

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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September 25, 2015
Start: 10:18 a.m.
Recess: 12:33 p.m.

HELD AT: 250 Broadway - Committee Room
16 Floor

B E F O R E: I. DANEEK MILLER
Chairperson

COUNCIL MEMBERS:
Elizabeth S. Crowley
Daniel Dromm
Costa G. Constantinides
Robert E. Cornegy, Jr.

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

Dennis Diggins
First Deputy Commissioner
New York City Department of Sanitation

David Mertz
New York City Director
Retail, Wholesale and Department Store Union, RWDSU

Brendon Sexton
Political Coordinator
United Food and Commercial Workers Union Local 1500

Nikki Kateman
Deputy Director
Politics, Communications and Special Projects
Local 338, RWDSU/UFCW

Jay Peltz
General Counsel and Vice President
Government Relations
Food Industry Alliance of New York State

Haile Rivera
Executive Director
National Supermarket Association

John Durante
Vice President of Business Development
Key Food Stores Co-operative

Alma Torres
Food Emporium Worker

Josh Kellerman
Senior Research and Policy Analyst
Alliance for a Greater New York, ALIGN

Pedro Goyco (sp?)
Supermarket Owner/Operator

Jenny Jorge (sp?)
Supermarket Owner/Operator

2 [sound check, pause]

3 [gavel]

4 CHAIRPERSON MILLER: Good morning. For
5 my staff and the members of the Council welcome back
6 to our first hearing of this legislative hearing--
7 season, and obviously we have two important issues
8 that we're going to be addressing this morning. Good
9 morning. I am Council Member I. Daneek Miller. I'm
10 the Chair of the Committee on Civil Service and
11 Labor. Today, we are hearing two bills going to
12 benefit one family in the midst of tragedy and the
13 other to protect an entire class of workers. Intro
14 903 is a bill sponsored by and requested by Mayor de
15 Blasio. On July 29, 2015, Frank Muscella a Sergeant
16 at New York City Department of Sanitation passed away
17 while on duty in Staten Island. Mr. Muscella had
18 served--had served the department since 2005 and is
19 survived by his wife Alessandra and his two sons
20 Frank and Anthony Muscella. Section 12126 of the
21 Code grants authority of the Mayor to use his
22 discretion to extend health benefit insurance to
23 spouses, domestic partners and eligible dependents of
24 employees of specific agencies who died during the
25 course of their employment. However, Mr. Muscella's

2 family is not covered by this section. So it is up
3 to the City Council to fill this gap and provide this
4 benefit to this grieving family. I urge my
5 colleagues to support 903.

6 Secondly, we will hear a bill that I
7 sponsored, which could not be timelier, the Grocery
8 Worker Retention Act proposing Intro 632-A. It was
9 originally done after 9/11 and the Council passed a
10 similar bill in 2002 called the Displaced Building
11 Workers Protection Act, which was Local Law 39 of
12 2002. The bill required that new owners must retain
13 the building service staff for up to 90 days after
14 the purchase of the property. Inasmuch, evaluate--
15 have the opportunity to evaluate and offered
16 continued employment to those employees deemed
17 satisfactory to the new owners. Although we do not
18 have hard data on this law and its workings, the
19 last--over the last 13 years our friends at 32BJ SEIU
20 has informed us that it has been a success. I note
21 that the National Labor Board just a couple of weeks
22 ago found that the new owners of several properties
23 had been in violation of this law. Grocery workers,
24 however, have not been afforded the same rights as
25 building service workers. While the State of

2 California recently passed such protections for
3 grocery workers statewide, the Council should at
4 least provide such benefits to the grocery workers
5 here in the City of New York, and the timing cannot
6 be more dire. The committee had been closely
7 following the ongoing bankruptcy of A&P, which also
8 operates Pathmark, Food Emporium, Waldbaums, Food
9 Basic, Super Fresh stores in six states. The
10 committee hopes that this legislation can be put into
11 place to protect A&P New York employees during this
12 time of uncertainty.

13 We are not here to vote on 632-A, but
14 hope in the very near future that we can. We are,
15 however, voting today on 903, the deceased sanitation
16 worker's family. And, with that, I thank everybody
17 for coming out, and I would like to acknowledge
18 Council Member Dromm for being here, and we are
19 expecting the other members of the committee. I also
20 would like to acknowledge Counsel--Counsel, committee
21 Counsel Matt Carlin, Analyst Mr. Z--Zaaloff (sic)
22 back there, and we have a new analyst Paul Stern and,
23 of course, from my staff Mr. Ali Asunajad (sp?) And
24 we, of course, have been joined--are now being joined
25 by Elizabeth Crowley. So we will begin by having

2 testimony by the First Deputy Commissioner of New
3 York--New York City Department of Sanitation Dennis
4 Diggins.

5 DEPUTY COMMISSIONER DIGGINS: [off mic]

6 God morning Chair Miller. [pause] I'm sorry--
7 [pause] Sorry. Good morning, Chair Miller and
8 members of the City Council Committees on Civil
9 Service and Labor. I am Dennis Diggins, First Deputy
10 Commissioner of the New York City Department of
11 Sanitation. I'm here today to testify in support of
12 Intro 903, which would authorize the Mayor to extend
13 health insurance benefits to the surviving family
14 members of a recently deceased member of the
15 Enforcement Division of the Sanitation Department.
16 On July 29, 2015, Sergeant Frank Muscella tragically
17 lost his life while on duty on Staten Island. His
18 surviving family members include his wife of 17
19 years, Alessandra and his two sons Frank, Jr. and
20 Anthony. Sergeant Muscella's death was the first
21 line of duty death in the 34-year history of the
22 Department of Sanitation's Enforcement Division.
23 Sergeant Muscella was a nine-year veteran of that
24 division, and was a dedicated employee who took great
25 pride in his work. Aside from the great work that he

2 did for the department, Sergeant Muscella, whose son
3 Frank is on the Autism spectrum, was also a dedicated
4 Autism advocate, who worked tirelessly to raise funds
5 for the Department's partnership with the
6 organization Autism Speaks. He was greatly respected
7 by all those who knew him, and by all who worked with
8 him. The Department of Sanitation relies upon and
9 appreciates the hard work and dedication of the men
10 and women of its Enforcement Division in ensuring
11 that the city is clean and safe for the millions who
12 work, live and visit here. Though we hope never
13 again to have to witness such a tragedy, when a
14 tragedy occurs, it is important that we recognize the
15 contributions these men and women have made to this
16 great city. By ensuring that the Mayor has the
17 option to provide their families with continuing
18 health insurance benefits to at least ease some of
19 their financial burdens. Therefore, I urge you to
20 honor Sergeant Muscella pass this bill. Thank you
21 for your time

22 CHAIRPERSON MILLER: Thank you

23 Commissioner and we also want to thank and applaud
24 the Mayor for his--his--his continued effort to
25 demonstrate that he values workers not just while

2 they're on the job, but in particular in situations
3 like this when they have given their lives in the
4 line of duty, and obviously this committed has
5 indicated time and time again that we value workers
6 in the same way. So I would-- [background
7 conversation] So, we will--the committee will be
8 voting on this as soon as we have a quorum, and I
9 know the quorum is somewhere around--very close
10 because I hear her, and here she is. So the
11 committee will now be voting on Intro 903.

12 CLERK: Committee Clerk Matthew
13 Destefano, Committee on Civil Service and Labor.
14 Roll call on Intro No. 903. Council Member Miller.

15 CHAIRPERSON MILLER: I vote aye.

16 CLERK: Crowley.

17 COUNCIL MEMBER CROWLEY: [off mic] I vote
18 aye.

19 CLERK: Dromm.

20 COUNCIL MEMBER DROMM: Aye.

21 CLERK: By a vote of 3 in the
22 affirmative, 0 in the negative and no abstentions,
23 the item has been adopted.

24

25

2 CHAIRPERSON MILLER: Okay, we will keep
3 this open in case the other members of arrive before
4 the hearing is done.

5 DEPUTY COMMISSIONER DIGGINS: Thank you
6 very much, Chair.

7 CHAIRPERSON MILLER: Thank you so much,
8 Commissioner. [pause] I love it when we can do the
9 people's business in such an efficient manner, and
10 they will provide benefits to that family. That's
11 why we're here. So I'd like to call the next panel
12 concerning Intro 632-A, and that would be David
13 Mertz, RWDSU, Brandan Sexton, UFCW and Nikki Kateman.
14 [background comments] Yeah, we can--Does anybody
15 have any testimony that they wanted to hand in.

16 DAVID MERTZ: I think it's all be handed
17 in.

18 CHAIRPERSON MILLER: Okay, so fine. So,
19 you can begin in either direction and

20 DAVID MERTZ: Good morning, Chair Miller,
21 and let me just begin by saying thank you for your
22 introductory remarks about this important matter. It
23 is much appreciated, and right on the money, and good
24 morning to the rest of the members of the committee.
25 My name is David Mertz and I am the New York City

Director of the Retail, Wholesale and Department Store Union, RWDSU. I am pleased to testify today on this legislation requiring successful employers in the grocery store industry to retain workers for 90 days following a change in ownership of a large format 10,000 square foot grocery store. The RWDSU represents 100,000 workers in the United States with 45,000 residing in New York. RWDSU members work in food and food and non-retail food processing and other low-wage sectors. Our union is deeply involved in progressive activism, and movement for economic and social justice. RWDSU is committed to raising job standards for workers across all industries and occupations. There are well over 50,000 workers in the grocery store industry making up almost a quarter of our city's retail workforce. Employment in the industry grew by 30% from 2000 to 2012 according to New York City Economic Development Corporation. Changes in this industry are occurring at a rapid pace with new players and formats entering the market with greater rapidity. In the city, it is very common for grocery stores to change ownership, and when this happens, workers often lose their jobs through no fault of their own. This circumstance is

2 bad for all three stakeholders: Workers, owners and
3 customers. A worker retention policy such as this in
4 this legislation protects working families, provides
5 a stable and experienced workforce for owners, and
6 thus maintains safe and reliable services for
7 consumers. That is why the RWDSU stands firmly in
8 support of the Grocery Worker Retention Act, GWRA.
9 The main provisions of the GWRA will require new
10 employers to retain employees for at least 90 days,
11 and renew rehire process to give employees of the
12 former owner priority hire. Retention of employees
13 by seniority if fewer are needed by the new owner,
14 and that the new owner, and that the new owner keep a
15 preferential hiring list for any jobs that may become
16 available, just cause for discharge in the transition
17 period. And that new employers complete a written
18 performance evaluation for each employee retained
19 under this law. If satisfactory, the employer must
20 consider offering the worker a position. The GWRA
21 seeks to lessen the adverse impacts of ownership
22 transition on hardworking men and women that make up
23 this industry, and helps to ensure the industry--that
24 industry workplace standards are maintained. By
25 protecting grocery employment, this legislation also

2 maintains the health and safety standards of grocery
3 stores by making sure that the stores are staffed by
4 experienced grocery workers who have knowledge of
5 proper sanitation procedures and health regulations
6 in the food industry, a vitally important part of the
7 effort of this bill.

8 New York City needs to address the
9 problems of grocery store ownership change and the
10 adverse impact on workers and the communities these
11 stores serve. The GWRA seeks to minimize the harmful
12 effects of this situation with common sense policies.
13 The city needs to pass this legislation to protect
14 experienced grocery workers that in turn protects our
15 communities. I want to thank you for allowing the
16 RWDSU to give testimony today, and I want to thank
17 the committee for their attention to this matter.

18 CHAIRPERSON MILLER: Thank you.

19 BRENDAN SEXTON: Good morning. My name
20 is Brendan Sexton, Political Coordinator of the
21 United Food and Commercial Workers Union Local 1500.
22 I'll be reading testimony today on behalf of UFCW
23 President Local Bruce W. Both. Thank you Chairman
24 Miller and members of the Civil Service and Labor
25 Committee for the opportunity to provide a voice for

2 over 22,000 proud union members of Local 1500. Local
3 1500 members are the community's grocery and retail
4 workers. From helping New York's families to provide
5 healthy produce to safely packaging the meals that go
6 into your family's lunch bags, our members are the
7 fabrics of the neighborhoods we serve. When your
8 union supermarket butcher hands you a steak that you
9 will prepare for your dinner, you know it's been
10 handled safely and with care. In support and respect
11 for thousands of employees that are charged with
12 handling the food that we eat each day, Local 1500
13 supports Introduction 632 of the Grocery Worker
14 Retention Act. Supermarket employees are the
15 gatekeepers that ensure the food we consume on a
16 daily basis is maintained according to the highest
17 health and safety standards. New York City can only
18 benefit by keeping these workers employed, serving
19 our families while they can continue to provide for
20 their own. Continued employment means more families
21 can maintain their housing, have less dependence on
22 public assistance benefits, and require fewer social
23 services. It also means that experienced employees
24 with a demonstrated track record of knowledge and
25 expertise can maintain high standards in food safety

2 during a company's transition period. Retaining
3 Local 1500 members is a particular advantage to New
4 York City's economic stability. On average union
5 employees contribute more to the local economy by
6 having higher wages, and are healthier due to medical
7 benefits, including dental and vision and develop a
8 higher level of expertise through proper training and
9 higher retention rates. And they're more likely to
10 deliver better customer service due to better working
11 conditions, and overall job satisfaction.

12 I'd like to bring your attention to the
13 current situation happening here in New York City.
14 The--the local supermarket chain Pathmark, which
15 serves communities all across New York City, is going
16 out of business. Through the hard work and tireless
17 effort, Local 1500 has been able to maintain--retain
18 the jobs of thousands of supermarket workers. This
19 has been vital to keeping communities intact through
20 the transition. Instead of workers and communities
21 being upended by a supermarket changing owners, we've
22 been able to maintain it as a source of fresh foods
23 and good jobs. Some supermarket workers and
24 communities are not so lucky because of the
25 unscrupulous nature of the owners. Local 1500 member

2 Joe Vino is a true representation of the potential in
3 passing the Grocery Workers Retention Act. Joe Vino
4 has been a proud employee of the Co-op City Pathmark,
5 which has been in danger of closing for many years.
6 Finally, the store was sold to an owner that will--
7 that was willing to negotiate and willing to keep Joe
8 Vino and his co-workers. Now, Joe Vino, the sole
9 provider for his family, can rest easy knowing that a
10 transition in ownership does not mean he will lose
11 pay or health benefits, which his family depends on.
12 With teen-age children will soon be going off to
13 college, continuing his employment also gives him
14 money to help his children secure their own future.

15 New York City UFCW Local 1500 believes
16 that the Grocery Workers Retention Act is a
17 responsible solution in protecting the rights of
18 supermarket employees that are faced with ownership
19 changes through circumstances beyond an employee's
20 control. But changes don't have to result in job
21 losses, and communities don't have to suffer service
22 disruptions. I applaud Chairman Miller for his
23 leadership in introducing this important piece of
24 legislation, and commend the entire Civil Service and
25 Labor Committee for working to push it forward.

2 Thank you for the opportunity to share this testimony
3 with you today.

4 CHAIRPERSON MILLER: Thank you.

5 NIKKI KATEMAN: Good morning, everyone.
6 I'd like to thank the committee for the opportunity
7 to testify today on the Grocery Worker Retention Act.
8 My name is Nikki Kateman and I am here on behalf of
9 Local 338, RWDSU/UFCW, a labor organization that
10 represents approximately 19,000 men and women working
11 in supermarkets, grocery stores, specialty food
12 stores, retail drug stores, and pharmacies throughout
13 the metropolitan area including over 8,400 who live
14 and work in the five boroughs. In New York City over
15 50,000 men and women are employed in the grocery and
16 food retail industries. The workforce of this
17 growing industry is primarily immigrant,
18 approximately two-thirds and on the lower end of the
19 income scale. Unfortunately, many of these workers
20 do not have union protections and often face
21 workplace labor and/or safety violations. They also
22 have little recourse to fight for their jobs when
23 their employer permanently shuts its doors. The
24 instance of food retailers selling their stores to
25 new ownership leaving their employees without work

and with very little notice of said sale is not a rare occurrence. Over the past few years, Local 338 members at two separate grocery stores experienced this first hand. In the spring of 2013, a South Ozone Park based Foodtown with approximately 50 union employees was purchased by a non-union key food operator. The new owner promptly reduced the workforce in half, which Local 338 protested, but unfortunately with little recourse for the displaced workers. Two years later, we continued to fight on behalf of this workers at the--the workers at this location. Despite being certified by the National Labor Relations Board as the union designated to represent the employees, the new company continues to try to exclude some of the workforce from the bargaining unit.

A few short weeks before Christmas in 2013, the workers at Trade Fair in Jackson Heights arrived for work as regularly scheduled. However, unbeknownst to them or Local 338, the owner of the company had sold the location to a non-union food retailer, violating our Collective Bargaining unit--Bargaining Agreement and leaving the workers without jobs during the holiday season. The new owner

2 refused to rehire any of its displaced workers, and
3 instead brought on new employees at lower wages and
4 at--without benefits. After a long fight with the
5 company, we were able to retain back pay and
6 severance pay for the displaced workers.

7 Unfortunately, many remained without jobs for several
8 months after the Trade Fair location was sold.

9 Currently, thousands of workers in New
10 York City are facing potential displacement with
11 A&P's bankruptcy, and the subsequent store sales and
12 closures. While some of the new operators have
13 indicated their intent to maintain the store's
14 current workforce, the future for many other workers
15 at A&P owned stores is not so secure. Next week the
16 remaining unsold A&P stores including the banners
17 Walbaums, Food Emporium, Food Basics and Pathmark
18 here in New York City will be sold at auction. We
19 have little indication of who will be purchasing
20 these stores, and there is the very real and very
21 serious threat the unscrupulous employers and well-
22 known anti-worker companies could potentially have
23 winning bids. This means that hundreds of dedicated
24 workers with decades of experience could be headed to
25 the unemployment line as new owners replace them with

2 minimum wage or in some instances off the books
3 workers. These families are at risk of losing
4 everything that is keeping the afloat through no
5 fault of their own. The reality is that there is
6 just--these are just a few examples of scenarios
7 where grocery stores have been sold with little care
8 as to the future and wellbeing of the workforce.
9 With the Grocery Workers Retention Act these working
10 men and women will be given a second chance. The 90-
11 day transition period in the lease will reduce the
12 stress on these men and women by giving them almost
13 three additional months to find alternative
14 employments--employment opportunities or recourse to
15 address outstanding grievances related to wage theft.
16 In the absolute best case workers will continue their
17 employment seamlessly with the new food retail
18 operator ensuring their ability to support their
19 families and contribute to their local economies.

20 Additionally, protecting workers in the
21 food retail industry will have a direct impact on the
22 surrounding communities. Often, community grocery
23 stores hire from within the community and provide
24 local residents with jobs. These workers,
25 particularly long-term workers, are well trained in

2 proper food preparation and sanitation procedures as
3 well as how to best comply with health codes. We
4 have seen on multiple occasions employing--employers
5 opting for less experienced and low paid workers,
6 foregoing those with significant experience in those
7 areas as a need to cut labor costs. The Grocery
8 Workers Retention Act is also a community safety belt
9 by ensuring that during a change in ownership,
10 communities maintain the standards that they have
11 come to expect from the local food retailer. Think
12 of your average worker in your local grocery store.
13 They often live in your community and are your
14 neighbor. You see them weekly or sometimes even
15 daily. They know your family. Grocery and food
16 retail workers are a vital part of our neighborhoods.
17 New York City has a strong history of protecting
18 workers particularly those who find themselves
19 displaced through no fault of their own. Local 333
20 RWDSU/UFCW applauds the City Council for taking
21 necessary steps to expand these protections to the
22 men and women employed in the food retail industry as
23 well as providing the stability in the communities to
24 which they proudly serve. Thank you very much for
25 your time.

2 CHAIRPERSON MILLER: Thank you and before
3 we--the committee has a few questions, but before we
4 take those questions, I'd like to give Council Member
5 Cornegy the opportunity to vote on Intro 903.

6 COUNCIL MEMBER CORNEGY: I vote aye.

7 [background comments]

8 CLERK: Continuation of the roll call on
9 Intro 903. Council Member Cornegy.

10 COUNCIL MEMBER CORNEGY: I vote aye.

11 CLERK: The vote now stands at 4 in the
12 affirmative, 0 in the negative and no abstentions.

13 CHAIRPERSON MILLER: Okay.

14 CLERK: Say the vote is close.

15 CHAIRPERSON MILLER: The vote is closed.

16 [pause] Okay, so, um, I have a few questions there
17 and--and--and basically some of them are very basic.
18 Some are a little more educating and specific to
19 communities, and hopefully somewhere over there seems
20 to be a little data driven that they can answer these
21 questions. But, I want to start just the simple
22 benefits of this legislation, and--and so that could
23 be obviously in terms of the workers, the new owners
24 and the communities that--that are being serviced.
25 So, it's not just specific to anyone.

2 [background comments]

3 DAVID MERTZ: Thank you, Mr. Chairman.

4 We appreciate the opportunity to have a continuing
5 conversation on this. The, um, the bill obviously
6 protects workers who would otherwise be in a very
7 precarious situation when ownership of their store
8 changes simply by virtue of the fact that they--you
9 know, something has happened outside of their
10 control. This is, you know, obviously problematic.
11 People would be facing unemployment. They'd be
12 facing economic hardship, but it also has a very
13 negative impact on the communities where these stores
14 operate when ownership changes and there is major
15 changes in the, um, the employment at the stores.
16 You've got potential for disruptions. You also have
17 low--potential for lowering standards in the
18 industry, standards that are extremely important for
19 creating economic opportunities, which in turn then,
20 of course, makes for better communities here in the
21 City of New York. Something that I think that we are
22 all in agreement is what we should be striving to
23 attain. The--the bill we also believe, too, provides
24 opportunities for new employers by, you know, giving
25 them an experienced workforce and a period of

2 transition, which we--you know, does have some
3 flexibility for the new owners, but it does at least
4 allow for a period of transition if that new owner
5 decides that they are going to be making significant
6 changes at that store. So no one is hamstrung by
7 the--by the legislation. Workers are protected and
8 our communities are more secure as a result of this.

9 CHAIRPERSON MILLER: Is there similar
10 legislation locally or somewhere throughout the
11 country, and if so, what have we seen in terms of its
12 impact?

13 DAVID MERTZ: I don't mean to monopolize
14 the mic, but I think, Mr. Chairman, you touched on it
15 in your introductory remarks in the building services
16 sector of the--of the economy here in New York.
17 There's been legislation, similar legislation in
18 effect since 2002, and I think generally the--the
19 impact has been extraordinarily positive both for the
20 workers who are involved in the communities where
21 these jobs exist, and where these workers live.
22 There is very similar legislation both on the city
23 municipal level in California that has more recently
24 become statewide legislation that is--is remarkably
25 similar to this. And I think the, um, the experience

2 in--both in Los Angeles and San Francisco where some
3 of this legislation has been in effect the longest
4 was positive enough to--to make this statewide
5 legislation in California. So, yeah.

6 NIKKI KATEMAN: Just--just as an aside,
7 the--the, um, Los Angeles legislation was challenged
8 in the California State Supreme Court, but it was
9 upheld by the court as being constitutional in 2011.

10 BRENDAN SEXTON: There are--there are
11 other localities as well, and we can get you a full
12 list if that's something the committee is interested
13 in.

14 CHAIRPERSON MILLER: And--and just a
15 snapshot of what this industry looks like in the City
16 of New York. How many--how many employees
17 potentially could be impacted by this legislation.

18 [background comments]

19 NIKKI KATEMAN: Yeah, it would be about
20 50,000 across the board between union and non-union
21 workers.

22 CHAIRPERSON MILLER: And although--and I
23 just want to say that this--we started drafting this
24 and having this conversation over a year ago. So
25 this A&P situation certainly was on my radar and

2 doing so--and when this legislation was being drafted
3 and--but now that it is, we wanted to be able to
4 mitigate that in whatever way we can so that we can
5 bring some relief to obviously the workers and make
6 sure that they employees have the opportunity to have
7 the most experienced workforce providing services to
8 these communities. How many--how many stores are
9 impacted by this--this bankruptcy and--and sales?

10 BRENDAN SEXTON: Just in New York City
11 or--

12 CHAIRPERSON MILLER: In New York City--
13 well, in New York City, you know.

14 BRENDAN SEXTON: Under--under a hundred.
15 I don't have the exact number.

16 CHAIRPERSON MILLER: Could you speak into
17 the mic.

18 BRENDAN SEXTON: Oh, yes, I apologize.
19 Yeah, um, across--across the five boroughs and Long
20 Island and in Westchester, New Jersey, you're looking
21 at about 300 stores in--in New York City
22 specifically. Um, I'm not really sure how many that
23 is.

24 CHAIRPERSON MILLER: Um, have we
25 identified communities, um, where we know where these

2 stores--the local New York City stores are aside in
3 the Springfield Gardens area that I represent?

4 DAVID MERTZ: Yeah, we do--we do actually
5 know, um, where all the stores are, and, um, it's a--
6 it's spread, um, unfortunately throughout most of the
7 five boroughs, and the impact will be potentially
8 widespread and touch a number of communities, um, in
9 a way that could be, um, very problematic both for
10 the workers who are obviously involve, and for the
11 communities where--where these folks live and work.

12 [pause]

13 CHAIRPERSON MILLER: Um, again, you know
14 what I'll--I'll--I see someone else on the panel, and
15 won't talk about the, um, that one. I'll kind of
16 save that one for them, I'll--I'm going to pass the
17 mic onto, um, my colleagues over here, and give them
18 an opportunity and we'll double down. And first up
19 is Council Member Dromm.

20 COUNCIL MEMBER DROMM: Well, thank you,
21 Mr. Chair. It may wind up being a question, but
22 certainly, I do want to share some personal
23 experiences that I've had with this issue. Um, that
24 Trade Fair that you mentioned, it was in my district,
25 and what a horror scene that owner was. And I found

2 out a few other owners are as well. Um, you know, it
3 started out when I first got elected to the City
4 Council and, um, many of the neighbors in the
5 community had complained about this owner because he
6 erected an outdoor shed, um, which was illegal. And
7 finally after two or three years of fighting with him
8 and a \$25,000 fine on top of it for erecting that
9 shed, um, he, you know, was forced to take it down.
10 Um, this owner of that Trade Fair also cemented over
11 a tree pit effectively killing a tree. Um, so I
12 should have known going into it what I was dealing
13 with. Um, and then all of a sudden, he decided I
14 think even before the action of the--of the changing
15 of the hands of the store, um, locked out the
16 butchers. And that was the first indication that
17 head no regard for the livelihood or for the right to
18 unionize of those members. So went over there and we
19 worked with some of those members as well to keep
20 them in their jobs. Um, at the same time, he was
21 threatening people. He was telling them that if they
22 stick with the union he was going to get rid of them.
23 He tried every intimidation tactic possible to get
24 these members not to, um, help and work with the
25 butchers who were actually I think were thinking

2 about at that time doing some type of an action. And
3 the reports were numerous and constant. My office
4 happens to be about a half a block away from that
5 Trade Fair, and the workers on their way home would
6 stop into my office and make these complaints. Um,
7 and then one day, I believe it was a Wednesday
8 morning, um, all of a sudden all of the workers
9 arrived in my--in my office because he had locked
10 them out the night before. No warning. The people
11 showed up to work, and they could not get into the
12 store, and the battle continued on from there. Um,
13 and it was really a really hard--a really sad case
14 because this happened a few days before Christmas.
15 And here were these workers who had worked in that
16 store for 20 something years or longer who were, you
17 know, accustomed to being able to go to work, and had
18 no idea that the owner was even thinking of selling
19 the store. And, um, and these workers suffered
20 greatly. And the battle that ensued lasted for over
21 a year I believe, a year and a half maybe. Um, and
22 there was a rat out there, and I'm glad the rat was
23 out there. And one of the things that I'm most proud
24 of, though, is that the people who lived in Jackson
25 Heights highly supported not buying items in that

2 store. A few people went in, but that guy lost an
3 awful lot of business, and to be honest with you, I
4 was really glad to see that. Um, I understand that
5 now, you know, some arrangements have been made with
6 him, and the situation isn't quite as bad as it used
7 to be. Certainly, we forced him to abide with the
8 existing building codes and stuff like that. But to
9 honest with you, I see this happening in other stores
10 as well where there's a disregard for the law, a
11 disregard for the workers' rights, and it's a very,
12 very bad situation. A lot of the people who were
13 affected by this were immigrants, people who feared
14 that if they spoke up somehow it might affect their
15 immigration status. Um, so this intimidation that
16 occurs from these grocery store owners is real, and
17 it's tangible, and it's something that I saw very
18 much with my own eyes in my own community. So, I'm
19 very, very glad that we are going to pass this bill,
20 and I believe that this bill will pass in the City
21 Council, and I hope it passes sooner rather than
22 later. I think that it will, and, you know, to be
23 honest with you, if there are owners here that they
24 need to clean up their act, and they need to treat
25 their workers in the right way. So thank you very

2 much. I wasn't really sure if it would turn into a
3 question, but having experienced this myself first
4 hand and seeing what an effect it had on my
5 constituents, I'm very, very much in support of this
6 piece of legislation. Thank you.

7 CHAIRPERSON MILLER: Thank you Council
8 Member Dromm. Council Member Cornegy.

9 COUNCIL MEMBER CORNEGY: Thank you Chair
10 Miller. I have a relatively unique perspective on
11 some questions. As I chair the Committee on Small
12 Business, we are watching businesses across the city
13 be pushed out because of increasing commercial rents
14 and leases. And I wondered what the structure of
15 some of the supermarkets are because they sit, you
16 know, some of them sit on large parcels of land
17 independent of other business, and--and I don't know
18 if there is ownership to those, um, um, retail
19 outlets or some structure that allows them to be not
20 swept up in this time of increasing lease agreements,
21 um, which is number one. Um, and then the second and
22 third question I have is, um, what's--I'm wondering,
23 what is the current state of the grocery industry
24 financially in the City of New York, um, and are the
25 grocery stores flourishing? Are they in financial

2 trouble, and will this proposed legislation have an
3 impact on the industry? That's a lot of questions I
4 know.

5 DAVID MERTZ: That's a lot of questions.
6 If you don't mind, I'll start backwards because at
7 this point my memory can only recall what I just
8 heard.

9 COUNCIL MEMBER CORNEGY: I've got a very
10 small attention span, too. [laughter] So I
11 shouldn't have really done that, but I apologize.

12 DAVID MERTZ: That's all right. We can
13 always review it with some other questions if we, um,
14 if we don't answer it is what you're looking for.
15 We'll be happy to. Um, I think, um, you know, the--
16 the, um, the industry right now is in--is in flux.
17 Um, and, um, that has been going on for some time.
18 There's--I don't--I think that anyone can look
19 around, and you'll see different, you know, different
20 names of stores opening up, different formats. Um,
21 their--their competition is--is fierce and, um,
22 profit margins are--are, you know, slim. But at the
23 same time it's a relatively, you know, healthy
24 industry in that it has to exist. I mean it's one of
25 the things you can't, um, off--you know, offshore

2 your--your grocery stores, um, you can't necessarily-
3 --you have to operate in the communities where you
4 want to sell goods, um, even though there are some
5 operators that are doing more in terms of like home
6 delivery, the brick and mortar stores are still, you
7 know, able to do well enough to exist and there are,
8 um, you know, always other operators who can come
9 into the City of New York. Um, the legislation
10 itself I don't think has a particularly, you know,
11 negative impact on the industry for those operators
12 who are looking to be, um, above board operators.
13 Um, the, um, the legislations covers stores 10,000
14 square feet or more. So they are, you know, we're
15 talking about, you know, fairly, you know--we're not
16 talking about little small neighborhood shops. We're
17 talking about fairly big stores. I think I--I heard
18 it compared to, um, you know, um, the store would be,
19 um, like three professional tennis courts in size or
20 greater. Um, you know, in--in employing, um, you
21 know, a fair number of people in those locations. So
22 the impact would not necessarily, um, be--be
23 negative. But also to the legislation itself is
24 fairly flexible. It's--it's not in perpetuity. Um,
25 you're talking about a 90-day transition period,

2 which is an important piece to remember. It offers
3 some protections for the workers, um, without
4 necessarily creating burdens for the--for the new
5 employers. And then I have to apologize and ask you
6 if you wanted to repeat the earlier questions.

7 [laughs]

8 COUNCIL MEMBER CORNEGY: Basically the
9 earlier question was about whether or not you're
10 negatively impacted by the increasing, um, lease fees
11 throughout the city or if this industry has somehow
12 find--found a way to insulate itself from what I'm
13 finding with other small businesses across the city?

14 DAVID MERTZ: Yeah, I don't think the
15 legislation has a--has a negative impact on, um, on
16 that. Again, I think it's a--it--it discourages, um,
17 rather unscrupulous practices, but does not
18 necessarily discourage new operators from--from, you
19 know, operating within the city. Um, the same thing
20 that we're finding I think and Ms, Kateman made
21 reference to in the A&P situation. Um, there have
22 been ongoing, um, you know, discussions with, um, you
23 know, folks who were looking to buy these stores who
24 were looking to honor the conditions that are
25 currently there. They understand. They get it that

2 there's no reason that you cannot run a profitable
3 grocery business and still have fairly decent
4 standards. I mean it's not--they are not mutually
5 exclusive items.

6 COUNCIL MEMBER CORNEGY: And then--and
7 then lastly for me, my--my district is in Brooklyn
8 right outside of a very controversial district where
9 a--a large store is coming, um, without the necessary
10 protections. I'm trying not to mention the name, but
11 I'm sure you all know who I'm talking about.

12 DAVID MERTZ: We do.

13 COUNCIL MEMBER CORNEGY: Um, and I'm just
14 wondering what--what the, um, future holds as it
15 relates to dealing with that particular situation. I
16 mean it's of concern to me, but it's not my district,
17 but--but the employment will from my district because
18 we have one of the greatest resources, which is human
19 resources in my adjacent district. So I am just
20 really looking at what the, you know, what the impact
21 will be ultimately on my district as that plays out.

22 DAVID MERTZ: And--and we appreciate
23 that, um, and I think that's--and this is just a
24 little personal side of things exactly what the
25 government should always be playing. I mean we've--I

2 think all of us have a vested interest in trying to
3 create higher employment. Um, it's just good for--
4 for everyone involved. It's better for communities.
5 It's better for the--for the workers. It's better
6 for our economy, and I think if we're every given the
7 opportunity to do that, government is always in the
8 right place at the right time. Um, certainly, um,
9 when it comes to this legislation it is absolutely in
10 the right place at the right time. Um, even though
11 we may have been, you know, seeing discussions about
12 this for a longer period of time, if timing is
13 everything in life, now is the time to pass this. Um,
14 and it will, you know, offer some protections for
15 folks who otherwise might not have any. But, but the
16 role of the--of the union in all of this is to be
17 actively fighting for all workers within the
18 industries where we represent workers. And that is--
19 it is our goal. It is our mission to raise
20 standards, um, you know, throughout the industry so
21 that we have, um, better opportunities for workers.
22 You know, communities that have, um, better--better
23 job opportunities for our--for our children. And,
24 um, you know, a stronger, um, tax base for the, um,
25 for the entire city, and that's, um, that's what the

2 union is all about. We just are always looking for,
3 um, like-minded folks to try to help to get to that
4 same, um, that same place.

5 COUNCIL MEMBER CORNEGY: Um, just so you
6 know, myself and my district really appreciate good
7 jobs.

8 DAVID MERTZ: It's music to my ears.

9 CHAIRPERSON MILLER: Council Member
10 Crowley. [pause] Thank you. Good morning. I want
11 to thank Chairman Miller for having this hearing
12 today, and I want to thank the panel for coming to
13 testify. Um, I have a few questions, um, as it
14 relates to, um, how the industry is changing in the
15 city and, um, what are--are there any threats right
16 now? Is it a growing industry or supermarkets or do
17 you find that more people are ordering online and
18 does that affect your workforce in any way?

19 BRENDAN SEXTON: Sure, um, so New York
20 City is a city, but it's also neighborhoods, and
21 depending on the neighborhood and the borough that
22 you're in depends on--on what's happening in
23 supermarket industry. You know, the Upper West Side
24 is--has a supermarket on every corner, but there are
25 food deserts in Queens that have maybe one

2 supermarket. And that really depends on the
3 neighborhood and--and how that affects it. Um, and
4 the changing industry of on-line shopping is--is, um,
5 it's creating different, um, obstacles because again
6 those workers that are fulfilling those orders, um,
7 most of them are non-union people are not being paid
8 properly. There could be some wage theft there. We
9 have an active campaign with some of these, um,
10 online companies that are delivering in Manhattan.
11 But again, this is really specific to--to Manhattan
12 really. You know, maybe some parts of Brooklyn and--
13 and some parts of Queens where this online shopping
14 is happening. Um, but there are other parts
15 throughout the city that really are food deserts, and
16 they only have one supermarket. And if that
17 supermarket shuts its doors and sells and fires all
18 the workers, that has a huge detrimental effect on it
19 'cause that community doesn't order online. You
20 know, that community walks there.

21 COUNCIL MEMBER CROWLEY: Now, what if
22 that business was to close, and not be bought up by
23 another business, would this legislation say that
24 they need 90 days in advance to let the workforce
25 know? What happens if they go bankrupt then?

2 BRENDAN SEXTON: Well, if we--well,
3 there's--there's already, um, a law the WARN Act that
4 if businesses are shuttered and close permanently,
5 the workers have to be notified 90 days in advance.
6 Um, this--this deals with just a transition of--of
7 ownership that the supermarket is going to maintain
8 as a supermarket and it's just a new owner, and all
9 the other pieces are the same.

10 COUNCIL MEMBER CROWLEY: Is there other
11 industries where there are similar types of WARNs?

12 BRENDAN SEXTON: Yeah, Terno (sic)
13 referenced the, um, with the--with the--I'm sorry?

14 DAVID MERTZ: Building Services.

15 BRENDAN SEXTON: With the Building
16 Services that came out of 9/11.

17 COUNCIL MEMBER CROWLEY: Okay. No other
18 questions. Thank you.

19 CHAIRPERSON MILLER: Thank you. Just
20 before we and--and this is beginning to be time
21 sensitive, but before we let you go, we want to just
22 drill down on who would this be applicable to? Who
23 would qualify to be protected by this, um,
24 legislation.

2 DAVID MERTZ: It would be---the--the
3 legislation is in effect for stores of 10,000 square
4 feet or more, um, that are primarily in the--in the
5 grocery business, and there's some, um, language
6 determining, um, you know, the amount of the business
7 devoted to grocery to determine whether or not they
8 qualify it. But in essence it's very, you know,
9 larger format than grocery stores.

10 CHAIRPERSON MILLER: So the 10,000 square
11 feet does that include storage, parking and things of
12 that nature.

13 DAVID MERTZ: It does not if my
14 understanding is correct. Yeah, thank you.

15 CHAIRPERSON MILLER: Um, is there a
16 provision which--which determines how--how much
17 length of employment that that would qualify?

18 DAVID MERTZ: Yeah, I think it's with,
19 um--I forget the exact numbers on it. Do you--
20 [background comments]

21 NIKKI KATEMAN: Yeah, there is, um--there
22 is a piece that would only, um, impact workers who
23 have I believe it's a year or more worth of time--of
24 service to the previous employer.

2 CHAIRPERSON MILLER: Is this--would this
3 also be applied to part-time or just full-time
4 workers.

5 NIKKI KATEMAN: Both workers--both sets
6 of workers.

7 CHAIRPERSON MILLER: Okay. Thank you so
8 much to the panel for coming.

9 DAVID MERTZ: Thank you.

10 [background comments, pause]

11 CHAIRPERSON MILLER: The next panel John
12 Durante, Haile Rivera [pause] the National
13 Supermarket Association and Joe Peltz, Food Industry
14 Alliance.

15 [background comments, pause]

16 CHAIRPERSON MILLER: Okay, you can just
17 whoever has the mic can just jump and begin with it.

18 JOE PELTZ: Thank you, Mr. Chairman.

19 Thank you for the opportunity to testify at today's
20 public hearing. My name is Jay Peltz and I'm General
21 Counsel and Vice President of Government Relations
22 with the Food Industry Alliance of New York State.
23 FIA is a non-profit trade association the promotes
24 the interests statewide of New York's grocery stores,
25 drug stores and convenience stores. Our member

2 include chain and independent retailers and account
3 for a significant share of New York City's food
4 market and the wholesalers that supply them. Many of
5 our member are small businesses struggling to survive
6 as we muddle through the seventh year of the weakest
7 recovery on record. As a result, weak consuming
8 spending had become the new normal. Given this
9 context, this measure would hurt our members
10 especially our small business members struggling to
11 survive in a very low margin business being squeezed
12 by non-traditional competitors such warehouse clubs,
13 dollars stores and Internet sellers. The essence of
14 this bill is that if a store manager earns the
15 opportunity to buy a store after running it for 20
16 years, then acquires it for a million dollars by
17 investing \$100,000 of personal savings and borrowing
18 the remaining \$900,000 on a personal guarantee basis,
19 he or she does not have the right to fully assemble
20 the team that will operate the store from the day he
21 or she assumes operational control. That would be--
22 that would be inequitable since the failure of the
23 business will cause substantial personal financial
24 and emotional hardship. As more fully explained
25 below, we believe the restrictions of this

2 legislation will cause fewer stores to be sold. This
3 will cause undue hardship for operators who need to
4 sell their businesses but can't due to the measure's
5 mandates. We also anticipate that fewer renovations
6 will occur. This will cause a loss in construction
7 and permanent jobs while neighborhoods will be
8 deprived of a better store with broader assortments,
9 wider aisles and healthier choices that could help
10 turn a shopping center or the surrounding
11 neighborhood around.

12 We also believe that to the extent buyers
13 consider purchasing a store they will demand a
14 substantial discount to offset the heightened risks
15 created on under proposed local law. This will cause
16 sellers of small businesses to unnecessarily suffer
17 economic harm. In addition, some stores are
18 purchased because they are mismanaged. These
19 scenarios are known as turnaround opportunities.
20 Turnaround opportunities often require a substantial
21 change in personnel in order to energize the store,
22 create new synergies, provide better customer
23 service, and send a clear message to the neighborhood
24 that the store has changed. This measure would stop
25 these turnaround opportunities from occurring.

2 Regarding legislative intent, we do not
3 believe the state of intent provides a rational basis
4 to determine that the proposed local law will achieve
5 a legitimate local governmental purpose. As a
6 result, we believe the legislation is arbitrary. The
7 legislative intent section of the measure provides
8 that quote, "The City has a direct interest in making
9 sure that it provides for the welfare of its
10 residents by maintaining health and safety standards
11 at grocery establishments." To that end, it is
12 important that these establishments are staffed by
13 experienced grocery workers who have knowledge of
14 proper sanitation procedures, health regulations, and
15 who are familiar with the residents of the
16 communities they serve. Through this local law, the
17 city can make sure the health and safety of its
18 residents will be secured through the means of a
19 steady and dependable workforce. We are aware of no
20 evidence that incumbent grocery workers are
21 inherently better at maintaining health and safety
22 standards at stores than the workers of successor
23 employers. What if the store is persistently failing
24 food safety inspections with incumbent workers?
25 Indeed, to the extent a successor's employees

2 maintain higher food safety standards than the
3 retained workers, customers of those stores will
4 actually shop in a less healthy, less safe
5 environment. If it is true that retained workers are
6 automatically better at maintaining health and food
7 safety standards than a successor employer's workers,
8 then why doesn't the law apply to food service
9 establishments such restaurants, cafes, food
10 concessions, et cetera. This would make sense
11 typically all the sales of a food service
12 establishment are derived from food processed on the
13 premises, which is clearly not the case with the
14 grocery store. Which would also make sense, since
15 under longstanding state policy, food service
16 establishments are regulated and inspected by the
17 city with regard to food safety. In fact, under the
18 bill's logic, the retention mandate ought to apply to
19 any private industry that impacts the quote "health
20 and safety of a city's residents including healthcare
21 facilities, exterminators, HVAC companies, Con Ed
22 workers and so on." Moreover, under the longstanding
23 MOU between the New York State Department of Health
24 and the New York State Department of Agriculture and
25 Markets with regard to health and food safety, Ag and

2 Markets has exclusive regulatory inspection
3 jurisdiction over food processing establishments
4 including grocery stores. While food service
5 establishments, restaurants, cafes, food concessions,
6 et cetera, are regulated and inspected by health
7 departments, this is why the NYC Department of
8 Consumer Affairs has no health and food safety
9 jurisdiction over NYC grocery stores. Its
10 jurisdiction is limited to weights and measures, and
11 other matters unrelated to food safety such as sign
12 requirements, short (sic) packages and item pricing.
13 Accordingly, the city cannot achieve the law's stated
14 purpose of providing quote "for the welfare of its
15 residents by maintaining health and safety standards
16 at grocery stores since it does not set those
17 standards." Any attempt to do so under the proposed
18 local law would conflict with longstanding state
19 policy. The underlying assumption of the legislation
20 is that health and safety standards at the city's
21 supermarkets are systematically violated or
22 substantial non-compliance is imminent. To our
23 knowledge neither assertion is true. Whereas Aga and
24 Markets the state agency that enforces health--that

2 enforces health and safety standards at NYC retail
3 food stores made either assertion.

4 In addition, to our knowledge there is no
5 connection between the maintenance of health and
6 safety standards at the city's grocery stores and
7 having experienced grocery workers on hand quote,
8 "Who are familiar with the residents of the
9 communities they serve." There is no evidence of a
10 connection between knowledge of health and food
11 safety standards and familiarity with the residents
12 of a particular community. In addition, to the
13 extent that residents of the community are not
14 customers of a particular store, familiarity with
15 those residents would not contribute to maintaining
16 health and safety standards at that supermarket.
17 Moreover, employee's performance with respect to
18 health and safety standards is primarily driven by
19 experienced track record, knowledge of rules and best
20 practices as well as a good working relationship
21 between employers and employees rather than mandated
22 hiring. The industry (sic) believes that mandated
23 retention is highly unlikely to lead to a good
24 working relationship between workers and management
25 in which case health and food safety compliance is

2 likely to decline. The contention that the measure
3 facilitates the maintenance of quote, "A steady and
4 dependable workforce is dubious since there is
5 nothing steady about a temporary retention period,
6 and assuming workers identified by successor employer
7 are better at maintaining health and food safety
8 standards than the retained employees, the retrained
9 workers will actually be less dependable in that
10 regard than the successor's workers." Moreover,
11 requiring quote, "An opportunity to demonstrate
12 retained workers value as employee's amounts to a
13 mandated tryout period that poses substantial
14 unnecessary risks on both incumbent and successor
15 employers. In addition, as more fully explained
16 below, we believe this legislation provides a
17 significant distance enough to purchase and renovate
18 stores, which means the neighborhood around it will
19 be deprived of a better store with wider assortments,
20 healthier choices, and more jobs. This would hurt
21 the health and wellbeing of an area not help it.

22 There are other legal issues raised by
23 the legislation. What is the specific legal
24 authority that allows the city to force private
25 employers to hire specific individuals when that

2 private company has not expressly agreed to that
3 requirement as part of subsidy package? If the
4 quote, "General welfare of the city's residents is
5 the asserted legal authority, what specific
6 interpretation of that power authorizes the city to
7 require private grocery employers to hire specific
8 individuals for a designated period?" Does the city
9 have the power to mandate the hiring of specific
10 individuals for a particular period with furtherance
11 of the maintenance of health and safety standards
12 when the city does not have the authority to adopt
13 those standards themselves with regard to grocery
14 stores?

15 In addition, the bill prohibits successor
16 employers from discharging retained workers during
17 the transition employment period without cause. It
18 is our understanding that New York is an "at will"
19 state. To our knowledge, under that rule employees
20 can be terminated for any reason or no reason at all
21 subject to anti-discrimination laws. Is the proposed
22 local law preempted under the state at-will law? If
23 now, how can--how can the conflicting laws be
24 reconciled? The mandates in the legislation
25 regarding retention as well as seniority and rights

2 of first refusal in connection with layoffs are
3 typically negotiated through collective bargaining.

4 Will federal and state labor laws governing the
5 organization of labor be violated by imposing these
6 requirements via local law. Do federal and state
7 labor laws regarding the collective bargaining
8 preempt the city from enacting this measure?

9 Regarding workers subject to a collective bargaining
10 agreement, such employees should be exempt from the
11 provisions of this bill since they have the ongoing
12 opportunity to fully address these issues through
13 collective bargaining.

14 Finally, is the legislation preempted
15 under the Federal Worker Adjustment and Retraining
16 Notification Act? The proposed local law establishes
17 a private right of action for the retained workers.
18 That is unreasonable given the significant insurance
19 and litigation costs already incurred by businesses,
20 which are particularly burdensome to small
21 businesses. Moreover, the private right of action
22 imposes an inequitable choice on successor employers.
23 Retain the workers indefinitely are faced with the
24 likelihood of litigation. In this context, any
25 settlement of litigation would amount to a de facto

2 severance payment. Further, the legislation requires
3 that at least 15 days prior to the execution of any
4 transfer document notice of a change of control be
5 posted publicly, including the identity of the
6 purchaser. Accordingly, the proposed local law
7 requires disclosure of confidential proprietary
8 information while sensitive negotiations are ongoing
9 for a contract that may never be signed regarding a
10 deal that may never close in the event a contract is
11 signed. Confidential information, however, is
12 intended not to be disclosed to avoid damages. As a
13 result, the mandated disclosure of this confidential
14 proprietary information can disrupt the business of
15 both the incumbent and successor employers and result
16 in economic harm.

17 Moreover, the bill provides that a quote
18 "successor grocery employer" shall retain each
19 eligible employee for a transition employment period
20 beginning upon execution of the transfer document and
21 continuing for 90 days after such successor grocery
22 employer's establishment is fully operational and
23 open to the public. This is impossible since a
24 successor employer does not employ the workers as of
25 the date of the execution of the transfer document.

2 CHAIRPERSON MILLER: Okay, listen, in the
3 interest of time, then the rest of this statement
4 could be entered into the record, and we can move
5 onto the other members of the panel, if you don't
6 mind.

7 JOE PELTZ: Certainly.

8 [pause, background comments]

9 HAILE RIVERA: Okay. All right. I think
10 I'll be a little bit brief and I'll ask permission to
11 submit a written testimony at a later time if that's
12 okay with the committee Chair? Okay. Well, good
13 morning, Mr. Chairman and members of the Committee on
14 Civil Service and Labor. My name is Haile Rivera.
15 I'm the Executive Director of the National
16 Supermarket Association, which has represented over
17 400 members in the New York Metro area, and down the
18 East Coast all the way to Florida. In New York City
19 alone we have over 200 supermarkets. We have a few
20 owners that are here today, and one of them that you
21 will hear from right after us. This Bill Intro 632-A
22 is one that while on the surface seems to be a pro-
23 worker bill, it will have an adverse effect on our
24 industry, which provides thousands of jobs as it is
25 in our communities including the communities each and

2 any--any--every one of you represent. This bill only
3 adds to the burden small businesses face, increasing
4 rents and increased costs while adjusting to items
5 (sic) This bill, if you continue to push for it,
6 will only force our members to consider you are
7 completely shutting its doors when they're struggling
8 and/or opening stores outside of New York City,
9 something that Small Business Chair Cornegy had asked
10 prior to. And this is not just words that were
11 drafted for this hearing. This is actually the
12 reality. In addition, it is unfair to our members to
13 assume that when they purchase a store, they come and
14 replace all the employees. This is simply not the--
15 this is simply not the case, and we would have hope
16 that you seek out our input prior to drafting this
17 bill, and not have done so with hearing only one side
18 as it appears to be this morning. Let me be clear
19 about this, our members deeply care for the
20 employees, and I repeat the deeply care for our
21 employees. I can give you many examples, but when
22 one employee has a family who passes away, one of the
23 members, and when I mean members I mean the
24 supermarket owner, has helped him or her with the
25 funeral costs. Something that many employers would

2 not do in any other sector. When an employee has an
3 unexpected financial emergency, as many of our
4 employees do, the owner steps in and we have one of
5 our members here who will testify to that as well, to
6 help them with that emergency. There's no law that
7 obligates them to do so. They do that because they
8 care deeply about the employees. This is something
9 they do. Again, because they care and they want to
10 make sure that the employees are happy in their--
11 being more effective at their jobs. This committee
12 has no idea, as it was mentioned earlier this
13 morning. I cannot imagine how any bill can be
14 proposed and move forward. Mr. Chairman, I am
15 actually going drift away a little bit from my
16 written words just in the interest of time. And one
17 of the Council Members, Dromm, spoke earlier about
18 taking employees seriously and the law seriously.
19 Our members do, too. They really do, and we're not
20 here--they're not violating the laws, and that's why
21 we have city agencies some of them that were in today
22 who go to our--to our NSA members and speak to them
23 monthly and give them trainings on what's going on in
24 the city and things that they need to do. So,
25 highlighting one example, one owner as Council Member

2 Dromm did earlier, that's not represent the owners
3 because if that's the case, I could say that all you
4 guys are all corrupted just because one elected
5 official is corrupt. It's not fair to you, is it?
6 It's not fair to the owners either.

7 Being progressive and New York City is
8 very popular these days. In drafting bills like this
9 one will help to close down some stores, and take
10 away jobs. How progressive is that? Our members are
11 immigrants, and many started as cashiers, stock
12 employees, one who sits on the board of directors
13 started doing--cleaning the supermarket, and today
14 he's an owner--proud owner of one of our stores.
15 They were there when many including folks, residents,
16 their neighborhood were burning, but it doesn't apply
17 to the South Bronx only. It applies to Brooklyn. It
18 applies to Queens. It applies to Manhattan, whenever
19 anybody left, they stood behind risking their lives,
20 providing a service and providing jobs. To this day
21 they still do. We know that there's communities that
22 are still not safe to walk in at 7 o'clock at night
23 sadly, but they still had the doors open to 10
24 o'clock at night. And those of you who do not
25 believe it, you should take a walk to our

2 supermarkets. Councilman Cornegy asked a question
3 that should have been asked before this bill was
4 drafted, and I--I believe some of the members could
5 ask that question, and I invite you guys to come to
6 our board of directors and ask the questions that you
7 need to have a bill that is fair. But this bill I
8 repeat is not the bill that will do what you--the
9 purpose that you're seeking. Again, it's an open
10 invitation, and I'll pass on the work--the mic over
11 to John Durante. Thank you.

12 JOHN DURANTE: Thank you for the
13 opportunity to testify before the committee today.
14 My name is John Durante. I'm the Vice President of
15 Business Development for Key Food Stores Co-
16 operative. We were founded in Brooklyn in 1937. Key
17 Food is a co-operative of independently owned and
18 operated supermarkets. Our member consist of nearly
19 100 locally owned family business with diverse ethnic
20 backgrounds. We are currently headquartered in
21 Staten Island, New York and have stores throughout
22 the five boroughs. Many of our stores are located in
23 low-income communities and communities with vast
24 ethnic diversity. Our members are getting squeezed
25 from all directions: Increased food costs, rising

2 rents, and shrinking margins are some of the factors
3 making it more difficult for independent stores to
4 survive. The legislation, if passed, will negatively
5 impact our members and would represent yet another
6 burden to New York's struggling independent
7 supermarket owners. This bill erroneously assumes
8 that all existing employees are competent and
9 qualified. When a store changes ownership, there is
10 often significant employee retention. It makes good
11 business sense to retain good employees who know the
12 store and the community it serves. However, that
13 choice should be left in the hands of the new owner
14 and not forced by legislation. Further, the
15 compensation paid to the number of positions can--can
16 vary greatly from store to store. The legislation as
17 written will expose all new supermarket owners to
18 increased potential for frivolous lawsuits especially
19 in cases where store purchasers had a large number of
20 employees and high wages. Such lawsuits can cripple
21 a small business.

22 As Key Foods' recent growth indicates,
23 our members have a successful business model that
24 produces profitable stores. Some of our members are
25 parties to collective bargaining agreements, some are

2 not. The choice is currently left to the member and
3 its employees. For the City Council to take that--
4 that choice away is misguided. Additionally, this
5 legislation increase the recording keeping and the
6 administration burdens, which small independent
7 supermarkets can often ill afford. Finally, and
8 perhaps most importantly, this bill creates a
9 disincentive for new stores to take over failing
10 ones. When a large chain store with lots of
11 employees and high labor costs fails, and they are
12 failing, our members historically have been able to
13 open new stores that serve the community. This bill
14 threatens our members' ability to take--take over
15 these failing stores and the results--results very
16 well may be fewer supermarkets in the city that
17 desperately needs healthier and more affordable food
18 choices. Therefore, Key Food Co-op on behalf of its
19 members strenuously objects to the adoption of this
20 bill. Thank you for your--your time.

21 CHAIRPERSON MILLER: Thank you,
22 gentlemen, and I have a few questions. In fact, I'm
23 sure. And we've been joined by Council Member Kallos
24 and there are a number of questions. However, I'm
25 going to be brief. But I can--I can tell by the

2 earlier dissertation that there was just a plethora
3 of objections, um, to this legislation, but I really
4 want to drill down on the common sense objections,
5 and--and not to beg the merits of the legalese here.
6 And--and there was a mention of high cost of labor as
7 well as--on the average, what is your member's
8 average hourly rate, and you can kind of call out
9 any, um, title in the store that you'd like.

10 JOHN DURANTE: I--I couldn't tell you
11 hourly rate but our member will--will probably,
12 according to--Excuse me.

13 JOE PELTZ: Go ahead.

14 JOHN DURANTE: No, no, these are for--

15 CHAIRPERSON MILLER: This is for the
16 panel. [background comments] Okay, does anybody
17 have that answer on the panel. It's for anyone.

18 HAILE RIVERA: No, no that's fine. So
19 I'll defend that question because one of our next
20 panel was actual members of the stores, and they'll
21 be more than glad to answer that question for you.

22 CHAIRPERSON MILLER: What would be the
23 hiring practice in local communities where--where the
24 independent store exist?

25 [pause]

2 JOHN DURANTE: I think we should have the
3 individual owners to answer those questions.

4 JOE PELTZ: Yeah, we'll defer to the
5 individual owners who are here.

6 CHAIRPERSON MILLER: Okay. So, Council
7 Member Cornegy.

8 COUNCIL MEMBER CORNEGY: So I'm going to
9 start by apologizing. I stepped out for a minute so
10 I didn't hear the context about which your testimony
11 was. So I may ask a questions or make notes to
12 myself that you answered already. So just please
13 indulge me--

14 JOE PELTZ: Sure.

15 COUNCIL MEMBER CORNEGY: --if--if that's
16 the case. Um, I'm curious as to whether any of the
17 co-operatives that are represented here today have
18 anything to do with the pending bankruptcy and the
19 purchase of any other the--the--the store as it
20 relates to A&P?

21 JOHN DURANTE: Yes, Key Food does.

22 COUNCIL MEMBER CORNEGY: And, um, so this
23 is kind of where all of the rubber really hits the
24 road. So is it your intention to retain the workers
25 that are there? Because we're having all of this

2 kind of theory around the legislation, but I'm
3 curious as to whether or not where there's a practice
4 going on where there's the purchase of bankrupt
5 stores? Is your intention to retain the workers?

6 JOHN DURANTE: Yes, and we're in current
7 negotiations with the union.

8 COUNCIL MEMBER CORNEGY: Um, and so, um,
9 about there--about their wages and benefits rates do
10 you--do you--what do you--what do you intend to do
11 around that, and again, I'm not trying to be a jerk.
12 I'm just curious as to like why we have all of this
13 speculation, around the legislation? I really would
14 like to know in practice what's happening really on
15 the ground--

16 JOHN DURANTE: Well, I'm--

17 COUNCIL MEMBER CORNEGY: --and what your
18 intention is.

19 JOHN DURANTE: Well, I'm not sitting in
20 the union negotiations. So I really don't know the
21 actual labor rates, but it's all being negotiated.

22 COUNCIL MEMBER CORNEGY: Between?

23 JOHN DURANTE: Key Food Co-op and--and
24 the union.

2 COUNCIL MEMBER CORNEGY: So, this--this
3 is not my, um, committee, um, chairmanship. So I
4 won't drill down any further. I just ask that if
5 some of that information could be conveyed to the
6 chair and then disseminated to its membership, i.e.,
7 me, I would greatly appreciate it. But I defer to--

8 JOE PELTZ: Councilman.

9 COUNCIL MEMBER CORNEGY: I defer to my
10 chair, of course.

11 JOE PELTZ: One comment. My
12 understanding is that Stop and Shop and Acme have
13 contracts to acquire 90 odd stores, and they have
14 reached agreements with unions regarding successor
15 arrangements. And that covers almost--that covers
16 almost a third of A&P stores.

17 COUNCIL MEMBER CORNEGY: Thank you. So
18 we should be able to get that information, correct?

19 CHAIRPERSON MILLER: Yeah, I would think
20 that we'll have some of it, roughly before 5:00.

21 COUNCIL MEMBER CORNEGY: Again, thank you
22 for indulging me because whenever in my committee
23 hearings I hate it when somebody steps out and them
24 come back asking. So we're done doing questions. So
25 I apologize.

2 CHAIRPERSON MILLER: Council Member

3 Kallos.

4 COUNCIL MEMBER KALLOS: Good morning, I
5 just had some quick questions. I happened to do a
6 lot of research on management and even wrote a paper
7 on it. And when I was looking at it, I was looking
8 at retention specifically with the Peter Principle,
9 and how do we keep people. And one of things that I
10 found is that grocery stores spend a lot of money
11 doing research on retention. How much money do
12 grocery stores lose because of high turnover and what
13 is your retention goal?

14 JOE PELTZ: Well, I think the biggest
15 issue in terms of shrink, reduced margins is theft.
16 Um, and in terms of retention ratio, I think that
17 varies store by store.

18 COUNCIL MEMBER KALLOS: So in--in my time
19 doing management work, I found a lot of research from
20 grocery stores that were saying that actually one of
21 their biggest loss leaders is retention. So as store
22 owner and industry leader, do you find that when
23 somebody leaves, when you have high turn over there's
24 high cost to the store to train new people?

25

2 JOE PELTZ: Well, there's always a cost
3 but the idea is to retain productive people. That's
4 what--that's what maximizes sales and productivity
5 and maximizes job growth over time.

6 COUNCIL MEMBER KALLOS: And how long does
7 it take you to bring on new employees when you lose
8 one of your productive employees because you're not
9 able to retain them?

10 [background comment]

11 JOE PELTZ: Well, the owners can speak to
12 that because they're, you know, on the ground, but
13 again it depends on the situation. It depends on
14 who's lost, what they were doing and what their value
15 was.

16 COUNCIL MEMBER KALLOS: Sure, it's just
17 I--I find it problematic because as an industry,
18 grocery stores are trying to increase retention and
19 reduce turnover, and have productive people that are
20 investing in, because that's how businesses make
21 money, and all the social science research and all
22 the research that the major nationwide groups are
23 doing, is saying this is what we want to do. We
24 actually want to retain people. So I just found that
25 your opposition to this bill troubling. So I guess

2 one question is, and I guess having heard your
3 testimony and read it, would you be willing to swear
4 under oath that this testimony is accurate?

5 JOE PELTZ: To the best of my knowledge,
6 of course.

7 COUNCIL MEMBER KALLOS: Sure so if the
8 chair will give me a little bit of lead here. Sure,
9 in one statement you said that stores are purchased
10 because they are mismanaged as an indictment of this
11 bill, but this bill provides no protections to the
12 managers who would be doing the mismanagement. So
13 why is that--why is that a concern with this
14 legislation?

15 JOE PELTZ: Well, no. Mismanagement
16 could occur for a couple of reasons. Um, and I say
17 that that was one situation when a store becomes
18 available for purchase. But going back to your
19 previous comment, we're aware of no evidence that
20 mandated retention for a temporary period with
21 reduced turnover over time.

22 COUNCIL MEMBER KALLOS: Um, and then the
23 next piece of it is where you actually say, quote,
24 "We are aware of no evidence that incumbent grocery
25 workers are inherently better at maintaining health

2 and safety standards than the workers of successor--
3 successor employers." Um, so do you mean to say that
4 a new employee with no training, no experience
5 whatsoever is able to live up to the same standards
6 as an existing grocery worker? Because again, that's
7 not what the social science research says or what
8 reality says. That's why there a training time, and
9 that's why it takes people to be on board it.

10 JOE PELTZ: Well, the successor
11 employers, employees don't necessarily have less
12 experience or less ability. So the automatic
13 assumption that incumbent workers are better on any
14 level in anyway, there's no basis, there's no
15 evidence that we know of that demonstrates that
16 that's true.

17 COUNCIL MEMBER KALLOS: Your industry
18 publications speak to the contrary and, in fact, I
19 think whether it's your industry publications that
20 you've done significant research on this or just
21 common sense somebody who has been doing the job, who
22 has the training, who is being kept on because they
23 are productive is by nature going to know more than
24 somebody who started that day.

2 JOE PELTZ: But they're not being kept on
3 because they're productive. They're being kept on
4 because the of the mandate.

5 COUNCIL MEMBER KALLOS: And so you
6 believe that somehow in between a sale and purchase,
7 a grocery store is just going to be full of
8 incompetent people and the employees won't be able
9 to--I don't understand your assertion because it
10 doesn't make sense.

11 JOE PELTZ: With all due respect, that's
12 an distortion. What--what we maintain is that when
13 an investor or investor group, um, puts up and/or
14 personally guarantees hundreds of thousands if not
15 millions of dollars, they are fully motivated and
16 fully incentivized to hire the best possible people
17 that they can find. There's no--if you--okay,
18 sometimes you obtain incumbent workers. Other
19 workers are frozen out. There's no net gain here.
20 It's just picking winners and losers, and over the
21 long run we think this is going to produce a less
22 productive, less efficient market, which will mean
23 less--less store growth, stores that aren't as
24 inviting to shop, and less job opportunities.

2 COUNCIL MEMBER KALLOS: So what you're
3 talking about is these investors and whether it's
4 smart money or dumb money they're--what it sounds
5 like you're trying to protect is the initial, um,
6 desire to just start with a clean slate bringing in
7 new teams. And I guess one question is do you think
8 that by having a 90-day period for a new company to
9 operate with the existing employees to see what's
10 working and what isn't before they just wipe the
11 slate clean? Don't you think there's a value to that
12 because it's--after a certain period they can still
13 do whatever they want. We're just asking them for
14 operate for a very brief period using the existing
15 team to see if that works.

16 JOE PELTZ: But it's government
17 allocating all the risks to them. They have to fund
18 it during the tryout period, and the problem is you
19 only get once chance to make a first impression. And
20 the opening night of a period of a store is vital.
21 So if customers aren't happy with what they see, they
22 won't come back and that increases the chances for
23 failure. But the mistake here is that the assumption
24 here is that the new owner fires everybody and brings
25 in all new people, and that does not automatically

2 happy, and it does not happen every time. The idea
3 is that the investor who might have millions of
4 dollars at risk, he might be putting everything on
5 the line has a full and fair opportunity to bring in
6 the people that he thinks maximize the chances of
7 operating the best store, which is better for
8 ownership. It's better for management and it's
9 better for job growth, and it's better for the
10 neighborhood

11 COUNCIL MEMBER KALLOS: So I'm going to
12 wrap up here and thank you for your indulgence, Chair
13 Miller. I believe he or she--I'm hoping that some of
14 the owners are--are women that you have women owners
15 here today. Um, but, um, I think our hope is that
16 this isn't going to have any impact. So perhaps you
17 can give us research that shows us what the impact is
18 how many people who start to come in and do a clean
19 slate, and then how many people actually keep the
20 employees there. But, ultimately we're talking about
21 90 days to get to know your new company, and whether
22 you have a grand opening or second grand opening or
23 you wait until after the 90 days, I don't think
24 that's quite important. I guess the question is why
25 do you believe that 90 days of getting to know your

2 team of a company you just bought or a store you just
3 bought is going to frustrate and stop the marketplace
4 from operating?

5 JOE PELTZ: Because if the store is not
6 being operated as well as it could be or would be
7 with a successor employer's workers, you're going to
8 lose customers. So government is not offering to pay
9 for any fall right, right, from the mandated, um,
10 employment period. It's shifting the risk to the
11 owners who all they're doing is taking a ton of risk
12 while they're trying to put on a better show.

13 COUNCIL MEMBER KALLOS: So, just so you
14 know, any time your folks fire people, it's us at
15 this table and the City and the State of New York
16 that has to pay for that unemployment. So we're the
17 ones maintaining the risks.

18 JOE PELTZ: No, it's the taxpayers that
19 pay for it, but unemployment occurs for a number--
20 let's not over-simplify it. Unemployment occurs for
21 a number of reasons.

22 COUNCIL MEMBER KALLOS: Right.

23 CHAIRPERSON MILLER: Thank you. I'm
24 sorry. Before we go to Council Member Dromm, so
25 here's what I've experienced and I think this would

2 be applicable to a number of members here obviously
3 we all represent in the city communities. And, um, I
4 have yet to see a robust recruitment practice of any
5 of the stores that have been opened in the community.
6 The fact of the matter, what I find is--is those--
7 those new owners bringing in workers from the
8 communities that they represent. Therefore,
9 minimizing the economic impact on the communities
10 that they're coming into, and providing the service.
11 So how then would we address that? Is--is--or am I
12 just based on that?

13 [background comments]

14 JOHN DURANTE: Okay, I think the--I think
15 the individual owners can speaker better to that.
16 However, most of our employees come from the local
17 community. Most of them, you know--most of our
18 shoppers are walking to that store.

19 CHAIRPERSON MILLER: So, I'm sorry. Who
20 do you represent?

21 JOHN DURANTE: Key Food and is that--is
22 that an independent Key Food operation or is that--
23 because it's been my experience that those local
24 stores that are independently owned, don't reflect--

2 the employees don't necessarily reflect the
3 communities that they are servicing.

4 JOHN DURANTE: Key Food is independently
5 owned, and independent operator.

6 CHAIRPERSON MILLER: And so how do your
7 recruitment?

8 JOHN DURANTE: That's--that's another
9 question to the local owners, and it's--it's really
10 up to them. They--they run their stores.

11 MALE SPEAKER: [off mic]

12 CHAIRPERSON MILLER: Okay.

13 SERGEANT-AT-ARMS: Quiet, please.

14 CHAIRPERSON MILLER: Okay, Council Member
15 Dromm.

16 COUNCIL MEMBER DROMM: Do you take any
17 responsibility for what your local stores do?

18 JOHN DURANTE: At Key Food, yes.

19 COUNCIL MEMBER DROMM: So, you're
20 shifting the responsibility at this point to the
21 owners. Do you take responsibility for the way in
22 which those stores are run?

23 JOHN DURANTE: Yes.

24

25

2 COUNCIL MEMBER DROMM: Then why can't you
3 answer the question about why or how hiring is done
4 in those stores?

5 JOHN DURANTE: Because we don't mandate
6 that to the owners.

7 COUNCIL MEMBER DROMM: So that aspect you
8 don't have anything to with?

9 JOHN DURANTE: We don't mandate it.

10 COUNCIL MEMBER DROMM: Do you have
11 anything to do with it?

12 JOHN DURANTE: No.

13 COUNCIL MEMBER DROMM: Um, do you
14 represent Key Food 2? Have you heard of Key Food 2?

15 JOHN DURANTE: No, no.

16 COUNCIL MEMBER DROMM: Do you represent
17 Global Supermarket in Jackson Heights?

18 JOHN DURANTE: Global is a member.

19 COUNCIL MEMBER DROMM: Is a member and
20 they were the ones involved in this mess that I
21 descried earlier. Am I correct?

22 JOHN DURANTE: He's a member of Key Food.

23 COUNCIL MEMBER DROMM: He's a member of
24 Key Food. Okay, so that's where the Key Food 2 thing
25 comes in. So he is a member of your organization.

2 Was he one of your stellar participants in your
3 organization?

4 JOHN DURANTE: I can't comment on--on how
5 his--

6 COUNCIL MEMBER DROMM: Well, you know his
7 record. You know what he did. You know he locked
8 out workers. You know that he fired half of them.
9 Um, you know all of that information that I provided
10 to you earlier, but you say you represent them. You
11 say that you're here on their behalf, but you don't
12 provide any information or acknowledgement that what
13 we said is the truth.

14 JOHN DURANTE: Again, as I said earlier,
15 the individual owner hires and fires their own
16 employees.

17 COUNCIL MEMBER DROMM: So it's all right
18 for one of your members to go out and to fire half of
19 the employees and to lock them out, and to break
20 laws, and as organization you do not want to take
21 responsibility for that?

22 JOHN DURANTE: I believe we did.

23 COUNCIL MEMBER DROMM: I don't believe
24 that you did really because you want to know
25 something, those people were locked out for a long

2 period of time and there was a battle that went on
3 for over a year in that supermarket, and there was an
4 unwillingness to rehire those employees, any of them.
5 And, in fact, what was happening at that store that
6 you represent, that's part of your organization was
7 that they were bringing in people from other stores
8 and putting in place just as Council Member Miller or
9 Council Member Kallos alluded to previously. So that
10 is actually the reality as much as you may try to
11 deny it. Do you have a moral obligation at all to
12 your workers to keep them or to treat them fairly?

13 JOHN DURANTE: Again, I think that's a
14 question for the individual owners.

15 COUNCIL MEMBER DROMM: Gee whiz, the
16 individual owners have a lot of independence here. I
17 mean they don't even want to state--you don't even
18 want to state on the record whether or not you feel
19 that it's right to hire all fire people in this
20 transfer?

21 [background comments]

22 JOE PELTZ: There's--to the extent member
23 of Key Food who violate the co-op's policies--

24

25

2 COUNCIL MEMBER DROMM: But do you
3 represent him or does he represent you? I don't get
4 the relationship here.

5 JOHN DURANTE: Key Food Stores is a
6 member of the Food Industry Alliance.

7 COUNCIL MEMBER DROMM: All right. So I'm
8 asking him.

9 JOHN DURANTE: And your question again?

10 COUNCIL MEMBER DROMM: Do you have an
11 obligation at all to work with and try to rehire
12 members of your organization as a moral obligation?

13 JOHN DURANTE: Key Food or the
14 independent owner?

15 COUNCIL MEMBER DROMM: Key Food, you.

16 JOHN DURANTE: No.

17 COUNCIL MEMBER DROMM: You have no
18 obligation to it whatever?

19 JOHN DURANTE: We--we--because we're not
20 hiring those employees.

21 COUNCIL MEMBER DROMM: Okay. That's--
22 that's interesting to know. So people that have
23 worked for you for 10, 15, 20 years and you feel that
24 you have no obligation to them at all?

2 JOHN DURANTE: At Key Food, yes. As an
3 independent owner. That's not a--

4 COUNCIL MEMBER DROMM: About at Global?

5 JOHN DURANTE: That's not up to us.

6 COUNCIL MEMBER DROMM: That's not up to
7 you. Okay. Anyway, I'm not--I'm not going to
8 belabor the point too much. I think I've made my
9 point. What do you consider to be a small business?

10 JOHN DURANTE: We have--we have
11 businesses that--that do business anywhere from
12 \$20,000 a week to \$600,000 a week.

13 COUNCIL MEMBER DROMM: So this law would
14 cover those who are 10,000 feet or larger. Um, is
15 10,000 feet a small business?

16 JOHN DURANTE: I would say that's
17 probably in the middle. Our stores average probably
18 around--

19 COUNCIL MEMBER DROMM: Yes, we're not
20 really talking about the effect on small business
21 owners here. We're talking about in the middle type
22 stores?

23 JOHN DURANTE: Correct.

24 COUNCIL MEMBER DROMM: So what about
25 those stores that are 10,000 feet and less and

2 there's nine or ten of them owned by the same owner?
3 Is that a small business owner or is that a
4 supermarket chain?

5 JOHN DURANTE: I would say that's a small
6 business owner.

7 COUNCIL MEMBER DROMM: I would disagree
8 with you on that, um, and that's one of the big
9 problems here. I think that's fairly obvious. Um,
10 one of the things that's not addressed Mr. Peltz in
11 your testimony is the reason why these managers or
12 these businesses are mismanaged. How do you enforce
13 or, um, police or oversee your own members to make
14 sure that they are abiding by the laws?

15 JOE PELTZ: Well, they--they often come
16 to us with compliance matters and we assist them, um,
17 with those questions. But, Councilman, if I could
18 respond to your question you asked before--

19 COUNCIL MEMBER DROMM: Uh-huh.

20 JOE PELTZ: --with a broader perspective.
21 We--a 10,000 square foot store from the Association's
22 perspective is a small store, is a lot smaller by
23 every measure than, for example, a 50,000--

24 COUNCIL MEMBER DROMM: Okay, if it's just
25 that one store--

2 JOE PELTZ: --square foot construction
3 built like a K-Mart shopping shop. (sic)

4 COUNCIL MEMBER DROMM: If it's just that
5 one store, maybe you're right, but when have somebody
6 who owns ten of them, it's no longer really a small
7 business.

8 JOE PELTZ: Correct. It's some--once you
9 can--

10 COUNCIL MEMBER DROMM: So Trade Fair the
11 one that was the violator--the first violator in
12 Jackson Heights was not really a small business
13 owner, nor is Global a small business owner.

14 JOE PELTZ: I understand your point.
15 It's just a matter of coming to an agreement on what
16 constitutes a chain. At some point owning some
17 number or stores makes you the owner of a chain even
18 if each store is small.

19 COUNCIL MEMBER DROMM: By the way, in
20 your testimony you mentioned about New York State
21 Department of Agriculture ensuring that the quality
22 of the food and the meat in these stores is up to
23 par. That often times doesn't really happen, um, and
24 State--try to get a State Agriculture person to come
25 into one of the stores as we did on a number of

2 occasions with the store that, um with this Global
3 Supermarket or Trade Fair.

4 JOE PELTZ: Our experience is that they
5 were in our stores on a regular basis.

6 COUNCIL MEMBER DROMM: Well, that's not
7 been my experience. So you may have a different
8 experience than I do. Um, [pause] Okay, I think
9 that's about it for me.

10 CHAIRPERSON MILLER: Okay. Thank you so
11 much to the panel. I'll call the next panel. Thank
12 you for coming out. Alma Torres, Josh Kellerman.
13 [background comments, pause] You may begin.

14 ALMA TORRES: Oh. My name is Alma
15 Torres. I'm--I'm--excuse me. Good morning. I've
16 never been to one of these. [background noise]
17 Thank you. Good morning. My name is Alma Torres,
18 and I'm a Brooklyn resident at the Food Emporium
19 located at 49th and 8th Avenue in Manhattan where
20 I've worked for at--for the last 17 years as part-
21 time floral manager. I also am serving as the 338
22 Shop Steward at my store. I am here today to provide
23 a first hand account of why the Grocery Workers
24 Retention Act helps thousands of grocery store
25 workers like myself. Five years ago, A&P, which owns

2 Food Emporium went through its first bankruptcy. At
3 that time, we made many sacrifices including taking a
4 five-year work break--wage freeze, and giving back
5 paid time off in order to keep the company afloat and
6 save our jobs. Unfortunately, this time it's very
7 different. There is no saving the company, and all
8 the stress we experienced five years ago was great,
9 nothing compares to the anxiety and the fear that my
10 co-workers and I are dealing with right now. The
11 Food Emporium I work at is special to me. I am a
12 breast cancer survivor [crying] and I received
13 support at my store including from my co-workers and
14 my union. Unfortunately, the store, which employs
15 about 100 people is one of A&P's locations that is
16 currently been on sale. This means that we are in
17 limbo, and we are waiting until next week when our
18 store goes into auction, and recognize our union.
19 However, I know that currently there is nothing that
20 will require a new owner to even just rehire us.
21 There is the real possibility that the owner could
22 reopen the store or simply hire all new workers at
23 minimum wage over us, off the books and do so without
24 any obligations (sic) or second thought about what
25 will happen to us. The Grocery Workers Retention Act

2 will ease some of the worry workers face during the
3 transition period like the one at my co-workers and I
4 are potentially facing. I can testify to the
5 difference of having 90 days to work and benefits as
6 well as the opportunity for a permanent job onto it,
7 can make all of us and our families. WE definitely
8 all will be breathing much easier if it was already
9 in law in New York City. I have done nothing wrong
10 except to have the misfortune of working for a
11 company that could be changing hands. As a result, I
12 have begun going on job interviews in order [pause]
13 in order to prepare for what is coming up next. This
14 is a very difficult transition, one that is full of
15 uncertainty, and I don't take comfort in knowing that
16 I am not alone in this situation. And as I am just
17 one of the thousands of working people who now and
18 may in the future find themselves out of work because
19 of a store being sold, closed or going into
20 bankruptcy. Please know that passing the Grocery
21 Retention Act would incredibly be meaningful for me.
22 All I am asking is for the ability to continue to
23 help my customers, pay my bills, spoil my
24 grandchildren and see it is simply an opportunity to
25 secure a future for myself and thousands of hard

2 working New Yorkers. Thank you very much for your
3 time.

4 [background comments]

5 JOSH KELLERMAN: Good morning. My name
6 is Josh Kellerman. I work at ALIGN, the Alliance for
7 a Greater New York. I'm a Senior Research and Policy
8 Analyst there, and ALIGN is a community labor
9 coalition here in New York City dedicated to creating
10 good jobs, vibrant communities and accountable
11 democracy for all New Yorkers. In this year of
12 globalization and rapidly shifting economy, workers
13 often suffer the brunt of these changes. Intro 632-A
14 provides an important buffer between the vigors of
15 our economy and the real needs of workers, their
16 families and their communities. This proposed law
17 strikes a balance between the needs of the new
18 employer to hire workers who have the skills to match
19 the job, and the existing workers who have the
20 opportunity to demonstrate their value to their new
21 employer. A 90-day transition period is a practical
22 solution that serves the needs of both employees and
23 employers. And I'll just kind of move off of my
24 comments here and speak to a couple of things that
25 were mentioned earlier. One is that, you know, from

2 what I heard from some of the representatives from
3 the business community, I didn't hear actual
4 demonstration of how this will impact their
5 businesses. It seemed largely unsubstantiated. Um,
6 there is, of course, the need to support business
7 owners and to make sure that businesses are able to
8 thrive here in the city. It's also important to make
9 sure that workers thrive in the city, and I think
10 that this loss strikes that balance. It was
11 mentioned that business owners put everything on the
12 line to make their businesses function. Workers do
13 the exact same thing, and this is what we've heard
14 from Almont (sic) earlier. And then, you know,
15 speaking, Chairman Miller to the question of the
16 robust recruitment strategies, I think one area that
17 has really been overlooked is the subsidy programs
18 that exist. For example the FRESH Program. It could
19 be used as a tool for establishing really strong
20 recruitment strategy--strategies like we're seeing
21 with the Build it Back Program where there's local
22 hiring centers set up in the communities that were
23 impacted by Hurricane Sandy. You can see some of the
24 same strategies in store openings that accept the
25 FRESH Program doing some of the same to ensure

2 transition for local workers into the job. I'll
3 leave it at that. Thank you for--for your work on
4 this bill.

5 CHAIRPERSON MILLER: Thank you, Josh.
6 Ms. Torres.

7 ALMA TORRES: [off mic] Yes.

8 CHAIRPERSON MILLER: You've indicated--
9 let me read--ask you this. I'm sorry for kind of
10 even asking, but, um, that you, um, you are a
11 survivor of cancer, is that correct?

12 ALMA TORRES: Yes.

13 CHAIRPERSON MILLER: And during that
14 time, um, obviously you received treatment, and, um
15 through--do you enjoy currently a health benefit
16 package?

17 ALMA TORRES: No.

18 CHAIRPERSON MILLER: You don't--you don't
19 have health benefits at the moment?

20 ALMA TORRES: No, not with my company.

21 CHAIRPERSON MILLER: You didn't have
22 health benefits at the time that you were, um, being
23 treated?

24 ALMA TORRES: Not at that time.

2 CHAIRPERSON MILLER: Were you a part-time
3 employee at that time?

4 ALMA TORRES: Yes, I am a part-time
5 employee.

6 CHAIRPERSON MILLER: Okay, is that the
7 reason why there were no benefits provided?

8 ALMA TORRES: I didn't know I had
9 benefits at the time, and I took another route to
10 take care of my health.

11 CHAIRPERSON MILLER: Okay, because in
12 general, the shops--this shop and other union shops
13 as part of the collective bargaining agreements
14 provide for healthcare benefits. Is that correct?

15 ALMA TORRES: They do provide some
16 healthcare benefits, but they do not provide for
17 everything that is covered when you have breast
18 cancer.

19 CHAIRPERSON MILLER: Uh-huh.

20 ALMA TORRES: It is short-changed in that
21 situation. The treatments are very costly.

22 CHAIRPERSON MILLER: Of course, of course
23 they are. Um, do you have anything to add? [pause]
24 Could you--I'm sorry. Thank you very much.

25 ALMA TORRES: Thank you.

2 CHAIRPERSON MILLER: So, Josh, in terms
3 of you talked about some of the programs that provide
4 subsidies particularly to--to, um, to the markets
5 that exist and--and food starved communities, and--
6 and so that--that's done as an incentive to, um,
7 provide, um, good foods to these communities that
8 suffer, um, because of lack of--[pause] Do you know
9 of any of these supermarkets that, um, and question
10 that may have availed themselves of those subsidies,
11 or could you elaborate on some of the subsidies and
12 the reason why these programs exist?

13 JOSH KELLERMAN: Yeah, um, I mean that
14 would be a better question for some--some of probably
15 the businesses here that have actually taken up the
16 program. And I know the program, the FRESH Program
17 specifically has been considered a moderate success
18 in the city where, um, I know that--I think at least
19 like 10 or so stores that have opened under the
20 program throughout food deserts in the city, and are
21 providing now, you know, a significant chunk of
22 their, um, square footage for fresh food for that
23 community. So very important, um, and, um, and so
24 yes these programs are being taken up. Yes, they
25 are--they have been identified as sort an essential

2 bridge to, you know, make it sort of viable for some
3 stores to open and food deserts in the city. Um, I
4 think that there's always been a question that we've
5 raised around who's actually getting higher than low
6 wages. There's always a concern that, um, a low road
7 employer comes in these communities and provides
8 fresh foods, but then essentially pays such low wages
9 that their employees themselves can't shop there.

10 CHAIRPERSON MILLER: Okay. Okay, thank
11 you to the panel for your testimony today.

12 [pause]

13 CHAIRPERSON MILLER: The final panel is
14 Genius George, Moving owner. I'm going to mess this
15 up Pedro Goyco (sp?). Mataya? [pause] Mataya.

16 PEDRO GOYCO: She'll come back.

17 CHAIRPERSON MILLER: Okay. You got the
18 mic, sir. You can start.

19 PEDRO GOYCO: Well, good afternoon
20 already. Thank you for the opportunity. Besides
21 being a Super Market Association member, I come here
22 to also represent myself and my employees. I'm here
23 on behalf of the association, and I'm not taking
24 sides on this. Um, I want to just kind of be, you
25 know, quick on this and--and tell you guys that I

2 think this whole A&P thing is the reason why we're
3 sitting here today. But A&P and--A&P and--Pathmark
4 and all those companies don't represent independent
5 supermarkets, which are the reason why they're
6 leaving because we are employing the right people. We
7 are doing the right things. So sometimes you're
8 sitting a store like mine for example let's say
9 \$100,000 or \$90,000 a week, right. Out of that maybe
10 15 or 19% is my payroll. Healthcare now is going
11 high, and then landlord is my partner, right.

12 Besides that, you know, sometimes employees don't see
13 that, and my job is to--the employees are my friends,
14 my barbecues, my--my--everything I do is for my
15 employees. I cannot do it without them. I can't be
16 a butcher. I can--I can't do anything without them.
17 So I think that we have done something correctly in
18 saying that independent owners go into a store and
19 just wipe it out and bring people from another state.
20 That's not the case. I want the cashier to be known
21 by the community people where I live. That's the
22 only way people are going to come to my store, right.
23 Besides I have stores opening across the street from
24 me. I got Whole Foods opening across the street from
25 me, and nobody is doing anything about that, right.

2 So when these big stores come in, I have to do
3 something to stay in business because I also have a
4 family. Right, I don't walk out with a bag of money
5 everyday out of my store and put under my mattress,
6 right. We're not in 1980 any more. Okay, that's why
7 sometimes I want you guys to understand that passing
8 a law like this yeah, we should--we should--when I
9 buy a store, my job is to look at every single staff
10 member in there and see if they qualify for the jobs.
11 But for me because I'm letting somebody go, it's the
12 reason I'm going to bring somebody less qualified
13 person. I shop in my store. So I don't want to have
14 unhealthy food to my house. So that's the kind of
15 things that yes we have to evaluate them. I'm not
16 against, right. But at the same time, you have to
17 look at what a store is selling? What are the bills
18 of the stores, and see how much payroll you can
19 afford so you can stay open the business, don't close
20 the business. So you guys need to let us know. I--
21 and I don't want to come with this story that I was a
22 packer and then I'm an owner to get sentimental.
23 Yes, but I was a packer, and now I'm a store owner.
24 Right, so my job as well as being a boss it's being a
25 leader, and make sure that my, Hillside Avenue 171st

2 Street, Seatown. This guy's been there for 25 years.
3 It's my first job. I lived there. I parked there
4 when I went to Jamaica High School, right. So I
5 bettered myself and I always--every time I park there
6 I stop and say hi. Why? Because those guys showed
7 me how to work, how to be a man. You have to be
8 better, and I want to own the store, and I'm a store
9 owner because I just went to the bank. They like me.
10 They give me the money, right. I did it because I
11 worked hard. So it bothers me sometimes when I go to
12 Pathmark and I go through the line because she's, you
13 know, they feel because they're protected by someday
14 or another they can just treat the customer however
15 they want. I'm not saying everybody does that, but
16 you should know that if you do the right job, right,
17 you're going to stay there. You don't want to go
18 anywhere? Why? Why do I need to go anywhere to hire
19 people? And what Mr. Dromm said, you know, Mr.
20 Dromm, I just want you to know I live in the area
21 where Global is, which is I don't go to Astoria. I
22 agree they shouldn't do that. So I agree with you.
23 They shouldn't do it, but saying that thing that's
24 with all of us, and I hate it that Mr. Kallos left
25 because he's very passionate. I wish he had stayed

2 here and listened to everybody, and the other people
3 that left in the first panel should have never left.
4 They should have stayed and listened and that side of
5 me. But, you know, look at everything. I invite you
6 to our store. Come in. See how our payroll--how we
7 run the store. We don't hire people off the books.
8 We'd have Labor Department there every week doing
9 raids, and we welcome them, and we--we welcome them.
10 We do notice or association with the Department of
11 Labor. We hire from the Strike Program. We've
12 benefitted from the FRESH Program. So, them that was
13 before yes we use the programs because, you know,
14 what there's a store and one of my members has been
15 there right now. They saved me \$180,000 in taxes
16 because of the FRESH Program. So we do benefit from
17 that. So whoever thinks we don't we do. So, the
18 union members that are, we know there's a union. We
19 get the right job because I was unemployed as well,
20 you know. So what we're saying is creating all these
21 laws that you have to protect everybody. Let's look
22 at both sides, but let's before you write this bill,
23 this independent stores whether a Pathmark. That's
24 why they're leaving 'cause they're not doing the
25 right job. That's why people are losing money, and

2 nobody get into business to lose money, right, but at
3 least to make a fair--a fair living. So, Mr. Dromm,
4 I invite you not to go to that store, right, to go to
5 the actually the stores 95, 98% of the stores are
6 doing actually doing the right job, and see how we
7 run the business. And our--you can talk to our
8 employees and see how they do that. So it doesn't
9 mean that I'm going to hire. I'll give you an
10 example, my deli guy was making minimum wage when I
11 went to the store that I bought. I raised him to
12 \$11.00, right, because the guy was doing a good job,
13 and I'd rather pay \$2.00 or \$3.00 more for somebody
14 doing--treating my customers correctly, but paying
15 \$3.00 more because if you're a smart business person,
16 that person will actually bring you more money than a
17 guy doing \$9.00 an hour at that job because it
18 doesn't mean that he's making less--that I'm going to
19 hire somebody to make less money just because I want
20 to lower my payroll. If that guy's bringing me in
21 revenue because he's treating my customer right,
22 cutting the ham the right way and packing it the
23 right way and putting a smile when he gives it you--
24 because when you go to the supermarket, you want to
25 make sure the ham is cut the right way. And people

2 say thank you. Have a good day because probably you
3 had a bad day at work. So that's what we want in our
4 staff, right, people that are friendly and not
5 shrink. But if the were to stay with the Health--the
6 Health Department goes to our store all the time.
7 Who say they don't. If you had a hard time going
8 there, go and find out why that they didn't go to
9 Global. Why don't you shop their inventory. But we
10 want to have a safety. You know, they decide they
11 don't want to go and they put a rat in front of the
12 stores. Just look at what happened. Why--why is the
13 reason this is happening? Okay, 'cause I don't think
14 nobody came to business, right, to fire people, right
15 because they have to have good people to work, but to
16 just lose money. So bear in mind you have to before
17 you write this bill, actually go in the field.
18 Papers--everything it goes on paper, but the reality
19 might be different. So as my statement today, you
20 know, take a look at this bill the right way. New
21 York is very tough right now, and rent, you know,
22 the--the--the--fortunately, the economy of New York
23 is going up right. You know, we're seeing it get
24 better, but the landlords are from 1940 owners that
25 think--I'll give you an example in my store we have a

2 hardware store next door. They guy passed away. So
3 I told my landlord, you know, I want take the space
4 and make it bigger. I want to hire five more people
5 because of that. Well, he told me well, you know,
6 what this is a little prong. I don't understand
7 what'd going on in an email, and I said what's going
8 on? He said, I haven't even put up a sign yet and I
9 have people calling me. You know what that means
10 right? That means that I need to go with a bag of
11 money there so I can get the space. Sometimes
12 employees don't see that. You know, we don't tell
13 them that because my job is not to worry them, it's
14 to be leaders. So sometimes I want the employees and
15 guys out here to also understand that, you know, we
16 don't like to fire, you know, they're sitting there
17 and say, let's see who we're going to fire today to
18 hire somebody for less money. That's not the case
19 overall. So, creating a bill that doesn't allow us
20 to do the job as entrepreneurs that we are, right, is
21 just not correct. So, Mr. Dromm, you know, I'm here
22 and anybody can come over to the store if you want to
23 come over to us and see how we operate. Thank you.

24 JENNY JORGE: So, my name is Jenny Jorge.
25 You asked if there were women. I'm a small business

2 owner, a woman. Was raised in my family--my family
3 is in the supermarket industry for the last 25 or 30
4 years. So I've been raised all my life in this
5 industry. Um, the conflict that we come in here and
6 try to fire everyone and a clean slate and everything
7 like that, that is not the case. In fact, our small
8 businesses are really what brings employment to the
9 area, and I can give you an example. Our store in
10 Brooklyn was an abandoned hospital. I don't know if
11 you are familiar with it, but it was an abandoned
12 hospital, and my family took that store, 11,000
13 square feet, and made it into a beautiful successful
14 supermarket that employs about 40, 45 people from the
15 community. Um, so we're not here to say we're firing
16 everyone and bringing people in Manhattan when your
17 store is in Brooklyn because those are the people
18 that I like. That's not the case. The hiring was
19 done through applications, through our websites.
20 Putting out on our website you know, that we're
21 hiring. Um, to answer your question about
22 recruitment, if you go on our company website you're
23 going to see applications, online applications. You
24 come into our stores, you go to customer service, and
25 you can ask for an application. And it's all

2 community people. It's equal opportunity employment.
3 Whoever comes in and applies, once we meet employees
4 they get interviewed. So that is really our
5 recruitment process, and the reason that maybe, um,
6 John or Haile or Jay couldn't answer those questions
7 is because they're not on the front lines. We are
8 and they--and you have to understand some of the
9 background of the supermarket industry and how it
10 works to be--to be able to understand that part of
11 that. That they might do the corporate things up on
12 top, but we're the ones that are on the front line
13 dealing with our customers, um, making relationships
14 with our employees, and handling the day-to-day
15 operations. Something that's very important is
16 something that--that I believe Haile mentioned. Um,
17 I walked into a Pathmark because without a bankruptcy
18 I was independent and looking to grow, and as an
19 independent store owners, we cater to the areas that
20 we go into. And as you walk into our stores, if you
21 have a store in a certain ethnic area, you're going
22 to see that that ethnic area is going to have
23 representation our stores. Meanwhile, when you look
24 at these, um, chain stores, you get cookie cutter
25 stores, right. I walked into a--into a Pathmark that

2 we were looking at because it was closing down so we
3 were looking to go and bid on it, and, um, you see
4 that the store manager was very qualified. But he
5 was so frustrated with tied--with how his hands were
6 so tied by the corporation. He said, We can't do
7 anything. And that's the difference. We can reach
8 out to the community. We can participate in
9 community events. We do participate in community
10 events, and we cater to the areas that we operate in.
11 We form relationships with our employees. We help
12 our employees out. When we see an employee that--I
13 mean the vast majority of us, when we see an employee
14 that's going through a hard moment, we're there for
15 them. We're at their families' funerals. We're at
16 their kids' birthday parties. We can tell you their
17 wife's name, their kids' names, everybody. Okay, we
18 get--their mother comes in and hugs us in the store.
19 That is just the relationship that we have with our--
20 with our employees because we're independents and we
21 can do that. Okay, so that's just--that's just part
22 of the whole employment things. We are not these
23 evil demons that are out there trying to hurt people,
24 right? If we can't stay in business, then those are
25 jobs that are lost. Okay, so that's something that

2 has to be very clear. I think small business is at
3 the heart of--of employment and of everything here in
4 New York. So to think that because we're coming in
5 and buying a new store. We need to be able to make
6 competitive decisions. We need to be able to say
7 this employee produces, and this employee does not.
8 And in the supermarket industry, 90 days is an
9 eternity. For us to put our stores in the hands of
10 employees that are locked in for 90 days that they
11 can basically just hang out and not be productive.
12 I'm saying that's the case of everyone, but there are
13 cases of people who think well I can get comfortable
14 because, you know, what, I'm locked in for 90 days.
15 After 90 days then I'll figure out what I do. Okay,
16 that's--that's not fair to us that we want to improve
17 the stores, that we want to improve our businesses,
18 that we want to grow with the community. That's not
19 fair to us as far as we're locked in with employees
20 who have a job security of 90 days when they can
21 become complacent. And I'm not saying again, with
22 all due respect, I'm saying that is everyone, but,
23 um, but we should be able to make that choice of this
24 employee produces, this employee does not. We can't
25 keep this employee on the payroll, but we're going to

2 keep the other 90%. Okay. Um, an employee can
3 really ruin your business in a month if they want to.
4 If you get a team of employees that bands up and
5 wants to do something against your store, the
6 employee makes your business and it breaks your
7 business. So the same with an employee can give you
8 the best possible service to your customers, to your
9 community, they can also destroy your business in a
10 matter of a month. So 90 days is definitely an
11 eternity in the supermarket industry. Um, I didn't
12 prepare anything because like--like Ms. Torres says,
13 I've never been to one of these hearings, and I'd
14 like to be able to submit something in writing later
15 on. And as you can see, I don't have these prepared
16 statements that the union has trying to, you know,
17 prove their point. I'm talking from the heart and
18 with some--with some points. [laughs] Um, and so,
19 yeah, that's--that's basically all I have to say, and
20 on behalf of a--of a store owner, and I open you guys
21 to ask us the questions that you asked Jay and Haile
22 and John because we are open to answering those
23 questions.

24 CHAIRPERSON MILLER: You could also email
25 to the committee your--your statement as well.

2 JENNY JORGE: Thank you.

3 MALE SPEAKER: Um, good--

4 CHAIRPERSON MILLER: I'm sorry. Before
5 we get started with the next one, with--

6 COUNCIL MEMBER DROMM: Just a quick
7 question or a couple of questions, and an
8 explanation. Part of the reason why council members
9 don't stay is because they have other hearings that
10 they have to go to, and have to give attendance at
11 those hearings. And so, that's why you'll see
12 council members walk in and out. It's not meant as
13 disrespectful, and I'm going to have to leave in a
14 minute as well for that very purpose. So that's why
15 I wanted to ask if I could ask a question before
16 leaving. How many--what--what size is your store,
17 sir?

18 PEDRO GOYCO: Um, I've got three stores
19 total.

20 COUNCIL MEMBER DROMM: Are they over
21 10,000 square feet.

22 PEDRO GOYCO: One store is. Two of them
23 are not, but, um, just to--a little elaborate on
24 that--

2 COUNCIL MEMBER DROMM: It wouldn't affect
3 your two stores.

4 PEDRO GOYCO: But it will affect my
5 industry, in the kind of industry that I am in, so I
6 guess it--

7 COUNCIL MEMBER DROMM: But what would you
8 expect from this? (sic)

9 PEDRO GOYCO: Well, but it will not--it
10 will affect one of my stores, but besides affecting
11 my store, I represent my industry. If some
12 industries get hurt for any reason primarily believe
13 it or not, it will affect me indirectly. So you can
14 say it won't affect me, I'm not sitting here on my
15 behalf only. I'm sitting here on the industry that I
16 live from.

17 COUNCIL MEMBER DROMM: But that's not the
18 way--that's not the way that you portrayed yourself
19 at the beginning. That's not the way that--

20 PEDRO GOYCO: Well, that's the way how I--
21 -Like I told you before, um, this is my first time in
22 one of these hearings.

23 COUNCIL MEMBER DROMM: If you have three
24 stores, you're not really a small business owner. I
25 think you're getting to be almost a chain.

2 PEDRO GOYCO: I think--I think you are
3 incorrect. For example, Jenny--

4 COUNCIL MEMBER DROMM: No.

5 PEDRO GOYCO: --like I told you, that's
6 why you're in correct. That's why you're invited to
7 come over to the store.

8 COUNCIL MEMBER DROMM: [interposing] Let
9 me--let me just--let me must take it up here, sir.

10 PEDRO GOYCO: No, no, we're not big here
11 sir. (sic)

12 COUNCIL MEMBER DROMM: The next--the
13 lady, please. How--what--what size is your store?

14 JENNY JORGE: 11,000 square feet.

15 COUNCIL MEMBER DROMM: So, you're just
16 over the limit? Is that the only one that you have?

17 JENNY JORGE: No, well, it depends on
18 what--my family in general does not have only one
19 store. We have a couple stores.

20 COUNCIL MEMBER DROMM: So you're not a
21 small business owner either.

22 JENNY JORGE: We--you know what--

23 COUNCIL MEMBER DROMM: [interposing] You
24 just said that you're going to buy another one.

2 JENNY JORGE: --that needs a correction.

3 No, we--no, no, I did not. You see, don't twist my
4 words. I did not say I'm buying one.

5 COUNCIL MEMBER DROMM: You said you want
6 to buy another one.

7 JENNY JORGE: We are all looking to
8 expand. Isn't that every business owner's dream?

9 COUNCIL MEMBER DROMM: So, so--don't put--

10 JENNY JORGE: [interposing] My family
11 came here--

12 COUNCIL MEMBER DROMM: But to come in here
13 and say that you're small business owners--

14 JENNY JORGE: [interposing] We are--we
15 very much so--

16 COUNCIL MEMBER DROMM: [interposing] --
17 when it sound more like you're in between

18 JENNY JORGE: [interposing] --and that's
19 why I said--listen. Hold on a second. That is why I
20 said I invite you to come--Haile invited you to come
21 to the NSA. We invite you to come in and understand
22 how our industry works.

23 COUNCIL MEMBER DROMM: [interposing] But
24 this is to present yourself to me--ma'am, excuse me.

2 When you come in here and say that you're small
3 business owners and, in fact, you're not really.

4 JENNY JORGE: [interposing] We are very
5 much so business owners.

6 COUNCIL MEMBER DROMM: You misrepresented
7 yourselves?

8 PEDRO GOYCO: [interposing] [off mic]
9 How do you know that? How do you come up with that?

10 COUNCIL MEMBER DROMM: Because I just
11 asked you.

12 PEDRO GOYCO: [interposing] Okay, what
13 day did it happen on?

14 COUNCIL MEMBER DROMM: [interposing] I'm
15 not going to argue, sir. I'm not going to argue,
16 sir, and we--

17 PEDRO GOYCO: I came here five years ago.

18 COUNCIL MEMBER DROMM: You're at a public
19 hearing.

20 PEDRO GOYCO: You're out of place.

21 COUNCIL MEMBER DROMM: We are the council
22 members. We ask questions.

23 JENNY JORGE: That's fine.

24

25

2 COUNCIL MEMBER DROMM: Okay. Um, and--
3 and I want to ask this question also, and I'm sorry.
4 I forget your name, ma'am.

5 JENNY JORGE: Jenny.

6 COUNCIL MEMBER DROMM: Jenny. You said
7 that, um, how do you know, um--how--how--you said,
8 you know, when you come in, you don't want to have
9 bad employees--

10 JENNY JORGE: [interposing] Okay.

11 COUNCIL MEMBER DROMM: But unless you
12 give them a shot at proving themselves--

13 JENNY JORGE: [interposing] Of course.

14 COUNCIL MEMBER DROMM: --how do you know?

15 JENNY JORGE: We--we don't come in and
16 fire people. We come in, we evaluate--

17 COUNCIL MEMBER DROMM: [interposing] So,
18 basically 90 days. How do you--you can't determine
19 within 90 days or give someone a 90-day option?

20 JENNY JORGE: No. That's--that's--

21 COUNCIL MEMBER DROMM: [interposing] You
22 want to know right away?

23 JENNY JORGE: No, no, no. Do not twist
24 my words. What I am telling you is that if you
25 understood our industry, and we are inviting you to

2 have an open conversation with us, wherever you want.
3 We're inviting you to have an open conversation with
4 us so we can explain to you a little bit more
5 background on our industry because we're obviously
6 the ones in the industry. Because the reason that
7 you're where you are is the reason we are where we
8 are.

9 COUNCIL MEMBER DROMM: Okay, let me go
10 back to another statement--

11 JENNY JORGE: [interposing] So can I
12 finish--can I finish your--your answer--

13 COUNCIL MEMBER DROMM: [interposing]
14 Well, quickly.

15 JENNY JORGE: --question.

16 COUNCIL MEMBER DROMM: Okay.

17 JENNY JORGE: So, um, we invite you to
18 come and understand our industry, and see that we do
19 not walk in there and say you're fired, you're fired
20 and you're fired on the first day. We come in there.
21 We evaluate how you work, and we slowly replace
22 employees that we need to replace. But if we come in
23 there, and we have 90 days before we can make any
24 changes to our employee force, that's a problem
25 because we're going to realize in the first week that

2 they are one or two employees that shouldn't be
3 there.

4 COUNCIL MEMBER DROMM: [interposing] I
5 think that's a major point of contention that I have.
6 I don't really see that as a problem.

7 JENNY JORGE: [interposing] Because you
8 are not in our industry.

9 COUNCIL MEMBER DROMM: I think it's an
10 opportunity for people to prove themselves, and I
11 certainly would want to see that. Now, you also said
12 that you go to your employees' birthdays and
13 funerals.

14 JENNY JORGE: Of course.

15 COUNCIL MEMBER DROMM: Suppose you decide
16 to sell one of your stores, would you want those
17 people who've been to their birthdays and their
18 funerals and their weddings given an opportunity to
19 prove themselves before being fired?

20 JENNY JORGE: I would and--

21 COUNCIL MEMBER DROMM: [interposing] So
22 you'd like to have them get the 90-day period?

23 JENNY JORGE: No, that is not what I'm
24 saying.

25 COUNCIL MEMBER DROMM: Oh.

2 JENNY JORGE: What I'm saying is I would
3 like them to be fairly evaluated, and if they do not
4 fit--

5 COUNCIL MEMBER DROMM: [interposing] And
6 how is that?

7 JENNY JORGE: [interposing] If they do
8 not fit--

9 COUNCIL MEMBER DROMM: [interposing] How
10 much time will that take?

11 JENNY JORGE: Do you want to let me
12 answer?

13 COUNCIL MEMBER DROMM: I'm asking you a
14 question?

15 JENNY JORGE: Okay. Like I said--

16 COUNCIL MEMBER DROMM: [interposing] Uh-
17 huh.

18 JENNY JORGE: --if you give them the
19 time, I would like them to be given a fair evaluation
20 time. Not 90 days because that hurts the business
21 owner. It's not fair to the business owner--

22 COUNCIL MEMBER DROMM: [interposing] How
23 long?

24 JENNY JORGE: --but it has to be--maybe
25 30 days. I think 30 days is a fair period of time

2 for you to say, you know what, within 30 days I can
3 really tell if you know what you're doing, and if you
4 don't. And if you care about the business or if you
5 fit into my culture or my business model. Because
6 there are different cultures and different business
7 models. Not everybody wants to work everywhere.

8 COUNCIL MEMBER DROMM: [interposing]

9 Okay, so--

10 JENNY JORGE: And you might not like the
11 way I run my store, and you might want to quit. You
12 know, you might not like it, but the same way I
13 should have the right to say, you know what, you
14 really don't fit my business model. You really don't
15 fit my culture and my business. So, I'm sorry, but
16 you--

17 COUNCIL MEMBER DROMM: [interposing] You
18 know what, I think that's wrong. I really do, but
19 I'm not going to argue it because just fit my
20 culture, I don't know what you mean by that, but what
21 does that mean actually?

22 JENNY JORGE: I wish, um, Haile was still
23 here because he spoke about these models, these
24 business models, and everything. But every business
25 has their own culture. Google has a culture of how

2 they operate, which is very different from what
3 Amazon might have, or what some other company might
4 have. Every business has their own business culture.
5 Okay. So there's some people that like to operate a
6 store one way. Some people like to do illegal
7 things. I personally don't agree with that, and I
8 will not have it in my stores. So, if they're used
9 to that in one store and I go in and buy it, I'm
10 probably going to regulate everything. You might not
11 like that I do that.

12 COUNCIL MEMBER DROMM: Right.

13 JENNY JORGE: So you're going to leave.

14 COUNCIL MEMBER DROMM: Okay. So I--I
15 maybe misunderstood what you meant by culture, but
16 anyway nevertheless I do feel that when come in here
17 you do need to be truthful. If, in fact, you're not
18 really small business owners, you need to identify
19 yourself as such.

20 PEDRO GOYCO: [interposing] Well, I am
21 small store owner. You have the wrong people for
22 that. (sic) I was invited to come here and speak.

23 COUNCIL MEMBER DROMM: You're out of order
24 again.

2 PEDRO GOYCO: Well, I'm not out of order,
3 but you asked the questions are incorrectly.

4 CHAIRPERSON MILLER: So, um, from the
5 Association, how many businesses actually fit this
6 criteria that would require them to, um, partake in
7 and participate--

8 PEDRO GOYCO: [interposing] I'd say--

9 CHAIRPERSON MILLER: --in this retention
10 program?

11 PEDRO GOYCO: --about 70%, 75% I would
12 say.

13 JENNY JORGE: More or less.

14 PEDRO GOYCO: I don't have it currently
15 with me.

16 COUNCIL MEMBER MILLER: [interposing]
17 And would you say--

18 PEDRO GOYCO: Yeah, I don't have the
19 correct--I don't have it in front of me

20 COUNCIL MEMBER MILLER: [interposing] --
21 it would have to be over 10,000 square feet.

22 PEDRO GOYCO: Okay.

23 JENNY JORGE: Right.

24

25

2 PEDRO GOYCO: Yeah, it's safe to say. I
3 don't have the information in front of me, but I
4 would say 60 or 70%.

5 CHAIRPERSON MILLER: Could you get that
6 data for me.

7 PEDRO GOYCO: Yeah, I can get that to
8 you.

9 JENNY JORGE: Yeah, we can definitely get
10 that data to you.

11 CHAIRPERSON MILLER: Considering that
12 this doesn't include space.

13 PEDRO GOYCO: We'll give you the data
14 that you want. We'll give you that data on our small
15 business.

16 CHAIRPERSON MILLER: Yeah.

17 JENNY JORGE: Any thing above 10,000
18 square feet.

19 CHAIRPERSON MILLER: And--and let us know
20 exactly what the--what the criteria.

21 PEDRO GOYCO: Okay, we--we're second
22 generation, and I just want to--we're second
23 generation owners, and this guy is definitely out of
24 place, and I--I--this is my first time in this
25 hearing and I'm a taxpayer and I should be able to

2 say what I have to say. But this guy is misleading
3 this committee by saying we aren't a small business.
4 We--go to my business. You'll see that I am--I am a
5 small business owner.

6 CHAIRPERSON MILLER: So, again, I'm just
7 trying--I'm just trying to get to the association,
8 the overall demographics of the association and--and--
9 --and the size. And so when we--when we looked at
10 that, we looked at 10,000 very specifically, um, and
11 who it would--who it would impact. And it was our
12 understanding that most of the local independents did
13 not meet that criteria.

14 PEDRO GOYCO: That's incorrect.

15 CHAIRPERSON MILLER: So, um, if you
16 could, um, forward that information to me.

17 JENNY JORGE: If you--if you look at, um,
18 a bodega, a bodega is not going to fit that, but our
19 supermarkets I would say 50 to 70% of them, and I'm
20 guessing. A rough guess and I can get you real
21 numbers on that later on, but I would 60 to 70, maybe
22 75% do fit into about 10,000 square feet stores.

23 CHAIRPERSON MILLER: Okay.

24

25

2 PEDRO GOYCO: I should--I should have had
3 Mr. Brown pointing at one of those stores he could
4 see where--how big we are? (sic)

5 CHAIRPERSON MILLER: Council Member Dromm

6 PEDRO GOYCO: Council Member Dromm, yeah.
7 Um, 10,000 square feet is not a big store these days.
8 With the competition, it's not a big store. Whole
9 Foods is 50,000 square feet, so one of my stores fit
10 five times there. Ain't that a small business.

11 CHAIRPERSON MILLER: Okay. Well, I--I
12 think we agree if you had a number of them it
13 wouldn't be.

14 PEDRO GOYCO: Well, but you know--but you
15 know what with that said, hello, with that said,
16 that's another misleading information.

17 CHAIRPERSON MILLER: No, sir.

18 PEDRO GOYCO: Because I have ten stores.
19 [gavel] I work ten stores differently. I have ten--
20 ten different stores. It doesn't mean I'm a chain.
21 That's incorrect. [gavel] So if I have ten stores
22 in different areas, the wrong--

23 CHAIRPERSON MILLER: [interposing] So--

24 PEDRO GOYCO: --it depends on--

25

2 CHAIRPERSON MILLER: --I'm being like--
3 I'm being real kind now, I'm--I'm--[gavel]

4 PEDRO GOYCO: [interposing] No, no, I
5 know you are. I just want to prove my point.

6 CHAIRPERSON MILLER: You know the gavel
7 that's what that means, and we're not here to debate
8 the merit of that. But also then before we--we
9 disperse here, um, we talked about the first program
10 and--and I'm sorry, you did have it. We talked about
11 the first program and others, right. Um, have you
12 guys availed yourselves of the SBS, Small Business
13 Services and the other services, um, that--that the
14 city is providing so that you can take advantage of
15 the subsidies. And at the same time provide, um,
16 food services--

17 JENNY JORGE: [interposing] Yeah.

18 CHAIRPERSON MILLER: --to communities
19 that--that quite frankly often are underserved? And
20 so, it would appear that that's a match kind of made
21 in heaven. And so if, in fact, those, you know, do
22 you find those subsidies to be beneficial?

23 JENNY JORGE: We--

24 CHAIRPERSON MILLER: [interposing] Are--
25 are you--when--when--when Council Member Cornegy is--

2 is passing legislation to enhance the opportunity of
3 small business owners, are we going to be here and be
4 as vigilant about supporting that--

5 JENNY JORGE: [interposing] We will.

6 CHAIRPERSON MILLER: --as we are--

7 JENNY JORGE: [interposing] We will.

8 CHAIRPERSON MILLER: --with this here?

9 JENNY JORGE: Um, as you can tell, we're
10 very passionate about this. We've grown up in this
11 industry. So we are very much passionate about it,
12 and every--and every aspect of it including our
13 employees. But to answer your question, we have one
14 specific member actually the president of our
15 association who has twice already taken advantage of
16 the FRESH Program in those supermarkets where they're
17 needed based on the FRESH Program. We've had the
18 Department of Labor come in, and give us seminars and
19 give us classes, and teach how first of all how to be
20 in compliance. And second of all, what programs are
21 out there to help us continue raising employment and
22 how to treat our employees and that type of thing.
23 So we very much take advantage, and we had--to name a
24 few, we had the Strike--we have a program called
25 Strike Force that's at the Department of Labor.

2 We've been speaking to the Department, to Angle
3 actually to be specific, and in regards to that
4 program.

5 CHAIRPERSON MILLER: That--that is on the
6 state side, and we're talking about what the city
7 has-

8 JENNY JORGE: [interposing] Okay.

9 CHAIRPERSON MILLER: --the opportunities--

10 JENNY JORGE: [interposing] What we-what
11 we--

12 CHAIRPERSON MILLER: --but it's even
13 better when you can take advantage of everything--

14 JENNY JORGE: [interposing] Exactly.

15 CHAIRPERSON MILLER: --and kind of put
16 all those opportunities in place.

17 JENNY JORGE: [interposing] Yes, the
18 FRESH Program is a perfect example. I think Ruben
19 right here next to me is trying to take advantage of
20 the FRESH Program as well. Our store owners are
21 looking into these programs. We are being educated
22 about these programs, and we are reaching out, as you
23 said, and we will be at hearings like this being
24 passionate about it on both sides of it, whether
25 we're for what you're doing or whether we're against

2 what you're doing. We're going to be here and we're
3 going to be passionate about it because it is really
4 the industry that we love, and that we've grown up
5 in. And that we, you know, and that we care about
6 how it develops.

7 CHAIRPERSON MILLER: Thank you.

8 JENNY JORGE: You're welcome.

9 CHAIRPERSON MILLER: Mr. Luna.

10 RUBEN LUNA: Finally. [laughter]

11 PEDRO GOYCO: Thank you for being so
12 passionate about it.

13 RUBEN LUNA: But I learned. Um, my name
14 is Ruben Luna. I am also an independent supermarket
15 owner. Um, I'm also a congressman for the Dominican
16 Republic based in the United States representing the
17 United States and Canada. So, in both sides. My job
18 is also to work with the community, help the
19 community as a supermarket owner, and also as a
20 congressman for my country. But I think that this
21 bill will--will be very difficult for the--our
22 industry. We are considered a minority. We serve
23 the community that that we are. We also employ
24 people from our community. We also provide in our
25 community--I belong to the National Supermarket

2 Association that also provides service in the
3 community that we have the supermarket. We give out
4 scholarships. My colleagues didn't mention. I think
5 we are already up to \$2 million given out to the
6 community. The way we do it, for every member is
7 given five--a scholarship to the delivery of the
8 store with the--with the neighborhood to give out for
9 the student in that neighborhood. That's providing
10 that we work with the community. We employ the
11 people from our community. We are the type of owner
12 that works seven days that in the morning we know
13 almost every customer that comes to our store. We
14 say hello with the name. Um, we're not a big chain
15 store, um, Pathmark or A&P where you go to the store
16 and you will not know anybody when you are there or
17 any item in the store or any job or anything. We
18 work day by day. I own seven supermarket myself.
19 Okay but I work seven days. Okay, my children work
20 six days because they go to school, okay, and my job
21 is to make sure that we give the right service to the
22 community. My employees they are my family, okay.
23 They are to me like family. I don't consider myself
24 the boss or the owner of the store. All I tell my
25 workers I make a little bit more than you, but we all

2 work for a living. So it's a misinterpretation here
3 that because you have five or six stores you're
4 considered a--a--a chain store. That's not the way
5 it is. Also, your panel there was also some question
6 about Key Food. My store they're all Key Food. Key
7 Food he didn't explain that Key Food is a card up.
8 Key Food is a card, but it's owned by independent
9 owner. Whatever a Key Food owner do, Key Food is not
10 responsible for hiring any worker in the store. They
11 only supply us with a measuring guide. Any--whatever
12 I do in my store, of course, they're looking, of
13 course, to make sure that we provide the customer the
14 right service. But they are not responsible for
15 hiring or firing anybody. We are the ones who
16 interview the people, hire the people and then
17 determine if they--they're doing the right job or
18 not. Key Food has nothing to do with the running of
19 the store. So we are--we are considered a
20 neighborhood store, independent owners. By passing
21 this bill it would really, really--there is no
22 opportunity for the new company. There's no way that
23 a new company buying a supermarket and then you have
24 to keep the workers for 90 days. Before the 90 days
25 is over, you will be out of business. Don't forget

2 that we buy the store, and we--we borrow money that
3 we have to pay in 30 days after we buy it. It's not
4 easy for us to maintain. It's not that we want to
5 fire the people who are working at the present time.
6 But you have to understand an example of this bill
7 right now is why A&P, Pathmark and Walbaums is going
8 out of business because it's--they are not ready to
9 start probably because the high salaries. Because
10 they've been now for many years, and the salary may
11 be too high and the rent, and they won't be able to
12 be in business. In our case, we work seven days.
13 But you--but you have to understand that we--we--we
14 not take the food away from anybody from any family.
15 If they can do the job, and we feel that we can pay
16 the--the, um, salary, we will keep the workers in
17 good faith. So it's not that we're going to come and
18 buy the store and we're going to clean up the whole
19 house just because we want to bring new people. It
20 doesn't work that way. We are family people. We're
21 coming from not--from not--from--from the borough,
22 and we know how it is to struggle in New York. Thank
23 you very much.

24 CHAIRPERSON MILLER: Thank--thank you
25 much. Okay.

2 JENNY JORGE: Can I just very quickly say
3 something about a question I was asked earlier? You
4 asked about, um, the turnaround--the turnaround rate
5 when it comes to an employee, right? For us, it
6 would be the most beneficial thing to be able to keep
7 those productive employees because then we don't have
8 to retrain other people. Okay. So for us it does
9 cost us money to train employees to prepare them to
10 be able to handle food and to do everything at the
11 store level, right. So for us if the employee is a
12 great employee, we're going to want to keep them
13 because it makes business sense. It's going to make
14 our change, our--our buying of the store so much more
15 effective as long as they are actually being
16 profitable, being productive to the store. So that's
17 something they have to keep in mind as well. We
18 would prefer to keep employees that are already
19 trained and productive.

20 RUBEN LUNA: And also to close out this
21 council, um, remember every associate supermarket is
22 not owned by the same person. People have that
23 misconception. Like I--I'll give you an example. I
24 have a compare. A table for me is another compare.
25 So a lady come and say what do you have in the store?

2 Compare that one with the individual that individual-
3 -so if one guy did something wrong for Key Food that
4 doesn't mean that other Key Food is bad. But we have
5 different owners.

6 CHAIRPERSON MILLER: So I just want to
7 say--

8 RUBEN LUNA: [interposing] Key is a co-
9 op and the co-op model is just a ways to get more
10 money because we have all this competition to really
11 bring more money to keep the store open.

12 CHAIRPERSON MILLER: We--we--we do
13 understand that. And, um, so in the case that you're
14 actually taken over an existing market, there's a
15 transition. Do you go in, and has there been times
16 when salaries have been reduced?

17 RUBEN LUNA: Reduced?

18 CHAIRPERSON MILLER: Yeah.

19 RUBEN LUNA: Usually, um, we don't work
20 that way. Um, we would, um, to--to go to a contract
21 for the store, it would take a while. So we would
22 take what is your salary. We check the salary that
23 he's--we see--first we see what is the problem with
24 that owner. Usually when the owner sells the store

2 it is because he's losing money. If you're making
3 money in a supermarket, you will not sell it.

4 CHAIRPERSON MILLER: Okay, I'm sorry. In
5 the interest of time, has there been occasions when
6 salaries were reduced?

7 RUBEN LUNA: Not in my case. Um, no.
8 Not in my case 'cause you're going to have unhappy--
9 an unhappy employee.

10 PEDRO GOYCO: [interposing] In my case--

11 RUBEN LUNA: And we don't--I don't think
12 no.

13 PEDRO GOYCO: In my last--in my last
14 store that I purchased, Mr. Councilman, 99% of my
15 force was kept, and actually I increased salary on
16 maybe 70% of them.

17 CHAIRPERSON MILLER: Okay, and--and just
18 in general, where are your stores located?

19 PEDRO GOYCO: In Brooklyn. Well, in the
20 five boroughs. My stores are in Brooklyn and in the
21 Bronx.

22 JENNY JORGE: [off mic] We're in Long
23 Island.

24 RUBEN LUNA: My stores at Queens and
25 Manhattan.

2 CHAIRPERSON MILLER: Would you provide,
3 um, some background on your employees and locations?

4 JENNY JORGE: You want like at--?

5 CHAIRPERSON MILLER: Who they are, and
6 where they live. And we don't want to know
7 specifically, and that's how many people come from
8 the zip code that they--where the stores are?

9 PEDRO GOYCO: I--I would say all--all my
10 cashiers, um, maybe 70% are across the street, from
11 the project across the street, right? And I'd say
12 70% of the other guys maybe--I mean in our industry
13 it is independent. It's very hard for me to hire
14 somebody who lives five hours away. It doesn't make
15 sense. You know, I can't use them. I continue to
16 hire them, but I think when they walk in--you know,
17 there we are like traveling five hours, you know,
18 sometimes it's kind of hard. We start at 6:30, 7:30
19 in the morning. But I would say maybe 80% or 90% of
20 my force is from my neighborhood.

21 CHAIRPERSON MILLER: So

22 PEDRO GOYCO: And like I say it's all
23 from across the street.

24 CHAIRPERSON MILLER: Yeah, so--so do
25 those cashiers do they--do they have an opportunity

2 to advance to become deli persons and butchers and so
3 forth?

4 PEDRO GOYCO: Of course. Our goal is,
5 for example, the office, right. Our goal is for a
6 cashier to become officer manager. Normally, when
7 you hire you want somebody who already knows the
8 dynamics of the store. So, of course, what business
9 owner that's smart doesn't want people to grow within
10 their business? I mean that's just smart business.
11 So whoever doesn't do that shouldn't deserve to have
12 a business.

13 CHAIRPERSON MILLER: Okay.

14 JENNY JORGE: In my case, um, we're
15 actually looking into, um, a new store. And one of
16 the main things that we've been telling our employees
17 if you feel that you're prepared to take on a bigger
18 role, let us know what you would like to do within
19 the new store in case it comes through. Because what
20 we would like to do is promote from within. I don't
21 want to bring someone from the outside to take on key
22 roles when I can promote my employees that have
23 dedicated their time and effort to my--my business
24 that's growing.

2 CHAIRPERSON MILLER: Okay. Thank you.

3 All right, so it looks like Luna has something to say
4 to add there.

5 RUBEN LUNA: Yes, well, of course.

6 CHAIRPERSON MILLER: We want--we want to
7 end there so--

8 RUBEN LUNA: Well, as a youth I came here
9 in 1978 at the age of 14. I was--I was only home two
10 days. I remember those days I got--No, I was wrong.
11 My--my--my sister called. I have not--very poor.
12 (sic) And two days later, I went to pack bags in a
13 supermarket, and, um, seven years later I was
14 already--I saved a little money--I was a partner with
15 the owner. And I also go to school. Um, and, you
16 know, I remember those days, and my policy in my
17 company is that when I hire anybody, I say listen
18 you--the sky is the limit for. You--I don't want to
19 treat you like new workers. You are being treated
20 here, the day you start working with us, as a family,
21 as you've been here like 100 years. The sky is the
22 limit. Um, you'll be hired as a cashier, um, don't
23 limit yourself. Learn anything you want. You got a
24 green light. Um, and that's my philosophy. My
25 supervisors I said never take the floor away from any

2 of my workers. Never because I got children. I want
3 to treat the people the way I want other people to
4 treat my children. That's our--my philosophy in my
5 company. So, you know, I'm there--I'm there by day
6 working within, um, going out with them as a family
7 then or anything, and I feel very happy. I'm very
8 happy to be that way, and treat my workers as a
9 family. They are my family.

10 CHAIRPERSON MILLER: Okay. Thank you
11 very much to everybody who came out and spend your
12 time. Thank you.

13 JENNY JORGE: Thank you.

14 [pause, background comments]

15 CHAIRPERSON MILLER: So, that is--that's
16 going to conclude. There was some folks who--who
17 were--was scheduled to speak, but did not speak.
18 They could enter their testimony and to give it to
19 the sergeant-at-arms, and it will be entered into the
20 record. I thank everybody for coming out here today,
21 and on these two important pieces of legislation.
22 Certainly we're able to advance the cause of working
23 families, um, by extending the benefits of the
24 Sanitation officer who was killed in the line of
25 duty, and his family is secure in knowing that they

2 will henceforth have healthcare because of that. Um,
3 to the food service workers, um, we are certainly
4 interested in ensuring that they have every
5 opportunity to have employment be retained and we
6 are--the reason why we have hearings is so that we
7 have an opportunity to engage all sides. But make no
8 mistake that here in the Committee on Civil Service
9 and Labor we want to ensure that worker's rights are
10 respected, and maintained wherever possible. And so,
11 we try to, um, I--as the chair of this committee try
12 to limit it to the merits of this specific issue here
13 and not go beyond those boundaries. I think that
14 there is a lot of useful information as we move
15 forward. And as was said earlier, this will be voted
16 on some time in the near future. We don't have a
17 date as of yet, but it will go before the full
18 Council. So I thank everyone for coming out. Have
19 a great day, and the hearing is adjourned?

20 [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 October 2, 2015