

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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HELD AT: Council Chambers - City Hall

B E F O R E: Jumaane D. Williams
Chairperson

COUNCIL MEMBERS:

Rosie Mendez
Ydanis A. Rodriguez
Karen Koslowitz
Robert E. Cornegy, Jr.
Rafael Espinal, Jr.
Mark Levine
Antonio Reynoso
Helen K. Rosenthal
Ritchie J. Torres
Eric A. Ulrich
Elizabeth S. Crowley

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

Rick Chandler
Commissioner of Department of Buildings

Timothy Hogan
Deputy Commissioner for Enforcement at
Department of Buildings

Patrick Wehle
Assistant Commissioner at Department of Buildings

Charlene Obernauer
New York Committee for Occupational Safety and
Health/NYCOSH

Louis Coletti
Building Trades Employers' Association

Bud Griffis
Polytechnic Institute of NYC

Peter Fontanes
New York Real Estate Chamber

Santos Rodriguez
Building and Construction Trades

James Bifulco
TSC North America

Carol Turner
New York Community Alliance for Worker Justice

Terrence Moore
Local 46 Metal Lathers Union

Thomas Gordon
Local 14 IUOE

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

Allen Wright
Local 14

Ronald Lauria
Local 28 Sheet Metal Workers

Michael Odenthal
NYC District Council of Carpenters Area
Standards Department

Tamara Brummer
Build Up NYC

Juan Hoy
Build Up NYC

Dave Ramsey
Build Up NYC

Michael Halpern
Build Up NYC

Marcos Alcozar
Build Up NYC

Carole Raftry
Build Up NYC

Ligia Guallpa
Workers' Justice Project

CHAIRPERSON WILLIAMS: Good morning, everyone, and thank you for coming. My name is Council Member Jumaane Williams, Chair of Committee on Housing and Buildings. We've been joined today by Council Member Mendez, Crowley, Levine, Torres, Koslowitz, Ulrich, and Rosenthal. As you all know, we're here today to discuss construction site safety. The city is currently experiencing an increase in construction. Unfortunately, we are also experiencing and even larger increase in construction related injuries. Between 2008 the height of the last construction boom in 2014, the number of construction permits have increase by approximately 17.5 percent while the number of construction related injuries rose by 27 percent. Tragically, it does not appear that 2015 is shaping up to be a better year for construction site safety. I'm currently aware of nine construction related fatalities in the first five months of 2015 alone. The cause of those deaths range from falls to equipment failure to faulty gas work. On Saturday, I announced this hearing during a press conference joined by Manhattan Borough President Gale Brewer in response to the recent construction accident that left Christian Ginesi dead

from falling 24 stories down an elevator shaft last week in a half-built Manhattan luxury hotel. Data by the Federal Occupation Health Administration shows that there have been 93 construction site fatalities in New York City between 2008 and 2014, and though construction is inherently dangerous, we must do more to lower these numbers. Today, I'm interested in hearing more from the Department of Building's, the lead agency overseeing construction site safety about the cause of those deaths, efforts undertaken by the Department to improve construction site safety and steps that are currently being taken to implement further safety regulations. Today's hearing will also provide interested parties an opportunity to speak about the cause of the increase in the construction-related injuries and make recommendations for steps the city can take to enhance construction site safety. I'd like to thank my staff for the work they did to assemble this hearing including Nick Smith, my Deputy Chief of Staff, Jen Wilcox, Counsel to the Committee, Guiermo Patino [sp?] and Jose Conde [sp?], Policy Analyst to the Committee, and Sarah Gaselnum [sp?], the Committee's Finance Analyst. I did want to make a

1 mention, although I believe it will be an important
2 question when we talk about construction sites being
3 union and non-union, which are safer, I don't want
4 this Committee hearing to solely be just about that
5 conversation. I think we have a lot of information
6 to try to get out, whether the site is union or not.
7 Those questions I want to ask and do get answered
8 based on the data that I have, but I ask my
9 colleagues let's try to see if we can keep it more
10 holistic and figure out what's going on with those
11 construction sites. With that said, I'm going to
12 call up representatives from the Administration as
13 our first panel. I'd like to remind everyone that
14 would like to testify today to please fill out a card
15 with the Sergeant at Arms. I'm calling Rick Chandler,
16 the Commissioner of Department of Buildings, Tim
17 Hogan, Deputy Commissioner of DOB. Can you both raise
18 your right hand? Do you affirm to tell the truth,
19 the whole truth and nothing but the truth in your
20 testimony before this committee and to respond
21 honestly to Council Member questions?

22 COMMISSIONER CHANDLER: I do.

23 TIMOTHY HOGAN: I do.
24
25

CHAIRPERSON WILLIAMS: Thank you, and you can begin at your leisure. I just wanted to add for my colleagues that the Commissioner has asked if he could be out by noon, so we're going to do our best to get him out.

COMMISSIONER CHANDLER: Good morning, Chair Williams and members of the Housing and Buildings Committee. I'm Rick Chandler, Commissioner of the New York City Department of Buildings. I'm joined by Tim Hogan, Deputy Commissioner for Enforcement, and other members of my staff. We are pleased to be here this morning to offer testimony on the issue of construction safety. Our mandated Buildings Department is as broad as it is deep. There are more than one million buildings in construction sites throughout the city that are governed by the city's construction codes, zoning resolution, the state's multiple dwelling law, and other regulations. We enforce compliance with these laws through our examination of building plans, permitting, licensing functions and inspections. While our broad mandate certainly includes advancing development in the interest of creating jobs, schools and affordable housing. Everything we do is conducted through the

lens of safety, safety for construction professionals and safety for all New Yorkers. As you are undoubtedly aware, we are in the midst of a construction boom in the New York City--in New York City and a rise in construction activity understandably correlates with an increase in construction accidents, but truth be told, while there is a correlation, construction accidents have outpaced construction activity, and this is great cause for concern. In 2014, the Department issued 2,047 new building permits and 98,511 alteration permits. With the addition of more than 41,000 renewal permits, the Department issued a total of more than 142,000 permits last year. In 2014, there were 231 construction accidents. Compared with 2013, there was a 10 percent increase in permits issued and a 24 percent increase in construction accidents. Following a record high of 19 construction related fatalities in 2008, during the five year period beginning in 2009 and ending in 2013 there was an average of 4.6 construction related fatalities. In 2014 there were eight fatalities. Thus far, in 2015 there have been six. The Department determines a fatality to be construction related if it occurs at a

1 construction site and was directly related to
2 construction activity. Construction safety is much
3 more than hard hats and harnesses. It must be the
4 focus at every stage of a construction project.
5 Construction safety is a long term commitment that
6 starts with the owner and integrates proper
7 safeguarding procedures into the daily activities of
8 every worker, every builder, every architect and
9 every engineer. The Department makes every effort to
10 educate construction professionals on best practices
11 for safety and to identify bad actors who allow site
12 conditions to create an unsafe environment. But the
13 Department cannot be at every construction site every
14 day. Ultimately, it remains the responsibility of
15 every person on a job site to ensure that work
16 conforms to approved plans and is performed safely.
17 Furthermore, while the Department regulates
18 construction, in an effort to protect the public by
19 enforcing the safeguarding provisions of the
20 construction codes, the Occupational Health and
21 Safety Administration within the United States
22 Department of Labor has jurisdiction over worker
23 safety. The Department categorizes construction
24 accidents into several different types. Examples
25

include accidents related in demolition work, scaffold and shoring installations, mechanical construction equipment, and excavation and soil work.

The most common accidents are worker and material falls. Material falls occur when construction materials are improperly secured within or to the work site. Of the 231 construction accidents that occurred in 2014, the most common are a worker falling, of which there were 89 accidents, an increase from 62 falls in 2013 or material falling or failure of which there were 57 accidents, an increase from 49 in 2013. Following an accident, the Department arrives at the scene to perform an investigation to determine the cause and ensure that measures are put in place to prevent the accident from occurring again. In the case of a worker or material falling, contributing factors can be characterized as either worker or contractor error.

Worker error includes not wearing or improper use of fall protection, distraction, carelessness, and taking shortcuts. Contractor error includes improper or no pre-task planning, inadequate supervision, lack of or inadequate temporary protection, providing inadequate or improper tools for the task, poor

housekeeping, and implementing short cuts or unsafe work practices. In the case of material failure, contributing factors include improper or lack of planning, overloading, and design flaws. When it comes to preventing falls and material failures, the Department advocates a three-step approach. The first effort in addressing a fall hazard is to remove the condition. For example, shaft-ways and holes in the floor should be sealed to prevent workers from falling through. Assuming the condition cannot be removed, it should be re-engineered. For example, installing a guardrail around a shaft-way, will prevent the fall. Assuming the condition cannot be removed or re-engineered, workers should be restrained. This includes wearing harnesses and lanyards that are properly tied off to a safety line. As you can see, for the overwhelming majority of construction accidents, prevention and protection does not require significant expense for complex protocols. It merely requires patience, commitment to the safeguarding procedures outlined in Chapter 33 of the Building Code and OSHA regulations, and at all times a respect and appreciation for the harm that can be caused to one's self and the others if the

work is not performed responsibly. There are three primary avenues by which the Department promotes construction safety, education, oversight and code reform. The Department conducts extensive outreach to construction professionals to educate them on code requirements and to promote worker and public safety. For example, with the adoption of the 2014 construction codes, the Department hosted numerous forums throughout the city to educate construction professionals on recent changes to our codes. Two weeks ago, the Department hosted our annual Build Safe Life Safe conference, a sold out event at the downtown Marriot where we convened hundreds of construction professionals to educate them in a day long series of safety seminars on new code requirements and best practices. Additionally, as part of National Construction Safety Month, the Department will be broadening its Experience is Not Enough Campaign. As part of this campaign, I will be visiting several mid-level and high rise construction sites throughout the city to speak with workers and remind them about the proper safeguarding of construction sites. During these visits, I will be distributing our Experience is Not Enough Campaign

literature and stickers for hard hats. The literature includes flyers that provide information to workers on a variety of safety topics including worker and material falls. Our employees will also be distributing these materials at construction sites throughout the city. Another facet of our effort to hold construction professionals accountable for conditions at job sites is thorough inspections. In 2014, the Department responded to nearly 94,000 complaints and issued nearly 52,000 ECB violations totaling just under 130 million dollars in penalties. A focus of the Department's strategic planning process has been on construction safety. From that process I'm pleased to announce a new initiative beginning this spring, where within the span of 30 days the Department will identify 300 construction sites of nine stories or less throughout the five boroughs where we will provide intensive outreach and enforcement. At these sites, multiple Department units will provide guidance to construction professionals on proper safeguards to prevent the most common safety accidents from occurring, thereby reducing the risk of harm to themselves and others. When conditions warrant, violations will be issued.

At these visits, we will also be providing construction workers with the means to contact the Department anonymously to share safety concerns. The Fiscal Year 2016 Executive Budget includes new funding that will enable the Department to hire additional inspectors and supervisors. This funding if approved by the City Council will enable us to be more proactive in our enforcement and reduce the occurrence of construction accidents. An additional way the Department addresses construction safety is thorough our issuance and maintenance of 25 different types of construction trade licenses and registrations. Prior to licensure, most applicants take an examination, go through a rigorous experience and background check and have continuing education requirements as part of any license renewal application. Work performed by unlicensed or unqualified construction professionals can result in unsafe conditions for New Yorkers. If an unlicensed worker or a licensed worker is found to have created unsafe conditions or committed some other misconduct, the Department takes swift and appropriate action from issuing violations and obtaining correction of unsafe conditions to suspending and revoking licenses

for the most serious misconduct. An exciting new tool the Department is developing is using information and data analytics to identify risks associated with construction and the construction professionals we regulate. This will allow for proactive enforcement as the Department reviews those issues and areas that pose the greatest risks to the public. With the help of the City Council, the Department has recently enacted a series of improvements to our construction codes that will result in safer work sites. I cannot emphasize enough the code's rule in creating a foundation for best safeguarding procedures based upon stakeholder engagement and design trends and practices in the industry. For example, the code now requires that material or equipment not being used shall be secured to prevent dislodgement and shall be stored a minimum of ten feet from all unenclosed perimeters of the building. to ensure the safety of construction sites and the properties that are about them, certain excavations are now required--I'm sorry, properties that abut them, certain excavations are now required to utilize a movement monitoring plan designed by a licensed professional to check for significant vibrations that may create unsafe

conditions. Additionally, sidewalk sheds must be inspected daily to ensure their proper functioning and safety and a log of each inspection must be maintained, and the code now requires construction fencing be built to withstand a minimum of 80 mile per hour winds. While all construction accidents warrant strict scrutiny and vigilant enforcement, given the inherent dangers of construction work, particularly in a vertical and complex built environment such as New York City, we have to be realistic that the Department's role in promoting safe construction lies largely in designing risk mitigation regulations. The recent increase in the number of accidents including fatalities indicates that more must be done by both construction professionals and the Department to ensure that construction site managers and workers are employ proper safeguard procedures. Our job is educate construction professionals on best practices so they can do their job safely and to vigorously enforce violations of the law in sum to help create an environment where accidents are kept to a minimum. Thank you for your attention and the opportunity to

testify before you today. Deputy Commissioner Hogan and I welcome any questions you may have.

CHAIRPERSON WILLIAMS: Thank you very much for the testimony. Did you want to just quickly--I know we have two different counts for the amount of fatalities. Did you want to talk about the difference?

COMMISSIONER CHANDLER: Sure. I think that you have included I believe the deaths that occurred at the Second Avenue gas explosion, which is for our purposes in maintaining our regulatory system, that would not be a category that would fall into a construction matter. That was a tragedy, but it's not something that would fit into our category of a construction accident. So those numbers are not there.

CHAIRPERSON WILLIAMS: And I think there's one more.

COMMISSIONER CHANDLER: The accident of a couple weeks ago, again, the tragedy occurring with the delivery materials via truck deliver of a knuckle boom [sic] delivery truck, again, not part of the construction site, though he was making a delivery. A tragic accident, but it's not something that is

consistent with our accounting procedures of how we monitor our construction accidents.

CHAIRPERSON WILLIAMS: Thank you. Can you--just really quickly with the gas explosion, but that is--that does fall under DOB oversight, correct?

COMMISSIONER CHANDLER: It's DOB in conjunction with our efforts with Con Edison or the utility.

CHAIRPERSON WILLIAMS: Okay. Alright. I probably--I may have some questions about that a little later, but can you tell me really quickly the difference of what DOB does and OSHA does and who does what?

COMMISSIONER CHANDLER: I'll start, and I'll ask Deputy Commissioner to follow up on that. It's a thin line, and I would say that we meet with OSHA formally, but also informally at job sites. Our code does not specifically say that our safeguard is for the actual workers at the site. It specifically states that it is the job site itself. We recognize that the job site safety clearly affects the workers there, but the federal guidelines are applicable to the workers. I'll let Deputy Commissioner--

CHAIRPERSON WILLIAMS: [interposing]

Sorry, say that again. So, you have oversight over the work place and OSHA has oversight over the workers?

TIMOTHY HOGAN: That's correct. OSHA's main responsibility is the protection of the worker. Our responsibility is to make sure that the work site, the work's being conducted safety to protect the public. Obviously if a construction worker falls off the building and lands on a public sidewalk, that gives a little leeway to be able to look for violations that would keep that worker from falling to protect the public, and we do that regularly through violations for failure to have netting, failure to have guard rails, failure for them to tie off because they are endangering the public and other members of the public by not being tied off. But the actual violation related to the worker safety on the site is a responsibility of OSHA.

CHAIRPERSON WILLIAMS: So if a worker falls inside of the work site, DOB doesn't have oversight of it?

TIMOTHY HOGAN: We have oversight, but the actual violation related to the fall and the

worker side of it is handled by OSHA and they issued their violations. We issue violations for failure to safeguard in that instance, but the actual violation related to the death is handled through OSHA. It's a very, very fine line.

CHAIRPERSON WILLIAMS: Is it a real line, or applicable? I mean, how does it--so, in the case of Mr. Ginesi's I don't know, I assume there's still investigation going on, but let's assume that the contractor was in error. Who does what?

TIMOTHY HOGAN: There's a violation issued to the contractor by OSHA directly related to the death. Additionally, there would be a violation from the Department of Buildings issued to the contractor for failure to safeguard the site.

COMMISSIONER CHANDLER: So, in summary, Chair Williams, there is a line. It's a real line. It's--but it's one that we recognized is easily interpreted as being a little vague. So we are in constant communications with OSHA, and that particular site that you mentioned, we were there. Tim and I were there. OSHA was there. We were all engaged in reviewing the shaft and the incident and talking to the members of the mechanics that were

there, and taking in the various pieces of information that are applicable to the codes that we enforce and regulate.

CHAIRPERSON WILLIAMS: When a construction accident occurs, how is the Department of Buildings notified?

COMMISSIONER CHANDLER: So we are positioned at watch command at New York City Emergency Management just as fire and police are, and as I've--I think I've mentioned to you either informally or formally in the past, we respond to incidents in New York City more than any other agency in the city other than the fire and police. And so we have a fulltime presence at watch command, and we are notified through that system just as fire and police are. So, very frequently, Deputy Commissioner Hogan will learn something at the same time that the 911 response is done. So we are deeply involved in that system and respond to very many emergency responses that way.

CHAIRPERSON WILLIAMS: Are contractors required to report accidents, and are there penalties if they don't?

TIMOTHY HOGAN: Yes, they are. On sites over 15 stories, we have site safety manager who is required to report all incidents. On sites above 10 stories they're required to have a site safety coordinator, and other sites the construction superintendent is responsible to make sure that they do a notification to the Department of an accident or incident. So, separate and apart from our response from 911, we will receive calls from the site safety manager's site, safety coordinators and construction supers advising us that there are lesser sites that do not require 911 response and that incidents had occurred.

CHAIRPERSON WILLIAMS: And is there interagency response in coordination to accidents? Is it triggered by a certain level of accident?

COMMISSIONER CHANDLER: Well, before I respond to that, I just want to say that we--well, let me get back to the interagency. Yes, so the emergency response is often done by multiple agencies. Emergency Management Office will contact the other agencies as they see fit. I mean, that's their role to coordinate, and so they are a coordinator of a site response. So we have a very

1 established protocol of responding to a site and
2 engaging with the site emergency command with
3 Emergency Management Office. I'm sorry, now I forget
4 what I was going to say in the earlier response. I
5 beg your pardon.

7 CHAIRPERSON WILLIAMS: No problem. And
8 when is OSHA notified? Are they notified at the same
9 time? How does that work?

10 TIMOTHY HOGAN: Any time that we have an
11 issue where there was an injury to a worker, we have
12 an email notification system that gets sent to OSHA
13 and Department of Investigation so that they are put
14 on notice that we have an incident going on where
15 there was a serious injury to a worker. Separate and
16 apart from that, the site safety managers and
17 coordinators will notify OSHA, and if it's a lower
18 level injury that has occurred, it'll be a phone call
19 from us to let them know that we received a call on
20 this, but we're not responding to it.

21 CHAIRPERSON WILLIAMS: And so even though
22 there's a discrepancy of what we're counting and what
23 you're counting, it seems that there is an increase
24 in accidents. Does your numbers say the same? Does
25 it increase? Can you describe why you think there

might be an increase, and what's being done if anything to address the increase?

COMMISSIONER CHANDLER: As discussed in my testimony, there certainly is an increase, we believe as a result of the increased construction activity. We would also say that much of the new construction built is for very large projects, and the larger the project, the more inherent the risk. In fact, a just released Furman [sp?] Center study found that in 2014, 72 percent of new building permits for residential construction were for projects with 50 or more units. Anecdotally, we have also observed improved reporting thanks to our outreach and enforcement efforts, and that was one of the comments I was going to make earlier is that our--because of our outreach and our vigilant appearance at these sites and communication with site safety managers, we are getting every possible report. So, the site safety managers are taking us very seriously so we get the most minute type of report up to the most tragic, that being a fatality. So we are seeing a very diligent reporting mechanism in place over the last few years.

CHAIRPERSON WILLIAMS: You mentioned some forms that you're doing throughout the city. Are they mandatory?

COMMISSIONER CHANDLER: Forms?

CHAIRPERSON WILLIAMS: You mentioned doing your extensive outreach, for example, the adoption--

COMMISSIONER CHANDLER: [interposing] The Build Safe Life Safe Conference forums?

CHAIRPERSON WILLIAMS: 2014 construction codes. The Department's hosting numerous forums through the city.

COMMISSIONER CHANDLER: Oh, I beg your pardon. I thought you said forms. So, absolutely. We're actually quite proud of the Build Safe Live Safe. It's been an ongoing thing, and we're actually seeking to change the location because it's so well attended so that we can accommodate more people. So that's something that we did just a couple of weeks ago, but after the 2014 code was passed over the last eight months since I've been here, we have had many outreach forums in Brooklyn and various places in Manhattan and Queens to provide educational forums where I, Tim and some of our subject matter experts have been going over the modifications to Chapter 33,

1 which is all of the safety requirements. So we have
2 been emphasizing the upgrade to the requirements from
3 the 2008 to the 2014, but again, it's an opportunity
4 to just repeat and repeat so that people get better
5 education.
6

7 CHAIRPERSON WILLIAMS: Is anything being
8 done differently now? I know you've explained that
9 you think because some of the projects are getting
10 taller, better reporting, why might be an increase in
11 the accidents. Is anything being done to mitigate
12 that?

13 TIMOTHY HOGAN: We have increased the
14 inspections on a lot of sites. One of the things
15 that we are doing proactively now is we are redoing
16 the types of incidents and the locations where those
17 incidents are occurring. So for example, if we are
18 having a large uptick in construction incidents at
19 one to three story buildings, we will do safety
20 sweeps of those locations using different members of
21 our team to go out and look at those sites to make
22 sure that they're complying with the safety
23 requirements of Chapter 33, and we'll continue to do
24 that as we identify particular issues that have been
25 developed. We go out and work on them. We've done a

1 very vigilant increase in the amount of stop work
2 orders where there's been serious violations. For
3 example, if we have a construction project going on
4 and they drop a two-by-four or a piece of steel from
5 an upper floor, we'll put a stop work order in place
6 until they give us satisfaction that they will meet
7 the security requirements necessary for them continue
8 with safe operation in order to protect the public.

9
10 CHAIRPERSON WILLIAMS: What actions can a
11 department take legally against contractors who
12 repeatedly violate the safety provision? And can you
13 also explain the role of the Department or at the ECB
14 in adjudicating the violations?

15 COMMISSIONER CHANDLER: I can start that
16 and I'll ask Deputy Commissioner to follow up. One
17 of the things that we are doing after when we see
18 something either associated with an accident or not,
19 we will frequently then proactively engage our
20 database and some of our investigators to look to see
21 where these contractors or licensees or design
22 professionals may be associated with other jobs that
23 are permitted, and then we'll develop an extensive
24 list and then conduct a sweep. And that's proven to
25 be fairly effective. It certainly is an ongoing

1 effort right now after the Second Avenue explosion,
2 but that's something that we were doing before then
3 and we've been doing it since with every accident is
4 that we will research the parties involved and then
5 identify some of the matters that were related to
6 unsafe practices or something that led to an
7 accident. Then we will proactively pursue that.

8
9 TIMOTHY HOGAN: On the ECB front we have
10 a team of attorneys and inspectors who work regularly
11 with ECB and we have a very high rate of support in
12 the number of violations that are found valid with a
13 very low dismissal rate.

14 CHAIRPERSON WILLIAMS: I guess what's the
15 biggest stick that you have? Do you revoke licenses?
16 Do you have a way of preventing them from getting
17 other contracts? What happens when people are
18 continually cited for violations, particularly when
19 there are accidents or fatalities?

20 COMMISSIONER CHANDLER: That's a good
21 question. It's something we ask ourselves regularly,
22 and it's something that I meet with our Deputy
23 Commissioner for regulatory affairs regularly,
24 because she works with DOI and our investigations
25 unit. So, there's a number of ways to go about it

and we try them all in various forms. So, we start by writing the violations. If we see something repeated, then we may engage a criminal court summons. We may invite DOI to get involved and conduct their element of the investigation that might involve criminal activity while we support them on that. We would provide the expertise for them to-- for us to develop a criminal case for them to then pursue it criminally in whatever forum they see, or we sometimes we're able to engage the District Attorney ourselves, and again through DOI bring a case with the District Attorney if the District Attorney chooses to act. If they don't, which sometimes occurs based on resources, then we will then bring it back and work with corporation counsel to engage our own criminal court process through using criminal court system, or through the criminal court system. So those are all the litigation type of enforcements. The other things that are meaningful and something that we have done in the last few months is we have removed contractor registrations for particular contractors that we see have been bad actors. And while that's a paper move, what it does is then it has a trickledown effect in

that if they have other permits out--in the case that we've done recently, they had I believe 20 some other permits. So if we remove their contractor registration, that means we have to notify all of the other projects that their permits are being revoked. So if we--even if we remove the registration for a limited amount of time that still leaves--there's other jobs with permits revoked. So, we're trying to send a very strong message that there will be consequences if you are a demonstrated repeat offender with taking inappropriate short cuts that might put somebody at safety. So we're in the process of doing that. Another matter is licensees. If licensees are taking short cuts, then we can do the same thing. We issue licenses and we can take them away. And so, we have done that. We have over 21,000--over 20,000 licensees in our database, and we have a whole system in place to do background checks and enforce rules and regulations when we see wrong doing in many forms. So those are our tools.

CHAIRPERSON WILLIAMS: Just so I understand the removing the construction registration means that they can't work on that job site?

COMMISSIONER CHANDLER: Correct.

CHAIRPERSON WILLIAMS: How many construction registrations have been removed, and how many license revocations have happened, let's say in the past five years?

COMMISSIONER CHANDLER: I'll have to look into that data. The registration pro--the registration removal is a new tactic that we're taking, something that I've worked out with our Deputy Commissioner for Regulatory Affairs in the last few months. So that's something that we're trying to see how that will play out in the courts, but in the meantime we expected to have--we expected to send a very strong signal to the industry. I don't have data for you on that.

CHAIRPERSON WILLIAMS: Is there any way someone can get some of that before the end of the hearing, even if it's for last year or two years so we have something to work on?

COMMISSIONER CHANDLER: For this hearing, or I mean, following up?

CHAIRPERSON WILLIAMS: No, by the time we leave, I guess around noon.

COMMISSIONER CHANDLER: We'll make a call and see if we can figure something out before we get out of here.

CHAIRPERSON WILLIAMS: Appreciate it. Has there been coordination with HPD or other agencies to find out if there's a linkage between the worst actors in construction site safety and wage theft?

COMMISSIONER CHANDLER: Again, I'd say I appreciate the question, because it's something we have a proud historic relationship with the enforcement division at Commissioner Been's agency, HPD, and we meet weekly. We have a team of investigators that we work with the Mayor's office of Data Analytics along with the Deputy Commissioner at HPD and our own staff to look at the complaint system versus the multiple dwelling registration and other tools that we then perform sweeps to go out and look at multiple dwellings that have complaints and that have possible landlords that are harassing their tenants. This eventually led to the Mayor's announcement of a task force with the State Attorney General, which we're very proud to participate in, and that's a regular effort we have with HPD and others.

CHAIRPERSON WILLIAMS: Have you seen any connections with bad actors with the site safety and other bad actions like wage theft?

COMMISSIONER CHANDLER: I would, as I mentioned before with some of the owners, bad actors, there was a recent indictment of a couple of owners in Brooklyn that we played a major role in providing the back up for that. In addition, a recent death at a construction site in Manhattan, we have taken action against that contractor, and what we do as I mentioned earlier is look at every other job in the city where that contractor has any affiliation, and then we go sweep it with a fine tooth comb and let them know what it is that we have concerns about. So, that's one of the efforts we do.

CHAIRPERSON WILLIAMS: Well, it'd be interesting to look at. I don't know if there has been a concerted effort to look at any linkage. I'd be interested as a follow up to find out if there's any linkage between the bad actors on one side and bad actors on the other side, but it sounds like there hasn't been that effort to look, I guess.

COMMISSIONER CHANDLER: there has, and it's becoming--you know, the tools are becoming more

sophisticated all the time, and I think it's no secret that virtually every industry is investing in data analytics and the city is no different, and certainly the Department of Buildings now needs to and has been--we've been planning since I was appointed nine months ago to actually do that, and again, with this infusion of resources that we're expected with the Executive Budget, we're excited to pursue some more sophisticated software, which will allow us to cross databases with many other agencies so that we can be proactive. And so we've started, as I mentioned a minute ago with HPD and using the Mayor's Office of Data Analytics which already has a certain sophistication level as we all know, but Con Edison, we're meeting with them as well in sharing databases and upgrading our protocols which were already in place, but we're formalizing them, and we think we're getting better and stronger and more effective.

CHAIRPERSON WILLIAMS: Have you, in the same vein as the contract registration, have you ever--also we were joined by Council Member Cornegy. I got to mention it while you're here. Have we ever--do you have any authority to recommend that repeat

offenders don't get further city contracts? Have you ever been involved in recommending that to HPD or other agencies?

COMMISSIONER CHANDLER: You know, we have not addressed that issue. It's not something that's come up since I've been here. I don't believe that I have the ability to weigh in on city contracts. I think if asked, we could share--you know, what we would have to look into it of what we could do in terms of sharing information.

CHAIRPERSON WILLIAMS: Yeah, I'd like to follow up on that also because I think from what I'm learning from these hearings, not much is being done with repeat actors, either on the waste [sic] side, it seems like on the site safety side. So, I'm glad that there's registration efforts happening now, but I think we need to do more to send that message. So, I'd love to--I mean, I know you can't probably get it now, but I would love to follow up on that and see what authority you actually have and what recommendations are being done with people who are getting city funds do contracts and are repeat offenders.

COMMISSIONER CHANDLER: We will have to look into that. I'm not sure we have that information. We, again, that might be a data analytics where we have to cross some databases and look into the data. But I would like Deputy Commissioner Hogan to share something that I didn't highlight earlier about some of the sweeps that we've done related to site safety.

TIMOTHY HOGAN: So in 2014--2013, I'm sorry, we made a concerted effort to go visit over 2,000 sites where we had site safety concerns in the three to--I'm sorry, one to nine story building process. In that, we hit a significant number of violations. We issued about 1,500 violations on those sites. In 2014 we then took the 10 worst offenders that we saw revolving around safety issues and we re-swept those sites to see if the previous year's efforts had any effect on our ability to reduce the amount of site safety issues, and we found that there was a correlation that the number of site safety issues that existed on those 10 particular contractors that we had identified were reduced from the previous week. So we will continue to do those types of programs where as we do a sweep we'll

1 identify contractors that we feel are not doing their
2 best to resolve site safety issues, and then we will
3 go back and continue to sweep those sites to make
4 sure that they improve.

6 COMMISSIONER CHANDLER: So, I would say
7 that I think you--there may be some misinformation
8 about our approach to repeat offenders. We absolutely
9 have a very devoted effort to follow up on those
10 repeat offenders as much as possible, particularly
11 hazardous violations. We have an entire program
12 where we follow up on that.

13 CHAIRPERSON WILLIAMS: I have two more
14 questions, then I'll go to my colleagues. The HRCO
15 report released in 2009 made 65 construction safety
16 recommendations to DOB, but a 2014 audit by
17 Comptroller Scott Stringer claimed that only eight of
18 the 65 recommendations were fully implemented. So
19 today, how many recommendations has been implemented,
20 if it's more than eight? Which were recommended and
21 why?

22 TIMOTHY HOGAN: We did a review of HRCO
23 and we have continued to try and meet and strengthen
24 a number of the requirements. Although the
25 comptroller's office found that we only met eight of

1 the recommendations, we had a disagreement with them
2 and looked at the difference between what we
3 currently been doing, and we'll see a lot of ours
4 where what they would call either in progress or
5 partially implemented, and we have made changes to
6 some of those to try and comply and make them fully
7 implemented in the eyes of the Comptroller's Office.
8 For example, there was a number recommendations that
9 were made about ACI, the American Concrete Institute,
10 and the training that should be given to our staff
11 from ACI. We have since sent eight people to ACI for
12 training and have been fully certified and are
13 actively doing concrete audits to make sure that the
14 concrete industry is using proper materials.
15 Additionally to that, we've been working on a number
16 of the other issues that were identified in HRCO and
17 trying to work on both rules and legislation to try
18 and implement some of those changes.

19
20 CHAIRPERSON WILLIAMS: Do you know how
21 many of those recommendations you've implemented of
22 the 65?

23 TIMOTHY HOGAN: I don't have that number
24 in front of me, but I'll try and have it for you
25 shortly.

COMMISSIONER CHANDLER: I think that there's--we don't have the exact number. There's a number of them that are partially implemented and a number of them that still require further study. These are really very complex issues, particularly related to the concrete and some crane operations and other netting operations, and so it takes a fair amount of effort to gather the appropriate expertise, both within our agency, but mostly from the specific industries, and in some cases from around the world where we have people come from other countries come here and consult with us on how we might change our regulations. Because they are very interested in how New York City applies its regulations for the high risk construction operations.

CHAIRPERSON WILLIAMS: Do you have anything in writing that responded to the study?

COMMISSIONER CHANDLER: We do, and we'll give it to you.

CHAIRPERSON WILLIAMS: Okay. I have one more question. So, the data that we received tends to say that construction site accidents happen more frequently and are worse on non-union sites than on union sites. We have some people that are either

going to testify today in person or for the record that they have different data, that it's not true. Do you have any data on union accidents versus non-union accidents, non-union site accidents?

COMMISSIONER CHANDLER: It's not something that the agency typically discerns when we do a response to an accident. From our perspective, site safety applies to every job site regardless of how it's manned. So our investigations are no different one way or the other.

CHAIRPERSON WILLIAMS: Thank you. I have some--I have additional questions, but I'm going to go to my colleagues, and I think first up I have Council Member Crowley. I'm going to try to do this without the timer because we have a little bit of time, but I will have to jump in if it goes on too long. Council Member Crowley?

COUNCIL MEMBER CROWLEY: Good morning, Commissioner.

COMMISSIONER CHANDLER: Good morning.

COUNCIL MEMBER CROWLEY: earlier there was a press conference and a young woman spoke about her father, Mr. Valazquez [sp?] who was killed on a construction site last year in Staten Island. The

1 company Formica [sp?] had a previous death on one of
2 their construction sites. So my first question is how
3 can we allow a contractor that has been charged with
4 negligent manslaughter be allowed to get additional
5 permits to do work in the city of New York?
6

7 COMMISSIONER CHANDLER: Part of our
8 permitting process does not link to criminal charges
9 up to whether they've been charged with one thing or
10 another. I would also like to know more details about
11 that. It's quite possible that those manslaughter
12 charges were not leveled by the time the permit was
13 asked of us. But our systems are about whether the
14 contractor has the appropriate registrations and
15 other documentations to demonstrate that they can do
16 the work. As I've said before in the testimony that
17 there are many factors that contribute to job site
18 accidents and I'm not sure that every one of those
19 would preclude future permits from being taken, but
20 with that said, I'll say it again and assure you that
21 if an accident occurs we thoroughly check all of
22 their active permits related to that contractor, and
23 if we see that--and if at that point we would see
24 that it would necessitate withdrawing a permit,
25 that's how we would go about doing it.

COUNCIL MEMBER CROWLEY: From a NICAS

[sic] report that I was just reviewing, it has said that the contractors that are doing a lot of the affordable housing work in the city of New York that 90 percent of them have received violations and are under an enhanced review process for dangerous and unsafe construction sites, yet we must still be giving them permission to do more work. In fact, we've been giving them money and loans and different financial assistance if it's affordable housing. But to me, I just can't understand when I see these numbers, when I see our city that we already this year have six deaths on construction sites, that last year it was a record amount of fatalities, eight, compared to the average in recent years, I mean we're not even halfway through the year and we're at a pace where we're already expecting to double the amount of deaths that we've had last year if we just continue this way. We cannot allow this to happen, especially not on sites that are getting city funding. We need to do more. You would absolutely agree that we need to do more. We need to be more proactive. We need the Department of Buildings to be more active. I've heard OSHA referred to before, but there's so few

1 inspectors that are going out and inspecting job
2 sites, and the numbers that I've seen, a vast
3 majority of times when OSHA does go to a job site,
4 they're finding violations. What are we doing? I
5 mean, you need them to help you do your job more
6 efficiently. What is the Department of Buildings
7 doing to get more OSHA workers on job sites so that
8 we're not responding to deaths?

10 COMMISSIONER CHANDLER: I would say that
11 we need each other. I did testify we did 94,000
12 inspections last year, which I think by anybody's
13 measure is impressive. We can do more, and we will
14 do more with the infusion of additional inspectors.
15 I don't know OSHA's numbers. I can't imagine that
16 they've approached anything like that, but as I
17 testified, we have a very good working relationship.
18 As to the affordable housing projects, it is our
19 commitment to the Administration to move affordable
20 housing projects as quickly as possible, and our role
21 to review the applications for compliance and issue
22 permits to people who are demonstrating that they
23 are--they qualify for a permit. You make reference
24 to a review of violations, I'm unaware of what it is
25 you're referring to. I know that we're not doing

1 anything. Perhaps it's some other city agencies.
2 We'd be happy to listen to what their proposals are.
3 But our sister agency at HPD would be, I think, the
4 conduit for that discussion for us as to whether we
5 should consider withholding permits or not.
6

7 COUNCIL MEMBER CROWLEY: Same report said
8 that if a worker was killed on a job site, nearly 90-
9 -certainly over 80 percent of those fatalities happen
10 on non-union construction job sites. Now, earlier
11 the Chair asked if you keep track and the answer was
12 no, but you have to have an idea if it's that stark
13 of a difference, that certain type of job site is
14 safer versus the other. Do you have a response to
15 that question?

16 COMMISSIONER CHANDLER: I think that you
17 could look at a construction site in so many
18 different ways in terms of what--how it's made safe,
19 and if you can con--you can go as far as constructing
20 a cocoon around the building site to make it
21 completely safe, but that's really unreasonable to
22 do, and in fact it would add safety just in building
23 a cocoon. I'm being--I'm exaggerating for the
24 purposes of making a point. It's education about
25 what needs to be done, and I think that it matters

not as to whether it's a union site versus non-union site, as to whether the workers and the superintendents are educated about their safety and what rules are applicable, and that's our job is to go make sure that that's being communicated. So, I can't speak any further to unions versus non-union.

COUNCIL MEMBER CROWLEY: Would you know that--would you know if they're better educated on job safety?

COMMISSIONER CHANDLER: No, I would not. No, I would not know that.

COUNCIL MEMBER CROWLEY: But your workforce wouldn't know upon inspecting a union versus a non-union job site or that they found the workers to be more educated on job safety?

COMMISSIONER CHANDLER: Our job is not to seek their education of the workers. Our role is to look at the job site. And again, I would emphasize our role is not to discern union from non-union. So, my staff is not directed to go and have an opinion one way or the other.

COUNCIL MEMBER CROWLEY: Are you revoking permits from companies that workers are getting seriously injured on?

COMMISSIONER CHANDLER: All the time.

COUNCIL MEMBER CROWLEY: Do you find that those companies are more likely to be union or non-union?

COMMISSIONER CHANDLER: We do not ask that question. It's whether they deserve to have their permit revoked or whether they don't.

COUNCIL MEMBER CROWLEY: How about when a company doesn't even have the permission to do work, and they're doing work, and you come upon them? What action are you taking to ensure that that job site is not going to continue?

COMMISSIONER CHANDLER: They get a stop work order immediately, and then we put them on a reinspection list that could be visited at any time on the evening or weekend by our night team or we have a dedicated team that will show up at various times to check in again, and obviously we have a complaint system as well. So there are multiple avenues for us to be alerted to that.

COUNCIL MEMBER CROWLEY: And when--

COMMISSIONER CHANDLER: [interposing]
Clearly that are being [sic] violated.

CHAIRPERSON CROWLEY: Sorry. When complaints from workers are put into our 311 system or directly to your Department, or even when your inspectors will write up violations and require the work of other city agencies such as the Department of Investigations or involving OSHA, what type of follow-through do you make sure that your agency and the other agencies are keeping that watchful eye on these shoddy contractors?

TIMOTHY HOGAN: So in response to your question, we have a number of different ways that we do it. First of all, if we have a contractor that we identify that in the past has had problems and we're aware that they're taking on a new site, we often call for a pre-site safety meeting and have discussions with them about the things that we have observed in the past and the things that will be unacceptable on this site. And we use our best squad to do increased inspections on those buildings. When we have an accident or an incident that occurred at a site and we feel that it was a flagrant violation of safety, the Commissioner can order a site safety manager or a site safety coordinator to be put in place that has to monitor that job and do direct

reporting to the Department at the expense of the contractor. So that's another method that we use. Additionally, we have the Office of the Building Marshal. The Office of the Building Marshal specifically looks for people who are doing illegal construction work, covering work, etcetera. So for a prime example, if we have a plumber who puts in to get a permit and then puts somebody else who's not a licensed plumber in doing the work and we get indications that that's going on, we go out and issue criminal court summonses and when possible seize the vehicle of the person who's doing that work. That's a very active unit. They've got about 400 open cases currently throughout the city on different varying issues, but we work very diligently between the Building Marshal's Office, the Site Safety Team, the Major Projects Group, which looks at any of the larger buildings that we're doing to make sure that safety is firsthand, and again, any time that we see a violation of safety, we put stop work orders. I can tell you that there's at least three that I'm thinking of off the top of my head, whether it been stop work orders in place for over a year related to an incident or an accident, because we are not

satisfied with the ability of that contractor to do the work successfully without additional injuries.

COUNCIL MEMBER CROWLEY: Okay. I'm just going to close because I know there are other colleagues who have questions. The numbers don't lie. If permits are only up by 10 percent and construction accidents are up greater than two and a half, that percentage, we have to do more, and I know that your intent is there, and I'm not sure that you have enough staff nor am I assured that OSHA has enough staff that is needed to keep New Yorkers safe on construction sites, because I'm looking at these numbers, and they don't lie, and we need to do more.

CHAIRPERSON WILLIAMS: Thank you, Council Member. Just some follow-up questions. I just want to be clear, when you're issuing permits or license, do you look at any criminal charges that have been given or any criminal charges that have been sustained by the courts at all?

COMMISSIONER CHANDLER: So, I'm sorry. As I--we issue over 25 different licenses to licensees. So, clearly, in that system for our licensees, we do have a system for tracking criminal activity, and if there is criminal activity

1 associated with the licensee, then that enters in to
2 whether we would allow them to take a license, and we
3 have an active system to engage those folks. Now,
4 when it comes to taking a general permit, people who
5 are not licensees, but who have a registration, which
6 is a different matter, a different recordation with
7 us. It's that recordation that we are not
8 affiliating; we're not correlating our efforts with
9 the criminal court system. It's basically the
10 insurance records and other criteria, but it's not
11 criminal related. So we break it in between our
12 licensees and our general contractors.

14 CHAIRPERSON WILLIAMS: So I can be a
15 contractor who has had--been found guilty of criminal
16 negligence due to my work, and the DOB would not
17 consider that when giving me a permit to do further
18 work?

19 COMMISSIONER CHANDLER: As I said, this
20 is something that we're pursuing as a new avenue,
21 that if we can take our registration process and
22 match it up with that system, then we will certainly
23 consider it, and then we have just started doing that
24 in the last couple months following a death a month
25 ago, and we are going to see--but there haven't been

any charges levied against that contractor. So, all of the actions have been--are on our part right now.

CHAIRPERSON WILLIAMS: You can see that why that would be--that's a serious problem for many of us in the City Council if there's no way to currently do that. That's a problem, and I find that just even with my hearing with HPD, there's just a problem on matching these things up and people who are doing bad things are not getting stopped from getting city funds. Let me ask this, do you have a bad actor's list? Do you have an enhanced review process like HPD? Do you speak to HPD about who's on their enhanced review list before the permits are given?

COMMISSIONER CHANDLER: I'm unaware that we speak to HPD. If it's possible, I'll inquire to see if we speak to them about who they're awarding contracts to. I'm sure that they have their own vetting system just like anything that's in procuring services in the city that's a rather robust vetting process. Again, getting back to our people and who we issues violations to, if--again, if we've noticed where we've had hazardous violations, they do go on a list, and then we do pursue them separately. Unless

we see that it approaches an egregious violations or some egregious level, we will then put it into our main database to consider holding a permit until we further review it. So, this is an ongoing effort to evaluate whether we can strengthen our tools here. Don't forget, there is due process that we have to provide for everyone before we take away their ability to conduct a living. So, it's never as simple as one might think.

CHAIRPERSON WILLIAMS: Yes, and I definitely understand that. It seems that there are repeat behaviors and there should be something we could be able to do.

COMMISSIONER CHANDLER: We're in total agreement, Chair Williams, we really are.

CHAIRPERSON WILLIAMS: Has anyone, say in the past five years, not gotten a permit based on previous violations related to work safety?

COMMISSIONER CHANDLER: I'll say that's absolutely true for a plumber or a rigger or anyone that we license, issue licenses to. Yes, on that matter. And as I've said before, without getting into the weeds with the details, because it can get rather complex about what levels of registration you

need to simply do construction work versus license work such as plumbing, fire suppression, sprinklers, all 25 of them. It becomes a little bit more detailed that I think that you want to hear. But the licensees, we clearly withhold their permits if we see that they've had a problem, and in fact, we do it proactively. We send them assigned [sic] letters on a regular basis sending letters to licensees to say this is to let you know we're not going to be issuing you any permits for a while.

CHAIRPERSON WILLIAMS: Is there no due process--is the same due process issued with the permits not the same with the licensees?

COMMISSIONER CHANDLER: Unfortunately--not unfortunately, but with the licensees, there absolutely is a due process and we have to prepare a case and we have to have hearings. It's a very significant investment of legal resources to bring a case against our licensees. So, it's an enormous amount of work, and I think you can appreciate it.

CHAIRPERSON WILLIAMS: Well, I would like to just see the same amount of work done on the permit side also. If we figure out a way to deal with the due process issues with the licensees, we

should be able to do the same thing with the permits being issued.

COMMISSIONER CHANDLER: As I've said, we are going to be adding some resources, and we're excited about the Executive budget where we are going to add some resources, and as I've said, we've explored a couple of new tools in the last couple of months, and we're seeing how those flush out. So we're looking forward to that.

CHAIRPERSON WILLIAMS: We've been joined by Council Member Rodriguez and next up we have Council Member Rosenthal. Council Member Crowley did pretty well without the clock, so I'm going to try to do the same thing here. If it gets a little long, I'll have to jump--

COUNCIL MEMBER ROSENTHAL: [interposing]
Thanks so much, Chair Williams. Nice to see you, Commissioner, Deputy Commissioner. It's great to see you and have you here for this incredibly important hearing. Chair Williams, if you could stay here for just one little second. I actually would like to start by noting today is your birthday and wishing you a happy birthday, and hang on, I'm stalling just for one more minute. So, I think the questions

you've been asking are really important, and I'm going to be asking similar questions, and now you can look that way.

[applause]

CHAIRPERSON WILLIAMS: Total surprise.

Thank you very much. Thank you for the stall. Thank you, everybody. I'm abnormally speechless. So thank you very much. I actually have the same birthday as my predecessor who had this committee. So, it's Eric Dulane's [sp?] birthday as well. Thank you guys. Thank you very much. Much appreciated.

COUNCIL MEMBER ROSENTHAL: So I'm hoping that doesn't cut into my time.

CHAIRPERSON WILLIAMS: No, I'm resetting your time.

COUNCIL MEMBER ROSENTHAL: No, hang on one second.

CHAIRPERSON WILLIAMS: I got to blow out the candles, though. So hold on a second.

COUNCIL MEMBER ROSENTHAL: Well, because they had to make them and blow them out because you kept starting and stopping. So I would blow them out. Alright.

[applause]

COUNCIL MEMBER ROSENTHAL: Okay, so what

I really meant to say, Commissioner, thank you so

much for coming here, and my questions really are

very much along the same lines. How do we hold the

contractors who are not good actors in terms of

taking care of their workers? How do we hold their

feet to the fire? But also, how do we have a

tracking system that can be used by other agencies as

well? So, you know, MOCS, for example, will track

all the contracts that are city let [sic] contracts,

but you of course are inspecting buildings that are

with private developers, and they're not necessarily

in the MOCS database at all. So, it would be--you

know, the question is, how do you get your--the two

systems talking to each other so to the extent that

you are attracting a contractor/developer that's

licensees that's not up to snuff? How is that

information getting communicated to HPD or SCA? And

it was disconcerting to hear that you didn't know

about HPD's enhanced review list, because the

Commissioner for HPD made a very big point of saying,

"Oh, we don't need to share our information about bad

actors with other agencies. Because all the agencies

know about it, look at it, are up to date before they

make any contract decision they look at our enhanced review list." So you can see where I'm going.

COMMISSIONER CHANDLER: So I guess I should modify what I said before. We do communicate with HPD on some of their matters when they bring them to us if they have a concern. So there is-- there's a partial communication. Probably, we need to revisit and see if we can enhance it. Again, I'll refer to our expected additional resources where we are expected to improve our touch points with the other agencies across the city to communicate what it is that we do. The Department of Buildings really is the hub of so much of the development and construction throughout the city, and we're proud to do so, but what we do is touch on many other agencies and how they interact, such as HPD, and name any other agency that does construction, which is most.

COUNCIL MEMBER ROSENTHAL: Right, but the problem is--

COMMISSIONER CHANDLER: [interposing] So you have to do contracts.

COUNCIL MEMBER ROSENTHAL: you have a plumber who--a licensee--

COMMISSIONER CHANDLER: [interposing] Yes.

COUNCIL MEMBER ROSENTHAL: that you're about to revoke a license from and SCA is about to issue them a contract.

COMMISSIONER CHANDLER: So I was going to get to that. Is that SCA has to get--SCA gets permits from us as well, and so they would find out that their person wasn't able to pull that permit. Whether they're able to find it out in time so that they don't suffer delays, I'll have to look into.

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER CHANDLER: I mean, I do speak to the president regularly and I'll ask her that, and then we have a very good working relationship with SCA. That's one area we can talk about.

COUNCIL MEMBER ROSENTHAL: Right, but then I would say, do you have the same relationship--

COMMISSIONER CHANDLER: [interposing] Then there's MOCS.

COUNCIL MEMBER ROSENTHAL: with NYCHA and with HPD, and do you do the same with DOT and DDC, and--

COMMISSIONER CHANDLER: [interposing] We have a list. I have a list of about 35 or 40 other entities that we--that do business with us in one way

or another, and so that's my charge is to improve those touch points.

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER CHANDLER: We're on it, but you're right, it's a bit of lift and we've started down that road.

COUNCIL MEMBER ROSENTHAL: Okay, thank you. Secondly, I want to ask you about the 52,000 ECB violations. I--we've been looking at ECB violations and what the outcome is of the violations. I'm not--there is a portion of these that end up going to OATH, where the contractor is saying that the violation is not valid. It looks like it's about 10 percent, and then of those, about 50 percent get dismissed because the violation wasn't valid. I'm wondering whether or not you follow up or work on those at all. It was something like--I can't find the exact number, but there was some portion also that got dismissed because the witness for the case did not show up at the OATH hearing. So, the violation was dismissed. I'm wondering if you track the dismissals and do anything about those.

COMMISSIONER CHANDLER: I guess I'd like to see the study that you're referring to, because--

COUNCIL MEMBER ROSENTHAL: [interposing]
It's the Green Book [sic] that's online.

COMMISSIONER CHANDLER: So, well, I'll be
happy--

COUNCIL MEMBER ROSENTHAL: [interposing]
It says total number of dismissals for DOB in FY 15,
4,533 top reasons, no violation, dismiss on merits,
2,400. Prosecution withdrawn, 450. I mean, it's
fairly diminimous [sic] --

COMMISSIONER CHANDLER: [interposing] I
mean, I can take a look at it and comment on it.

COUNCIL MEMBER ROSENTHAL: in the scheme
of the 52,000, but--

COMMISSIONER CHANDLER: [interposing] We
have a very dedicated group of attorneys that
organize this effort. It's a small army that I
intend to expand, and it's an operation that could be
a small agency unto itself for us to get to these
hearings. I've attended them. I've sat in the rooms
myself and listened to the testimony and am very
impressed by the professionalism. You are right,
however, that we have occasions where inspectors
either get mis-scheduled, they get sick or they get
scheduled when they're on vacation. And so that

happens when the witness, which is typically our
inspector--

COUNCIL MEMBER ROSENTHAL: [interposing]
Sure.

COMMISSIONER CHANDLER: misses.

COUNCIL MEMBER ROSENTHAL: Right, 450
times, though, that could be--

COMMISSIONER CHANDLER: [interposing] Out
of 52,000.

COUNCIL MEMBER ROSENTHAL: Out of 52--no,
out of 5,000 that come to OATH, and what I don't know
is and what I would be interested to know is the
correlation between those and the bad actors that
you're following, repeat violations, stuff like that.
But that's the 450. I'm interested in the 5,000 and
why half of them get dismissed. And then lastly, I
mean, you spoke to the union versus non-union that
Council Member Crowley asked you about, and I don't
agree with your position about not tracking them. I
think that would be incredibly valuable information
to understand the correlation between union jobs and
safety, which is something that, you know, we're told
is incredibly important. So, first of all, I would
really disagree with you on that, and I'm wondering

is there any legal reason why you're not tracking it, and then secondly, whether or not you track city versus non-city, city contract versus private developer jobs and the safety violations in those two categories.

COMMISSIONER CHANDLER: No, we don't track city versus non-city, and there is nothing in the Administrative Code that would require us to discern the various breakdowns of how is on a job site. I think that if we were to go that route, we would have--there would be serious implications as to the effectiveness of our doing our jobs. So I would speak to the Council about that.

COUNCIL MEMBER ROSENTHAL: [interposing]
It's just the very knowledge?

COMMISSIONER CHANDLER: No, it's the very knowledge. It's the amount of effort that would go into collecting that information and then what? And then you collect the information and then what? It's frequently our world, and so our mandate is construction safety. It's not to divide who is doing--what's the breakdown of the staff on site, who are the subcontractors.

COUNCIL MEMBER ROSENTHAL: Absolutely.

COMMISSIONER CHANDLER: What's their make-up? What's their training? If we were to be asked to do that, I think that you would find an even more difficulty for us to be doing our jobs. So, I would throw that out there for a serious consideration before anybody considered asking us to do that.

COUNCIL MEMBER ROSENTHAL: Your small army would have to grow into a--

COMMISSIONER CHANDLER: [interposing] Yes, and I think that the effort of that small army would be--would benefit the tax payers and the equity to the tax payers and the city of New York would be much more served if we were allowed to grow our army to do what we're doing now, rather than to break down what kind of person is standing on a job site when we show up there.

COUNCIL MEMBER ROSENTHAL: Okay. Can you just explain to me, I don't visit job sites as often as you do, why--isn't it a known entity when you walk on a job site whether or not it's a union contractor or not? Isn't that just a known thing, or you have to ask? Or is it that there's paperwork with that that has to be? I just don't know.

COMMISSIONER CHANDLER: You know, some jobs have both, union and non-union.

COUNCIL MEMBER ROSENTHAL: Absolutely, that's right.

COMMISSIONER CHANDLER: And yes, many of our inspectors certainly come from that world, so they often know when they show up.

COUNCIL MEMBER ROSENTHAL: Sure, and they would know, okay, your plumber is union,--

COMMISSIONER CHANDLER: [interposing] It's not like we're completely--

COUNCIL MEMBER ROSENTHAL: [interposing] your masonry worker is not.

COMMISSIONER CHANDLER: in the dark. That's true.

COUNCIL MEMBER ROSENTHAL: Isn't it just a sheet of paper and check, check, check, check, here you go?

COMMISSIONER CHANDLER: Hopefully not, because I don't want my inspectors carrying paper anymore. They have tablets and it needs to go on a tablet, and then--

COUNCIL MEMBER ROSENTHAL: [interposing] Well, alright, it's on a tablet.

COMMISSIONER CHANDLER: online. So, but the point--but I make that point because of efficiency and effectiveness. Again, it refers to the improved efficiency of the--of my agency and where we want to take it, and that is we want to get to more job sites and be more effective about what we do, and we don't do that by taking a census of a job site. We go into the jobsite and we look at how it's safe. Again, not by checking off who's standing where. We look at the site safety manager who is expected to report to us how the job is being managed, if it's a job--if it's a site safety site. If it's not, then we look at our checklist and we record it, and we expect them as we move more online as I just mentioned, to have much more data to be more proactive. So, I hope that in the future we'll have much more data to be able to say those things, but no, we're not starting to collect who has what education on the site and from what union they belong.

COUNCIL MEMBER ROSENTHAL: Thank you, Commissioner. And happy birthday.

CHAIRPERSON WILLIAMS: Thank you very much again. I understand problems that can arise if you

1 start going down that route. I would say that I can
2 see the benefit of someone at some point having that
3 information, because many of us are supporters,
4 including myself, of union jobs, and one of the
5 things we believe is that there is specific trainings
6 that go along with that. So I'm trying to figure
7 out, is there anyone that tracks or is there anybody
8 that kind of sees if there's a pattern or not.
9 Wouldn't it help at some point if you can see if
10 there's a pattern of one type of job is safer than
11 another type of job, maybe at the back end figuring
12 that out as opposed to going on the job and that's
13 the first thing you check off?

15 COMMISSIONER CHANDLER: Okay, I'm going to
16 refer to our code, and that is our--that's our
17 mandate and that's what we go by. We go by what it
18 says to do in the code, and that is to look at the
19 construction safety. Chapter 33 of the code is our
20 Bible, and it does not ask us to collect information
21 about the union versus non-union. I don't disagree
22 that many types of data are valuable, and again,
23 that's why I've moved the agency to more online
24 resources so that we will contribute to the oceans of
25 data that we already have and why we're also adding

1 data scientists to our staff so that we can start
2 combing through that information. And yes, it might
3 prove to be something that's useful in the future.
4 Again, I would just warn or I would just say food for
5 thought that once you go down that road, you end up
6 sometimes putting many limitations that are only
7 going to suffer the equitability of the way we can
8 deliver services to all New Yorkers.
9

10 CHAIRPERSON WILLIAMS: I can definitely
11 understand that issue. Just for follow up again on
12 what the Council Members mentioning. So, it seemed
13 like, I guess out of the 5,000 it was almost 10
14 percent, I guess nine point something percent that
15 were missed--seen at the face of it a little high.
16 How many inspectors are there?

17 COMMISSIONER CHANDLER: Three hundred and
18 30, and we expect to add another 38 in the next
19 coming year and I hope more after that with this
20 executive budget, and I hope to be able to, again, as
21 the budget moves ahead, hopefully going to announce
22 even additional resources.

23 CHAIRPERSON WILLIAMS: Are we working on
24 trying to get that number a little lower? I know, I
25 guess, unfortunately when I get--not saying I have,

1 but if I were to get violations while driving, I know
2 they have a way of making sure that officer is always
3 there. They rearrange the times, I guess, when the
4 officer is on vacation. I think they have a way of
5 lumping it up so the officer can be there, and
6 everybody that they gave violations to come at the
7 same time. Is there any system like that?

9 COMMISSIONER CHANDLER: You're right. I
10 mean, yes, we do have that system and its imperfect,
11 unfortunately, and it's--I think that for the most
12 part we do a pretty good job, but I've just heard
13 that maybe not as good as we should be doing. So we
14 will look into that.

15 CHAIRPERSON WILLIAMS: Okay.

16 COMMISSIONER CHANDLER: But we do have a
17 system. It's not that it's--it's not hit and miss.

18 CHAIRPERSON WILLIAMS: Okay, thank you.
19 That 10 percent number seemed a little higher than I
20 thought it would have been. Council Member
21 Rodriguez?

22 COUNCIL MEMBER RODRIGUEZ: Thank you.
23 Thank you, Commissioner for being here and Chairman,
24 happy birthday, and thank you for your leadership on
25 this committee. Look, construction is one of those

1 obviously should be ranked as one of the top
2 priorities that we as a city has, and you know, we
3 encourage anyone who have other resources to add
4 their name among the primary [sic] contractors who
5 joined this city trying to provide jobs. But as you
6 say, you know, we have the bad actors and the bad
7 actors are everywhere. You know, we also face in
8 government, too. So we had to clean our image in
9 governments, and the same thing is happening in the
10 area including construction, and you inherit, you
11 know, a department that has a lot of work to do to
12 clean their image. And I know that you inherit. I
13 mean, this is not happening--what we have to or we
14 expect to see as improving when it comes to safety
15 for the workers in the field and also some of their
16 bad actors that have also contribute on a negative
17 image in the construction area, they--I mean, those
18 actions of those individuals, they don't reflect what
19 the majority are. So, I have a question. In your
20 testimony we talk about it. I was just reading. I
21 came late, so I was--I just read the testimony. So,
22 in 2014, you talk about--you mention that you, the
23 department, issued 22,047 building permits and 98,000
24 alteration permits. A couple of months ago, you

1 know, the agency went through the whole investigation
2 and you find out that there were some individuals who
3 were getting permits without having the properly
4 [sic] requirement in place. So, how did any of those
5 few bad actors that in many way they were able to get
6 some permit to the Department of Buildings even
7 though they did not comply with all requirements?
8 Put the workers at risk.

10 COMMISSIONER CHANDLER: Could you be more
11 specific about what you're referring to in terms of
12 the bad actors?

13 COUNCIL MEMBER RODRIGUEZ: Well,
14 Department of Buildings found out there were some
15 individuals inside the Department of Buildings that
16 they were--

17 COMMISSIONER CHANDLER: [interposing]
18 You're referring to the DOI report?

19 COUNCIL MEMBER RODRIGUEZ: Yes, I do.

20 COMMISSIONER CHANDLER: Okay. I've
21 answered those question. Those nine--those people
22 have been--everything associated with those people
23 were re-inspected, and that really--and we proved
24 that those were safe and so these two matters are
25 completely exclusive.

COUNCIL MEMBER RODRIGUEZ: So what is the correlation that we can identify between individuals that have been able to get permits from the Department of Buildings and accidents that have happened in those sites?

COMMISSIONER CHANDLER: I don't understand your question.

COUNCIL MEMBER RODRIGUEZ: 2014 there were some people, some company that got permit through the DOB to do some work. We will--the city find out the AG, that there were some corruption of people getting those permits without complying with the Department of Buildings.

COMMISSIONER CHANDLER: So I'm not sure if you read the DOI's report, but it really had nothing to do with the permits. It had to do with some quid pro quo issues.

COUNCIL MEMBER RODRIGUEZ: I did read it. I just want you--

COMMISSIONER CHANDLER: [interposing] They addressed--

COUNCIL MEMBER RODRIGUEZ: [cross-talk]

COMMISSIONER CHANDLER: --at the time, Council Member, and again, I'm going to restate that they're exclusive from this matter and this hearing.

COUNCIL MEMBER RODRIGUEZ: Well, I did read it. I just wanted to get your input on it, and what--and if there have any case in 2014 when those cases, people were able to get permit from the Department of Buildings and if there were any accidents in those sites?

COMMISSIONER CHANDLER: There were no accidents at those sites.

COUNCIL MEMBER RODRIGUEZ: That's a question. That's a simple question. I think that it should deserve a simple answer to. What are you doing--in my district, let me tell you. Let me tell you two cases in my district, 182nd and Wasworth [sp?]. Again, it happened before, you know, your leadership. 182nd and Wasworth, the owner of that building removed the beams from the basement and they put all the tenants in danger, also the workers, because some workers were brought to do some work, and he removed the beams without any permit from the Department of Buildings. Same thing for Washington 186, 187, there was an issue in the stair in the back

of the building, like 10 floors down. What is the Department of Buildings now, what are you doing in your leadership? Again, I tried to look as a proactive and a positive way. What are you doing to clean the house and send a message that those individuals will be ending [sic] with criminal charges?

TIMOTHY HOGAN: So, as I testified earlier, we have had a longstanding effort with HPD because I think the complaints from tenants who are abused like you mentioned typically will make a complaint through 311 that will get referred to both HPD and to us, and we will respond immediately, particularly in the egregious cases that you note. The other possibility that happens in the circumstances of which you note is that owners and their design professionals will submit plans to us and sign documents and indicate to us that the building is vacant, and we take them at their word because they put their seal and signature on the drawings, but moreover, it's the owner who signs the document that says this building is vacant, and what we have determined along with our task force with HPD and now again through the Mayor's initiative with the

State Attorney General, is that we're using our data to seek those people that have misrepresented the circumstances on their applications, and we are proactively seeking those sites and stopping the work as quickly as possible, and in fact, a couple of weeks ago, two owners were arrested in dramatic fashion because of the extreme maleficence that they took to harass their tenants, and we are actively pursuing that partnership with HPD through our Building Marshal's office in pursuing those people. I am very interested in seeing criminal charges against those people, and to the extent that I can take enforcement actions against the design professionals who file those plans, I will do that.

COUNCIL MEMBER RODRIGUEZ: Well, Commissioner, I can tell you that I am the Council Member that I don't rely on the 311. I go to the site when [sic] I witness [sic] my site when anything's happened. And I can tell you locations such as those that I mentioned to you. I was there with your team, with the Department of Buildings, and they can witness that son [sic] whoever it was that engineered that blew [sic] his license. They did not provide the Department of Buildings all the information about

1 the need to have a safety plan in the back of his
2 stair [sic] for Washington, which was like a 10 or 15
3 floor down. And workers were sent to work in that
4 building, and tenants were leaving there, and if a
5 fire would take place people would die because if
6 they would jump without having a properly [sic]
7 permit from the Department of Buildings. So what I
8 would like to know, again, is this cannot be business
9 as usual. I tell you about two particular places.
10 182nd, the bin [sic] was removed. You know, HPD went
11 and they relocated the whole tenants. And there's
12 still tenants in those buildings. It took like three
13 years to see some action, and none of them was
14 criminal charges. So, I believe that we have to be
15 tougher on those bad actors that you identified in
16 your testimony, because that's the only way on how
17 people will see a different image from the Department
18 of Buildings. And again, you inherited that. I'm not
19 blaming you. I know that you are committed and I
20 know--we also know in our experience in being in the
21 field that in the past those bad actors have not had
22 much negative consequences.

24 TIMOTHY HOGAN: Council Member, there's a
25 number of issues that we've developed in the last

eight to 10 months to deal--it was actually just a year now that we've been dealing specifically with this issue. The first one is is that we have gone to forcing when possible the use of fireguards in buildings where a landlord removes fire escapes to make sure that the tenants are protected. The cost of those fire guards goes directly to the owner and becomes a lien on their property if they don't supply them themselves, and that's a very effective program that would reduce the number of vacates that have been needed on these sites. Additionally, HPD and the Buildings Department goes out and inspects buildings every week as a team to look at violations and conditions where HPD or us have identified that there is construction or potential construction going on in a building, and we've taken numerous actions, stop work orders, violations. We've done about 250 to 300 sites in the last year, specifically related to what we consider to be bad actors, where we have landlords that we think are making false statements. We have presented cases to the DA's offices in Brooklyn, Manhattan. I'm not sure if I have any pending in the Bronx right now, but we have been out actively working with the DA's offices and with the

New York State Tenant Harassment Taskforce so that we can build cases against some of these landlords. And it's a long-term process. It doesn't happen overnight, but we have seen effective efforts. The Joel Israel [sp?] case that was arrested last week in Brooklyn is just one of them. We have a number of other cases that are pending with the DA's offices awaiting criminal charges.

COUNCIL MEMBER RODRIGUEZ: And for me, I'm clear, the majority are good actors, I believe. For the image of everyone, we should go and work hard.

COMMISSIONER CHANDLER: We agree.

COUNCIL MEMBER RODRIGUEZ: My last question is on technology and how are you looking for new technology as a way to improve construction safety?

COMMISSIONER CHANDLER: Well, I alluded to it moments ago is that we are--first of all, we've added our Risk Management Office, and we're looking to add staff, some data scientists or analyst and some software procurement. We're talking to DOIT, to the Mayor's Office of Data Analytics and others as to the appropriate software, but we are partnering with those agencies to be able to cross-investigate the

various databases across the city. Again, I think that everyone is raising their game to that effect. So we are looking to notice relationships between people, such as the relationships between the HPD contractors and those that might be seeking to take permits from us or such as the plumber who did work on Second Avenue and where he might have worked throughout the city. It might also relate to that owner. So there are many, many different ways in terms of strategies that you can take seeking information from a variety of databases, including online. So these are the things that we're adding in the next--in the coming months. We're excited about our abilities to raise our ability to provide more proactive enforcement.

COUNCIL MEMBER RODRIGUEZ: Thank you.

CHAIRPERSON WILLIAMS: Thank you, Council Member. I have a few more questions and then we'll try to get you out of here on the time requested. First, do you have a definition of what bad actor is?

TIMOTHY HOGAN: It's not really a defined term. What we look for is owners, developers, contractors, or licensees that we have identified have in the past taken short cuts or have taken

actions, especially in the tenant area that have taken specific actions to try and forced rent stabilized and rent controlled tenants out of their properties, and in doing so to look at their activities in other buildings that they own, often times under different corporate names, so that we can identify a pattern of misbehavior that can be presented to the District Attorney's Office. In addition, when we have a contractor that we identify who's had a construction incident or accident and then we find that they have another incident or accident, we very heavily audit those jobs to make sure that the work that's being done is being done correctly, and often times put site safety managers in place at the order of the Commissioner on any job sites that they have to ensure the safety of the site.

CHAIRPERSON WILLIAMS: When is a construction site required to employ individual certified and site safety? Can you briefly describe the requirements of site safety? I'm sorry, requirement to become certified in site safety. Does the Department believe that additional construction

sites should be required to employ individual certified in site safety?

TIMOTHY HOGAN: Site safety managers are required on any construction that exceeds 15 stories. In addition, on any large single story, two story, what we call big box stores where they're 100 square foot building or more are required to have a site safety manager. Buildings between nine stories--10 stories and 15 stories are required to have a site safety coordinator whose responsibility is similar to the site safety manager, but the level of expertise required is slightly lower. And then the construction supers who are responsible for construction from one story up to 10 stories. Additionally, there are some requirements for site safety managers that are at the direction of the Commissioner. So, for example, if we have someone that we think is less than proficient in handling safety issues, we can order that they hire a site safety manager to monitor the site, and we do so in numerous instances where we feel it's necessary that they're not taking the proper safety actions on their sites.

CHAIRPERSON WILLIAMS: Are most of the accidents occurring from one to nine, nine to 15, or 15 and up?

TIMOTHY HOGAN: I would say most of them are occurring in the one to nine range, but that's because of the vast number of them in comparison to the taller buildings. Additionally, on the 15 stories and above, the BEST squad, Building Safety-- Building Enforcement Safety Team, regularly goes to those locations and continues to do inspections, because those are the most dangerous to the public. For example, materials falling off a 20th floor have a better chance of hitting the street. So, we do more proactive inspections and reviews of those properties than we do the one to nine story or the 10 to 14 story, but the site safety managers plus our excessive enforcement reduces the number on the larger projects. However, because of the sheer numbers of the one to nine story buildings that go on, I think that the number of incidents that occur.

CHAIRPERSON WILLIAMS: All the projects that have site--that require site safety managers have them? So, all the ones for 15 and up?

TIMOTHY HOGAN: Yes, if you don't have an active site safety license, you can't work on the job, and if we find that you're not there, we go after your license.

CHAIRPERSON WILLIAMS: Is there a shortage of site safety managers? Have people had to wait before they start a project because they weren't able to get a site safety manager?

TIMOTHY HOGAN: We've been addressing that issue. There are a number of jobs that were tentatively on the line as to the availability of site safety managers, and we recently made some changes to the rules regarding use of site safety managers on façade projects, which freed up a significant number of site safety managers to be available for the larger projects.

CHAIRPERSON WILLIAMS: But so currently we do have a shortage, and so people are on hold.

TIMOTHY HOGAN: I'm not aware of any site specifically that were held up.

COMMISSIONER CHANDLER: They have to go, undergo a significant background check, and we're having some issues in getting them through their

background check, but we think that we've gotten that corrected.

CHAIRPERSON WILLIAMS: And how reports? I'm sorry, who did you say reports the accidents when an accident occurs?

TIMOTHY HOGAN: On the larger buildings, the site safety manager has the responsibility. On the 10 to 15 story buildings, the site safety coordinator has the responsibility, and on the one to nine story, the construction superintendent has the responsibility.

CHAIRPERSON WILLIAMS: Okay. Does DOB currently have any method of tracking developers? Well, this goes back to the question. But how do you track developers who violated the building code or zoning resolutions? Do you have a way of tracking that?

COMMISSIONER CHANDLER: Again, it's--we do collect the data. It's a fairly large analytical lift. It's doable, but it's not something that we typically report on in terms of the correlations, but that's something that we hope to be improving our ability to do in the future with our technology

improvements. And Chair, I'm sorry, I have to excuse myself. I--

CHAIRPERSON WILLIAMS: [interposing] Okay, I did--one, there was one question that we asked to try find out, which is how many revocations have occurred.

COMMISSIONER CHANDLER: We're getting it. Patrick's going to stay and see if we can get it to you before you adjourn.

CHAIRPERSON WILLIAMS: Okay, thank you. Is anyone staying to answer questions now?

COMMISSIONER CHANDLER: Deputy Commissioner, I have to leave. Patrick? Yeah, Patrick can--Assistant Commissioner Patrick Wehle can--

CHAIRPERSON WILLIAMS: [interposing] Okay.

COMMISSIONER CHANDLER: I think he can-- who helped prepare this testimony. I think he can have quite a few questions.

CHAIRPERSON WILLIAMS: Okay, thank you very much.

COMMISSIONER CHANDLER: Thank you. Thank you for having me.

CHAIRPERSON WILLIAMS: I do want to say, Commissioner, as you're walking out, it seems to me that both DOB and HPD are just not doing enough in finding a way to track who are the bad actors and finding a way to make sure that they are punished for their actions. Both--this sounds very familiar based on what we're asking. Are people not getting contracts for committing crimes and for wage theft? And the same thing is happening here when we talked about revocation of permits. That seems to be the primary thing. We have to hold people accountable. And so I'm not sure. I know, as was mentioned, this is not something that was done on your watch; it's inherited. But we do just have to find a better way to enforce this stuff or else people don't need to. If they'll get a slap on the wrist, then it becomes a part of doing business. And as was mentioned--I mean, you didn't mention here, but a lot of the people who were hurt, immigrants, a large portion of Latinos and people unfortunately after the accident people don't remember their names. Their no big [sic] funerals [sic], and we want to make sure that their lives are as much valued as everyone else's. I

only have a couple more questions. How many construction inspection units does DOB have?

TIMOTHY HOGAN: I have 34 units in the Enforcement Division and in addition to that we have the Development Division, which has additional inspection units.

CHAIRPERSON WILLIAMS: Which ones receive the most complaints?

TIMOTHY HOGAN: I would say Borough Construction Enforcement probably receives the most complaints followed with the BEST Squad, which are two of the larger units.

CHAIRPERSON WILLIAMS: Just tell me again what the BEST Squad does that other inspectors don't?

TIMOTHY HOGAN: The BEST Squad is the Building Enforcement Safety Team. They work on-- their primary focus is on buildings over 15 stories that are high rise construction, because it is the most dangerous, but in addition to that they have people who work just in the low rise unit, which is below 15 stories, and they do continuous review of ongoing work at those sites. They'll visit sites. They'll answer complaints at sites, and they do some proactive work to go out and do sweeps to make sure

that safe practices are being carried out at different locations.

CHAIRPERSON WILLIAMS: How many architects or engineers disciplined by DOB in 2014 and 2015 to date, and how many of those were referred to the State Licensing Board by DOB in 2014 and so far in 2015?

TIMOTHY HOGAN: I don't have those numbers. We'll get them for you shortly. I can tell you that we--one of the processes that we follow is we try and get surrender of privileges. So, you don't see it necessarily as a--the person voluntary surrenders their ability to file with the Department in most instances. So it will show as a voluntary surrender versus a revocation. Addition to that that anyone that we go to for either suspension revocation we automatically refer to the state so that the state has the opportunity to take action with the licensing boards.

CHAIRPERSON WILLIAMS: Do you know how many have had the refresh [sic] in certification privileges suspended, revoked or voluntarily--

TIMOTHY HOGAN: [interposing] I don't have the numbers on top of my head, but we'll get them for you shortly.

CHAIRPERSON WILLIAMS: Okay. Hold on a second, please. Alright, thank you very much for the testimony. You got off easy, Patrick. We want to-- we just want to make sure that we're doing a lot more in connecting the dots, and re-holding people accountable that should be held accountable, whether it's wage theft, which we see a lot of, whether it's site safety, which we're seeing a lot of and it seems to be increasing. It's something we just can't accept. So, hopefully, we can figure some things out policy wise from this hearing, but we look forward to having continued conversations to make sure that people are safe when they go to work. So, thank you very much for your testimony.

TIMOTHY HOGAN: Thank you for the opportunity to speak with you this morning.

CHAIRPERSON WILLIAMS: Our next panel is Charlene Obernauer, I believe, from NYCOSH, Lou Coletti, BTEA, Bud Griffis, New York University of Poly--of Engineering, I think, Peter Fontanes from NYREC. We're going to set the clock for three

minutes each. Again, Charlene Obernauer from NYCOSH, Lou Coletti from BTEA, Bud Griffis, and Peter Fontanes. For those getting ready to testify at the table now, can you please raise your right hand? Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

UNIDENTIFIED: I do.

UNIDENTIFIED: I do.

CHAIRPERSON WILLIAMS: You each have three minutes, and you can start at your [sic] left [sic].

CHARLENE OBERNAUER: Okay, good afternoon, everyone. Thank you for giving me the opportunity to testify. You're getting copies of the report that we just released this morning with our friends in the Building Trades. Wanted to just speak a little bit to the findings of the report called "The Price of Life" which is around construction safety in New York State. We focus on construction work at elevated heights, because it's especially hazardous and contractors are more likely to violate health and safety standards in this category. Additionally, as construction and insurance interests

have stepped up their efforts to weaken the scaffold safety law, this report shows the necessity of special protections for workers who perform some of the most dangerous jobs in the country, construction workers working at elevated heights. Sixty-five percent of workers, construction workers, work on a scaffold where they're at risk of falling. Other construction workers face fall hazards such as open stairways and elevator shafts. And I don't have to go into that because we've got some construction members in the audience, don't we? So, some of the findings of the report: Construction work at an elevation at an elevation is especially hazardous. We reviewed 2011 and 2012 data and found that falls to a lower level comprised 49 percent of construction fatalities in New York, and we found that 71 percent of construction accidents with injuries reported to the New York City Department of Buildings between 2008 and 2012 were height related. Workers who work at an elevation, again, are at an increased risk. Non-union employers are the least safe. In 2012, 79 percent of fatal fall construction accidents investigated by OSHA--by the way, OSHA does code who is union and non-union. It's really easy to check on

a box. Non-union employers are the least safe, as we said. We also looked at the New York City Department of Housing Preservation and Development, and we looked at those who continued to do business with contractors that have an extraordinary high violation rate. So, you know, they flag these projects for enhanced review that have a history of wage and hour violations, and when we did our inspection of those contractors, we found that 89 percent also had coinciding OSHA violations. So that's a very high number. Okay, 50 seconds here. Construction employers in New York routinely violate OSHA safety standards. Anytime there was a construction fatality on the job site, we found two out of three times there was a coinciding OSHA violation. So a worker dies on construction two out of three times. There was a reason for that based on OSHA, and there was a reason why the worker died. It wasn't an accident. Immigrant and Latino workers are disproportionately at risk at dying in construction; it was one of the findings. And we also found that OSHA doesn't have the resources to make construction safe. What we would ask in terms of the City Council is to have increased scrutiny on some of these what we call

1 criminal contractors who continue to do business in
2 New York City. I'm also submitting testimony from
3 Monica Velazquez [sp?] who spoke earlier today, whose
4 father, Delfino Velazquez [sp?] died on a
5 construction site where the contractor, Formica
6 Construction, had a history of OSHA violations. The
7 only thing I'll read from her testimony to get in the
8 record is about her father where she says, "My family
9 misses my father every day. The last five months
10 have been a nightmare. I have a little brother with
11 special needs, and I'm worried about the stress that
12 my mother lives with. We mourn, but are also
13 fighting to get justice for my father. We also
14 believe that the city has to take responsibility to
15 protect workers and ensure that any city agency does
16 not improve licenses to criminal contractors." Thank
17 you.

18
19 PETER FONTANES: Hello? Hello? Hello,
20 my name is Peter Fontanes. I'm here, a Board Member
21 of the New York Real Estate Chamber, a minority--a
22 chamber advocating for minority developers and
23 contractors. I'm also here as Chairman of the New
24 York Hispanics in Real Estate and Construction
25 Association. I was a former board member thanks to

1 Mr. Coletti's great progressive leadership. I was
2 once a member of the New York Building Contractor
3 [sic] Board of Directors. I think I bring a certain
4 perspective here that should be voiced. And I'm only
5 here not to espouse any position on this whole
6 question of union and non-union. What I'm really
7 concerned about is whatever the solution may be that
8 we really cannot forget the fact that almost a third
9 of the construction industry today in both segments
10 happens to be Latinos, and it is not coincidental
11 that most of the accidents and deaths have been
12 Latinos. I think we really need to address that
13 pointedly, and the reason why I say that is because I
14 remember years ago the Hispanics in Real Estate and
15 Construction were alarmed at the growing number of
16 Latinos that were being killed on job sites and no
17 one was doing anything about it. We had a press
18 conference. Five people showed up and that it was
19 quick [sic]. The silence, the silence that came
20 after that week was--we were totally amazed. A week
21 later, three more Latinos died. Notice [sic] of the
22 press came out in mass and everybody started going up
23 in arms. I got a call from the Deputy Mayor, and I
24 said to her, "Well, why did you wait 'til three more
25

1 Latinos died? Why has this become an issue? Are we
2 that dispensable?" Now, we come--I have to give
3 Bloomberg credit. He really--he said we're going to
4 take care of these problems. We went in and we did
5 record time legislation, increased criminal
6 penalties, made--increased the number of inspectors.
7 So I have to say there was a marked improvement in
8 terms of government reaction. However, here we are
9 four years later talking about the same problem,
10 talking about the same amount of Latinos being killed
11 and hurt in accidents, and now I find, you know, a
12 tug and pull going on. Like I said, it's not the tug
13 and pull. It's about doing what's right for workers
14 who are on the job site. I'm an entrepreneur. I'm a
15 contractor. I just became a developer for HPD. I've
16 always said management and labor must sweat together
17 to make construction a successful business today, but
18 it cannot be on the blood of workers. It cannot be,
19 because that goes everything against what I believe,
20 what the free enterprise is all about. I think
21 there've been some problems--solutions that have not
22 been laid forth. Let me give you an example. The
23 biggest problem we have is the language problems.
24 It's an obvious one, and it has to be shared. Soon
25

it's going to have to be shared by everyone, by government.

CHAIRPERSON WILLIAMS: You're going to have to wrap up.

PETER FONTANES: Okay. So I'm saying is that there's a great program out there called [speaking Spanish] that we started with Lowe's. I would love to expand that program and see more Latinos and construction owners take that course. It's a great course. It shows you how to speak in English and Spanish and give instructions. Okay?

CHAIRPERSON WILLIAMS: Thank you. Thank you.

PETER FONTANES: The other one happens--

CHAIRPERSON WILLIAMS: [interposing] we can--

PETER FONTANES: The other one happens to be--

CHAIRPERSON WILLIAMS: [interposing] When we have the questions, maybe you can expound some more.

PETER FONTANES: Okay.

CHAIRPERSON WILLIAMS: We have to move onto the other testimony.

PETER FONTANES: Okay.

CHAIRPERSON WILLIAMS: Thank you.

LOUIS COLETTI: Good morning. Happy birthday, Mr. Chairman. Happy birthday, Mr. Chairman, and thank you to the Council Members who are still around to hear some testimony on this very important issue. My name is Louis Coletti. I'm President of the Building Trades Employers' Association, and I do represent 2,000 union contractors in New York City. Public and worker safety is the most highest priority for our members, has been, is and always will be. It was the BTEA that 18 years ago brought the New York City Fire Department, Department of Buildings and OSHA into the same room for the first time. You heard the Commissioner talk about how they talked to OSHA on the site. Well, we still meet on a monthly basis where all three of the regulatory, safety regulatory agencies meet with our companies and their safety officers to talk about trends, to talk about what they're seeing out there and what we can do to improve safety in New York City. Today, we have announced a new zero tolerance safety initiative with a union contracting community in an effort to

strengthen the culture of construction in our city.

The program is formed on seven basic principles.

Number one, a demonstrated management commitment that

starts at the CEO level and is transmitted down the

chain of command through the job site superintendent

to the entire workforce we employ, a financial

commitment for the staffing levels necessary to

achieve this, pre-project safety planning, safety

education with our workers, safety evaluation, and a

recognition of awards program, subcontractor safety

management, and accident investigation. These are

the principles that we follow every day. Let me

address some of the questions I heard earlier, which

is sort of the great elephant in the room. Nobody

wants to talk about the difference between union and

non-union. Well, there is a difference, and the

statistics show it, okay? Seventy-five percent of

the fatalities in 2014 according to OSHA's statistics

were on non-union job sites below 10 stories where

language was a significant problem. Sixty-five

percent of the stop work orders on jobs 10 stories or

above issued by the Buildings Department in 2013 into

2014 were to non-union contractors. Sixty-one

percent of the accidents reported in 2014 in which

1 the Buildings Department issued ECB violations were
2 on non-union job sites. Now, you're going to see if
3 you look at the DOB report, the members, the names of
4 the members of BTEA union contractors more than
5 anybody else. You know why? Because we report
6 everyone, from a hand--from a finger, a broken
7 fingernail to a fatality. I doubt if non-union
8 subcontractors are telling their site safety managers
9 to call everything in. We are, because we have
10 policies where if you are, as a worker or a manager,
11 have anything to do with a threat to public safety or
12 worker safety, you're fired. I understand DOB's
13 reluctance to collect statistics like this. So,
14 someone asked the question who can do it, we'll do
15 it, and we've offered that to DOB, to take whatever
16 statistics they have of accident, indicators and
17 trends, to give them to us and we'll break it down,
18 because if it's our members that are in there, we're
19 going to get on their case. But I really believe
20 that while you can't--you may not want the agency to
21 break down union and non-union. It does provide a
22 basis for a regulatory framework on what you should
23 be applying to all contractors. Mr. Chairman, let me
24 finish up because there's more--
25

CHAIRPERSON WILLIAMS: [interposing] We're going to do questions. We're going to do questions.

LOUIS COLETTI: Yeah, but there's four specific recommendations that we have.

CHAIRPERSON WILLIAMS: Let me just get this and then we'll come back.

LOUIS COLETTI: Okay.

CHAIRPERSON WILLIAMS: Okay, thank you.

[applause]

CHAIRPERSON WILLIAMS: So, we try to make sure that we keep the noise level down, so we do this if you're happy with what is said.

BUD GRIFFIS: Thank you, Mr. Chairman. I hope my three minutes hadn't started yet. I'm Bud Griffis. I'm professor of construction, engineering and management and the Director of the Construction Management--Center for Construction Management Innovations at NYU's Polytechnic School of Engineering. In a previous lifetime I used to be the District Engineer for the New York District for the Corps of Engineers. At Poly right now we have a number of research projects going on in safety research. So, there's been four construction accidents in the last four weeks, okay? That brings

1 the total this year to nine, nine construction
2 accidents, and that really unacceptable. Nobody
3 should have to die on a construction accident. We've
4 killed one soldier in Afghanistan this year, okay,
5 and four in the last week have been killed on
6 construction sites. That's not right. Mayor
7 Bloomberg said in 2008, in the midst of those crane
8 accidents, he said, "If you're going to have
9 construction, you're going to have fatalities."
10 That's wrong. That's wrong, and it's been shown to
11 be wrong. There should be virtually no accidents on
12 construction sites. I'm a member of the National
13 Academy of Construction Safety Committee. The NAC is
14 a select organization of industry leaders made up of
15 owners, academia, contractors, and government agents.
16 The NAC has taken on this major objective to provide
17 assistance to members of the construction industry to
18 achieve zero injury management goals. And through
19 New York University's Polytechnic School of
20 Engineers, we've offered all the help we can get to
21 provide contractors in New York City something to
22 change the safety culture. We've been talking about
23 slapping alligators here moving forward [sic], but we
24 haven't been addressing draining the swamp. And what
25

1 we go to do is change safety culture in New York
2 City. Zero incident safety management works.
3 Companies having a zero injury management system has
4 a safety record ten times better than those companies
5 that do not, and those statistics are well known.
6 There's a tendency by safety regulators to try to
7 find ways to regulate the industry and prevent
8 further fatalities. There's a natural tendency
9 because nobody wants to have accidents on
10 construction jobs, okay? But it's not the way to go.
11 You can't regulate safety. It has to be a change in
12 culture. Almost all if not all major construction
13 companies in New York City have good safety programs.
14 Some are excellent, and some already institute zero
15 incident safety management. What's lacking in my
16 opinion over--and this is based on 55 years working
17 in this business is a standard of commitment. By
18 standard of commitment I mean having the desired
19 safety culture permeate throughout each organization
20 to all involved parties. Safety leadership must flow
21 from senior management down to PM, superintendents,
22 foremen to workers and to subcontractors, and it
23 needs to be known. Somebody's got to make some noise
24 about this.
25

CHAIRPERSON WILLIAMS: Thank you. We're going--I'm going to ask some questions and I know my colleague are too, so we'll get to some of the things that were missed. Just really quick, they're not here. I wish they were to give their testimony.

NYSAFA [sic] provided some testimony that they have for the record, and I just want to read some of it. They claim the analysis of the actual data reveals the opposite to be true. The opposite for them were the stats that said that there been more accidents on union construction sites. I'm sorry, more accidents on non-union. They are testifying that the opposites are true, and in a study of New York City construction sites, fatalities based on data from the federal--from OSHA reveals that the rate of fatalities between 2008 and 2014 was higher at union sites than non-union sites. During this time period, the average labor or participation rate at New York State construction sites were 73 percent non-union and 27 percent union. However, the number of fatalities shows that the fatality rate at union construction sites was higher than union participation rate. There were 93 construction site fatalities in New York City between 08 and 14. Sixty

fatalities or 65 percent occurred in non-union sites while 33 or 35 percent occurred at union sites.

Given that New York City safety standards do not distinguish the fatality rate for both union and non-union should be proportionate to the participation rate. This data proves that this is not the case.

So, I just want to know if you have a response to that. Basically they're saying when you allow for participation that union--their claim is that union has more accidents because of the participation rate.

I wish they were here so we can ask about this, but this is for the record, and I did want to get some--

LOUIS COLETTI: [interposing] For the record, Mr. Chairman, that is complete and utter nonsense. Okay? OSHA--BTEA has a safety report card every year, and OSHA and DOB come in and report their numbers, and OSHA breaks them down union by--I will send to your office the annual reports that they send, that OSHA prepares for us every year, and every year going back to 2008, that average has been 72 percent non-union fatalities on job sites. From listening to you, to me, what they did was flipped our numbers.

CHAIRPERSON WILLIAMS: What their claim is that because when you allow for the participation they're saying that construction site was 73 percent non-union and 20 percent--only 27 percent union, yet, the fatalities occurred at a similar rate on both, I guess, but because there's less participation with unions, they're saying that if you allow--

LOUIS COLETTI: [interposing] I don't understand what less participation by the unions mean. We have a majority of work in the city.

CHAIRPERSON WILLIAMS: Okay, well that's--

CHARLENE OBERNAUER: [interposing] I would also say, I mean, this NYSAFA report is complete bogus. If--

CHAIRPERSON WILLIAMS: [interposing] I think this is for New York State, by the way.

CHARLENE OBERNAUER: If you get anybody from OSHA, anybody from OSHA to say on record that union jobs are less safe than non-union jobs, I would start--I would quit my job and join NYSAFA, because that is not a true statement. Nobody from OSHA will ever tell you that. We've looked at the data consistently over the years of what the percentage of non-union fatalities versus union fatalities on the

1 job. It is consistent, consistent that non-union
2 jobs have increased levels of fatalities. It was 79
3 to 21 last--in 2012. So that data is--I don't know
4 where they got it, but they should really fire their
5 researcher.
6

7 LOUIS COLETTI: That may--if they said
8 New York State data--

9 CHAIRPERSON WILLIAMS: [interposing]
10 Actually, it's both. So, if they--I'm trying to--

11 LOUIS COLETTI: Well, I can tell you New
12 York City specific only, because OSHA provides it to
13 us annually. That's complete nonsense and
14 fabrication on a New York City basis, and again, I'll
15 send you the reports.

16 CHAIRPERSON WILLIAMS: Well, it might be
17 confusing, because I think they're giving me
18 participation rates in New York State, and then
19 they're giving me accident rates in New York City.
20 So that may be--

21 LOUIS COLETTI: [interposing] Well, that's
22 because they don't report the accidents. That's the
23 point I made before. We report every single
24 accident. Non-union contractors don't, because they
25 don't want inspectors on their sites. They don't

want OSHA inspectors. We do. In fact, again, to prove the point, I think this is important--

CHAIRPERSON WILLIAMS: [interposing] Well, I just--I mean, I wish they were here so I can--

LOUIS COLETTI: [interposing] Yeah, so do I.

CHAIRPERSON WILLIAMS: cross--

CHARLENE OBERNAUER: [interposing] Yeah, where are they? We should call them.

CHAIRPERSON WILLIAMS: But I will say just for the record, it looks like there may be some mixing of percentages.

LOUIS COLETTI: Yeah.

CHAIRPERSON WILLIAMS: They're giving me the percentage of New York State and then the percentage of New York City accidents. So they may not match up in the same way.

LOUIS COLETTI: In fact--

CHAIRPERSON WILLIAMS: [interposing] But then, they [sic] did want to get their response.

LOUIS COLETTI: And in fact, a DOB statistics that's taken off their website shows 60 percent of the accidents that are reported where an inspector comes and requires that no action, no ECB

1 violation is written are on non-union--I mean, are on
2 union job sites. We report everything. Half of the
3 things we report, they make a determination it isn't
4 serious enough to even send an inspector there in the
5 first place, but that's why you have to be careful
6 when you talk about violations, because you will see
7 a lot of union companies with violations because we
8 report everything. They report nothing, because they
9 don't want to be discovered, and that's especially
10 prevalent, Mr. Chairman, in the questions you were
11 asking about HPD. That pool of contractors is about
12 as low as you can go. They don't provide prevailing
13 wage. They don't provide any training. They don't
14 provide any safety equipment. They don't protect the
15 safety of the worker, and it's covered under the
16 shroud of HPD gives the contract to the developer.
17 So, I wouldn't expect the developer to report any of
18 those statistics either.

19
20 CHAIRPERSON WILLIAMS: So, for other
21 colleagues I just wanted to--I know, Mr. Coletti, you
22 were about to say some recommendations.

23 LOUIS COLETTI: Yes.
24
25

CHAIRPERSON WILLIAMS: So I just wanted to run down the line and get some of the recommendations.

LOUIS COLETTI: First of all, for high rise projects, we would rep--we would recommend a mandatory installation of a cocoon system on concrete projects to provide additional level of protection both from the public from debris and from worker falls, and we could offset some of the increased costs of this by selling signage on the cocoon like they do in countries across the world. Attached to my testimony you'll see a picture from a site in Australia. The second recommendation we would have is that the building code be amended and put a mandatory drug and alcohol testing requirement in. The time has come to make sure that everybody's protected. For projects below ten stories, we would recommend the council adopt a building code amendment to require that each of those members have the most basic of safety training courses, and that's the OSHA 10 hour card. That requirement exists in New York State for public works, 250,000 dollars above, and this council passed a similar requirement a couple of years ago for 15 stories and above. There's no

reason why every worker on every construction site shouldn't have at least an OSHA 10. The last recommendation we would have is we would give the mayor great credit for his commitment and submitting in his executive budget 200 new inspectors, and ask that you adopt that, and even take a look at increasing that budgetary allocation even larger. And that's because the department for too long has been a stepchild when it comes to the budget process. Over the last five years there's been a 30 percent increase in the number of permits issued and reissued, while at the same time, the number of employees in DOB has decreased by 20 percent. Now, we heard a lot of talk today about punishing contractors. My suggestion is that we begin to develop an incentive system for those who do extraordinary, take extraordinary precautions in safety. And one of the ways that the city used to do that but stopped it because of a lack of funding, well it was because of its Buildings Department, they had a major initiatives project for some of the larger projects. And that means everybody sat down before there was a shovel in the ground and went over safety procedures and safety rules on a site by site

basis, and the result of that proved very effective. In those projects before the program was ended because of a lack of funding. There was 40 percent fewer accidents, 49 percent fewer violations and 82 percent full stop work orders. So I would request when you're reviewing the budget to do two things, to add additional monies to the DOB budget, but make one pot specific to an inspection unit 10 stories and below. You heard the success that the DOB has when they do sweeps. We can't wait for sweeps. Those jobs need to be inspected as often as the high rise, because that's where all the accidents and fatalities are taking place, and the second recommendation for funding is make the funding specific for the major high rise initiative. We have a lot of tall buildings and big projects in the pipeline, and to develop an incentive system for them to come in early will only protect the public and protect the worker. Thank you.

CHAIRPERSON WILLIAMS: Mr. Griffis, you were talking about changing the culture as opposed to mandating?

BUD GRIFFIS: Well, let me tell you what-
-I'm extremely delighted this morning to hear that

Lou Coletti is saying that the Building Trades Employers' Association is taking the lead in this to stop these nonsensical accidents. Okay? That's where the leadership ought to come from. It can't be regulated by the city. Okay? It's got to be done by the contractors--

CHAIRPERSON WILLIAMS: [interposing] I'm sorry, you said the "non" what accidents? The non--

BUD GRIFFIS: Nonsensical accidents.

CHAIRPERSON WILLIAMS: Oh, I see.

BUD GRIFFIS: Because that's what they are. There should be zero accidents on a construction job, and there can be zero accidents. Just look at the process and power industry down in Texas. You know, those guys don't have accidents on jobs, and they don't need to be--we don't have to have accident here. There's no reason we have any of our workers hurt on these accidents. And I'm just very pleased that BTEA is going to take the leadership and really provide leadership to get everything down, and that's the way the safety culture in this town will change.

CHAIRPERSON WILLIAMS: Thank--

LOUIS COLETTI: [interposing] If I can, and I shut this off. That's what I talked about before. If the city doesn't want to differentiate between union and non-union, then they have to set-- they have to take what Bud was talking about and set a regulatory framework for standards that everybody has to meet, not whether you're union or non-union. You want to build in the city, here's what the standard should be.

CHAIRPERSON WILLIAMS: I'm going to go to my colleagues for questions. We do have a couple of more panels, so I'm going to ask colleagues stick within five minutes for the questions. We have Council Member Rosenthal and then Council Member Crowley.

COUNCIL MEMBER ROSENTHAL: Thank you so much, Chair Williams. Mine will be even quicker than that. I'm wondering on your report that you issued, "The Price of Life," did you ever contemplate and would you consider writing the name--when you list, I mean, it's very touching. The first two pages are dedicated to those who have been killed or have died on work sites. Would you ever consider contemplate--

putting the name of the contractor or subcontractor on there as well?

CHARLENE OBERNAUER: Yeah, that's a great question. I'd have to ask our legal department. I think it's a great question and something that we can consider. And you know, unfortunately, when we look at the contractors and those where there are fatalities on the job, as I said earlier, 66 percent of them have a history of OSHA violations. So you are looking at bad contractors. OSHA does put out a severe violator enforcement list, which is a list of all the bad, you know, really bad contractors, the ones that have made it this national list who have a history of OSHA violations, and some of those contractors still receive city contracts. So, you know, we need to make sure that if we are looking at these contractors, how are we doing so in a way that at the very least as Lou said is setting a baseline standard for what do you need to do in order to protect workers. Because the point that folks have made about the disproportionate impact on Latinos and immigrant workers is huge. I mean, Latinos make up 25 percent of the work force, but they make up 38 percent of the workplace injuries and fatalities.

COUNCIL MEMBER ROSENTHAL: Right. I just think it's interesting because I'm trying to--the reason I ask is because in flipping through this book you don't mention exact names or at least I didn't see any of contractors, and yet, one of the things we try to, that I feel we're trying to ask the Commissioner is to list names. So, I just was trying to get a sense of why you guys don't.

CHARLENE OBERNAUER: I appreciate that.

COUNCIL MEMBER ROSENTHAL: My second question is, Lou, for the list of your four suggestions, which are great, do most union jobs do all four of those, have a cocoon, do the drug and alcohol testing?

LOUIS COLETTI: No. In terms of the cocoon, a large percentage of them do. Many don't. It really depends on the owner.

COUNCIL MEMBER ROSENTHAL: Yeah, I was interested to see that--

LOUIS COLETTI: [interposing] You know, that--it costs us money.

COUNCIL MEMBER ROSENTHAL: the one example that you gave was from Australia and that--

and wondering why you couldn't find someone in New York who had done it.

LOUIS COLETTI: Well, on the larger projects, many of my members are using a cocooning system, and there has been a number of or have been a number of owners who have said that's a good thing. Cocooning, we'd really have to look into because it depends on the location of the building. You might not be able to cocoon every floor, you know, if you're really--if it's a tight logistical site.

COUNCIL MEMBER ROSENTHAL: I'm just trying to look at your suggestions--

LOUIS COLETTI: [interposing] Yeah.

COUNCIL MEMBER ROSENTHAL: and see, really understand--

LOUIS COLETTI: [interposing] To us, it should become mandatory because it protects both the public and the worker, mandatory where it can be implemented, and you know what if it costs--

COUNCIL MEMBER ROSENTHAL: [interposing] Okay, how about on the drug and alcohol?

LOUIS COLETTI: money, you know, what's the cost of a life?

COUNCIL MEMBER ROSENTHAL: I'm on the clock. I'm with you.

LOUIS COLETTI: You too?

COUNCIL MEMBER ROSENTHAL: The drug and alcohol testing, do all union jobs do that now?

LOUIS COLETTI: No. We have--

COUNCIL MEMBER ROSENTHAL: [interposing] Is there a requirement?

LOUIS COLETTI: many. Those requirements are in many of our collective bargaining agreements, not all. There are owners that are willing to pay for it. Just because it's in a CBA, doesn't mean that we do it.

COUNCIL MEMBER ROSENTHAL: Right, I'm just gain trying to understand why you're recommending this for all jobs--

LOUIS COLETTI: [interposing] Yes.

COUNCIL MEMBER ROSENTHAL: and trying to get a sense of--

LOUIS COLETTI: [interposing] Because the non-union does none of it.

COUNCIL MEMBER ROSENTHAL: whether or not the union jobs do them.

LOUIS COLETTI: They do zero.

COUNCIL MEMBER ROSENTHAL: Okay, and the crane operators sign inspections, do you union contractor's owners do that?

LOUIS COLETTI: Well, what happens is there's an OSHA requirement that the operators sign the report, and in our world, the crane operator does in fact inspect the equipment. Sometimes they sign the reports. Sometimes they don't. So, we think that they should be required, mandated that they have to sign the report so that it's documented and we don't have a guessing game as to whether or not we actually inspected that mechanical equipment.

COUNCIL MEMBER ROSENTHAL: Okay. Thank you very much. Thank you, Chair.

CHAIRPERSON WILLIAMS: Thank you. I'm sorry, you said there's no drug testing requirements now?

LOUIS COLETTI: No, none in the building code. Any drug and alcohol testing that goes on is usually because the owner required it, and there have been owners that have been requiring it. There are trade unions that are willing to do it because it's in their collective bargaining agreement, but then sometimes you get an owner that doesn't want to pay

for it. So, what I'm suggesting it's random, but I think, you know, at 10 stories and above, you want everybody to paying full attention to what they're doing and protecting the public and worker safety.

CHAIRPERSON WILLIAMS: But wouldn't we want it on nine stories and below, because that's where most of the accidents happen? Wouldn't we want drug testing there also?

LOUIS COLETTI: I'd leave that for your discretion. I don't want to get accused of beating them up too badly.

CHAIRPERSON WILLIAMS: Alright. Council Member Crowley?

COUNCIL MEMBER CROWLEY: For the BTEA, Mr. Coletti, you represent 2,000 union contractors. Do your contractors do work on affordable housing?

LOUIS COLETTI: No, not at the present time.

COUNCIL MEMBER CROWLEY: So they're not members of NYSFAH [sic]?

LOUIS COLETTI: No, they're not.

COUNCIL MEMBER CROWLEY: Why do you think NYSFAH is not here today?

LOUIS COLETTI: My guess is they don't want to build union and they don't want to pay for the training that we provide, and they don't want to pay for anything, wages, training, safety equipment.

COUNCIL MEMBER CROWLEY: Then the next question is for NYCOSH. It says that the report, the fear of violators, they're nearly all non-union that are on the severe violator, OSHA's severe violator list.

CHARLENE OBERNAUER: That's correct.

COUNCIL MEMBER CROWLEY: And that of the severe violators, when you look at those that do HPD work, 90 percent of them are non-union. Is that a correct statistic?

CHARLENE OBERNAUER: It was that 90 percent of them had OSHA violations, not that 90 percent were non-union.

COUNCIL MEMBER CROWLEY: So currently doing work for the city, in partnership with the city on affordable housing projects, 90 percent of those contractors?

CHARLENE OBERNAUER: Those that are flagged for enhanced review. So, the HPD flags the contractor for enhanced review when there's been any

1 kind of issue on the job site. I'm not sure their
2 exact metrics, but when they have a particular issue
3 on a job site they flag them for enhanced review.
4 So, what we looked at was we looked at those in which
5 have already been flagged for enhanced review for it
6 could have been a wage and hour violation. It could
7 have been something else. When we analyzed those
8 contractors, those who had OSHA inspections done--not
9 all of them have, right? Because as we know, OSHA's
10 understaffed so they don't inspect everybody, but
11 those who had OSHA inspections done, 89 percent of
12 them had OSHA violations. So that's the stat there.

14 COUNCIL MEMBER CROWLEY: Your study also
15 said that chances are when OSHA goes out to a job
16 site that they'll find violations.

17 CHARLENE OBERNAUER: Sixty-six percent of
18 the time.

19 COUNCIL MEMBER CROWLEY: And how few
20 workers are there working for OSHA that are doing
21 these types of inspections? There are greater need.
22 Obviously if they're inspecting sites and finding
23 violations.

24 CHARLENE OBERNAUER: There are 71 OSHA
25 inspectors in New York State.

COUNCIL MEMBER CROWLEY: And how many of those work in the city?

CHARLENE OBERNAUER: I don't have the city number.

COUNCIL MEMBER CROWLEY: DO you think that the additional amount of money put in the Department of Buildings budget will be sufficient to help reduce the number of fatalities on construction sites?

CHARLENE OBERNAUER: I believe it would be beneficial to have an increased number of inspectors, because at the end of the day you could inspect more job sites. I mean, the more often a contractor knows that their job site is going to be inspected, the more likely they are to follow health and safety regulations. It's not just about OSHA. It's also about the DOB. So we would support that recommendation.

LOUIS COLETTI: If I can, Councilman?

COUNCIL MEMBER CROWLEY: Yes.

LOUIS COLETTI: Councilwoman, sorry. It depends on where they would allocate those resources.

COUNCIL MEMBER CROWLEY: Do you believe that currently in the budget that we could achieve a

zero tolerance for zero safety sites or zero incidents where workers are getting hurt?

LOUIS COLETTI: Well, I want to go back to what Griffis said. The answer to that is probably no from just a pure enforcement. It has to be within the culture of the company combined with the enforcement on the inspection side. Those two pieces make zero tolerance a goal to strive for, but not in and of itself. They're just so many job sites in the city, you'd take up the whole budget with inspectors, but I think what could be critical is if you take those 250 inspectors and you put 150 of them in the high rise, I don't think that's going to solve the problem. I think you've got to have like a Comp Stat approach like the police do. They come in the morning and they see what happened the night before and they change their resources. You heard the Department say nine stories and below is where everything's happening, and what they do is sweeps. Well, if we have the BEST squad that looks at 15 stories and above, I think we should have the worst squad that looks at nine stories and below on a constant basis.

COUNCIL MEMBER CROWLEY: Shouldn't any worker have at minimum 10 hours of safety training?

LOUIS COLETTI: Yes.

COUNCIL MEMBER CROWLEY: So just whether they're working on a project two stories--

LOUIS COLETTI: [interposing] Absolutely.

COUNCIL MEMBER CROWLEY: just when they're going on construction sites.

LOUIS COLETTI: Absolutely.

COUNCIL MEMBER CROWLEY: I agree with that, and however I could push that forward legislatively, let's work together to do that. Just last week there was recently an accident where a construction worker fell in an elevator shaft, and it was like the third accident on that particular job site. Was DOB doing enough on that--in that particular development project?

LOUIS COLETTI: I would imagine they would, but I mean, this gets technical. That's not technically a construction fatality, because they were--it was a maintenance fatality because they were trying to maintain the elevator as composed as construction, but I can assume that they were inspecting it and doing whatever the Department was required to do. I wouldn't blame the department. Again, I would blame the owner and the contractor.

CHAIRPERSON WILLIAMS: Thank you. I just had a question. Do any of--is there anybody that tracks whether drugs or alcohol were related to any of the accidents? Do you have any numbers on that? A people tested even after accidents now or there's no requirement?

LOUIS COLETTI: If our collective bargaining agreement allows it and if there is an accident, I would venture to guess that we do test for that, but no, I don't have any statistics that would be able--

CHAIRPERSON WILLIAMS: [interposing] But you would support making mandatory testing everybody on the job regularly or after an accident?

LOUIS COLETTI: Randomly.

CHAIRPERSON WILLIAMS: Randomly.

LOUIS COLETTI: But the idea is to prevent the accident.

CHAIRPERSON WILLIAMS: Just a couple of stats that jumped out were that construction workers counts for less than four percent of employment, but nearly 20 percent of occupational fatalities in New York State. That's pretty bad. In 2011 and 2012 falls to a lower level comprised 49 percent of

1 construction fatalities in New York. And also, this
2 goes to a hearing that we had before. It says 89
3 percent of contractors that currently work on
4 affordable housing projects are flagged for enhanced
5 review by HPD and OSHA violations. And lastly, the
6 one that jumps out is the puny [sic] penalties for
7 unsafe contractors. Nationally OSHA inspects fewer
8 than four percent of construction sites. In New York
9 there are only 71 inspectors to monitor all work
10 sites in all industries. This sounds pretty rough.
11 It says when OSHA does inspects and cites the
12 violations and penalties, they asses [sic] really
13 low. But does this account for the inspections that
14 DOB are doing?

15 LOUIS COLETTI: No.

16 CHAIRPERSON WILLIAMS: Okay, so I just
17 wanted to check. Alright. I just wanted to read some
18 of those findings into the record. I think they were
19 particularly--
20

21 LOUIS COLETTI: [interposing] If I can,
22 one more thing then I'll promise I'll be quiet. But
23 you asked the question about site safety managers,
24 and I want to thank the Department because I think
25 they really did address. There was a period a couple

1 months ago where there was a shortage, and we've now
2 been able to address that. However, again, one of
3 the points I think it's important to make is about
4 six or seven months ago, Manhattan District Attorney
5 announced plea bargains from three or four site
6 safety managers who was doing façade work, who either
7 never actually visited the site and just filled the
8 report out or just sat in their car and never
9 inspected the site. We asked the District Attorney
10 for the names of the companies of who they were, and
11 there were 35 instances involved, and all 35 were
12 non-union companies, all 35.

14 CHAIRPERSON WILLIAMS: Thank you very much
15 all for your testimony. Thank you for this report,
16 and thank you for, as was mentioned, including the
17 names of people who died in construction sites,
18 because they're often unfortunately forgotten, and
19 unfortunately, you have some names missing for 2015.
20 My hope is that their names would stop coming, but I
21 don't know that that's going to happen. But thank
22 you very much for your testimony. Hopefully we can
23 get some changes based on this hearing. I appreciate
24 it.

LOUIS COLETTI: We look forward to working with you. Thank you.

CHAIRPERSON WILLIAMS: Same here. Thank you.

LOUIS COLETTI: Try to enjoy the rest of your birthday.

CHAIRPERSON WILLIAMS: Thank you. Next up we have James Bifulco, TSC North America, Santos Rodriguez, Building and Construction Trades, Ithier Lopez, an ironworker, Terrence Moore, Meadow Lathers. And next up after this panel will be Ronald Lauria [sp?] from Local 28, Michael Odenthal from Carpenters, Thomas Gordon, Local 14 IOE, and Allen Wright from Local 14. They'll be up after this panel. So we have James Bifulco, Santos Rodriguez, Ithier Lopez, and Terrence Moore. Everyone at the table, if you can raise your right hand? Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

UNIDENTIFIED: Yes.

CHAIRPERSON WILLIAMS: You'll each have three minutes, and you can begin in the order of your preference.

JAMES BIFULCO: Good morning, Chairman Williams. Happy birthday. Good afternoon, Council Members. My name is James Bifulco. I'm a Principal Consultant with TSC North America and a strong advocate of improved construction safety for over the last 20 years. Most recently I was the co-chairman of the New York City Building Code Update Committee for Demolition and Construction Safety and the past President of American Society of Safety Engineers, New York City Chapter, the President of Safety Executives of New York, and I meet regularly with industry stakeholders to discuss improving construction safety. Accident fatalities on are a path to surpass the record highs and proactive steps need to be taken. Site safety programs are essential to construction safety in New York City. Without the oversight of site safety programs in the presence of license, experience, qualified and certified safety professionals, accidents will increase and the public will be at greater risk. Site safety programs mandate a thorough and regimented series of reviews and enforcement agency oversight, additional requirements in inspections that are designed to ensure code compliance and prevent accidents.

1 Although they are likely--are limited only to the
2 largest projects, mandatory site safety programs on
3 construction projects are very effective. If you
4 examine the fatalities in constructions, not only
5 over the past, recent past, but over the time frame
6 that site safety programs have been required in New
7 York City, the overwhelming majority of fatalities
8 and serious accidents occurred on projects without an
9 implementation of site safety programs. We are
10 experiencing a construction boom. The number of
11 projects underway have more than doubled, in some
12 cases tripled over the last two years. At the same
13 time the market is experiencing a significant
14 shortage in every type of skill, personnel and
15 construction. This has had an even greater impact
16 with licensed site safety professionals. The
17 shortage has many adverse impacts, and correcting
18 this needs to be a priority. Although the Department
19 of Buildings has responded, there is still a
20 tremendous shortage of available licensed site safety
21 managers and coordinators. The lack of available
22 license personnel have had a significantly adverse
23 impact on New York City. We believe that DOB has to
24 support and promote programs that develop and create
25

desperately needed safety professionals and increases its efforts in approved qualified personnel. In its efforts to produce qualified personnel, TSC has developed the New York State Apprentice Program, an on the job training program in site safety and management. Not only do these programs create licensed qualified individuals, they create high paying careers and not temporary dead-end jobs. The careers can help break the cycle of income inequality in New York City. While past administrations would not consider this approach, we've received a positive response from the current management at DOB. However, we still have a much greater level of support--we need a much greater level of support for these programs to be successful.

SANTOS RODRIGUEZ: Good afternoon. My name is Santos Rodriguez. I'm speaking of Gary LaBarbera, President of the Building and Construction Trades Council of Greater New York, which represents 100,000 union construction workers. I want to start by thanking the Housing and Building Committee members and Chair Council Member Williams--happy birthday--for the oversight hearing on construction safety. Construction is still one of the most

1 dangerous jobs. We work at great heights with
2 complex materials and machines and we do all this and
3 above in the busiest city in the world. Mayor de
4 Blasio in 2015 Management Report noted the danger in
5 referencing the high rise construction related
6 injuries and construction related accidents. The
7 Mayor's 2015 Management Report found that
8 construction accidents have increased by 39 percent
9 and 21 percent respectively from the same period
10 studied in 2014. Even just last week a worker lost
11 his life at the non-union Midtown construction site
12 as he fell 20 stories to his death. NYCOSH recently
13 reports, "Price of Life," 2014 reports on
14 construction fatalities in New York City also found
15 what many of us already know in this room, non-union
16 jobs are significantly less safe and most injuries
17 could be prevented if OSHA were met, if OSHA
18 regulations were met. Developments in New York City
19 should not be done on the backs of workers and with
20 workers' lives at stake. Too often irresponsible
21 developers like JDS and Michael Stern [sp?] worry
22 more about the bottom line than making sure that
23 workers on their site have proper safety materials
24 and training. Too often irresponsible developers

1 like JDS and Michael Stern don't properly handle
2 accidents that occur on the work site and too often
3 turn a blind eye. At the Building Trades we provide
4 ourselves--we pride ourselves on safety and take the
5 safety of our members very seriously. Our members and
6 affiliated unions go through rigorous New York State
7 Department of Labor recognized and approve of
8 training and apprenticeship programs that make all
9 members aware of OSHA guidelines, proper safety
10 procedures, how to properly operate machinery, and
11 specialized skills in each unit is required. We do
12 all this so that our members are safe and trust the
13 fact that they will be able to return home to their
14 families at the end of the day. Work
15 acknowledgements, responsible development and
16 contractors who employ our members and recognize the
17 importance of safety work site. It is time to
18 institute a new enforcement system, one that will
19 make the best of use of all available resources to
20 direct regulators to exactly where they most need it.
21 Therefore, we call on the city to establish a new
22 independent taskforce whose mission will be to target
23 contractor's job sites with the highest risk of best
24 service incidents. Thank you.
25

1 CARROL TURNER: Good afternoon. My name
2 is Carrol Turner, Ithier has to leave, so I fill in
3 his place. We are both members of the New York City
4 Community Alliance for Workers' Justice. I'm just
5 going to touch on the safety side. As a striker
6 [sic] with a non-union company are against a non-
7 union company. I have seen accidents, death on job
8 sites that they have worked, and I've been to--I've
9 had the chance to be on union job sites, and the
10 safety there is on the union job sites, that's not on
11 an non-union site. If we have training that can show
12 us, the workers, the procedure and the way to move
13 forward in our safety, we'd have less accident and
14 less death on those job sites. So for instance, how
15 could a worker fall 24 story through an elevator
16 shaft? I think that elevator shaft, one area that
17 should be covered. If it's not floor by floor, if
18 you cover the 20th floor, skip the 21st, you should
19 cover the 22nd floor. So God forbid he falls, he
20 wouldn't have to go all the way to the basement.
21 And we have to look more, take it more serious.
22 Forget about these developers and these construction
23 workers and all that. Life is more valuable. No
24 parent, no family member want to know that their
25

1 loved one goes out this morning, and when the phone
2 rings is a call from Fire Department or the city
3 morgue or the Police Department to let them know that
4 the bread winner of that family is not coming back
5 home this evening or tonight. That's heart rendering
6 [sic]. And we must make sure that if it's a union
7 job or a non-union job, that who is in charge, site
8 safety manager, the GEC, or whosoever is responsible
9 should take it and as a top priority to see that
10 everything, all opening should be covered, everywhere
11 should be protected, if it's mesh or whatever. But
12 what I see with these companies, especially my
13 company, three weeks ago two workers got injured on
14 the job. None is reported to OSHA from what I've
15 heard. All they tell him, the foreman tell him, "Oh,
16 don't sue the boss. The boss will take care of you.
17 Your arm is broken in two places, but don't sue the
18 boss. The boss will take care of you." One got his
19 foot turned around because falling from one floor to
20 the next. That does not report to OSHA. The man--
21 oh, my god. The person who was in charge, I don't
22 really remember his name, instead of calling an
23 ambulance he took him in his car to the hospital.
24 That means OSHA will not know or Building Department
25

1 will not know. I know my time is up. I work on JBNC
2 [sic] Building Department officer come and all they
3 do is go to the office and check the paper work and
4 he sign off, go back to his car because it's cold and
5 sit in his car until he ready to leave. He never
6 checked the building, and he's Department of
7 Building. Buildings don't need to ride [sic] in your
8 call all day. Thank you very much.

10 TERRENCE MOORE: Good afternoon. My name
11 is Terrence Moore. I am the Business Manager,
12 Financial Secretary Treasurer for Local 46, Metal
13 Lathers Union and Reinforcing Ironworkers. We have
14 lost one person since I'm with the union in 35 years.
15 Meaning, we do reinforced concrete structures, and
16 over the last 35 years we've had one fatality. I
17 count that or attribute that training, and I mean,
18 our people work hard. We're under constant pressure
19 to get a job done, but it is not the likelihood that
20 somebody's going to go to work in the morning and not
21 come home at the end of the day. I want to thank the
22 members of City Council who presently remain in the
23 room and share, clearly, that this is an important
24 issue that we've gotten, or that's before us while it
25 appears that some people don't think that it

important enough to stay and that it is important that people are losing their lives in the city of New York. I'd like to start by saying, and I'm going to leave most of the stuff that's already been said out as to what the problem is going on right now.

Clearly there is a lot of non-union and there are a lot of people, undocumented workers who are put in very dangerous situations in the city of New York, and there needs to be answers. It doesn't appear to

me, unless maybe I'm sitting in the wrong room, that the Department of Buildings and the city has an answer under the way that things are currently set up to deal with this problem in the construction boom.

We do have what we believe are some answers to fix the problems that the city are going through right now and I'll start to read it. Alright? The truth is that the present system for enforcement simply isn't curbing the flagrant abuse of federal and local

safety standards by unscrupulous contractors whose ranks have proliferated in recent years. The sheer increase in construction volumes presents one problem. OSHA and the DOB are unable to allocate the resources necessary to inspect all of the growing number of job sites where contractors are engaging in

1 dangerous practices. More importantly, serious
2 violators receive only minor fines that serve as
3 little more than slaps on the wrist. Simply put, at
4 the most dangerous jobs there is simply no oversight
5 that workers receive the proper safety training, that
6 they are covered by workers' compensation insurance
7 and that their employers are adhering to even the
8 most basic safety regulations. WE need a more
9 effective construction safety enforcement system, and
10 it is time to institute a plan that will make best
11 use of all available resources to direct regulators
12 to exact where they're needed most. Therefore, we
13 call on the city to establish a new independent
14 taskforce whose mission will be to target these
15 dangerous job sites. This taskforce should use
16 available public data, subpoena power--

18 CHAIRPERSON WILLIAMS: [interposing] Going
19 to have to ask you to wrap--

20 TERRENCE MOORE: I'm finishing.

21 CHAIRPERSON WILLIAMS: Okay.

22 TERRENCE MOORE: --subpoena power and
23 undercover investigations to identify the following
24 two groups of the oversight. One being--

CHAIRPERSON WILLIAMS: [interposing] Well,
I'll let you--

TERRENCE MOORE: [interposing]
irresponsible contractors--

CHAIRPERSON WILLIAMS: [interposing] When
we have the--when we have the questions, you'll be
able to finish out some more what you want to say.

TERRENCE MOORE: I'm sorry?

CHAIRPERSON WILLIAMS: We're going to ask
some questions, probably and then you can speak some
more on it.

TERRENCE MOORE: Okay.

CHAIRPERSON WILLIAMS: Thank you for the
testimony, and just so you know, my colleagues not
being here doesn't necessarily mean they don't think
it's important. Sometimes our schedules run up
against each other. So I don't want to pass judgment
on them. Some have other hearings. Some have other
events, and I assure you that we the council take
this very, very seriously. When I tried to have the
hearing, the only available date was on the date that
I was born a few years ago, and I decided to have it
anyway, because of how important it is, and--

TERRENCE MOORE: [interposing] Understood.

CHAIRPERSON WILLIAMS: So, I appreciate you being here. Council Member--

COUNCIL MEMBER CROWLEY: Sure, I'll ask some questions. So, I'm hearing from each of the people here today testifying the DOB's not going far enough. Is that correct? That there's so much more that we need to do as a city to enforce safety on job sites. Mr. Moore, you are saying that there are two ways that irresponsible contractors are still getting work and we're still allowing this to happen, and there's something that you would make the task force do, what is that?

TERRENCE MOORE: Yeah, we believe that there should be a taskforce that is put into effect, which includes the district attorneys, the Mayor's Office and City Council to oversee unscrupulous contractors in the city of New York and ensure that the Department of Buildings is doing its job.

COUNCIL MEMBER CROWLEY: That makes sense.

TERRENCE MOORE: Excuse me?

COUNCIL MEMBER CROWLEY: That makes sense. It just seems that we're hearing time and time again today that DOB is giving contractors who

have violations a free ride to get additional construction permits and then to put more workers in dangerous situations, and we have to do more as a city, because the statistics are not lying. I mean, we saw that even though construction permits are going up, the rate of construction accidents is going up more than two and a half times that increased rate, which is saying that we're not doing enough as a city to enforce safety, ensure that a worker leaving their home and going to work will return safe, and that even on some sites as the gentleman in the middle said, that workers are taking injured employees to the hospitals to avoid an ambulance coming to a construction site. If you're willing to say who that employer is or provide the committee more information, that is extremely troubling.

JAMES BIFULCO: Thomas Oringer [sp?] has been fined over 300,000 dollars by the Department of Buildings and OSHA, and he still has 11 cranes in the air. He's had two crane accidents. It just goes on and on. Flagrant violators, they just pay the fine, go back to work.

CARROL TURNER: And the worker that I mentioned his name is Joshua Maltez [sp?] and this

happened on 27 Albany Avenue in Brooklyn, and the contractor was Urban Erector, the same Oringer affiliated company. We have US Crane and Urban Erectors New York is the same family, only different names for different part of their company.

JAMES BIFULCO: So what happens also is they get fined today under their current company, and tomorrow they open up with a different company and continue to do process like nothing happened.

CARROL TURNER: And that happens a lot, believe me. But this is couple years ago, like six, seven years ago. I got injured on job twice, and I was taken by the foreman in his car to the hospital to get my hand look after. I mean, all the time, all the time with this company, and the next thing that they does, they will take the registration plate or the license plate from one crane, put to the next, put on the next crane, drive it to a job site and use that crane on their [sic] like it [sic] for the permit. They will get the permit for one crane, and then they use it with the next crane, which is dangerous because you may have the permit for a 200 ton crane, then they going to use that same permit for a 400 ton crane on job sites. And I want to know

if what like DOB or the Transportation--yes, sometimes some of the gentleman that comes on the job site, they oversee what they been doing, and they will give them a fine, but 75, 80 percent of the time they get away with the same thing over and over again.

COUNCIL MEMBER CROWLEY: Alright, so the employer is US Crane, Thomas Oringer?

CARROL TURNER: Yes, Thomas Oringer.

COUNCIL MEMBER CROWLEY: I will make sure that we contact the Department of Buildings and work together to do what we can to stop this employer from doing work at the City of New York.

CHAIRPERSON WILLIAMS: I don't have any further questions, but thank you very much for your testimony, and I think you've testified a couple times, correct?

CARROL TURNER: Yes, yes.

CHAIRPERSON WILLIAMS: Thank you for--

CARROL TURNER: I think I have some paper words for you also, but my coordinator, I think he with the researcher is going through them. So when we finish you will get them in time.

CHAIRPERSON WILLIAMS: Thank you so much for repeatedly coming and giving us personal face here, and thank you so much for all of your testimony. We have Ronald Lauria, Michael Odenthal, Thomas Gordon, and Allen Wright followed by Michael Halpern [sp?], Build Up New York, Juan Hoy, Build Up New York, Dave Ramsey [sp?], Build Up New York, and Tamara Brummer, Build Up New York. They will be immediately following this panel here. Can you each raise your right hand, please? Thank you. Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions?

UNIDENTIFIED: I do.

CHAIRPERSON WILLIAMS: Thank you. You can begin in order of your preference.

RONALD LAURIA: I'd like to bring up something I thought was very ironic as I was listening to the previous testimonies. We live in a city that if they find a fly on the wall in a Chinese restaurant--

CHAIRPERSON WILLIAMS: [interposing] Can you say your name for the record?

RONALD LAURIA: I apologize. My name is Ronald Lauria. I live in Staten Island, and I'm a proud member of Local 28 Sheet Metal Workers. As I was saying, we live in a city where if there's a fly on the wall in a local restaurant, it gets a B rating, and people are really discouraged from entering that establishment. Yet, the members of the Building Trades and non-union workers are not really warned or protected from the fact that they might be working on a site where somebody may have been maimed, dismembered or killed due to criminal activity, and this is what we endure as tradespeople on a daily basis. In the beginning of these hearings, Mr. Williams stated that the focus should not be entirely on the union/non-union issue, but something else that stuck in my mind is that the Commissioner mentioned that he wanted to use education as part of his way to fix the problem. This directly ties undeniably and directly ties the union issue to the safety issue because the members of the Building Trades are trained and educated in site safety issues. And Councilwoman Crowley said it not too long ago, numbers don't lie, and the numbers do state that union labor is far safer, and the

concern here on the part of the Department of Buildings and the Council should be the safety of your constituents and the people of this city, mainly the construction workers on site. Since education is linked to it and we are educated on those site safety issues, I think we should actually pay more attention to that. As far as one other way we can approach this is that I would urge the New York City Council to work with the State Assembly members and the State Senate members in their districts and beyond to alter the 421A tax abatement, which has awarded well over one billion dollars annually to developers in this city who are making money hand over fist. One amendment to that stipulation, which is supposed to take place very shortly, there should be a stipulation that the safest most professional workforce should be utilized on sites in this city, on their sites where they're getting our tax payer dollars, every bit of your tax payer dollars, the members of the Council, and everyone sitting behind me. Your tax payer dollars are going towards these developers so they can enrich themselves off the backs of a lot of non-union labor working on the safe conditions. This is something a lot of people are

not aware of and they should be aware of. Also, something else I would urge the Department of Buildings to do is to really put that correlation between union and safety together. As I mentioned before, they are undeniably--

CHAIRPERSON WILLIAMS: [interposing]
Going to have ask you to wrap up.

RONALD LAURIA: I'm sorry?

CHAIRPERSON WILLIAMS: Your time is up, so I'm going to ask you--

RONALD LAURIA: [interposing] Okay. they are undeniably tied together, and I urge the Department of Buildings to go to the Mayor with these facts and not dress them up and deny that--the Department of Buildings, the Commissioner himself said he didn't know what site were union or non-union. I find that very hard to believe after 23 years in this business.

CHAIRPERSON WILLIAMS: Thank you.

MICHAEL ODENTHAL: Good afternoon. My name is Michael Odenthal. I'm with the New York City District Council of Carpenters Area Standards Department. Good afternoon. Thank you, Chair Williams and all the Council Members present for

allowing me to speak today. I'm here representing the New York City District Council of Carpenters, representative--

CHAIRPERSON WILLIAMS: [interposing] Can you bring the mic closer to you?

MICHAEL ODENTHAL: Yeah, okay. A representative body comprised of eight individual locals and over 23,000 members. I am speaking today on an issue of great importance to the New York District Council and to all New York City construction workers. Construction worker safety is often in the headlines of the news of fatalities on job sites across the city, yet little has been done to prevent the occurrence of future tragedies. The 2015 NYCOSH report on construction fatalities, "The Price of Life," 2015 report on construction fatalities in New York City details the pervasive nature of the problem. The report sites that statistics, that two-thirds of OSHA construction inspections detect violations. These citations which were for the period of 2010 to 2012 were for serious violations. The report goes on to state that 2012, 79 percent of all OSHA investigated falls from elevation occurred on non-union job sites. The

1 statistics become even more alarming when the report
2 highlights the practices of the New York City
3 Department of Housing, Preservation and Development.
4 Eighty-nine percent of contractors on HPD's enhanced
5 review list that are presently working on affordable
6 housing projects have OSHA violations. This is of
7 particular concern as HPD will be overseeing and
8 implementing the Mayor's Affordable Housing Plan, the
9 plan which calls for 80,000 new units will spur the
10 significant construction making it imperative that
11 workers building these units are properly trained.
12 New York City desperately needs affordable housing,
13 but the housing should be not--should not be built
14 with the exploited workforce. City sanctioned
15 affordable housing should demand workers receive
16 proper training as well as receive wages that are
17 family sustaining. Work should never be subjected to
18 a potentially hazard workplace, particularly not when
19 the work is being sanctioned and overseen by the City
20 of New York. The NYCOSH report references the city's
21 past failures to protect workers on affordable
22 housing sites. The report cites for one instance
23 where a contractor was forced to pay 600,000 dollars
24 in back wages to workers. Too often the workers who
25

1 will be taxed with building the affordable housing
2 are forgotten. Our elected officials must protect
3 the construction workers on these projects. The plan
4 offers an opportunity to create good jobs for the
5 community, but we put--take that path and not pursue
6 the path that has been the norm. Construction is an
7 inherently dangerous occupation, but steps can be
8 taken to ensure workers are in the safest possible
9 environment. The Mayor's plan should not be realized
10 by ignoring workers' safety. These conditions on
11 these jobs should no longer be kept in the shadows.
12 We must understand that the problems associated with
13 construction on affordable housing, and we must work
14 to correct it. The workers who build affordable
15 housing have the same hope we all do, the hope in
16 safety that they return home to their families each
17 night.

19 ALLEN WRIGHT: Good afternoon. My name
20 is Allen Wright. I'm the Director of Industry
21 Advancement for IUOE Local 14, the Crane Operators of
22 New York. Good afternoon, Chairman Williams and the
23 members of the committee. Let me begin by thanking
24 you for conducting this hearing on construction
25 safety. Too often as we engage in the ongoing luxury

affordable housing debate we lose sight of a simple fact. Whether you are building a mile high or 100 million dollar condo overlooking Central Park or a four-story rental building in Ridgewood, it is dangerous and deadly work. According to a report in April 13th edition of Cranes, there was a 50 percent increase in the number of construction related accidents between 2013 and 2014, and in the first few months of this year we have already surpassed eight construction related deaths recording all of 2014. In the past two months alone two construction workers and a 37 year old woman lost their lives either working or simply walking past a construction site. The woman, Tina Nugent [sp?], was killed when she was struck by a windblown plywood panel from a nearby construction site in mid-March. Last month, on Friday, April 24th, Trevor Loftis [sp?], a subcontractor on a non-union work site, Mentau [sp?], was killed when a small crane malfunctioned during a lift. Loftis not only owned the crane, he owned the subcontract company and he was the safety coordinator at the site. Incidentally, his company can recontract and had previously been fined more than 20,000 dollars for serious OSHA violations. Just last

Tuesday, a construction worker, Christian Ginesi, 25, fell 24 stories down an elevator shaft while working on another non-union construction site on 47th Street. The general contractor is New Jersey based Renaldi [sp?] Group. The Renaldi Group has been hit with more than 16,000 dollars in OSHA fines and penalties, and according to published reports, those fines and penalties remain unpaid. That these recent tragedies took place on non-union work sites is not a coincidence. According to OSHA's recent report on construction safety in New York City, 75 percent of all construction fatalities occurred at non-union work sites and half involve immigrants and those who speak a language other than English. I've included a copy of the OSHA presentation, New York City 2014 Construction Safety, with my written testimony. For all of OSHA's and NYCOSH's troubled findings, the only investigate and report on worker and work site incidents. As we have seen in the case of Ms. Nugent in New York City's unique urban environment, anyone and everyone in or around any construction site are at risk. This is especially true in and around high rise construction crane operations. The most effective way of protecting the tens of millions of

1 New Yorkers, tourists and commuters who walk the
2 streets of our cities every day is to pass Intro 299,
3 legislation that became necessary when the Bloomberg
4 Administration bypassed the city charter to change
5 New York's longstanding strict regulations to adopt a
6 national standard under OSHA. Then Building
7 Commissioner, Robert Lemandry [sp?], argued that a
8 national standard would make for safer crane
9 operation. The reality is that the Department of
10 Buildings took control of crane testing from the
11 Department of City Environment Administration
12 Services. It was determined that they did not want
13 to test. The OSHA standard provided an easy way out
14 of the testing business. Well, Mayor Bloomberg, you
15 were wrong. Meanwhile, we sit here today and New
16 York City crane license requirements are based on a
17 standard that does not exist. How safe is that?
18 That is why we are urging this City Council to pass
19 299 and to restore DCAS oversight in testing for
20 crane operation. Local 14, we--

22 CHAIRPERSON WILLIAMS: [interposing] Got
23 to ask you to wrap up.

24 ALLEN WRIGHT: I'm wrapping up. Local 14
25 has currently opened a state of the art training

center in Westchester where in fact New York City has already conducted crane license examinations. Over the course of the past century, New York City developed and defined the most stringent standards and controls of crane operations in the nation only to walk away from in 2012. We must restore those standards. We must one again give New York City control of the crane operations. It is the only way to protect our workers, our work sites and all New Yorkers.

CHAIRPERSON WILLIAMS: Alright, thank you.

[applause]

CHAIRPERSON WILLIAMS: So, did we miss someone? All four of you signed up. Okay, alright. Well, I want to thank you very much all for your testimony today. I don't know if we have any questions.

COUNCIL MEMBER CROWLEY: The company that was mentioned before, Cranes in the Name [sic], are they doing--are you familiar with them?

ALLEN WRIGHT: Yes.

COUNCIL MEMBER CROWLEY: And are you hearing the same thing that they have people working

or they have people operating cranes and rigging without real licenses?

ALLEN WRIGHT: They currently have New York City licenses, but what it is, a lot of these people are not from--they're very few and far between. And in accidents that have happened is because of the lax new standards that are in place. Right now, the way the license was set up, you had to have three years of experience under a licensed crane operator. They have made moves to remove that. Experience is something that you cannot test for. Experience is something that you have to have. That's why we are here today to urge to go back to the way that things were, because I'm not just a representative, I'm also a person that holds a New York City license and also a person who had to go through those different circumstances. There's certain things that you cannot test for that you have live through it. There are certain things that are intrinsically only here in New York City, our density, the closeness of the buildings, the number of sky scrapers we have. There is no city that has a comparable urban density, Chicago, LA, none of them. Those cities--in Midtown alone we have more sky

scrapers than any of those places. So there's no one that can come here and do the work that we do.

COUNCIL MEMBER CROWLEY: I agree. We're very unique in those circumstances with our vertical city. But now I hear that these crane operators are given what they're called "tear-offs" or those that are licensed to rig too. Are you familiar with "tear-offs?" It's like somebody has the master license and then they're giving somebody their license to operate with them.

ALLEN WRIGHT: The Company like to say for an example, Tower Rigging, they could give a tear-off to jump the crane. The Master Rigger does that.

COUNCIL MEMBER CROWLEY: The Master Rigger has to be there?

ALLEN WRIGHT: It depends. Sometimes if they're jumping the crane, they could give a tear-off.

COUNCIL MEMBER CROWLEY: Because the company that--US Crane, that they were talking about in the earlier panel, they said that they give these tear-offs to a very many amount of people, and that

they're doing a lot of work without a Master Rigger around or crane operators.

THOMAS GORDON: I don't have any personal knowledge of what they've done. The tear-offs are in existence for the riggers. There's no tear-off for a crane operator.

COUNCIL MEMBER CROWLEY: No. So the only person who can operate that crane is a crane operator?

THOMAS GORDON: Yes.

ALLEN WRIGHT: That's correct.

THOMAS GORDON: Yes, a licensed operator. There is no tear-off for a crane operator.

COUNCIL MEMBER CROWLEY: But the tear-off is common with the rigor.

THOMAS GORDON: I don't have a rigger's license, so I'm really not sure about how often that would be done. You know, I wouldn't be able to really give you a positive answer about that.

COUNCIL MEMBER CROWLEY: Okay. Thank you. I have no further questions. I'm going to call up the next panel. Thank you all. We have Tamara Brummer from NYC Build Up NYC. We have Michael Halpern from NYC Build Up NYC, Juan Hoy from NYC

Build Up NYC, and Dave Ramsey from Build Up NYC as well.

TAMARA BRUMMER: Good afternoon, Council Members, and thank you for the opportunity to testify before you today and thank you for holding a hearing on construction safety. My name is Tamara Brummer and I'm here representing Build Up New York City, a campaign fighting for safe, good jobs for construction workers, hotel workers as well as cleaning maintenance and security workers. We're here with other groups today who are standing up for those workers who don't have the opportunity to work for responsible employers who provide the necessary training and safety equipment or a voice in the workplace. As you have heard--as you will hear from our testimonies today, construction work is one of the most dangerous jobs there is. Construction workers disproportionately make up the workplace fatalities in New York City. In 2012, according to OSHA statistics, 75 percent of all workplace fatalities were construction related, 72 percent were construction sites where employers did not participate in state approved training or apprenticeship programs, and 52 percent of those

fatalities involved immigrant workers or non-English speaking workers. As Build Up, we are proud of our successes and we're reaching agreements with developers at the Empire Outlets on Staten Island and Astoria Cove in Queens that will result in good jobs with employers that participate in state approved training and apprenticeship programs, but our work is not done. Brooklyn Bridge Park is a good example that really highlights the issues that we've been talking about today. At the Peer House Joint Venture Project of Starwood [sp?] Capital and Toll [sp?] Brothers is being built by an irresponsible contractor. Department of Buildings has shut down this site on numerous occasions due to safety violations on the job and even a judge has issued a temporary restraining order stopping further construction on the site because the developers are building higher than the plans filed that the Department of Buildings allowed. Including in the packets that we provide with you all today are three reports that really highlight the impact of unsafe work conditions in the construction industry. Construction accidents and fatalities not only take a human toll, but also impose cost on the economy. The

advocacy group, Public Citizen, issued a report in November of 2013 called "The Price of Inaction, the Cost of Unsafe Construction in New York City." They found the cost to the New York City economy of construction fatalities was 186.3 million dollars for 2011 and 2012. A recent OSHA report called "Addition [sic] Inequality to Injury," which is also included in your packet, specifically addresses the problem of the cost of misclassification of workers in the construction industry. Finally, the Center for Popular Democracy issued in 2013 a report titled, "Fatal Inequality, Workplace Safety Alludes Construction Workers of Color in New York State," which focuses on the disproportionate share of construction accidents on Latino immigrant workers. Finally, we want to leave you with this. New York City provides millions of dollars each year to real estate developers in the form of subsidies, tax breaks and other benefits. Yet, there is no requirement that the developer creates safe jobs. We urge the council and the Administration to ensure that any developer who receives public benefits be required to use contractors and subcontractors who

participate in state approved training and apprenticeship programs. Thank you.

DAVE RAMSEY: Thank you. Thank you, Council Members for having us here today. My name is Dave Ramsey. I'm a painter by trade and a Navy veteran. I'm here on behalf of Build Up New York City, an alliance of more than 200,000 hardworking men and women committed to good jobs and responsible development in New York City. I'm an activist with Build Up because I believe all workers should have safe jobs and good jobs. There is construction site just a few blocks from where I live where there have been too many accidents. Starwood [sic] Capital Group and Toll Brothers are building a luxury residential apartment building in Brooklyn Bridge Park called the Peer House. I'm concerned because 10 stop work orders have been issued by the Department of Buildings for site safety violations in addition to fines since the shovel first went in the ground. Workers have been injured and no one seems to do anything about it. Just some weeks ago, the concrete contractor at the Peer House, Trevor Loftis of Kenry [sp?] Contracting, died in an unrelated Midtown crane accident. He was crushed to death by a crane while

checking a mechanical malfunction, and an accident that took place in the Peer House on October 23rd, 2014 where the worker claims to be permanently injured has resulted in pending litigation before New York City, New York--excuse me, New York County Supreme Court alleging negligence on behalf of the Brooklyn Bridge Park Corporation and Hudson Meridian, their General Contractor. I have testified before the Brooklyn Bridge Park Corporation for, excuse me, for two years now about their lack of transparency and their failure to provide oversight at the construction of the Peer House. We ask that the Council and the Mayor's Administration stand up for these workers and my community. The Brooklyn Bridge Park Corporation continues to deny construction site--this construction site much needed oversight. We cannot wait for another stop work order to be issued or another worker to be seriously injured before the city of New York intervenes. Thank you very much.

JUAN HOY: Good afternoon, Committee Members. My name is Juan Hoy and I'm an elevator constructor. Thanks to the training I received from my apprenticeship program at Local One I am here today to testify before you. In June 2010 I was

1 working on One World Trade Center when I fell from
2 the 54th floor. I was fortunate, as part of my
3 apprenticeship training, I learned how to properly
4 use my safety harness and how to hook it up. Due to
5 the fact that I work for a responsible employer, I
6 have been issued this equipment free of charge. Many
7 workers are not so fortunate. As I dangled over an
8 open shaft-way, I was dazed and stunned from the
9 fall. My awareness of the potential hazard and
10 training I have received prevented that from being a
11 fatal fall. As my co-workers pulled me out of the
12 hoist-way to safety, I was grateful that I would go
13 home to my family that night. I would not be a
14 newspaper article or fatal statistic. I had been
15 trained. I brought my safety equipment here today so
16 you could see for yourself those of us who work for
17 responsible employers get this equipment free. This
18 is the harness that saved my life. It was strapped to
19 a lanyard that is strapped to a cable that we have in
20 all of the shafts, one person per shaft, one person
21 per harness. Another thing that my apprenticeship
22 training through the national elevator industry
23 educational program taught me was, if I was stuck on
24 a platform or on top of a car, do not try to jump to
25

the nearest floor. Wait, and help will arrive. Had Christian Ginesi been trained, he would have known to do this, and he still may have been here with us today. On October 24th, 2013, an article ran in the New York Daily News highlighting a report that stated while 41 percent of all construction workers in the city identify themselves as Latino, 47 percent of construction fatality victims are Latino. The article then goes on to say that contractors do not take the same simple steps to protect their workers. My life was saved by my apprenticeship program and my equipment. Workers exposed to the same conditions and hazards should all receive the same training. The training that I received could have saved the life of Christian Ginesi last Tuesday. I would be happy to answer any questions you have.

MICHAEL HALPERN: Good afternoon, Mr. Chairman, Council Members. My name's Mike Halpern and I'm here today representing the International Union of Elevator Constructors, Local Number One, and I'm here today to tell you that first off, I'm a 25 year elevator mechanic. I've done construction repair, maintenance, etcetera before taking the position I currently hold. I'm here to tell you that

the death of Christian Ginesi was preventable, and the New York City Department of Buildings and the Real Estate Board of New York stand in the way of measures that would make this accident less likely, far less likely. Accidents like Christian's are not only tragic, but they're infuriating. In June of 2011, State Assembly Member Keith Wright [sp?] introduced the Elevator Safety Bill. The bill calls for education and training leading to the license of people working on an elevator in New York State, training equal to what Juan had. As it stands now, if I were an elevator contractor I could hire anyone in this room today and make them a mechanic and send them to a job site to work alone. That's the way it stands now. Presently, 35 states in the United States have legislation similar to that of Assembly Member Wright's where education and training is providing leading to a mechanic's license. Yet, there is none in New York State. As a result, the bad actors are crossing the Hudson River and coming into New York. It's almost like one of the last bastions. According to New York Fire Department statistics, there's been 160 percent increase over a five year period in the number of people that they

1 have rescued from elevators. Without the necessary
2 high standards and licensing, we will continue to
3 have contractors with a tainted history building and
4 servicing elevators around the state. Another
5 symptom of this problem is not only--you know,
6 there's bad elevator erections done leading to
7 service problems down the road, which effect the
8 general public at large. Unfortunately, the New York
9 City Department of Buildings and REBNY have
10 repeatedly opposed this life-saving legislation. Both
11 have asked for more time to identify other ways to
12 strengthen training standards, yet there is no
13 proposed legislation and the clock has run out. The
14 clock has tragically run out on Christian Ginesi.
15 The clock has tragically run out on Jaris
16 Lormachaglic [sp?]. He was a super worker in a
17 building and his employer was a REBNY member, and he
18 tragically fell to his death while working on an
19 elevator without training. Attached to my testimony
20 is a copy of a daily news article from Friday in
21 which Christian's friend tell of Christian's thoughts
22 on his new job. To quote the article, "Christian
23 spoke of his new job. It's not like the Air Force.
24 It's not safe out here." A very strong action at the
25

1 New York City Council could do today to increase
2 safety in the construction is to pass a resolution to
3 support A1787 and S1945, the New York State Elevator
4 Safety Bill. In closing, I would like to say that
5 Local One participates in a program through the New
6 York City Building and Construction Trades called
7 "Helmets to Hardhats." Christian Ginesi was a Air
8 Force veteran returning, and this program places
9 returning veterans into state approved apprenticeship
10 programs in the Building Trades. Local One is proud
11 to have placed more than 130 veterans into our
12 apprenticeship through this program, and it's a shame
13 that we hadn't heard of Christian Ginesi before last
14 week. And also in your packet there is two websites
15 I give you. One is where you can watch a couple of
16 videos about how the leg--the proposed state
17 legislation works and why we need it. It's elevator
18 mechanics from around the state and the area talking
19 about the safety--

21 CHAIRPERSON WILLIAMS: [interposing] I'm
22 going to have to ask you to wrap up. You can wrap
23 up.

MICHAEL HALPERN: Yeah, and the other video is Assembly Member Wright on the news talking about his legislation.

CHAIRPERSON WILLIAMS: Thank you very much. I thank you for pointing out that Christian Ginesi was a veteran. I hadn't heard that. He deserved, obviously to get all the credit that he deserves for his service to our community and obviously it was a fatal and horrific accident. But thank you very much for your testimony that you've given us today. Council Member, do you have any questions?

COUNCIL MEMBER CROWLEY: Just one for Mr. Halpern. I am curious to know why the city cannot legislate that, why they have to wait for the state. I mean, we license electrical contractors. We license plumbing, plumbers. Why can't we--

MICHAEL HALPERN: [interposing]
Basically, what the legislation calls for is both an individual license and a contractor's license. You know, so a mechanic would need to be licensed to be in the hoist-way. And our experience with the city, like they license elevator inspectors, but it takes forever to get from the finish line of doing your

requirements to get to the license. The background check takes a really long time, and the Department of Buildings has somewhat stated that they're challenged to produce a license in this area.

COUNCIL MEMBER CROWLEY: So, today, in the City of New York, you could install and build an elevator without a license?

MICHAEL HALPERN: Correct.

COUNCIL MEMBER CROWLEY: That's very dangerous.

MICHAEL HALPERN: Correct. You could do it tomorrow. You could--

COUNCIL MEMBER CROWLEY: I don't want to do it tomorrow. But I will work with you if somebody hasn't introduced the resolution in support and see and possibly the Chair is interested too in furthering a piece of legislation to protect workers and just to protect New Yorkers from faulty elevators being installed and from the dangerous conditions that come with installing and operating.

MICHAEL HALPERN: I appreciate that, and New York City experienced a first in US history this year, and that is the conviction and incarceration of an untrained elevator mechanic who was involved in an

1 accident in 2010 in Down State Medical Center where a
2 woman was severely injured. Fortunately, it happened
3 in a hospital. If the accident didn't happen in a
4 hospital, she would be deceased instead of being
5 confined to a wheel chair. Education and training
6 could have prevented that accident as well, and you
7 know, instead of incarceration, perhaps we could
8 educate and train.
9

10 TAMARA BRUMMER: May I add something real
11 quick? I think that what we all been talking about
12 today, which is very important, is like how we can
13 work with the DOB on making things better in the
14 industry, but it doesn't seem that anyone from the
15 DOB is still here, and I understand that their
16 schedules are tight just like everyone else's, but
17 for us, it's critical to have this conversation,
18 right, in a forum where everyone can have a voice and
19 have a say. And so while we're here we have our
20 members here talking about what's important to them,
21 about the safety, the health and safety of their
22 jobs, and the Department that can help do that is no
23 longer here. It feels problematic, right?

24 CHAIRPERSON WILLIAMS: I'm absolutely
25 disappointed that they're not here. They usually

1 have someone stay to hear the rest of the testimony,
2 so I'm actually having my staff text them now to
3 figure out why they did not remain to hear the rest
4 of the testimony. So that, in my case, is not really
5 acceptable. Someone should be here from the DOB. I
6 just wanted to understand, which sounds crazy to me
7 that you can install an elevator without having a
8 license, but if that's the case why was that--another
9 case you're talking about, why was that gentleman
10 held criminally responsible?

12 MICHAEL HALPERN: They called it--I
13 believe he got caught on the charge with some type of
14 negligence. I'll dig up the newspaper article and
15 I'll send it to you.

16 CHAIRPERSON WILLIAMS: And even though
17 there's issues with the DOB licensing structure, I
18 guess, wouldn't it be better for us to pass something
19 so that you at least have a--at least you have to
20 have a license to do elevator work as opposed to
21 waiting for the state to pass it?

22 MICHAEL HALPERN: I believe if New York
23 City were to lift--that the New York City DOB was set
24 to lift its opposition to this legislation, we'd be
25 okay.

CHAIRPERSON WILLIAMS: Okay.

MICHAEL HALPERN: Last year we had co-sponsorship by two-thirds of the Senate Chamber, and yet the bill did not get to the center floor. It passes the Assembly every year.

CHAIRPERSON WILLIAMS: Well, can you give the information when you come off. My staff member, Nick Smith, over there, and I want to take a look at what the bill is, see if it's something we can do here.

MICHAEL HALPERN: Thank you very much. There's a copy of the bill in your package, and I will mail you more information.

CHAIRPERSON WILLIAMS: Okay. Thank you very much for your testimony. I appreciate it. We have the last panel, last four people who will be testifying based on the cards that were filled out, Marco Alcozar, Build Up NYC, Carole Raftry [sp?], Build Up NYC, Ligia or Legea [sp?] Guallpa, Workers' Justice Project, and Marco--oh, and his translator, Jessica Ramos.

MARCO ALCOZAR: [speaking Spanish]

CHAIRPERSON WILLIAMS: [interposing] One second. One second, sir.

MARCO ALCOZAR: Okay.

CHAIRPERSON WILLIAMS: Can you all raise your right hand, please? Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions? And you can begin at your preference.

MARCO ALCOZAR: [speaking Spanish]

TRANSLATOR: Good afternoon, Council Members and thank you for the opportunity to talk about construction safety today. My name is Marco Alcozar and I am one of the laborers currently working on repairs to City Hall. You may have all noticed coming in that there is scaffolding outside. We're working to keep City Hall beautiful and most importantly a safe structure for all New Yorkers to visit. I enjoy seeing our Council Members and our Mayor come to work every day, and I am proud that my skills and the care I put into my work are being used to preserve such a historic building. Today I am testifying as an activist with Build Up NYC, and organization that brings construction workers together with building and hotel workers. We often get a chance to exchange stories and talk about the

1 importance of training and apprenticeship programs
2 made available to us in our different fields. I've
3 been a member of Laborers Local 79 for 19 years now,
4 but I used to work non-union before then. I can tell
5 you many stories about old friends who lost hands and
6 even eyes because of the lack of training on non-
7 union construction sites. I was lucky to have
8 brought with me some construction experience from
9 Ecuador, because training there was simply watching
10 your friend do the work, and if you happened to have
11 a small accident, it was best to hide it or risk
12 being sent home unpaid. One time we were doing
13 demolition of a building's interior and one of my co-
14 workers was knocking down a wall. When you do this,
15 the wall is supposed to fall away from you. Instead,
16 the wall fell on top of him. We rushed over to help
17 him with what little first aid skills we had. No one
18 called an ambulance. He was back to work two days
19 later as if nothing happened. We don't know if he
20 needed further medical care or therapy because he
21 didn't have access to medical insurance. This
22 accident, I believe, could have been prevented had
23 these workers been provided with training and
24 employers who are held accountable to safety
25

standards and comply with the law. Accidents happen, but only training can ensure everything is being done to prevent a disaster. We have to find a way to keep unscrupulous and callous employers from continuing to get work. We must continue to raise the bar in our industry. Thanks again for giving me the opportunity to speak today.

CAROLE RAFTRY: Good afternoon, Council Members. My name's Carole Rafttry. I'm here to testify as an activist for Build Up New York City, a collation of construction, building and hotel maintenance and operator workers fighting for responsible development. Real estate developers and contractors are in a race to the bottom, cutting corners on safety practices to save time and money, or so they think so. In reality, building safely the first time can ensure buildings go up on schedule, less maintenance and repairs needed over time. I have been a stone derrickmen [sic] for 21 years and an instructor at a training center for five. Stone derrickmen are workers who install exteriors facades of stone on buildings of all sizes across the city. Our work involves precise calculations of weights and safe operations of cranes and rigging. I grew up

looking up to my father, a stone derrickmen himself who worked hard to give me and my siblings a good middle class life. I studied communications at SUNY New Falls [sic] and I had trouble finding a job when I came home. My father's union happened to be recruiting for a new apprenticeship class, and much to his dismay I applied and joined the union. I started working with my dad. He instilled in me the importance of working well and working safe. He inspired me to become an instructor, and now, nearly 100 apprentices later I am director of our training school. I started working two weeks ago on one of my apprentices shared with me an experience he had over the winter. He was working on the edge of a building when he slipped on the ice and fell off into his harness. He had told me as he stepped out onto the icy ledge he thought of me nagging him about safety and he secured his harness to the building. Saving that one life makes all the extra training we do in our apprenticeship program worth every minute. We teach our apprentices how to operate equipment we use, but the most important part of our job is math. Stone derrickmen must have an understanding of physics and how to work within safe limits of weights

1 and calculations much of our chosen equipment can
2 lift. If we're off, someone can get hurt or die.
3 This is in the case with most of our other building
4 and construction trades. As construction workers, we
5 must feel confident on the job site every day that we
6 know that we're doing and that we are doing it
7 safely. We depend on our skill and our training to
8 make it home to our families every single night. The
9 public unknowingly depends on our training too, very
10 much for the same reasons. Every single construction
11 workers deserves access to an apprenticeship and
12 training program that not only provides them with the
13 skills to do their jobs safely, but also provides a
14 career in opportunities for advancement. That's how
15 we can rebuilt the American middle class. Thank you
16 for your time.

18 LIGIA GUALLPA: Good afternoon, Chairman.

19 Well, thank you for the opportunity to testify. My
20 name is Ligia Guallpa, and I am the Executive
21 Director of the Workers' Justice Project. We are an
22 organization dedicated to win better working
23 conditions for day laborers, immigrant Latino
24 construction workers and domestic workers, and our
25 work actually initiated as a response to the

exploitative labor practices that are committed against Latino immigrant workers, especially day laborers who operate in an underground economy in our city. So, today, I'll focus primarily on experience and work with day laborers and immigrant Latino workers who build our city, who are actually building our city without protection and representation. So, every day, as an organization we have witnessed how working fathers, sons and grandparents get injured while laboring in construction and many times are forced to put their lives on the line to bring home a paycheck. For instance, Vidal Sanchez Roman [sp?], who lives and works in our community actually died recently earlier in last month after falling from a six story commercial building owned by Neptune Group, LLC, in Brighton Beach, Brooklyn. Vidal Sanchez is one of the many working fathers whose lives were stolen from us by unscrupulous employers who put the price line--who put a price on their lives. Many other workers actually get injured also because as it was mentioned employers refuse to provide training, basic protective equipment and implement safety measure. And the reason I'm here is because this is an important issue for my community and the

1 constituency we organize, and it's important to, as a
2 city, to actually implement stronger safety standards
3 in the work place and to hold employers accountable
4 for putting the lives of working fathers on the line.
5 So, as part of our organizing work with day laborers
6 and immigrant workers, recently two years ago we--
7 based on the lack of OSHA inspectors and inspections
8 in the work sites, we implemented a new program
9 called Safety Liaison [sic] which actually trains
10 worker leaders within our organization to monitor
11 safety standards through the Day Labor Center and
12 also educate more workers on health and safety, and
13 we provide OSHA 10. Just last year we trained 300
14 day laborers in OSHA 10, which is the most basic
15 health and safety equipment for construction workers.
16 And actually, through the Day Labor Center we also
17 engage 50 employers that we mandated for them to
18 provide basic protective equipment and actually
19 change some of the ways that we're actually making
20 workers work. So, however, this is not enough. New
21 York City actually has about eight to 10,000 day
22 laborers in New York City who experience wage theft
23 and actually face pervasive construction accidents,
24 work hazards, and a lot of times they lack training
25

in workforce development opportunities. And also infrastructures to organize, which is a topic that we can discuss in another hearing. So, we believe our city can take serious steps to prevent more deaths and injuries. We must be criminalizing employers--

CHAIRPERSON WILLIAMS: [interposing] I'm going to have to ask you to wrap up.

LIGIA GUALLOPA: Okay. So, in addition, I just wanted to mention that for us it's important also to receive the City Council support for the Day Laborer Workforce Initiative by allocating 365,000 dollars. How--why this is so important? We believe that the Day Laborer Centers play the important role in also organizing non-union workers. SO funding those Day Laborer Centers is an opportunity to engaging workers to actually provide more training, but at the same time we're monitoring work sites, especially in a small private union. So, I hope that we can count with your support and also, I think it's important to figure out ways to hold these--

CHAIRPERSON WILLIAMS: [interposing] Going to have to--

LIGIA GUALLOPA: [interposing] employers accountable--

CHAIRPERSON WILLIAMS: [interposing] In the interest of fairness, ask you to wrap up.

LIGIA GUALLPA: Yeah, thank you.

CHAIRPERSON WILLIAMS: Thank you very much. Thank you all for your testimony today. I really appreciate it. I thank you for sticking around for so long. We had a long hearing, but I think it's an important issue. I don't think we got--we definitely need--we're going to have to have some more questions answered and probably do another hearing at some point based on what we heard. I did want to say we did hear from Patrick Wehle who is the Assistant Commissioner who is watching over the internet, and says he's getting some of the questions that we asked for answered. He did send some of those. So, I appreciate that Patrick. He's there and he is paying attention, obviously, because he wouldn't have been able to send the email after we shouted out that no one was here. So, thank you for that. Thank you again for your testimony. We appreciate it. For the record, we have a testimony from NYSAFA, Manhattan Borough President Gale Brewer, who was with me actually at the press conference

2 yesterday, and REBNY. With that, the hearing's now
3 closed.

4 [gavel]

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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 that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 26, 2015