. The AIA New York
3 Chapter was founded in 1857, the largest AIA
4 chapter in the country. The chapter's
5 membership includes over 5,000 practicing
6 architects, allied professionals, students and
7 public members with interest in architecture
8 and design. I am an architect registered in New
9 York State. The AIA New York Chapter is
10 dedicated to three goals, design excellence,
11 public outreach and professional development.
12 To fulfil its mission, the chapter sponsors
13 initiatives, programs and exhibitions that
14 explore topics of interest to architects,
15 allied professionals and the general public.
16 Our chapter also advocates on behalf of the
17 architectural profession on issues concerning
18 the built environment, professional regulation,
19 education and legislation. We are registered
20 lobby on both the state and the city level. I'm
21 here to make clear AIA New York's serious
22 concerns about Intro 265. AIA New York strongly
23 believes that architects must act in good faith
24 and meet strict ethical standards. There is a
25 code of ethics that all AIA members must

1 follow. AIA New York feels that Intro 265 would
2 add an unnecessary layer of bureaucracy.

3 Architects are already heavily regulated to
4 practice in New York State. We must be licensed
5 by the New York State Education Department's
6 Office of the Professions. This requires
7 professional education and rigorous
8 examination. Architects are trained in

9 architectural and art history, theory,
10 psychology, materials, structure and
11 construction methodology and how to incorporate
12 principles of aesthetics, forms, and pragmatic
13 functionality into building design. We are also

14 taught to take great pride in our designs,
15 protect the integrity of the profession and
16 comply with all of the applicable laws and
17 codes that affect buildings and the built
18 environment. However, because an architect's

19 decisions on project affect public safety, an
20 architect must stay abreast of developments in
21 health, safety, welfare and technology and is
22 required by New York State to fulfill a
23 continuing education requirements to maintain a
24 license. Once licensed, architects in New York

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1 City must have nearly all of our work reviewed
2 by the Department of Buildings, if not also
3 DEP, LPC, DOT, CPC, BSA, FDNY and the MTA.
4 Punishment for filing misleading or false
5 documents can lead to the loss of an
6 architect's license. Additionally, architects
7 can be found liable in court for any defects in
8 our design. That is to say there are both--
9 there are already several agencies with the
10 skill set necessary to investigate complaints.
11 Both New York State Education Department's
12 Office of the Professions and the New York City
13 Department of Buildings have the ability to
14 revoke licensing. These agencies can quickly
15 investigate complaints and have the technical
16 understanding to comprehend the issues
17 surrounding them. DCA, though a very capable
18 agency, does not have that expertise. Because
19 DCA investigators and most likely the mediators
20 DCA uses are not trained in examining
21 architectural plans or the construction
22 process, such investigations may lead to
23 architects needing to spend an enormant [sic]
24 of time defending themselves from frivolous
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2 complaints. This would be a burden on many in
3 the architectural community who often practice
4 in small firms. The Department of Buildings, on
5 the other hand, has architects, engineers and
6 other construction experts on staff who have
7 the resources and experience needed to evaluate
8 complaints. The Department of Building also has
9 relationships with the architectural community
10 and could work with them to stop bad actors.

11 Similarly, New York State Education
12 Department's Office of Profession already has a
13 hotline set up where complaints could be made
14 about licensed professionals, about anything
15 from incompetence to charging for work not
16 performed. Their staff also has architects and
17 other design professionals on staff who have
18 the expertise to look into any alleged
19 maleficence. Adding yet another agency to
20 investigate complaints would unnecessarily--be
21 unnecessarily redundant. DCA cannot do anything
22 to the oversight of design professionals that
23 the DOB and the Office of Professions doesn't
24 already provide. As far as we can tell, DCA
25 lacks staff that has the nuance knowledge of

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2 the design and construction process that these
3 agencies possess. In addition to the regulatory
4 burden, Intro 256 will muddy agency
5 responsibility and accountability and therefore
6 may result in weaker protecting of the health
7 safety and welfare of the public, an
8 architect's primary obligation. We complete
9 agree that bad actors in the industry must be
10 held accountable, but we do not believe that
11 Intro 256 is the answer. We want to work with
12 Council, Council Member Maisel, Chair Espinal
13 and the Council and we hope that this is the
14 beginning of a conversation about how to
15 appropriately meet the goals of the sponsors.
16 Again, thank you for your time. I'll be happy
17 to answer any questions.

18 CHAIRPERSON ESPINAL: Thank you,
19 Steven. I like to acknowledge my colleague from
20 Brooklyn, Vinnie Gentile. Next panelist?

21 NICOLE ARRINDELL: Good afternoon.
22 My name is Nicole Lester Arrindell. I'm a staff
23 attorney at MFY Legal Services. Thank you,
24 Chair Espinal and members of the committee for
25 this opportunity to testify. I would like to

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2 provide a perspective on being an advocate for
3 many consumers who are faced with particularly
4 home improvement contractor fraud. MFY has been
5 around for 50 years providing free civil legal
6 services in a number of areas. We start at a
7 disaster response law project in the wake of
8 hurricane Sandy to address immediate legal
9 issues, and those issues have exacerbated over
10 the last year and a half to include many other
11 issues that we never thought we would be
12 facing. One major issue has been particularly
13 home improvement contractor fraud. When the
14 contractors that our clients have dealt with
15 have actually had a written contract, many
16 times the written contracts are not specific in
17 detail. They lack any type of information
18 regarding the contractor's completion dates or
19 even information as to what exactly will be
20 done at their homes. A lot of consumers are not
21 informed enough to know that their contract
22 should have that type of information on them.
23 Many of the contractors that have worked with
24 our clients have requested that the client have
25 their money from FEMA or their insurance

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2 company direct it directly to a contractors
3 bank account before any work is done, or the
4 contractor shows up, does some of the work and
5 then leaves and leaves the homeowner hanging.
6 I'd like to give just an example of one of our
7 clients that we most recently worked with,
8 because we do think that generally, the
9 Department of Consumer Affairs has done a good
10 job mediating disputes that contractors have
11 with clients with consumers, but sometimes that
12 has been lacking and I'd like to provide a few
13 recommendations on things that the Department
14 could do to strengthen those areas. Just for
15 client experience, I'd like to share a story
16 about Mrs. H, she's living in Rockaway Park,
17 Queens. She was affected after Hurricane Sandy.
18 The basement and first floor of her home were
19 completely damaged by the storm. She paid a
20 contractor 31,000 dollars to make repairs that
21 included things like putting up sheetrock and
22 basically creating new walls for her home. This
23 contractor also agreed to complete some extra
24 plumbing work. Mrs. H would find out later that
25 he of course didn't have a license to do any

1 plumbing work. After he gave her a written
2 contract that was completely defective, had
3 very little information as to what would be
4 done for this 31,000 dollars and also failed to
5 include any information about his DCA license
6 number, which we know that DCA promotes that
7 that's a way for consumers to find out more
8 about a particular home improvement contractor,
9 but we're finding that many of our clients just
10 don't even know that they should go and look
11 that information up, where that information is
12 available to them, and that happened with Mrs.
13 H as well. This contractor after actually
14 performing work at her home, incorrectly
15 installed everything he was supposed to put
16 into her home, incorrectly installed heaters,
17 left her with a deficient malfunctioning
18 bathroom, did not put up the sheetrock
19 properly. She had to hire another contractor to
20 come in who was license again. For 14,000
21 dollars this second contractor agreed to fix
22 the work that was supposed to be done by her
23 initial contractor. Luckily for Mrs. H, when
24 she came to our office we were able to help her
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1 file a complaint with the Department of
2 Consumer Affairs. She didn't know that that was
3 a particular option. She actually came to us
4 hoping that I could represent her in a court
5 action against the contractor. We started with
6 the DCA first as an option to go to that
7 tribunal. Upon filing our--after we filed our
8 complaint on her behalf, we did get within 30
9 days I'd say some type of response from the
10 DCA. So they were very responsive, particularly
11 because this was a license contractor. We
12 started the administrative hearing process, and
13 the contractor said I would like to mediate and
14 provide a settlement to our client. So that
15 worked out for Mrs. H. She was actually able to
16 get 8,000 back returned to her from that
17 contractor who failed to do good work at her
18 home, and the DCA did issue a consent order
19 that required that contractor in the future to
20 do certain specific actions with regard to
21 having repair contracts. So we applied it that
22 that was something that was going to occur. We
23 support at MFY the proposed bill as well,
24 because we're seeing so many clients come in
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2 with people who are maybe fraudulently
3 pretending to be plumbers, maybe they used to
4 be plumbers or electricians and there's no real
5 way for us to address some of the ways to go
6 after those types of individuals. We think that
7 this is a step in the right direction,
8 particularly for those homeowners who were
9 impacted by hurricane Sandy, and we typically
10 will support any consumer protections that will
11 help, particularly those who were affected by
12 Sandy. I know that the DCA does some education
13 and outreach, but we think that more education
14 and outreach, particularly to those areas that
15 were affected by hurricane Sandy would be
16 essential. Right now, most of those people are
17 still in various stages of rebuilding their
18 homes, and they're still looking to, you know,
19 hire contractors to do repair work. Many of
20 those same people I represent them and they are
21 in the process of applying for New York City's
22 Build it Back program. While they haven't been
23 built back, they're responsible for trying to
24 get some sort of contractor to assist them in
25 that process, whether it be through the City

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2 itself in the Build it Back Program or own
3 their own. So we think that the outreach and
4 education component that DCA has with regard to
5 home improvement contracting needs to be
6 expanded, maybe with marketing and advertising
7 in those communities affected by Sandy, but
8 also educating the disaster case managers.
9 These disaster case managers are people who are
10 service providers who work for philanthropic
11 organizations such as Catholic charities or
12 Lutheran social services, and they work closely
13 with those persons who have been affected by
14 hurricane Sandy. They serve as a single point
15 of contact. I get calls from them all the time
16 on behalf of people who are looking for legal
17 assistance or some sort of legal representation
18 as they move through, really trying to rebuild
19 their lives after Sandy. We think that if the
20 DCA can offer those types of Town Halls they
21 mentioned to these disaster case managers,
22 there's thousands of them throughout the city,
23 to educate them. They're a single point of
24 contact that the consumer sees all the time and
25 is working with. Educate those DCM's, Disaster

1 Case Managers, about home improvement
2 contracting, the importance of working with a
3 licensed contractor and all of those resources
4 that are somewhere on DCA's website that
5 consumers are finding it difficult to locate.
6 I think giving it to those persons would be
7 effective. We know that most home improvement
8 contractors take pride in their work and
9 fulfill their promises. However, it's the DCA's
10 mission to protect consumers against those
11 opportunistic contractors who lack integrity
12 and who consistently violate the law, and as an
13 advocate for those consumers, it's extremely
14 refreshing to hear that there might be some
15 new rule making in place to improve those
16 consumer protections and regulations as well,
17 and we would look forward to the opportunity to
18 working with the Council and the Department on
19 any continued rule making and that would
20 further consumer protections. Thank you.

22 NICHOLAS HARDIE: Good afternoon.

23 I'm Nicholas Hardie, Director of training at
24 the Queens Economic Development Corporation.
25 Thank you. Our mission at QEDC is to create and

1 retain jobs and build neighborhoods and promote
2 the borough of Queens. Part of doing that we
3 provide business counselling services. We
4 participate in neighborhood development. We've
5 established several of the business improvement
6 districts around Queens. We promote tourism in
7 Queens and we provide training which is what I
8 want to talk about today. Specifically towards
9 the end of 2011, the Queens Economic
10 Development Corporation applied for seed
11 funding through the New York City Economic
12 Development Corporation and the Deutsch [sic]
13 Bank of America's funding. It was a
14 competition, Competition THRIVE, which is an
15 acronym for to Help Reach Immigrant Ventures
16 and Entrepreneurs. We were awarded the seed
17 funding to create a program that was meant to
18 assist immigrant business owners in improving
19 their businesses. We came up with this idea to
20 provide training to home improvement
21 contractors, specifically in the Chinese
22 Community, which is quite large in Queens, and
23 this came about because people had come to us
24 with complaints saying that there's hundreds,
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2 thousands even of unlicensed contractors doing
3 shoddy work. The Queens CDC hired me to put
4 together the training program which I put
5 together through little bits of information
6 that we found through all of the city
7 resources. We talked a lot about education
8 today. The reality is the information is all
9 out there, it's just you have to find it in
10 little pieces and put it together, and we
11 started off in the training them to Chinese
12 speaking immigrant contractors. We provided 18
13 hours of training and we brought them to the
14 Department of Consumer Affairs to get licensed.
15 They took the exam in Chinese, and within the
16 first five months of doing this training, we
17 trained and licensed 83 contractors. Since then
18 we've trained 347 individuals and some of the
19 main challenges that I see now for contractors
20 who are licensed are--it's simple educational
21 things like financial literacy. Many of the
22 immigrant business owners still operate on a
23 cash basis. Operating on a cash basis in of
24 itself lends business to unscrupulous
25 practices. For the most part I find the

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2 immigrant business owners that we do work with
3 and the people who are working unlicensed
4 aren't working unlicensed because they want to
5 work unlicensed. It's simply because they're
6 not aware of the resources available to get
7 licensed, as the Deputy General Counsel of the
8 DCA pointed out to earlier. I have a call here
9 from one of the individuals in my first round
10 of training whose name is Mr. Jong [sic] who
11 after getting licensed, he pulled me aside and
12 he said, you know, "I've been waiting to get
13 licensed for more than 10 years, but no one was
14 ever there to help, and now you've come along
15 and you've done something in such a short
16 period of time that we've been wanting to do
17 for so many years. You made it all so easy and
18 all of us are wondering now why we didn't do
19 this sooner." One of the reasons because the
20 actual process for applying is quite--is quite
21 tedious, and I find this both immigrant
22 business owners and local business owners,
23 people who are native English speakers and
24 don't speak a foreign language at all that
25 still come to me and say they have no idea how

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2 to navigate the licensing process. So I think
3 definitely as we look at making amendments to
4 the law, the most important aspect is education
5 and making sure those resources are available
6 to individuals who need to be compliant with
7 the laws themselves. I've got several other
8 things I'd like to share with you, but maybe we
9 could do that in the question and answer
10 portion of this.

11 CHAIRPERSON ESPINAL: Thank you.
12 Thank you. So what does the training consist
13 of, the training the EDC provides?

14 NICHOLAS HARDIE: Well, I'm not from
15 the DCA, so--

16 CHAIRPERSON ESPINAL: [interposing]
17 Well, the EDC.

18 NICHOLAS HARDIE: Oh, the EDC, I'm
19 sorry. The--we provide between 15 and 18 hours
20 of training for each round of training that we
21 do for the contractors. Classes are usually
22 about 10 to 15 people.

23 CHAIRPERSON ESPINAL: Hands on
24 training?

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2 NICHOLAS HARDIE: No, because as
3 they pointed out earlier, the exam itself
4 doesn't cover any technical aspects of
5 construction or renovation. So we focus on, you
6 know, the consumer protection laws, which are
7 what the home improvement laws are based on,
8 and we talk then about other basic industry
9 knowledge like what are insurance requirements,
10 you know, what are DOB requirements for pulling
11 permits. And we talk then about, you know,
12 operationally, how to incorporate compliance
13 into the business. Now we go over, you know,
14 this is the DCA's model contract. Here are AIA
15 documents that you can look at, and how then to
16 actually write out a contract that addresses
17 the work being done. I mean, the AIA documents
18 are very sophisticated documents, but there are
19 templates and people still have to actually
20 write down what kind of work is being done, and
21 that's something I see architects can help a
22 lot with because not to put too fine a point
23 on, but many of the contractors that I've
24 worked with in the past few years, they're not
25 highly bookish individuals. They work with

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2 their hands, and many of them if you ask them
3 to write a contract to save their soul, I don't
4 think they would be able to do it. So then, you
5 know, then the next question is, well okay,
6 what other set of professional services are
7 available. You looking at calling attorneys
8 and it also has to be able to provide solid
9 advice to them. And I find that nearly every
10 single contractor I've worked with has gotten
11 some really, really bad advice from those
12 professional services, especially in the
13 immigrant communities. I work with a lot of
14 Chinese contractors who get advice from Chinese
15 lawyers based on, you know, Chinese civil law,
16 which quite frankly doesn't apply in America.

17 CHAIRPERSON ESPINAL: Alright. I
18 guess it's something we can talk about after
19 the hearing. You know, you've talked a lot
20 about Chinese trainings. Is there any other
21 languages you focus on?

22 NICHOLAS HARDIE: Yeah, we provide
23 training in English and Spanish as well. The
24 initial idea was to provide this training for
25 immigrant business owners and after we started

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2 doing it, people started calling up and then
3 complaining saying, well, you know, I'm an
4 American and I don't speak Chinese, I speak
5 English and I need this as well. I've had guys
6 telling me that they've been meaning to get
7 licensed since 1992 say, "Oh, you know, in 1996
8 I started the process once, but you know, I got
9 halfway through and I just--it was
10 overwhelming." And then they'd move on and
11 they'd do more work and then in 2003 I gave it
12 another shot, but then maybe they failed the
13 exam, and so then finally they come along and
14 then we help them get licensed. So, English,
15 Spanish and Chinese are the three languages
16 that we provide training in.

17 CHAIRPERSON ESPINAL: Now how do you
18 do your outreach? How do you get members to
19 come in?

20 NICHOLAS HARDIE: A lot of it is
21 word of mouth. I find that there aren't really
22 any other training providers in the city. One
23 of the Deputy Commissioners of the Department
24 of Small Business Services last year called me
25 at our office in Queens EDC and she said they

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2 had been looking for a training provider and
3 for all the research they did, they found that
4 we were the only ones. So if you just Google
5 home improvement license NYC we would come up
6 on the first page. That's where a lot of our
7 English speaking trainees come from. With the
8 Chinese trainees, the newspapers and the
9 television are a very important source of
10 information for them. It's a very homogenous
11 community. So if you get something in the
12 community bulletin that says there's this
13 training available, immediately you'll get
14 dozens and dozens of people calling in and
15 asking what this is about.

16 CHAIRPERSON ESPINAL: Okay, great. Do
17 you accept people from other boroughs, or do
18 you only deal with Queen?

19 NICHOLAS HARDIE: Well, absolutely.
20 I've had people come from other countries.

21 CHAIRPERSON ESPINAL: Oh, wow.

22 NICHOLAS HARDIE: Yeah, so people
23 from Canada, people from California, people
24 from other states, people from other boroughs,

25

1
2 yeah. Everyone can come and participate in
3 training.

4 CHAIRPERSON ESPINAL: Okay.
5 Councilman Gentile?

6 COUNCIL MEMBER GENTILE: I'm sorry,
7 I missed a lot of the testimony. I jumped
8 across next door to the other committee
9 hearing. But I'm just curious the--let's see.
10 Mr. Hegeman, right?

11 STEVEN HEGEMAN: Yes.

12 COUNCIL MEMBER GENTILE: I'm
13 curious, I did hear some of your testimony. The
14 fact that Intro 265 would require the DCA to
15 notify DOB in the event that a deal be licensee
16 was found guilty of violating a portion of the
17 administrative code, you're not supportive of
18 something of that nature?

19 STEVEN HEGEMAN: I think the issue
20 is how it applies to license professionals as
21 architects. I don't know that the DCA and
22 certainly I felt from the testimony we heard
23 earlier, they don't have the expertise or the
24 training to understand some of the issues that
25 go to our professional service, whereas

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2 obviously, the New York State office of
3 Professions, that's their mandate. They clearly
4 have that level of expertise and that
5 understanding.

6 COUNCIL MEMBER GENTILE: So, you're
7 saying that the DCA investigators or inspectors
8 wouldn't have that ability to determine whether
9 someone violated a DOB regulation?

10 STEVE HEGEMAN: I think that would be
11 true, yes.

12 COUNCIL MEMBER GENTILE: Okay. But
13 let me-- and I'll agree with you at this point
14 that may be the case now, but why couldn't that
15 be an aspect of training or issue inspectors.

16 STEVE HEGEMAN: Well, I'm not sure
17 it couldn't be, but I also wonder what the
18 advantage might be. Again, we're regulated by
19 the state and the projects that we produce are
20 strictly regulated by the city through the DOB,
21 so I'm not sure that I understand what you
22 might be looking for with the additional layer
23 of oversight. Certainly, you know, the effort
24 to make the DCA a more technical organization
25 would be extraordinary, and I'm not sure

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2 exactly, you know, how that would fit with the
3 better performance or work towards the goal of
4 rooting the bad actors out of the community.

5 COUNCIL MEMBER GENTILE: Okay. Okay.

6 NICHOLAS HARDIE: Can I ask for a
7 plan of clarification. From what I've read, it
8 seems to me that the intended bill is to
9 regulate plumbers, electricians, architects and
10 other professional licensees who perform home
11 improvement work, not necessarily to oversee
12 architectural design. But I mean, architects
13 of course are licensed to provide design
14 services, but many of them also use their
15 ability to pull permits and their connections
16 to building industry to perform unlicensed home
17 improvement work. So I think that's what the
18 bill's getting at is that--

19 [cross-talk]

20 NICHOLAS HARDIE: if they're
21 performing home improvement work, then anyone
22 who performs home improvement work should fall--
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24 COUNCIL MEMBER GENTILE: Might
25 otherwise not be licensed, right?

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NICHOLAS HARDIE: Right. Right. Not necessarily that we're overseeing plumbing and electrical and architectural standards of quality.

COUNCIL MEMBER GENTILE: Okay, that's a good point. That's clarification. Great. Thank you.

CHAIRPERSON ESPINAL: Well, thank you for coming and I appreciate your testimonies. I appreciate you being here. With that said, we're going to conclude and adjourn this meeting.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 05/08/2014