

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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August 11, 2015
Start: 11:33 a.m.
Recess: 2:08 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E:
JUMAANE D. WILLIAMS
Chairperson

COUNCIL MEMBERS:
Rosie Mendez
Ydanis A. Rodriguez
Karen Koslowitz
Robert E. Cornegy, Jr.
Rafael L. Espinal, Jr.
Mark Levine
Antonio Reynoso
Helen K. Rosenthal
Ritchie J. Torres
Eric A. Ulrich

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

Mary Bassett, Commissioner
NYC Department of Health and Mental Hygiene

Dan Kass, Deputy Commissioner of Environmental Health
NYC Department of Health and Mental Hygiene

Rick Chandler, Commissioner
NYC Department of Buildings

Tom Fariello, First Deputy Commissioner
NYC Department of Buildings

Michael Patton
Griswold Water Systems
ASHRAE Member

Angela Pinsky, Senior Vice President
Management Services and Government Affairs
Real Estate Board of New York (REBNY)

Daniel Avery, Director of Legislative Affairs
Building Owners and Managers Association of Greater
New York (BOMA)

2 [sound check, pause]

3 CHAIRPERSON WILLIAMS: Good morning
4 everyone and thank you for coming. I assume that a
5 lot of people are here for what we'll be talking
6 about in just a few minutes, but right now, we are
7 going to have a hearing for the purposes of a vote on
8 three bills. My name is Jumaane Williams, and I'm
9 the Chair of the Committee on Housing and Buildings.
10 I'm joined today by Council Members Koslowitz,
11 Levine, Reynoso, Rosenthal, Torres and Cornegy. The
12 first item before us is Proposed Intro No. 145
13 sponsored by Council Member Johnson. This bill would
14 require animal service facilities, including existing
15 facilities where animals are sheltered on a 24-hour
16 basis to install automatic sprinkler systems by
17 December 31st, 2016. Animal service facilities,
18 which provide 24-hour in-person supervision and are
19 equipped with smoke alarms in animal service
20 facilities that were in operation on or before
21 December 31st, 2016 and that are equipped an
22 automatic smoke detector system are not required to
23 in...are not required to install automatic systems.

24 The next two items before us, Proposed
25 Intro No. 700-A sponsored by myself and Intro No.

2 757-A sponsored by Speaker Melissa Mark-Viverito
3 address certain issue regarding buyout offers. That
4 is when a landlord offers a tenant money or other
5 valuable consideration to vacate an apartment.

6 Proposed Intro No. 700-A would ensure
7 that tenants are aware of their rights in connection
8 with buyout offers. The bill would make it unlawful
9 for a tenant to be contacted regarding a buyout offer
10 without being notified of each of the following in
11 writing:

12 1. The purpose for the contact.

13 2. That they may refuse any offer made
14 and may continue to occupy their dwelling unit.

15 3. That they may seek the guidance of
16 an attorney regarding any offer made, including a
17 reminder that the tenant may obtain information about
18 their rights through the ABCs of Housing Guide on the
19 City's website.

20 4. That such contact is made by or on
21 behalf of the owner, and

22 5. That they may refuse any further
23 contact regarding a buyout offer for a period of 180
24 days unless such contact is authorized by the court
25

2 or if notified in writing by such tenant of an
3 interest in receiving such communications.

4 Proposed No. 757-A would address the use
5 of a repeated buyout offers, which have become a form
6 of harassment, particularly where a tenant has
7 already rejected such an offer. The bill would make
8 it unlawful for an owner to contact the tenant about
9 a buyout offer within 180 days after such tenant has
10 notified the owner or his or her agent in writing
11 that such tenant does not wish to be communicated
12 with about buyouts. During the 180-day period, the
13 owner can only communicate about buyout offers with
14 the tenant if such communication is authorized by the
15 court or if notified in writing by such tenant of an
16 interest in receiving such communications. And now we
17 have the sponsor I think--Is Johnson here?

18 COUNCIL MEMBER: Yes, he's here.

19 CHAIRPERSON WILLIAMS: Of Intro 145-A.

20 Council Member, we're going to allow him an
21 opportunity to give some remarks about his bill.

22 COUNCIL MEMBER JOHNSON: Mr. Chair, I'm
23 sorry. I'm speaking on sprinklers first or-- Yes,
24 thank you. So, Introduction 145 is almost two
25 decades overdue, and it's my belief that it

2 represents common sense regulation that will save the
3 lives of animals here in New York City. We have seen
4 too many incidents in which animals have lost their
5 lives simply because the most basic safeguards were
6 not mandated at pet shops where they were housed.

7 Moreover, first responders put themselves at
8 considerable risk in order to save these animals.

9 Both the pets and the brave men and women who saved
10 them will be much safer when this bill is enacted.

11 According to the National Fire Protection

12 Association, establishments with fire sprinklers are
13 one-half to three-fourths less likely to experience

14 serious damages when compared to those without
15 sprinklers. With concern for the safety of our

16 animals, those who care for them and our first

17 responders, this bill will expand the installation of

18 fire sprinklers to all places that house animals on

19 their premises such as professional offices and

20 public service buildings. These are new

21 establishments. Older establishments existing

22 establishments will have separate regulations. This

23 is not about hypothetical danger. Fires have claimed

24 the lives of animals kept in pet stores. In 2008,

25 dozens of pets perished (coughs) in a Bronx pet

2 store. This is the reason legislators are pushing
3 for this kind of law since 1998. These tragedies
4 really do happen. They are preventable, and the
5 longer we wait without acting, the more
6 responsibility we must claim the next time it occurs.
7 Those who are opposed to this simple and humane
8 measure will likely cite the costs that it poses on
9 businesses. In truth, these overhead costs are a
10 small price to pay in comparison to the scores of
11 animals that could potentially their lives in the
12 absence of this legislation in the years to come.
13 Having the most basic system in place to protect the
14 residents of an establishment, human or animal, must
15 be a cost of doing business in the city.

16 I want to thank you, Mr. Chair, for
17 hearing this legislation earlier this year and for
18 having the vote today, and I ask my colleagues to
19 please vote in favor of this piece of legislation.
20 Thank you very much.

21 CHAIRPERSON WILLIAMS: Thank you, Council
22 Member Johnson, and with that said, I'd like to ask
23 the clerk to please call the roll.

24

25

2 CLERK: William Martin Committee Clerk.

3 Roll call vote Committee on Housing and Buildings.

4 Items are coupled. Chair Williams.

5 CHAIRPERSON WILLIAMS: I wanted to ask
6 myself this when I vote. So I'll just do it. I am
7 vote yes on Intro 700-A and Intro 757-A. I do want
8 to congratulate Council Member Johnson for his
9 leadership on 145. I think it's a great bill. It's
10 just only small sliver of the business, which are
11 pre-existing small pet shops that are not attached to
12 national chairs. I wish they would have had a little
13 bit more time to absorb the cost. So because of
14 that, I won't be able to support it today, but I do
15 want to say congratulations, and I think it's a great
16 bill that is needed. So I vote no on it. Thank you.

17 CLERK: Koslowitz.

18 COUNCIL MEMBER KOSLOWITZ: I vote aye on
19 all, and I want to congratulate my colleague, Corey
20 Johnson on his bill. It's a great bill.

21 CLERK: Cornegy?

22 COUNCIL MEMBER CORNEGY: I vote aye on
23 all.

24 CLERK: Levine.

25

2 COUNCIL MEMBER LEVINE: With
3 congratulations to Corey voting aye on all.

4 CLERK: Reynoso.

5 COUNCIL MEMBER REYNOSO: Once again,
6 Corey hit another home run. I don't know how many
7 more you're going to be able to do before the end of
8 the year, but amazing work. I think it's a great
9 piece of legislation. I do want to say 700-A is one
10 of my favorite bills that I've seen in quite some
11 time when it comes to buyouts and harassments that
12 are happening our community. So, of course, I will
13 proudly vote aye on all.

14 CLERK: Rosenthal.

15 COUNCIL MEMBER ROSENTHAL: I, too,
16 proudly vote aye on all, and congratulate Council
17 Member Johnson for this incredibly important bill.
18 But also Council Members Arroyo, Chin and Melissa
19 Mark-Viverito the whole list. Oh, I'm on there. The
20 buyout, though, is critically important. You know,
21 my office deals with literally thousands of
22 harassment and eviction complaints every year, and
23 the buyout offers are so insidious and secretive and
24 divisive to a building. This bill is incredibly
25 important in helping us move forward to protect

2 tenant in New York City. So I very much appreciate
3 it, and proudly vote aye.

4 CLERK: Torres.

5 COUNCIL MEMBER TORRES: I vote aye.

6 CLERK: Introduction 700-A and 757-A have
7 been adopted by a vote of 7 in the affirmative, 0 in
8 the negative, and no abstentions. With Introduction
9 145-A being adopted by a vote of 6 in the
10 affirmative, 1 in the negative, and no abstentions.

11 CHAIRPERSON WILLIAMS: Thank you.

12 Council Member Johnson, do you have something to say?

13 COUNCIL MEMBER JOHNSON: Chair Williams,
14 I'm sorry. I was remiss in not thanking my
15 Legislative Director Louis Cholden-Brown and also
16 this committee's counsel Jim Wilcox, who spent an
17 enormous amount of time on this legislation over
18 many, many months, a lot of research, a lot of good
19 advice and counsel, and I'm incredibly grateful for
20 her hard work in getting us to today, and I want to
21 recognize her effort, and also my Legislative
22 Director's effort. Thank you.

23 CHAIRPERSON WILLIAMS: Thank you very
24 much. We're going to hold for five minutes while we
25 redistribute or distribute the Committee Report on

2 the part of the hearing. So, we'll take a five-
3 minute break and start then. Thank you.

4 [pause for break]

5 CHAIRPERSON WILLIAMS: All right. Good
6 afternoon everyone. Thank you for coming and thank
7 you for staying. As I mentioned before, my name is
8 Jumaane Williams, Chair of the Committee of Housing
9 and Buildings.

10 SERGEANT-AT-ARMS: [interposing] Keep it
11 quite, please.

12 CHAIRPERSON WILLIAMS: We are joined
13 today by Speaker Melissa Mark-Viverito, Council
14 Member Reynoso, Espinal, Johnson, Gibson, Rosenthal
15 and Cornegy. As you are all aware, there is
16 currently an outbreak of Legionnaires Disease in the
17 South Bronx, which has led to the loss of 12 lives.
18 It has been strongly suggest that the outbreak was
19 caused by the presence of Legionella bacteria in
20 cooling towers. Cooling towers are part of the air
21 conditioning systems in many modern buildings. The
22 vapor caused by cooling towers allows Legionella that
23 are present in the water to be inhaled, grow in the
24 lungs and cause pneumonia. Our city must do
25 everything we can to fight Legionnaires' outbreak.

2 In response to this outbreak at today's hearing the
3 committee will consider legislation to regulate
4 cooling towers. This legislation would require
5 cooling towers to be registered, inspected and
6 tested. It would also set standards for cleaning and
7 disinfection of cooling towers if any such tests come
8 back positive.

9 I'd like to thank the Speaker, Council
10 Members Gibson and Johnson for their leadership in
11 introducing this legislation, and I would like to
12 give them an opportunity to discuss their bills in
13 the order that I just called. So we'll call the
14 Speaker, and then Council Member Gibson and then
15 Johnson.

16 SPEAKER MARK-VIVERITO: Thank you, Chair
17 Williams for chairing this meeting, and I want to say
18 good morning to everyone. As has been said, we are
19 here today to discuss regulating cooling towers are
20 part of the city's response to the recent outbreak of
21 Legionnaires' Disease. As you probably know, it now
22 appears like these towers played a role in this
23 outbreak by harboring and spreading the bacteria that
24 causes the disease. The city currently does not have
25 a registry of these towers, or any firm requirements

2 for maintaining them, testing them or cleaning them.

3 The bill before the committee would change that. The

4 legislation will do four important things. First, it

5 will require that all cooling towers in the city be

6 registered with the Department of Buildings so we

7 know how many there are, and where they are. Second,

8 the law would require the building owners develop and

9 implement a maintenance program for the cooling

10 towers. This program would have to comply with the

11 most recent engineering standards. Third, owners

12 would have to test the water in their cooling towers

13 on a quarterly basis, and if those tests show

14 microbes such as the bacteria that cause

15 Legionnaires' Disease, the owner would have to let

16 the city know, and then clean and disinfect the

17 system in accordance with standards set by the

18 Department of Health and Mental Hygiene. Owners that

19 fail to do so would face substantial penalties. And

20 four, the Department of Health and Mental Hygiene in

21 collaboration with the Department of Buildings would

22 provide an annual report on compliance with this law

23 as well as recommendations for expanding these

24 requirements to other kinds of equipment that may be

25 a source of disease causing bacteria.

2 We've worked closely with the
3 Administration on this legislation, and so I want to
4 thank all of the staff, all of the members for their
5 efforts and dedication. I want to thank my Council
6 colleagues Vanessa Gibson, Corey Johnson and Jumaane
7 Williams for agreeing to co-sponsor with me this
8 important piece of legislation, and Council Member
9 Williams, our Housing and Buildings Chair for
10 agreeing to hold this hearing, and being a co-prime
11 sponsor. I also want to thank the staff who worked
12 around the clock to prepare this legislation. We
13 felt it was really important for us to take action as
14 quickly as possible. And as such, there's been a lot
15 of aggressive conversations and a lot of negotiations
16 happening in these last couple of days so that we can
17 get to the point where we could vote on something in
18 this month's stated meeting. So I want to thank Matt
19 Gewolb, Jeff Baker, Ed Atkin, Jim Wilcox, David
20 Seitzer, Guillermo Patino, Jose Conde and Crystal
21 Pond for all their efforts. I also want to express
22 my sympathy for all those who have lost loved ones to
23 Legionnaires' Disease including the families and
24 friends of the 12 people who have died in this most

2 recent outbreak. Definitely our thoughts and our
3 prayers are with them.

4 I want to close by saying that it's
5 vitally important that the City learn from this
6 tragedy, and that we take forward thinking action now
7 to prevent future outbreaks. So I look forward to
8 discussing this legislation in greater detail with my
9 Council colleagues, with the Administration, and
10 stakeholders in public bill today as we move toward
11 that passage, and I want to welcome both the
12 Commissioner of the Department of Health and the
13 Department of Buildings, and thank you for your
14 leadership during this very difficult and trying
15 time. Thank you, Mr. Chair.

16 CHAIRPERSON WILLIAMS: Thank you, Madam
17 Speaker. Before Council Member Gibson speaks, I want
18 to call Council Members Espinal and Mendez for a
19 vote.

20 CLERK: Council Member Espinal.

21 COUNCIL MEMBER ESPINAL: I vote aye.

22 CLERK: Council Member Mendez.

23 COUNCIL MEMBER MENDEZ: I vote yes on
24 145-A, abstain on 700-A, and yes on 757-A. Thank
25 you.

2 CHAIRPERSON WILLIAMS: Thank you, and
3 Council Member Gibson

4 COUNCIL MEMBER GIBSON: Good morning to
5 all my colleagues and members of the public. Thank
6 you Commissioner for being here. Thank you to my
7 colleague, Chair Williams for your leadership today.
8 Ladies and gentlemen, today is a significant step of
9 progress in our fight against the recent outbreak of
10 Legionnaires' Disease in our efforts to prevent an
11 outbreak of this magnitude from ever occurring in the
12 City of New York. The systems that filter the air
13 that we breathe must be properly maintained, and this
14 legislation will assure that all building owners take
15 this duty seriously and rapidly remediate any problem
16 that they may find. I believe this bill put forth
17 today is a comprehensive piece of legislation that
18 certainly answers a call to action that many of us
19 have been aware of over the past three weeks since it
20 became clear that this outbreak also like the
21 outbreak recently last year in Co-Op City was related
22 to Legionella overgrowth in many of our cooling
23 towers. This outbreak is extremely serious, and
24 requires immediate coordinated legislative action
25 before any more lives are lost or devastated. The

2 legislation that we put forth today addresses four
3 key points that I believe are truly necessary to
4 fight Legionnaires' Disease on a local level. We will
5 identify all cooling towers in the City of New York
6 and maintain a registry within the Department of
7 Buildings. We will require proof of the regular
8 maintenance and cleaning of all cooling towers on a
9 frequent and ongoing basis. We will require
10 regularly the inspection of all cleaning towers by an
11 independent third party. And if a problem is found,
12 we will require immediate remediation and proof of
13 that remediation that has been completed. As we move
14 forward on this extremely serious matter, I hope that
15 we will keep those who have been sick, who have been
16 impacted and certainly to the families of the 12 New
17 Yorkers, Bronx residents that we have lost and keep
18 these families in our thoughts and our prayers. 114
19 people have contracted Legionnaires' Disease and 12
20 have lost their lives unfortunately. We must not
21 lose sight of the reason why we are all here today.

22 I want to thank our Mayor Bill de Blasio,
23 and our Council Speaker Melissa Mark-Viverito for
24 their commitment and their leadership and to all of
25 the staff for their incredible work in getting this

2 bill to the floor in a period of time. Thank you to
3 our Health Commissioner Dr. Mary Bassett, and the
4 entire Department of Health and Mental Hygiene for
5 all of their tremendous work for the past several
6 weeks. Thank you to our Buildings Department and our
7 Commissioner Rick Chandler for all of the work that
8 they have done as well as all of our other agencies,
9 the NYPD, FDNY, DEP, HPD, Officer of Emergency
10 Management and every city agency that has really come
11 together to make sure that we collective work on
12 behalf of every New Yorker. I also extend my thanks
13 to the Bronxville President Ruben Diaz, Jr. and his
14 entire team for their commitment to the Bronx. I
15 want to thank Commissioner Marco Carrion and Elvin
16 Garcia of the Mayor's CAU for helping my staff as
17 well as all my colleagues on all of the outreach
18 efforts that we have done the past several weeks, and
19 we will continue to do those in the affected areas in
20 the Bronx.

21 I want to thank my fellow co-sponsors,
22 our Speaker and our Chair of the Health Committee
23 Council Member Corey Johnson and Council Member
24 Jumaane Williams for their leadership and all of my
25 colleagues. And certainly thank you to the staff for

2 working day in and day out to put this bill together.

3 It is never easy, but we do it with the strength in

4 know that this bill and many other conversations we

5 have will make a significant impact in the future.

6 Let us continue to remember those families that are

7 impacted, the families that are still impacted by

8 their loved ones being hospitalized, and know that as

9 a city we will continue work earnestly and

10 aggressively to make sure that we raise the level of

11 awareness. We educate all of our New Yorkers and our

12 Bronx residents about this outbreak, and we continue

13 to make sure that as legislators we continue to keep

14 in mind that legislation action is absolutely

15 necessary moving forward. And I'm glad that this

16 bill is put forth for a vote and I thank all of my

17 colleagues and thank you once again to the Speaker

18 for your leadership. Thank you, Chair Williams.

19 CHAIRPERSON WILLIAMS: Council Member

20 Johnson.

21 COUNCIL MEMBER JOHNSON: Thank you, Mr.

22 Chair. Thank you, Madam Speaker and Council Member

23 Gibson for the work that has gotten us to today quite

24 quickly in trying to respond to this outbreak. I

25 don't want to outline what the legislation does

2 because my colleagues I think just did a very good
3 comprehensive job of talking about why we put forward
4 this legislation today. But I do want to talk a
5 little bit about how we respond to public health
6 scares and outbreaks in the New York City. In a city
7 of over eight million New Yorkers, these things
8 happen. It's just reality. It's going to happen in
9 the future, and the real measure of our city's
10 response is what we do when a public health outbreak
11 occurs. And as we saw last year during Ebola, and as
12 we saw earlier this year with whooping cough in
13 Midwood and Tuberculosis in Sunset Park and now
14 Legionnaires' in the South Bronx, our Health
15 Department (coughs). Excuse me. Our Health
16 Department is the best health department in the
17 United States and one that has to confront these
18 situations pretty regularly. If you look at past
19 Legionnaires' outbreaks nationally and
20 internationally, and this is not to downplay what has
21 happened here in New York. But there have been many,
22 many other Legionnaires' outbreaks that have been far
23 bigger that have taken a lot more lives and infected
24 a lot more people. And this legislation today and
25 the response that we have seen since the outbreak was

2 first identified, has been one to try to limit the
3 impact and to understand what we need to do in the
4 future to decrease the likelihood of this happening
5 again. The clear headed, calm, lucid reassuring
6 communication that we have received from Health
7 Commissioner Dr. Mary Bassett, Buildings Commissioner
8 Rich Chandler, Mayor de Blasio, and his entire team I
9 think is a model, and we saw that happen last year
10 during Ebola when internationally people were looking
11 at New York City and how we'd respond. And we I
12 think performed in an exemplary way. This has been
13 scary, but also I think handled quite well. It is my
14 hope that we can continue to learn from what
15 happened, the detective work that continues to go on
16 in the Bronx to ensure that in the future when we do
17 get--and there will be future cases of Legionnaires'-
18 -that we can limit the impact on the number of people
19 infected and, of course, the people whose lives have
20 been lost. So I wanted to just talk a little bit to
21 provide a little bit of perspective and this is not
22 in any way to diminish the 12 lives that were lost,
23 and over 100 people who were infected and who are now
24 getting better and getting treated. But I think that
25 this has been a model effort in how city agencies can

2 work together, have different branches of government
3 from the executive level to the Mayor's Office to the
4 Council can work together. And we need to, of
5 course, learn from this, but I also think that we
6 should be quite proud that after many years of this
7 Health Department being cut, tens if not hundreds of
8 millions of dollars, they are still able to perform
9 dutifully during difficult times. So I am grateful
10 to work with the Speaker, with Chair Williams with
11 Council Member Gibson on this important legislation.
12 It's topical, it's timely, it is responsive to the
13 deficiencies we've seen in our current regulatory or
14 lack of regulatory scheme. And I look forward to
15 asking questions today to both Commissioners, and
16 understanding what we can do in the future to
17 decrease the likelihood of an outbreak of this size.
18 Thank you very much.

19 CHAIRPERSON WILLIAMS: Thank you. I'd
20 also like to thank my staff for the work that they
21 did to assemble this hearing including Nick Smith, my
22 Deputy Chief of Staff; Jim Wilcox, Counsel to the
23 Committee; Guillermo Patino and Jose Conde, Policy
24 Analysts to the Committee and Sarah Gastelum, the
25 Committee's Finance Analyst. Before I call the

2 panel, I also just wanted to make sure that we
3 remember--I will mention that 12 families--that 12
4 people lost their lives. As we talk about the
5 numbers and look at the charts, even though we don't
6 know their names, and we don't have pictures of them,
7 it's important to remember that like us they were
8 real people like us. Their families are very, very
9 concerned that their loved ones were lost, and the
10 people who are still ill are concerned. And deserve
11 to have people not jockeying, but working together to
12 make sure that we can provide the best answers and
13 responses for those families of people who lost their
14 lives, and those families of people who are still
15 sick. And I believe that's what we're doing here
16 today. I also want to thank the Mayor the
17 Commissioners, and everyone who worked on this to get
18 us to where we are today. I'm happy that other
19 joined in after to be a part of the solution, and
20 joining the work that was already currently going on
21 since early on. It is important to make sure that we
22 do these things as quickly as possible, but with the
23 notion, as Council Member Johnson mentioned that
24 there are eight million people here, and if you do it
25 too hastily, you cause hysteria unnecessarily. And

2 So I think we have to balance that out with making
3 sure that we are containing and at the same time
4 providing information so that people do not
5 unnecessarily get in a frenzy. And I think a lot of
6 that did happen, and I'm happy that we're here today
7 with some response to some of those families and the
8 entire city that are looking forward to what we are
9 doing.

10 With that said, I'm going to call
11 representatives from the Administration as our first
12 panel. I would like to remind everyone that would
13 like to testify today to please fill out a card with
14 the sergeant. We have Commissioner Mary Bassett from
15 DOHMH, Commissioner Rick Chandler from the Department
16 of Buildings, Deputy Commissioner Dan Kass from DOHMH
17 and First Deputy Commissioner Tom Fariello from the
18 Department of Buildings. If you all would raise your
19 right hands, please. Do you affirm to tell the
20 truth, the whole truth, and nothing but the truth in
21 your testimony before this committee, and to respond
22 honestly to Council Member's questions? Thank you
23 and you begin in the order of your preference.

24 COMMISSIONER BASSETT: Good morning.
25 Good morning to the Speaker Mark-Viverito,

2 Chairperson Williams and members of the Committee of
3 Housing and Buildings and, of course, to Health
4 Committee Chair Corey Johnson. I'm Dr. Mary Bassett,
5 Commissioner of the New York City Department of
6 Health and Mental Hygiene, and I'm joined by Dan
7 Kass, who is the Deputy Commissioner for
8 Environmental Health. I thank you for the
9 opportunity to testify today on the proposed
10 legislation, which will require the registration of
11 the city's cooling towers as well as routine
12 inspections and testing for the presence of microbes.

13 As you know the Health Department is
14 currently investigation an outbreak of Legionnaires'
15 Disease in the South Bronx. Legionnaires' Disease is
16 caused by the bacteria Legionella. It's a severe
17 respiratory illness similar to other community
18 acquired pneumonias. Groups at high rise for
19 Legionnaires' Disease include people who are middle
20 aged or older, especially cigarette smokers, people
21 with chronic lung disease or weakened immune systems,
22 and people who take immunosuppressant drugs. Most
23 healthy people do not become ill even if exposed.

24 I'm happy to report that we have no new
25 deaths from Legionnaires' Disease reported today, and

2 no one in the past seven days has reported onset of
3 symptoms. Today, there have been 115 cases of
4 individuals with Legionnaires' Disease. 79 people
5 have been discharged from the hospital and tragically
6 as many members of the Council have noted, 12 people
7 have died. In the impact zone or the area of the
8 outbreak our disease detectives determined rapidly
9 that cooling towers were the likely source of
10 exposure. Initially, we identified 17 cooling towers
11 in the area, and immediately tested them for
12 Legionella. Five of these locations tested positive,
13 and building owners were ordered immediately to
14 disinfect the towers and undertake a longer term
15 remediation plan. As of yesterday, a total of 18
16 sites have tested positive for Legionella, 11 of
17 these inside what we call the impact zone or the area
18 of the outbreak. Regardless of test results, every
19 cooling towers identified in the impact zone has been
20 immediately ordered disinfected and remediated. And
21 any site that tested positive has immediately been
22 ordered disinfected, and remediated.

23 On August 6th in order--in an effort to
24 prevent any other outbreaks of Legionnaires' Disease,
25 I issued an order to all building owners to either

2 disinfect their cooling towers within 14 days or
3 provide evidence that their towers had been
4 disinfected in the 30 days. We don't know exactly
5 how many cooling towers there are in the five
6 boroughs, but we estimate that there could be several
7 thousand. The City will conduct random audits to
8 ensure their compliance with this order, and failure
9 to comply could result in notices of violation and
10 fines. Every building owner has complied with our--
11 every building owner has complied with our orders to
12 date, and we expect broad cooperation going forward.

13 The decrease of reported cases along with
14 the declining emergency department visits for
15 pneumonia in the South Bronx signals the
16 effectiveness of our efforts in collaboration with
17 the other city, state and federal agencies in
18 containing the outbreak. We should not be surprised
19 to see sporadic cases in this or other parts of the
20 city as the bacteria is normally found in the
21 environment, but we are confident that we have
22 through our established surveillance systems we'll be
23 able to quickly respond to all reports.

24 Collaboration with partners and other experts has
25 also played a key role in our response to this

1 outbreak. We have taken several steps to provide
2 clear and timely information to residents of the
3 South Bronx. These include convening a panel of
4 experts in the field infectious disease to discuss
5 the work of the city, the work that we've done so
6 far. And, ensure that all appropriate steps have
7 been taken to find and eliminate the source of the
8 outbreaks, and then outreach teams and volunteer
9 doctors with a the Medical Reserve Corps to more than
10 85 clinic residences in other locations in the South
11 Bronx where vulnerable populations live. Speaking
12 with administrators and residents delivering nearly
13 9,000 copies of frequently asked questions, what we
14 call FAQs in both English and Spanish to ensure that
15 critical information and symptoms and the treatment
16 of Legionnaires' Disease is communicated clearly and
17 directly to the residents of the impact zone.
18 Distributing over 15,000 flyers and conducting 46,000
19 Robo calls in multiple languages to residents of the
20 South Bronx to educate them about this outbreak.
21 Coordinating with the Department for the Aging, the
22 New York State Nurses Association, the Medical
23 Reserve Corps to offer clinic hours in 15 senior
24 centers in the South Bronx. Working with the Human
25

2 Resource Administration, the Department for the
3 Aging, the Health and Hospital Corporation, the New
4 York City Housing Authority, and other city agencies
5 to distribute FAQs to their clients. Participating
6 in a town hall meeting hosted by Council Member
7 Gibson and the Mayor's Community Assistance Unit on
8 August 3rd attended by nearly 400 people.
9 Participating in a Tele-Town Hall meeting with Bronx
10 residents on August 7th. Participating in a Spanish
11 language Tele-Town meeting--Town Hall meeting with
12 Bronx Residents on August 10th, and this evening our
13 First Deputy Commissioner, Dr. Oxiris Barbo and the
14 Bronx District Health Office, Assistant Commissioner,
15 Dr. Jane Bedell will participate in another town hall
16 meeting. And we will continue meeting with residents
17 to answer their questions, and provide information
18 and assistance. In the coming weeks we will continue
19 to monitor for new cases and work in close
20 collaboration with area hospitals as well as provide
21 updates to elected officials and Bronx residents.

22 I want to take a moment to thank Speaker
23 Mark-Viverito, Borough President Diaz, Jr., Council
24 Member Gibson and other local elected officials for
25 their leadership and engagement of Bronx residents.

2 In addition, I want to thank the State Health
3 Department who works with Wadsworth Laboratory has
4 provide incalculable assistance, and the Centers for
5 Disease Control and Prevention, our Federal Public
6 Health Agency, which also has offered crucial advice
7 and staff support since the beginning of the
8 outbreak.

9 Before turning to the legislation before
10 us, I want to reiterate some key messages that the
11 Council and others have helped us disseminate. New
12 York City's drinking water supply is safe and
13 unaffected by the Legionella. In addition, water
14 tanks, home air conditioning units are also
15 unaffected by Legionella, and walking into an air
16 conditioned environment is safe as well. With respect
17 to the proposed legislation, the Administration
18 strongly supports the registration of cooling towers
19 and reaching inspection and testing for microbes in
20 order to help prevent and investigate future
21 outbreaks of Legionnaires' Disease. The scale of
22 this outbreak has shown us that the risk of
23 Legionnaires' Disease is one we can no longer accept
24 and longer term action is needed. In regards to the
25 airborne release of Legionella, cooling towers

2 represent a particular source of concern because they
3 are outdoors, and can produce mist that contain
4 bacteria such as Legionella. When conducting our
5 epidemiological investigations in the South Bronx
6 related to this recent outbreak, we quickly realized
7 the number and location of cooling towers, and the
8 impact zone was unknown, and required intensive
9 legwork by city staff from multiple agencies to
10 determine. A registry of cooling towers maintained
11 by the Department of Buildings will improve our
12 response to future outbreaks. The proposed
13 legislation also addresses two other issues ensuring
14 adherence to industry standards for maintenance,
15 cleaning, application of biocides and testing for
16 microbes, and reporting samples with elevated levels
17 of microbes to the Health Department. These are
18 intended to reduce the future risk of outbreaks.
19 Specifically, the bill will require all owners to
20 develop and follow a maintenance program and plan
21 that is in accordance with the American Society of
22 Heating, Refrigeration and Air Conditioning Engineers
23 or ASHRAE. Require inspections and testing of
24 cooling towers on a quarterly basis while a
25 building's cooling towers is in use, and with 15 days

2 before the initial use of the cooling towers during
3 any year. Require all inspections be performed by a
4 person qualified in applying industry standards
5 related to microbial testing, and evaluating cooling
6 systems for the presence of Legionella bacteria, and
7 include in each inspection a test for the presence of
8 microbes in the water of the cooling towers. The
9 Health Department will establish by rules the targets
10 and acceptable methods of microbial testing, and
11 laboratory analysis the acceptable methods of
12 cleaning and disinfecting cooling towers, the levels
13 of microbes in the cooling towers that will require
14 mitigation to prevent health risks, and the levels of
15 microbes in cooling towers that present a serious
16 health threat, and require immediate reporting to the
17 Department and cleaning and disinfecting.

18 In order to ensure compliance with these
19 requirements, the proposed legislation allows the
20 Health Department to enter any property to inspect
21 the cooling towers for compliance and levy
22 significant penalties for violations. In cases where
23 an owner fails to disinfect or otherwise remediate as
24 ordered, the Health Department would clean the tower
25 and bill the owner. This groundbreaking legislation.

2 Currently, no other large city or state or the
3 country has passed a law regulating cooling towers
4 despite the fact that they have been indicated
5 Legionnaires' outbreaks across the United States, and
6 indeed around the world. It is clear that this bill
7 will advance our certainty of location of cooling
8 towers, improve our ability to rapidly investigate
9 potential sources of outbreaks, and most importantly
10 reduce the potential for exposure to pathogens
11 associated with respiratory illness.

12 Legionella exists in the environment, and
13 we will continue to see sporadic cases of
14 Legionnaires' Disease in New York City, but we
15 believe that this important legislation will go a
16 long way towards reducing the number and severity of
17 these outbreaks. Thank you again for the opportunity
18 to testify, and also for your support and assistance
19 during this outbreak. We are happy to answer any
20 questions.

21 COMMISSIONER CHANDLER: Good morning
22 Speaker Mark-Viverito, Chair Williams and members of
23 the Housing and Buildings Committee. I am Rick
24 Chandler, Commissioner of the New York City
25 Department of Buildings. I am joined by First Deputy

2 Commission Thomas Fariello, and please to joined
3 Department of Health and Mental Hygiene Commissioner
4 Mary Bassett and Deputy Commissioner Dan Kass to
5 offer testimony in support of proposed legislation
6 that will regulate cooling towers. A cooling towers
7 is part of a building's cooling industry process or
8 energy production system. Cool towers extract waste
9 heat to the atmosphere through the cooling of water
10 streams to a lower temperature. This process can
11 result in a mist being emitted into the atmosphere.
12 If cooling towers are not properly maintained, that
13 mist can contain bacteria such as Legionella, which
14 the Health Department has identified in parts of the
15 South Bronx. Cooling towers are one option to cool
16 buildings and can be used in any size building
17 depending on the use. Generally speaking, cooling
18 towers can be found on industrial buildings, hotels,
19 universities, buildings on campuses with shared
20 building systems, and larger commercial and
21 residential buildings. Typically, 25,000 square feet
22 and larger. Currently, there is no accurate count of
23 cooling towers throughout the city. This is because
24 cooling towers are typically only one component of
25 the larger heating, ventilation and air condition

2 system. Construction documents submitted to the
3 department do not distinguish between a cooling
4 towers and some other component of an HVAC system.
5 Just as they would not distinguish between a brick
6 and stucco facade. The legislation before this
7 committee will allow the city to better identify
8 where cooling towers are located by requiring
9 building towers--building owners to register them
10 with the department, and more importantly empowers
11 the Health Department to establish requirements to
12 ensure they are properly maintained. This proposed
13 legislation requires registration with the Department
14 of Buildings that existing cooling towers within 60
15 days of the law's enactment and for new installations
16 prior to their initial operation. The registration
17 form is now available on the department's website
18 enabling building owners to voluntarily register
19 their cooling towers in anticipation of the enactment
20 of this legislation should the City Council approve
21 it.

22 Additionally, the department has prepared
23 a service notice for building owners and operators
24 and a brochure for the public. The proposed
25 legislation also requires building owners to certify

2 with the department annually that their cooling
3 towers have been inspected, tested, cleaned and
4 disinfected in accordance with Health Department
5 regulations. For cooling towers that are
6 discontinued, the proposed legislation requires
7 owners to notify the department within 30 days of
8 discontinuance and state that the cooling tower was
9 sanitized in compliance with Health Department
10 requirements. Thank you for your attention and the
11 opportunity to testify on before you today. I
12 welcome any questions that you might have.

13 CHAIRPERSON WILLIAMS: Thank you very
14 much for your testimony. I have some questions, but
15 I am going to defer to the Speaker who will ask some
16 questions. Then I will ask some of them, and then we
17 will go to the bill's prime sponsors, Council Members
18 Gibson and Johnson.

19 SPEAKER MARK-VIVERITO: Thank you, Mr.
20 Chair. Commissioner Bassett, I wanted to just go
21 over your testimony and ask for clarification and a
22 little bit more detail on a couple of things. On
23 page 2 you talk about having issued on August 6th the
24 Order, the Commissioner's Order to building owners to
25 disinfect cooling towers within 14 days or provide

2 evidence that the towers have been disinfected in the
3 past 30 days. Understanding that you have a window
4 there, which we have not yet completed, has there
5 been any communication from any owners either
6 supplying data about having gone through this process
7 and presenting the paperwork that demonstrates it, or
8 has there been any communication from any building
9 owners so far in this short period of time?

10 COMMISSIONER BASSETT: Thank you for that
11 question. This is the order that refer to as the
12 blanket order--

13 SPEAKER MARK-VIVERITO: [interposing]
14 Yes.

15 COMMISSIONER BASSETT: --and it's intent
16 is to reach all owners. It's directed at all owners
17 of cooling towers in the City. Over some 35,000
18 letters have gone out, and we have asked owners to
19 call 311, and they have been receiving calls. The
20 owners are asked, and this--under this order they are
21 ordered, rather, I should say, to either provide--
22 either decontaminate their cooling towers in the
23 coming 14 days or provide evidence that they've
24 maintained their cooling towers in the previous 30.
25 And they're asked to keep that information on site,

2 and available for inspection should we request it.
3 So we will be doing audit checks, checking in with
4 owners, and checking whether owners have complied
5 with this. But this order did not establish a
6 registration. That's why this legislation is so
7 important. The registry will be established under
8 this legislation.

9 SPEAKER MARK-VIVERITO: Right, and I
10 think that's important to clarify. So, the order was
11 issued, but there is nothing that is required of the
12 owners to submit to the city?

13 COMMISSIONER BASSETT: That is correct.

14 SPEAKER MARK-VIVERITO: So in--in--
15 obviously, we're going to pass this or we're looking
16 to pass this quickly so that it will go into effect
17 as soon as feasibly possible. But in the meantime,
18 when would you start doing these random audits to
19 enter--following up on your order?

20 COMMISSIONER BASSETT: These calls are
21 beginning now.

22 SPEAKER MARK-VIVERITO: They're beginning
23 now?

24 COMMISSIONER BASSETT: Yeah.

25 SPEAKER MARK-VIVERITO: Okay.

2 COMMISSIONER BASSETT: Although the
3 owners, of course, have nine days to--

4 SPEAKER MARK-VIVERITO: [interposing]
5 Right.

6 COMMISSIONER BASSETT: --to respond to do
7 the--

8 SPEAKER MARK-VIVERITO: [interposing]
9 Right. There's that window that--that--

10 COMMISSIONER BASSETT: Just checking in,
11 yes.

12 SPEAKER MARK-VIVERITO: Okay. Now, you
13 also talk about the convening of a panel of experts
14 in the field of infectious disease to discuss the
15 work that the city has done so far, and to ensure
16 that all appropriate steps were taken to find an
17 element of the source of the outbreak. Can you give
18 us an understanding of like whose--who makes up that
19 panel, and when did it convene, and what are then
20 next steps?

21 SERGEANT-AT-ARMS: [interposing] Keep it
22 down please.

23 COMMISSIONER BASSETT: We've called on--
24 You know, New York City is very lucky to have a
25 number of world renown medical schools, and we called

2 on infectious disease experts who came and joined us
3 for a panel discussion. I'm going to have to check
4 on the actual date. It was last Wednesday. That
5 would be August 5th, and so these are people from--
6 from the area medical schools, and I'd be happy to
7 provide you with a list of people who participated in
8 that conversation, but they came from the area
9 medical schools.

10 SPEAKER MARK-VIVERITO: And what is--what
11 are the follow-up steps? That meeting was convened
12 last week. Is there--are there any plans to
13 reconvene to check in along the way? Because just in
14 terms of what you said in your testimony, it's to go
15 discuss the work of identifying (sic) and to ensure
16 that all appropriate steps were taking to find and
17 eliminate the source of the outbreak. When are you
18 expecting any sort of--

19 COMMISSIONER BASSETT: [interposing] This
20 is an ad hoc committee--

21 SPEAKER MARK-VIVERITO: [interposing]
22 yes.

23 COMMISSIONER BASSETT: --that we pulled
24 together for the purpose of consulting on our
25 management of this outbreak. In particular, a lot of

2 the conversation took place about laboratory methods.
3 Many people have asked about the causal links. You
4 know, the cooling towers are all contaminated with
5 the same bacteria. Could there have been seeding
6 across cooling towers? Members of the Council have
7 asked me that. I've gotten many questions about that
8 from residents of the Bronx. So that--that sort of
9 determination requires sophisticated laboratory
10 testing, and we go interesting feedback from them on
11 that, and there was no specific follow up. If we
12 have additional questions, which we want additional
13 input, we I am sure will find them readily available
14 to us should we want to reconvene.

15 SPEAKER MARK-VIVERITO: Okay, but just to
16 kind of go back to what it says, you said and to
17 ensure that all appropriate steps were taken to find
18 and eliminate the source of the outbreak.

19 COMMISSIONER BASSETT: That's correct.

20 SPEAKER MARK-VIVERITO: So we did a--we
21 did a brief thing with them. We showed them what we
22 call epi curves like the one we are showing here.
23 This one is from as of yesterday, but that blank
24 space at the end of the--of the epi curve remains
25 blank. This is based on a set of data. We also went

2 over some preliminary data, which we typically don't
3 share publicly because we don't share publicly
4 because we don't like to share any data that are
5 still preliminary. And we got their input on whether
6 they felt we should be looking for any other sources
7 than cooling towers, whether they agreed with our
8 assessment that the cooling towers were the most
9 likely source. And this doesn't mean that we had an
10 uncertainty, but it's always good to get input from
11 others in the field. We've also consulted with state
12 and federal partners.

13 SPEAKER MARK-VIVERITO: Okay. I
14 appreciate that. The other thing you indicated in
15 your testimony is about these 13 senior centers in
16 the South Bronx and setting up clinic hours. Is
17 that--are you planning to have that continue in any
18 way or did you already end those hours?

19 COMMISSIONER BASSETT: This was, I
20 believe, intended specifically for the period of the
21 outbreak.

22 SPEAKER MARK-VIVERITO: Okay. So that's--
23 --maybe we could get more detail on where those were.

24 COMMISSIONER BASSETT: I mean as the
25 Council knows because you've helped us get the word

2 out, the people who are older are particularly
3 vulnerable, and we were--particularly reached out to
4 senior centers--

5 SPEAKER MARK-VIVERITO: [interposing]
6 Right.

7 COMMISSIONER BASSETT: --to ensure that
8 they have information on care seeking.

9 SPEAKER MARK-VIVERITO: Okay, the other
10 thing just on your page 4 in the--in the Legislation
11 we talk about that we want to ensure adherence to
12 industry standards for maintenance, cleaning,
13 application of biocides and testing for microbes, and
14 this is according to--if I'm not mistaken, right, and
15 as you indicated in your testimony as well the
16 American Society of Heating, Refrigeration and Air
17 Conditioning Engineers. The standard that they've
18 laid out. Now, you then indicate below that the
19 Health Department is going to establish rules in
20 terms of the targets and acceptable methods of
21 microbial testing and laboratory analysis, acceptable
22 methods of cleaning. Is there--is any of that--does
23 any of that complement what the standards outlined by
24 this entity? Are they different? Because you
25 indicated about promulgating rules, and then there

2 are these standards that this ASHRAE I guess--ASHRAE-
3 -

4 COMMISSIONER BASSETT: [interposing]
5 ASHRAE.

6 SPEAKER MARK-VIVERITO: --standard. Is
7 it that specific the standards of ASHRAE or do you
8 have to go into further detail, right?

9 COMMISSIONER BASSETT: I can ask
10 Commissioner Chandler to comment more specifically on
11 ASHRAE, but I would say we describe it as a road map,
12 and a guiding document that outlines the elements of
13 a good plan. But specific issues like which specific
14 tests should be done, the frequency of testing is not
15 mandated in this. And to come up with these details,
16 which will be doing in rule making we would consult
17 with experts around the country, and come up with a
18 recommendation that best meets the needs that we all
19 agree to protect the health of the people of this
20 city.

21 SPEAKER MARK-VIVERITO: So the ASHRAE
22 standards when it talks about that they do have
23 standards for maintenance, cleaning application of
24 biocides and testing for microbes, and reporting
25

2 samples. That's a framework and you want to add more
3 detail to that framework?

4 COMMISSIONER BASSETT: Absolutely.

5 SPEAKER MARK-VIVERITO: Okay. Which I
6 guess is a step-- At this moment you have not--
7 obviously you don't have at the moment that those
8 rules have to be promulgated?

9 COMMISSIONER BASSETT: That's correct.

10 SPEAKER MARK-VIVERITO: Do we know the
11 timeline by which they will be, that the rules will
12 be promulgated?

13 COMMISSIONER BASSETT: Very rapidly. I
14 mean these conversations are already taking place.

15 SPEAKER MARK-VIVERITO: Already taking
16 place. And then the last thing, and then I'll pass
17 it onto my colleagues that we--the qualified--that
18 all inspections be performed by a person qualified in
19 applying the relevant industry standards related to
20 microbial testing and evaluating cooling systems for
21 the presence of Legionella bacteria. Qualified by
22 who? My understanding is the state. Is that
23 correct?

24

25

2 COMMISSIONER BASSETT: The--that--that
3 will also be developed in the rules, but the intent
4 here obviously is to ensure quality inspections.

5 SPEAKER MARK-VIVERITO: Right, but there
6 is some sort of licensing, though, that is mandated
7 for certain individuals who do this testing, correct.

8 COMMISSIONER BASSETT: Let me turn it to
9 my Deputy Commissioner Dan Kass.

10 SPEAKER MARK-VIVERITO: I believe it's a
11 state license, if I'm not mistaken.

12 DEPUTY COMMISSIONER KASS: Hi. Thank
13 you. I'm Deputy Commission Dan Kass for the
14 department. Currently, the only license that we're
15 aware of that applies directly to the state who would
16 be performing maintenance and application of biocides
17 is that they're required by the State Department of
18 Environmental Conservation to hold a particular
19 license for biocidal applications into water systems.
20 That's a--so that's a course, an exam and a
21 certification program that requires periodic renewal.
22 The qualifications--we'll be reviewing other
23 qualifications, but buildings and their-- Sorry. I
24 shouldn't put it that way. (sic) The consulting
25 world out there or even employees, employees of big

2 modern buildings are generally well qualified to
3 maintain these. So the only licensure requirement
4 really rests with the State Biocide Application.

5 SPEAKER MARK-VIVERITO: So you don't
6 foresee having to issue any additional licensing.

7 COMMISSIONER BASSETT: We do not.

8 SPEAKER MARK-VIVERITO: Okay. All right,
9 those are my questions and I appreciate it. Thank
10 you very much.

11 CHAIRPERSON WILLIAMS: Thank you, Madam
12 Speaker. I have some questions and then we're going
13 to call Council Member Gibson and Council Member
14 Johnson who happens to also the Chair of the
15 Committee on Health. We didn't have a lot of people
16 sign up for questions. So I want to be kind of
17 lenient with particularly the co-primes. So I'm
18 going to give--I don't want to use the word
19 unlimited, but give enough time to ask the questions.
20 And when we go to the co-primes we'll set it for
21 seven minutes just as a guide so you'll know when you
22 hit the seven-minute mark. And then for everyone
23 else, we'll do five minutes. Just a couple
24 questions. First for Dr. Bassett. Can you give a--I
25 just want to have a gauge on when the last

2 Legionnaires' outbreak was. What did it look like?
3 How many people were infected? Do we know--do we--
4 were we able to kind of figure out what happened
5 then? Just so I have an idea and scale of what we're
6 facing now.

7 COMMISSIONER BASSETT: The last one was
8 in Co-Op City. I believe there were 12 people who
9 were up-- Sorry. It was eight. There were eight
10 cases identified during that outbreak, and it was
11 associated with the power plant cooling tower system.
12 And in this outbreak we were able to do something we
13 are not able to do often in outbreaks. We were able
14 to match the bacteria the Legionella bacteria that
15 was cultured from the cooling tower with a--with a
16 sample taken from a patient who had become ill. So we
17 were able to definitively link that cooling tower as
18 a source of that person's Legionella infection. So
19 that was in December of 2014 through January 2015 in
20 Co-op City in the Bronx. In February of this year,
21 we had an outbreak in Flushing, Queens. So that was--
22 -

23 CHAIRPERSON WILLIAMS: Okay, it looks
24 like we're going in reverse order here. And you said

2 in Co-Op City that was--that was a power--a power
3 plant, not--not necessarily cooling--cooling tower.

4 COMMISSIONER BASSETT: Okay, I'm going to
5 read them all. I'm going to tell you all of the
6 outbreaks that we recently had, but it sounds like
7 I'm coming--starting with the oldest one and not the
8 most recent one, Mr. Chair.

9 CHAIRPERSON WILLIAMS: Okay. So where
10 was the most recent one? It was Co-op City?

11 COMMISSIONER BASSETT: The most recent one
12 was actually at a hotel in Midtown Manhattan.

13 CHAIRPERSON WILLIAMS: I'm sorry. I meant
14 the most recent one before the current one that we're
15 dealing with.

16 COMMISSIONER BASSETT: That's where I'm
17 going to--I'm going to read them to you in the
18 correct chronological order. So let me start over.

19 CHAIRPERSON WILLIAMS: Okay.

20 COMMISSIONER BASSETT: I apologize for
21 the confusing. So we have an outbreak going on now,
22 which we feel confident is on the downturn in the
23 Bronx. In May/June of 2015 there was an outbreak in
24 the Lowell Hotel in Midtown Manhattan. There were
25 seven cases among international travelers who stayed

2 at that hotel and Legionella was identified in the
3 cooling towers. There were no cases among New York
4 City residents, but we learned about this from the
5 international wing of the Centers for Disease Control
6 our federal public health facility, and they then
7 notified us. In February of 2015, Flushing, Queens
8 there were 16 cases including three in a New York
9 City Housing Authority building; two in a home for
10 mentally ill adults where Legionella was found in the
11 NYCHA building, and there was also Legionella found a
12 mall cooling tower that was nearby. Before that, was
13 the first outbreak that I mentioned to you. That was
14 one at the end of last year into January of this year
15 in Co-op City in which there were eight cases.

16 CHAIRPERSON WILLIAMS: And those eight
17 cases were--that was a power plant?

18 COMMISSIONER BASSETT: That was a power
19 plant cooling tower.

20 CHAIRPERSON WILLIAMS: Okay.

21 COMMISSIONER BASSETT: So it is true then
22 in recent months we've seen cooling tower associated
23 outbreaks, but none of them on the scale of the one
24 that we have seen in the South Bronx. This is the
25 largest outbreak that we've seen in our city. It's a

2 large one even by international standards. Although
3 as the Health Committee Chair mentioned, there have
4 been outbreaks with many hundreds of people affected.

5 CHAIRPERSON WILLIAMS: Well, just on that
6 how do you define an outbreak?

7 COMMISSIONER BASSETT: Well, we
8 investigate any building that has two or more people
9 who are reported to us with Legionnaires' Disease.
10 That triggers and investigation by the Health
11 Department. We investigate any hospital where it
12 appears that only one person has been diagnosed with
13 Legionnaires' who might have acquired it at the
14 hospital. This was a community outbreak and we
15 identified it because a number of cases began to rise
16 above the usual number of cases. As numbers of you
17 have said, Legionnaires' Disease occurs sporadically.
18 Often we can't find the cause, but when we start
19 seeing a number of cases go above the expected
20 baseline number of cases, we have methods of
21 identifying that this is higher than would be
22 expected by chance. And that also triggers an
23 investigation by our disease detectives. That's what
24 happened in the Bronx.

2 CHAIRPERSON WILLIAMS: What number is
3 that? What's the baseline number?

4 COMMISSIONER BASSETT: It's above--or I
5 can't tell you an average baseline number, but what
6 we do is apply statistical algorithms run by a
7 computer. Let's say you are now seeing a number of
8 cases that are above what would be expected by chance
9 based on the pattern of Legionnaires' in our city.
10 Yeah. Is that-- So, I'd be happy to have you meet
11 (sic) separately about this, but the--the basic idea
12 here is that unlike Ebola where the number of cases
13 that we have to have zero because zero because this
14 is a communicable disease, and Legionnaires' is non-
15 communicable meaning it's not contagious between
16 individuals. It spreads from often unknown sources
17 in our environment. It's in the water. It's in the
18 soil. So we see 2 to 300 cases every year in our
19 city without outbreaks. In addition, we typically
20 have seen two to three outbreaks a year, and the way
21 that we determine that an outbreak--

22 CHAIRPERSON WILLIAMS: [interposing] So
23 you say typically you see two to three. So that's a
24 normal--

2 COMMISSIONER BASSETT: That's, yes,
3 that's a correct, and we investigate the outbreaks
4 because when we have multiple cases, we have an
5 opportunity of identifying the source. A single case
6 in one individual, we--we simply can't identify the
7 source. A single case in one individual we simply
8 can't identify the source. We don't have enough
9 information from that one individual.

10 CHAIRPERSON WILLIAMS: Thank you. I
11 think this is probably for Commissioner Chandler.
12 How many cooling towers are there in New York City
13 and how many are city-owned buildings?

14 COMMISSIONER CHANDLER: Well, as I
15 testified, there currently is no accurate count of
16 cooling towers throughout the city, and this is
17 because the cooling towers as I said are typically
18 one component of an overall system so--

19 CHAIRPERSON WILLIAMS: I'm sorry. Say
20 that again.

21 COMMISSIONER CHANDLER: Cooling towers
22 are typically a component of an overall system. So
23 construction documents historically with our agency
24 have included the overall system, and we have not
25 broken out that component. So we don't have a

2 record, but we are aware of numerous databases from
3 other agencies, which we will use to start our count
4 and to reach out and start our registry.

5 CHAIRPERSON WILLIAMS: Is there an
6 estimate or you don't even have any kind of gauge?

7 COMMISSIONER CHANDLER: So, in the
8 thousands is what we would say.

9 CHAIRPERSON WILLIAMS: The thousands. Do
10 you have a guesstimate of how many are city-owned?

11 COMMISSIONER CHANDLER: No.

12 CHAIRPERSON WILLIAMS: What agencies
13 would you have to speak to, to compile that?

14 COMMISSIONER CHANDLER: Well, we--we are
15 working with the Fire Department who we work close
16 with anyway in terms of communicating equipment that
17 has refrigerant because cooling towers often is used--
18 -are often used to cool a system that uses
19 refrigerant. Also, the DEP because many owners of
20 buildings are getting water credits from the
21 Department of Environmental Protection. So we know
22 that they have a database of a certain number of
23 cooling towers. Also, we're working closely with Dr.
24 Bassett and her team to collect the information that
25 they've already collected, and what they're receiving

2 from their phone calls. And we continue work with
3 OEM and others including our own database. We've
4 done some of our own investigation and analytics to
5 try to search out applications that will have the
6 wording "cooling tower" in the application.

7 CHAIRPERSON WILLIAMS: Any idea of the
8 timeframe it will take to compile a number?

9 COMMISSIONER CHANDLER: I think in some
10 weeks, days and weeks we'll be able to go through
11 this information, and we will do the analytics and
12 we'll make the phone calls. We'll send out the
13 letters, and then if necessary we'll get on the
14 ground and start go walking around. Just to remind
15 you that the registration period is 60 days. So
16 we're asking for voluntary compliance. I think it
17 should be noted that most modern buildings that have
18 these types of systems have maintenance staff and
19 they have the system in place, and most of these
20 buildings have already people that do this. So I
21 expect a very high compliance and fairly quick
22 turnaround getting people to register once the word
23 gets out.

24

25

2 CHAIRPERSON WILLIAMS: When did the--when
3 did the voluntary registration begin, and have
4 anybody complied?

5 COMMISSIONER CHANDLER: So our website
6 went up on Saturday with this registration. So you
7 can go onto our website right now. We currently as
8 of yesterday have 20 people who registered their
9 names. They haven't given us the towers that they're
10 associated with. So we do expect some owners will
11 have multiple towers. So we've been up and running
12 since Saturday.

13 CHAIRPERSON WILLIAMS: Do we have any--
14 has there been any other type of registrations of
15 this nature, and have--was it successful or voluntary
16 or even after? Has this type of process been
17 successful?

18 COMMISSIONER CHANDLER: So we have--there
19 are several databases that we monitor starting with
20 the Local 11 facades. That's a fairly large universe
21 of reports that we collect. You can also compare it
22 somewhat to our elevator inspection system where
23 people file reports. There are over 80,000 units in
24 the city that we collect that data on. There are
25 also boiler reports that we collect as well.

2 CHAIRPERSON WILLIAMS: And it's been a
3 fairly successful relationship?

4 COMMISSIONER CHANDLER: We think so.
5 Again, there are some things that are imperfect about
6 it, but it's--I think it's had great success over the
7 years.

8 CHAIRPERSON WILLIAMS: This question
9 might be for both agencies. I'm sure, but what--what
10 does cleaning of a cooling tower entail with
11 disinfecting, testing and what are the costs
12 associated with that?

13 COMMISSIONER BASSETT: I'll start and
14 then I'll turn it to Deputy Commission Dan Kass, and
15 he'll be happy--and he'll happily add. But the
16 actual--the cleaning process will vary by the cooling
17 tower. There is not a standard manufactured model,
18 and the--the cleaning process has to be appropriate
19 to the actual contraption. It involves two parts.
20 One is applying what we call biocides, and that can
21 be chlorine containing products, something like what
22 people use to keep the water clean in the swimming
23 pool. And so it would start with the draining of the
24 water in the cooling towers, and then the
25 reintroduction of--of a biocide. Additionally, some

2 cooling towers develop what's described as bio-film,
3 which is basically crud that accumulates in a cooling
4 towers that is dangerous because it can form
5 nutrients for bacteria, and that is also addressed in
6 the cleaning process, but--

7 DEPUTY COMMISSIONER KASS: The only other
8 thing I would add is that the--optimally all of this
9 begins with routine inspection, which begins with a
10 visual inspection to determine whether there is
11 organic material that has been introduced into the--
12 into the cooling tower itself, an evaluation of
13 whether there's bio-film. And then adherence to a
14 maintenance plan. Testing is also an important
15 component of maintenance. Not necessarily on every
16 single visual visit, but on occasion to determine
17 whether the current levels of biocides or the
18 maintenance plan is actually functioning in order to
19 keep bacteria levels at a--at a low enough level that
20 we can be assured it's safe. I would add as well
21 that, as I mentioned earlier, most of these buildings
22 have maintenance teams in place and there is a system
23 to check the water. And so, in terms of cost, I
24 would say that this might add some certain percentage
25 of what's already budgeted to maintain their systems,

2 and that would vary depending on the size of the
3 system. But also these maintenance teams typically
4 have an interest in managing the water quality for
5 their systems in general not only related to the
6 bacterial growth, but other types of items in the
7 water to make sure--make sure that their pipes are--
8 have the longest life possible, and the equipment
9 that the water runs through as well. So there is
10 generally an interest in keeping the water quality at
11 the level for optimal performance.

12 CHAIRPERSON WILLIAMS: Any idea of what
13 the range is of cost?

14 COMMISSIONER BASSETT: No. I'm not sure
15 about the whole inspection process. So just to
16 reiterate what the Buildings Commissioner has said,
17 that the--wee anticipate that most building owners
18 who have cooling towers are already doing this. They
19 are maintaining their cooling towers. They have a
20 business interest in doing so because they want their
21 cooling towers to be safe. And so, they--this is
22 part of the cost of having a cooling tower in your--
23 in your building, and we expect for many building
24 owners this will not represent an added cost. Let me
25 turn it to Deputy Commissioner Kass for--to give you

2 some details of the-- As we said, we're still in
3 the--we're going to work out in the rulemaking
4 process what specific tests are the most appropriate
5 so we can basically give ranges I think at this
6 point.

7 CHAIRPERSON WILLIAMS: I think the
8 Speaker has a clarification question.

9 COMMISSIONER BASSETT: Okay, we can only
10 give you ranges at this point. Okay.

11 CHAIRPERSON WILLIAMS: Can I get the
12 ranges.

13 COMMISSIONER BASSETT: Well, it would be
14 like 35,000.

15 DEPUTY COMMISSIONER KASS: You know for
16 that--again, I want to just say that, you know, in
17 the rulemaking process we will invite the comment of
18 industry, building owners as well as microbiologic
19 and Legionnaires' experts to determine which--which
20 test or tests are appropriate at what interval.
21 However, they generally range from the simplest,
22 which looks at microbial content from about \$35.00
23 for the laboratory analysis, and then, of course,
24 there's an incremental cost in the time it takes to
25 draw a sample and get it to the lab up to, you know,

2 more than that over \$100 for Legionella specific
3 testing.

4 CHAIRPERSON WILLIAMS: Thank you, and
5 that would be--so that's steps. So beginning with
6 \$35 and then if there's a problem they step up and
7 then they step up again. Madam Speaker.

8 SPEAKER MARK-VIVERITO: Commissioner
9 Chandler, on the issues when Council Member Williams
10 asked about the--asking about the--estimating how
11 many buildings we're going to be talking about right
12 that will get registered, and I know that there are a
13 lot numbers out there, 3,000, 4,000, maybe more, but
14 understanding that a percentage of those are going to
15 be sitting on buildings, what is the city, what
16 measures is the city taking to identify--So if the
17 city is going to have to be the registered owner of
18 those buildings, what measures is the city taking to
19 identify those city-owned buildings that do have
20 these cooling towers.

21 COMMISSIONER CHANDLER: Well, thank you
22 for asking. We are going to follow the similar model
23 that Dr. Bassett and her team followed in doing a
24 mass mailing. We had done some analytics to filter
25 through industrial, institutional large commercial

2 buildings so we can filter the million plus buildings
3 in the city to a number where we think we've captured
4 the overall group. And so that number was down to I
5 believe 50,000 or so, and so there will be a mass
6 mailing. And then as I mentioned earlier, that I
7 will work with my colleagues at DCAS and DEP, DOH and
8 OEM to continue the effort of reaching out through
9 mail, through phone calls, and again where necessary,
10 we'll inspect if we have to.

11 SPEAKER MARK-VIVERITO: And that's solely
12 the responsibility of DOB to do that or that with
13 other agencies?

14 COMMISSIONER CHANDLER: No, we're working
15 it as a team, as we have been from the beginning and
16 as we move ahead this will be a team effort until I
17 think we've got a grip on what kind of reporting
18 we're getting. I know Commissioner Esposito sent out
19 a message to all agency heads last night about making
20 sure that they report their own cooling towers. And
21 I had been communicating with other agency heads all
22 last week in terms of reaching out to their own staff
23 in terms of what they have in their portfolio.

24 SPEAKER MARK-VIVERITO: Are you saying
25 you believe it will be about 50,000 buildings?

2 COMMISSIONER CHANDLER: Well, that's the
3 overall umbrella--

4 SPEAKER MARK-VIVERITO: [interposing] Of
5 what you're looking at. Right.

6 COMMISSIONER CHANDLER: --of what we
7 anticipate. That's what we anticipated. Uh-huh.

8 SPEAKER MARK-VIVERITO: Okay, so then I
9 think that's an area where we might want, you know,
10 to get a little bit more once the plan is delineated
11 and set up, you're supposed to get more information
12 on that, and that could be shared with the Council.
13 Thank you, Mr. Chair.

14 CHAIRPERSON WILLIAMS: Thank you, Madam
15 Speaker, and Council Member Gibson, and right now we
16 have only Council Member Rosenthal signed up.

17 COUNCIL MEMBER GIBSON: Thank you very
18 much, Chair Williams and thank you again to the
19 Speaker, and thank you, Council Member Johnson. Good
20 morning. Good morning Commissioners. Good morning
21 team. So I have a couple of questions, and I went
22 through both your testimonies Commissioner Bassett
23 and Commissioner Chandler, and I wanted to
24 specifically focus on the independent third party who
25 will come in and do the inspections. I wanted to

2 know is there a set of qualifications that we're
3 going to ask of these inspectors? And are we going
4 to leave the responsibility to the building owner to
5 hire and secure these inspectors, or will there be a
6 referral list or some sort of a database that we keep
7 to refer building owners to appropriate and qualified
8 inspectors to test their cooling towers?

9 COMMISSIONER BASSETT: I'll start here,
10 and I'll also hand it over to Deputy Commissioner
11 Kass. Presently we have on our website the links
12 that direct people to sources of vendors of these
13 services, but experienced vendors, and we will, of
14 course, continue to make this information available.
15 Regarding your question about the qualifications of
16 these vendors, I'm passing to Deputy Commissioner
17 Kass.

18 DEPUTY COMMISSIONER KASS: Thank you. As
19 I mentioned earlier, there are--there are firms all
20 over the city that advertise services to maintain,
21 install, design and to assist in the development of
22 plans for these things for cooling towers. We've, as
23 Commissioner Bassett has clearly posted some of the
24 ones known to our website as well as search terms
25 that people can use to help them. And we would

2 invite anyone else to let us know that they are
3 available, and we would be happy to add that to our
4 website. The qualifications vary for these. These
5 are generally experts in heating, ventilation and air
6 conditioning systems or HVAC systems, but the gamut
7 of experience really is quite wide. Some of them are
8 operating engineers and that a licensure program.
9 Some of them are plumbing experts. Some of them are
10 people on staff at buildings themselves. Again, what
11 we do now is there's a licensure requirement by the
12 State if you are on the buyer's side. So on
13 occasion--so some of the people who maintain these
14 may hold their own license. They may return to a
15 third-party on occasion to apply the buyer's side.
16 And then, the last thing I would say is that the
17 laboratories themselves once we establish a rule what
18 tests are appropriate, those laboratories adhere to a
19 variety of certification standards. And we will make
20 sure that we reference those once we are certain of
21 the laboratory test that we're asking for.

22 COUNCIL MEMBER GIBSON: Okay. So once a
23 third-party is hired, goes out, does the inspection,
24 the building owner must provide documentation the
25 inspection was done. Do we physically go out and

2 check that cooling tower, DOB or DOH after you
3 receive the paperwork?

4 DEPUTY COMMISSIONER KASS: I think what
5 we're envisioning, and I think what the law proposes,
6 is a good--is a good approach is that records have to
7 be maintained. They have to be made available for
8 inspection. We wish to know whenever there's a test
9 that finds a microbial level that is of immediate
10 concern to us both to respond if necessary with an
11 inspection to evaluate the proper maintenance of the
12 system. And to determine if that high microbial
13 count may be associated with some background level of
14 disease in the area. So that is the notification
15 we're envisioning. The law requires a certification
16 for annual renewal of the registration that they have
17 complied with these things, and then there will be,
18 of course, response to complaints and other concerns.

19 COUNCIL MEMBER GIBSON: Okay, you know, I
20 asked because I just want to make sure we don't leave
21 all the responsibility up to the building owners. We
22 have to make sure that we are on top of this as well
23 in terms of coming--going out and making sure that
24 these inspections are done correctly and they're done
25 efficiently. The bill also talks about an annual

2 report, and I just wanted to find out if we're also
3 looking at including data on yearly cases, right?
4 Because we know that there are about 2 to 300 cases
5 annually of Legionnaires' throughout the city, but
6 are we including data on the yearly cases, and the
7 proximity of these cases to any existing cooling
8 towers in that particular area. Do you know if that
9 information will be included in the report?

10 COMMISSIONER BASSETT: Not--no--let me
11 just make clear that the--the purpose of this bill is
12 to ensure that cooling towers are maintained and
13 cleaned in our city. The responsibility of
14 indentifying Legionnaires' outbreaks continues to
15 rise with the Health Department, and we see reports
16 of Legionnaires' Disease, and we have mechanisms of
17 identifying elevations and various algorithms that we
18 follow that will trigger an investigation. And
19 during an investigation we look for any number of
20 sources. A cooling tower might be one, but there
21 could be others. And so that the outbreak
22 investigations, we should think of that as separate
23 from the overarching goal of this legislation as I
24 understand it, which is to ensure that we know, and

2 we can verify that cooling towers are cleaned and
3 maintained.

4 COUNCIL MEMBER GIBSON: Okay, and I guess
5 the reason why I asked that is it's a little bit out
6 of the scope of the bill, but many have asked the
7 Speaker and myself all of my colleagues in the Bronx
8 that communities, you know, where we have vulnerable
9 New Yorkers, older New Yorkers with weak immune
10 systems many of our New Yorkers that live with HIV-
11 AIDS. In terms of those at-risk populations that
12 could be more vulnerable and susceptible to this type
13 of outbreak, does that mean that we as a city need to
14 redouble or be more aggressive in our approach? In
15 many of these communities, not just in the Bronx, but
16 in other parts of the city where this outbreak could
17 potentially occur in these types of communities where
18 you have older New Yorkers and seniors that obviously
19 are more susceptible to this type of outbreak.
20 That's been the number one question of the next.

21 COMMISSIONER BASSETT: So the
22 vulnerability to Legionnaires' infection is something
23 that is citywide, as you've just noted. It's not a
24 vulnerability that's limited to the people of the
25 South Bronx. Though I don't need to tell you as the

2 elected representative of--from that community that
3 the South Bronx has an excess burden or poor health,
4 and a higher rate of so many of the conditions that
5 you have just mentioned. But the goal of this
6 legislation is to ensure that we reduce cooling
7 towers as a potential source of these outbreaks--

8 COUNCIL MEMBER [interposing] Right.

9 COMMISSIONER BASSETT: --and I am
10 confident that it will do so. And it applies to
11 every single cooling tower in this city, and the
12 rules that we come up with are going to be ones, you
13 know, based on the testing, the triggering of Health
14 Department investigations if there's a level of
15 concern that will protect everyone. Because everyone
16 in this city falls in the vulnerable groups that
17 you've mentioned from the Bronx. They are--
18 everywhere in the city there are people who are
19 vulnerable and will be protected.

20 COUNCIL MEMBER GIBSON: [interposing]
21 Right.

22 COMMISSIONER BASSETT: The few in the
23 Bronx has led us for the city.

24 COUNCIL MEMBER GIBSON: I understand.
25 Just two final questions specifically now about the

2 registry, the database that we're going to maintain.

3 Looking at all of the cooling towers, the Speaker

4 talked about city-owned buildings. I want to ask in

5 terms of the coordination with the state, some of the

6 recent cases where Legionella was found, the Bronx

7 Hall of Justice, Bronx Housing Court, which are both

8 in my district are courts that are overseen by OCA.

9 So I wanted to know what the coordination will be in

10 making sure that all of that information also is

11 incorporated into this database working in consort

12 with our partners in the state. Whether it's OCA,

13 whether it's the Dormitory Authority. Not understand

14 who all the state partners will be, but what are we

15 doing in terms of buildings where there's a lot of

16 traffic like a school, a court, things of that

17 nature.

18 COMMISSIONER BASSETT: Your question is

19 about the registration of cooling towers from

20 particular buildings? Are we going to prioritize

21 particular buildings for registration?

22 COUNCIL MEMBER GIBSON: The buildings

23 that we've already identified are not necessarily

24 city-owned buildings. They're buildings that are

25

2 operated by the state. So what is going to be our
3 coordination with the State--

4 COMMISSIONER BASSETT: [interposing] I
5 see.

6 COUNCIL MEMBER GIBSON: --getting those
7 buildings on the registry.

8 COMMISSIONER BASSETT: Yes, absolutely we
9 will coordinate with the state, and again this
10 legislation applies to every cooling tower--

11 COUNCIL MEMBER GIBSON: [interposing]
12 Right.

13 COMMISSIONER BASSETT: --in New York
14 City, and so I'm sure that in terms of identifying
15 these buildings, we will seek assistance from all
16 entities that are likely to know of commercial
17 buildings, or industrial buildings--

18 COUNCIL MEMBER GIBSON: [interposing]
19 Right.

20 COMMISSIONER BASSETT: --of large office
21 buildings, which are of hospitals. All of these are
22 settings in which a cooling tower might be fine--
23 found and I'm sure that we're all--I can ask--yes,
24 why don't you carry on.

2 DEPUTY COMMISSIONER KASS: So we will
3 reach out to all those other entities. We realize
4 there are cooling towers under different ownerships.
5 So, of course, we'll reach out to our colleagues at
6 the state, and there our federal buildings as well--

7 COUNCIL MEMBER GIBSON: Right.

8 DEPUTY COMMISSIONER KASS: --and the
9 authorities. So we will reach out and try to get
10 everything recorded.

11 COUNCIL MEMBER GIBSON: All right. Can
12 you just share with us exactly what information will
13 be on the database in terms of the manufacturer, if
14 there's a warranty, the brand, the style of the
15 building tower? What information should we elected
16 officials expect to see on this actual registry.

17 DEPUTY COMMISSIONER KASS: So you can
18 look at our website now. It's just that we will be
19 asking for the model number and the serial number and
20 the capacity of the unit and that's--that's it.

21 COUNCIL MEMBER GIBSON: Okay, great.
22 Well, thank you very much. I know that you guys have
23 been really doing a tremendous job. I guess one
24 final question what does weather have to do with
25 this? Some have said it's more late summer, early

2 fall. Is that something we need to be concerned
3 about over the course of a year? I had to ask. I'm
4 sorry.

5 COMMISSIONER BASSETT: You had to ask.

6 COUNCIL MEMBER GIBSON: It's hot.

7 COMMISSIONER BASSETT: It has been hot.

8 That's why we want to remind people that the drinking
9 water is safe. It's really important that people
10 drink water during these hot months, and there is a
11 pattern of Legionnaires' Disease occurring more often
12 in the summer months and in the fall. As you know,
13 this is a bacteria that lives in water, warm water,
14 and those are the months were you find warm water,
15 and that's most likely the reason that we see more
16 cases of all sources during the summer and fall
17 months. So there--there is a seasonal pattern to
18 Legionnaires' Disease, and that means it's related to
19 the weather.

20 COUNCIL MEMBER GIBSON: And because of
21 that seasonal pattern, does that mean that we need to
22 do anything differently in terms of the legislation,
23 the outreach or anything because we know that it's
24 seasonal during warmer months that this is possibly
25 spread more.

2 COMMISSIONER BASSETT: The--just to
3 remind you that this is something it's not spread
4 person to person. It's something--

5 COUNCIL MEMBER GIBSON: [interposing]
6 Right.

7 COMMISSIONER BASSETT: --that people
8 breathe in from the environment, and I--I should--I
9 can make a comment that I--I know that not every
10 building maintains air--it's air condition units that
11 may use cooling towers year round. So some of them
12 just turn them on in the summer months, and the
13 legislation is attentive to the fact that the turn on
14 period is a time in which we need to be extra certain
15 that the cooling tower is clean. Because just like
16 any machinery that you start up, it sort of shakes
17 things up, and if it is not clean at the time that
18 it's started that carries a particular risk.

19 COUNCIL MEMBER GIBSON: Okay.

20 COMMISSIONER BASSETT: But I--I
21 understand what you're saying is we have been putting
22 a lot of time into getting out the word during this
23 outbreak that people are at risk for Legionnaires'
24 Disease in the outbreak area if they have certain
25 symptoms, and we repeat them. I've heard you repeat

2 them over and over again. It's flu like illness,
3 headache, fever, muscle pains, cough. That they
4 should seek medical attention early. So keeping
5 alert both to help ensure that people seek care, and
6 also to ensure that the healthcare delivery system
7 initiates care rapidly. It's something that we put a
8 lot of effort into, and it seems to have worked. At
9 the beginning of the outbreak, we had people waiting
10 as long as a week or even longer to seek care. And I
11 think you're asking should we do this seasonally
12 regardless of whether there's an outbreak or not, and
13 I certainly will take that under advisement.

14 COUNCIL MEMBER GIBSON: Okay. Thank you
15 very much. I appreciate all the work that you're
16 doing and certainly we will continue to work
17 together. Thank you very much, and thank you, Chair
18 Williams.

19 CHAIRPERSON WILLIAMS: Thank you. I also
20 wanted to acknowledge that we've been joined by
21 Council Members Eugene, Treyger, Miller and Ulrich,
22 and I would like to call on Council Member Ulrich to
23 vote.

24 CLERK: Ulrich.

25 COUNCIL MEMBER ULRICH: I vote yes.

2 CLERK: Final vote in the Committee on
3 Housing and Buildings Intro 757-A was adopted by a
4 vote of 10 in the affirmative, 0 in the negative and
5 no abstentions. Intro 145-A was adopted by a vote of
6 9 in the affirmative 1 in the negative and no
7 abstentions and Intro 700-A adopted by a vote of 9 in
8 the affirmative 0 in the negative and 1 abstention.

9 CHAIRPERSON WILLIAMS: We'll have
10 questions now from the Department of--Committee of
11 Health Chair Council Member Johnson.

12 COUNCIL MEMBER JOHNSON: Thank you, Chair
13 Williams. You all have covered a tremendous amount
14 of ground. So I just wanted to ask a few questions.
15 You talked about random inspections being conducted
16 moving forward of cooling towers to ensure compliance
17 with this new legislation. There are a finite number
18 of inspectors, and we don't know what a priority is
19 on any given day or in any given season. So I wanted
20 to understand how many random inspections do you
21 think will take place? Are these newly trained
22 inspectors? Are they inspectors that are going to
23 come from other bureaus within the Department of
24 Health? Because if we don't have enforcement or

2 inspections, the legislation is in many ways
3 meaningless.

4 COMMISSIONER BASSETT: My understanding
5 of the legislation is as follows: That these
6 inspections will be conducted by third-party vendors,
7 and we've had several questions about the whole
8 process of identifying experienced vendors to conduct
9 these inspections. The legislation also requires
10 that there be quarterly microbial testing of the
11 water and cooling towers, and it's the results of
12 those tests that will trigger Health Department
13 involvement. Although, of course, we always respond
14 to complaints, and that is the process that I
15 envision happening that the Health Department
16 inspectors will become involved only if there is a
17 concern about the water--the water sample test
18 results.

19 COUNCIL MEMBER JOHNSON: Dr. Bassett,
20 you outlined in your testimony the myriad of things
21 that Department of Health and Mental Hygiene has done
22 since the outbreak was identified convening experts,
23 sending teams of outreach staff and voluntary doctors
24 with the Medical Reserve Corps, distributing flyers,
25 Tele-Town Halls, coordinating across agencies, and

2 the list goes on. What have you learned during this
3 process of what could be done even better next time
4 besides the absence of legislation that would have
5 been helpful? I'm talking about just specifically
6 from a response standpoint, from a public health
7 crisis. I'm sure you learned something from Ebola on
8 what worked and what didn't work. In that sort of
9 sphere, what lessons have been gleaned or learned so
10 far?

11 COMMISSIONER BASSETT: Well, that's a
12 really good question. Thank you to our Health
13 Committee Chair for asking that question. Every
14 outbreak that we have we learn something from it both
15 in our operational response and in our ability to
16 communicate with the public about it. And I would
17 say that the response in terms of identifying the
18 cluster, moving swiftly to identify a source,
19 ensuring that the cooling towers were identified,
20 tested and if positive were cleaned is what accounts
21 for the curve that you see here. And it really is a
22 textbook response to an outbreak and was conducted at
23 the highest standard by the Health Department as
24 rapidly as could be reasonably expected. I think
25 that one of the things that I've learned as your

2 Health Commissioner, is that sometimes we have
3 diseases that are complicated, and that are difficult
4 to talk about. We have here a disease that's not
5 contagious. People need to understand that. That's
6 completely treatable, that occurs in sporadic and in
7 outbreak form, is related to many potential exposure
8 in the environment. And it really has been a
9 complicated story to convey to the public, and that's
10 part of the reason that we've reached out so
11 extensively to ensure that we are getting the
12 information across that people need. So, that has
13 been--has been learning from this, but in terms of
14 the disease detective work, everything worked like
15 clockwork. In terms of moving forward to prevention,
16 which is what we are looking to do now, this an
17 unprecedented outbreak in our city. We haven't ever
18 seen an outbreak of Legionnaires' of this magnitude,
19 and so it has led us to where we are today with path
20 breaking legislation. This will be the first large
21 city or state to pass a rule, if the Council agrees
22 to pass it, and votes to pass it. So, we didn't--we
23 didn't move to this legislation before or work with
24 the Council to pass it before because we've never
25 experienced such an outbreak. And I think that many

2 members of the public have asked questions. Council
3 Members have asked questions and other elected
4 officials about why we didn't do this sooner, and
5 that's the answer that we have to give you. That we
6 haven't seen an outbreak on this scale. We are
7 taking rapid and really leadership in tackling
8 cooling towers in this city, and we'll be the first
9 large city or state to do so when the Council passes
10 this legislation, as I hope it will.

11 COUNCIL MEMBER JOHNSON: So I believe in
12 what--this past year's budget, which we adopted. The
13 last week in June there was about a \$22 million
14 increase from the previous year in the Health
15 Department's budge for really great initiatives that
16 you have been enthusiastic about, and to expand some
17 of the work that the department has done. Besides
18 that increase of \$22 million, how much money had the
19 Health Department seen cut from its budget over the
20 previous decade or more than a decade? It was
21 substantial.

22 COMMISSIONER BASSETT: It was--we had--
23 when I re-joined the Health Department having served
24 as the Deputy Commissioner and returned as the
25 Commissioner, some \$200 million had been removed.

2 COUNCIL MEMBER JOHNSON: \$200 million?

3 COMMISSIONER BASSETT: Had been removed
4 from our budget from not a--yes, that's accurate.

5 COUNCIL MEMBER JOHNSON: So \$200 million
6 lost over the course of a little more than a decade,
7 and that in many ways comes from all different parts,
8 all different bureaus of the Health Department
9 including the Infectious Disease Bureau?

10 COMMISSIONER BASSETT: To give you
11 specific information on budget cuts to the--to the
12 Bureau of Communicable Disease, which is responsible
13 for outbreak investigation, I would have to get back
14 to you. But our agency has taken substantial and
15 repeated cuts. I understand from my conversations
16 with former Commissioner Farley that there were eight
17 rounds of cuts to the--to the Health Departments
18 budget during his time as Health Commissioner.

19 COUNCIL MEMBER JOHNSON: Well, the reason
20 why I--

21 COMMISSIONER BASSETT: Well, I want to--
22 there is another thing that I want to say. We have
23 experienced no budget cuts under the current
24 administration since I've been Commissioner. In
25 fact, our budget has grown, and is just about back to

2 what it was when I was in the department last. And I
3 would say, and I hope it was clear, that it has in no
4 way affected our ability to respond to this outbreak.

5 COUNCIL MEMBER JOHNSON: Completely. I
6 totally get that, and I wasn't trying to imply that
7 in any way whatsoever.

8 COMMISSIONER BASSETT: Right, well,
9 we're--

10 COUNCIL MEMBER JOHNSON: But the-- but
11 the point that I want to make--

12 COMMISSIONER BASSETT: [interposing] No
13 Commissioner ever says that they couldn't use more
14 money.

15 COUNCIL MEMBER JOHNSON: Of course, the
16 point, but the point that I--that I want to make in
17 asking about the tremendous cuts that the department
18 has seen over the last decade plus is that we saw how
19 important I think your voice and leadership in the
20 department and Dr. Vollmer's (sp?) voice and
21 leadership was during Ebola. We've seen it during
22 this current outbreak. I mentioned there are smaller
23 outbreaks. We saw Whooping Cough in Williamsburg and
24 Midwood. We saw Tuberculosis in Sunset Park. These
25 things happen regularly, and it is important--this is

2 a public safety and public health issue. It is
3 important that the public understand and the Mayor
4 understand, and I agree he hasn't cut the agency, but
5 that we continue to invest and increase the budget as
6 it relates to public health. And that we continue to
7 ensure that the Health Department has all the
8 resources it needs to do this detective work, to do
9 preventive strategy work and to have a fully
10 operationalized, fully staff department that in times
11 like these can hop into the situation and get it done
12 without worrying about would it be better if we had
13 five more detectives doing this work. Or, if we had
14 six more inspectors doing this work. Those are not
15 questions we should have to ask. And so the reason
16 why I make this point is I will, as you know,
17 continue throughout this year and into the budget
18 next year ask the Council and the Administration to
19 continue to increase our investment in public health
20 New York City.

21 COMMISSIONER BASSETT: All right, thank
22 you. I take that as a comment.

23 COUNCIL MEMBER JOHNSON: Thank you,
24 Commissioner Bassett. Thank you, Chair Williams.

2 CHAIRPERSON WILLIAMS: Thank you. We
3 have three council members signed up now, and we are
4 going to set the clock for five minutes. We have
5 Council Member Rosenthal, Treyger and Miller.

6 COUNCIL MEMBER ROSENTHAL: Thank you so
7 much Chair, and thank Commissioners for your time
8 today in giving us a chance to understand this
9 legislation a little bit better. Commissioner
10 Chandler, congratulations on getting your website
11 page up so quickly for people--for buildings to self-
12 certify or to indicate that they have a cooling
13 tower. That's great. When they self-certify that
14 they've cleaned the tower, disinfected that it's not
15 an infectious tower, who is it that double checks
16 that that is accurate, or who is it that does--
17 What's your testing to make sure that that is
18 accurate information?

19 COMMISSIONER CHANDLER: Thank you for
20 that compliment. We have an outstanding IT team, and
21 I'm very proud of the work that they've done. This
22 legislation again as I understand it, and how we've
23 set it up is that this registration is that. It's a
24 registration to acknowledge that you have followed
25 the Health Department guidelines where there is a

2 program to manage the water. So we will work with
3 DOH in communicating that information, and I think as
4 Dr. Bassett has mentioned is that there will be rule
5 making as to how the response will follow after that.

6 COMMISSIONER BASSETT: That's right.

7 COUNCIL MEMBER ROSENTHAL: Uh-huh. And
8 so if--okay, so let's say they do a check half a year
9 later, a quarter of a year late, and they find
10 disease, right, or opportunity for disease, is that--
11 who is then notified when they clean it up and make
12 it all--

13 COMMISSIONER BASSETT: [interposing]

14 Well, the responsibility of the maintenance of the
15 water--the cooling tower remains clear that the owner
16 that they will be responsible for testing and
17 reporting positive results that show microbes to the
18 department, which will trigger an investigation.

19 COUNCIL MEMBER ROSENTHAL: And at that
20 time, who is responsible for notifying residents or
21 visitors of that location that health--there's a
22 health concern?

23 COMMISSIONER BASSETT: We've--we've left
24 it to the owners of the buildings to--to convey
25 information about the standing of the--of the cooling

2 towers. In the current outbreak, we've done that as
3 well. We provide them with a great deal of
4 information. I should point to you two things. One
5 is that the owners have been entirely cooperative.
6 We haven't encountered any owner who didn't assist in
7 giving us access and assist--assist in remediating,
8 and all of the cooling towers in the area outbreak
9 have been cleaned.

10 COUNCIL MEMBER ROSENTHAL: Great. The
11 three areas--

12 COMMISSIONER BASSETT: [interposing] The
13 second thing is--

14 COUNCIL MEMBER ROSENTHAL: --areas where
15 it gets complicated and it looks like, you know, a
16 great many of the buildings had actually been city or
17 state owned buildings. So, for example, at the high
18 school location--

19 COMMISSIONER BASSETT: [interposing] Yep.

20 COUNCIL MEMBER ROSENTHAL: --if there were
21 an outbreak again in a year, would the Department of
22 Education notify parents that they should be on the
23 lookout for--

24 COMMISSIONER BASSETT: [interposing] I
25 think so--

2 COUNCIL MEMBER ROSENTHAL: --their
3 children having flu like symptoms because the reason
4 I ask is because they do not do that now. And it is
5 not required that a high school or any school even
6 notify the DOE if there is any type of problem, and
7 there's not guarantee that parents will know.

8 COMMISSIONER BASSETT: Uh-huh.

9 COUNCIL MEMBER ROSENTHAL: We had that
10 play out on the Upper Westside with the--

11 COMMISSIONER BASSETT: [interposing] With
12 the breakout?

13 COUNCIL MEMBER ROSENTHAL: No, first of
14 all with the Rainbow Experiment that went awry. So
15 parents did not know that there had been explosion in
16 the science classroom that day. Um, and then also
17 with the PBBs (sic). The parents are never notified.
18 We had to put in legislation to get them to be
19 notified. So I'm worried about two things. One,
20 these people, and we're looking at the Opera House
21 Hotel, Lincoln Hospital, a nursing home. How do we
22 know that they have the right information and that
23 they are getting the word out to everyone who has
24 passed through their doors? Does Lincoln Hospital

2 contact all the families that had visited patients
3 during your testing, during that time period.

4 COMMISSIONER BASSETT: Well, let me just--
5 -

6 COUNCIL MEMBER ROSENTHAL: [interposing]
7 It doesn't feel like those are. (sic)

8 COMMISSIONER BASSETT: Let me just--I
9 think that there--let me see if I can make a couple
10 things more clear, and this speaks to the--from the
11 point that this is a--this disease is complicated to
12 talk about. So the cooling towers are located on the
13 rooftops of buildings, and as you've heard, they work
14 as heat exchanges and they sort of such heat out of
15 the building and use water to dissipate that heat.
16 And in that process, the water if it's contaminated
17 can be turned into a water mist that bears bacteria,
18 and it puffs off from the top of the building.

19 COUNCIL MEMBER ROSENTHAL: Uh-huh.

20 COMMISSIONER BASSETT: We have--that was
21 what--was the exposure in this community, a community
22 exposure. We have no evidence of any risk to people
23 in the building. There has been no transmission
24 cluster within the building. If we had--

2 COUNCIL MEMBER ROSENTHAL: [interposing]
3 I thought you just said that if there are two more
4 outbreaks within a building that's when you do a
5 search.

6 COMMISSIONER BASSETT: That is a correct,
7 but I was just giving you general information on what
8 would trigger an environmental assessment of the
9 building.

10 COUNCIL MEMBER ROSENTHAL: No, it's just
11 interesting because you were talking about the 11
12 sites--

13 COMMISSIONER BASSETT: [interposing] Yes.

14 COUNCIL MEMBER ROSENTHAL: --and you were
15 saying there were at least--at least two triggers an
16 investigation. And so, for example, one of my
17 questions was going to be what was the site where
18 there were the most consequences.

19 COMMISSIONER BASSETT: So let me--let me.
20 So I've managed to convey information that wasn't
21 useful to this discussion. When we began the
22 epidemiologic investigation of this outbreak, the one
23 that brought us to the cooling towers, the first
24 thing that happened was that the team identified
25 higher than expected rate of Legionnaires' Disease in

2 these neighborhoods of the South Bronx, four
3 neighborhoods. Then they looked at the pattern of
4 cases--

5 COUNCIL MEMBER ROSENTHAL: [interposing]
6 Uh-huh.

7 COMMISSIONER BASSETT: --and they looked
8 to see were they clustered in a location, a building,
9 which has been seen in other outbreaks. Were there
10 people who had been affected by Legionnaires' who all
11 reported having been to one place--

12 COUNCIL MEMBER ROSENTHAL: [interposing]
13 Uh-huh.

14 COMMISSIONER BASSETT: --which has been--
15 which was suggested--

16 COUNCIL MEMBER ROSENTHAL: [interposing]
17 Sure.

18 COMMISSIONER BASSETT: --that that place
19 was--

20 COUNCIL MEMBER ROSENTHAL: [interposing]
21 This is what epidemiologists do?

22 COMMISSIONER BASSETT: That's exactly
23 right. But what they found was sort of dispersion of
24 cases throughout this geographically defined area,
25 but no clustering of cases that would suggest that

2 people were being exposed in one building, or that
3 they had been exposed in one place. The exposure
4 seemed to be just being in that neighborhood, and
5 that's the type of pattern of exposure that we see
6 with cooling towers, and that's why we went to the
7 cooling towers. So the cooling towers have not posed
8 any risk to the people in the buildings. They have
9 posed the risk that they have to this community
10 because they--of the water mist that's emitted from
11 the cooling towers --

12 COUNCIL MEMBER ROSENTHAL: [interposing]
13 Right, so let's go back to the source.

14 CHAIRPERSON WILLIAMS: Council Member,
15 I'm going to have to ask you to wrap up your
16 questions, please.

17 COUNCIL MEMBER ROSENTHAL: I'm trying. I
18 was just on number 1.

19 COMMISSIONER BASSETT: So I would be happy
20 to--

21 COUNCIL MEMBER ROSENTHAL: [interposing]
22 I'll get to number two and be done.

23 COMMISSIONER BASSETT: I would be--I
24 would be happy to review it because I know you have a
25 background in public health and review more of why we

2 did not view any single building as--as being at risk
3 of a place where Legionnaires' was present within the
4 building.

5 COUNCIL MEMBER ROSENTHAL: [interposing]

6 Okay, it's seems odd to me.

7 COMMISSIONER BASSETT: So no schools, no
8 hospitals.

9 COUNCIL MEMBER ROSENTHAL: [interposing]

10 It just seems odd to me like the schools in which the
11 students who walk around a school--

12 COMMISSIONER BASSETT: I understand.

13 COUNCIL MEMBER ROSENTHAL: --and the
14 faculty--

15 COMMISSIONER BASSETT: Well, they face
16 the community risk. Not any risk in excess of that,
17 and we've enumerated in many, many ways that we've
18 worked to get information out. We've communicated
19 information about risk to vulnerable people to all of
20 the owners.

21 COUNCIL MEMBER ROSENTHAL: Uh-huh.

22 COMMISSIONER BASSETT: They have gotten--
23 received information that there's no risk to people
24 in the building that is different than the community
25 risk--

2 COUNCIL MEMBER ROSENTHAL: [interposing]
3 Okay.

4 COMMISSIONER BASSETT: --in the area of
5 the outbreak.

6 COUNCIL MEMBER ROSENTHAL: Okay, and then
7 secondly, and we could talk more about, but just for
8 the sake of time, your charts goes through August 3rd
9 I think, and when you add up-- Am I wrong?

10 CHAIRPERSON WILLIAMS: Council Member,
11 we're going to have to--

12 COUNCIL MEMBER ROSENTHAL: It goes
13 through August 3rd, and the total number of cases, if
14 I can just finish--because I'm being asked to wrap
15 up--adds up to 97. And I'm wondering were there no
16 cases after August 3rd, and how do you get from 97 to
17 115. And similarly, for the 24 people who are still
18 at risk, and in the hospital, and I came to that
19 number just by doing the math of 115 minus the 12
20 who've died minus the 70 who have recovered. What do
21 you--what's your prognosis for the 24 people
22 remaining in the hospital? What's their level of
23 risk?

24 COMMISSIONER BASSETT: So there are two
25 questions. One, you questioned this chart, which is

2 on the onset of disease. So that means that people
3 have to be interviewed or some credible person who
4 can give information on that person's behalf can say
5 when this person got sick. And that's information
6 that we only get as we investigate cases. So you
7 very astutely have noted that not all the cases that
8 we have identified appear in this graph. We also
9 post on our website the number of--this same kind of
10 epi curve by data diagnosis, and that, of course, is
11 something that we know for every patient that's
12 reported to us. This graph also is from yesterday,
13 and I gave you the updated good news that today we
14 stand at 115 cases. We have no new deaths, and no
15 people have gotten sick--

16 COUNCIL MEMBER ROSENTHAL: [interposing]
17 Right. No, it sounds like--

18 COMMISSIONER BASSETT: --since August
19 3rd.

20 COUNCIL MEMBER ROSENTHAL: --79 people
21 have been discharged.

22 CHAIRPERSON WILLIAMS: [interposing]
23 Council Member, you need to really--

24 COMMISSIONER BASSETT: I can't tell you
25 the condition of people in the hospital. That's

2 information that the hospitals have, and I wouldn't
3 have it.

4 COUNCIL MEMBER ROSENTHAL: Okay, thank
5 you very much, Commissioner. Thank you for your
6 patience, Chair Williams.

7 CHAIRPERSON WILLIAMS: Council Member
8 Treyger followed by Council Member Miller.

9 COUNCIL MEMBER TREYGER: Thank you, Chair
10 Williams, and thank you for your leadership on
11 getting this bill through the committee, and I also
12 want to commend Council Member Vanessa Gibson who has
13 been a very fierce and vocal advocate for her
14 district as well. I think the Commissioners for
15 being here. Some questions. Who manufactures these
16 cooling towers?

17 [pause]

18 COMMISSIONER CHANDLER: So a few of the
19 companies that Deputy Commissioner Fariello is knows,
20 Baltimore--Why don't you answer?

21 DEPUTY COMMISSIONER FARIELLO: So there
22 are a number of companies. So Trane is one of them,
23 Baltimore Air Coil, Evapco, Marley is another one.
24 There are half a dozen at least that are prominent.

2 COUNCIL MEMBER TREYGER: Are we seeing a
3 pattern that one particular manufacturer is seeing
4 the majority of their cooling towers responsible for
5 the spread of Legionnaires'?

6 COMMISSIONER BASSETT: Well, we--we don't
7 know that information yet, but we have collected it.

8 COUNCIL MEMBER TREYGER: You have? I'm
9 sorry.

10 COMMISSIONER BASSETT: We have endeavored
11 to collect information when we could about the
12 manufacturer and look at different models. So we've
13 collected that kind of information. I don't know how
14 complete it is, but we will--we don't have any
15 information to offer you at this time.

16 COUNCIL MEMBER TREYGER: Well, I think
17 it's important we process that information because
18 I'm curious to know if there are manufacturer's
19 instruction and guidance about maintenance of these
20 things and whether or not building owners or city
21 government buildings are in compliance with the
22 manufacturer's guidance. I mean when you purchase
23 these cooling towers, do they--do they specifically
24 state you have to maintain them in certain ways. Do
25 we know that right now?

2 [pause]

3 DEPUTY COMMISSIONER KASS: We know for
4 sure that the manufacturer had guidelines for the
5 maintenance of the equipment itself. I'm not sure if
6 it's going to speak to the water quality. I think
7 that will come out with further review of this
8 legislation.

9 COUNCIL MEMBER TREYGER: So I think it's--
10 --the legislation requires us to register them. I'm--
11 I'm going to the issue of compliance of with guidance
12 whether or not the manufacturer's instructions and
13 guidance don't even state this because then it's an
14 issue that is even more broader than this. Whether
15 these manufacturers should be responsible and
16 required to state possible warnings with lack of
17 maintenance and lack of compliance or new guidance
18 should be added to their instructions. But I'm
19 trying to get to the issue of whether or not do they
20 specifically state if you don't maintain this in a
21 certain way, this could happen. Is there a warning
22 label with non-compliance with their instructions?
23 And are their instructions and sufficient or do
24 there need to be modifications made? Do we know
25 that?

2 DEPUTY COMMISSIONER KASS: So think it's
3 a highly variable sort of environment in the
4 manufacturing world, the installation, the repair,
5 the design. You know, there are manufacturers, but
6 there are also add-ons to these pieces of equipment.
7 There's customization for building and purpose. I
8 think that purpose is referenced in the ASHRAE
9 Standards in this legislation is to offer--is to
10 basically provide a standard, which superimposes on
11 all of that stuff whatever someone gets from the
12 manufacturers the recommendations from the installer,
13 the expectation that there are components to a
14 management plan. They have to directly address and
15 put in writing all of these things, frequency of
16 inspection, the type of maintenance that would be
17 routinely done. The nature of what of what has been.

18 COUNCIL MEMBER TREYGER: Has your
19 department been in the manufacturers? Has there been
20 any conversations or any types of looks and analysis
21 of their instruction and guidance about how to
22 maintain these things?

23 DEPUTY COMMISSIONER KASS: That will be
24 done during the rule making process.

2 COUNCIL MEMBER TREYGER: So that hasn't
3 happened yet?

4 COMMISSIONER BASSETT: No. Well, I'm
5 looking at my notes.

6 DEPUTY COMMISSIONER KASS: No, we
7 haven't--we haven't contacted them yet.

8 COUNCIL MEMBER TREYGER: I think it's
9 important that we do, and I think that we need to
10 have a conversation to--to make sure that their
11 guidance and their instructions reflect this issue
12 that we have found here in New York City. I've also
13 read reports that these are cooling towers that seem-
14 -that are the cheaper brand, the cheaper kind. Is
15 there any truth to that? Is there some sort of
16 different levels of more expensive brand of cooling
17 towers. Are they seeing the same issues, or these
18 are particularly-- I'm reading reports that some
19 owners are purchasing them because they are a cheaper
20 way of doing this. I'm just curious to hear your
21 thoughts on that.

22 COMMISSIONER BASSETT: We have no pattern
23 of a particular type of model or brand of cooling
24 tower associated with this outbreak, and I should
25 just point out to you that for example, a large

2 outbreak in Australia like something over five years
3 ago was associated with a brand new cooling tower in
4 an aquarium that resulted in some 120 cases. So we
5 can see these--the problem with contamination in any
6 cooling tower, and the--and we haven't seen any
7 pattern in our investigation of this outbreak.

8 COUNCIL MEMBER TREYGER: I just want to
9 make sure, and I will close with this, and thank the
10 Chair for just giving me an extra few second here. Is
11 that making sure that we try to identify if there are
12 any patterns, if there's one particular brand or
13 company that were speaking with these manufacturers
14 making sure that they're aware of what's going on.
15 Seeing if there are instructions on how to maintain
16 their equipment is sufficient. If any changes need
17 to be made so this is addressed not just here, but
18 across the entire nation or wherever these parts are
19 sold. And also making sure that our procurement
20 rules don't encourage the purchase of cheap or
21 ineffective cooling towers that might be leading to
22 these issues. And I'll close by saying what Council
23 Member Rosenthal mentioned about schools. I read a
24 report recently that the UFT I believe will be
25 inspecting one school in the Bronx as well. I would

2 hope that's in coordination with the Health
3 Department making sure that we don't leave it just to
4 the local teaching chapter to do this. This is a
5 matter of a Health Department issue because I think
6 communication and coordination is absolutely
7 critical. Thank you.

8 COMMISSIONER BASSETT: Thank you. I
9 agree with that comment.

10 CHAIRPERSON WILLIAMS: Thank you.
11 Council Member Miller.

12 COUNCIL MEMBER MILLER: Thank you, Mr.
13 Chair and thank you again for your leadership on this
14 matter. Commissioner thank you and your team for
15 your prompt response in such a critical matter. My
16 question is several obviously, but I want to get to
17 kind of how we address this throughout the city, and
18 I understand that this was a clearly localized
19 situation here in the Bronx. But specifically, what
20 were the contributing factors that made the Bronx,
21 this particular area more susceptible to
22 Legionnaires' than any other?

23 COMMISSIONER BASSETT: Thank you, Council
24 Member. As you imagine, many people have asked me
25 that question, and the first part of the answer is

2 that cooling tower associated outbreaks can happen
3 anywhere. They will be remediated by this
4 legislation, which will put in place both the
5 registration system and permit the oversight of the
6 regular maintenance and cleaning of cooling towers.
7 The second part of it--so the second part of your
8 question I think acknowledges the fact, which we know
9 because we look at data on the overall health of
10 communities. That the people of the South Bronx are
11 unfairly burdened with many common diseases that
12 could make people vulnerable to Legionnaires'
13 Disease. We know that people who have--who have
14 hear disease, lung disease are more at risk for
15 contracting Legionnaires' Disease if they are exposed
16 to it. People who smoke. People who are
17 immunocompromised for any number of reasons. So there
18 were two things going on here. We had a--apparently
19 had cooling towers that were contaminated and
20 releasing contaminated mist, and we have a community,
21 which had people who were vulnerable to exposure.

22 COUNCIL MEMBER MILLER: So what do I tell
23 my constituents in Queens and constituents of common
24 interest and common lifestyle throughout the city
25 that are equally as vulnerable because of their

2 environmental conditions and certainly because of the
3 lifestyles they live. And has there been anyone who
4 was contacted the disease that has not been at risk?

5 COMMISSIONER BASSETT: So, you mean--the
6 first thing to say is that people who are vulnerable
7 to Legionnaires' Disease live all over the city, and
8 when we're not in an outbreak situation we see cases
9 being reported to us from the Health Department that
10 come from all over the city. This is not a disease
11 of poor communities. It is something that can affect
12 anyone if they are exposed to it. And so I think that
13 that's an important message to get across but, of
14 course, the issue of vulnerability of communities of
15 color, poor communities in our city in general in
16 terms of their health is one that I'm deeply
17 committed to addressing as you Health Commissioner.

18 COUNCIL MEMBER MILLER: So--

19 COMMISSIONER BASSETT: Yeah.

20 COUNCIL MEMBER MILLER: The--the--okay,
21 so, generally--

22 COMMISSIONER BASSETT: [interposing] So I
23 think that this legislation really speaks to the
24 problem of the contribution of cooling towers to
25 exposure to Legionnaires' Disease, and cooling towers

2 are associated with these kind of explosive
3 outbreaks. We had never seen anything like this in
4 New York before, but now jointly with you the Council
5 I hope that we can act to ensure that cooling towers
6 are better maintained and kept clean--

7 COUNCIL MEMBER MILLER: [interposing] So,
8 so--

9 COMMISSIONER BASSETT: --and that is our
10 goal.

11 COUNCIL MEMBER MILLER: So we are of the
12 mindset that the primary reason for this outbreak is
13 the cooling towers, and any other possibilities of
14 contracting, not of this magnitude--

15 COMMISSIONER BASSETT: [interposing] Uh-
16 huh.

17 COUNCIL MEMBER MILLER:--but just in
18 general throughout the city, which may occur pretty
19 regularly and this--because of this--because it
20 happened in the cooling tower in this proximity to so
21 many folks that it lends itself to a great impact?

22 COMMISSIONER BASSETT: I think you
23 summarized it well.

24 COUNCIL MEMBER MILLER: Okay.
25

2 COMMISSIONER BASSETT: Reducing exposure
3 will benefit everyone in this city.

4 COUNCIL MEMBER MILLER: Do you think
5 that--that your agency and the Admin has done
6 everything--taken all the sufficient actions to
7 minimize this, and--and (bell) to local it and
8 minimize it? Or was there something else that you
9 could have done even in hindsight?

10 COMMISSIONER BASSETT: I think our task
11 now is to move to prevention of future outbreaks. The
12 outbreak in the South Bronx from all of our data, of
13 which I'm showing you here, and which we continue to
14 see that pattern today. We're monitoring it day-by-
15 day. I point you to our website where we're posting
16 these curves, and you can see how you can look
17 yourself everyday and how the outbreak is
18 dissipating. So our challenge now is to turn the
19 page, and to seek to prevent cooling towers as
20 contributors to future outbreaks.

21 DEPUTY COMMISSIONER KASS: Council Member
22 Miller, I would just add that I would say to your
23 constituents that the--that we're breaking the ground
24 here, and entering a level of preparedness that no
25 other city has done. There has been no standards

2 before. So this ground breaking, and that's one of
3 the things I would say to add to the safety of the
4 City of New York.

5 COUNCIL MEMBER MILLER: Thank you so
6 much. I appreciate it. Thank you, Mr. Chair.

7 CHAIRPERSON WILLIAMS: Thank you very
8 much. I just had a couple more questions and then
9 I'll wrap up. One, I want to know do we have enough
10 inspectors to follow up any inspections that are
11 needed?

12 COMMISSIONER BASSETT: I mean we are
13 obviously in discussions with OMB about this. It
14 will--it will carry with it additional obligations
15 and costs. I do want to point out that one of the
16 council members earlier talked about the idea such as
17 spot checks or random inspections. And I certainly
18 as Health Commissioner have the authority to order
19 those on the basis of any concern including
20 complaints from the public. So I--so yeah, that spot
21 checks or random checks. In other words, to ensure
22 that the information that we're getting is accurate
23 on the ground when you actually go to the place and
24 look at the cooling tower regardless of whether the--
25 a result has been posted to us that shows that it had

2 microbial content. But your question was really
3 about the adequacy of our inspection staff, and as I
4 say, we're obviously in discussions about our budget
5 impact with OMB.

6 CHAIRPERSON WILLIAMS: Also, I know you
7 touched on it a little bit, is there any particular
8 link between the cleanliness of the tower unit with
9 Legionnaires'. If it's clean or if it's dirty are
10 they more likely to have the bacteria?

11 COMMISSIONER BASSETT: Absolutely. The
12 risk of bacteria growing in a cooling tower that's
13 not well maintained has increased if there's stagnant
14 water, if there's, you know, sort of build up of
15 stuff that can form a nutrient base for bacterial
16 contamination. All of the maintenance of a cooling
17 tower definitely has a bearing on the likelihood that
18 Legionnaires' will flourish in that cooling tower.

19 CHAIRPERSON WILLIAMS: Because I did want
20 to--I was trying to figure out why in your opinion
21 you thought that the concentration was in the South
22 Bronx as opposed to anywhere else.

23 COMMISSIONER BASSETT: Well, our leading
24 hypothesis, which is response--which has been
25 confirmed by the--the evidence of containment of this

2 outbreak is that one or more of the original five
3 cooling towers that we tested positive was--was
4 contributing to this outbreak. Every cooling tower
5 in the outbreak area has been identified, and tested,
6 and either has been for the vast majority or will be
7 remediated immediately. So the likelihood is that we
8 have a cooling tower or more that were resulting in
9 the release of contaminated mist in a community where
10 there are people at risk of becoming infected.

11 CHAIRPERSON WILLIAMS: And so are we
12 changing--I know a lot of the buildings seem to be,
13 at least some of them were government owned. Are we
14 changing how often we're testing? Was there anything
15 to indicate that we should have changed how we're
16 testing them?

17 COMMISSIONER BASSETT: The legislation
18 will require that water sample testing be done
19 quarterly.

20 CHAIRPERSON WILLIAMS: But up until now
21 we were following what we should have been doing in
22 terms of--?

23 COMMISSIONER BASSETT: Up to now we have
24 identified two to three outbreaks, investigated them,
25 and remediated them. In the last couple of outbreaks

2 we have seen cooling towers associated, but these
3 have been small outbreaks. This is really an
4 outbreak of unprecedented size, and it's what
5 prompted us to act and to seek legislation in
6 cooperation with the Council that would enable us to
7 ensure that cooling towers are maintained and kept
8 clean.

9 CHAIRPERSON WILLIAMS: Okay. Thank you
10 very much. I think that's okay for. I really
11 appreciate your testimony and the time you spent
12 today. Normally, we'll take a break, but I think
13 we're going to try to push right through it. We only
14 have two panels. We've been joined by Michael Patton
15 from American Society of Heating, Refrigeration and
16 Air-Conditioning Engineers also known as ASHRAE. So
17 we'll ask him to come up. Then we will be joined by
18 Daniel Avery from BOMA and Angela Pinsky from REBNY.

19 [pause]

20 CHAIRPERSON WILLIAMS: And also I would
21 like to remind everyone if they still would like to
22 testify to please fill out a slip for the sergeant-
23 at-arms. Mr. Patton, do you have any testimony.
24 Written I mean testimony.

25

2 MICHAEL PATTON: No, I do not have any
3 prepared written testimony.

4 CHAIRPERSON WILLIAMS: Sure. Well, can
5 you raise your right hand. Do you affirm to tell the
6 truth, the whole truth, and nothing but the truth in
7 your testimony before this committee, and to respond
8 honestly to Council Member questions?

9 MICHAEL PATTON: I do.

10 CHAIRPERSON WILLIAMS: Thank you. You
11 can begin.

12 MICHAEL PATTON: Well, thank you. I
13 received some contact yesterday afternoon about the
14 hearing, and worked with Peter Spencer to get down
15 here to--to--My name is Michael Patton, by the way.
16 Michael Patton and I work Griswold Water Systems. I
17 just want to--I was on the committee that formulated
18 the ASHRAE standard, and I just wanted to speak in
19 favor of employing the standard as much as possible
20 for helping prevent outbreaks of this type in the
21 future. I reviewed the legislation briefly, and it
22 seems to be a really good initial step focusing on
23 Section 7 of the Standard. But focusing on that one
24 aspect of it, which is a--I won't call it a laundry
25 list, but a compilation of tasks related to cooling

2 towers may fall a little bit short of the goals of
3 this particular legislation. I understand or it
4 would be my particular opinion that employing the
5 entire standard would be a better opportunity to
6 control outbreaks and reduce the incidents of disease
7 generally. The Health Commissioner just spoke about
8 large community type outbreaks that come from cooling
9 towers, evaporative cooling equipment, but there's
10 continued deaths and disease that come from potable
11 water systems, and other things that are fully
12 covered under the scope the Standard--Standard 188.
13 So I would encourage the Council to look at that as a
14 potential path to not only prevent community disease
15 as we've had recently, but also to prevent ongoing
16 disease associated with maybe one or two sick or ill
17 people who get it from potable water systems.

18 CHAIRPERSON WILLIAMS: And so our bill
19 focuses on Section 7 of--it's 188?

20 MICHAEL PATTON: Yes. So Standard 188 is
21 built as a process. Section 7 actually does not
22 address the process of how to design these plans. It
23 just talks about ways to treat the particular pieces
24 of equipment, the evaporative cooling tower systems
25 as, you know, start up, shut down, preconditioning,

2 design and siting. All of those types of things are
3 well addressed in Section 7. But Section 7 doesn't
4 give complete guidance on how to assemble the plan
5 that I think is the operating document for building
6 owners.

7 CHAIRPERSON WILLIAMS: I just want to be
8 clear. You're saying a plan for making a tower or
9 for inspecting it?

10 MICHAEL PATTON: The plan as I understand
11 the legislation--I've reviewed it at lightning speed,
12 but I read it a couple of different times. It talks
13 about employing ASHRAE Standard 188, and the plan
14 should cover the aspects of Section 7 of the
15 Standard. Section 6 is the process for putting that
16 type of a plan that would include the maintenance
17 type items that are listed in Section 7. And if
18 there there's a way forward potentially within the
19 legislation. And this was thoughts on me driving
20 down here from my office just outside of Hartford
21 this morning. Was to require building owners to look
22 at Section 5.1, which deals almost exclusively with
23 the equipment we're talking about here as far as
24 cooling towers and evaporative cooling equipment that
25 will then guide them or force them to look at Section

2 6, which is the process of assembling a plan,
3 identifying points of hazard control, assigning
4 control limits, and the corrective actions for
5 exceeding upper or lower limits as defined within the
6 plan. So Section 7 is very good on its face, but it
7 doesn't really address the whole idea of informing
8 building owners, managers, property managers how to
9 put a plan into place and what it should--what it
10 should contain. So if I were to say anything, it
11 would be to broaden the scope beyond Section 7. If
12 you choose not to adopt the entire Standard, that's
13 perfectly understandable at this point in time, but
14 there could be a way to aid in the process. You,
15 ASHRAE was contacted by the request for do you have a
16 template document for the Standard? And the answer
17 is now because every single building has different
18 characteristics that are identified almost as a human
19 being. So no one-stop plan is going to fit any
20 particular building.

21 CHAIRPERSON WILLIAMS: So in your
22 opinion, the whole plan to put into place Section 5,
23 6 and 7 are the most critical?

24 MICHAEL PATTON: Right. So Section 5
25 requires a building survey and I didn't--I rushed out

2 of my office and I didn't bring my copy of the
3 Standards so I'm doing this from memory. If I
4 misquote anything, please forgive me. But Section 5
5 requests a building survey. 5.1 identifies it if you
6 have a cooling tower or this type of evaporative
7 equipment that you must then begin to apply that--the
8 process of Section 6 to those pieces of equipment.
9 And then Section 7 further requires--and this is for
10 process control of the water system operating in the
11 cooling tower, and that's really what we're looking
12 for here is a plan that's actively looking to avoid
13 the hazard and avoid interface with at-risk
14 individuals. So Section 7 is also a part of the plan
15 that has to be created, but again that's very
16 specific tasks that a normal maintenance plan would
17 probably include. The further aspect of Section 6,
18 the process, is it requires the appropriate--thank
19 you very much Peter--it requires the appropriate
20 documentation, and recordkeeping. That would
21 certainly aid the Health Department inspector and in
22 this--in this new inspection regime to say hey this
23 is--your plan is in compliance with this, and the
24 documentation exists. You know, there's nothing
25 worse in the water treatment business that a plan

2 that is formulated maybe at some expense or time and
3 diligence and then is not acted upon. The steps in
4 Section 6 provide those--that active guidance and
5 active management of those items including those that
6 are listed in Section 7.

7 CHAIRPERSON WILLIAMS: Well, first, thank
8 you for taking this trip down, and taking kind of
9 last--it sounds like kind of very quickly having to
10 come down, and your testimony has actually been
11 extremely helpful. So thank you very much.

12 MICHAEL PATTON: Thank you and I'm--since
13 I'm here, I'm available to work with staff to, you
14 know, try to make--make the particular legislation
15 better, if possible.

16 CHAIRPERSON WILLIAMS: How long are you
17 here for?

18 MICHAEL PATTON: I'm here for as long as
19 you may need me.

20 CHAIRPERSON WILLIAMS: Okay. Do you have
21 a business card?

22 MICHAEL PATTON: I do. Yes.

23 CHAIRPERSON WILLIAMS: So you can get
24 that to the sergeant-at-arms, and we should be

2 finished shortly, and it would be great to introduce
3 you to some of the staff.

4 MICHAEL PATTON: I will. I'll stand by
5 and I'm happy to continue the conversation.

6 CHAIRPERSON WILLIAMS: Thank you so much.

7 MICHAEL PATTON: Thank you.

8 [pause]

9 CHAIRPERSON WILLIAMS: Next, we'll have
10 Daniel Avery from BOMA and Angela Pinsky from REBNY.
11 I'm sure they're going to be telling us how great our
12 bill is.

13 [background comments]

14 [pause]

15 CHAIRPERSON WILLIAMS: Can you both
16 please raise your right hand. Do you affirm to tell
17 the truth, the whole truth, and nothing but the truth
18 in your testimony before this committee, and to
19 respond honestly to Council Member questions? We'll
20 set the clock for three minutes each, and you can
21 begin at your leisure.

22 [background comment]

23 CHAIRPERSON WILLIAMS: Oh, one second.
24 Hold on while I set the clock. You can start.

25

2 ANGELA PINSKY: Good morning Chairperson
3 Williams and members of the Housing and Buildings
4 Committee. The Real Estate Board of New York
5 representing nearly 17,000 owners, developers,
6 managers, brokers of real property in New York City
7 thanks you for the opportunity to testify on the
8 proposed legislation. As we unfortunately learned
9 over the past few weeks, Legionella in cooling towers
10 and systems can present a serious public health risk
11 if not properly managed, monitored and tested and
12 controlled. In continuing conversations with many of
13 our owners and management members, we are learning
14 that due to the seriousness of the risks, many
15 buildings already have protocols and operational
16 plans in place, which outline the management of these
17 systems. Therefore, REBNY and our members are
18 supportive of the administration and the City Council
19 memorializing responsible regulations and
20 requirements for registration of building systems,
21 proper maintenance of cooling towers and prevention
22 of additional outbreaks of Legionnaires' Disease. We
23 would, however, like to comment on specific proposals
24 regarding the legislation. The first comment is
25 about ASHRAE 188.

1 Initial discussion has referenced the
2 requirement to maintain cooling towers in accordance
3 with Section 7.2 of ASHRAE 188 2015, which
4 acknowledges that building types, system types and
5 management programs will vary and contribute to
6 determining the appropriate response in the presence
7 of Legionella. The ASHRAE Standard was released
8 roughly eight weeks ago in June of 2015. The
9 industry is not yet prepared to widely adopt this
10 protocol, and although many buildings have responsive
11 and public health protected maintenance and testing
12 protocols, very few buildings, if any, have ASHRAE
13 188, 2015 specifically in place. We've heard
14 estimates of anywhere between 2,500 to 30,000 cooling
15 towers in the city, and estimate that the development
16 of the ASHRAE 188 protocol would require at least a
17 few weeks. With the limited number of qualified
18 consultants to complete this work, we strongly urge
19 the City to accept sufficient and responsible
20 building protocols that may currently be in place
21 with the requirements to maintain them on site
22 through inspections by the city, which is consistent
23 with the requirements for many building operations.
24 The registration and decommission notification, the
25

2 time frames of 60 days for registration and 30 days
3 for notification for decommissioning are sufficient
4 if these processes are similar to the registration
5 currently in place on the DOB website. Which should
6 not require the hiring of firing(sic) reps or
7 expediters. The annual reporting, the reporting
8 should mirror the reporting that is currently
9 required by the State of Department--the City
10 Department of Health for water tank and potable water
11 inspections. The disinfecting shutdown systems.
12 With the requirement to disinfect cooling towers when
13 a system is shut down for more than three days is too
14 frequent and could cause costly, disruptive and
15 unnecessary disinfections several times per year.
16 Many buildings are already disinfected annually when
17 they winterize their systems and take them offline.
18 Additionally, disinfection and excessive use of
19 biocides can cause corrosion in the cooling systems,
20 which would increase maintenance and capital costs,
21 and would introduce other public health risks of
22 their own.

23 Disinfecting a 25,000 gallon cooling
24 tower could require in excess of 100,000 gallons of
25 water. Alternatively, to avoid the requirement of

2 disinfection, a building could run the cooling system
3 when not necessary, wasting energy and increasing
4 carbon emissions. Additionally, if there is no
5 corresponding load, (bell) this may increase the
6 water temperature or it may increase the biological
7 growth. The city should amend this section to match
8 the ASHRAE Standard, which allows the buildings to
9 determine idle time or at a minimum change the
10 standard from three days to seven days. Should I
11 keep going? The cooling tower versus cooling system.
12 The requirement to disinfect a cooling towers should
13 be tied to the time period the cooling tower is shut
14 down and not the cooling system, which can be idle
15 due to the cool temperatures outside. The microbes
16 versus bacterial counts the inspection should test
17 for bacterial counts and not microbes. The minimum
18 testing requirement to test every 90 days is actually
19 slightly less than quarterly and testing four times
20 year is slightly less than--and testing four times a
21 year is less--slightly less than a year. In order to
22 match the operational calendar and allow buildings to
23 testing at the same time every year, the requirement
24 should be changed to every 100 days or quarterly. And
25 the violations should be reflective of other category

2 1 major violations such as failure to maintain
3 elevators ranging from \$500 to \$10,000 depending on
4 the violation. A violation of \$5,000 is an extreme
5 penalty for missing a section of a report or other
6 minor infractions. And we greatly appreciate the
7 opportunity, and can avail ourselves and our members
8 and experts upon request.

9 DANIEL AVERY: Good afternoon, Speaker
10 Williams and other members of the committee.

11 CHAIRPERSON WILLIAMS: Not yet.
12 (laughter)

13 DANIEL AVERY: But I wrote it so I had to
14 say it.

15 CHAIRPERSON WILLIAMS: Okay.

16 DANIEL AVERY: My name is Daniel Avery
17 and I am the Director of Legislative Affairs for the
18 Building Owners and Managers Association of Greater
19 New York. Thank you for the opportunity to testify
20 today. A little background on BOMA New York. We
21 represent more than 750 owners, property managers and
22 building professionals. We either own or manage 400
23 million square feet of commercial space. We are
24 responsible for the safety of over three million
25 tenants, generate more than \$1.5 billion in tax

2 revenue, and oversee annual budgets of more than \$4
3 billion. BOMA New York is the largest association in
4 the BOMA International Federation, the world's
5 largest trade organization. Owners and operator of
6 BOMA buildings typically take an active and effective
7 approach to the operation, maintenance and treatment
8 of cooling towers. Generally, a continuous feed
9 system is used whereby biocides and other necessary
10 chemicals are inserted into the system on an as-
11 needed basis along with the placement water sets the
12 proper ratio of the two. Licensed professionals,
13 outside professionals establish and oversee these
14 systems conducting testing and visual inspections
15 usually on a monthly basis, and regular cleanings are
16 scheduled based on the outcomes of individual
17 inspections. A building's managing engineers are
18 often trained to test the water, and can do so on an
19 almost daily basis in order to flag any abnormalities
20 and consult with outside licensed professionals to
21 fix any problems.

22 These systems are also--also use
23 chemicals to prevent corrosion and keep particles in
24 suspensions so that they can be filtered out. These
25 practices ensure that the cooling tower systems are

2 clean, well maintained and do not pose a hazard from
3 bacteria or other pathogens. Given the recent
4 outbreak of Legionnaires' Disease, we understand the
5 need ensure the cooling towers are maintained in a
6 way to protect public health. We would hope that
7 practices similar to those described above would be
8 sufficient to meet the requirements of any
9 legislation. With many provisions of the bill
10 requiring rule making, it is difficult to note if
11 that's the case, and we look forward to working with
12 city in formulating those rules.

13 We do have a few specific concerns I'd
14 like to touch on. The first, and reiterating what
15 Angela just said about ASHRAE, only less eloquently.
16 The ASHRAE code is very new. It's unknown, it's
17 untested, and we're a little bit--we're quite
18 concerned about that. We think if we're going to use
19 it, it should be phased in or else it could be
20 brought in through the usual code cycle. Because
21 it's not part of the code yet. The registration for
22 cooling towers our members were concerned that six
23 weeks was much too fast to actually set up a system
24 and get the registrations in, and have them handled
25 by the Department of Buildings. I reiterate Angela's

2 point again here that cleaning and disinfecting, the
3 tower is shut for three days. It's unnecessary.
4 It's very expensive. It's very wasteful of water.
5 The towers themselves (bell)--when you shut down a
6 cooling system, the towers themselves continue to
7 run. And as long as they're properly treated, this
8 is not a problem. Then the last is that the bill in
9 the definition second should be limited to direct
10 contact or open cooling towers. Thanks again for
11 hearing my testimony, and I'm happy to take
12 questions.

13 CHAIRPERSON WILLIAMS: Thank you. I have
14 a couple of questions I'll give you in a moment.

15 [pause]

16 CHAIRPERSON WILLIAMS: So both kind of
17 related to the various areas. ASHRAE aside. Areas
18 of monitoring systems that already exist in the
19 building, does that mimic what we are suggesting now,
20 or are you saying it's different? The ASHRAE portion
21 aside.

22 ANGELA PINSKY: So ASHRAE--so we'll put
23 that aside, and what buildings currently have in
24 place is they usually hire somebody to take care of
25 these cooling tower systems. So that consultant will

2 come up with a plan, and they'll come in every--
3 periodically. We've heard anywhere from monthly to
4 once a year test, and then they'll apply the
5 biocides, and they'll present the building owner with
6 a management plan. It doesn't--the ASHRAE it doesn't
7 tell you exactly how to respond to anything. It's
8 not very descriptive. It tells you your plan should
9 have this in it. Your plan should also have this in
10 it. Section 5, which the man previously was talking
11 was just saying that you should identify if your
12 building has a pool, if it has a cooling tower. So
13 it's not really a plan to tell you what to do. It's
14 just a--it's almost like a table of contents.

15 CHAIRPERSON WILLIAMS: Well, I was saying
16 ASHRAE aside, we have the bill a few specific things
17 to, and when to test. Is that similar to what you do
18 already?

19 DANIEL AVERY: I think some of it is and
20 some of it isn't. And again, a lot of the buildings
21 at BOMA, which are big fancy commercial buildings,
22 they have continuous treatment. So you have the
23 biocides and other chemicals coming, new water all of
24 the time. And then, you know, based on visual
25 inspections or maybe twice a year you flush all that

2 out. You get everything done. You clean it, and
3 then you refill it. So the treatment--there are
4 other buildings that treat like once a month.
5 They'll put a bunch of biocide in. It's enough to
6 keep them clean for a while, and then they come back
7 in and do it again. Also, a little bit more
8 mechanical.

9 CHAIRPERSON WILLIAMS: So basically our
10 bill is requiring registration. You have to do the
11 quarterly testing. It doesn't sound like you're
12 opposed to much of that.

13 ANGELA PINSKY: Not in the least. (sic)

14 CHAIRPERSON WILLIAMS: It seems like
15 there are some time issues that you'd like to see
16 changed, and the actual portion next. (sic)

17 ANGELA PINSKY: Right. The testing is
18 not--is not particularly expensive. It's \$150
19 approximately per test, and the reporting, the
20 registration and then maintaining all the records,
21 all of that is generally in line with good business
22 practice.

23 DANIEL AVERY: I agree.

24 CHAIRPERSON WILLIAMS: And also the
25 ASHRAE goes into effect in March of 2016. You don't

2 think that's enough time? I mean there are experts.
3 I know you say it's not tested, but--

4 ANGELA PINSKY: I--I think most people
5 are looking at ASHRAE now. I just think that the
6 timeframe, which is 60 days or 90 days, which the
7 bills lays out is too fast.

8 CHAIRPERSON WILLIAMS: The--the ASHRAE
9 portion goes into effect in March 1st of 2016.

10 DANIEL AVERY: And the most recent
11 version it goes to--it goes to March.

12 ANGELA PINSKY: Okay.

13 DANIEL AVERY: You know, we're--we're
14 trying to do some intelligence on this, and our early
15 anecdotal feedback is that it's a much more
16 complicated and expensive process than what people
17 doing. Again, that's very early, but that's been
18 our-- So, we're concerned about that, and just the
19 unknownness of it.

20 CHAIRPERSON WILLIAMS: Okay. Well, March
21 1st is much better than 60 days or 90 days.

22 ANGELA PINSKY: It is.

23 DANIEL AVERY: That's true.

24

25

2 CHAIRPERSON WILLIAMS: All right. Well,
3 thank you very much for your testimony. We
4 appreciate it and the feedback that you've given us.

5 ANGELA PINSKY: Thank you.

6 CHAIRPERSON WILLIAMS: All right. I
7 think there is no one else here except a couple of
8 media folks, but-- Well, thank you very much. Thank
9 you everybody, and this hearing is now closed.

10 [gavel]

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C E R T I F I C A T E

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



Date August 13, 2015