

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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DONOVAN J. RICHARDS
Chairperson

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ERIC A. ULRICH
RORY I. LANCMAN
STEPHEN T. LEVIN

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Co-Sponsor; Intro 420

Council Member Helen Rosenthal
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A P P E A R E N C E S (CONTINUED)

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Sherry Simone
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Alexander Kippen
Parent
PS163

Menwall Casanova
Parent
PS75

2 [gavel]

3 CHAIRPERSON RICHARDS: Alright good
4 afternoon. I am Donovan Richards, Chair of the
5 Environmental Protection Committee and today the
6 committee will hold a hearing on Intro 421A, local
7 law to amend the administrative code of the city of
8 New York in relation through mitigation of
9 construction noise within 75 feet of schools. Noise
10 continues to be the number one quality of life
11 issue in New York City as evidence by the number of
12 3-1-1 noise complaints. Noise pollution causes a
13 variety of adverse human health impacts many of
14 which are related to noise induced stress including
15 hearing loss, hypertensia [phonetic], hypertension,
16 tachycardia, increased quotas are released, sleep
17 disruption and cognitive impairment. According to
18 the mayor's management report for fiscal year 2014
19 the New York City Department of Environmental
20 Agent, the Protection which is the lead agency
21 regulating noise in the city receive 45,584 noise
22 complaints in FY 2014. This represented a 26
23 percent increase relative to the previous year
24 FY2013. According to the MMR most of the increase
25 was due to a greater volume of noise complaints

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related to construction being performed before or after normal hours. While we understand the construction must take place numerous studies have found that noise can have a negative impact on children's cognition and education. 40 years ago a study of New York City elementary school students found that 2nd, 4th, and 6th grade students in classrooms exposed to an elevated train noise due to their proximity near nearby train tracks were behind the reading levels of students in quite classrooms by as much as one year. A follow-up study found that after rubber pads were installed on nearby train tracks then tiles were installed on ceilings to mitigate noise cutting DB in the noise classrooms by as much as eight decibels. No difference was found in the reading levels of students in the formerly noisy classrooms compared to the quiet ones. Another extensive study on the impact of road and airplane noise on children's cognoscente found that exposure to aircraft noise had a proportionately negative impact on reading comprehension. Other basic studies on the connection between noise and education have found that unwanted noise reduced human energy and

2 efficiency and can affect the mental and the
3 emotional health of teachers and students.
4 Children's performance on many classroom task vary
5 as a function of classroom noise level and 70
6 decibel of sound constituents... constitutes a noisy
7 classroom while 40 decibel would be the threshold
8 of a quiet classroom. Children are our most
9 precious resource. But without assuring that
10 suitable noise levels are present in areas close to
11 schools our children are being cheated out of their
12 right to a quality education. This bill amends
13 Section 24-220 of the administrative code by adding
14 a new subdivision which requires that noise
15 mitigation plans created for construction projects
16 provide that during school operating hours noise
17 shall not exceed 45 decibels in any receiving
18 classroom in any public or private preschool or
19 primary or secondary school located within 75 feet
20 from the construction site and that noise levels at
21 such schools shall be continuously monitored during
22 school operating hours protecting the environmental
23 quality in schools so that children can learn is a
24 paramount responsibility of this committee. Because
25 as it is said often children are our best

2 investment. Now we will hear from the sponsor of
3 this bill, a fighter from that... that place called
4 Manhattan or my good friend Council Member Mark
5 Levine.

6 COUNCIL MEMBER LEVINE: Thank you.

7 CHAIRPERSON RICHARDS: Sorry I don't
8 want to get in trouble. So we've been joined by the
9 public advocate of... of the city of New York. And I
10 sort of apply the same rule I apply with my wife
11 when she's around; you better let her speak first
12 or you'll be in trouble. So... so she's going to
13 defer here. Okay. Wow that's progress. We will now
14 hear from Council Member Mark Levine.

15 COUNCIL MEMBER LEVINE: Thank you so
16 much Chairman Richards. And thanks for all you've
17 done to bring this issue to light and of course...
18 make this hearing happening... happen today. I want
19 to remind our guests here that we have a custom at
20 the city council when we want to show approval we
21 go like this as opposed audible clapping just to
22 keep things running smoothly and respectfully. I
23 also want to acknowledge and thank our colleague
24 Helen Rosenthal who I don't think is here at the
25 moment but who serves as co-prime sponsor of this

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legislation Intro 420. It has been an incredible partner for all of us throughout this process. New York City is undergoing construction boom which is gaining momentum in every part of the city. It's an... there are more and more construction sites directly adjacent to our city's schools and not the projects there are ever larger in scale. By our count student... students at no fewer than 10 schools have had to suffer with adjacent... adjacent construction in recent years. One example is PS234 in Tribeca which faced construction of a 400 foot tower directly next to the school. Though thankfully an active group of parents there I was able to negotiate a robust sound mitigation plan before the project proceeded. Another example is PS 51 on 45th Street in Manhattan, a block which is undergoing a mini construction boom of its own where a number of large residential towers have emerged and are still emerging in recent years. And a new school was being built directly adjacent to the existing PS51. The result for kids at PS51 was headaches and nose bleeds and skin rashes. Thanks to very very strong organizing from the parents at that student body some of which I believe are here

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2 today. The school was ultimately moved temporarily
3 during construction. Now there's recent
4 construction near PS361 in each... each Flatbush
5 which not only generated chronic noise but even
6 caused the floor to shake and some of the
7 kindergarten classrooms. And the many many other
8 schools, some of which we'll hear from today which
9 have suffered similar threats. And there are others
10 today which are fighting off looming threats of
11 construction adjacent to them. One of which is PS75
12 on 96 Street and West End Avenue in Manhattan which
13 is facing construction of a 10 story addition to a
14 building directly across the street from the school
15 in what is already a very noisy and congested
16 intersection. And there's PS163 in my own district
17 and 97th Street between Columbus and Amsterdam
18 where a 20 story nursing home I slated to go up
19 just footsteps from the school. And each one of
20 these cases noise has disrupted or threatens to
21 disrupt the learning environment for our children.
22 The sound of jackhammers and cement trucks, the
23 banging of rivets, and even pile drivers in close
24 proximity to classrooms is an undeniable impediment
25 to learning. And it shouldn't only be those schools

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2 which have parents with the resources and influence
3 to fight back effectively which are protected from
4 these threats. We need a law in which applies to
5 all schools in New York City whether in wealthy or
6 low income areas to protect children of all
7 backgrounds. Unless you think this is a niche issue
8 which only affects a handful of schools here's a
9 stunning statistic. Data from the city's open data
10 portal shows that in 2014 there were no fewer than
11 880 individual schools located both within 100 feet
12 of a lot containing a building permit and within
13 100 feet of a noise complaint during school hours.
14 So this is truly a widespread threat which touches
15 not only every borough but most neighborhoods in
16 the city. And our bill seeks to protect countless
17 students from this threat to protect those who
18 stand to have their learning disrupted during
19 school hours by all this construction. By setting
20 limits for the level of construction noise heard
21 inside of classrooms. And with a maximum allowable
22 level of noise consistent with standards
23 recommended by the National Institute for
24 Occupational Safety and Health and by health
25 experts from Mt. Sinai Hospital... Mt. Sinai

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2 Hospital's Children Environmental Health Unit and
3 many many other sources and experts. I'm... I'm
4 excited to proceed with this hearing to hear from
5 families affected by this problem, to hear from our
6 friends in the construction industry, to hear from
7 our colleagues. I want to thank again Chair
8 Richards, Council Member Helen Rosenthal. I want to
9 particularly tank the many parents who have labored
10 over a period of years to bring this issue to
11 light. This is truly an example of a parent led
12 movement. You've galvanized the attention of the
13 city council and other leaders in the city and
14 that's enormously to your credit. And I also want
15 to thank my staff which has invested countless
16 hours in this important issue; particularly my
17 Chief of Staff Ilia Kiev [sp?], Legislative
18 Director Amy Slattery, Communication Director Tyro
19 Stevens and... and many others in my district office.
20 With that I'll pass it back to you Mr. Chair. Thank
21 you.

22 CHAIRPERSON RICHARDS: Thank you so much
23 Mark. And before we begin I just would like to
24 acknowledge... Oh he's still here... that we've been
25 joined by two of my colleagues on the environmental

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2 protection committee Council Member Rory Lancman
3 and also Council Member Costa Constantinides. And I
4 would also like to just acknowledge the counsel to
5 the committee who actually did a lot of work on
6 this bill; Samara Swanson who's done so much work
7 to ensure that the environment is better in the
8 city and also our analyst Mr. Bill Murray who's
9 also here as well. So with that being said we will
10 now call up the first panel. You will have three
11 minutes to testify. So I'm going to do something a
12 little different today. Normally I'll let the
13 administration come and speak first but we've been
14 joined by some doctors and we would like to hear
15 from them first today. So we'll start with Jennifer
16 Chase from Mt. Sinai Medical Center, Erica Brody
17 M.D., Doctor Lauren Zajar [phonetic], Zajac from
18 Mount Sinai and Doctor Jerold Side.

19 COMMITTEE COUNSEL SWANSON: Can you
20 please raise your right hand. Do you swear affirm
21 to tell the truth the whole truth and nothing but
22 the truth today?

23 DOCTOR HAYS: I do.

24 DOCTOR ZAJAC: I do.

25 DOCTOR BRODY: I do.

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COMMITTEE ON ENVIRONMENTAL PROTECTION

DOCTOR HAYS: Council Members yes my name is Doctor Thomas Hays and I appreciate the opportunity to speak before you today. My background is in Science and medicine. I have an MD and am currently completing my residency in pediatrics and I have a PHD in biomedical sciences. I'm here today to express my support for Intro 420 which would limit construction noise in schools. I believe that maintaining classrooms free of loud noises is a matter of common sense and one supported by science. In my experience as a scientist and as primary care provider to children most matters of health are matters of common sense. Simple steps such as routine vaccination, eating in moderation, seat belts, avoiding tobacco exposure are the foundation of good health. Similarly reducing noise from construction sites at schools that children can learn and grow is a matter of common sense. And that is a measure supported by science. Multiple studies as you mentioned have found that exposure to loud noise and classrooms is associated with... impairment. Specifically increasing ambient noise in classrooms above 45 decibels has been shown to directly coordinate with

2 delayed reading comprehension. A study of the
3 effective noise from airports found that children
4 were delayed by up to half a year compared to their
5 peers and quiet environments. Children with
6 developmental challenges such as autism and
7 inattention are particularly vulnerable to loud
8 noise but every child needs a relatively quiet
9 space to learn. I know that living in New York is
10 not always a serene experience. I don't think that
11 children need to attend schools free from any noise
12 but 420 proposes a sensible limit for classroom
13 noises as limiting noise pollution from
14 construction sites to 45 decibels. Thank you. These
15 measures are common sense and are supported by the
16 best available science. It is oft repeated but
17 children are our most precious resource and they
18 are our most vulnerable population. They need our
19 protection. As a physician and as a scientist I
20 whole heartedly support this bill. I thank you for
21 the opportunity to speak and I'd be happy to take
22 any questions.

23 CHAIRPERSON RICHARDS: Next.

24 DOCTOR ZAJAC: Good afternoon. Thank you
25 for this opportunity to testify in support of Intro

2 420. My name is Doctor Lauren Zajac and I'm a
3 pediatrician with special training in environmental
4 health. I work at the Children's Environmental
5 Health Center at Mount Sinai Hospital and I also am
6 the co-chair of our local American Academy of
7 Pediatrics Chapter Committee on Environmental
8 Health. At work I assist families from all across
9 New York City who are worried about how
10 environmental pollution is harming their child's
11 health. Over the past few years I have received
12 many calls from parents across New York City who
13 are concerned about the impacts of construction
14 projects near their child's school, especially the
15 impacts of air and noise pollution. And I've spent
16 many hours providing advice on how to minimize such
17 environmental health risks. A healthy school
18 environment including things like good air quality,
19 optimal nutrition, safety, and lighting, and low
20 levels of noise is important for successful
21 learning. And since children spend so much time at
22 school... about 12 hundred hours each year we must do
23 our best as a city to ensure a healthy environment
24 at all schools. While recognizing that the city is
25 full of sources of background noise like traffic

2 additional sources of noise like construction can
3 increase the background noise in a classroom for
4 many months at a time potentially for an entire
5 school year. Noise can interfere with a child's
6 ability to learn and communicate and can hurt their
7 concentration motivation memory and performance. As
8 already mentioned noisy classroom environments can
9 also lead to delays in reading comprehension. And
10 students with sensory impairments... problems with
11 inattention or autism spectrum disorders may be
12 especially sensitive to increased levels of noise.
13 Health groups including the American Academy of
14 Pediatrics and the World Health Organization call
15 for class-round background noise to remain less
16 than 45 decibels. In summary exposure to increased
17 noise like exposure to many other environmental
18 stressors like lead or air pollution can hurt
19 student performance and thus undercut the valiant
20 efforts that the Department of Education and our
21 teachers are making to enhance learning and
22 position all New York City students for success in
23 life. Therefore I strongly support limiting
24 classroom noise pollution through a common sense
25 bill, Intro 420. Thank you very much.

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CHAIRPERSON RICHARDS: Thank you.

DOCTOR BRODY: Hi, thank you. My name is actually Erica Brody. I'm a General Pediatrician at Mount Sinai but I'm speaking right now on behalf of Doctor Jennifer Chase who is a specialist at Mount Sinai in school based health. This is her testimony I'm reading. As a specialist in school based health I spend most of my work time helping children achieve and maintain their optimal health so they can focus on their primary job of learning. Of course this can be very tricky when they're plagued with a sore throat, cough, trouble breathing, or itchy rash. For children with chronic illnesses, Diabetes, severe allergies, Asthma, the challenge is that much greater. As such... quite intuitive that passing Bill 420 in minimizing further disruptions to children's ability to learn is both straight forward and desperately needed. As clearly described in the report by the Children's Environmental Health Center, the data on loud noises as it pertains to learning is quite clear. Reading levels decline. Specifically for every five decibels in increase in ambient noise measured at the outside services of school buildings, grade

2 school aged children experience a one to two month
3 delay in reading comprehension. The lancet study
4 from 2005 looking at the effect of noise on
5 children's cognition and health evaluated a sample
6 of nearly 3,000 nine to 10 year old students and
7 found quote a linear association between noise and
8 impaired reading comprehension and recognition
9 memory in children and not surprisingly they also
10 found a association between loud noises and
11 annoyance. They go on to explain that loud noise
12 exposure quote has been related to impairments of
13 children's cognition in terms of reading
14 comprehension, long term memory, and motivation,
15 tasks that involve central processing and language
16 comprehension such as reading attention, problem
17 solving, and memory seem most affected by exposure
18 to noise. Moreover noise that is characterized by
19 quote variability and unpredictability is likely to
20 have a greater effect on children's reading.
21 Children might adapt to noise interference during
22 activities by filtering out the unwanted noise
23 stimuli. This tuning out strategy might
24 overgeneralize the situations where noise is not
25 present such that children tune out stimuli

2 indiscriminately. This tuning out response is
3 supported by the findings that children exposed to
4 noise... to nose have deficits and attention,
5 auditory discrimination, and speech perception.
6 Similarly learned helplessness has been proposed as
7 a mechanism to account for deficits in motivation
8 in children exposed to noise. End quote. It is
9 incongruous that we would legally mandate children
10 to not only attend school every day but also expect
11 high standards of achievement and yet not have in
12 place the basic safety measures to ensure that such
13 achievement is even feasible. Given the
14 preponderance of evidence showing how construction
15 does and will devastate children's ability to learn
16 as a pediatrician specializing in school based
17 health I desperately call upon our city council
18 members to urgently pass bill 420 and protect our
19 school children. Thank you.

20 CHAIRPERSON RICHARDS: Thank you so much
21 for your testimony. And we're going to get into a
22 few questions in a second. First I just want to
23 begin by saying so what would be in your opinion
24 the ideal decibel level for children to be able to
25 obviously learn in the classroom?

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DOCTOR BRODY: Speaking as Doctor
Jennifer Chase I guess...

CHAIRPERSON RICHARDS: And... and as we
speak as you can hear construction just outside
these doors are hindering my hearing. So I can only
imagine in a classroom. So I'll let you begin.

DOCTOR ZAJAC: Sure. I'd be happy to
share some recommendations from leading health
organizations. So for example the WHO, the World
Health Organization in order for children to best
understand spoken messages from a teacher in a
classroom they recommend that classroom ambient
noise should not exceed actually 35 decibels.
Similarly the American academy of pediatrics has
age based recommendations for noise in classrooms.
So for older children above 12 they recommend 40
decibels, 39 decibels for 10 to 11 year olds and
all the way down to 28.5 decibels for six to seven
year olds. And they even further recommend for
those students with special needs or speech
processing disorders that ambient noise should
remain even lower at 21.5 decibels for these
special need students.

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CHAIRPERSON RICHARDS: So at the current decibel levels what would you say... how would you say this is affecting our children?

DOCTOR ZAJAC: So like... like we all I'm alluded to in our testimony you know as we're experiencing now some noise disruptions, noise could be very distracting for students. And they could... you know studies have shown that children who are trying to filter out noise and who are impacted by increased levels of ambient noise have trouble comprehending speech and instruction from a teacher. And they also have trouble with reading comprehension.

DOCTOR HAYS: The study that you brought up, the Lancet study in 2005 which we've also been referring to is pretty convincing in the data that there is months... half a year delay per year the children are exposed to the noise levels that we're discussing and that this construction would invoke... So you know I think we have every reason to believe that New York City children probably have been delayed by the noise that they've been exposed to thus far.

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CHAIRPERSON RICHARDS: And would you recommend in your revisions to the spill or... or do you support it in its current state?

DOCTOR HAYS: You know it's obviously a very difficult thing to balance all the needs of our entire community. I... I think 45 decibels sounds very appropriate as a balance to the needs of the outside community and to the school. It... it seems appropriate to me.

DOCTOR ZAJAC: Some other recommendations that we've talked about at our center is understanding the complex nature of construction when feasible encouraging the noisiest phases of construction to take place when school is not in session. And we would also encourage regular communication between construction project managers with school representatives and parent groups so everyone's on the same page with the progress of a construction project how the noise monitoring is going and addressing needs as they come up.

CHAIRPERSON RICHARDS: Okay great. I'm going to now pass the mic to the prime sponsor and I just want to acknowledge we've been joined by the

2 co-sponsor of this bill Council Member Helen
3 Rosenthal.

4 COUNCIL MEMBER LEVINE: Thank you Mr.
5 Chair. Do any of you now of other jurisdictions
6 around the country or even around the world who
7 have deliberately dealt with this? What kind of
8 remediation measures they may have taken or is New
9 York really at the Vanguard on this?

10 DOCTOR ZAJAC: I'm only aware of New
11 York City efforts but I'm happy to look into it and
12 get back to you.

13 COUNCIL MEMBER LEVINE: Let us know.
14 We're also proud to be the trend setters. We're
15 very... [cross-talk]

16 DOCTOR ZAJAC: Absolutely.

17 COUNCIL MEMBER LEVINE: ...comfortable in
18 that roll. Could you explain to those who don't
19 have a technical background just what decibels are
20 like and I know it's a logarithmic scale but you
21 could explain what that means and give them some
22 context to these numbers?

23 DOCTOR HAYS: Sure. So as you said it's
24 Logarithmic scale. The... we've been referring to
25 specifically decibel based A which it's complex but

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simply if you raise decibels by 10 it means that you've increased it by a factor of 10. So going from 30 to 40 is ten times louder. Going from 30 to 50 would be a hundred times louder. This room right now is probably varied between 40 and maybe 50 decibels. I'm just guessing. I think when we're able to hear each other like right now it's probably around 40 45. When the... whatever that noise was outside was going off and we were having difficulty hearing each other is probably higher than that. And that's at the level where it would be very difficult to... to learn in the classroom.

COUNCIL MEMBER LEVINE: Do you know what the decibel level would be at the average New York City construction site?

DOCTOR HAYS: So there was an environmental impact study done with regards to the PS163 site that found that ambient noises would raise I think 20 to 30 decibels in some cases...just ambient noise. And some cases the noise at the outside of the school would be expected to reach 84 decibels. 85 decibels is the level where you have to start worrying about actual physical damage to the inner ear. So that's... I think that'll be

2 realistic to expect at a typical construction site
3 next to a school.

4 COUNCIL MEMBER LEVINE: Thank you very
5 much.

6 CHAIRPERSON RICHARDS: Alrighty
7 [phonetic] we'll go to my other colleagues have
8 questions. We'll go to the co... co-prime sponsor of
9 this bill first. Council Member Rosenthal.

10 COUNCIL MEMBER ROSENTHAL: Thank you
11 very much Chair Richards and thank you so much for
12 holding this hearing. So proud to be cosponsoring
13 this bill with Council Member Levine. You know and...
14 and let me just say very succinctly why. We have
15 seen because of this construction I am aware of
16 families who have in anticipation of the
17 construction noise coming down the pike taking
18 their kids out of PS163 and move them to PS75.
19 Ironically this morning I joined the parents at
20 PS75 for a press conference where we are very
21 concerned about a new building that is slated to go
22 up literally across the street from PS75. So with
23 that understanding I do under... I do empathize with
24 SCA's need to... with SCA's awareness that there's a
25 lot of building going on in this city. I understand

2 their need to build a lot of seats very quickly.
3 Are schools that are overcrowded particularly in
4 Queens but I also believe something must be done
5 about the construction noise levels. And I guess my
6 main question to the experts would be what have you
7 seen in terms of mitigation plans that could
8 suffice to address possibly the reality of
9 construction noise that occurs right next to our...
10 our public schools. Are there mitigations that can
11 contend with the 84 percent decibel level or inside
12 the school 30 40 decibel, 50 decibel level? What
13 mitigation do you believe would suffice?

14 DOCTOR HAYS: It's a difficult question.
15 You know my areas in engineering I... I don't know
16 exactly how to make construction sites quieter.
17 There were several things mentioned in the
18 environmental impact statements regarding PS 163
19 with which I'm familiar with some of them included
20 just erecting some walls which would have a small
21 reduction in the noise transmitted to the school
22 also making thicker windows at the school. I think
23 the... the most reasonable things though were just
24 trying to coordinate when the... the sounds would
25 take place, like not to have a pile driver during

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the daytime of the... the school year. But beyond that I... I really have difficulty... I think that gets them to science and engineering with... which I'm not familiar with.

COUNCIL MEMBER ROSENTHAL: If... if you could try to stretch your thinking on that and I'm eager to hear from the other experts as well but actually as an engineer if you could stretch your thinking on that because SCA no doubt will say that in order to get the work done rapidly it's difficult for them to you know get the work done after school hours or in the summer months. So... where... obviously where I'm leaving is we're going to need to find a solution. And we can't say you know we need to find a solution.

DOCTOR HAYS: Yeah it's... it's obviously a challenge. But I... I think what we've been speaking to is the importance of the need. And in how vulnerable these children really are to... to this threat. But just because it's a big challenge doesn't mean it's not one that should be undertaken... [cross-talk]

COUNCIL MEMBER ROSENTHAL: That's right.

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DOCTOR HAYS: ...with creativity and effort reasonable solutions could be reached.

CHAIRPERSON RICHARDS: Alrighty thank you.

COUNCIL MEMBER ROSENTHAL: Oh no I think we hear some...

DOCTOR BRODY: As myself... not as Doctor Jenny Chase. So no as an engineer I cannot tell you exactly what the wall hypothetically a big thick concrete wall would accomplish as far as the actual precise numbers for the precise thickness of... Obviously the school is very very old and rickety, requires a lot of new windows. And I can't speak to the thickness of the glass that'd be required to really make the mathematical change that we're suggesting. I do want to include however... I understand your response that working let' say from 2:40 until 8:40 in the evening may or may not be plausible or certainly something to be considered. However that even if we put in the class and we put in the wall we have to remember that as pediatricians we also want our children outside and getting some exercise every day.

COUNCIL MEMBER ROSENTHAL: Yeah.

2 DOCTOR BRODY: And so even that glass
3 solution which I know is sort of on the table
4 doesn't now really bring the... doesn't really come
5 full circle. We don't want kids locked up inside.
6 They need to be getting... exercise and that's
7 something that any pediatrician is going to tell
8 you. So this solution has to of course... glass I'm
9 sure is part of it but still include something to
10 really respect those daytime hours because they
11 still have to get outside as well. And they have to
12 come in and out of the school. So I think there's a
13 bigger picture here we have to remember.

14 CHAIRPERSON RICHARDS: Okay.

15 COUNCIL MEMBER ROSENTHAL: Okay thank
16 you very much. Thank you Chair.

17 CHAIRPERSON RICHARDS: Thank you. We're
18 going to go to Public Advocate James first because
19 she's requested... [cross-talk]

20 PUBLIC ADVOCATE JAMES: Thank
21 you...[cross-talk]

22 CHAIRPERSON RICHARDS: ...question and
23 then we'll go to Costa.

24 PUBLIC ADVOCATE JAMES: Thank you Mr.
25 Chair. One question. Has there been any studies on

2 the impact of construction noise on special needs
3 children?

4 CHAIRPERSON RICHARDS: Are they more...
5 are they hypersensitive to noise than other
6 children?

7 DOCTOR ZAJAC: I'm not aware of a
8 specific study with regard to construction noise.
9 But what we do know is that... [cross-talk]

10 PUBLIC ADVOCATE JAMES: How about noise
11 in general?

12 DOCTOR ZAJAC: Noise in general,
13 absolutely. ...is that children with sensory
14 processing disorders ADHD, Attention Deficit and
15 Hyperactivity Disorder and Autism Spectrum
16 Disorders among other neurocognitive issues these
17 children are more sensitive than typical children
18 to increased levels of noise.

19 DOCTOR HAYS: You know also in general
20 Mr. Richards I believe you mentioned Cortisol
21 levels and the... the affect it can have on
22 physiology. So cortisol is the stress hormone that
23 causes our body to hold onto sugar and salt. Those
24 are things that lead to metabolic disease, the high
25 blood pressure... There's a huge amount of data that

2 just being exposed to that over a lifetime sets you
3 up for a really terrible metabolic diseases which
4 have aa huge economic impact on our society. And..
5 and that's all children. But then as Doctor Zajac
6 just mentioned these children with special needs
7 are particularly vulnerable to increased stress
8 from noise.

9 PUBLIC ADVOCATE JAMES: Thank you.

10 CHAIRPERSON RICHARDS: Thank you.

11 Council Member Costa Constantinides. And then we're
12 going to go to the administration for testimony.
13 I'm going to limit my colleagues' questions to two
14 minutes.

15 COUNCIL MEMBER CONSTATINIDES: Okay I'll
16 be brief. I promise Mr. Chair. Thank you. I have
17 more of a few statements more than questions. But I
18 will say that as I represent a community that is
19 growing in leaps and bounds. You know we're seeing
20 construction pretty much on every street as we... you
21 know especially it's where... We're growing as we're
22 looking to add the million people. You know
23 they're... the people are coming to New York City in
24 droves, Astoria in droves. We're seeing large
25 construction projects. The need to mitigate is

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great. And you know I have a school in my district, PS85 that I want to commend the school construction authority that's recognized they're right next to a train. We've been fighting for a long time to get noise mitigation for long... the students knew this signal all too well. It's when they had to stop because a train was going by. But I want to commend the School Construction Authority for meeting that challenge and now you know getting... doing an electrical upgrade at the school so at least we can keep the windows closed and the MTA now to potentially have rubber tracking there. So after decades of having this challenge work... a generation of children learning this symbol we are now looking for progress. I really want to make sure I... I thank the School Construction authority and the MTA for that partnership. But I know we have to do better. And are there students... are... Just sort of get a sense of... of noise right? I mean at a particular decibel level as decibel levels get higher it's gets more... how do we catch up. I mean that's really the question that I have is... there... there falling behind because of this noise. So we're expanding a great number of resources and medical dollars to

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2 get them to catch up and I... I have... you could speak
3 to that. And what the... what those impacts are real
4 for these children, they're falling behind their...
5 their colleagues and their... their... their test
6 scoring, they're having high blood pressure. How do
7 we catch them back up and what is that cost. It's a
8 real cost to the city.

9 DOCTOR HAYS: It's an enormous cost that
10 we can only speculate at if you have a child who's
11 six months behind say on their comprehension every
12 year by the time that student finishes high school
13 and becomes an adult they're going to be far behind
14 their peers if they have increased stress and are
15 more likely to be diabetic or hypertensive. We're
16 talking about billions. I can only speculate. And
17 the thing that scares me most is that you have the
18 problem of flight of the people who can afford to
19 leave those schools. So... going to be leaving the
20 most vulnerable poor children even further behind.

21 COUNCIL MEMBER CONSTANTINIDES: So
22 it's... it's a great cost to the city... each and
23 every one of our children that are there it's a
24 real cost. So that's... that's... wanted to on a
25 personal level and on a financial level we're...

2 we're... if we don't do anything we're leaving
3 ourselves in a bad position. Thank you.

4 CHAIRPERSON RICHARDS: Thank you all for
5 your testimony. Thank you. Alright next we will
6 hear from the administration and we'll start with
7 Angela Licata from... who is the Deputy Commissioner
8 of Sustainability for DEP, Eric Landau... did I get
9 it right today? Landau. Change it every time I see
10 you. I was Associate Commissioner of Public Affairs
11 for DEP. And we'll also call Ross Holden who's from
12 the New York School Construction Authority and
13 Melanie Lacora [phonetic], La Rocca Chief of Staff
14 to the New York City School Construction Authority.
15 And Samara will swear you in before you begin.

16 COMMITTEE COUNSEL SWANSON: Do you swear
17 affirm to tell the truth, the whole truth, and
18 nothing but the truth today?

19 CHAIRPERSON RICHARDS: Alright we're
20 going to hold you to that. Alright you may begin
21 when...

22 ANGELA LICATA: Good afternoon Chairman
23 Richards, members of the committee. My name is
24 Angela Licata, Deputy Commissioner for
25 Sustainability at the New York City Department of

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2 Environmental Protection. And I am joined today by

3 Associate Commissioner of Public Affairs Eric

4 Landau as you mentioned, Assistant Commissioner for

5 the Bureau of Environmental Compliance Mike

6 Gilsenan as well as our Director of Air and Noise

7 Enforcement Gerry Kelpin and some of our other

8 wonderful DEP colleagues are here as well. AS you

9 know DEP's mission is to protect public health and

10 the environment by supplying clean drinking water,

11 collecting and treating waste water and reducing

12 air and noise and hazardous materials pollution.

13 Introduction 420 proposes to mandate that the noise

14 mitigation planned for construction sites within 75

15 feet of any receiving classroom and any public or

16 private preschool or primary to secondary school

17 shall provide that noise shall not exceed 45 DBA

18 decibels during normal school operating hours and

19 that noise levels at school sites must be

20 continuously monitored during normal school

21 operating hours. DEP supports the intent of this

22 legislation which is clearly aimed at providing a

23 quiet learning environment for our city's school

24 children. However we have some technical questions

25 about the legislations implementation. As currently

2 written the legislation does not take into account
3 the variability of sound levels within and outside
4 of buildings including schools. They are likely to
5 be situations where the sound level in a classroom
6 at different times of the day will be above 45 DBA
7 without any construction activity. With that in
8 mind it is not clear how this legislation would
9 apply to those cases. A similar concern relates to
10 a situation where the sound levels rise above 45
11 decibels from non-construction related sources
12 outside the classroom. Traffic, emergency sirens,
13 loud car stereos, airplanes, busses, and subways or
14 even passing ice cream trucks with its jingle
15 playing could increase the sound levels to
16 something greater than 45 decibels. Typically an
17 equivalent noise level or LEQ which is basically
18 the average of all of the sound energy over a
19 selected period of time is used to represent the
20 average noise levels for the period. In general the
21 temporal pattern of noise may be continuous,
22 variable intermittent or impulsive. And it may not
23 always be possible to ascertain the levels, our
24 sources that are contributing to these levels.
25 Conceptually an alternative approach worth

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consideration is to prohibit the noise from construction activities from raising the ambient decibel level above a certain threshold in any receiving classroom. While this may be more complicated the key is to finding a methodology for determining the ambient sound level that would rely on sound measurements at the affected school before the construction begins. Some of the predictive and modeling techniques that we've used in an environmental impact statements could certainly form a basis for defining this methodology. Factors that would need to be considered would include the selection of representative classrooms throughout the building whether the windows would need to be open during the construction period, the period of time that the monitoring will occur and whether to average the decibel levels obtained during each period. We believe it would be beneficial to further discuss the specifics with the committee. In addition we suggest including a provision requiring the contractor or developer to conduct noise monitoring prior to construction commencing as well as during construction. We also suggest that the level of detail for monitoring

2 requirements as well as the definition of ambient
3 noise level either be spelled out in the
4 legislation or provided for by rules. We recognize
5 that the legislation would also require some
6 changes in the construction noise mitigation rule,
7 a specific process would need to be developed to
8 allow the contractor to demonstrate how much the
9 construction site mitigation measures reduce the
10 sound levels reaching the school site. And if
11 additional mitigation measures are needed to
12 preserve the classroom sound level one scenario
13 would require the onsite monitoring occur
14 throughout different parts of the day as noise
15 levels fluctuate in conditions such as traffic
16 patterns change prior to any construction
17 beginning. By taking reading outside a plan can be
18 developed to mitigate the sound that travels into
19 the classroom. Once an average baseline is
20 established the contractor would be able to best
21 design for the techniques and strategies to
22 implement a sound mitigation plan. Over the years
23 DEP has had good success working with contractors
24 and coming up with creative solutions to
25 significantly reduce construction related noise.

2 Using quieter equipment as well as additional
3 mitigation techniques such as sound barriers will
4 be required when construction workers plan near
5 sensitive receptors including but not limited to
6 schools. Finally we suggest working with the
7 council to look at revising the design of a
8 monitoring component from a requirement for
9 continuous monitoring within classroom to
10 monitoring outside the classroom or the school or
11 the construction site during the construction
12 activity that would be protective of the learning
13 environment. The premise here is that all this work
14 will lead to instillation of sufficient noise
15 mitigation techniques to ensure that the sound
16 level in the classrooms stays within the limits
17 that will be determined. Monitoring sound levels
18 should only need to be used to confirm that the
19 techniques are working and to confirm the changes
20 in the construction activities have not reduced the
21 effectiveness of the mitigation plans. A contractor
22 could choose to use a handheld instrument to check
23 the sound levels or could contract with a company
24 to install equipment that could simply send an
25 alert if the sound levels are approaching a certain

2 threshold level. Communication between the school
3 and the contractor is also a very effective way of
4 monitoring. Again we firmly support the intent of
5 the proposed legislation, believe that providing a
6 certain amount of flexibility is an important
7 component in achieving the intent of this
8 legislation. We look forward to working with the
9 committee and further discussing some of these
10 approaches in the very near future in an effort to
11 find workable solutions to mitigate noise in and
12 around our schools. Again thank you very much for
13 the opportunity to testify and be happy to answer
14 of your questions.

15 CHAIRPERSON RICHARDS: Thank you.

16 ROSS HOLDEN: Good afternoon Chair
17 Richards and members of the Committee of
18 Environmental Protection. My name is Ross Holden.
19 Executive Vice President and General Counsel of the
20 New York City School Construction Authority. I'm
21 joined today by Melanie La Rocca Chief of Staff for
22 the SCA. We appreciate the opportunity to discuss
23 intro number 420 which mandates that all noise
24 mitigation plans for construction sites within 75
25 feet of any classroom specify that noise levels

2 will not exceed 45 decibels during normal school
3 operating hours and that noise levels at school
4 sites shall be continuously monitored during normal
5 school operating hours. We have strong concerns as
6 to the adverse impact that the bill before you
7 today would have honorability to deliver much
8 needed school seats and overcrowded districts,
9 especially the construction of additions and
10 annexes to existing facilities. The exteriors of
11 new buildings must be built during daylight hours
12 commencing work only after school is in recess for
13 the day would unduly constrain the schedule and
14 delay project completion by providing an
15 unreasonably short and unproductive period within
16 which to perform daily construction activities.
17 Further we would be faced with an increase in labor
18 cost due to second shift or night differential
19 labor rates. Both the DOE, Department of Education,
20 and the SCA work closely with impacted school
21 communities during this course of the SCA's
22 construction project adjacent to an occupied school
23 building. For all of our projects we hold a
24 preconstruction meeting at the school with SCA
25 representatives, contractors, principal, and

2 custodial staff during which we explain the phase
3 in of our construction work and develop open lines
4 of communication essential for an... for a successful
5 project. We discuss ways that the SCA and its
6 contractors can best minimize any disruption to the
7 educational environment as the project proceeds
8 such as suspending noisier work when statewide
9 tests are given. The SCA and DOE also work closely
10 with the UFT's environmental health and safety unit
11 to assure that the school staff is apprised of
12 project plans and schedule. Throughout the course
13 of the project the school community is... is kept
14 informed as to progress so that there are no sudden
15 unexpected or unexplained construction activities.
16 Of course the principal and staff realize that the
17 inconvenience we will inevitably cause sometimes
18 will be short lived. And at the result of their
19 patience with us will be a terrific new school
20 facility they are all anxious to have. On certain
21 occasions where feasible the SCA has been able to
22 employ mitigation measures to help reduce noise
23 during construction. We have for instance pre
24 augured or drilled holes for the placement of
25 structural piles instead of relying solely on loud

2 pile driving equipment for instillation. We also
3 have concerns as to the economic and human
4 resources necessary for conducting noise
5 monitoring. Further the bill as currently drafted
6 does not prescribe the frequency of required
7 monitoring of metering devices for instance in real
8 time or in a daily or other periodic basis. Last
9 the bill does not contain that exemption for
10 occupied versus unoccupied school buildings. In
11 light of the tens of thousands of new seats planned
12 for construction over the next five to seven years
13 we fear that intro 420 would hinder our ability to
14 provide for the expansion an... an enhancement of
15 school buildings across the five boroughs needed to
16 serve the city's 1.1 million school children as
17 well as teachers and staff. Thank you again for
18 allowing us to testify today. And we would be happy
19 to answer any questions you may have.

20 CHAIRPERSON RICHARDS: Thank you so much
21 for your testimony. I'll just start off with a few
22 questions and then we'll go to the... the co-sponsor
23 of this bill. So right now what sort of
24 coordination is happening between SCA, school
25 principals and parents an DEP whenever construction

2 is happening near a school. Is there some sort of
3 coordinated effort to work with principals, to work
4 with the PTAs in particular in the school but
5 primarily the principal because she will have the
6 day in and day out duty of... of ensuring that their
7 children, you know their children can learn in the
8 school. So what coordination is there now?

9 ROSS HOLDEN: Well as mentioned we first
10 start out with a preconstruction meeting that is
11 intended by the principal, custodians, sometimes
12 the PTA so that there are no surprises. We don't
13 just show up one day with equipment ready to
14 construct. The school is fully apprised of the work
15 that we're going to do. And indeed actually
16 relishes the thought of having a new school
17 facility to relieve overcrowding their... in their
18 building. So afterwards this project proceeds the
19 SCA has project officers on site. We have lines of
20 communication if we... we're always in contact with
21 the school community. We know about their testing
22 schedules, their after school programs. And any
23 time we can coordinate our work to make it less
24 disruptive for the classroom environment we'll do
25 so.

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CHAIRPERSON RICHARDS: And I... and I will give you credit for that because we're doing a playground in one of my schools and I've certainly been at some of the meetings. So I guess my... my... and I... and I do want to put that on the record. So for DEP you know so per say it's not school related construction project how... how will we... monitoring the noise around schools or is there a coordinated effort between Department of Buildings I'm sure or... or different agency maybe as DDC around the issue of noise in their schools.

ANGELA LICATA: Well the short answer is that the new noise code or the revised noise code requires noise mitigation plans to be on premises with respect to construction activity in the city of New York. And our inspectors will respond to complaints or is there... go about their daily activities if they spot anything or hear anything in this instance they would certainly respond on site. So they would be in expectation that these noise mitigation plans will be available, will be well throughout, and would control the sources of noise that would be most objectionable and whether or not there are violations that are issued.

2 CHAIRPERSON RICHARDS: And how many
3 noise monitors do we have?

4 ANGELA LICATA: Well we don't monitor
5 noise throughout the city in general what they will
6 do if...

7 CHAIRPERSON RICHARDS: Wait, DEP doesn't
8 monitor noise?

9 UNIDENTIFIED MALE: Excuse me Mr.
10 Chairman. Do... do you mean inspector... how many...
11 [cross-talk]

12 CHAIRPERSON RICHARDS: Yeah inspectors.
13 Inspectors, I'm sorry.

14 ANGELA LICATA: Monitors as in
15 inspectors. Okay we currently have 48 inspectors
16 and we anticipate bringing on an additional seven
17 that we spoke at during our budget hearing in the
18 month of July.

19 CHAIRPERSON RICHARDS: How... so can
20 somebody give me a number of how many school
21 related construction complaint numbers do we have?
22 Is there any numbers around that?

23 ANGELA LICATA: We have generally
24 received about 15,000 complaints related to
25 construction activity. I don't have the detailed

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break out of how many of those were related specifically to schools. But we can try and investigate that and... and get back to you.

CHAIRPERSON RICHARDS: So... Okay so you... you got the number and I'm very appreciative of you guy raising the number once again of inspectors this year and... and certainly look forward to continuing have... having that... continuing to having that conversation. I... I guess I'll go back to SCA for... for a second. So has there been any plan... is there any plan in the making? And noise obviously is a major issue and I know it's very expensive to soundproof all schools right. But have you guys considered sound proofing schools across the board in the city. And I know in particular especially for schools around the airport that you know there's pots of money through FFA that you can tap into to... to soundproof schools. So do you guys have some... plan in the making or are you considering looking at one?

ROSS HOLDEN: There... there are two things I should say. One is you're absolutely right Chair Richards. We have had a program to install noise attenuating windows in schools... older schools

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under flight paths by the airports to help alleviate the noise caused by the plane traffic overhead. Two, we already do all of our capital improvement work, the renovation and rehabilitation of existing facilities after school hours so we don't disrupt the school community and we don't have any adverse impact, safety impact while school is in session. So that's about half of our capital plan of the capital improvement projects and all of that is done afterhours. And we have a project labor agreement with the building trades to accomplish that at a reasonable rates, union labor rates. As far as other programs we are constantly installing new windows and upgrading masonry, exterior work all around the... the five boroughs. The average age of a New York City public school is about 65 years. There's a lot of work that's needed. So when we do install new windows one of the happy side effects of that not only for insulation and ease of use but also because they are double paned that will help alleviate noise in... in the classrooms. As far as an additional noise abatement program and all of the city schools

2 specifically for that purpose none other than those
3 that I've already described to you.

4 CHAIRPERSON RICHARDS: So I'm going to
5 try to wrap up so we can get to other people who
6 have questions. So how do... how do you address
7 construction complaints? So obviously we have a
8 room full of people here who are very concerned
9 about this issue. So you know obviously there is a
10 concern around noise in schools because they would
11 not be here today. So how are you registering and
12 addressing complaints around schools?

13 ROSS HOLDEN: Well when we have... most of
14 the time the issue arises not when we're building a
15 new school in an area because it's not likely to be
16 next to another school. The issue is much more
17 confined and that is when we're building an
18 addition to an existing school where we cannot find
19 another site in that overcrowded district. So if a
20 particular school is overcrowded and has an
21 enormous play yard, one that could accommodate a
22 school addition as well as leave plenty of play
23 space. That's when we will you know build an
24 addition and that happens sometimes. It's not a
25 preferred way of doing things. We'd like to find

2 new sides but in the most overcrowded areas of the
3 city that's something that we will try to resort to
4 if we... if... if that... you know if it comes to that.
5 That usually doesn't occur in Manhattan. It's
6 usually the outer boroughs that have the larger
7 play spaces. So with respect to our program we've
8 addressed that by doing our capital improvement
9 work and occupy schools after hours... after school...
10 after school programs are done for the day so the
11 children and the staff are not subjected to that
12 particular noise. With respect to complaints that
13 we may get from the school community during work on
14 an addition. I don't have numbers for you but again
15 we have staff at the site all the time and will
16 work with the principle to try to...

17 CHAIRPERSON RICHARDS: So I want to get
18 away from your particular schools I'm talking
19 about. So I want you to focus a little bit more on
20 non-DOE construction projects. So projects perhaps
21 there's a new building going up across the street
22 from one of your schools. How is that coordination
23 happening? And... and how are you working with DEP
24 who I don't want to let off the hook on this issue
25 to ensure that these issues are being communicated

2 to developers and we're not anti-development you
3 know because I don't want that to be... you know we...
4 the city is going through a boom but once again it
5 should not come at the expense of our children. And
6 so I'm trying to figure out how do you guys address
7 those issues. If there is a developer developing a
8 building across the street from a school or up the
9 block and they're breaking the noise code law how
10 are you guys addressing that? What does enforcement
11 look like on this issue?

12 ROSS HOLDEN: The SCA doesn't have
13 enforcement authority over noise. The Department of
14 Education will work DEP, Department of Buildings in
15 those situations. If we can provide any technical
16 expertise on an informal basis we can do it.
17 However not to pass the buck but that...

18 CHAIRPERSON RICHARDS: Got it. You're
19 not going to pass it. DEP we want to hear from...
20 [cross-talk]

21 ROSS HOLDEN: I didn't... well... other
22 sister agencies...

23 CHAIRPERSON RICHARDS: We're going to
24 pass you for now.

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ROSS HOLDEN: Right. But the school... Really we talked a lot today both council members and the folks here about communication with the school community. And to the extent that we might be able to help facilitate that and we're requested by the Department of Education we will. But by in large it's the school community, the Department of Education in a occupied building that the SCA does not manage to work out arrangements for the adjacent developer.

CHAIRPERSON RICHARDS: Got it. DEP.

ANGELA LICATA: So we have a number of strategies that we use and tailor them to the situation essentially again as I had just mentioned if we see or respond to a complaint, a construction site and there is a jackhammer for instance being utilized and it doesn't have the appropriate muffler that would be an automatic violation. There is not... no tolerance associated with certain pieces of equipment being operated in a certain fashion that goes against our rules. For instance if we would to see a contractor as a certain piece of equipment that needs to be tuned up or if we think that by making certain adjustments because we have

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the experience maybe... maybe they lack the
experience, maybe they've just become careless with
their activities. We would give them that advice to
tune up the piece of equipment with the thinking
that rather than slapping them with a violation
right away it's better to work with them to get the
immediate response and the immediate correction so
that the noise is abated as quickly as possible. We
would also look for minor infractions like barriers
that may be sound barriers and potentially their
broke... their broken because you really need to
continue with sound barrier for it to be effective.
We might say you need to cure that infraction and
we'll stop by again within a couple of days to see
if that infraction has been. So we'll... we'll
definitely check back on that if it has... situation
hasn't been corrected then we would issue a
violation. So we do try to work with the
construction industry and the contractors. But
we're not... you know we're not shy to issue
violations either and we have issued quite a few...
[cross-talk]

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CHAIRPERSON RICHARDS: How many would you say violations you've issued this year, how many violations?

ANGELA LICATA: Well I have that information broken down. But for instance if you have failed to adopt or implement noise mitigation plans. There have been 290 violations that have been issued this year so far. If you are not keeping your noise mitigation plan on the premises for inspection there is an additional 285 violations that were issued for that. If we don't feel as though all the construction workers on site are familiar with the noise plan which is another requirement. We've issued three violations for that. Construction... [cross-talk]

CHAIRPERSON RICHARDS: You said three?

ANGELA LICATA: Three for that. Construction activities that are impermissible for certain times of the days or certain days. We have issued 196 violations for that offense.

CHAIRPERSON RICHARDS: Okay. So I'm going to be kind on that... on that for a second. So I did hear your testimony and I'm going to pass it to... to Mark and then others for questions. And one

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thing that I was concerned about is that I heard you say that you would allow developers to technically do noise monitoring... do their own noise monitoring. Did I hear you correctly?

ANGELA LICATA: So we would have to specify as a result of this legislation and we have already requirements within our current you know noise mitigation and noise rules that contractors are responsible for the noise emanating for their own properties. So they could choose to voluntarily assess the noise that's going on on their premises or they can you know basically run the risk of having a violation if that noise isn't properly maintained. What we were talking about in this... in our testimony was that we would like to work with you to develop a strategy whereby the contractors would be required. Potentially this is just one example to go to the school ahead of time to you know be very cognoscente of their surroundings and establishing ambient noise level that represents the community exposure without their construction noise. Then upon their construction activities they would develop the change. They would basically monitor for that I change in noise levels. And then

2 we would have prescribed in legislation or by rule
3 what is an appropriate change in these noise
4 levels.

5 CHAIRPERSON RICHARDS: So when... I'm
6 going to pass the mic. You know I'm... I'm very
7 concerned about they doing it themselves and
8 voluntary. That word is a word... it's a curse word
9 to me. And I like... I like... I would like to hear a
10 little bit more on mandates around this particular
11 issue... mandates on ensuring that there's some sort
12 of noise abatement studies done ahead of time and...
13 and during you know construction. So voluntary and
14 advice are two bad words that were not in... would
15 not aid us in this particular discussion for our
16 children to... to be in a healthy environment as they
17 try to learn so that would be my two cents. And I'm
18 going to pass it to the sponsor of this bill. The
19 prime sponsor of this bill Council Member Mark
20 Levine.

21 COUNCIL MEMBER LEVINE: Thank you Mr.
22 Chair. Mr. Holden I just want to be clear that when
23 we wrote the legislation I think our intent was to
24 focus on private sector construction. Primarily
25 it's not exclusively... SCA's different for a couple

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reasons. One, you're not building 20 story buildings. Your projects are much smaller in scale. And the work you're doing by definition's for the benefit of the kids in the building. You're either expanding their school and are modernizing it. And I think we all trust that you also work very hard to accommodate the needs and mitigate the negative impacts on the students that you're building around. Having said that I think you have a lot to contribute to this hearing and this debate because no one in the city knows more about what it takes to construct in and around schools and the impact that has on kids how to mitigate that. So I'm wondering do you... do you all have any kind of decibel standards that you adhere to? Is there a maximum number of decibels that you consider permissible during hours when a school building is occupied by kids.

ROSS HOLDEN: Other than the... the noise code that's administered by DEP the SCA does not have its own subset of decibel guidance levels.

COUNCIL MEMBER LEVINE: But you wouldn't run a jackhammer on a... in a school building that was occupied by kids right? We would not run a

2 jackhammer inside a school occupied by kids. We do
3 all of the capital improvement work renovation of
4 existing school... school buildings of which there
5 are about 15 hundred in the city after school
6 hours. The kids are not there. The staff is not
7 there. We work around the school schedule and after
8 school programs and early morning breakfast
9 programs. So that's why the meetings with... between
10 the SCA and the school community is essential so
11 that we you know look construction unfortunately
12 can sometimes be disruptive but we want to be as
13 good a neighbor as possible while we do our work
14 for the school kids.

15 ROSS HOLDEN: So that... that was a... a
16 huge point. I just want to make sure I heard that
17 right. You do all your capital work outside of
18 school hours?

19 COUNCIL MEMBER LEVINE: The
20 rehabilitation and renovation work. So it's the
21 capital improvement work.

22 ROSS HOLDEN: Right.

23 COUNCIL MEMBER LEVINE: That's new
24 windows, new roofs, masonry, science labs,

2 auditorium upgrades, electrical upgrades. All of
3 that work is done after hours. And...

4 ROSS HOLDEN: 3:00 to 11:00 or
5 thereafter.

6 COUNCIL MEMBER LEVINE: Right. So you're
7 doing school holidays, you're doing summer, are you
8 doing weekends? Are you doing evenings?

9 ROSS HOLDEN: We... we...

10 COUNCIL MEMBER LEVINE: ...early morning?

11 ROSS HOLDEN: Absolutely. We do work. We
12 have a very large program to replace all of the old
13 florescent light fixtures in about 950 school
14 buildings. We do that on weekends because this
15 could be asbestos in the... in the wire so we want no
16 one there. And we want to test before anybody comes
17 back. We work on school holidays. And right now
18 we're entering when school close... we work literally
19 around clock for the summertime because we have for
20 those schools that don't have summer school
21 programs we can you know have our full complement
22 of work done during the day, the afternoon, at
23 night, whenever we can get in.

24 COUNCIL MEMBER LEVINE: Well look if... if
25 private construction was run under that kind of

2 rule then we wouldn't be having this hearing. That
3 said it's... it's a critical concession that you've
4 made to work around learning time for kids. And we
5 very much appreciate that. Just understand... so what
6 kind of non-capital work is done during learning
7 time.

8 ROSS HOLDEN: The... the work that's done
9 during learning time would be the construction of
10 additions to existing school facilities. That's
11 really the only time when we're building near an
12 occupied school. Live very close to an occupied
13 school. My definition and addition is going to
14 attach to the existing facilities. So in no
15 circumstances we do construction work during the
16 day. Unlike capital improvement work which a lot of
17 which is inside we can put up lights and what have
18 you. You can't put in... do a lot of the exterior
19 work in new buildings unless you have you know
20 daylight. So generally for the exterior of new
21 additions and annexes we're working from 7:00, 6:00
22 if we can, maybe before school hours. But there is
23 work that's done during the school hours. But you
24 pointed out council member we're building up maybe
25 four stories.

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COUNCIL MEMBER LEVINE: Right.

ROSS HOLDEN: We're not... We're not... So the exterior is done for...

COUNCIL MEMBER LEVINE: You're not doing pile driving and other...

ROSS HOLDEN: Well we may have to... But we've... we can try to work around that as best as we can but we're not building the massive structures. So once the building is enclosed and the inside work needs to be done that's a lot less disruptive because you already have walls that are built that keeps the sound from emanating into the adjacent school building.

COUNCIL MEMBER LEVINE: Right so in those cases where it's unavoidable that you do some work during learning time what are the sound mitigation measures I presume you take some... what are they.

ROSS HOLDEN: We will try to do our noisier... noisiest work when school is not in session or when there aren't you know special needs such as quiet for statewide exams so we'll talk to our contractor knowing the school schedule and see if we can work things out so that the noisiest work

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is not done at the most inconvenient time. As I said the other things we've done with respect to pile driving is drilling holes. So instead of putting the pileup and having the... the... you know the... the jackhammer sound... you know the pile driver and knock it into the ground. It's a lot quieter if you can drill... predrill the holes. And then you place them in. Yes there will be some noise but a lot less than if you were... takes a lot less time and... and it's a lot quieter than having piles going I through the... the normal technique.

COUNCIL MEMBER LEVINE: But are there... are there engineering techniques, insulation, building sound barriers, the surrounding devices in foam that... that you employ.

ROSS HOLDEN: You know to be honest with you we haven't done that and it could be... I don't know whether there are specific complaints that come up to SCA senior management but the project officers of which there are two or three on site all the time are there to field any complaints, make any accommodation, and fortunately perhaps because as you mentioned before the school is getting a brand new facility and that in and of

2 itself is helping the kids. We don't get a lot of
3 complaints when we're building an addition.

4 COUNCIL MEMBER LEVINE: Thank you very
5 much. Just if I could just ask... sorry DEP a couple
6 questions. Deputy Commissioner Licata. What's the
7 average decibel level of a construction site in New
8 York City?

9 ANGELA LICATA: I think that it's a
10 really difficult question because there are so many
11 peaks with respect to construction but I would say
12 that for average conditions with the noise code
13 specifies is about 85 decibels from a noise
14 construction site. So at about 50 feet.

15 COUNCIL MEMBER LEVINE: Okay so...

16 ANGELA LICATA: So if you would... could
17 imagine we... we're saying that if you're at 85
18 decibels at 50 feet from a construction site and
19 assuming we don't have a sensitive receptor right
20 there we would need extraordinary measures to be
21 employed that would be roughly what you'd be
22 looking at.

23 COUNCIL MEMBER LEVINE: But we heard our
24 medical experts tell us that 85 decibels is the

2 level where there could be damage to the human ear,
3 physical damage.

4 ANGELA LICATA: Yeah that... that level's
5 actually much higher.

6 COUNCIL MEMBER LEVINE: Is it higher
7 than that?

8 ANGELA LICATA: Mm-hmm.

9 COUNCIL MEMBER LEVINE: Okay so why... as
10 in how did you pick 85 decibels?

11 ANGELA LICATA: With the... the... the 85
12 decibels, it's a reasonable enough standard. It... it
13 really is. With respect to what measures can be
14 taken that are cost effective, that are reasonably
15 employed, that's about the sound level that you
16 would anticipate being emanating from a
17 construction...

18 COUNCIL MEMBER LEVINE: But we do see
19 construction workers often wear earplugs or
20 headphones to dampen noise. So there must be a risk
21 that they're worried about.

22 ANGELA LICATA: Yeah well they're much
23 closer to the equipment. And they... and they
24 certainly... take those...

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COUNCIL MEMBER LEVINE: Do you... do you consider context at all for example a site that's in the middle of a manufacturing area gets the same treatment as one that's right next to a crowded school?

ANGELA LICATA: No. And that... and that's exactly what we were just discussing earlier. That's why we have an attempt to really tailor our enforcement and we have to be cognoscente of the complaint and the situation that it's in. These are very site specific situations. And if you do have a very sensitive receptor and it's not working out with respect to the distance from a noise source or construction site then we have to go in and we have to start to push our measures even further. We can look at other sections of the code with respect to unreasonable noise and measures like that. So we have gone to those lengths to make sure that the situation is you know reasonable.

COUNCIL MEMBER LEVINE: You... you raise the challenge of measuring the noise from construction in a busy city where you could have a fire truck going by and...

ANGELA LICATA: Yes.

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COUNCIL MEMBER LEVINE: ...other momentary bursts of sound. But you must run into that challenge in measuring under the current regime measuring noise right?

ANGELA LICATA: We do in fact. And that... and that's why we're saying you know we... we have to specify an averaging period. So typically for instance if we're doing an environmental impact analysis and because DEP's on both sides of this right? We also have construction associated with certain facilities that we build for delivering clean water and... and treating waste water. And if we were to look at our you know do a self-analysis of one of our facilities we would say what is the ambient condition and then what is the noise level going to be as a result of this particular let's say vehicle traffic associated with construction trucks coming in and out of the facility. So we might go on the street. We would measure the conditions without our traffic and then we use noise models to say okay we're anticipating about 50 trips per hour. What will that do to those ambient noise levels on the street?

2 COUNCIL MEMBER LEVINE: But you could do
3 the same... you could apply the same rubric to
4 monitoring sound in the school right?

5 ANGELA LICATA: Yes.

6 COUNCIL MEMBER LEVINE: Right. You have
7 how many inspectors? You told me 55 for the whole
8 city after the budget increase? Is that right?

9 ANGELA LICATA: Yes.

10 COUNCIL MEMBER LEVINE: This is a very
11 big city. There must be... how many construction
12 sites are there today active in New York City at
13 any given moment?

14 ANGELA LICATA: I don't know.

15 COUNCIL MEMBER LEVINE: I mean it must
16 be a thousand... multiple thousands. I would think
17 it's... it's... it's a very high number. So relative to
18 the scale of the industry and 55 inspectors is
19 pretty small, correct?

20 ANGELA LICATA: Yes it is true and I
21 think that your point earlier in terms of the
22 actual construction, level of activity in New York
23 City which is definitely grown. I think that is a
24 true point. However we do meet our monthly mayor
25 metrics. And we are able to respond to all of the

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complaints and we are able to keep up... keep pace with the activity out there. We can give you that information but it's published in the mayor's monthly metric report.

COUNCIL MEMBER LEVINE: You have mentioned in your testimony the challenge of... well the question of whether you would measure the noise inside a classroom or out or whether the window would be open or shut. Well it seems like in every case you're going to want to have the ability to close windows if it's... if there's construction next to the school. And by the way that's going require having air conditioning for most months of the school year. Most things help to mitigate sound for sure. It seems to me it actually would be harder on the contractor to measure outside the building that'll actually be kind of a more forgiving standard and also a more accurate one to measure inside the classroom because that's where the kids ears are but you have the advantage of being behind the glass and the whir of the air conditioner and all those other mitigating factors.

ANGELA LICATA: Yeah I... that's a valid point. I think that would be worth discussion. I

2 think there are advantages and disadvantages to
3 both approaches and you know we would be happy to
4 discuss that further.

5 COUNCIL MEMBER LEVINE: Alright great.
6 Thank you very much.

7 CHAIRPERSON RICHARDS: Council Member
8 Rosenthal.

9 COUNCIL MEMBER ROSENTHAL: Thank you.
10 And thank you Council Member Levine. I... I actually
11 want to follow-up on your questions. But first I
12 just had forgot to mention this earlier. I want to
13 thank all the parents who are here who took off
14 time from work from being at home from pick-up
15 pretty soon and to the tenants who I know live
16 nearby some of the schools affected. Thank you for
17 coming here today. And also thank you for your
18 advocacy over the last few years in regards to this
19 specific site at PS... PS163 with the... building
20 coming in very soon. So thank you for that. I have
21 three questions. The first one gets to Council
22 Member Levine's point. There's... And... and I would
23 just ask that... that both DEP and DOE respond to
24 this... SCA sorry that does it... did it... It struck me
25 as you each testified that there is a disconnect

2 between the two agencies. And I wondered what your
3 thoughts are about that. So SCA obviously has some
4 really good standards that it uses during
5 construction. DEP seems to be a response driven
6 agency or response to a complaint. And in this
7 particular situation where it's a private developer
8 right constructing right next to a school there's a
9 disconnect between your agencies in terms of
10 achieving protections for these kids.

11 ROSS HOLDEN: Well as I mentioned before
12 the SCA is... involvement the SCA is with projects
13 it's building for the Department of Education. We
14 do have enforcement authority to deal with
15 developers or the like. We try on an informal basis
16 if we can be helpful to be the go between maybe,
17 between the school community and... and the developer
18 because we do construction but that said we unlike
19 the DEP we are not empowered to require anything of
20 the developer by way of noise mitigation. If it's
21 not a project, the capital project in which the SCA
22 is working.

23 COUNCIL MEMBER ROSENTHAL: Yes that's
24 sort of my point exactly. But DEP.

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ANGELA LICATA: Yeah so the requirement is that the noise mitigation plan be filed and be on premises by the contractors. So that is... we believe it's best to operate because it's really important that the contractor who understands the means and methods of their construction activity of the timing of the construction activities as we all know you know they seek... So first they may be doing site grading and preparatory work like that. And those changes are made really quite rapidly as they progress through their construction. So it's really important that the contractor who understands the means and methods of their construction and also the sequencing and timing of the events prepare the noise mitigation plan and have that on the premises. And that's what we're relying on to keep them cognoscente of the activities and the noise levels and also to be able to hold them to the specifications and the mitigation measures that they have proposed.

COUNCIL MEMBER ROSENTHAL: And so what's the connection... I guess when would the mitigation plan in this particular case be filed? And what connection does that have to PS163 or the SCA?

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ANGELA LICATA: It has to be on file before any construction begins on the property.

COUNCIL MEMBER ROSENTHAL: How... how far in advance?

ANGELA LICATA: I don't know if there's a... No. It just needs to be available and it needs to be filed before construction begins.

COUNCIL MEMBER ROSENTHAL: Is there any opportunity for a connection between that being filed and SCA?

ANGELA LICATA: Yes SCA's contractor was filing with us.

COUNCIL MEMBER ROSENTHAL: Okay so when a private developer is doing something right next to a public school that are required to submit a noise mitigation plan at some period that you don't have the information on right now but at some period prior to construction.

ANGELA LICATA: Yes it...

COUNCIL MEMBER ROSENTHAL: What I am asking you is what is the connection between the requirement to do that and SCA I don't know reviewing it to make sure that it meets the

2 standards of a mitigation plan for a school?

3 There's none, right?

4 ROSS HOLDEN: No the... whatever review

5 might be done would be done by the school

6 community, the Department of Education...

7 COUNCIL MEMBER ROSENTHAL: So you depend

8 on the school community, the parents to do

9 something?

10 ROSS HOLDEN: The Department of

11 Education. Well the... as I said the SCA is a capital

12 authority. We build the schools but we don't

13 monitor...

14 COUNCIL MEMBER ROSENTHAL: So this

15 question...

16 ROSS HOLDEN: ...private development...

17 COUNCIL MEMBER ROSENTHAL: ...would be

18 better poised... posed to the chancellor are you

19 saying?

20 ROSS HOLDEN: I can't answer. All I can

21 tell you is what the SCA does. And if...

22 COUNCIL MEMBER ROSENTHAL: So you have

23 no relationship to it. I mean I... which is fine. I

24 am just trying to nail down the... what happens.

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ROSS HOLDEN: Because the DOE is our only client to the extent that we can offer assistance to the DOE and the school community by being a...

COUNCIL MEMBER ROSENTHAL: Okay let me word it just a different way and then I'm going to move on. Are there any mechanisms in place to achieve what Mr. Holden described as the mechanisms that are used during SCA construction to protect children. Is there any mechanism in place for that to happen when private developers build a school... build a... build next to a school.

ANGELA LICATA: I... I believe the answer is yes that the developer needs to take into account that there is a school next door and... needs to comply and have a noise mitigation plan that is not going to be obtrusive and not going to result in complaints. [cross-talk]

COUNCIL MEMBER ROSENTHAL: I guess my concern is that who is it that signs off on that given that you're a complaint driven agency. So given that you wouldn't know about it until a complaint was issued right? Of course it's filed. I... I don't know if it gets reviewed when it's filed

2 and it's I'm sure self-certified by the contractor
3 but if DEP is a complaint driven agency in this
4 respect how would there be an opportunity to
5 achieve what Mr. Holden is describing as you know
6 people right on site during construction to make
7 sure the kids are safe.

8 ANGELA LICATA: Yeah I cannot answer for
9 this school. Because I... I...

10 COUNCIL MEMBER ROSENTHAL: I'm going...
11 sorry. Did you have something...

12 ANGELA LICATA: No no I...

13 COUNCIL MEMBER ROSENTHAL: Okay last
14 question. So you have 55 inspectors to deal with
15 the 15,000 complaints. Do you believe that that's
16 enough inspectors to provide the level of
17 monitoring that Mr. Holden jut described?

18 ANGELA LICATA: Yes I mean and generally
19 I' like to acknowledge the council's request for
20 additional air and noise inspectors and that's why
21 DEP has taken the unprecedented step really to add
22 eight additional inspectors for this coming year.
23 We've also of our own accord have added an
24 additional three inspectors that we've been able to
25 create by changing some of the administrative

2 titles to add inspectors. So we'll have a total of
3 11 new inspector. So we... we do as I mention keep up
4 with a level of complaints and the inspections that
5 are required based on the levels which are really
6 pretty you know challenging with respect to the
7 mayor's management report. So we are responding
8 within the time allotted. And I think we're doing a
9 fairly good job of keeping up.

10 CHAIRPERSON RICHARDS: Okay just final
11 two questions. So has DEP considered installing an
12 inexpensive noise measuring app on smartphones so
13 that code enforcement agents can expand... So what...
14 what's in hindsight would help you measure more of
15 the noise around the schools. So complaints from
16 PTAs and would... would if and when you create this
17 app you know would this enable you to have better
18 real time interactional complaints.

19 ANGELA LICATA: You know we've been... we
20 have been looking at the noise levels and the
21 complaints throughout the city. And we have been
22 actually applying that you know through the GIS
23 information systems and keeping track of where the
24 complaints are... what times of the days that we
25 received the complaints for what types of

2 activities. So we are starting to track noise in
3 that fashion. We don't necessarily have the ability
4 at this point in time to have citizens record noise
5 levels and to be able to issue violations on that
6 basis. Of course if citizens wanted to call in
7 noise levels that they're reading to 3-1-1 we would
8 take that into consideration. That would be another
9 piece of evidence or another line of evidence for
10 us when we're responding to a particular complaint
11 that we can't issue on the basis of somebody else's
12 reason.

13 CHAIRPERSON RICHARDS: This is like the
14 idling though I co-sponsored with Helen Rosenthal...
15 where are we with that. Alright that's a story for
16 another day. But... but similarly you know would this
17 app and there... and there are in particular we've
18 heard of noise apps that do exist already. You know
19 would you guys...if... if people register these
20 complaints would you... would you take them as
21 verifiable complaints?

22 ROSS HOLDEN: Councilman as... as Deputy
23 Commissioner said any complaint that we received
24 through three on one regardless of the source of
25 how... [cross-talk]

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CHAIRPERSON RICHARDS: The app, not 3-1-1.

ROSS HOLDEN: Without knowing the specifics of the app it would be really hard to speculate on how it would work but again anything that we got in as a complaint. Again whether it comes in by 3-1-1 or sometimes you yourself have called us with complaints and we always go out and do inspect those. So regardless of the source of the complaint we do act on it.

CHAIRPERSON RICHARDS: Alrighty. So I'm just going to say... well I want to just wrap up. I want to thank you because I think your testimony was... left room for us to continue dialogue on this discussion and I... and I want... commend the administration being open to conversations on this end and obviously look forward to wrapping this up. And I just want to correct you because you said 15,000 complaints. And according to the mayor's management report it is around 45,000 noise complaints. So were you just simply saying 15,000 around schools.

ANGELA LICATA: 15,000 related to construction as of January 1st of this year.

2 CHAIRPERSON RICHARDS: Okay.

3 ANGELA LICATA: 26,000 complaints
4 related to noise as of January 1st of 2015.

5 CHAIRPERSON RICHARDS: Okay got you.
6 Alright and makes sense. And SCA just as... as I let
7 you go... Is there any particular hot line? So I know
8 we call 3-1-1 but if there are parents, if the
9 school has complaints on construction, private
10 construction. Is there a particular hotline people
11 will call or would you still recommend they call 3-
12 1-1?

13 ROSS HOLDEN: They can... they can call 3-
14 1-1. The school community, as I said we'll have
15 project officers when we're doing our project very
16 nearby. They were right there. So you don't even
17 have to make a call. And you can always call the...
18 the SCA either the regular number or... or our... our...
19 office...[cross-talk]

20 CHAIRPERSON RICHARDS: And what's that
21 number for parents? We want them to start... start
22 getting thee calls.

23 ROSS HOLDEN: What is it? (718)472-8000.

24 CHAIRPERSON RICHARDS: And somebody
25 picks up the line?

2 ROSS HOLDEN: Yeah someone will pick up
3 the line.

4 CHAIRPERSON RICHARDS: Say that again?

5 ROSS HOLDEN: Someone will pick up...

6 [cross-talk]

7 CHAIRPERSON RICHARDS: So if I call...

8 [cross-talk]

9 ROSS HOLDEN: Yeah it'll... it'll... it'll...

10 [cross-talk] Yeah so it'll probably get routed to
11 me. No I don't know where...

12 CHAIRPERSON RICHARDS: I'm just... I'm
13 just messing...

14 ROSS HOLDEN: There's also...

15 CHAIRPERSON RICHARDS: I'm serious
16 though... Okay I'm...

17 ROSS HOLDEN: There's also a hotline you
18 know if worse comes to worse with our office of the
19 inspector general I don't have that hotline number
20 with me but that's manned 24 hour a day.

21 CHAIRPERSON RICHARDS: Okay got you.

22 Alright I want to thank you and thank you for your
23 testimony. I look forward to working with you.

24 Thank you. Okay next we'll call the next panel. And
25 I just will read into the record, the real estate

2 board of New York has left testimony. So just
3 wanted to read that into the record. Next we'll
4 hear from Donald, I think I'm saying it right,
5 Ranshte from the Building Trades Employee
6 Association, Felice Farber from the General
7 Contractors Association. And please don't approach
8 the... the bench. We will take your... your... your
9 testimony. And then John Wund from the Building and
10 Construction Trades Council. And we are going to
11 put three minutes on the clock for everyone to
12 testify.

13 COMMITTEE COUNSEL SWANSON: Please raise
14 your right hands. Do you swear affirm to tell the
15 truth, the whole truth, and nothing but the truth
16 today?

17 CHAIRPERSON RICHARDS: Alrighty
18 [phonetic] you may begin.

19 DONALD RANSHTE: Good afternoon Chairman
20 Richards, members of the Committee on Environmental
21 Protection. My name is Donald Ranshte. I'm the
22 senior vice president at the Building Trades
23 Employees Association, BTEA, an organization
24 representing 27 contractor associations, 2,000
25 union construction managers, general contractors,

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and specialty subcontractors doing business in New York City. And I thank you for allowing me the opportunity to testify today. While we understand that some may think the construction noise is too loud in New York City we also believe that Introduction 420 would have the unintended albeit maybe desired perhaps consequence of essentially creating a moratorium on construction within a 75 foot radius of school buildings in New York City. The requirement in Introduction 420 to keep construction noise under 45 decibels is in almost all circumstances unachievable. OSHA places normal conversation at around 45 decibels which we've heard earlier. If you've ever been by a construction site in New York City simply having a crew of workers at the site would probably have an ambient noise levels that would put them above 45 degrees I mean I'm... 45 decibels. A better example would be in Manhattan to have truck, vehicular, and other ambient sound levels at the side of the street fairly... which is fairly consistent through the course and length of the day much like construction work would be. These potentially could be just as loud or louder than construction

2 operations that would be perhaps 74 feet away from
3 the school. The... the New York City noise code also
4 allows the operation of 58 construction tools that
5 have noise emissions above 70 decibels. All of
6 these would be impermissible. If you were to draw a
7 circle around each of the almost 3,000 schools in
8 the city captured by this bill. What we'd find is
9 large areas of the city that would be unbuildable
10 prior to 3:00 p.m. this would leave contractors in
11 the unenviable decision of applying for after-hours
12 advances or not building at all. This forces the
13 choice of disturbing residences well into the
14 evening hours, early mornings, and/or on weekends
15 with the considerable cost in terms of labor used
16 during those off hours. If the phraseology used in
17 the bill, normal school operating hours also
18 includes pre and post school activities and I'm
19 unsure. I think the bill leaves that open to
20 interpretation. Then times for construction work
21 would fall into even less desirable hours for local
22 residents. Construction activity is currently
23 permitted to occur between 7:00 and... 7:00 a.m. 6:00
24 p.m. And this is roughly the same time as in
25 session classroom instructions. Just two other

2 quick points I'd like to make for very... it's... it's
3 un... unspecified in the bill but who would relay
4 monitor results to the contractors working out at
5 sites who would enforce and how those decibel
6 levels would be enforced would... also need to be
7 spelled out in the bill. And one other thing that...
8 that I'd like to point out is the study you
9 mentioned earlier by those in support of the bill
10 must also take into account the local NYC ambient
11 noise levels. For these reasons we must oppose this
12 bill at this time. Thank you.

13 FELICE FARBER: Thank you Chairman
14 Richards and members of the Environmental
15 Protection Committee for the opportunity to express
16 our many concerns regarding Intro 420. I'm Felice
17 Farber, Director of External Affairs for the
18 General Contractors Association of New York. Our
19 members build New York City's infrastructure
20 including roads, bridges, parks, transit, water
21 systems, and even New York City schools. I would
22 like to state at the outset that we would like to
23 work with the Council and the Administration to
24 address noise concerns. Unfortunately this
25 legislation as propose will have the direct effect

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of stopping all construction activity within the vicinity of the school and is simply not workable. The noise level of my testimony today and this hearing exceeds the permitted... that permitted by Intro 420 normal conversation according to DEP's own records are ranges between 50 and 75 decibels. In researching the impact of this legislation Denise Richardson, the head of the GCA took noise readings in the vicinity of her neighborhood's local public schools on a Sunday morning, the quietest time of the week and that's an attachment to the testimony. The noise levels ranged from a starting range of no street traffic of 45.2 up to 78.4 with traffic going by on the street. Intro 420 would limit construction noise around schools to 45 decibels effectively stopping all construction activity around schools including conversation between construction workers. The city's existing noise code rules require every construction project to have a noise mitigation plan that sets forth the plan construction activities and the actions that will be taken to mitigate construction noise. The mitigation plan must include measures to minimize the impact of construction activities on what are

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known as sensitive receptors such as schools, hospitals, and houses of worship. Failure to comply with the requirements of the noise mitigation plan will result in hefty fines. Permitted noise levels are determined by the surrounding noise in the area in which the construction activity takes place. Noise levels cannot exceed the ambient sound level by more than 10 decibels measured from 15 feet from the source is measured from inside any property with the doors and windows closed. For example midtown Manhattan traffic noise is about 80 to 85 decibels. The permitted construction noise would be determined by measuring the noise level from inside of a receptor such as inside of the school that is at least 15, 15 feet away from the construction source. If the noise levels exceed those permitted volumes and strict compliance with the noise mitigation rules would not be possible or would create an undue hardship because of the location or unique characteristics of the site or if the construction devices or activities to be employed an alternative noise mitigation plan must be developed and submitted to DEP for approval. Such alternative plans must show additional noise

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mitigation strategies are consistent with the purposes and policies of the noise code. Ever school... indeed every facility has different issues associated with construction in the surrounding area. The construction project located across the street from a gym or a cafeteria of this school will have a very different impact than one located adjacent to classrooms. The hard and fast standard proposed in Intro 420 will not enable the noise mitigation options... to balance the needs of the community and the project. And I will shorten my testimony. So we recommend that any strategies be considered as part of a project's design process to make sure that it's up front and included in all contractors bid documents to ensure that all contractors bidding a project understand the noise mitigation expectations that are unique to that project. We appreciate the council's concerns about the impact of construction noise around schools. We have... further discussion to arrive at a workable solution that will enable construction projects throughout the city to move forward while addressing overall community concerns.

CHAIRPERSON RICHARDS: Thank you.

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JOHN: Good afternoon my name is John Wund speaking on behalf of the Building and Construction Trades Council of Greater New York. The Building Construction Trades Council represents 100 thousand working men and women in New York City. I want to start by thanking the council for hearing my testimony today. I'm here today to raise several concerns that our organization has with Intro 420. The New York City noise code already recognizes certain locations that the city deems particularly sensitive to the impacts of construct... of a construction project. For example for construction to occur next to hospitals, places of worship or schools additional mitigations are mandated by those required for activity in the vicinity off other sites. Often extra steps are taken for many projects near schools beyond the regulatory requirements to ensure noise is kept to a moderate level. Work hours are often adjusted to accommodate special circumstances like major testing, physical improvements to a school's campus are made to help further mitigate noise impacts such as the instillation of a noise attenuating windows which is planned for the school adjacent to

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2 the site of the proposed new Jewish home on up... on
3 the upper west side. Place... of 45 decibels on a... on
4 work sites that near schools as Intro 420 proposes
5 is impractical given the requirements already in
6 place. Intro 420's noise limits are simply
7 unrealistic and withhold construction on a far
8 reaching set of public and private projects
9 including important infrastructure development,
10 health and social service facilities, nonprofit
11 organizations, cultural institutions and even
12 affordable housing that neighbors schools. Another
13 deserving aspect of this legislation is the
14 sweeping consequences for the construction industry
15 and its workforce. Workers on current and planned
16 projects would unduly be affected. Also according
17 to the New York City Department of Health's...
18 measurements the standard of being proposed with
19 this legislation would allow far fewer decibels
20 than are omitted from an everyday household
21 appliances such as dishwashers, vacuum cleaners. In
22 2007 the city made several meaningful updates to
23 the noise code. Among these was requirements that
24 prior to commencement of construction all projects
25 must have in place a noise mediation plan. The

2 purpose of this effort was to place greater
3 accountability on construction projects. New York
4 City DEP requires news, noise conditions to be
5 monitored onsite at all times. The noise code in
6 our city was carefully considered to balance the
7 need of the... the need to mitigate impacts from
8 construction with the need for the city to
9 continually rebuild and renew. The legislation's
10 that being proposed is well intended... intention...
11 has well intentioned. But the city already has
12 taken steps to protect... sensitive use like schools
13 near construction sites. We urge the council to
14 oppose Intro 420. Thank you.

15 CHAIRPERSON RICHARDS: I want to thank
16 all of you for your testimony. I just have a few
17 questions before we get into testimony for parents.
18 And first off I want to say I hear all of you loud
19 and clear. The only thing I was concerned about is
20 I didn't hear children in your testimony. It
21 saddened me. There was no mention of children. So
22 we'll... we'll go... so I want to ask just the first
23 question. What current levels of ambient noise
24 would you say is at your sites now. So if I came to
25 one of your construction sites just give me an

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example of maybe one what... what noise level would I find? What decibel level?

FELICE FARBER: Well it really depends upon what the type of activity it... that is going on. There are limitations that DEP stats on how much noise you can be producing different sorts of activities, produce different levels of noise with pile driving being the loudest activities and you know other sorts of interior construction obviously being very quiet. And the... the noise code rules set forth very clear in mitigation measures that you have to take for each type of construction activity. So there's no... there's no blanket you could say for you know here's what typical construction activities are. You know I'm... it's impacted by what the ambient noise is and what the type of activity is that's... that's taking place.

CHAIRPERSON RICHARDS: So what mitigation measures would you recommend because obviously there is an issue where it would not hear because we have nothing better to do today. So what... what measures would you say that your construction sites... if you had to make a

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recommendation what would be one thing that you guys can do better to lessen the impact on schools?

DONALD RANSHTE: Well councilman one of the things that contractor will... will typically look at I the pieces of equipment that are being used. As my colleague stated earlier pile driving excluded in this instance if you were using a jackhammer there's a... there's a muffler for that piece of equipment. Some sites that require a noise mitigation plan will allow for jackhammers to be mufflered. I... I think that to say that you can't have a certain level of ambient noise... I mean of construction noise in addition to the ambient noise at 50 feet or 75 feet or whatever radius away from the site you want to pick DEP uses 50 and we're talking about 75. I think perhaps it... it may be better if you're looking to protect children in school classrooms from noise to look at the different types of equipment are used at the site.

CHAIRPERSON RICHARDS: I think that was a... that's one solution.

FELICE FARBER: If I could just add to that. And I think it was an important point that Ross Holden brought up in his testimony. There are

2 issues that can also... taken into consideration in
3 the design process. And that really is the most
4 appropriate from in which to look at what are the
5 quieter ways you can do construction so the example
6 he gave is requiring piles to be done by auger
7 drill rig which is essentially vibrating them in.
8 It's much quieter. So that's something that has to
9 be considered as part of the design process.

10 CHAIRPERSON RICHARDS: So there's
11 obviously going to be a lot of work done around
12 this bill to pass the bill. And so I'm wondering
13 what sort of compromise do you foresee in the
14 future because we... we're going to look to lower the
15 numbers somehow. So is there any thoughts in... on
16 your mind now on how we can achieve this goal
17 together?

18 DONALD RANSHTTE: I think the... I think
19 the short answer was yes. I think that contractors
20 are very aware of... of the... the noise that they make
21 and their surroundings and... and like our... my
22 colleagues here have said when it's around the
23 school or when it's around the hospital or nursing
24 home certainly the levels are... are to be kept down
25 and there's a noise mitigation plan for that. I

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think that's certainly if this was something that the council was going to pursue I think that contractors would love to have a seat at the table to say these are the type of mitigation strategies that we can employ to help you achieve the goals... whatever the goals that you set are. So I... we would love to have a seat at that table.

FELICE FARBER: And I think there is a form that's already in place that can address many of the council's concerns. DEP has a construction noise taskforce. It addresses the rules for what the noise mitigation plans are and what the additional things are supposed to be. And I believe the council... representatives of the council attends those meetings when DEP has them.

CHAIRPERSON RICHARDS: And are any parents on that advisory board?

FELICE FARBER: It is construction professionals and council members and DEP staff. So no parents have not been part of that.

CHAIRPERSON RICHARDS: So we should probably have that discussion with DEP to try to ensure that there's a seat at the table for our

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parents. I'm going to go to Mark Levine now for questions.

COUNCIL MEMBER LEVINE: Thank you Mr. Chair. I really do appreciate the perspective that all of you bring. It's... it's incredibly important to us as we think about this policy. I... I do want to challenge the notion that these goals are impossible to achieve while still doing construction. There's a... a couple points that are really key here. We're talking only about measuring the sound within classrooms. And these potential... classrooms with noise attenuating windows and with some sort of air ventilation system running that really does dampen noise. Sure you can say that they have a group of construction workers on a construction site just talking would exceed 45 decibels and... and no one would object to that. But I think we would all understand that having a group of construction workers inside a classroom talking would be unacceptable level of noise disruption right. So the question is really only to what extent the... the sound carries to the ears of the students. And you know technology has moved so far and you all know this better than I do over the

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decades our ability to dampen noise that we can get a lot done with a really good modern sound attenuating window. So even... even measured inside a classroom you don't think you can do work during the school day under rules like this? Any of you?

JOHN WUND: How you doing? As we stated earlier other than when the kids are taking a test or reading or when the teacher's giving instruction, just verbal instruction, it's going to be over 45. So it... it's construction so it's hard to say. But I just want to... I mean it's a really low umber.

COUNCIL MEMBER LEVINE: Well look I don't know if you were here earlier and we had the hammer in the other room which our... our medical experts said might be about a 50 decibel level. Disruption, it wasn't... it didn't... didn't break your eardrums but it certainly was disturbing in effect maybe Mr. Chair will do some legislation on limiting the noise disruption in council hearings. We actually do have a bill I believe on jackhammers though. Right. So sign me on as a co-sponsor.

CHAIRPERSON RICHARDS: Alright got it.

2 COUNCIL MEMBER LEVINE: I think this... I
3 would imagine the perspective of contractor in the
4 building trades is somewhat different here because
5 while it's possible that the kind of noise... noise
6 mitigation work you need to do does add time and
7 cost to a project. I'm not conceding that but it's
8 only a possibility we should be open to... It seems
9 like almost any mitigation effort we would... we
10 would require would create more work for the
11 hardworking men and women of the building trades...
12 maybe even shift them to overtime hours earning
13 time and a half. And I think actually both... both
14 of... stations represent union building trades right?
15 So we love you for that. Thank you. But sure it's
16 more work if you have to put up a sound barrier all
17 around the site, someone's got to deliver that and
18 install that but I would think that those would be
19 building trades members who are doing that work.
20 And maybe it takes... I don't know how long it takes
21 to put a muffler on a... on a jackhammer... maybe it
22 slows the job down but those hopefully are union
23 workers who are doing that instillation and... and
24 obviously running the jackhammer. From... from the
25 narrow perspective of the workers this could be a

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win. You know maybe... maybe they'll have³ less damage to their ears and a little more time on the clock. And then we... we help some kids in the process. What... what... what's not to love.

FELICE FARBER: Well the source of things that you mention are required. You are required to put mufflers on jackhammers. And DEP and the contractor are constantly looking at what are the quitter options available, are there better mufflers, is there something quieter. Sound attenuation around a construction site is a requirement. And constantly looking at ways to balance out mitigating the sound and making sure you don't create a dangerous environment for pedestrians walking by. You are correct that sound mitigation is something that benefits both contractors, the workers on the site, and people surrounding it. And that's why we're constantly working in cooperation with DEP. At what... what options can be placed that do mitigate the noise. And fortunately no one's made a quiet jackhammer yet that... that is effective but we're constantly looking at what are the things that you can do to mitigate that noise.

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2 CHAIRPERSON RICHARDS: Alright well
3 thank you very...

4 DONALD RANSHTTE: Mr. Chair if I could
5 just add one thing to that. And councilman thank
6 you for... for your acknowledgement that union
7 contractors try to follow the rules. Unfortunately
8 in New York City right now not every construction
9 site is a union construction site. Certainly we
10 feel that union contractors are the ones who are at
11 the table who are working with the council who do
12 follow the rules. What I... what I would say to this
13 is as we look... as we look at this and... and look at
14 solutions one of the reasons why we oppose the bill
15 and I... I try to mention it quickly is the fact that
16 there's... there's not a lot of... about the
17 enforcement and... and maybe perhaps you meant to
18 leave it up to... to the rule making and I... I
19 certainly understand that. But we would like to
20 see... should there be a... a decibel level enacted
21 that the regulations for how that's reported back
22 to the contractor and how that's enforced is really
23 just as important. Certainly a union contractor
24 would... if there were a statutory level and... and
25 they did exceed it would stop working if that's

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2 what the law called for. We'd like to make sure
3 that those who cheat the system don't just continue
4 to work. We... we'd like to see that... that
5 enforcement is written into the bill as well.

6 COUNCIL MEMBER LEVINE: Just one final
7 point... follow up on that. Look one of the reasons
8 why I'm so supportive of... of union builders and of...
9 of the union trades is that in addition to the
10 benefits of the workers there's no workforce that's
11 better managing safety and running the really tight
12 construction site that adheres to the rules. And I
13 think this is probably the ideal workforce to
14 figure out like what is the cutting edge techniques
15 we can employ to mitigate sound. And... and you as
16 union contractors deserve credit for employing this
17 workforce and I know you can... I think... I think that
18 if we put our heads together we can find solutions
19 that work for kids but allow construction in a
20 reasonable form to continue.

21 CHAIRPERSON RICHARDS: Thank you. We'll
22 go to Council Member Rosenthal now for questions.

23 COUNCIL MEMBER ROSENTHAL: You know in
24 many ways I don't... I mean I want to echo my
25 colleagues' gratitude for your coming today and

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2 giving your testimony. It sounds like there is a
3 route to some coming to the table and... and
4 brainstorming to come up with some good ideas of
5 how to address this situation. And I do want to
6 echo my colleagues' point about union workers being
7 the best qualified to address this issue
8 particularly as it has to do with cutting edge
9 technology and safety which is critically important
10 for the workers and for pedestrians or children.
11 Are there... do you have a sense internally you know
12 to the... to your... your institutions of standards
13 that would be responsible given what you heard this
14 morning from the health experts and from the school
15 construction authority in terms of what could be
16 one to protect the students.

17 DONALD RANSHTTE: I'd like to make a
18 suggestion and... and certainly think that monitoring
19 construction noise and which decibel levels come
20 from which pieces of equipment is something that
21 can be done. I think... I think also that as I
22 mentioned earlier there would need to be a sort of
23 baseline decibel level on just the ambient noise of
24 New York City. And the national study takes into
25 all types of... of locals for schools, country

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2 schools, suburban school, city schools. If we were
3 talking about New York City schools we should have
4 some sort of baseline of what the ambient noise
5 level in a classroom is without construction noise.

6 COUNCIL MEMBER ROSENTHAL: Can I ask you
7 why is there such a... a distance between what the
8 health experts say is the... is a good level and... and
9 your testimony today which makes one think that you
10 know we shouldn't have any concerns.

11 DONALD RANSHTE: None of us are doctors
12 here. So I don't think we can... we can answer that
13 successfully. However if you look through not only
14 the New York City noise code but some of the OSHA
15 standards there's an OSHA standard that says a
16 construction worker can work safely with a piece of
17 equipment at 115 decibels for 15 minutes at a time
18 without causing any injuries. So I think that... I
19 think that the decibel...

20 COUNCIL MEMBER ROSENTHAL: With the ear
21 things in... over? Or no?

22 DONALD RANSHTE: No.

23 COUNCIL MEMBER ROSENTHAL: Hmm.

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2 DONALD RANSHTTE: So I... I think that
3 there's a... a wide spectrum of what is acceptable
4 and what is not acceptable.

5 COUNCIL MEMBER ROSENTHAL: Hmm.

6 DONALD RANSHTTE: And there's some... Like
7 I said just... there's just some standard baselines
8 that need to be set before we have this sort of
9 discussion.

10 FELICE FARBER: But I... I think as well
11 it's important to note that the noise code takes
12 into account that there are additional mitigation
13 measures that are required around places like
14 schools and that needs to be considered in the
15 construction activities.

16 COUNCIL MEMBER ROSENTHAL: Can you just
17 give me two examples of those additional
18 mitigations?

19 FELICE FARBER: So there are... there are
20 decibel limits but I would... you'd probably have to
21 do some initial sound... additional sound barriers or
22 things like that to take into account that there is
23 a school or what they're referring to as a
24 sensitive receptor that is very sensitive to noise
25 from the construction site. And so you might need

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2 to do things like have your sound barrier canted so
3 that it kind of muffles the sound in... from going
4 into the school.

5 COUNCIL MEMBER ROSENTHAL: Are there
6 ever... would it ever be included... the... taking into
7 account the hours that the children are in the...
8 that the... when the school is occupied or not?

9 FELICE FARBER: Those are issues that
10 would have to be set by you know your... a building
11 permit or the work hours that are provided. It's
12 not... that's not a... a choice made by the contractor.
13 That's a choice made by... within your allowed to a...
14 allowed to work. And so as I think someone
15 mentioned earlier and it has been done on other
16 projects you try to adjust the noisiest activities
17 along... around when things are taking place. If
18 you're... [cross-talk] doing a foundation and it's
19 right next to a school there are limitations on
20 what you can do to adjust the hours. While you may
21 be helping out the students you might be creating
22 more of an issue than for the community and that's
23 something that needs to be balanced out. The real
24 important issue is that these are decisions that
25 need to be made up front and made clear to the

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2 contractor and made part of the bidding process. So
3 items that are considered either as part of the
4 design process, as part... if it's a public project
5 as part of the government bidding process just need
6 to be clear up front what's required.

7 COUNCIL MEMBER ROSENTHAL: Thank you.

8 CHAIRPERSON RICHARDS: Thank you.

9 Alrighty we'll have the next panel. Thank you all.
10 We look forward to working with you. Thank you for
11 your testimony today. Next we'll hear from
12 Manhattan Borough President Gale Brewer's Office. I
13 think she has a representative here if they're
14 still here. We'll hear from Mark Later, Ledov from
15 the New York Lawyers for the Public Interest, Alan
16 Fierstein from Acoustilog Incorporated, And Arlene
17 Bronzaft and I can't read... or yourself, okay.

18 AYISHA IRFAN: Good afternoon. My name
19 is Ayisha Irfan. I'm here offering... [cross-talk]

20 CHAIRPERSON RICHARDS: One second
21 Samara's going to swear you in.

22 COMMITTEE COUNSEL SWANSON: Can you
23 please raise your right hands? Do you swear affirm
24 to tell the truth, the whole truth, and nothing but
25 the truth today.

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3 [combined affirmations]

4 AYISHA IRFAN: Good afternoon. My name
5 is Ayisha Irfan. I'm offering testimony on behalf
6 of the Manhattan Borough President Gale Brewer.
7 Good afternoon my name is Gale Brewer and I am the
8 Manhattan Borough President. Thank you Chair
9 Richards, Council Member Levine, and the members of
10 the Committee on Environmental Protection for the
11 opportunity to testify today. The proposed
12 legislation Intro number 420 would amend section
13 24/220 of the administrative code of the City of
14 New York in relation to mitigation of construction
15 noise within 75 feet of a school. It states noise
16 shall not exceed 45 decibels during normal school
17 operating hours in any receiving classroom in any
18 public or private preschool or primary or a
19 secondary school on lots that are within 75 feet
20 from the construction site. The right to equality,
21 safe, supportive, healthy, and effective education
22 for the students of New York City must be
23 protected. Rejection of Intro 420 will profoundly...
24 will be profoundly detrimental to this right and
25 the physical physiological and psychological health
of our students. In the past construction adjacent

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3 to schools have exposed students to the harm...
4 harmful effects of sustained loud and even the most
5 sustained loud noise and even the most effective
6 teachers and administrators cannot overcome. My
7 staff has worked directly with parents,
8 constituents, school leaders, community boards, and
9 community education councils across the borough to
10 address noise impact at school sites including
11 PS199, PS163, the school of the future, PS... and
12 PS153. Community Education Council 3 has
13 unanimously passed a resolution in support of the
14 proposed legislation Intro 420. Parents at schools
15 facing next door construction or calling me to get
16 assistance in moving their children who have asthma
17 out of the school to another equally good school
18 creating disruption on many levels. The New York
19 State environmental conservation law in the New
20 York State and New York City Environmental Quality
21 Review Manuals all specify that noise levels in
22 schools should not exceed 45 decibels to ensure a
23 positive learning environment. Yet in contrast to
24 these standards set by the state and other
25 organizations that draft environmental impact
statement by the New York State Department of

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3 Health for the proposed construction of the Jewish
4 home life care adjacent to PS163 demonstrates that
5 the absolute noise level for that site may rise as
6 high as 79.5 decibels during the excavation phase
7 and up to 81 decibels during the excavations phase
8 and up to 81 decibels during the superstructure
9 construction. By contrast the typical ambient noise
10 in a library is 45... 40 decibels. The levels of this
11 proposed construction are... substantially over their
12 recommended decibel level for a positive learning
13 environment and will have a dramatic negative
14 impact on our student's capacity to learn. The
15 scientific literature on the harmful effects of
16 sustained noise for children's physical,
17 psychological, and epidemic wellbeing is luminous
18 and conclusive. Experts from the Mt. Sinai
19 Children's Environmental Health Center report that
20 school children's chronic exposure to increased
21 background noise resulted impaired reading
22 comprehension. Further Mt. Sinai found that for
23 every five decibel increase in ambient noise
24 measure during daytime hours on the exterior
25 surface of school building grade school age
children experience a one to two month delay in

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reading comprehension. In the context of PS 163 in which the construction is expected to take at least 14 months. One could expect children to read at a level of three to six months behind their peers. As a result of the predicted noise levels children could be set back up to half a year. Additionally researchers Gary Evans from Cornell and... from Carnegie Mellon found that residing or attending a school near a major noise source is associated with elevated blood pressure. Elevations in blood pressure appear to track into adulthood increasing the likelihood of cardiovascular disease. I'll conclude by saying the noise standard set by the New York state and New York City the recommendations of multiple organizations current scientific research are critical to ensuring a positive learning environment and student success. Adoption of Intro 420 you will help codify that basic protection. I believe in the wellbeing of thousands of students rest on its adoption. I would urge the committee to vote in favor of Intro 420. Thank you again for the opportunity to testify. Thank you.

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ARLINE BRONZAFT: Arline Bronzaft

Environmental psychologist. I thank you for citing my studies without the author which is... would never work if you were working for a journal. But it was my studies 40 years ago that found that noise affects children's learning, how shocking, that have to go into a classroom and actually find out that the reading schools of children exposed to the elevated train tracks that those children were nearly a year behind... 6th grade compared to children on the quiet side. My eight year old daughter figured it out when she asked her mother how could children possibly be studying and learning in a classroom that was noisy. But let me tell you how that study started. And it's to the parents that I tip my hat. It was a student in my class. I was professor of psychology at Lehman College and the students at Doctor Bronzaft helped me. There are children at a school next to the elevated train track and they're complaining that they can't learn. And the teachers... let's not forget the teachers. The teachers could not teach. Now while I am a researcher, a professor, and a scientist I jumped to help that parent and went to

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the principal of that school and asked to look at the reading scores of the children on the quiet side and those on the noisy side and looked at them for four years when I came up eighth the findings that indeed the children were behind in reading. And let's not only recognize they were behind in reading. Think of the cost of remediation if we had to then take those children and get them up to speed. But this was the... this was the late 70s. And this was a very different city. And I didn't have to sit at a city. And I didn't have to sit at a city council hearing to convince people that noise impacted on children's learning. What we did is we went to the transit authority and we asked them to test out the resilient rubber pads that they thought would quiet the track noise and ask them if they would do it at public school 98 in upper Manhattan and they said yes. And then we went to the Board of Education and we asked for acoustical ceilings in the classrooms and they said yes. And isn't that amazing, two miracles that took no time at all at the request of a college professor and a principal of a school. And now we have to do all this. Well by the way after that... those two studies

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2 were done the following studies confirmed them. So
3 it was... they did not say to me Dr. Bronzaft do
4 another study. They corrected the problem. And the
5 transit authority then decided to use that
6 abatement next to not only the schools on the
7 tracks but also the people live along those tracks.
8 So how long have I... may I have another minute too?

9 CHAIRPERSON RICHARDS: Not two because
10 we have...

11 ARLINE BRONZAFT: Just one.

12 CHAIRPERSON RICHARDS: ...30 people to get
13 through.

14 ARLINE BRONZAFT: Okay let me...

15 CHAIRPERSON RICHARDS: But I... I will
16 allow you another minute.

17 ARLINE BRONZAFT: I've worked on this
18 for 40 years. I think I know this issue very well.
19 What shocks me is that I seem to be in a twilight
20 zone having to reiterate this again. I will say to
21 you I've looked at the way you've written the
22 codes. There are questions about it... windows open
23 windows closed, decibel levels... You also have to
24 know where will you put the monitors to mitigate
25 those issues were addressed before. Anyone could go

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to my name and google. It's Bronzaft and you can get references to these studies. I've written a book with co-authors that have a whole section on noise and learning. But I also have studied the effects on adults. And I've spent a lot of time on this. So let me thank you. I think I could help this body with the... basically with a knowledge I've accumulated over these years. And by the way to that answer about do we abate noise, yes. The schools near airports. And it was my study that was instrumental in doing that. And that has taken place in this city where they abate noise near... next to airports. And if you want to know what they're doing in the rest of the country you could also... I could fill you in on that. And I could feel you on... in on the latest research that looked at the schools who were abated near airports to find out did the children do better after the schools were quieted? What are you going to take an educated guess. But we had to do a study and I sat on the oversight committee for the National Academy of Sciences. So the research is there. We can move on this. And I would definitely like to work with you because what I can do is bring you the kind of

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2 information that I have on this and I could also
3 speak to the effects on children's health and to
4 the effects on their parents and the teachers. By
5 the way 11 percent of classroom... [cross-talk]

6 CHAIRPERSON RICHARDS: Alright we're
7 going to have... we're going to... We're going to have
8 to wrap up but thank you. We... we probably will
9 recommend you working or heading up the noise
10 department at DEP. And I'm sure... [cross-talk]

11 ARLINE BRONZAFT: No.

12 CHAIRPERSON RICHARDS: ...we'll... we'll get
13 some solution there.

14 ARLINE BRONZAFT: Thank you.

15 CHAIRPERSON RICHARDS: I didn't just say
16 that did I?

17 ARLINE BRONZAFT: Thank you very much.

18 CHAIRPERSON RICHARDS: Alrighty. We'll...
19 next person please.

20 ARLINE BRONZAFT: I work closely with
21 them so thank you.

22 MARK LEDOV: Thank you Chair Richards
23 for hosting today's hearing and to Council Member
24 Mark Levine for sponsoring this legislation to
25 protect children's health and education. My name is

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Mark Ladov and I'm a staff attorney with the environmental justice program of New York Lawyers for the public interest. And we're pleased to speak in support of Intro 420 today. This legislation will update the city noise ordinance to reflect compelling evidence that noise levels exceeding 45 decibels harm children's health and educational progress. I think in particular we support this bill because we think that it will ensure that the burden to mitigate these noise levels is on developers instead of parents and schools. I'm not going to get into the research that we've heard so much about today about excessive noise harming children's health and learning. I... I will say quickly that one of our particular concerns is that this impact is especially acute for some children with disabilities such as sensory impairments, auditory processing disorders, ADHD, and autism who may be particularly sensitive to noise. I think one thing that we've heard repeatedly today is that these impacts can be mitigated effectively. I know that we're going to I think hear from parents at 234 in Tribeca, PS234 who... who organized when a construction project was going up next to their

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school and they brokered a deal with developers to mitigate these noise impact with the help of elected officials and school administrators that included sound barriers at the work site and at the school, alternative construction methods that use quieter equipment and delaying certain construction until after children completed standardized testing. This plan was designed to minimize the impact on students and address parents' environmental concerns. I think we are worried that the current legal regime is insufficient to ensure that this approach is taken and standard whenever children's health and learning are at risk. The PS234 story... we want to make sure that it's... that it's the rule. You know it required parents in one of the city's most affluent neighborhoods to get very organized and to expend a lot of resources including hiring engineers and experts to evaluate noise impacts. Those resources may not be available for every school. So we think that the law needs to place the burden on developers to perform that analysis and to provide the noise mitigation measures that may be required. Right now in terms of a legal structure really we have the city

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3 environmental review process we sometimes have
4 ULERP. Those may not apply in every case. It's
5 difficult for parents to navigate the systems and...
6 and you know from our understanding those... you know
7 they certainly address noise mitigation
8 requirements but you know without... it's... it's
9 fuzzy. You know the... the advantage of a bill like
10 this is that it requires... it sets a threshold that
11 creates a burden that has to be addressed. And it...
12 and it doesn't leave it to discretion which may be
13 harder for some schools to navigate. So for those
14 reason we are supportive of Intro 420 and
15 appreciate the opportunity... opportunity to testify
16 today.

17 CHAIRPERSON RICHARDS: Alright I'm going
18 to go to the prime sponsor of this bill Mark
19 Levine.

20 COUNCIL MEMBER LEVINE: Appreciate all
21 of your testimony. Mr. Ledov... [cross-talk]

22 CHAIRPERSON RICHARDS: Sorry we left... we
23 skipped a person. So we'll allow you to go. I'm
24 sorry Sir.

25 ALAN FIERSTEIN: My name is Alan
Fierstein. I founded Acoustilog in 1976. I have

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consulted for over 5,000 jobs for businesses, residents including city hall. Thanks for inviting me. Ten years ago I was invited about the new noise code by Jim Genaro [sp?]. The legislation's a great idea. However you've heard a lot of bad information today. The room noise here is 65 decibels, not 45. When the sound level increases by 10 it sounds twice as loud to the average person, not 10 times as loud. New windows are not necessarily the solution. Smartphone apps are dangerously misleading. The existing code has big big problems that lead to more noise. The real goal should be to reduce noise from all sources for everyone. The 45 thousand complaints you talked about weren't just about construction noise in schools. Now back to construction noise in schools. Is the 45 DBA measured with the school windows open or closed? If the windows are open or ineffective that will hinder even relatively quiet construction. There has to be effective mitigation measures in the schools and/or on the construction sites... and/or which could be installed by the contractors and funded by the city. There are low cost options. One has to state how it's measured. Fast or slow? How

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many seconds or minutes per hour continuous for impulsive noise etcetera. Using DBA only allows for many kinds of disturbing noises that you will be overlooking. There's different types of ways to measure sound. This 40 year old meter is one that's typical of what's used by the city, by the DEP inspectors. This meter measures octave bands. Base, midrange, and treble is a simple way of describing it. And they can be huge base sounds like the ones we heard before coming from that direction that don't read 45 DBA on a meter but a disturbing never the less. Why 75 feet. Noise can be disturbing for 300 feet away. Continuous monitoring has a lot of problems. Measuring inside would pick up people. Measuring outside would pick up unrelated noise. The noise should be quote noise attributable to construction. Noise mitigation plans are used as an excuse by contractors to get away with murder. I was in a supreme court case that measured 98 decibels. If I screamed as loud as I can, not going to do it, that would be 98 what you would here at the dais. They use that as an excuse saying we have a noise mitigation plan on file. They're not necessarily effective, the plans. There are many

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2 low cost ideas... I'm sorry one more thing the noise
3 mitigation plan if it's on... if it's even done it
4 the contractors essentially absolve in section
5 24224 of making too much noise. There's an anti-
6 standard called design requirements and guidelines
7 for schools. You should read this. It talks about
8 35 decibels, half as loud as 45 measured on the A
9 scale which the simple meters measure or 55 on the
10 C scale which includes base sounds which some of
11 the simple meters also measure more effectively
12 than apps. I'll be happy to work with you guys,
13 give you lots of ideas. I've done this for almost
14 40 years so...

15 CHAIRPERSON RICHARDS: Thank you. I'm
16 going to go to Mark Levine.

17 COUNCIL MEMBER LEVINE: Thank you all
18 for very very informative testimony. Mr. Ledov, did
19 I pronounce that right, sounds like you were
20 involved in the... in the fight that parents waged at
21 PS234. Whether... whether you were or not it's okay.

22 MARK LEDOV: We... yeah we... we were... yeah
23 we were not. We were... [cross-talk]

24 COUNCIL MEMBER LEVINE: Do you... [cross-
25 talk] It seems like that... that... very helpful

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2 standard of what can be done when there's a will
3 and the resources to protect kids. Can you offer
4 any detail of the measures they took? That was a
5 massive building, 1.1 million square feet, 400
6 square feet tall. How in the world did they protect
7 the kids with that big of a construction job?

8 MARK LEDOV: So I... so I have to confess
9 that I'm sort of getting all that second hand as
10 well. And I don't know... I suspect that there are
11 parents here who have become experts on a lot of
12 this stuff. You know my... my understanding certainly
13 is that it is a combination of building in
14 soundproofing barriers at the worksite and at the
15 school as well as changing the time of the work
16 that's being done and... and sort of improving things
17 like the mufflers on the equipment. I think it's
18 probably also the kind of stuff that Ross Holden
19 was talking about it in terms of the SCA's
20 strategies for... for mitigating noise. You know and
21 again I think our primary concern is that it
22 shouldn't require a huge organizing campaign to get
23 those kinds of measures in place and that it... there
24 needs to be something. I'll certainly defer to the
25 technical experts exactly about what the best ways

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2 to measure this and... and the best ways to mitigate.
3 But there has to be something to make sure that
4 there's a standard to be met if... if we want to make
5 sure that the burden is on the developers and... and
6 construction to... to address those in the first
7 instance rather than requiring parents to... to have
8 to organize to get it.

9 COUNCIL MEMBER LEVINE: That's one of
10 the most important points of this hearing. And I
11 stress it in my opening statement. We need
12 legislation so that it's not only the kids with
13 active engaged resourceful parents that are getting
14 protected, that any kid, any neighborhood no matter
15 whether it's low income, moderate income, moderate
16 income gets the same protection. Mr. Fierstein did
17 I pronounce your name right?

18 ALAN FIERSTEIN: Right.

19 COUNCIL MEMBER LEVINE: So you mentioned
20 the holes in the existing noise code. You did speak
21 about the weakness of the noise mitigation plans
22 that contractors are filing. Are there other holes
23 in the code you care to share with us or are you
24 focused really on the weakness of the plans as the
25 main complaint?

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2 ALAN FIERSTEIN: Not enough time.

3 [laughter]

4 ALAN FIERSTEIN: I have a list which I
5 sent to the city council a couple of years ago that
6 didn't get a response. I made a number of
7 suggestions, some of which were taken thank god in
8 the 95 renovate... rehabilitation of the code which
9 went into effect in 2007. And a lot of... which
10 didn't.

11 COUNCIL MEMBER LEVINE: If... if you would
12 get in contact with the chair's office, my office,
13 Helen's office, everyone who's related to this bill
14 I can promise you you will have a... a very eager
15 audience to learn what you have to share.

16 ALAN FIERSTEIN: Okay.

17 COUNCIL MEMBER LEVINE: Thank you.

18 CHAIRPERSON RICHARDS: Council Member
19 Rosenthal.

20 COUNCIL MEMBER ROSENTHAL: I'm available
21 for that meeting. I want to ask you know whoever
22 wants to give the answer on this. Does anyone know
23 if DEP in reality reviews the noise mitigation
24 plans that are submitted and comments on them or
25 sends them back to be improved?

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2 ALAN FIERSTEIN: I don't know the answer
3 to that... I know in many cases they don't but I
4 can't say for sure that they don't do it at all.

5 COUNCIL MEMBER ROSENTHAL: Yeah okay.
6 And again I guess Mr. Fierstein what is... why is
7 there such a discrepancy between the different
8 parties about what the right DBS level is... person.
9 And who is the right expert to turn to? Does
10 Department of Health get involved in working with
11 DEP to set the decibel level?

12 ALAN FIERSTEIN: I don't know who makes
13 up all the numbers. But in terms of what you heard
14 today...

15 CHAIRPERSON RICHARDS: Hit your mic.

16 ALAN FIERSTEIN: Okay. Better? I don't
17 know who sets all the levels but in terms of the
18 numbers you heard bandied about today there's a
19 huge difference between the sound level of somebody
20 talking or making noise on the site and the noise
21 that goes 50 feet, 300 feet. And then goes through
22 a closed or open window and then it's heard inside.
23 There's a big drop off obviously. It's common
24 sense. So when they say well we can't have 45
25 decibels because that's... that's exceeded by someone

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talking and you hit the nail on the head when you said yeah but that's over on the construction site, you don't want those construction workers talking that loud inside the classroom. So you have to look at the numbers. But it's... it's pretty simple to understand. Here's it's 85, 95,105 on the site. And then in the classroom it's 65 or 55 and close the windows they may drop them 40... may drop the level to 45 or it may not. The windows may not close properly. There may be a gap between the upper and lower sessions, between the upper and lower sessions. The window seals could be deteriorated. But there's all kinds of things that you can do. And a lot of them are discussed in this anti-standard which by the way is provided free to everybody because a number of companies... Arlene was saying before like the MTA cooperating a number of companies who have some financial benefit in dealing with this, a company that makes acoustical ceiling tiles, a company that makes quiet air conditioners help to fund this study because they want to sell quiet air conditioners and they want... and it's for everyone's benefit. And it gets the economy moving. So there's these discrepancies in

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2 the numbers because you're measuring at different
3 places. But there's also a million ways to measure.

4 COUNCIL MEMBER ROSENTHAL: Do you think
5 420... our bill gets to addressing the noise
6 mitigation problem?

7 ALAN FIERSTEIN: No.

8 AYISHA IRFAN: No... I would personally...
9 have you a copy in front of you? Did you see the
10 way 45 DBA was written? Would you look at it? You
11 have it in front of you?

12 COUNCIL MEMBER ROSENTHAL: Yeah and our
13 lawyer is right here but keep going.

14 AYISHA IRFAN: Yeah it has a little A...
15 Look I... I had a very fine professor that once said
16 to me and this was at Columbia that if you find an
17 era that's really pretty obvious right at the
18 beginning. It sort of casts doubt on the entire
19 statement. Now while I agree with you that the... the
20 intent is wonderful. I... you know I say that
21 seriously but you have to write something that can
22 be actually enforced... enforcement in fact even
23 though I helped with the New York City noise code I
24 criticized you from day one saying if it doesn't

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2 get enforced it's not worth the paper it's written
3 on.

4 COUNCIL MEMBER ROSENTHAL: Sure.

5 AYISHA IRFAN: So I can... you know in
6 terms of the anti-state... standards I work with
7 those people. I would also ask you to look at the
8 studies that measured the sound levels after the
9 abatement at the schools near the airports. And
10 that would be a clue to you as to what you can do
11 to lessen the sound. Remember... [cross-talk]

12 COUNCIL MEMBER ROSENTHAL: May I
13 interrupt just for one second?

14 AYISHA IRFAN: And that's what you need.
15 That's...

16 COUNCIL MEMBER ROSENTHAL: Here's...

17 AYISHA IRFAN: ...what you asked.

18 COUNCIL MEMBER ROSENTHAL: Sure. We're
19 all on the same side.

20 AYISHA IRFAN: We're all on the same
21 side. [cross-talk] understand.

22 COUNCIL MEMBER ROSENTHAL: So I just
23 want to make that clear. Our... our lawyers and the
24 council are... we're really all preaching to the same

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2 choir ourselves. And I guess what I'm trying to get
3 at is if you have suggestions... [cross-talk]

4 AYISHA IRFAN: ...to you.

5 COUNCIL MEMBER ROSENTHAL: Send them in.
6 It's not... We're... we're happy to look at them and of
7 course the council is always balancing what's
8 legal... what's doable...

9 AYISHA IRFAN: I agree.

10 COUNCIL MEMBER ROSENTHAL: And you know
11 we always can't have the perfect to be the enemy of
12 the good or whatever the expression is.

13 AYISHA IRFAN: 100 percent. But I did
14 want to tell you there are all these studies out
15 there because you asked. They did and they did
16 reduce the sound levels at schools in the New York
17 City area.

18 COUNCIL MEMBER ROSENTHAL: And I guess
19 what I'm asking is...

20 AYISHA IRFAN: I... I...

21 COUNCIL MEMBER ROSENTHAL: ...could you
22 help us as the expert?

23 AYISHA IRFAN: Will I help you? Yes.

24 COUNCIL MEMBER ROSENTHAL: Thank you.

25 AYISHA IRFAN: Yes thank you.

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2 CHAIRPERSON RICHARDS: Alrighty got you.

3 COUNCIL MEMBER ROSENTHAL: Thank you
4 very much.

5 CHAIRPERSON RICHARDS: And that's why we
6 do these hearings so that we can hear from
7 everybody because there's nobody who walks on
8 water. And you know... But we try to. And... and one of
9 the reasons we do here exist to ensure that we're
10 taking recommendations so we can implement them
11 into legislation or the planning process as we move
12 forward. Alright I want to thank you all for your
13 testimony. We will call the next panel and guess
14 what I have to leave for a second and I'm going to
15 leave this seat in good hands. I've warmed it for
16 him. Council Member Mark Levine you will take the
17 seat.

18 COUNCIL MEMBER LEVINE: I... we'd... we'd
19 like to begin calling parents in an organized you
20 by school if that's possible. And not everyone
21 wrote the name of their school on their... on the... on
22 their appearance card. So I'm going to try and get
23 if I can all the folks from PS163 to come up if
24 it's not too many. We can also add extra chairs.
25 Okay. Jason Barron Scott? Oh Josh Kross okay. So

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2 Josh... Josh Kross we know is from PS163, Iliana
3 Shapiro, sorry if I'm reading that wrong, and any
4 other parents associated with PS163 who would like
5 to test... Help me out here. Come on up Dean,
6 absolutely. Alright. It might have been easier to
7 ask who was not a parent at PS163. Sergeant sorry
8 about the chaos I've created here. We can do this
9 in shifts if necessary. I just wanted to hear from
10 each school at a time so... Overflow parents if you
11 can just sit on the folding chairs for now.
12 Everyone will get a turn to speak. Okay.

13 JOSH KROSS: Hi my name is Josh Kross
14 and I'm currently a PTA co-president. But before I
15 read mine well we need to do the thing.

16 COUNCIL MEMBER LEVINE: Sorry we're
17 going to have the committee council just do a group
18 swear in.

19 JOSH KROSS: Okay.

20 COMMITTEE COUNSEL SWANSON: Please raise
21 your right hands. Swear affirm to tell the truth
22 the whole truth and nothing but the truth today?

23 JOSH KROSS: Yes.

24 CHAIRPERSON RICHARDS: Please Josh.

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2 JOSH KROSS: So... so before I read mine I
3 actually have a statement from a teacher at our
4 school who is speaking behalf on being a teacher in
5 the city and a parent of a special needs child.
6 This is on behalf of Iliana Shapiro [sp?]. I am a
7 teacher at PS163. Last year during our final
8 writing unit which focused on opinion on writing my
9 students were motivated to write about the issues
10 that our neighborhood faces. One of the issues that
11 they focused on is the proposed building of a 20
12 story 275 foot nursing home mere feet from our
13 school. Although I know how to project my voice
14 even I can't imagine that teaching over the
15 impending noise anticipated to invade our
16 classrooms. Next year I'll be changing grades. This
17 is a huge drum from third grade to kindergarten.
18 Yet this is not the only challenge I'll be facing.
19 Four out of five PS163s Kindergarten classes will
20 be the... housed in the two trailers outside of our
21 school building. The magnitude of the imminent
22 noise is simply overwhelming. Earlier this year
23 when they were just cutting down trees in the
24 parking lot adjacent to our school to make way for
25 the new building the noise within the trailers was

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pushing 100 decibels and during my statement I'll show you that. This vastly exceeds the 45 decibels proposed in this bill. I'm also a parent of a four... four year old with special needs. She has already had delays in her language development. The thought of having her or any other child listening to noises greater than 45 decibels as they try to focus and learn... How can she learn to pronounce words if she can't even hear them. How can she be expected to learn and process her world around her with constant noise interference. I'm a teacher and a parent but I am here as a concerned member of the NYC community. Our city will continue to grow and change but we need to safeguard our children's educational environment. They are our future. And now for my... for my own. Again I am currently a co-president of the PTA PS163 and as of this coming September I'll have three children in the school, one in Kindergarten, one in second, and one in fifth grade. However I'm not here to talk about our school. I'm here to speak for the millions of children in New York City who spend their days trying to learn. The DOE run public schools alone have over 1.1 million students in 18 hundred

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3 schools. As part of our school's leadership I've
4 interacted with individuals and schools throughout
5 the five boroughs who... who are faced with education
6 obliterating noise from nearby projects. As
7 countless people have said to us construction
8 happens in this city and I don't think any of us
9 are going to stop it. Our own district
10 superintendent in the DOE laughed in one of our PTA
11 members' faces and said yeah construction happens
12 in the city, deal with it. And that's exactly the
13 case. And this video that I've brought will
14 demonstrate it happens directly next to schools.
15 All of this video was shot from school grounds.
16 This was the wood chipper. [background
17 conversations and sounds]. This is PS51 in Hell's
18 Kitchen during school hours. Also from school
19 grounds. So like I said all these were shot during
20 school hours on school grounds. We couldn't hold
21 this hearing with this kind of noise coming in. And
22 I'm not sure how anyone could expect a... a five year
23 old in Council Member Lancman's original public
24 school of PS164 in Brooklyn or a sixth grader at
25 IS141 in Astoria or... or even an 11th grader in
Springfield Gardens High School that to learn under

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2 such conditions. Let's also be clear one... about one
3 thing... in this whole thing this bill isn't going to
4 stop a single ounce of construction no matter what
5 any flak from any construction union or developer's
6 group tells you. Developers are going to develop.
7 It's in their name. That's what they do. Is it
8 going to cost them a pinch more? Maybe. But what's
9 that cost going to be, that's going to be cost to
10 mitigate noise for these kids. And this also pushes
11 the leverage back onto the city to say no
12 developers you want to make noise you got to stop
13 the noise instead of leaning on the city to pay for
14 mitigation. If anything this is also going to add
15 jobs as several council members said. This is going
16 to add jobs for construction people not take them
17 away. What the bill is going to do is require
18 developers to be considerate of the neighborhoods
19 they hope to profit and prosper in. Thank you.

20 COUNCIL MEMBER LEVINE: Okay thank you...

21 Just before we continue I want to remind everyone
22 to please state your name clearly before your
23 remarks so we can match you to your request slip.
24 I'm going to have to be strict on the three minute
25 time limit just because we have so many people who

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2 want to speak. And also there's no shame in saying
3 that your point has already... already been made
4 eloquently by one of your peers if you wish to
5 simply concur with pervious remarks. Having said
6 that please take it away.

7 ADINA BROOKS: Is it on? Okay. Hi my
8 name is Adina Brooks. I'm a former parent of PS163.
9 I was the co-chair of the taskforce for a safe
10 school at that school. I thank you Council Member
11 Levine and also members Rosenthal for being here. I
12 have two girls, seven and four and my older
13 daughter's classroom yes was in a trailer for the
14 two years she was at PS163. But what happened in
15 that trailer was magical. She had made great
16 friends. She became an avid reader. She developed a
17 love for math. 20 years ago I moved to New York
18 City and my husband's a lifelong New Yorker. And we
19 always hope to raise our children here. Instead
20 last fall we moved to New Rochelle in Westchester...
21 will begin... will finish second grade there
22 tomorrow. I'm here today to tell you a big reason
23 why we left PS163 and our beloved city. The specter
24 of head splitting noise, not to mention dangerous
25 construction and dust less than 50 feet from our

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daughter's school. By way of background for the past 10 years I've worked at Columbia University. And before that I worked in politics in New York City. I join the PTA expecting to volunteer at a bake sale, maybe help at the garden but instead was confronted with news of construction at our daughter's school. Parents at other schools like the ones we saw in that video told us of kids unable to hear their teachers, of teachers and students with headaches, and other serious negative health impacts, and of buildings that shook with the force of pile driving. As co-chair I drew upon my past experience and with my fellow parents many of whom are here today ask school and city officials what would the impact be at our school and what were their plans to protect our kids. Our documented concerns supported by credible experts were never adequately responded to. Instead we were told don't worry some even accuse us of unnecessarily scaring our kids. These were the same messages parents at PS151, PS315 and other schools had received before the learning environments of their kids were destroyed for weeks and months. In the face of this collective shrug my family felt we

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3 had to seriously consider other options. We were
4 lucky. Not all families are fortunate enough to
5 have other choices. In particular I worry about the
6 15 percent of PS163 students with IEPs, kids with
7 disabilities, and the 60 percent of kids who
8 qualify for free or reduced price lunch. Right now
9 there's no formal rule or regulation that I'm aware
10 of that governs construction noise next to our
11 schools, just a general city noise ordinance. This
12 is the reason why this bill is necessary. Our
13 children and our teachers are among our most valued
14 assets and we need to protect them. This is
15 obviously not for me, I've already left, this is on
16 behalf of my... I've taken three hours today, I just
17 want to point that out, because I feel very
18 strongly that it shouldn't just be those who have
19 the luxury of sitting here for half of our work day
20 advocating for our kids that are... for our kids to
21 be protected and if we have to pull them out. This
22 is for every single kid in New York City. So we
23 left because we felt the current laws wouldn't
24 protect her and I ask that the committee and the
25 council do everything in their power whether it's
 this bill or a version of it to protect all kids,

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2 not just those with the resources. So thank you
3 very much for hearing me today.

4 COUNCIL MEMBER LEVINE: Thank you so
5 much. Who's next.

6 JASON BEHRSTOCK: Okay. I'm Jason
7 Behrstock. I'll give an abridged version of my
8 comments. So I'm Jason Behrstock. I have two
9 children ages seven and 10 at PS163. And as I think
10 almost everyone left in this room knows we face an
11 imminent construction project next door. So I'll
12 avoid much of the background and just say that...
13 that that... that the developer has said that... that
14 that sound will reach up to 80 decibels. Now I had
15 to look up what 80 decibels means. It's louder than
16 a vacuum cleaner or Times Square on a busy day.
17 It's closer in volume to that of a garbage disposal
18 or that awful screech that you sometimes hear as a
19 subway train pulls into the station. Now I love the
20 New York City subway and I took it here today but I
21 wouldn't want my kids to have to attend school for
22 over a year on the subway platform. I'm not here
23 just for my children in the school though. I'm here
24 because I... I've come to learn that New York City
25 has a very strict city environmental quality review

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process. And despite that fact that that... the fact that that process is so strong and that the process recommends that construction noise near a school not exceed 45 decibels... the very level that... that this bill asks for many projects are approved with much higher noise levels or are not even subject to any form of environmental review. This has negatively impacted a number of schools throughout the city as we just saw and we've heard... we've heard today. And without your help will... will injure countless more. In my professional life I'm a professor of mathematics at the City University of New York. And as an educator I've seen that even college students get distracted on the occasional day when a lawn... when a lawn is being mowed outside of the classroom. Daily to have noises more than twice as loud as a lawnmower would be devastating to a classroom full of Pre-K, elementary, middle school, or high school students. Those students are precisely who would be protected by this bill which I strongly urge you to pass for my kids and for other young students throughout the city. Thank you.

COUNCIL MEMBER LEVINE: Thank you Jason.

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ABNER GREENE: Hi, my name is Abner Greene. I teach at Fordham Law School and my girlfriend's school Oliver is in second grade. I'm just very emotional about this. I mean the dean has come back from Westchester. I'm here to read statements on behalf of two people with your permission, excepts of both, I've submitted the full statements with the... the Sergeant in Arms. The first is from Renee Cataula. And I... this is Renee speaking here. My name is Renee Cataula. I'm the father of three children, my oldest being 10 year old Anna who attends public school 163 on West 97th Street in Manhattan. Anna is a hardworking thoughtful child who has cherished her school since her first day of kindergarten. She now represents her class in the school student council advocating to make her school the best it can be. She is part of a community of teachers and friends who make her experience there extremely fulfilling both academically and socially. PS163 represents what public education should be. Unfortunately PS163 is threatened by a proposed 20 story 275 foot tall structure to be built mere steps from the school. The project will disrupt almost every aspect of the

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school day as she and her 600 plus elementary school-mates now know it for three long years. It is a singular coincidence that in my professional life I serve as the pro-bono counsel for a large international law firm. In that capacity I serve low income New Yorkers and work on public policy projects that seek to help the underprivileged and disadvantaged. I am one of only about 100 full time lawyers in the world who manage a law firm pro-bono practice. In my position I have the opportunity to represent clients in need without charging them. For this reason I am uniquely positioned to help the entire PS163 community, address the dangerous construction that is proposed to take place near the school, and to seek to safeguard the children from the trifecta of excessive noise, hazardous materials, and dangerous traffic increases. PS163 is just one school of many that has faced or will face loud hazardous long term construction next to it. None of the other schools have the benefits of a full time parent pro-bono council who could meaningfully advocate for his or her child in school. The result has been... and I don't say it lightly... the destruction of these schools'

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educational environments for months and even years.
This is because there was absolutely no regulation such as Intro 420 in place to protect the children. This is why this bill is so important. It provides the basic protection all schools need and deserve to ensure construction next to schools does not impair the learning environment of any school and that such protection is not dependent on the school community having or in most cases not having the resources to protect the school environment and the children, teachers, and staff who are the casualties of these construction projects. Protection for children across the city should not be dependent on their... or their families socioeconomic standing. So that's an excerpt from Renee's statement. Now the other statement I was asked to read if you'd like me to do it or we could pass on it but Renee thought it was important is from a professor on CUNY named Rebecca Bratspies. She's not a 163 person but if I could just read a few excerpts from her?

COUNCIL MEMBER LEVINE: Maybe a good way to work it out is to pass it to another parent who

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2 can do it on their time so we can keep within the
3 limit.

4 ABNER GREENE: That would be... that would
5 be fine. I'll ask someone to do that.

6 COUNCIL MEMBER LEVINE: Alright.

7 Professor Greene thank you very much and please
8 thank Renee for his work in leading this effort
9 over...

10 ABNER GREENE: And as you know he would
11 have loved to have been here.

12 COUNCIL MEMBER LEVINE: I know... I know
13 he would have been here if he could have. Thank
14 you. So yes you could... if you want to make some
15 space for the next... next four. And while you're
16 coming up here I want to... I just want to thank the
17 parents for staying through a very long hearing. I
18 know you all have family and work duties to attend
19 to. And less you be discouraged of the dwindling
20 number of council members who are here I want you
21 to know that your remarks are going to be broad..
22 are being broadcast live on the internet. The video
23 of this session is logged on the internet. And all
24 your remarks are transcribed and will also be
25 available on the website. So what you say here

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2 really will be part of the permanent record and
3 it's really important. So I do want to thank you
4 for taking the time to share your thoughts with us.
5 Why don't we just... why don't we just start here.
6 Forgive me we'll do the swearing and then...

7 COMMITTEE COUNSEL SWANSON: Please raise
8 your right hands. Swear affirm to tell the truth,
9 the whole truth, and nothing but the truth today?

10 [combined affirmations]

11 DOCTOR BRODY: Thank you. I apologize
12 for the chattering teeth. Good afternoon. My name
13 is Erica Brody. Professionally I'm a general
14 pediatrician and Assistant Professor of Pediatrics
15 at Mt. Sinai Medical Center where I work primarily
16 with low income families in our outpatient
17 pediatric clinic, most of whom are Spanish dominant
18 Latino immigrants. Personally I am the dual
19 language chair at PS163 and the mother of Shala,
20 Nash, and Meeka. We've been at PS163 now for four
21 years. Ever since we took my eldest out of private
22 school and enrolled her in the dual language
23 program when she started second grade. It wasn't an
24 easy decision at that time but we can now look back
25 and appreciate what a great choice we made. Not

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only has she enjoyed a strong education and been well prepared to move on to her first choice middle school but she's bilingual, bi-literate, and bicultural. And most importantly she has deeply absorbed an understanding of and appreciation for racial, ethnic, and socioeconomic diversity. This diversity at PS163 is truly unparalleled. Children from families with advanced educations from a vast range of countries, those who live in the nearby public housing projects, and those of immigrant families with minimal English all join together for dancing, recess, eating, cooking, crafts, trips, and learning. This phenomenal but fragile diversity, a key element of the education at PS163 will also be eroded without bill 420. The threat alone of possible construction has already caused unprecedented numbers of families to leave the school last summer. And without bill 420 in place to protect our children another mass exodus will occur as the remaining upwardly mobile families pursue other options for their children leaving behind only the more limited families without the ways or means of pursuing better school options. And once again the divide between the haves and the

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have-nots will grow wider as underprivileged and disadvantaged low income families are left behind in a substandard learning environment. In academic medicine we're adamant that our practices be evidence based meaning we have ample scientific data to support all our decisions. I'm extremely grateful to doctors... Zajac and Hays from the Children Environmental Health Center for working with us to prevent that very clear cut evidence and for all the work they do to keep our children safe and yet I think Bill 420 is really just about common sense. I ask you all in the city council to merely close your eyes for a few moments and imagine... within 30 feet away from a large team of jackhammers at work and imagine placing an old thin rickety sheet of glass between you and that noise. And now someone is standing 10 feet away from you and trying to lecture and convey critical information. I don't think you would send any children in your family to learn under those environments. Instead you would choose your savvy New Yorker wits to pull them out of that school and choose one instead where they could actually spend their time learning. To get off of my actual formal

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2 notes and just to add in... you know we transitioned
3 to the common core in the last couple of years and
4 so as a pediatrician I would like to add in that we
5 have also now a mass problem with anxiety among our
6 children that are transitioning into this common
7 core and what that has meant for them in their day
8 to day lives. So I think that we are really
9 stressing the kids out already at baseline,
10 particularly in New York City public schools with
11 the pressure to get into middle schools and to get
12 into high schools and to even get into
13 kindergarten. So to now do everything in our power
14 to not...

15 COUNCIL MEMBER LEVINE: Thank you.

16 DOCTOR BRODY: ...further exacerbate that
17 I think is really...

18 COUNCIL MEMBER LEVINE: Thank you.

19 DOCTOR BRODY: ...critical. Thank you.

20 COUNCIL MEMBER LEVINE: Thank you

21 Doctor. I think you win the prize for most words
22 clearly articulated in three minutes. Very
23 impressive but very helpful. Thank you.

24 AVERY BRANDON: My name is Avery Brandon
25 and my daughter is a PS166 student who is finishing

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second grade tomorrow. For K and first she attended PS163. In January of 2012 when she was a four year old preschooler I learned of Jewish Home Life Care's tower that was planned to be built next to 163, the small but sweet public school, where she would begin kindergarten that September. Immediately I had concerns. How would the children learn in an environment so close to a construction site? Clearly the noise would prohibit learning. Certainly it would be damaging to the children. I contacted the school PTA to find out what was going to be done to protect the children. And I... and I also contacted the school. The school would not answer me and the PTA president said don't worry they say the children will be fine. She must not have known about PS51. There's no answer to what specifically would be done to protect my child from the construction, from the cacophony that she would have to endure, from the potential damage to her physical body, to her psyche, to her learning and total development. There was no answer to what specifically would be done to protect my child from the damage caused by chronic noise exposure, of what it might do to her developing brain and body,

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3 the very real possibility of depression,
4 anxiousness, fearfulness, inability to learn,
5 impairment of reading comprehension, and the
6 development of long term memory not to mention
7 hearing damage or raised blood pressure. When
8 presented last June with the opportunity to move I
9 took it. I uprooted my family to get her the hell
10 out of harm's way. Better to take her away from her
11 friends, teachers, and the school she loved while
12 she was younger than to risk not being able to do
13 it later. And it was not a smooth adjustment. She
14 suffered but suffered far less than the damage that
15 would have come with construction. Most families do
16 not have this option but those who do will take it
17 in a heartbeat. Thank you Council Member Levine and
18 the sponsors of 420. Thank you for standing up to
19 developers by holding them accountable to something
20 greater than their profits, our children. And thank
21 you to the parents of 163 who have shown such... so
22 much strength and good citizenship by working with
23 the city council to introduce tangible protection
24 for our children's wellbeing so that they may grow
25 up to be healthy, smart, confident, and with a
great sense of citizenship. Thank you.

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2 COUNCIL MEMBER LEVINE: Wow... thank you
3 Avery for your very powerful remarks and for being
4 brave enough to share your family story with us.
5 Very much appreciate it.

6 JACQUELINE SHANNON: Good afternoon. I'm
7 Doctor Jacqueline Shannon. I'm the chair of Early
8 Childhood in our Ed Department in Brooklyn College,
9 CUNY and professor of early childhood education
10 there. I'm also a mother of three New York City
11 public school children, all three of them at 163. I
12 hold a PHD in developmental psychology from NYU and
13 have been a member of the national early head start
14 research consortium. I've been employed as a
15 research scientist at NYU and at the National
16 Institute of Child Health and Human Development.
17 I've directed a home based program and worked in
18 close partnership with Mt. Sinai Hospital, their
19 Department of Community Medicine and the Department
20 of Pediatrics serving the disadvantaged communities
21 by working with families to support their
22 children's health, social emotional development and
23 cognition within the context of their home and the
24 classroom environments. My research examines
25 normative trajectories of children's social

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3 emotional language and cognitive development in the
4 context of their relationship with their parents
5 and the broader community. I regularly... my opinion
6 based on my professional training, experience, and
7 a critical analysis of the empirical research done
8 which many of us have already heard on noise and
9 its effects on children's outcomes is that this...
10 disruptive and dangerous construction noise levels
11 negatively impact our city's culturally
12 linguistically and socioeconomically diverse body
13 of school children of all ages. The passage of Into
14 420 lets our children know that the quality of
15 their overall health and wellbeing is our city
16 council's priority. Distinguish national and
17 international agencies and professional
18 organizations including the American National
19 Standards Institute, the... the Acoustical Society of
20 America, World Health Organization, and American
21 Speech Language Hearing Association have carefully
22 examined and analyzed the research on noise and
23 provide the criteria and guidelines for the maximum
24 suggested ambient noise levels in schools to ensure
25 safety and health of one of our most vulnerable
populations, children. All these agencies and

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3 professional organizations agree and call for a
4 maximal background noise level in a classroom not
5 to exceed 35 DBA. These standards have been widely
6 adopted for schools and the construction industry.
7 Shockingly however these standards have not been
8 adhered to by our own schools here in New York
9 City. As a result we have been placing our city's
10 children in harms ways... in... in harm's way and this
11 needs to end now. The passage of Intro 420 which
12 limits construction noise that children are exposed
13 to in the classroom allows our children to put the
14 health and safety of our children first. As a
15 critical review of the research on noise was we've
16 all heard is very detrimental to children's health.
17 I just skip to... alright finally basically on a day
18 when the US Supreme Court has affirmed the right of
19 all Americans to healthcare I urge everyone on this
20 committee, the full city council, and the mayor to
21 show that they care about the health of our
22 children by supporting swift... [cross-talk]

22 COUNCIL MEMBER LEVINE: Thank you.

23 JACQUELINE SHANNON: ...passage of this
24 Intro 420. So thank you for hearing me today and...
25 [cross-talk]

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COUNCIL MEMBER LEVINE: Thank you very much. Please.

JIM: Hi. My name is Jim Egan and I'm employed by ABM Building Services LLC, a company based in West Harrison, New York. We provide construction consulting services for developers in New York City and around the tri-state area. My specific expertise is in the management of large scale high-rise construction similar to the proposed project scheduled to take place next to PS163. I'm serving as an expert consultant to the PS163 community in the pending litigation against the New York State Department of Health challenging this efficiency of the environmental review that was done with respect to the... to the proposed construction. I have over 20 years of relevant construction experience with projects of the same or similar cost, size, and complexity as that being proposed to be built next to PS163. In sum in representing the interest of the construction industry I believe that Intro number 420 is a bill long overdue and that would not in any way prevent construction from taking place safely and economically next to schools here in New York City.

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2 I can use PS63 as an example to support my
3 conclusion. The environmental impact statement and
4 the finding statement that the Department of Health
5 issued relating to PS163 concludes that the
6 developer was committed to a wide range of
7 mitigation measures because the project site is
8 located close proximity to an existing public
9 school. The Department of Health further claimed
10 that the proposed project meets or exceeds code
11 requirements and exceeds normal construction
12 practices. My review of the environmental impact
13 statement and finding statement however reveals the
14 opposite, that the maximum amount of mitigation
15 measures has not been employed and the construction
16 will have significant negative impacts on PS163
17 particularly with the respect to noise. Furthermore
18 based on the size and scale and duration of the
19 proposed project it is unlikely that any of the
20 proposed mitigation measures will ensure that PS163
21 is kept safe and operational even before
22 construction delays are factored in. Indeed the
23 Department of Health does not appear to be
24 requiring the same level of mitigation. It would
25 require for a similar healthcare project to be

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built within 30 feet of an existing healthcare facility. The guidelines that the DOH enforces for healthcare facilities revealed the maximum noise levels in patient rooms are allowed to be between 30 and 40 decibels during construction.

Considerably [phonetic], considerably less than the noise that PS163 students will face for several years. As even the Department of Health is forced to concede. On the issue of noise mitigation PS163 has sensibly demanded windows that attenuate noise by 35 decibels and central air conditioning to provide fresh air circulation when these windows must be closed during construction. These mitigation measures are interdependent. One does not work without the other. Unfortunately the Department of Health has rejected the proposal even though the total cost is approximately 2.5 million... less than one percent of the total construction project cost of 250 million.

COUNCIL MEMBER LEVINE: If you could

wrap up quickly please.

JIM EGAN: Yeah I think that... that's the

real main point I wanted to get at. We're talking about a cost of one percent of the total project in

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2 order for PS163 to... classrooms to be brought below
3 this 45 decibel level which seems not only just
4 reasonable but... but essential.

5 COUNCIL MEMBER LEVINE: Right. Thank you
6 very much.

7 SUZANNA FRITTON: Hi. I'm Suzanna
8 Fritton. I'm a parent of a PS163 fourth grader. I'm
9 also a professor of Biomedical Engineering at City
10 College where I've been on the faculty for 19
11 years. As you've already heard Intro 420 grew from
12 the impending construction project directly next to
13 PS163. When I first became involved with the PS163
14 taskforce for a safe school almost two years ago I
15 was astounded that while there are noise
16 regulations for work done within New York City
17 Schools no such protections exist for external
18 projects done by others. When our taskforce
19 discovered the experiences of schools next to large
20 construction projects at severely disruptive
21 learning and... in danger to the health of students
22 we felt that in addition to trying to protect our
23 school this is a larger issue that needs to be
24 addressed. That's why we're here today. For the 30
25 month long construction project that is planned

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next to 163 it has been estimated that the noise levels will be elevated for a total of 14 months. That's about 280 school days which would span two school years. So we're talking about noise levels that are not just annoying. Noise levels have been shown to interfere with children's ability to learn and communicate as you've heard about today. Every single day of learning is important for a child, that no protection exists for learning such that major construction projects are allowed to take place without seriously considering that a school is a sensitive noise receptor full of children as young as three years old trying to hear and concentrate is a travesty in my opinion. In my experience the prevailing attitude of developers and others involved in such projects seems to be too bad if a huge building will be constructed directly next to your school. It's New York City. Construction happens all the time. To that I say yes it is New York City, a place where the education of our youngest citizens is a priority, a place where supporting the success of schools, especially our socioeconomically and racially diverse public schools is a priority. For such a

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densely populated city New York is actually pretty
good at making things work. Our city should be a
model of state of the art architecture and urban
living while at the same time protecting, ensuring,
and promoting the health and wellbeing of our most
vulnerable citizens. If a major construction
project does occur next to a school should
additional sound barriers, taller noise walls,
sound attenuating windows, and other noise
mitigations only be included after the activism of
parents, the community, and elected officials along
with filing lawsuits as has happened with PS163? Is
this the way it should be? What about other schools
that don't have parents willing to spend hundreds
and hundreds of hours fighting to ensure that noise
mitigations are put in place before a construction
project proceeds? Who is going to be harmed then?
Of course it'll be school children who have no one
to protect them. A common sense solution to this
very real problem is to enact Intro 420. This bill
will not stop construction from occurring. What it
will do is require those wanting to construct a
building directly next to the school to know before
construction is planned and commence that time,

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2 effort, and funding must be expended to ensure that
3 the children of the affected school are adequately
4 protected against the construction noise because of
5 course this comes down to money. And the current
6 regulations favor construction without much
7 consideration given to the health, education of,
8 and safety of children. The results of scientific
9 research are unequivocal. Children learn better
10 when outside distractions including noise are low.
11 Please pass this bill to create a workable and
12 common sense protection for the most valuable asset
13 of our city, our children.

14 COUNCIL MEMBER LEVINE: Thank you
15 Suzanna. Thank you. Thank you all very much for
16 your testimony.

17 JACQUELINE SHANNON: There's just one
18 comment my colleagues from Mt. Sinai gave me a form
19 from... I can't read... can't see. The 85 decibels. So
20 here it states noise levels at 85 decibels or above
21 can be harmful to your hearing and require...

22 COUNCIL MEMBER LEVINE: Alright.

23 JACQUELINE SHANNON: Okay so...

24 COUNCIL MEMBER LEVINE: Thank you.

25 JACQUELINE SHANNON: Just to clarify.

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2 COUNCIL MEMBER LEVINE: Thank you very
3 much. Dean you want to hop in there. And while
4 you're going up we have folks from the School of
5 the Future here right? I think two at least? Please
6 join us. And I think we have... And I think we have
7 someone from PS61 here, is that right? Got it. Okay
8 we'll do these three on this panel before we get to
9 the next one. Dean why don't you finish us off our
10 PS163 topic.

11 DEAN: Sure. Do you want to swear me in
12 or...

13 COMMITTEE COUNSEL SLATTERY: Hi... I'm...
14 I'm taking over for the swearing in. Will you raise
15 your right hand. Do you swear affirm to tell the
16 truth, the whole truth, and nothing but the truth.

17 DEAN: I do.

18 COMMITTEE COUNSEL SLATTERY: Thank you.
19 Thank you.

20 DEAN DUTCHION: Alright shall I start?
21 My name is Dean Dutchion [phonetic]. I'm a graduate
22 of PS163 and a lifelong 382 Parkways Village
23 resident. In 2011 at PS51 in Hell's Kitchen parents
24 took the Board of Ed at their word about a
25 construction site in their midst... everything would

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be okay. Well after the children came home with nosebleeds, asthma, and headaches from earsplitting noise quite traumatized and afraid and of course their grades plummeted things were definitely not okay. Who knows what other deleterious long term effects studying in that environment will have on those kids. Will they develop chronic issues relating to their health and psyche? Will they be able to get good jobs if their IQ suffers as a result? Try reading the landmark study on neurobehavioral effects of developmental toxicity co-authored by Mt. Sinai's Phillip J. Landrigan. The worldwide study is about the repercussions that neurotoxicants like lead, methylmercury... and dozens of other hazardous contaminants have on children. These dangerous pollutants do get released into the air around construction sites. Even a little exposure can cause Autism, ADD, Dyslexia, and other cognitive impairments in elementary school children. This double edged sword of noise and poor air quality is especially perilous. Older folk are also particularly vulnerable to cardiovascular ailments when similarly exposed. If you had the money why on earth would you subject your kids to

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the misery? You might even say that it is akin to child abuse. But that's the problem. Most families can't afford to move their kids. The more well to do kids just leave. We have already seen that evidenced at PS163 because of the potential JHL development. And a school like PS163 which has fought so hard and long to make itself a magnet for accelerated learning and diversity will suffer the consequences if and when blasting and pile driving commences if you... just a few yards from thirsty vulnerable young minds. Mark Levine's bill 420 is a step in the right direction, a foot in the door. But we need to wedge it open wider without putting the burden on taxpayers with stiffer regulations and penalties for wanting developers, those who act in poor faith and put children in harm's way trampling the delicate flowers of our society's future. Growing up on the upper west side in the late 60s and 70s was magical. I was the only white kid that I remember at PS163. I was a feisty little scrapper I loved every minute of it and graduated in 1976, the first generation of American Romanian immigrants. I pray and hope that kids taking classes today continue to be as lucky as we were

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3 studying and playing in a healthy tree laden
4 environment with plenty of sun, open space, and
5 quietude, the peace disturbed only by laughter and
6 happy chatter, the noise kids make while having
7 fun. But it won't happen unless we continue to push
8 for serious legislation and hold our elected
9 officials accountable for the needs of our
10 communities. Thank you Mark Levine.

11 COUNCIL MEMBER LEVINE: And thank you
12 Dean for your powerful testimony.

13 LYNN SCHINIZOKI: Good afternoon. My
14 name is Lynn Schinizoki [sp?] and I thank you and
15 the members of the Committee of the Environmental
16 Protection for this opportunity. I am a parent of a
17 school... of a... of a young man at the School of the
18 Future which is at 22nd and Lexington Avenue and I
19 am in support of this legislation. Every child has
20 the right to an environmentally safe and healthy
21 learning environment. School officials and
22 appropriate public agencies should be held
23 accountable for environmentally safe and healthy
24 schools. Schools should serve as a role model for
25 environmentally responsible behavior. These are not
my words. This is from The Guiding Principles for

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3 Improving the Environmental Quality of Schools
4 adopted by the New York State Board of Regions in
5 1994 over 20 years ago. New York state laws on
6 school renovation and construction adopted in 1999
7 known as the comprehensive public school safety
8 program which was revised in 2010... part 155 of that
9 regulation has a checklist. It specifically calls
10 out for the issues of excessive loud noises in
11 schools. We appreciate that the state of New York
12 values the health and welfare of our children. And
13 we know that New York City will move forward with
14 legislation that continues to protect and value our
15 most important resource, our children. We now want
16 to hold you accountable for protecting our
17 children. We need you to move forward with this
18 legislation and give voice to our children and
19 allow them to hear and be heard. And I thank you
20 for putting this bill forward... [cross-talk]

21 COUNCIL MEMBER LEVINE: My pleasure.
22 Could you briefly just tell us what the
23 construction was done next to your school? [cross-
24 talk]

25 LYNN SCHINIZOKI: Currently...

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2 COUNCIL MEMBER LEVINE: ...maybe she'll do
3 that.

4 LYNN SCHINIZOKI: Yeah. Currently
5 there's two buildings that are being built by the
6 Toll Brothers Development... Intercity Development
7 Corporation.

8 COUNCIL MEMBER LEVINE: Remind us of the
9 address or the street.

10 LYNN SCHINIZOKI: Yes, sure. It's 22nd
11 and Lexington Avenue.

12 COUNCIL MEMBER LEVINE: Right. Okay.

13 [background comments]

14 COUNCIL MEMBER LEVINE: Okay are... are
15 you speaking as well? Why don't you take over and
16 if you have any additional detail.

17 KATHRINE ELBEECE: Okay.

18 COUNCIL MEMBER LEVINE: But tell us your
19 name first.

20 KATHRINE ELBEECE: My name's Kathrine
21 Elbeece [phonetic]. I'm a parent at School of the
22 Future. And I want to start by just thanking the
23 parents at 163 and the city... city council for you
24 know blazing the path and creating some protection.
25 My starting point for this and I think for any

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parent is that every child has a right to a sound
basic education. That's a constructional mandate in
our state. It's recognized across the country. In
fact it's recognized across the world. Education is
a human right. So the... the... the responsibility of
government to protect that right is... is not what we
need to question here. The only question here is
can children learn under these circumstances. I'm
not a construction expert. I'm not a developmental
expert. But I've overseen homework long enough to
be able to tell you with all honesty that children
get very easily distracted. And as a resident of
the lower eastside the last 20 years we've suffered
our share of construction because that's an area
that a lot of buildings have come down and gone up.
And I've had to take my children to coffee shops
and friends' houses just to get through homework
when they were building buildings behind us and
beside us. It's exceedingly difficult for me to
imagine how a teacher with 25 30 kids in a
classroom is going to be able to teach under those
circumstances. You might as well just write off
that year. They're not learning. Now I looked
around... a quick google search tells me that other

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cities have already done this. In Las Angeles if
decibels reach over... I think it's 60... you can look
it up yourself, I... I... there has to be a detailed
noise analysis and a noise mitigation plan. If they
go over I think it's 70, I'll have to double check
but I think it's 70, it's actually... the
construction is actually discouraged all together.
And even at lower levels there is... you know you're
supposed to have your noise mitigation plan in
effect. And this is not just for school
construction, this is for all construction. If the
west coast can do it we can do it. And... and we
certainly hope you will. I can tell you that the
parents at my school are outraged. We were shocked
to discover that there was nothing in place, that
in a city as sophisticated in New York City there
was no regulatory framework to take into account
what is an ineivable [phonetic], inevitable problem
that will be repeated over and over again. And I
echo what the other parents say here... that if it...
if... if it's happening in our schools where the
parents are actually incredibly activated because
we are diverse schools you can only imagine the...
the lack of mitigation you're going to see in

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2 schools with all low income children with parents
3 that may not be able to take time off their job as
4 I'm doing right now to come here and talk to you,
5 that may not have the expertise to bring you Mt.
6 Sinai reports. So we really urge you to do this.
7 There are several parent communities who feel very
8 strongly about it and you have all our support in
9 moving this forward. Thank you.

10 COUNCIL MEMBER LEVINE: Thank you

11 Katherine it means a lot. Thank you all for your
12 testimony. Okay I'm not sure everyone is still here
13 but Ellen Kwon if you have... are you still here?
14 Okay thank you. She's coming up. Mark Deller is
15 here for sure. Come on up Mark. Elizabeth Ridy or
16 Reedy still here? Looks like maybe no. Okay.
17 Alexander Kippen, please? Great, come on up. I'm
18 having a hard time reading this Bhatia Kelton,
19 sorry if I'm mispronouncing that. Handwriting's
20 hard to read, perhaps not here? Okay. Sherry Simon,
21 great. And Menwell Casanova is here. Come on up.
22 This will be our... this will be our final panel. And
23 now if you'll just hold on a moment for the
24 affirmation.

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2 COMMITTEE COUNSEL SLATTERY: Hi, my
3 name's Amy Slattery. I'm substituting for committee
4 counsel. Do you swear or affirm to tell the truth,
5 the whole truth, and nothing but the truth before
6 this committee today?

7 [combined affirmations]

8 COMMITTEE COUNSEL SLATTERY: Thank you.

9 COUNCIL MEMBER LEVINE: That was an
10 eloquently delivered affirmation Amy. You really...
11 you're a natural. You could do this for a living.
12 Sorry. I'm forgetting who I called first but go
13 ahead Ms. Kwon.

14 ELLEN KWON: Hello. My name is Ellen
15 Kwon. I'm a 163 parent and I teach at the Calhoun
16 School which is an independent school on the upper
17 west side. I'm reading a statement on behalf of the
18 Director of the upper school. That's the division
19 in which I teach. My name is Lorenzo Krakowsky and
20 I am the Director of the Upper School of the
21 Calhoun School on the corner of West end Avenue and
22 81st Street. I'm writing in support of... he called
23 it Bill number 420 which is currently under
24 consideration by the New York City Council. As
25 someone who has worked in schools for 27 years and

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who cares deeply about school children including those on the upper west side where we are located. I believe that it is imperative that we take steps to protect all school children across the city from noise and other hazards engendered by construction projects done adjacent to schools. I wonder... I worry about the known significant adverse effects of such noise on both the capacity for students to concentrate and learn and on their health. I fully support a bill that would cap the noise levels of construction projects that are adjacent to or near school buildings. I very much hope that this bill passes to protect children at Calhoun and around the city. And I appreciate your time and attention.

COUNCIL MEMBER LEVINE: Well thank you so much for sharing that testimony. Mr. Diller.

MARK DILLER: Thank you Council Member. My name is Mark Diller. I'm a member of Community Board 7. Our chair Elizabeth Caputo [sp?] sends her regrets and has had another meeting on the community board business and asked me to deliver our resolution which voted overwhelmingly to support Intro 420 back... I think we were the first to do it by the way back in January so if there's

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2 an early bird special we're it. And to... you... to
3 overwhelmingly support the intro. The question here
4 is not whether construction should take place. That
5 is not an issue with all possible respect for our
6 brothers and sisters in labor that's not the
7 defining issue before us. The defining issue before
8 us is who should bear the... of construction. And we
9 think that your bill properly puts the
10 estranalities [phonetic] of the... of... of
11 construction in the hands of the developers where
12 it belongs. Too much of our society currently
13 offloads the consequences of actions to others.
14 There are innumerable... the whole Walmart debate
15 gives you that in a nutshell. This is an attempt to
16 right that wrong. I happen to have an office right
17 next door to a extel [sp?] construction site that
18 put a 100 foot hole into bedrock into build a 1450
19 story... well feels like a story building right next
20 door. You'll hear more about that when it comes to
21 the Parks Committee about the shadows and so forth.
22 But the point is that living next door to that one
23 becomes inured to the warning sounds. So when the
24 blast comes it takes you completely out by
25 surprise. And every time the blast came and shook

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2 my desk all I could think of is what those students
3 at PS163 next door to that blast site would go
4 through. I'm 57 years old and can get back to work
5 maybe but I'm worried for the children who will be
6 affected by that externality. And the reality is
7 that we have the technology, we have the means, we
8 just need the will to place the remediation for the
9 consequences in the hands of those in whom it
10 belongs and we thank you for your bill and
11 overwhelmingly support it and hope for its
12 immediate passage. Thank you very much.

13 COUNCIL MEMBER LEVINE: Thank you Mark.
14 And thanks to Chair Caputo and to all of CB7 for
15 your early and strong support of this resolution...
16 this introduction. Thank you. Please.

17 SHERRY SIMONE: Hi my name is Sherry
18 Simone. I am a resident of 97th Street. I am a
19 parent at 163, a parent at PS84, and a parent at
20 Columbia Secondary School. I am here today to read
21 a statement from the Assistant to the Principal
22 Rama Deiah [sp?] from Fieldstone Lower School. Dear
23 City Council Members. I am writing in support of
24 Bill 420 sponsored by PS163. I hope you will ensure
25 the passage of this important initiative because

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all children deserve the right to an education in a safe environment. I work at Fieldstone Lower School in the Bronx and here our students are lucky to be a space where the outside noise level is minimal because of its location. Children are easily distracted by outside stimulus. One day this year outside our kindergarten window the city was doing some sort of construction which was extremely loud. The students talked about what was happening outside for more than 20 minutes. It was extremely disruptive and difficult to get them back on task. Please try to imagine third, fourth, fifth graders who have the added pressure of taking tests and quizzes. Such noise on a constant basis can completely frazzle a student. Here at Fieldstone we always ask our maintenance crew to do noisy tasks after school. Even something as small as mowing the lawn can be very distracting to a child. Our students at Fieldstone are successful for many reasons and one of them is that they are in a safe healthy environment where they can concentrate and thrive without disturbance. Thank you for your consideration to pass this important bill for all children.

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COUNCIL MEMBER LEVINE: Thank you Sherry. Thanks for being here. As a fellow CSS parent I'll look for you at the next parent association meeting. Thank you.

ALEXANDER KIPPEN: My name is Alexander Kippen. I'm reading on behalf of parents from PS361 and 315. I am a parent of a girl going into fourth grade in 163 though. And I guess just before I want to summarize I think the need for your legislation to pass by asking imagine you here in the council trying to do your work on any given day with the sounds of blasting and dump trucks and jackhammers outside your window not just for a month or two but for a year or two. And I think that in essence summarizes why this legislation needs to be passed. First teacher, kindergarten teacher Alisa Keller who is at PS361 said when they were building the foundation there was so much banging that the floor actually vibrated. Students were regularly getting dizzy and nauseous. And this year they were coming back from a trip and the workers who weren't paying much attention to the kids when they were crossing the street changed I guess a truck direction, it almost ran over one of my kids and it seemed like

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3 they didn't even see the kids or pay any attention
4 to them. Another kindergarten teacher Beverly
5 Rosario also at 361. There were cracks in the wall
6 at the top near the windows and she's attached
7 pictures of this and every day at night or... every
8 day right at 3:00 or right before school they would
9 come in... I guess inspectors would come in to
10 measure the cracks and the separation between the
11 sides of the cracks. Never once did they explain
12 what they were doing or why they were coming. And
13 there were times when we had to leave the class, go
14 down to the other end of the building because the
15 noise was so loud it was actually scaring the kids.
16 And then finally at 361 a first and second grade
17 teacher Susan Brown. I would close my door but even
18 with the door closed it was too loud, especially
19 when they were digging the foundation. At the time...
20 at the time I was a teacher in a self-contained
21 special education classroom with nine students, one
22 of them with an intellectual disability would
23 become so frightened when the pile drivers were in
24 use that she had to move to a room at the other end
25 of the building where the noise could still be
heard just not as much. Finally testimony from

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Christine Plume, teacher at East Village Community School, PS315. The pile driver would cause my room and everything in it to shake with so... shake so much that students pencils and other materials would vibrate off their tables and roll onto the floor. We learned not even to bother sitting at the tables when the large machines were in use. Students sat on the floor to do their reading, writing, and math and even then one could feel the floor moving beneath them. Teaching was absolutely impossible unless the students were gathered extremely close to me in a tight circle which we called our fireside lessons.

COUNCIL MEMBER LEVINE: Thank you. 361 is in Flatbush?

ALEXANDER KIPPEN: 361...

COUNCIL MEMBER LEVINE: It's okay if...

ALEXANDER KIPPEN: Sorry... sorry east village... well east village community school.

COUNCIL MEMBER LEVINE: Got it. East Village... [cross-talk]

ALEXANDER KIPPEN: Three... 315 and children's workshop school 361.

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2 COUNCIL MEMBER LEVINE: Got it. Alright.
3 Thank you very much. And our last speaker's going
4 to be Menwell Casanova.

5 MENWELL CASANOVA: Hi, good afternoon.
6 Thank you for having... [cross-talk]

7 COUNCIL MEMBER LEVINE: If you could
8 just pull the mic closer Menwell. There you go.
9 Thank you.

10 MENWELL CASANOVA: There you go? Thanks.
11 Thank you for having this session and I'm here
12 representing the parents from PS75 from the upper
13 west side in support of the bill and in support of
14 the other schools as well. So good afternoon my
15 name is Menwell Casanova, a parent from PS75 from
16 the upper west side. I'm here today to ask you to
17 put Intro 420 for city council vote. PS75 as others
18 face unprecedented damage in construction noise
19 levels. PS75 is a model for diversity in public
20 schools in the city. Construction noise will
21 dramatically affect our mono and dual language
22 students and the fast growing nest student body.
23 Today we have 16 children in the nest program. In
24 September we'll have about 24 and 50 students in
25 two years. Uncontrolled noise levels above 45

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2 decibels will damage our students learning process
3 in the future. We ask you to put Intro 420 for a
4 city council vote and protect children... PS75
5 childrens and other childrens future and our city...
6 city's future. I'm going to say this in Spanish so
7 for all audiences. [speaking Spanish] Thank you.

8 COUNCIL MEMBER LEVINE: [speaking
9 Spanish] I'm going to pass the microphone back to
10 our chair to I think close out this hearing.

11 CHAIRPERSON RICHARDS: Alrighty. So I
12 just want to say... want to thank everyone for coming
13 out.

14 COUNCIL MEMBER LEVINE: Was there one
15 more person waiting to testify? Come on up. You've...
16 you've... Sure. Thank you panel. This will be our...
17 our last mini panel here.

18 ABNER GREENE: Thank you Chair and Mark
19 Levine. You guys have been great. So my name's
20 Abner Green. Again I teach at Fordham Law School
21 and I've been asked to read into the record
22 testimony of professor Rebecca Bratspies Professor
23 of Law and Director of the CUNY Center for Urban
24 Environmental Reform. I've submitted the full
25 remarks. These are just excerpts. Noise is far more

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than a nuisance. It is a serious threat to the health and welfare of all New Yorkers, especially children. Noise in schools poses a particularly thorny problem. Being forced to learn in a noisy environment has a significant and negative effect on academic success. For example research has shown that an increase of 10 decibels background noise in classroom decreases word recognition in eight year olds who are learning English as a second language. High levels of chronic intermittent noise impaired children's reading comprehension and recognition memory. Noise also limits children's ability to acquire and grow their expressive vocabulary. A growing body of evidence shows that noise does more than just make it harder for students to learn. It actually prevents children from acquiring speech recognition skills in the first place. More than a decade ago the American National Standards Institute adopted acoustical performance criteria for schools. These standards emphasize the importance of minimizing distracting noise in the classroom and lay out the parameters of an appropriate educational environment. For classrooms the standards limit the maximum exterior noise

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2 levels to 35 decibels. The New York School
3 Construction Authority, I believe she means New
4 York state here, currently sets a standard of 45
5 decibels for new or renovated schools. Students in
6 existing schools deserve the same attention to the
7 noise levels in their learning environment. That
8 means protecting them from construction noise, from
9 subway noise, and from traffic noise that exceeds
10 45 decibels. And the last point here is from EPA.
11 In 1972 congress passed the federal noise control
12 act which directed EPA to identify noise thresholds
13 that should not be exceeded in order to protect the
14 public. The EPA concluded that indoor noise levels
15 above 45 decibels cause annoyance and interfere
16 with normal indoor activities. And that's the
17 excerpt from her testimony. And thank you for
18 letting me read them.

19 CHAIRPERSON RICHARDS: Thank you.

20 Alrighty. So this will conclude our hearing. I want
21 to thank everyone for coming out today. I want to
22 thank the staff once again Samara Swanson, Bill
23 Murray, my staff Jerrell Burney, Mercedes Buchany,
24 Danny Shumpert, and Mark Levine for his incredible
25 work around this particular bill and Helen

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2 Rosenthal. I think today made sense. I mean it's
3 common sense. Our child deserve to be able to learn
4 in an environment that's conducive to learning and
5 for their health and... and for everything else. And
6 this should not be a battle or... or a battle between
7 the construction industry and our children. We're...
8 we're just looking to ensure that our children can
9 go to school and do what many of us were able to
10 do, just simply be able to sit in a classroom and
11 learn without having to hear a jackhammer every
12 five seconds. And our children deserve that. They
13 have a right to be able to have... to acquire an
14 education in a healthy environment. And we're going
15 to continue to fight to ensure that we do just that
16 in this council. So I'm very grateful for all of
17 the people who came out and in particular the
18 parents. We're always happy to see parents very
19 engaged. And you coming out today shows your
20 commitment to your children, and not just your
21 children to the greater New York city as a whole
22 and we appreciate that. We look forward to passing
23 this bill eventually. And we'll look forward to
24 working with the industry, with the mayor's office
25 and, and parents and principals and teachers to

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ensure that this bill certainly goes through. Thank
you all for coming out. Enjoy your evening.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify 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 July 3, 2015