

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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November 23, 2015
Start: 1:29 p.m.
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HELD AT: 250 Broadway - Committee Rm,
16th Fl.

B E F O R E:

I. DANEEK MILLER
Chairperson

COUNCIL MEMBERS:

Elizabeth S. Crowley
Daniel Dromm
Costa G. Constantinides
Robert E. Cornegy, Jr.
Ydanis A. Rodriguez
Helen K. Rosenthal
Mark Levine

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

Hector Figueroa
President
SEIU Local 32BJ

Bill Granfield
President
Unite Here Local 100

Anthony Thomas
Political and Legislative Director
NYC Central Labor Council

Andrew Strom
Associate General Counsel
SEIU Local 32BJ

Jared Odessky
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New York State Senator Brad Hoylman

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National Employment Law Project

Ahmed Tigani
Community Development Officer,
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Manhattan Borough President's Office

Ariel DeJesus
Member and Political Organizer
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A P P E A R A N C E S (CONTINUED)

Marie Le Bon
Member
SEIU Local 32BJ

Marcia Gordon
Member
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Christine Edwards
Member
Unite Here Local 100

Ali Najmi
Political Director
Alliance of South Asian American Labor

Maria Martinez
Member
Unite Here Local 100

Jose Maldonado
Translating for Maria Martinez
Representing
Peter Ward, President, Local 6,
Hotel & Motel Trades Council

2 [gavel]

3 CHAIRPERSON MILLER: Good afternoon
4 everyone; [background comment] thanks for coming out.
5 We're just trying to work through some logistics,
6 obviously; these are two very important pieces of
7 legislation that we have before us here and we wanna
8 make sure that we get it right and give everyone an
9 opportunity for their voice to be heard.

10 So I'm Council Member I. Daneek Miller;
11 I'm the Chair of the Committee on Civil Service and
12 Labor. Today we will be hearing two related worker
13 retention laws. Both of these bills are
14 preconsidered so they have no introduction number and
15 they will be introduced at tomorrow's Stated Meeting
16 for the full Council.

17 In September, the Committee held a
18 hearing of proposed Intro. 0632-A, which was
19 originally proposed after 9/11; that bill, which we
20 are still working on and do expect to pass soon, will
21 require grocery worker retention for large stores
22 [sic] which were sold, as in A&P.

23 I mention that because the Council passed
24 similar law in 2002 called the Displaced Building
25 Workers Protection Act, which is Local Law 39 in

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2 2002. This law requires a new owner must retain the
3 building service workers for 90 days after its
4 purchase and property; it must then evaluate them and
5 offer continued employment to those who they deem
6 satisfactory. While the Committee has not regularly
7 held hearings on this law over the past 13 years, our
8 friends at SEIU 32BJ have informed us that this
9 legislation has been a success.

10 I note that the National Labor Relations
11 Board in August found that new owners of several
12 properties were in violation of this law. After 13
13 years, this law is in need of some tweaking. The
14 first preconsidered bill we are hearing, among
15 others, extends the protections in this Displaced
16 Service Workers Protection Act to employees of large
17 tenants. A couple of additional titles are covered;
18 it will cover insource and outsourcing, as well as
19 lift the cap from \$25.00 per hour above which under
20 the current law employees are not covered. And the
21 second preconsidered bill will extend that law to
22 food service workers at large venues. I note that
23 the legislation is not intended for restaurants.

24 So with that I'd like to thank all of you
25 for coming out. I'd like to thank the members of the

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2 committee that are here, and before I call upon those
3 have introduced this legislation, I'd like to thank
4 staff for putting this together; obviously, Counsel
5 Matt Carlin has worked really hard on this; Garfor
6 Zoloff [sp?], the Policy Analyst; of course, Mr. Ali
7 Rasoulinejad, my Legislative Chair and Paul Stern
8 have worked really hard. I'd like to thank Council
9 Member Crowley... [background comments] Rodriguez,
10 Levine and Cornegy for being here.

11 With that being said, I would like to
12 turn it over now to Council Member Cornegy, one of
13 the sponsors of the legislation.

14 COUNCIL MEMBER CORNEGY: Good afternoon.
15 Thank you, Chair Miller.

16 I'm pleased to speak today as a sponsor
17 of Preconsidered Intro., known as the Building
18 Service Workers Protection Act. This bill aims to
19 update and improve legislation initially passed by
20 the City Council in 2002 of a type successfully
21 enacted in other cities as early as 1994. So this is
22 a time tested and effective policy intervention to
23 give workers an opportunity to retain their jobs and
24 continue supporting their families at a time that
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2 ownership or other business changes outside their
3 control might jeopardize that.

4 As council members, we know that many New
5 Yorkers live paycheck to paycheck; our homeless
6 system is overburdened by families whose economic
7 circumstances have changed too quickly for a safety
8 net to catch them. I believe this bill is one which
9 means to assist some New York families in maintaining
10 their economic equilibrium by having a fighting
11 chance at retaining the employment that pays the
12 bills.

13 One significant change this bill makes is
14 to eliminate the carve-out for city-leased buildings;
15 it is important the City holds itself to the
16 standards we demand from the private sector. This is
17 a wonderful opportunity for the City to demonstrate
18 leadership.

19 In addition, this update reflects the
20 current state of building service worker wages and
21 changes in the business environment, such as
22 insourcing, outsourcing and problems created by
23 transitions between major commercial leases.

24 In all, I believe these are important and
25 sound updates to a proven intervention that has great

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practical value to many of New York City's workers.
I encourage my colleagues to vote in favor of this
bill. Thank you.

CHAIRPERSON MILLER: Thank you Council
Member Cornegy for your leadership on this. We'll
now hear from Council Member Rodriguez.

COUNCIL MEMBER RODRIGUEZ: Thank you
Chairman.

First of all I would like to apologize
for not being able to stay for the whole hearing and
probably not being able to hear the testimony of the
great panel, great leader that we have in the labor,
but I'm gonna be joining the Mayor in a press
conference that he will have later on [inaudible].

Thank you Chair Miller and thank you for
your steadfast and forward-thinking leadership in
this committee. Worker retention protects the
interest of the employee as well as the consumer
while minimizing impact in the motivations and right
of an employer. According to the Partnership for
Working America, worker retention policies protect
the welfare of working families; they provide a
stable and knowledgeable workforce for contractors or

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business owners and do maintain the provisional reliable services to [inaudible].

The 2002 Displaced Building Service Worker Protection Act established that when a building owner takes over a new property they must notify employees of the change of ownership within 15 days of the [inaudible] date of the contract. After the 15-day notice period when ownership takes effect, the new owner is prevented from terminating employees protected by the law for the first 90 days of ownership. Currently the law protects custodians [sic]. This period of time allows the individuals to prove themselves to the new employer and prevents a new owner from cleaning house for the sake of cleaning house. This work-friendly protection caught on like wildfire after [inaudible] sparking legislation in over a dozen cities, including Philadelphia, Providence, Rhode Island, Los Angeles, California, San Francisco, Oakland, Long Beach, Berkeley, San Jose, Santa Cruz, San Leandro, California, Gardena, Emeryville, California, New Haven, Connecticut, by the Counties of Los Angeles, Santa Cruz, California and Westchester [sic], New York. The bill we are discussing today expands on

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2 this momentous and game-changing piece of legislation
3 by broadening the definition of building service
4 workers to include food service workers within
5 establishments larger than 10,000 square feet. A
6 sample includes large stadiums and companies with
7 private cafeterias. According to the estimate by the
8 union Unite Here, this would impact more than 4,000
9 workers in New York City and allow them to a steady
10 income or time to find new sources of income as
11 ownership change leaves their future **[inaudible]**.

12 When a new owner comes into the business,
13 every worker becomes nervous about their future.
14 What we are doing with this legislation is making
15 sure that workers have piece of mind and know that
16 they have a period of time where they can prove
17 themselves to a new employer or search for a new job
18 and ensure a stable financial future for themselves
19 and their family. The Displaced Building Service
20 Workers Protection Act became a national model of
21 progressives [sic], workers' right legislation that
22 municipalities across the country began to implement.
23 With this legislation we improved an already
24 incredible impactful law by expanding protections to
25 individuals who need it, our food service workers.

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Thank you again, Chairman for holding his hearing and I look forward to engaging with the unions and advocates here to testify not only on behalf of this bill but also all the legislation also supported by 32BJ. Thank you.

CHAIRPERSON MILLER: Thank you, Council Member Rodriguez. And now we have an opportunity to discuss the important merits of these important preconsidered introductions. Our first panel, I'd like to call up now from 32BJ, Hector Figueroa and from Unite Here, Bill Granfield and from the New York City Central Labor Council, Mr. Anthony Thomas.

[background comments]

HECTOR FIGUEROA: Alright. Okay, well good afternoon. I want to certainly thank Chairperson Miller and the members of the Committee on Civil Service and Labor for this opportunity and but especially for Council Member Cornegy for supporting our bill and being a sponsor.

Before I start reading my testimony -- and you're gonna get a copy of our testimony -- I also want to recognize that it was in 2002 when as part of [sic] 32BJ I came to testify on behalf of our members for the passage of what is now the Displaced

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2 Workers Law, so it is a great pleasure for me to be
3 here to talk about the merits for amending it and
4 extending it.

5 So again, for the record, I am Hector
6 Figueroa, President of 32BJ. My union represents
7 over 145,000 men and women who provide property
8 services in 11 states and Washington, D.C. along the
9 east coast. Our union has over 80 years of history
10 in New York City; over the decades we have united
11 office cleaners, apartment building workers, security
12 officers, window cleaners, theater and stadium
13 cleaners, public school workers and more recently,
14 airport service workers from all over the city,
15 building a strong membership that now exceeds 75,000
16 members in the city alone. We have successfully
17 organized and raised standards in traditionally low-
18 wage service sectors, ensuring that hardworking women
19 and men have a chance at a stable middle class life
20 here in New York City.

21 I am here today to speak in support of
22 adoption of technical amendments to Section 22-505 of
23 the New York City Administrative Code, displaced
24 building service workers. These proposed amendments
25 we believe are necessary to close loopholes and

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2 ensure that building service workers continue to
3 benefit from the protections of that important law.

4 In particular, the proposed amendments
5 would clarify that security officers and fire safety
6 directors are covered, extend coverage to commercial
7 lessees with more than 10,000 square feet of space --
8 so these are fairly large leasing entities -- cover
9 insourcing and outsourcing of work, strengthen and
10 clarify remedies, eliminate a carve-out for buildings
11 where the City leases more than 50% of the space and
12 lift an outdated salary cap that would threaten to
13 exclude many workers from coverage in the near
14 future.

15 Worker retention of buildings and its
16 workers is in the public interest; workers who are
17 already familiar with emergency and security
18 protocols, as well as a physical layout of the
19 commercial office buildings they protect and maintain
20 should have an opportunity to temporarily remain on
21 the job during employer transition, their knowledge
22 is essential to keep tenants, property and the public
23 safe. During these uncertain and challenging times
24 we don't need to remind ourselves of the difficult
25 moments we live; it is wise to provide a measure of

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2 job stability to the very people we depend on every
3 day for our security. Since the Displaced Building
4 Service Workers Protection Law was adopted in 2002,
5 it has become an important component of the building
6 service contracting landscape. Contractor turnover
7 happens quite frequently in our competitive industry;
8 due to slim financial margins it does not make sense
9 for contractors to maintain a standing workforce
10 between contracts; rather, their norm in the industry
11 is to hire employees after taking over the service
12 contract; it has been good for tenants for workers to
13 have protections in place that ensure retention of a
14 stable and experienced workforce, the law has helped
15 protect against an erosion of the industry best
16 practice to retain incumbent staff by those whose
17 seek short-term profits by terminating all of the
18 experienced workers and hiring a set of entirely new
19 workers that it hires at lower wages. Importantly,
20 the law has provided a measure of economic stability
21 for building service workers, many of which are
22 members of 32BJ; many of them are actually here today
23 also to witness this hearing.

24 Our members live mainly in low- and
25 moderate-income neighborhoods and are largely people

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2 of color and/or recent immigrants. While workers
3 covered by collective bargaining agreement earn fair
4 wages and benefits, they do not make enough to be
5 insulated from the devastated impacts of abrupt job
6 loss. The opportunity to retain a job when there is
7 a change in management protects workers from slipping
8 into the ranks of the unemployed, being forced to
9 accept less stable or lower paying work to make ends
10 meet and from needing to turn to public assistance to
11 support their families.

12 To summarize, the technical improvements
13 that are being considered will ensure that the
14 original goals of the displaced Building Service
15 Workers Protection Law are fully met. To remind
16 ourselves, again, we are asking for specifically add
17 security officers and fire safety directors to the
18 law, extend obligation [sic] to commercial tenants
19 that meet certain requirements, cover insourcing and
20 initial outsourcing of work, as building owners may
21 choose to outsource the work to contractors or bring
22 that work back in-house; we want the law to be able
23 to cover those situations, eliminate a carve-out for
24 city-leased buildings; we think the City should live
25 to the same standard that is applicable to commercial

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2 and other buildings and it would be in situations
3 where again, 50% of the space is being leased, so
4 it's not gonna be every situation, but the most
5 relevant ones. We also want to strengthen and
6 clarify remedies so there is really a way to make
7 sure that the law is being followed. And then last,
8 we certainly want to eliminate a salary cap; we are
9 currently undergoing negotiations for a new
10 commercial contract agreement that quite probably
11 [sic] will result in wages for the 23,000 workers
12 that we represent in the commercial sector that will
13 exceed the cap, so the cap removal is absolutely
14 necessary for the law to continue to do its job of
15 protecting workers.

16 Once again I want to thank all of you for
17 this opportunity; I also want to express full support
18 for our brothers and sisters in the food service
19 sector; we support and stand with them in extending
20 the benefits of this law to food service workers. We
21 also want to thank our members in 32BJ, many of whom
22 work late at night or over the weekend, they're
23 coming sometimes on the lunch hour to be able to, you
24 know, either present testimony or to be before this
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2 council committee; this is how important this law is
3 to them. Thank you.

4 CHAIRPERSON MILLER: Thank you.

5 BILL GRANFIELD: 'Kay. I have copies of
6 this testimony, if you have some to distribute that.
7 [background comment] Great. [background comment]
8 Thanks.

9 BILL GRANFIELD: Chairman Miller, members
10 of the Committee on Civil Service and Labor, thanks
11 for giving us the opportunity to discuss our part of
12 this bill. My name is Bill Granfield; I'm the
13 President of Unite Here Local 100 and we're the Food
14 Service Workers Union. And just to clarify, people
15 think of our Local 100, a lot of times they think
16 about the subway drivers, understandable, but we're
17 the Food Service Local 100; we have about 12,000
18 members in New York and northern New Jersey that work
19 in cafeterias, restaurants, stadiums and arenas;
20 college campuses in the food business and most of
21 those members work for not the stadium or the
22 building, but for food service contractors, separate
23 companies and when those contracts go out to bid and
24 change hands, the workers' jobs are put at risk. So
25 very similar to the situation being described here by

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2 brother Hector and our position is that if these
3 entities wanna bring in a new food service company
4 they're welcome to do it, you could change the menu,
5 change the pricing, change the décor, change the
6 managers; right, but the hardworking food service
7 people; right, should have a chance to prove
8 themselves to the new employer to show that they can
9 do the job; that's our position. Now we've applied
10 that standard here in New York for about 20 years;
11 some employers, the good players, have done that and
12 they've given an opportunity to the new people;
13 however, we've seen a steady trickle of employers
14 coming in at the bottom now and firing the existing
15 workforce as soon as they get the bid and starting
16 with new workers. We have Local 100 members who are
17 here today, or maybe they're not quite here yet, but
18 they might be in the lobby, who experienced that, who
19 lost their jobs after 5, 10, 20 years in a building
20 when the company changed hands, so they're ready to
21 testify about that today.

22 The protections that exist in the 2000
23 and... I put 3... 2002, that's what we originally
24 figured? [background comments] Okay, the 2002 bill
25 for the building service workers would provide the

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kind of job security we're asking for here and it would establish not only for like security for our people, but it would provide a level playing field for the companies that do play fair, 'cause there are some companies that play straight here, but it's not a level playing field right now 'cause other companies coming in fire people.

In addition, adding this sort of protection to food and beverage workers will be another step by New York City to end income inequality and to preserve decent jobs for the workers of this city.

So a detail I wanna mention in the most recent version I've seen of this bill is to amend the draft to say food and beverage workers, food and beverage; that's in the definitions there on Page 3, Section 6; it says the definition of food service and food service workers, we would like to add and beverage; that's because there's a lot of, you know now fancy coffee operations where they have baristas; right, and maybe they never touch food; right, and there's the occasional, you know bartender up in the executive dining rooms, we cover the executive dining

2 rooms, so we'd just like to clarify that it's food
3 and beverage.

4 And I also want to reciprocate in kind;
5 although our bill is based on the original 2002
6 Building Service 32BJ, we recognize and support the
7 goals of the changes that are being proposed here by
8 32BJ in that underlying bill. Thank you.

9 CHAIRPERSON MILLER: Thank you.

10 ANTHONY THOMAS: Chairman; members, my
11 name's Anthony Thomas; I'm the Political and
12 Legislative Director. Representing 1.3 million
13 members over approximately 300 affiliated unions, we
14 generally advocate lifting the floor for all workers...
15 [interpose]

16 CHAIRPERSON MILLER: Excuse me
17 Mr. Thomas; did you have written testimony for...

18 ANTHONY THOMAS: I did; I have copies as
19 well here for circulation.

20 CHAIRPERSON MILLER: Thank you.

21 ANTHONY THOMAS: The amendments proposed...
22 yeah, right here... will protect more workers with
23 careers in the service industry, specifically
24 covering a more extensive list of titles in the law's
25 purview, updating the sentinel law over tenants and

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2 owners clarifies ambiguous questions surrounding
3 oversight and the enforcement of law. Proposed
4 amendments of the legislation takes steps to better
5 protect workers on-site, expanding job coverage
6 titles clarifies covered under the law and including
7 titles like fire safety director, security officer
8 are seamless commonsense additions to the already
9 existing titles such as doorman, building cleaner and
10 stationary fireman. The legislation will also
11 eliminate the salary cap, as these laws do not apply
12 to managerial or supervisory positions and the \$25.00
13 per hour cap has not been raised since 2002, the
14 law's birth.

15 The legislation also creates additional
16 workplace protections we find necessary. This
17 legislation protects workers from the business
18 decisions of an owner or an employer and the building
19 tenants themselves. The amendments seek to cover the
20 insourcing of work when replacing a contractor,
21 offering the work first and foremost to those already
22 working. Further, the legislation protects workers
23 from losing their jobs when a building is sold, which
24 is a pertinent addition.

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2 The amendments in this legislation also
3 protect building workers from the arbitrary decisions
4 of an individual tenant. Tenants of large buildings,
5 those with 10,000 square feet or more, will no longer
6 be able to subcontract directly for office cleaning
7 services, in particular; under this law tenants will
8 be required to work directly with a landlord for the
9 cleaning; this helps maintain the standard for well-
10 paying jobs in New York City.

11 Additionally, we believe there's a need
12 for legal clarity; in the original version of the
13 Displaced Building Service Workers Act many employers
14 have still refused to retain incumbent workers and
15 essentially treat the damage as a cost of doing
16 business here with the City. The amendments make
17 clear courts can reorder and reinstate up to or more
18 than 90 days of back pay if an individual remains out
19 of work; the amendments follow the Federal Fair Labor
20 Standards Act and provide for doubling of back pay of
21 liquidated damages to compensate workers for these
22 indirect harms.

23 The underlying principle of this
24 amendment is that owner and management disputes
25 should not cause a worker to lose their livelihood.

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This is an important piece of legislation that will protect workers on the job; we urge the City Council to protect well-paying jobs and pass the amended version of this act. Thank you for your time and consideration and welcome questions, naturally.

CHAIRPERSON MILLER: Thank you and thank you certainly to all the members of the panel. We've been joined by Council Member Rosenthal.

So President Figueroa, just kinda being that you are the brain trust behind this important legislation here; we have seen many emulate and certainly we recognize the importance of worker retention around the city and how do we protect well-paying jobs in the city as work leaves and enter and leaves the city all the time; this has been a great too for the Council and other local unions, as we see. But how have you... could you talk to the effectiveness of this legislation over the past 13 years and specifically the number of members that this has actually impacted?

HECTOR FIGUEROA: Yeah. So the legislation has been clearly effective. Under the 32BJ contract worker retention is part of what contractors who are signatory to the agreement adhere

1 to, so when there is a shift of an employer and a new
2 employer comes in or an owner and their signatory,
3 the workers are retained. However, there is always
4 that margin of **[inaudible]** of our industry that
5 constantly can erode our standards, who if the law
6 would not exist could result in the loss of jobs for
7 32BJ members and other workers who are retained
8 accordingly under the law. So for us we have seen
9 this year after year, occasional situations where
10 thanks to the law workers had an opportunity to stay
11 on the job, prove themselves and in most of those
12 situations, almost all of them, the workers are able
13 then to continue at the site, at the building
14 providing the service that they have provided before.
15 The law doesn't guarantee that in those 90 days the
16 same level of compensation. So just to be clear to
17 members of the committee, but it gives an opportunity
18 for the workers to establish a relationship with a
19 new employer, with a new entity and all too often in
20 our industry new employers who come in, they don't
21 have a bench of workers waiting to be hired, it's too
22 costly; too cumbersome to do that, so if they were
23 not to have these legal obligations, what would
24 happen is, they will take in account and they will
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2 bring folks from the street unfamiliar with the
3 facility; unfamiliar with the conditions in the
4 building. We live in a world that has changed
5 dramatically since September 11; we were reminded of
6 that recently with the horrific acts in Paris; I
7 think it's in the interest of the public and
8 **[inaudible]** in 2002 when the law passed, that workers
9 who have the understanding of the protocols for
10 safety and maintenance remain in the building or at
11 least be given an opportunity to do so. The other
12 advantage is workers can adjust their life, can you
13 know, be prepared for **[inaudible]** and they don't find
14 themselves on the street overnight; all too often
15 these changes in employer or contractor can happen
16 very quickly, you know **[inaudible]** 30-day notice is
17 enough to change an entire contractor and the
18 workforce, so this gives a little bit of stability so
19 workers... we have experienced situations where workers
20 have gone to work, a new entity is in and they're
21 told you no long work here and if it wasn't for the
22 law, those workers would not be able to stay at least
23 enough days to normalize the situation.

24 CHAIRPERSON MILLER: Yeah and I could see
25 where, considering that a good majority of the

2 membership and those employees come from like,
3 similar or the same communities... [crosstalk]

4 HECTOR FIGUEROA: Yeah.

5 CHAIRPERSON MILLER: and it would have a
6 great impact on a community if, for instance, 50, 25
7 or 100 folks from the same community became
8 unemployed at the same time, so obviously that has a...

9 So just as a matter of to kinda drill
10 down on the details of the legislation and its
11 impact, so an employee... and a new employer that comes
12 in and takes over the business and comes in with
13 their new business plan, they are not bound by the
14 wage package of the previous employer?

15 HECTOR FIGUEROA: Yeah, they are not
16 bound by the wage package and we have Andy Strom, who
17 can go over the technicalities of the law, from our
18 legal team...

19 CHAIRPERSON MILLER: Uh-huh.

20 HECTOR FIGUEROA: they're not bound by
21 the package; the 90 days... you know, when they take
22 the account they may come with a different
23 compensation package; the 90 days are an opportunity
24 for the workers to remain in the building and give an
25 opportunity to the union to make the case with a new

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2 entity if they are not signatory, which you know is
3 the case where it applies to work things out and to
4 be able to get the level of compensation that's
5 necessary and for the workers to prove themselves.
6 What we find is that it's a combination sometimes of
7 trying to save money at the expense of workers, but
8 sometimes it's also about companies that may not be
9 familiar from the metro area who come in and they
10 don't experience, you know, New York in the same way
11 that we do and they think that they can operate in a
12 different way... [interpose]

13 CHAIRPERSON MILLER: Right.

14 HECTOR FIGUEROA: So it works both ways,
15 sometimes the package is capped [sic] or the workers
16 are let go because they feel they need to bring their
17 own crew; this provides stability on both ends.

18 CHAIRPERSON MILLER: Yeah, I agree, I
19 think that throughout the country we've found that
20 often employers don't value workers in the way that
21 we do here in New York City; we see that in
22 industries throughout the states [sic]. So in terms
23 of making this provision more applicable to more
24 members that you represent, there's one portion in
25 there that speaks specifically to titles; were they

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2 left out, the first one, the fireman or doorman, they
3 were left out when the legislation was drafted the
4 first time?

5 HECTOR FIGUEROA: Yeah.

6 CHAIRPERSON MILLER: And then I think the
7 cap piece is self-explanatory, that we've kinda
8 outgrown that in terms of wages. Could you speak to
9 the portion that the city agencies are occupying more
10 than 50% of the building, and specifically, would
11 that apply to the building that we are in today?

12 [laughter]

13 HECTOR FIGUEROA: Well I don't know how
14 much, but I imagine more than half of the building
15 here that's leased by the City would apply to this
16 building. That provision -- when the law was passed
17 in 2002, the experience under the law was in cities
18 like Philadelphia, cities like Los Angeles, and at
19 that time city hall was not as familiar with this
20 kind of government-regulated circumstances to
21 preserve good jobs. So the City felt that for the
22 private sector, where collective bargaining agreement
23 prevails; you have to remember, 90% of commercial
24 cleaners in New York City in Class A-B buildings, are
25 represented by 32BJ, building owners; contractors

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2 have collective bargaining agreements that have the
3 same obligations, so this was intended to correct the
4 10% and then in buildings that are not Class B or A
5 the rest of the market, but at the time the
6 administration was apprehensive about it. We don't
7 think that that situation is necessary anymore; we
8 have been living with this law for 13 years; 24 years
9 in the first place that it started in the country it
10 has not resulted in any, you know circumstances that
11 increase cost or result in consequences that affect
12 the public. We think the City should live by the
13 same standard as the private buildings and actually
14 set the example of how important it is to retain
15 workers... [crosstalk]

16 CHAIRPERSON MILLER: Yeah.

17 HECTOR FIGUEROA: you know, and city
18 buildings are more sensitive, so even more so.

19 CHAIRPERSON MILLER: Yeah, I absolutely
20 agree, I think that we should set the standards and
21 lead by example there as well.

22 Councilman Levine has a question; I'm
23 gonna let him jump in here real quick and..

24 COUNCIL MEMBER LEVINE: Thank you
25 Mr. Chair, and I apologize, I have to leave in a

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moment, but I wanted to very quickly follow up on one point and thanks to all three of you for your excellent testimony; I'm very happy to be a co-sponsor of both these bills; if I'm not, I will be as soon as they're introduced. [crosstalk, background comment]

I believe that not only is it bad for workers if they're thrown out of work with no warning; it's actually bad for the City, because those workers could end up relying on public benefits, social services paid by the City; that affects all of us, so there's an interest not just for workers, but for the city as a whole, which is why I think it's appropriate that we legislate.

Mr. Figueroa, I wanna ask you about the salary cap issue. [background comment] Usually when we talk about rules applied to workers, we have... the rules apply to the frontline people and then for management and supervisors we exempt them; that's usually the way we divide it, [background comment] but curiously, in 2002 we drew the line based on a salary of \$25.00 an hour, well maybe that was because 13 years ago that seemed like a lot of money; in today's New York I'm not even sure if that qualifies

2 as middle class; I'm curious if you can tell us just
3 how many people fall into that gap between 25, but
4 are not quite supervisors; is that a large number of
5 people?

6 HECTOR FIGUEROA: You know I cannot
7 really tell you exactly how many, to be honest; I
8 mean I will have to rely either on our policy
9 department, who's been looking at this question,
10 research; I don't have any specific number. But when
11 the cap came about in 2002, the logic behind it for
12 the administration at the time was that property
13 service workers, building service workers were so far
14 below the cap they felt uncomfortable having the law
15 applied to anyone with a specific salary, so they --
16 to be honest, I think was an arbitrary number -- why
17 25 and not 30, why not 40; not 50, so that's the
18 number that came out at the time, as any bill is a
19 compromise and an effort to implement it. Again, I
20 think this is now obsolete; in New York City \$25.00
21 an hour is a kind of wage that will be reached very
22 soon by the commercial building service workers that
23 this bill intended to protect. You know, when it was
24 originally passed [inaudible] buildings may earn more
25 than that; other workers that are not even management

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and are cutting other functions; behind a desk or other functions in the building may earn more than that, so I think that it's really an arbitrary number, there's no economic reason why it should be 25; we think it's better to eliminate it and not have a cap; management, you know can be excluded or included in that; currently it's something we don't address [sic], but to have a number and then have to come back here to the Council 4 years, 10 years later and change it, and then which number do you pick and for what reason?

COUNCIL MEMBER LEVINE: Right. And

because in the current law you're exempting management, you're not putting in some sort of runaway, limitless liability on the owners because the people who are making the big bucks, people who are making six figures and above are almost always in management and supervisors, and you use the word arbitrary, which is appropriate because you could have the other service worker who maybe just happened to be on the job for 18 or 20 years and was lucky to now have passed the \$25.00 threshold and another colleague who'd only been working a shorter period

2 would be below and one would be protected and one to
3 be thrown out of a job.. [interpose]

4 HECTOR FIGUEROA: Exactly.

5 COUNCIL MEMBER LEVINE: and that would be
6 impossible to defend; it seems to me it's a strong
7 argument for just doing away with the price cap, as
8 you suggest...

9 HECTOR FIGUEROA: Thank you.

10 COUNCIL MEMBER LEVINE: so alright.

11 Thank you very much.

12 HECTOR FIGUEROA: Appreciate.

13 CHAIRPERSON MILLER: 'Kay. [background
14 comments] So for Unite Here, I have a few questions
15 as well.

16 Could you just speak a little bit about
17 the current environment of the industry that
18 necessitates the need for this legislation, what
19 you're seeing in the industry and speak to worker
20 retention in your industry specifically?

21 BILL GRANFIELD: Sure. I guess one of
22 the biggest examples a lot of people might be
23 familiar with is 55 Water Street, so that building
24 down there, which houses a lot of well-known
25 companies; for years and years and years we

1 represented the workers in there under a national
2 food service company called Aramark and negotiated
3 the contracts every 3 or 4 years and the
4 relationship... [sic] people had a decent job,
5 seniority, medical insurance for their family; a
6 pension. After Sandy hit, you might remember that
7 that building, being 55 Water Street, you know was
8 closed for like a year-and-a-half because of a huge
9 amount of damage in the lower levels there; when they
10 reopened, the building changed food service
11 contractors and did not rehire that group of workers
12 that had been there for all that time, and one of
13 those workers, Christine, one of our longtime shop
14 stewards there, is somewhere downstairs waiting to
15 give testimony to this committee about the impact on
16 her and her coworkers when that happened. So that's
17 one -- I mentioned that one 'cause it's a big group,
18 but everyone kind of knows about that particular
19 location. But more recently, we'll go up north,
20 Manhattan College, we had a long-term relationship
21 with the food service workers there; they brought in
22 a new company; instead of a national company, they
23 brought in a company from New Jersey, Gourmet Dining;
24 they threw out almost all the workers and we had a 6-

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2 month labor dispute up there, which we eventually won
3 and got those workers back to work after 6 months,
4 you know with this new employer that didn't know the
5 standards that we have here, right, so Manhattan
6 College. City Center, the fine arts venue, just
7 recently did that; that's a small group of workers,
8 but they got rid of a big established company that we
9 had a relationship, brought in a new group and they
10 fired those workers and one of those workers is also
11 downstairs prepared to testify.

12 So we've seen like a trickle, which we
13 hope is not turning into a flood of our workers being
14 thrown out on the street here, after years of kind of
15 holding the line pretty well, even though we weren't
16 covered by the original legislation, but we were able
17 to capture that concept and hold the line. But it
18 seems to be crumbling now, which is what brought us
19 to this committee.

20 CHAIRPERSON MILLER: So it's two parts
21 there; first, and this was a question I was gonna ask
22 President Figueroa as well, which would apply, but in
23 your case, in case of the larger venues and
24 employers, have you had some type of ex parte
25 conversation about not just this legislation, but

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about the past practice of retaining workers, retaining rates of pay and so forth and obviously you said that it had worked in the past without being a part of the legislation, but have you had conversation about those business owners perhaps putting this into their bids when they bid out contracts; would this provision work and have you had those type of conversations?

BILL GRANFIELD: Yes, with some of the established companies that we have union contracts with, we have that included in the contract that says if they win a bid from another company, you know, that's been union... [interpose]

CHAIRPERSON MILLER: Uhm-hm.

BILL GRANFIELD: then they will keep the union wages, medical and benefits, although the bill doesn't speak to the compensation levels, but keep the workers and keep their seniority. So we've achieved that in writing with one segment, which we call the "high road employers," right, we've achieved that in writing with some places, but not with all, and that's the challenge.

CHAIRPERSON MILLER: Okay. Talk about the typical retention and length of service for your

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2 membership; is that something that is seasonal
3 generally; could you speak about that?

4 BILL GRANFIELD: Yes. No, it is not at
5 all seasonal; we have, in the places where Local 100
6 represents the food service workers you'll see very
7 long lengths of service there and again, Christine,
8 what... Jose, what; 25 years that we know Christine --
9 I'm looking at my colleague, Jose Maldonado, the
10 secretary of treasure, who I was just talking with.
11 So no, you'll see in these established places long
12 tenure, long lengths of service there and very little
13 turnover.

14 CHAIRPERSON MILLER: So typically now,
15 with new employers that come in, how do they decide
16 on, giving that there is no legislation overseeing
17 the hiring practices; are they still using past
18 practice based on whether or not they've operated
19 within the region? What I find is, is that operators
20 that come from outside of the region that don't value
21 workers in the same way, they'll come from right to
22 works, [sic] kind of come in and try to enforce those
23 types of provisions, until we let them know
24 otherwise.

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2 BILL GRANFIELD: Yeah. Well we've
3 definitely had a couple of those that we let know
4 otherwise, including at Hunter College; we had an
5 experience where a company based in Ohio showed up
6 and it took us a solid year to get them to retain the
7 workers and their standards and things like that.
8 Buy what we're also seeing now is local companies
9 that are kind of outside of the union world, like
10 small restaurant operators are now starting to bid
11 for the food service work [background comment] that
12 had been typically done by these larger national
13 companies and they're wanting to get a piece of that
14 and they're not used to those kind of standards.

15 CHAIRPERSON MILLER: 'Kay. Mr. Thomas,
16 could you talk about the overall impact on some of
17 the industries outside of the three industries that
18 are being addressed in these current worker retention
19 legislation that you have seen throughout the city of
20 recent and what impact that you think that this
21 legislation will have on workers throughout the city,
22 whether represented or otherwise?

23 ANTHONY THOMAS: As I think I understand
24 your question, broadly speaking, and I think I can
25 speak confidently on behalf of our executive

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2 officers; we are always gonna look to support
3 legislative measures, amendments, modifications,
4 general rules of policy at the city, county and state
5 level that ensure workers have the kinds of access to
6 jobs that allow for longevity, that continuity,
7 whether it's in these industries or others serve both
8 the city at large by ensuring that the regular
9 maintenance and work provided to tenants, both
10 residential and commercial, is high and good, but it
11 also, kind of moral; holistically serves New York
12 City at large, our communities are made up of people
13 who go to work here and if they are able to go to
14 work here and retain steady pay, that means more
15 property taxes which go to feed our schools, our
16 cities, our streets, our buses, our bridges, etc.; we
17 think from even a macro level there's a number of
18 reasons to support legislation like this and this one
19 in particular because it ensures a higher standard of
20 living, broadly speaking, for New York City
21 residents, unionize or not.

22 CHAIRPERSON MILLER: Is there...

23 [background comment] [pause] Council Member Ro...

24 COUNCIL MEMBER ROSENTHAL: Thank you

25 Council Member Miller for holding this hearing for

1
2 introducing this important legislation; thanks also
3 to Council Member Rodriguez for his important
4 legislation. I appreciate your giving me a chance to
5 ask just a quick question. Thank you all for your
6 testimony, it's incredibly helpful and powerful; I'm
7 excited to be a co-sponsor on one of the bills; I
8 will get myself on the other ones that I was less
9 aware of. But I guess this question is primarily for
10 President Figueroa and also for Mr. Thomas, just can
11 you give an example of where the law has worked and
12 has been successful to help, you know, tell the story
13 of the importance of this legislation, closing the
14 loopholes for where you haven't been able to invoke
15 it?

16 HECTOR FIGUEROA: So if I may, I'd like
17 to ask Andy, from our union, to relay some of them,
18 'cause he's been directly involved in those
19 conversations.

20 ANDREW STROM: Good morning Council
21 Members... [interpose]

22 CHAIRPERSON MILLER: Good morning.

23 ANDREW STROM: good afternoon Council
24 Members. My name is Andrew Strom; I'm an Associate
25 General Counsel at SEIU Local 32BJ.

1 I think that it comes into play... well I
2 mean some of it is the dog that didn't bark, in a
3 sense that it's, for the most part, you know as
4 President Figueroa said before, the transitions tend
5 to be seamless and one of the reasons why it's
6 seamless; a number of years ago, after we passed the
7 law, the lead lawyer for the Real Estate Advisory
8 Board, which is the main employer or association,
9 wrote an article in New York City Law Journal in
10 which he pointed out how well the law was working
11 from the employer's point of view. So the employers
12 have just sort of adopted this law and it's sort of...
13 they view it as just the way the industry works. So
14 a lot of the way in which the law works is just
15 because the employers are being counseled by their
16 lawyers and so they all understand this and then when
17 new contractors come in, when buildings are sold, you
18 know when those transitions happen the employers who
19 have competent counsel just you know understand that
20 this is what they're supposed to do. I mean it's
21 also the case that a handful of times over the years
22 that hasn't been the case and then we've come in and
23 you know, stepped in and reminded employers of what
24 their obligations are, and so there are, you know a
25

1 series of... you know most the smaller buildings,
2 right, where they're not... you know, maybe they're not
3 represented by such knowledgeable counsel or
4 whatever, they don't realize what their obligations
5 are, we write them letters and say you know there's
6 this law out there; you need to abide by it and when
7 that happens that's happened. So one of the things
8 that's noteworthy is how little litigation there has
9 been under this law in the 13 years that it's been in
10 force, because I think in part because the industry
11 has accepted it and in part because the obligations
12 under the law are fairly straightforward and once
13 we've explained it to people they've been able to
14 follow it.

16 COUNCIL MEMBER ROSENTHAL: You raise a
17 good point; there hasn't been any serious or nearly
18 any litigation around the law?

19 ANDREW STROM: No, the only case that we
20 were involved with that... I mean while we've
21 threatened a couple of times, but the only case that
22 actually was fully litigated was in, you know maybe a
23 year or two after the law passed and then after that...
24 [background comment] yeah, and it has really been,
25 you know just... you know, an accepted part by the... the

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industry just accepts it as this is the way things are.

COUNCIL MEMBER ROSENTHAL: That's really helpful; I appreciate your time; I appreciate all of your testimonies; this is very exciting. Thank you, Chair Miller.

CHAIRPERSON MILLER: Thank you, Councilman. Excuse me a second, now that you're there... [background comment] well I guess Hector, you could speak to it as well... [crosstalk]

ANDREW STROM: Oh, no, no, uhm I'm... I'm...

CHAIRPERSON MILLER: the National Labor Board... [interpose]

ANDREW STROM: Right.

CHAIRPERSON MILLER: decisions on those companies that had been violating these provisions, could you speak to that...? [crosstalk]

ANDREW STROM: Yeah, 'cause I'd like to actually clarify that, because it's actually the... there is a related issue that comes up that the National Labor Relations Board deals with, but it doesn't actually deal with, you know, the enforcement of this law, and the case that you're referring to, the issue that came up was, well what is the effect

1 of this law in terms of whether there is an
2 obligation to bargain with the union. Because
3 ordinarily when a successor employer, a new
4 contractor comes in, if the contractor hires the
5 workers who are already there and if those workers
6 were represented by a union, then the new contractor
7 would be obligated to bargain with the union. And in
8 this case that you're referring to, the employer did
9 follow the law and did hire the workers, but said oh,
10 we don't have to bargain with the union because we
11 only hired the workers because we were required to
12 under law; we didn't do it voluntarily, and the NLRB
13 rejected that argument and said well you did it
14 knowingly, you know when you bought the building you
15 understood that this law would apply and it's not
16 different than if you buy a building and you
17 understand that the zoning laws apply and so that you
18 can't tear down an apartment building and build a
19 factory there; I mean there's a lot of ways in which
20 local laws will have some secondary effect on a
21 federal labor law, and this is one of those, and
22 that's, you know, that's how NLRB resolved the
23 interplay between this law and the laws the NLRB is
24 responsible for enforcing.
25

CHAIRPERSON MILLER: Okay, thank you.

And I wanna thank the panel so much for the testimony that you've given today on this important legislation. And really just, and I think the council member would agree, that it really gives us the tools to treat workers with the dignity and respect that they deserve holistically; some things, quite frankly, can't be negotiated, they have to be legislated and collectively we can get to that point that we can protect the workers in ways that we need to. Thank you so much.

HECTOR FIGUEROA: Thank you Mr.

Chairperson [background comments] and thank you council member, and you know you're gonna hear from members of 32BJ, you know, Marie Le Bon and Ariel DeJesus as well, but creating a level playing field is in the interest of everybody. Thank you.

CHAIRPERSON MILLER: Next panel -- Jared

Odessky, Paul Sonn, Ahmed Tigani; I saw him, [background comments] there he is [laughter].

[background comments] [pause] [background comment]

Okay, you may begin... [crosstalk]

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2 JARED ODESSKY: Uhm.. my name is Jared
3 Odessky and I'm here giving testimony on behalf of
4 State Senator Brad Hoylman.

5 "Thank you for the oppor..." [interpose]

6 CHAIRPERSON MILLER: Excuse me..

7 JARED ODESSKY: Yep.

8 CHAIRPERSON MILLER: as we move forward,
9 in the interest of time we're gonna set the clock at
10 three minutes. [background comment] Okay. Thank
11 you.

12 JARED ODESSKY: Great.

13 "Thank you for the opportunity to testify
14 today regarding proposed amendments to the Displaced
15 Building Service Workers Protection Act in this
16 preconsidered bill.

17 I want to thank Council Member I. Daneek
18 Miller, Chair of the Committee on Civil Service and
19 Labor, and Council Member Robert E. Cornegy, Jr., the
20 bill's prime sponsor, for proposing to introduce
21 these amendments, as well as the 16 other committed
22 sponsors in the City Council.

23 The Displaced Building Service Workers
24 Protect Act, signed into law by Mayor Bloomberg in
25 November of 2002, was enacted in order to protect the

1 short-term job security of building service workers
2 in the wake of commercial property sales. The law
3 established a legally mandatory transition period of
4 90 days after a building transfers owners, during
5 which time building service workers continue in their
6 roles, are evaluated by the new ownership and may
7 then be offered the opportunity to stay on, depending
8 on their performance. While the Act has been
9 instrumental in securing stable transitions for
10 building service workers over the last 13 years, the
11 text requires several updates in order to align its
12 protections with the evolving landscape of building
13 services work in New York City.

15 Increasingly, commercial office tenants
16 have been directly contracting office cleaning
17 services rather than relying on services provided by
18 building-wide contracts; in fact, some landlords are
19 now even mandating that lessees acquire their own
20 services. In light of this new reality, the Act must
21 be updated to ensure that the same worker
22 displacement protections in place for workers
23 contracted by building owners are also in place for
24 workers contracted by commercial tenants. However,
25 the preconsidered bill exempt commercial lessees with

1 fewer than 10,000 square feet of rented space, which
2 will ensure that small operations do not face undo
3 hardship from the law's new application.
4

5 The original Act also could not predict
6 the greater movement toward outsourcing building
7 services work and in turn insourcing work that was
8 once contracted out. The amendments proposed in this
9 preconsidered bill would ensure that workers are
10 protected from arbitrary dismissal during nearly
11 every type of employer transition, including from
12 building owner to building owner, contractor to
13 building owner and building owner to contractor.
14 Moreover, the amendments bolster the remedies
15 available to workers by allowing courts to provide
16 for reinstatement and back pay beyond 90 days. This
17 will ensure that employers do not simply disregard
18 the law and accept any resulting penalties from the
19 occasional court case as the cost of doing business.

20 Other commonsense changes include the
21 addition of covered job titles, such as safety
22 director and security officer, reflecting changes in
23 the lexicon of building services, and the removal of
24 a salary cap of \$25.00 at which point the law no
25 longer applied, which has not been updated to account

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2 for rising income levels and can possibly threaten
3 protections for vulnerable workers.

4 Finally, the amendments would end
5 exemptions for buildings where the City leases more
6 than half of the space. The public sector should set
7 an example for fair and responsible treatment of
8 workers rather than finding workarounds that exempt
9 government from laws applicable to our private sector
10 counterparts.

11 In order to help safeguard the economic
12 security of thousands of working families in my
13 district and across New York City, I respectfully ask
14 my colleagues in the City Council to support the
15 proposed amendments. [bell] I appreciate your time
16 and consideration and thank you again for the
17 opportunity to comment."

18 CHAIRPERSON MILLER: Thank you.

19 [background comments]

20 PAUL SONN: Thanks. I'm Paul Sonn with
21 the National Employment Law Project; I'm pleased to
22 be able to testify today. I should say, my testimony
23 is framed as addressing the proposed building service
24 worker amendments; I wasn't alerted that the food
25 service displaced worker bill was also being heard

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2 today, but really the same policy rationales and
3 research really support that initiative; it's a
4 similar subcontracted industry with the same risk of
5 unnecessary unemployment obtained, so I'll touch on
6 that briefly, but the reason I don't address it in
7 more detail is that.

8 Anywhere in America, but especially in
9 New York City, with its high housing costs and
10 persistently high unemployment, losing a job results
11 in serious hardship and dislocation for workers and
12 families; this is especially a problem for building
13 service workers and food service workers because they
14 work in a subcontracted industry where owners not
15 infrequently change service contractors with the
16 result that longstanding employees can be put out of
17 work. But to address this problem, New York City,
18 you know almost 15 years ago and a large group of
19 cities and one state across the country have adopted
20 Displaced Building Service Worker protection laws,
21 they've been operating smoothly and minimizing this
22 sort of unnecessary unemployment. However, there are
23 a variety of key limitations that have been
24 identified in the New York City law and so this bill
25 would make sensible revisions to broaden coverage,

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remove the outdated \$25.00 wage cap and improve enforcement. And I'll maybe say a few more words about the enforcement amendments which have not been addressed by other speakers. I have sort of detailed written testimony, so I'll just flag some of the key points; I won't go through it.

The first second summarizes the social science and survey research on the impact of losing your job and not surprisingly, it's very severe economic and social consequences for families and as flagged earlier by Councilman Levine, serious budgetary consequences for the City, because especially in a city like New York where so many workers are housing insecure, losing your job creates significant risk of homelessness and dependency on the taxpayer-funded social services safety net.

The other key points that I summarize in my testimony are the long-term impacts on workers' wage history; they suffer a career-long 12% decline in earnings, once, you know typically having to accept a job at lower wages, very serious adverse health affects for workers and their families; also, severe impacts in terms of children's well-being and educational attainment from parents being unemployed.

1 Section 2 of my testimony survey is the
2 other cities' laws; I won't say more about that. And
3 then Section 3 goes through the proposed amendments.
4 I'll just say a couple of words about the very last
5 one, which has [bell] not been discussed. The bill
6 would strengthen and clarify the remedies available
7 in cases of violation of the Displaced Building
8 Worker Law; in some instances, when the law has been
9 violated, and as you've heard, the implementation
10 history has actually been very, very smooth;
11 employers have refused to reinstate the workers and
12 courts have been unclear on whether they could order
13 that the workers be reinstated. The amendments would
14 clarify that it's appropriate for courts to order
15 reinstatement of workers if the owner does not follow
16 the law; it also increases the damages, the penalties
17 available for violations, providing that workers need
18 to be repaid the wages they were owed, plus an extra
19 equal amount as liquidated damages. That is a very
20 modest and standard remedy for violation of the wage
21 and hour laws that exist under the Federal Fair Labor
22 Standards Act; actually many state's laws provide for
23 even stronger damages, so that's one of several
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sensible reforms to improve the implementation and operation of this law.

And maybe... I'm out of time; I'll break off there, but I'd be happy to answer any questions that you have on any of the pieces of legislation.

AHMED TIGANI: Hi, good afternoon. My name is Ahmed Tigani; I'm the Community Development Officer and an urban planner with the Manhattan Borough President's Office. I wanna thank Chair Miller and the members of the Committee on Civil Service and Labor for the opportunity to testify today on behalf of the Borough President.

The preconsidered bills being discussed today represent commonsense amendments that build on established protections for our city's building service workers. These employees represent a vital sector of our workforce and are entrusted with the safety and overall well-being of our commercial and residential buildings. For that reason and many others, this is a sector that deserves the same level of security that they provide to the buildings they steward.

I commend Council Members Miller, Cornegy and Rodriguez for their respective pieces of

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2 legislation and I'm proud to stand with you all as a
3 stalwart supporter. As a member of the New York City
4 Council -- well the Borough President was -- she was
5 an early co-sponsor of Intro. 0219 in 2002, later
6 established as Local Law 39 of 2002, she immediately
7 recognized the importance of establishing basic job
8 protections and predictability for workers uncertain
9 of how transition in ownership would impact the
10 future of their employment and their ability to
11 continue providing for their families. Prior to the
12 passage of this bill, the absence of local worker
13 retention laws presented a problem for workers,
14 owners and their clients, with the following issues
15 exposing the adverse affects of abrupt workforce
16 turnover.

17 The testimony highlighted at that time
18 and continues to hold true that decisions by some
19 owners to replace experienced professionals with
20 entry level personnel in an effort to cut costs came
21 at the expense of poor service delivery to their
22 tenants; the result of these business choices were
23 greater economic cost for their building operations
24 in the short-term and city social service costs in
25 the long-term.

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2 Finally, to prevent instances of
3 immediate worker turnover meant instability that
4 extended beyond the workers and into their
5 neighborhoods and local economies. These facts
6 represent what many in the property management and
7 real estate community already understood; the
8 drafters of this legislation recognized the
9 challenges it would pose for owners and took care to
10 provide letters of relief with clear compliance rules
11 that allows organizations like the Realty Advisory
12 Board and Labor Relations to provide supplementary
13 materials to guide their members.

14 Broader than an economic development
15 pilot or wage regulation and stronger than a feature
16 within a community benefits agreement, this
17 legislation presented a clear and balanced approach
18 for both owners and employees to embrace. This law
19 has been supported by the National Labor Relations
20 Board and has continued to contribute to the growing
21 list of cities and county governments across the
22 country that have enacted similar protections for
23 their own workers. It is critical that the law's
24 significance be reviewed over time to see how it can
25 be improved. The changes detailed in the bills

1 before this committee today suggest a thoughtful
2 approach to making the goals of this law even more
3 successful than Local 39; both bills include the
4 addition of new qualifying job titles, providing that
5 a knowledgeable workforce is in place for emergency
6 response and public safety planning. In particular,
7 Council Member Rodriguez' bill would seek to include
8 food service workers, a measure I full-heartedly
9 support. Eliminating the exemption for city-owned
10 buildings and including some larger commercial office
11 employers removes the double standard for service
12 workers who carry out the same level of work and
13 deserve equal protections and safeguards.

14
15 Regarding the question of a salary cap,
16 the current ceiling of \$25.00 is no longer
17 appropriate. The salary cap is a feature that risks
18 leaving portions of the workforce exposed, since the
19 original legislation created no mechanism for keeping
20 pace with inflation and cost of living.

21 The amendment also addresses issue that
22 arise with insourcing and outsourcing of on-site
23 work; as new companies grown and new owners reassess
24 the financials of recently-acquired assets they often
25 take jobs in-house or contract with third-parties

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2 without taking into account the well-being of the
3 workers currently in place. The law protects service
4 staff, even if the owners part ways to hold over a
5 contractor. Workers under an outside contract may
6 experience the same hardship from a turnover as a
7 worker who is directly employed and they should have
8 the same rights; this is a gap in the law that should
9 be closed.

10 Finally, allowing for language that
11 extends the law's coverage to any job related to the
12 building service work is an important deterrent to
13 those trying to circumvent the law. As an additional
14 deterrent, the amendments provide clear directions to
15 the court on remedies for relief, including
16 instatement, reinstatement, back pay for prolonged
17 dismissal beyond 90 days and a right to damages for
18 indirect harms.

19 I applaud the sponsors of these bills for
20 their commitment to the men and women that keep our
21 buildings running and I'm eager to work with the
22 mayor, members of the Council, building owners and
23 worker organizations on these and other strategies
24 [bell] to make the workplace operate fairly for all
25

1
2 involved. Thank you again for this opportunity to
3 give testimony.

4 CHAIRPERSON MILLER: Thank you. So I
5 wanna thank this panel for their really thoughtful
6 and intelligent testimony; they were... Mr. Sonn, I had
7 a number of questions that we wanted to ask about the
8 effectiveness and some of the things that we may have
9 missed, but I think the Borough President covered
10 that and again, it was really thoughtful and I wanna
11 just say to our colleagues in government how much we
12 appreciate your support on this important
13 legislation, 'cause it's certainly something that we
14 can't do alone, and so we thank you guys for showing
15 up and really giving this testimony. So thank you;
16 we're gonna call the next panel.

17 JARED ODESSKY: Thank you very much.

18 [background comments]

19 CHAIRPERSON MILLER: Ariel DeJesus and
20 Marie Le Bon. [background comment] You may begin.

21 ARIEL DEJESUS: Good afternoon. My name
22 is Ariel DeJesus and I'm a Political Organizer at
23 32BJ; I have worked in an office building in Long
24 Island City for 5 years. I wanna start by thanking
25

1
2 Chairperson Miller, members of the committee and 32BJ
3 President, Hector Figueroa.

4 The current Displaced Building Service
5 Workers law has certain flaws we need to fix. All
6 service employees in New York City buildings need the
7 protections this law provides. I'm proud to be a
8 32BJ member fighting for better wages, cost of living
9 is skyrocketing; these should be protections in wage
10 increase; that is why the bill removes the salary
11 cap. There is a loophole when workers are directly
12 employed by the building owner and owners decide to
13 contract out the work. There another loophole when
14 an owner decides to bring contract work in-house; in
15 both cases, those workers should be protected and
16 retain their positions to which they have dedicated
17 so much time. In either case where work is
18 contracted out or in-house, building service workers
19 need protections; this bill will provide them. Thank
20 you again for the opportunity to testify; I ask the
21 committee and the entire City Council to approve
22 these changes to ensure protections for building
23 service workers. Thank you.

24 MARIE LE BON: Good afternoon Chairperson
25 Miller and members of the committee. I want to

1 recognize and thank our President, Hector Figueroa.

2 My name is Marie Le Bon and I have been a 32BJ member
3 for over 30 years. I have cleaned at 25 Broadway for
4 10 years. Expanding the displaced worker bill to
5 cover more building service workers will help the
6 lives of working families and my brothers and sisters
7 who clean, secure and work in buildings.

8
9 In my building, workers hired by a
10 non-union contract on tenant lease floors, we are not
11 covered by the displaced worker law; many of those
12 workers lost their jobs during this past summer.
13 This legislation would give 90-day protections to
14 these types of workers; they need this protection and
15 I'm proud to testify in support of this proposed
16 bill.

17 The salary cap provision needs to be
18 changed. When I first started in 1984 as a union
19 member, I earned \$10.00 an hour and my wages have
20 gone up. 32BJ fights for higher wages and this cap
21 should be lifted to protect working families. The
22 cost of living has increased and we need higher
23 wages, we need to remove this cap.

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I want to thank the committee for its time and to all the council members who support working people in our fight to raise America.

CHAIRPERSON MILLER: Thank you so much. So that was great testimony; you should smile and be proud of. [laughter] So I do have a question; I don't know if you'll be able to answer; maybe the leadership can kinda go back on that. But the salary cap provision; have we seen employers, those unscrupulous employers attempt to use this provision as an opportunity to not retain those workers at the higher end of the wage progression scale?

MARIE LE BON: I think so, yes.

CHAIRPERSON MILLER: As opposed to, you know, you can bring somebody in union, but cheaper?

MARIE LE BON: Yes, they love that. They don't... [crosstalk]

CHAIRPERSON MILLER: Uh this... [sic]

MARIE LE BON: want to pay a higher salary.

CHAIRPERSON MILLER: And this will give us an opportunity to close that loophole?

MARIE LE BON: Uhm-hm.

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CHAIRPERSON MILLER: And that... Okay.
Thank you so much for your testimony.

MARIE LE BON: You're welcome. Thank
you.

[pause]

CHAIRPERSON MILLER: So we have five, and
you know what; and... and... [bell] and if I... forgive me
if I am a little aloof today; I wanna publicly, for
the record, say that this morning at about 5:30 I got
a very disturbing call that because we are here
holding this hearing in this committee at this time
on workers' rights that a very, very good friend of
mine and my past political director and organizer and
union officer of the Amalgamated Transit Union,
Mr. Melvin Harris, passed this morning and I wanna
take a moment of silence, but I wanna recognize him
in this room at this time, 'cause no one has
dedicated and given more to this city and workers in
this city than this man has, and I'm a little
distracted, but the work that we do has to happen, it
has to continue and that's why I'm here and not with
his family now, but I wanna take just a moment of
silence to recognize the work that he has done.

[moment of silence]

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Thank you, thank you so much.

Next panel; Carlos Herrera, Christina Edwards, Marcia Gordon, Maria Martinez and Ali Najmi.

[background comments]

'Kay. We have Mr. Ali Najmi, Carlos Herrera, Christina Edwards, Marcia Gordon and Maria Martinez. [background comments] [pause] Okay.

[background comments] Okay. Thank you. [background comments] Does anyone have written testimony for... for... [background comment] the committee; otherwise it is more than okay. [background comments]

MARCIA GORDON: Good afternoon council members... [interpose]

CHAIRPERSON MILLER: Could you just push the red button there, please? Thank you.

[background comments]

MARCIA GORDON: Good afternoon council members. My name is Marcia Gordon and I'm a member of Unite Here Local 100. We are the union for workers in the cafeterias, executive dining rooms, restaurants, bars, delis, sport and exhibition halls, and performing arts centers throughout New York City, Westchester, Long Island and New Jersey.

1
2 I wanna thank you for giving me the
3 opportunity to testify in favor of the food service
4 and buildings retention bill today.

5 I used to work at 4 New York Plaza as a
6 cashier for 26 years. In October 2012, during the
7 Hurricane Sandy, the company shut down and a new
8 owner opened up and we were replaced. The hardship
9 of being suddenly unemployed was very difficult for
10 me and my family; no one should suffer the way we
11 suffered, I suffered through no fault of our own, so
12 that's why I'm here today to support this bill.

13 I have spent over 26 years working hard
14 to support my family; the unemployment money wasn't
15 enough to pay my bills; I was so happy that I have
16 good friends and family members offer to help me out
17 during the difficult time, because I couldn't even
18 pay for my blood pressure medication, so I'm happy
19 for this opportunity that I'm here to support the
20 bill and I was grateful that I have the opportunity
21 also to apply for Obamacare that I could pay for my
22 medication.

23 CHAIRPERSON MILLER: Thank you.

24 [background comments]
25

CHRISTINE EDWARDS: Good afternoon

council members. My name is Christine Edwards; I am from the island of Grenada West Indies and a member of Unite Here Local 100. We are the union workers in cafeterias, executive dining rooms, restaurants, bars, delis, sports and exhibitions halls, and performing arts centers throughout New York City, Westchester, Long Island and New Jersey. I have been here for 39 years; I've spent 35 of those years working as a food service and beverage worker. I worked at 55 Water Street for 12 years; the company closed and a new company replaced the workers. It was extremely difficult for me to wake up without a job, after spending most of my entire life working and support my family. Without the protection of the replaced workers' law, food and beverage workers like me are sometimes fired and replaced immediately when a new company comes in, creating instability and hardship for me and all family; that is why I ask you to vote in favor of this bill.

And further, I want to add; during the time I was not working due to Sandy, I had to call my cousin and ask her med for me [sic], 'cause I'm a diabetic; I could not buy my medication, I had no

1 insurance, so it was very difficult. Well I'm back
2 to work, but I've lost some time.

3
4 CHAIRPERSON MILLER: Thank you.

5 CHRISTINE EDWARDS: Thank you.

6 ALI NAJMI: Good afternoon. My name is
7 Ali Najmi; I'm the Political Director of the Alliance
8 of South Asian American Labor, and we are proud to
9 join our sisters and brothers in labor today, and in
10 particular, Unite Here Local 100, in support of the
11 food service workers retention bill and we are also
12 in solidarity with our friends from 32BJ in their
13 effort with their workers retention bill.

14 We are here to lend our voice in support
15 of the food service workers retention bill; it's a
16 community of workers that we know very well in our
17 organization, as a disproportionate number of food
18 service workers are people from immigrant backgrounds
19 and communities that we organize in. To us it's a
20 principle that all workers in a single building
21 should be treated equally or have equal protections,
22 whether they are building service, maintenance
23 workers or corporate cafeteria workers and all
24 workers.

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We are in solidarity with the Local 100 that has brought out so many members today to bring this attention to you; I'm confident that, Chairman Miller, under your leadership we will be able to close this gap and we just wanted to let you know that as a community and labor-based organization, particularly one representing South Asian American workers, we are in wholehearted support of this bill and will do whatever it takes to help our brothers and sisters in labor achieve this goal.

CHAIRPERSON MILLER: Thank you.

[background comments] So just for those who are missing, including myself, Council Member Dromm, he's chairing the Committee on Education simultaneously, so unlike what many think about council members, we can't be in two places at one time, so. Proceed.
[sic]

MARIA MARTINEZ: **[Spanish 01:23:54]**

[interpose]

JOSE MALDONADO: Good afternoon council members. I don't speak English, but I have a translator and he's gonna help me interpret or translate. My name is Jose Maldonado.

MARIA MARTINEZ: **[Spanish 01:24:14]**

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JOSE MALDONADO: My name is Maria Martinez; thank you for letting me testify even though I'm not currently working.

MARIA MARTINEZ: **[Spanish 01:24:25]**

JOSE MALDONADO: I'm very proud to be a member of Unite Here Local 100.

MARIA MARTINEZ: **[Spanish 01:24:33]**

JOSE MALDONADO: I have hope and faith that you are gonna support the bill for food service workers and service workers and beverage workers as well.

MARIA MARTINEZ: **[Spanish 01:25:02]**

[interpose]

JOSE MALDONADO: I'm 60 years old and I've been working in the food service industry for 29 years.

MARIA MARTINEZ: **[Spanish 01:25:16]**

JOSE MALDONADO: August 12, 2015 was the last day I worked; I worked for a company called Compass at City Center; they lost their contract and a new company took over called Sweet Concessions and this company did not employ us.

MARIA MARTINEZ: **[Spanish 01:25:43]**

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JOSE MALDONADO: As you know, since I'm unemployed and my coworkers are unemployed, I don't make enough to cover the costs of my bills and other essential and I'm desperately looking for work.

MARIA MARTINEZ: **[Spanish 01:26:16]**

JOSE MALDONADO: Because I'm gonna run out of health insurance on the 30th of November, I'm gonna have to apply for something in terms of Medicare or Medicaid or Obamacare or other help; for this reason and much more, I ask you to support this bill. Thank you very much. Maria Martinez.

CHAIRPERSON MILLER: Thank you. Thank you. Again, there are some I guess technical questions that I have that this panel may not be able to answer about the ownership of some of these locations, and again, it goes back to what we talked about in terms of have you had that outside conversation on that. You don't mind coming back up; do you? Thank you. Thank you to the panel for...

[interpose]

JOSE MALDONADO: I have one more to read...

[crosstalk]

CHAIRPERSON MILLER: Oh...

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JOSE MALDONADO: from President Peter Ward, Local 6, [background comment] Hotel/Motel Trades Council... [crosstalk]

CHAIRPERSON MILLER: Yeah. Uhm-hm.

JOSE MALDONADO: Will you permit me to do so?

It says, "A 90-day worker retention period for food service workers in New York City is a common measure and for that reason we strongly urge the Council to pass this legislation. This measure has been accept [sic] by 32BJ for building service workers; if it's good enough for them, it's certainly the right thing to apply for food service workers as well. This measure's about basic job stability for New Yorkers working at food service contractors. Reducing this kind of employment uncertainty [sic] isn't just good for those workers; it's good for people and businesses that they serve. The Hotel and Trade Council is a proud supporter of this bill and stands with our brothers and sisters at Unite Here Local 100." Thank you very much.

CHAIRPERSON MILLER: Thank you so much to the panel.

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Mr. Granfield, I just have one or two quick questions.

BILL GRANFIELD: Sure, fi...

CHAIRPERSON MILLER: Yeah.

BILL GRANFIELD: fire away... [crosstalk]

CHAIRPERSON MILLER: just from the...
[background comments] So yeah, we certainly appreciate you staying around so that, you know, as we drill down on some of the more technical details of this stuff that you have here to lend that technical expertise as well.

So in terms of those locations, those larger employers that we talked about, the building owners and in particular, 55 Water that you mentioned and 4 New York; who are the owners of those properties; do you know?

BILL GRANFIELD: Yeah. First of all, if I may, you might have noticed that there's been a change in the group here, so this is now pretty much the Local 100 group here that... that... [interpose]

CHAIRPERSON MILLER: Yeah.

BILL GRANFIELD: taking the place of the uh... So welcome to the Local 100 members here.
[interpose]

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CHAIRPERSON MILLER: We lost a few, but.

BILL GRANFIELD: So... So there's the owner of the property; then there's the employer of the food service workers, so which one in particular...

CHAIRPERSON MILLER: Yeah, so... so... so... no, I'm talking about the owners of the properties... [crosstalk]

BILL GRANFIELD: The owners of the property.

CHAIRPERSON MILLER: obviously the owners of the properties are dealing with... [crosstalk]

BILL GRANFIELD: Right. Right.

CHAIRPERSON MILLER: the uhm... I'm sorry; they're dealing with obviously 32BJ... [crosstalk]

BILL GRANFIELD: Right.

CHAIRPERSON MILLER: on certain... in certain areas... [crosstalk]

BILL GRANFIELD: Right. Uh-huh.

CHAIRPERSON MILLER: and so they're obviously familiar with worker retention...

BILL GRANFIELD: Right.

CHAIRPERSON MILLER: and what this legislation does... [crosstalk]

BILL GRANFIELD: Yeah.

1
2 CHAIRPERSON MILLER: and so we talked
3 about earlier whether or not you had had that kind of
4 ex parte conversation... [crosstalk]

5 BILL GRANFIELD: Yeah.

6 CHAIRPERSON MILLER: with them about the
7 importance of doing this and what kinda influence
8 they could have in requiring those contractors to
9 maintain... [crosstalk]

10 BILL GRANFIELD: Right.

11 CHAIRPERSON MILLER: these provisions.

12 BILL GRANFIELD: So like for example, 55
13 Water, where Christine, who you heard from worked,
14 that's owned by the, unless it changed in the last 2
15 years, the Alabama State Employees Retirement Fund...

16 CHAIRPERSON MILLER: Exactly my point.

17 BILL GRANFIELD: Right. Yeah. So we
18 made numerous efforts to communicate with the Alabama
19 State Employees Retirement Fund and it was like, oh,
20 yeah we own it, but it's not our responsibility;
21 right? Then they hire a company to run the building
22 for them and that company hires a food service
23 company; right, and so then you're looking for who's
24 responsible for Christine and her co-workers being
25 out of work.

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CHAIRPERSON MILLER: Have you reached out to any other employers subsequent to that... that... that... [crosstalk]

BILL GRANFIELD: Well in other...

CHAIRPERSON MILLER: that may have been fruitful... [crosstalk]

BILL GRANFIELD: I mean...

CHAIRPERSON MILLER: more positive outcome?

BILL GRANFIELD: there have been times in the past when, for example, Goldman Sachs, which is a company that's familiar, and we represented the workers when they had their campus on 85 Broad and 1 New York Plaza and all that and then they all moved over to 200 West, the new location, and then when we were in a dispute we were able to communicate with Goldman Sachs and they then directed the food service company to reach an agreement with us. So there are isolated examples where we're able to get the final decision-maker, property owner to intervene.

CHAIRPERSON MILLER: Okay. So that is... not that, you know, it's the responsibility of the Council to kinda intervene in those ways or that we could even do that; I'm always curious 'cause when I

2 put my labor hat on and to see that we've exercised
3 all options available to us and making sure that
4 we're providing the services to the members that they
5 are so deserving of.

6 You're in the Port Authority facilities
7 as well or are you on the grounds or?

8 BILL GRANFIELD: In the airports, yeah.
9 Yeah... [crosstalk]

10 CHAIRPERSON MILLER: In the airports,
11 yeah.

12 BILL GRANFIELD: Yeah. Yes.

13 CHAIRPERSON MILLER: Have you engaged the
14 Port Authority in some of these conversations as well
15 about worker retention?

16 BILL GRANFIELD: Yes. In 2005, 2006;
17 2007, not long after the Council and the City of New
18 York did this worker retention bill, which is the
19 basis of what we're changing today, we campaigned and
20 got the Port Authority of New York and New Jersey to
21 implement a policy saying that when there was a
22 change of operator in the concessions in the
23 terminals that they controlled, then they would have
24 to retain those workers for 90 days, under conditions
25 very similar to what exists in the current

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legislation here, so a policy of the Port Authority of New York and New Jersey in favor of that same 90-day obligation to retain the workers.

CHAIRPERSON MILLER: Have you found that helpful in retaining workers in... [crosstalk]

BILL GRANFIELD: Yes, there's a lot of examples where that has been very helpful; there's some examples where it's been very hard to determine who exactly is responsible, because you have the Port Authority; then you have like United or Delta that control some terminals, and then other... [crosstalk]

CHAIRPERSON MILLER: Right.

BILL GRANFIELD: and then other outside groups that control the terminal.

CHAIRPERSON MILLER: Right.

BILL GRANFIELD: But yes, when we're able to have a clear line of responsibility, yes.

CHAIRPERSON MILLER: Are there any other government agencies involved that you've... you don't have to identify them, but that may directly be a landlord or play some role in...

BILL GRANFIELD: Not that we deal with, no.

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CHAIRPERSON MILLER: Okay, thank you so much again; I just wanted to clarify that piece there and... and...

BILL GRANFIELD: Okay. Did you have any thoughts on this? I'm the President; Jose's the Secretary Treasurer. Aside from being our translator, he's also the secretary treasurer [laughter]

JOSE MALDONADO: Everybody else is downstairs that translates, so I had to take the job... [crosstalk]

CHAIRPERSON MILLER: Yeah. Okay.

JOSE MALDONADO: No, as far as, you know these seasonal employees and new employer and the responsible employers, the owners of Barclays Center, they were the first one to sign a worker retention bill with us that covered over, probably 600 workers...

BILL GRANFIELD: Right.

JOSE MALDONADO: and as part of their deal is, whoever the food service provider is for that place, if another food service provider comes in, then they don't only maintain the workforce, but the same standard of health insurance, the same wages, everything stays the same, so that's an

1
2 example of state of the art retention bill that keeps
3 everything and keeps those workers from reaching out
4 to the city and like, we have examples there; they
5 have to apply for different benefits because they
6 don't have enough with unemployment benefits. So
7 that's the only thing that I wanted to add. Thank
8 you very much for your time and we hope for your
9 support.

10 CHAIRPERSON MILLER: Thank you and I just
11 wanna thank everybody for coming out and in
12 supporting this very, very preconsidered bill;
13 obviously it's something that we've seen over the
14 past few years and is being emulated now with the
15 current environment, the workforce environment that
16 we have in the State of New York; what we're seeing
17 with the so-called shared economy and the impact that
18 those have had on long-term, full-time employees and
19 it's obvious that collectively, whether it's through
20 organized labor, City Council or other members of
21 government, that we have to kinda collectively come
22 together and make sure that we protect workers'
23 rights wherever we can, and so we're proud to be able
24 to hold a hearing and to give you a voice here today.
25 So I thank everybody for coming out; obviously Local

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100 Unite, thank you for being here, members of 32BJ and the leadership there, Sal [sic], I'm proud to have you here as well, and just all the folks, Hotel Trades that are also lending their support, it is really important that we kinda work collectively to protect workers, regardless of what industry they're in. And I thank you again for coming out; with that I call this hearing ad..

[gavel]

BILL GRANFIELD: Thank you, Chairman.
Thank you, thank you very much.

[background comments, applause]

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 December 2, 2015