

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON SANITATION AND SOLID WASTE
MANAGEMENT

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HELD AT: 250 Broadway- Committee Rm, 14th Fl.

B E F O R E:

ANTONIO REYNOSO
Chairperson

COUNCIL MEMBERS:

ANDY L. KING
COSTA G. CONSTANTINIDES
STEVEN MATTEO
VANESSA L. GIBSON

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

Daniel Brownell
Commissioner
Business Integrity Commission

John Curry
Deputy General Counsel
Business Integrity Commission

Arthur Goldstein
Master Plumber
Davidoff Hutcher and Citron LLP

John Figliolia
Master Plumber
Alex Figliolia Water and Sewer

Rocco Murdocca
Master Plumber
Plumbing Works

Michael Martone
Master Plumber
Raytone Plumbing Spec. Inc.

[gavel]

CHAIRPERSON REYNOSO: Good afternoon

everyone and welcome to this hearing concerning intro 76 which is a bill that would exempt licensed master plumbers from registration with the Business Integrity Commission also known as BIC. Currently master plumbers in New York City are required to be licensed by the Department of Buildings and licensed master plumbers who perform work on water and sewer infrastructure in New York City streets and sidewalks are also required to obtain permits from the Department of Environmental Protection and the Department of Transportation. If during their work on city streets on sidewalks master plumbers remove materials such as dirt or other materials to access pipes or other infrastructure they may haul this material to a local fill facility and then purchase recycled fill material to fill in the excavated portion of the street or sidewalk when the work is completed. In order to haul these excavated materials to and from the fill facility the plumbers must register with BIC. Any person or entity that operates a commercial waste hauling business or conducts waste removal activities in

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2 New York City must be licensed by or registered
3 with BIC. Entities that are engaged in the removal
4 of waste materials from buildings demolition,
5 construction, alteration, and or... and or excavation
6 referred to as C and D waste are exempt from BIC's
7 license requirements although they must register
8 with BIC. Thus master plumbers who have a permit
9 from DOT to do street and sidewalk excavations who
10 haul this waste must register with BIC. Intro 76
11 would exempt these individuals. This bill currently
12 has a super majority and we look forward to hearing
13 from BIC and the others... and others about their
14 thoughts on the bill. We know that this bill has
15 been sponsored by Council Member Karen Koslowitz of
16 Queens and Council Member Costa Constantinides is
17 going to read on her behalf her opening statement
18 so Council Member Constantinides.

19 COUNCIL MEMBER CONSTANTINIDES: Okay,
20 I'm reading this statement as... thank you Mr. Chair,
21 I appreciate your efforts. Reading this statement
22 on behalf of my colleague and friend, Council
23 Member Karen Koslowitz. Statement from Council
24 Member Koslowitz on intro 76 of 2014, I have
25 sponsored into 76 along with 39 other Council

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Members and Public Advocate James because I believe we should treat businesses fairly without over regulated them especially if such regulation leads to unnecessary increase expenses to property and business owners. As you may know the BIC, formally the Trade Waste Commission was established to weed out organized crime in the carting industry. The so called waste in question is the fill or debris if you will from excavations of Department of Transportation contracted projects. The employees of the Master Plumbers Transport... transport that's filled by trucks to be used at another sight or it is transported to a regular... a recycling center so it can attain a certain purity standard to be used at other excavations. Section 16-501 section F of the Administrative Code defines trade waste to be subject to carting regulations as I quote, "materials that are discarded or rejected by a commercial establishment as being spent, useless, worthless or in excess to the owner at the time of such a discard or rejection". Clearly the debris being transported by master plumbers to be used at other projects is not useless or worthless or discarded or rejected. Intro 76 makes it explicitly

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2 clear that master plumbers in moving their project
3 debris are not subject to carting... industry
4 regulations. Master plumbers are licensed and
5 regulated by the Department of Buildings. Those who
6 work on city streets are also regulated by the
7 Department of Transportation and the Department of
8 Environmental Protection. To obtain a DOT permit to
9 work on city streets they must be bonded and
10 insured. They do not need to be... do not... do not
11 need to be subjected to carting permit and
12 licensing fees which add to their cost of doing
13 business in the city of New York. Thank you.

14 CHAIRPERSON REYNOSO: Thank you Council
15 Member Constantinides. I would like to now call up
16 BIC, John Curry, Noah Genel, and of course the
17 Commissioner, Daniel Brownell. Thank you guys. And
18 just... and before you guys start I just want to make
19 sure I give you guys a shout out regarding the
20 recent investigation into the heating oil industry
21 and the victory, I know you guys assisted in that
22 project and it was good to see that we're still
23 doing our part in enforcement and in investigations
24 to make sure that the bad guys are... are caught so

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good job, congratulations on that absolutely and
whenever you're ready please...

DAN BROWNELL: Thank you very much...

[cross-talk]

CHAIRPERSON REYNOSO: Start.

DANIEL BROWNELL: Good afternoon Chair
Reynoso and other members of the council. I'm Dan
Brownell Commissioner of the Business Integrity
Commission or BIC. Thank you for this opportunity
to testify today at today's hearing regarding intro
number 76. This bill would exempt master plumbers
in New York City from BIC regulation when they haul
construction and demolition debris referred to as C
and D material from jobs in which they are removing
or opening the pavement of a public street for
reasons I will explain. BIC has serious concerns
and opposes this bill. After my testimony I will be
happy to answer your questions as to why we urge no
further action or consideration by the committee on
intro number 76. The rule with respect to hauling
trade waste in New York City is clear, if you haul
it you must be licensed or registered with BIC
otherwise you must hire a BIC approved company to
haul your trade waste for you. The master plumbers

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2 out of all the other construction trades and all
3 other carters in the city are now asking to be
4 exempted from that rule meaning that they alone
5 would be carved out from BIC oversight when they
6 haul C and D material. Not only are there no
7 logical reasons for this special treatment the
8 master plumbers trade in particular requires robust
9 oversight given the dangerous nature of the work
10 they perform and their somewhat poor history
11 regarding integrity issues. Local law 42 creates
12 BIC's regulatory framework that authorizes us to
13 issue licenses and registrations to companies that
14 haul trade waste. Trade waste includes all
15 materials that are discarded by business
16 establishments here in the city such as garbage,
17 refuse, organic waste, recyclables, and C and D
18 material. You fall under BIC's authority only when
19 you directly haul these materials otherwise we play
20 no regulatory role over any industries or trades in
21 the city whether they be electricians, architects,
22 contractors, or plumbers. So for example unless a
23 master plumber or any contractor for that matter is
24 hauling C and D material from their job sights they
25 do not come under BIC regulation. There are

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2 approximately 12 hundred master plumbers currently
3 licensed by the Department of Buildings in the
4 city. Less than 40 of them are licensed or
5 registered by BIC. This is because most master
6 plumbers do not Haul C and D materials from their
7 jobs themselves, instead they arrange for a BIC
8 approved business to provide that service. So for
9 the overwhelming majority of master plumbers BIC
10 regulation is a non-issue. Also this bill exempts
11 only the relatively small number of plumbers who do
12 sub-surface work involving the opening of city
13 streets rather than most plumbing work which
14 involves interior construction. So again why
15 arbitrarily create this exemption or this
16 exception. Regulation of Trade Waste removal is
17 important to the city not only to keep organized
18 crime out of this industry that it once dominated
19 but to keep other forms of fraud and corruption out
20 as well. BIC's role has become more critical as the
21 general public and Public Officials emphasize
22 greater focus on environmental concerns such as
23 higher recycling rates and lower truck emissions.
24 And as interest for the safety condition of trade
25 waste workers and the public at large is further

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evolving. This bill would have far reaching unwanted effects concerning both truck air emission and safety standards. Under this law, master plumbers who haul C and D materials would no longer be bound by local law 45 of 2013 which requires more stringent emission standards on all trade waste trucks by the year 2020. In addition, master plumbers would not be required to put side guards on their trucks pursuant to the requirements of local law 56 of 2015, signed into law by the mayor of this past June. In fact, under this bill the master plumbers could use whatever type and condition of trucks they want to haul C and D material as long as the drivers have the proper motor vehicle license. Thus this bill would have the effect of rolling back some of the progress the city council has made on the issues of improving the environment and safety in the city. We have heard the claim that master plumbers are essentially double regulated by DOB and BIC, this simply is not true. BIC performs a completely different role in this area than DOB. DOB licenses only the individual plumbers insuring that master plumbers actually have the necessary training and

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experience to perform as a master plumber. For BIC the fact that someone is a master plumber is essentially irrelevant. BIC's application process includes an extensive background check that investigates the good character, honesty, and integrity of the entire applicant company including its principles and employees. BIC is a law enforcement agency with its own team of NYPD detectives assigned to it. So if a master plumber has a business partner with a racketeering conviction or organized crime... crime connections BIC would find it. DOB's licensing process simply does not focus on that issue thus BIC's purpose and objectives clearly are distinct from those of DOB in the area of licensing master plumbers. The regulations of the two agencies are absolutely not duplicative. We have also heard complaints that master plumbers doing sub-surface work are further burdened in that they must obtain permits from the Department of Transportation and the Department of Environmental Protection in order to perform work for the particular job sights under the street, well of course they do. Those permits are sight specific and have a completely different function

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and focus from what BIC or DOB do. Do we really want master plumbers or any type of contractor digging up city streets without clearance from DOT and or DEP to ensure that existing plumbing, steam, electrical, and communication lines aren't caught or otherwise damaged? Plumbing work is often dangerous and not just for the workers on the site. When you open up and dig in a city street, disasters can result without the proper oversight from expert agencies such as DOT and DEP. We have also heard the claim that the materials removed from city trench... from street trenches unlike the refuse from interior plumbing work isn't really C and D material because its generally clean enough to either go back into the same trench once the plumbing work is complete or simply be used as fill material at another job site without any refurbishment. First if the material is in fact staying on the job site and not being carted to another location, BIC has no role. But the reality is as one can normally see by looking into almost any trench opened on city streets, the material that comes out usually includes sand, soil, rock, asphalt, old pipes, and bricks all of which is

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2 often mixed with sewage, oil, and other
3 contaminants. It's almost never cleaned fill. We
4 have brought photos to show that... regarding the
5 types of materials that are generally found at
6 these sites. There could be serious environmental
7 hazards if these materials were to go directly back
8 into a trench as fill without first being treated
9 and cleaned. At first glance limiting the exemption
10 to plumbing work in a public street may not appear
11 to be a major issue. From a regulatory standpoint
12 it would create an enforcement nightmare for BIC.
13 Under this proposed bill if BIC investigators saw a
14 truck without BIC license plates hauling what
15 appears to be C and D material they would have no
16 way to determine at the scene whether the truck is
17 illegally hauling debris without a BIC license or
18 whether the carter falls under the master plumber
19 exemption created in the bill. Also the
20 investigator would have no way of knowing at that
21 time whether the truck was actually owned by and
22 the driver was employed with a master plumber. With
23 BIC regulated companies BIC would have already
24 vetted and approved all the key personnel including
25 the drivers and the company's registered trucks.

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More importantly once the BIC investigators stop a suspect truck there would be no way to accurately determined where the C and D materials and the truck came from. C and D materials are often collected from several job sites onto a single truck before being hauled to a transfer station. BIC investigators would not be able to determine whether all the debris came from the street and thus would be exempted by the bill or from an interior job or both. There wouldn't even be a way to tell whether it was C and D material from a master plumber or from some other contractor who should be using a BIC regulated hauler. As with all violations BIC has the legal burden of proof in this case it would be to prove that the material was not from an exempted job this is a near impossibility. As long as master plumbers are careful to limit themselves to C and D material so that it could appear to have come from a job involving removal or opening of a... of the pavement of a public street, BIC would have no way to establish where the C and D material came from and therefore whether the company doing the carting comes under BIC's jurisdiction but the biggest

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problem this bill creates is a loophole that would open a backdoor into the carting industry for BIC denied haulers. Shielded from BIC regulation unscrupulous members of companies excluded from the carting industry by BIC could use master plumbers as fronts to permit the denied companies to reenter the industry. Without the ability to conduct background checks, take sworn testimony, and use other investigative techniques BIC would have no way to prevent those bad actors from once again flourishing in the carting industry under the guise of a master plumber's company. So by advocating for intro 76 master plumbers are asking for less oversight in a heavily regulated industry. In considering whether to exempt them from BIC regulations the question should be asked whether master plumbers as a group have had better safety and integrity records than the other construction trades in the city. The answer is, they have not. John Curry our deputy general counsel has photographs to an investigations that have been conducted on this point and I've asked that he be now allowed to show those.

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JOHN CURRY: Thank you. Some of the

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photos I just want to... [cross-talk]

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CHAIRPERSON REYNOSO: Is your mic on?

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I'm sorry. And please right before you start

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speaking just state your name and title.

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JOHN CURRY: Hello, John Curry C U R R Y

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and I'm the Deputy General Counsel at BIC and...

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hopefully I have some photographs to help

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supplement the testimony here and I just want to

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put it out there before we start some of the photos

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that some of the companies that will be reflected

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here are now BIC registrants so I... but some of them

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had had violations in the past so I want to make

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sure that the photos I'm showing were from

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violations... some of them from DSNY some from BIC

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but some of them... not all of the companies just

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because they're in the slide show are problematic.

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CHAIRPERSON REYNOSO: Okay and I just

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want to make sure that I acknowledge the fact that

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Council Member Gibson and Council Member Maddie are

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also have joined us.

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JOHN CURRY: Okay the following is going

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to be some BIC violations. These are violations

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that were issued from... our investigators for

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violations of... for unregistered activity. This is a
slide for a company that's currently unregistered
called Plumbing Works Inc. They were issued two
violations for unregistered activity between 2013
and 14. This is the material that the investigators
take photographs at the scene and this is again we
don't know where this material came from but from
the looks of it obviously wood and other debris and
this is the rocks, dirt, and debris that we
consider C and D material that do require these
companies to have registrations. The next one is
Triboro Plumbing and Heating, in 2014 Triboro
Plumbing and Heating Corp. received four big
violations for unregistered activity. They
currently have a registration pending with us.
Again looking at the material this is a big job
site, you know that's one of their trucks being
loaded by a front loader. This is the material
going into the truck and then the company itself,
this is Triboro's offices at... and it's a water main
and sewer corporation. I'd like to... just draw
attention to it, it's a licensed general contractor
and master plumber which goes to the point of this...
sometimes these businesses will see another slide

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2 afterwards. These companies work very closely with
3 construction companies and again this would be a
4 loophole and I'm not saying oh this is the
5 intention but you can see where bad material would
6 be used under this exemption or transported. This
7 is Triboro's where they hose... house their trucks
8 and you can see these are all basically large
9 vehicles, excavators, backhoes, and front loaders,
10 and so forth. This is the type of material that's
11 there. Now this is obviously a big piece of rock
12 going into one of the trucks for the spreading of
13 asphalt and so forth but these are the trucks that
14 we're looking that would be under BIC's
15 registration. Harris Water main and Sewer
16 Contractors will come up later as DSNY had issues
17 with them. They were issued a violation for
18 unregistered activity in 2014 and they promptly
19 submitted a class to registration after receiving
20 the violation. This is the tri-axle dump truck that
21 was stopped and this is once again the material
22 that was in the truck at that point. Water Works
23 Piping Inc. they were issued a violation for
24 unregistered activity on March 2014 and they
25 submitted a class to registration in February 2015

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2 shortly after settling the violation and this is
3 once again the type of material that these trucks
4 are hauling and fall under BIC's regulations. The
5 next group of slides come from DSNY and the reason
6 this is relevant is DSNY regulates the transfer
7 stations that BIC doesn't but the point is this is
8 where the material is supposed to end up. So the
9 first slide here is... it out. And this is a group of
10 on March 16th, 2015 Balkan Brothers Holding LLC
11 received a violation from DSNY for operating a
12 transfer station without a permit. The illegal
13 transfer station is located at 130-01 Jamaica
14 Avenue. It's the same address as one of our
15 registrants Joseph L. Balkan which is approved as
16 well as Balkan Enterprises Inc., Balkan Sewer and
17 Water Main, and Balkan Sewer and Drain Cleaning
18 LLC. And the photographs here it's obviously a very
19 big lot, but these are from DSNY's photographs. You
20 see this material and again they were issued this
21 for illegally stock piling this at their offices.
22 This is again oil cans and stuff from being stored
23 in a container and then this is basically a roll
24 off containers which were being stored on their
25 site and this is again gives you a viewpoint or a

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vantage point of where bad things can happen when a material like this is stockpiled and you can clearly see. For... one of our bigger concerns is you look at this material that's clearly Balkan there and Balkan on the side, but the residents is behind that, the houses that are clearly lined up right behind this location. Harris Water and Sewer Contractors they were issued a violation from DSNY in February of this year and again this is one of our companies. Notice we don't regulate the transfer station component but... but we do regulate Harris as one of our registrants. So this is where the carve out becomes more complex that where this material goes we do care about it. We want it to end up... for recycling purposes to come back in as clean fill. Next is Tri-Star Plumbing and Heating. They were issued a violation back in May of 2015 and this is again the type of material that's being brought back to these locations of the... This is just cardboard refuse obviously American standard probably sinks, toilets, whatever. And even though this is some of the older ones that the DSNY issued, I think it... it kind of hopefully accents our point here that these again issued for improper

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2 transfer stations. Meaning this is where this stuff
3 has ended up historically now this and I... and I... I
4 apologize for the blue hue on it that's not from
5 the dirt, it's just... the dirt is as you see but
6 more importantly if you look at it where this is
7 all stockpiled, mounds and mounds and right in the
8 background you can see this is a residential area
9 like many of these locations are. Many of the
10 offices of the plumbers and so forth because they
11 have big trucks and other sorts of machinery. They
12 are still... share residential areas. WZ Plumbing and
13 Heating corp this was 2009 which goes back but
14 again it shows how close the reason why I picked
15 this one was how close this buttresses up against
16 residences from here and in the next slide you'll
17 see the houses that basically share a wall with
18 that location where this material was dumped.

19 Lastly, we want to go in and kind of just address
20 criminal indictments basically illegal dumping and
21 bribery that had been unfortunately the history of
22 some of the plumbers and master plumbers over the
23 years. In 2002 the Eastern District of New York
24 arrested 19 current and former city building
25 inspectors including the Chief Plumbing Inspectors

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2 in four of the five boroughs. On October 30th and..
3 the Eastern District again charged 14 plumbing
4 contractors and two developers of a bribing a New
5 York City Department of Buildings... Buildings
6 Inspector. The plumbers contracted for work in New
7 York City Water and Sewer Systems, defendants
8 formed a club to pay for expedited approval and
9 probably just as troubling the denial of their
10 competitors for an anti-competitive law advantage
11 and they had paid the inspector over 100 times.
12 Once again, this is the incident here... this... one of
13 the people here is a gentleman, Phil Culotta and
14 you'll notice this is important because one of the..
15 his master plumber and again this is the Department
16 of Buildings they list the disciplinary actions. In
17 2010 pursuant to that earlier case voluntarily
18 surrendered his master plumber's license here in
19 New York. Designed Plumbing from Staten Island
20 unfortunately you look at the top caption there and
21 that Robert Sutherland who is the owner I believe,
22 the president, and he's running under his New York
23 license master plumber's number 1366, but Phil
24 Culotta is the same Phil Culotta, he... because he
25 doesn't have... he surrendered his New York master

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2 plumber, that's his New Jersey master plumber
3 license there. Figliolia indictment of 2003 in
4 December 2003 the... the Manhattan DA's office issued
5 116 count indictment against Alex Figliolia Senior,
6 his wife and son, Alex Junior, his business Alex
7 Figliolia Plumbing... doing business as Alex
8 Figliolia Contracting Corp. were alleged to
9 stealing 18 million dollars from the MTA. In
10 pursuant to that the BIC denied the company Alex
11 Figliolia Plumbing Corp. in 2005. His master
12 plumber's license was also revoked in that year
13 2005. Part of the... the indictment was; they had...
14 they had charged over 5,000 percent of... for fees or
15 invoices to the MTA. They were charged with
16 stealing more than 1.1 million by failing to pay
17 prevailing wage under the terms of the MTA contract
18 and they paid over one million dollars in bribe to
19 the MTA executives. So that's a copy of our denial.
20 Alex Figliolia Water and Sewer LLC is currently
21 operating, it... John Figliolia is a Licensed Master
22 Plumber under license number 419. In 2008 John
23 Figliolia opened Alex Figliolia Water and Sewer LLC
24 and it's a related entity Cognac Leasing Company
25 LLC which is where all the trucks are licensed and...

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2 sorry, titled and registered owner. And Between
3 2010 and 2013 Alex... Alex Figliolia Water and Sewer
4 and Cognac Leasing were issued four violations for
5 continued unlicensed activity. The address here is
6 important because this is the copy of one of the
7 trucks for the unregistered operation, 420 Carroll
8 Street is the same address where the prior company
9 operated out of. There really has been no shift.
10 This is... once again a material you look and again
11 not to overstate it; the cones, the rock, debris
12 sort of just anything but clean fill from anyone
13 here would paint this as clean fill. In 2007 the
14 eastern district again had an indictment where a
15 master plumber was charged with making payments to
16 a Department of Buildings inspector for illegal
17 sign offs on sub-surface plumbing jobs. This is
18 critical to this indictment, they had to go back
19 and rip up the surface to find out what was go..
20 going... alright... so this is sort of what we're left
21 is when... when you're left with people cutting
22 corners and not being registered or this type of
23 carve out. Then here more recently for which we all
24 remember in 2015 the east village blast this was
25 the one where the investigation is ongoing and I

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2 would just like to point out that pursuant to that
3 ongoing investigation master plumbers have had
4 their licenses suspended pursuant to that so I
5 think it's imperative to kind of put the whole
6 picture together for everyone is to... sort of what
7 the history is with master plumbers. Thank you.

8 DANIEL BROWNELL: So fair comprehensive
9 oversight for master plumbers like all the
10 construction trades is always needed. BIC's role...
11 BIC plays its role by focusing on the integrity of
12 the trade waste hauling industry given the fact
13 that the carve out for this industry is completely
14 arbitrary and the potential damage this bill
15 creates is significant. We urge the Sanitation and
16 the Solid Waste Management Committee to disapprove
17 this bill. Thank you for the opportunity of
18 allowing us to testify today and we're happy to
19 answer any questions you might have.

20 CHAIRPERSON REYNOSO: Thank you for that
21 presentation, extremely thorough, I appreciate you
22 guys taking the time to... to put something together
23 for this committee, that was very informative. I
24 have several questions that I want to ask and I
25 know my colleagues have some questions as well and

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2 in a lighter note I just wanted to know you talked
3 about chief plumbers and I think four out of the
4 five boroughs you talked about chief plumbers in
5 four out of the five boroughs were removed, were
6 indicted.. [cross-talk]

7 JOHN CURRY: The inspectors... [cross-
8 talk]

9 CHAIRPERSON REYNOSO: Yeah, the
10 inspectors... [cross-talk]

11 JOHN CURRY: ...the inspectors, yes.

12 CHAIRPERSON REYNOSO: I'm sorry, the
13 inspectors, four out of the five... which borough was
14 the one that didn't... wasn't removed?

15 JOHN CURRY: I have to double check it..
16 [cross-talk]

17 CHAIRPERSON REYNOSO: Okay... [cross-talk]

18 JOHN CURRY: May be my home with the
19 Bronx I believe but I have to... [cross-talk]

20 CHAIRPERSON REYNOSO: Okay... [cross-talk]

21 JOHN CURRY: Double check...

22 CHAIRPERSON REYNOSO: So Bronx, so you
23 got good people in the Bronx... [cross-talk]

24 JOHN CURRY: Well... but I will get back
25 to you on that.

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CHAIRPERSON REYNOSO: Okay. Alright, so I guess... I want to get to... to the portion in... in that I've seen in the bill that specifically talks to what trade waste is and the discrepancy here. So there's several things here that I... I think after hearing this I really want to get to because I can understand where the idea that something is trade waste is... is something we can have a discussion on, on whether what they're moving is trade waste and the justification we have to have oversight by BIC for that but after seeing this it's... that regardless if it's trade waste or not that there definitely needs to be an investigatory I guess department here that makes sure that other things don't happen outside of just the trade waste and especially the frontage, using these master plumber's licenses as fronts. So I kind of want to get to the... the... the technicalities of it first and then you know I'm looking forward to the next panel to really speak to outside of that piece that speaks to what trade waste is you know this is... there's a lot of information here to take in in one day but it's very... you know it's glaring, it's very obvious that there's some issues here that we want

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2 to make sure BIC can continue to look to or through
3 for the future. So let's get to the technical part
4 of it. What is trade waste just that question, what
5 is trade waste legally?

6 JOHN CURRY: If I may, trade waste is
7 defined twice, it's... the first is under the New
8 York City Administrative Code and as... just trade
9 waste or waste shall mean and then it goes on all
10 putrescible non-putrescible materials or substances
11 except as described in paragraph two of this
12 subdivision not to get too technical too because
13 there is a whole thing, I can read those
14 definitions to the record and provide it with you.
15 The... the point for us is it gets down construction
16 and demolition debris and hopefully with the
17 photographs and everything we show that's what
18 we're looking at its material that is ripped up to...
19 whether sub-surface or through any sight here
20 whether it's done by a master plumber, the
21 operating engineers, the carpenters, whoever it
22 would be generating its construction and demolition
23 debris and again I don't think I could... I think
24 the... the rules have to define what it is and yet
25 it's such a large universe like on the back of any

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2 truck we see it could be depending say a building
3 that's being torn down, it can be sheet rock,
4 metal, wood, dirt, everything else that comes with
5 it. It could... it could be broken up porcelain, it
6 could be everything there and we would all deem
7 that as C and D material and... accordingly and then
8 later on... [cross-talk]

9 CHAIRPERSON REYNOSO: What about the... so
10 what about the amounts though that... so is the
11 amount important whether its... you know a... a quarter
12 ton or two tons, does it matter how much you... you...
13 [cross-talk]

14 JOHN CURRY: It... it wouldn't. some... some
15 trucks... like the vehicle I think I saw in one of
16 the photos I showed was sort of a smaller I... I
17 guess at the equivalent of maybe like a... a... like a
18 four by four type vehicle if that's taking that
19 material then it would still be trade waste.
20 Obviously some of the other photos were large tri-
21 axle dump trucks, I would hope and I would just say
22 this it's not part of here but you hope that our
23 investigators and even DSNY and other people
24 looking for something would show some discretion.
25 If you're talking about some sort of material

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that's deminimis [phonetic] but that's not what we're looking at here. When we talk about C and D material our people are looking for trucks that are hauling this material from a site and just later on its repeated in the rules itself which is title 17 and again under our section trade waste where you have trade waste and again trade waste, trade waste and what it shall mean and then again it has construction and demolition debris, closed medical waste, awful any other offensive or noxious material and that's where we get our definition from and as a... a regulatory agency there sort of are... are rules and we... we interpret them as we see and the point is... I think the Commissioner's identified in his testimony when a violation's issued the... they... the due process here if somebody says it's not C and D material we... we're returnable to oath as all administrative tribunals are now we took... we go to oath and we have to carry the burden and that's why those photographs that I showed that's our evidence, that... to what we would put into our investigators, do a live testimony or from their reports and along with the photographic evidence to show this is what this company was

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2 hauling at this date and this is why the summons
3 was issued and we have to prove our case.

4 CHAIRPERSON REYNOSO: Okay, I had... I had
5 a lot of questions but many of them were answered
6 in this presentation that you... you had today so I
7 do want to give an opportunity for my colleagues to
8 also ask questions and I think first we have
9 Council Member... Council Member King from the Bronx.
10 We're... we're possibly... possibly but not confirmed
11 the only... [cross-talk]

12 COUNCIL MEMBER KING: Well... [cross-
13 talk]

14 CHAIRPERSON REYNOSO: The only Chief...
15 the only Inspector that didn't get thrown out came
16 from the Bronx so there's some level of moralities
17 still exist out there in the Bronx.

18 [cross-talk]

19 COUNCIL MEMBER KING: ...always
20 represents... [cross-talk]

21 CHAIRPERSON REYNOSO: He said it could
22 be, we haven't... this is not confirmed... not
23 confirmed, okay.

24 COUNCIL MEMBER KING: We'll speak it
25 into existence but thank you Mr. Chair I appreciate

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2 it. Commissioner I really appreciate the three of
3 your... your time this afternoon to lay out in detail
4 of your existence of what we've viewed today, I
5 mean I'm looking at some of this stuff and I'm a
6 little baffled that I... I... you know my real... number
7 one question is do we know how many bribes were
8 paid out to keep stuff from hitting the table you
9 know it's... it's concerning that it... it almost
10 seemed like it was a part of how to do business you
11 know I... I... I... I commit a violation then I sweep it
12 underneath the rug but I'm glad you guys are on it
13 to catch it and hold those culprits responsible for
14 not having any integrity. So I... I do want to know...
15 I guess... I don't want to answer it for you but this
16 intro that's being presented can we rightfully
17 assume that you are 100 percent against this, are
18 you for it or is there anything we can tweak or
19 what do you say?

20 DANIEL BROWNELL: You know I don't think
21 there is a way to tweak it and... and Arthur
22 Goldstein we've had conversations and I think we
23 tried... we tried to come to see whether there was a
24 middle road and I just don't think there is one
25 and... and Council Member King the only thing that I

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2 would want to say... I can't tell if this is on or
3 not... with regard to the criminal indictments it's
4 not our objective or purpose today to smear this
5 industry, you know all construction industries in
6 the city unfortunately have their share of
7 corruption and fraud. There are plenty of good
8 plumbers, master plumbers out there so... I mean that
9 is one of the concerns I have that people don't
10 leave this hearing today thinking that we... our
11 intention is to smear a whole industry, our point
12 is that this industry unfortunately like all
13 construction trades in the city have had their
14 share of fraud and corruption which is a... which is
15 a minority no doubt but the point is there's no
16 reason to... to hold this particular trade above and
17 beyond other trades like electricians and others
18 that have also had their share of problems. So I
19 just want to make that clear if I could.

20 COUNCIL MEMBER KING: Okay, if I missed
21 anything earlier excuse me because I didn't get
22 here exactly when you started. I'd like to know if
23 this... if... say that this bill actually pass and it
24 got through what problems would you think BIC would
25 have if this was enacted?

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DAN BROWNELL: Well there's a lot of things; for one thing you know when you see a truck and again I'm not an investigator with BIC, I haven't actually been out there on the street, I've seen photographs and videos after the fact, there's really no way to tell where stuff comes from. And again unless there's like toilets or other things that clearly or hopefully weren't taken out of a trench in the street well then you can tell that part of that load anyway did not come from the street but the point is it's almost impossible to tell where the stuff comes from and the other... the other problem is and John has more examples than I do is a lot of the plumbing companies are also contracting companies so where do you draw the line between you know the refuse and the C and D material that comes from another kind of construction site versus sub-surface work. In sub-surface work there's absolutely no way to do that and then you know if... if this bill gets passed then why... you know why aren't the electricians in here the week after and other contractors and other trades because again there's nothing that distinguishes this trade from any other trade you

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2 know construction trade in the city when it comes
3 to BIC regulation and you know if they don't want
4 to get a BIC license than just sub it out, have
5 somebody... have another BIC approved company do the
6 work, it isn't like we're holding up master
7 plumbers from doing the work they want to do or you
8 know assuming they're a good company then just get
9 an application and fill it out and complete it and..
10 and they become BIC... BIC licensed.

11 COUNCIL MEMBER KING: Okay... [cross-talk]

12 DANIEL BROWNELL: John is there anything
13 else that you...

14 JOHN CURRY: No, I think the... the point..
15 and I think the Commissioner made it well, it's..
16 we're not here as an agency looking for... to expand
17 our sort of... our... like our empire, we're... we're
18 here saying they are... the... the master plumbers say
19 we want to be carved out, we want to be taken out
20 of it and we're saying we don't... we have no dog in
21 the fight, we do not have anything to do with
22 master plumbers until they do this work meaning
23 they generate the C and D material and even then
24 we're still not in the game until what, it's on a
25 truck and it's being transported away from there

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2 that's BIC's and that's our core mission like
3 looking at the... the commercial carting and the
4 hauling of C and D material and that's I guess our
5 point if... if left with anything is that the
6 universe most master plumbers that we ask we say
7 what are you guys doing they're like well we bid a
8 job and we know that if we get that job and the
9 sub-surface material we'll go and get a registrant
10 and that's banked into the... the cost that they'll
11 have someone else do it because they don't then
12 have to have their own trucks, it's part of the
13 formula of doing it. Not all master plumbers do
14 this type of work, this is a very small niche but
15 the problem is by carving out this niche of master
16 plumbers claiming sub-surface it opens up for us
17 an... an... sort of unimaginable amount of chaos or at
18 least for us to try to track where materials going
19 and DSNY with the transfer station's once again
20 they also want to make sure that the material
21 that's taken out of the street because so much of
22 the C and D material is reclaimed as recyclable,
23 you want it to go to the right places and that's
24 where our role is to make sure that when stuff's
25 being transported it ends up in the right location.

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COUNCIL MEMBER KING: Two more questions

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for you. Do you find that is there any

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discrepancies of stuff being unloaded and..

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illegally in particular communities, is there a

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disparity like some communities get dumped on more

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than others, is there violations that you're

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finding in more less affluent communities as

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opposed to well to do communities?

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JOHN CURRY: You know I don't think so.

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It's hard to tell where it... where the stuff

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originated so there's really no way... [cross-talk]

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COUNCIL MEMBER KING: No, I'm not

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talking about the originate, at the... the final stop

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of some of this stuff do you... [cross-talk]

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JOHN CURRY: Not that I'm aware of but

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we would probably have to set down with sanitation

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who directly over... oversees the transfer stations

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to come up with that, I've never heard that that's

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the case but... [cross-talk]

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COUNCIL MEMBER KING: Okay... [cross-talk]

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JOHN CURRY: I can't say that I know...

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[cross-talk]

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COUNCIL MEMBER KING: I'm just trying to

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figure up... there was like more dumping... so I was

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just trying to figure... [cross-talk]

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JOHN CURRY: Yeah... [cross-talk]

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COUNCIL MEMBER KING: ...if... you know

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figure that one out. That might be something that...

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I'd like to know that answer as well.

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JOHN CURRY: Okay.

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COUNCIL MEMBER KING: And finally, so

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your responsibility right now in this whole process

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pretty much once the material's being carted from

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the site and what this legislation does is... to

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extract those master builders out from your only...

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really you're only real responsibility to

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monitoring what they're supposed to be doing,

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right?

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JOHN CURRY: Right, when the master

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plumbers are hauling their own C and D material

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they want to be exempted out... [cross-talk]

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COUNCIL MEMBER KING: Right... [cross-

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talk]

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JOHN CURRY: ...from regulation... [cross-

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talk]

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COUNCIL MEMBER KING: I... I'm going to put it on record Mr. Chair I think that it doesn't make sense... if that's your only responsibility why would we exclude the responsibility that you've been given to make sure that city streets and dumping is done properly to put a piece of legislation in place that would take that one responsibility from him when we know there's been illegal dump and illegal activity is a kind of flaw. So Mr. Chair I am going to just right now just apologize to you all because as I've sat and did a little bit more research I'm asking you right now to remove my name as one of the sponsors on this bill right now because until we can make... and get some real responsibility in right now, okay? Thank you.

CHAIRPERSON REYNOSO: Thank you Council Member King and it's noted by the Committee Council and we have questions from another Council Member from you know the... [cross-talk]

COUNCIL MEMBER GIBSON: Stay in the Bronx...

CHAIRPERSON REYNOSO: Staying in the Bronx, we are. Council Member Gibson.

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COUNCIL MEMBER GIBSON: Thank you so much. Good afternoon to everyone whose here and thank you to my colleagues, thank you Chair Reynoso and Commissioner and your team thank you for providing absolutely a very extensive presentation to us and thankfully I had an opportunity to meet with you earlier so a lot of your presentation and testimony I am familiar with and so I just have I think three very quick questions and certainly understanding that we as a council working in concert with BIC and the... this administration we do not want to do anything that would impede on the public safety and the public health of anyone in this city, any New Yorker and certainly some of the bills that are proposed is... is just to stimulate a conversation and to begin a dialogue and so I know that intro 76 is what brought us here today and I appreciate a lot of the input you have provided to us, to the members of this committee and I guess I wanted to understand even the idea of where this bill came from and some of the history and understanding licensed plumbers. How many licensed plumbers do we have right now registered in the city of New York?

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DANIEL BROWNELL: Our understanding is
3 that there's about 12 hundred.

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COUNCIL MEMBER GIBSON: Okay and many of
5 those licensed plumbers also sub out some of their
6 work, correct?

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DANIEL BROWNELL: I... I presume they do,
8 I mean people from the industry would know better
9 than I do, yes.

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COUNCIL MEMBER GIBSON: Okay, so the
process by which in compliance with local law 42
that was passed several years ago in compliance
with that in order to become a licensed plumber do
they have to comply with the same regulations as
any other trade industry that's hauling trade waste
in the city, so is there a difference for licensed
plumbers and that's the reason why this bill is
been put forth asking for this exemption from BIC
requirements?

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DANIEL BROWNELL: No, as... as we've
indicated the kind of trade you are in the
construction industry... [cross-talk]

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COUNCIL MEMBER GIBSON: Doesn't matter..
[cross-talk]

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DANIEL BROWNELL: Is irrelevant to what... what... to our process of licensing, it makes absolutely no difference whatsoever.

COUNCIL MEMBER GIBSON: Okay, so when you register with BIC you're saying that the process isn't duplicative or unnecessary or like multiple layers of bureaucracy for a licensed plumber to be registered with the city?

DANIEL BROWNELL: No because what DOB does is completely different. DOB's main interest and concern is if... you know you're a licensed plumber you actually know how to do plumbing, I mean plumbing is dangerous and obviously you don't want to have someone licensed and is a consumer you know unless you know a particular plumber personally and go to the... I guess they don't have yellow pages anymore but you go to the computer and if you see that someone is a licensed plumber you're... by the city you assume that when you have them come and do the work that you need done whether it's you know a sewer hookup which would be the kind of plumbers we're talking about here with sub-surface work or you need... let's say your

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bathroom or kitchen renovated the... the person
you're going to get is actually... [cross-talk]

COUNCIL MEMBER GIBSON: Right... [cross-talk]

DANIEL BROWNELL: Going to go... know how
to do the job, we have nothing to do with that, we
don't know anything about plumbing or electrician
or any of the other trades, it's not what we look
into.

COUNCIL MEMBER GIBSON: Okay, is there
any industry now that's exempt from local law 42.

DANIEL BROWNELL: There are none, no.
If... if you haul in this case construction and
debris material you need... commercially you need a
BIC license, that's it.

COUNCIL MEMBER GIBSON: So this bill
would essentially begin and I think someone talked
about it setting a precedence for an exemption of
local law 42?

DANIEL BROWNELL: Yeah, I mean as I said
I don't know if this bill gets passed I'm not sure
why the electricians aren't here you know the next
week to say well what about us.

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COUNCIL MEMBER GIBSON: Okay. In the work you guys have been doing in this industry have you found or has... has there been a trail or group of licensed plumbers that have come to BIC indicating that there has been hardship or difficulty in registering with the city?

DANIEL BROWNELL: Not that issue but again as I indicated Arthur was the person that we spoke to and it was a... it was a good... Arthur's a good guy of course but we had a very good informative conversation unfortunately we just didn't have a meeting of the minds.

COUNCIL MEMBER GIBSON: Okay. I think that's it. So you're saying essentially... I just want to make sure I understand that there's no difference from any industry registering with the city and complying with local law 42?

DANIEL BROWNELL: No, when it comes to hauling trade waste if that's what you do commercially then you need a BIC license.

COUNCIL MEMBER GIBSON: Okay and I appreciate you indicating and I... I certainly coming from the Bronx want to also you know express the support that we all have for any industry that

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2 hauls commercial waste and you know in every
3 industry there are bad apples that make... you know
4 all the good actors look bad and so I know we've
5 had a series of mishaps and you know a lot... lots of
6 fraud and other measures but certainly I don't want
7 the conversation to continue to put a blight on the
8 entire industry... [cross-talk]

9 DANIEL BROWNELL: Exactly.

10 COUNCIL MEMBER GIBSON: And... and that's
11 important to say because you know I experienced a...
12 a fire... a five alarm fire in my district this week
13 and what I soon learned was that not only were
14 there two families... or two dozen families that were
15 displaced but one of the workers on site was
16 actually using a... a piece of equipment that he
17 wasn't supposed to use and he was subsequently
18 arrested and... and so like just hearing stories like
19 that I know that there are good actors out there...
20 [cross-talk]

21 DANIEL BROWNELL: Uh-huh...

22 COUNCIL MEMBER GIBSON: And we certainly
23 want to keep highlighting those and those bad
24 actors, I mean we absolutely have to hold everyone
25 accountable to the laws because we certainly want

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2 to protect the public safety, public health of
3 everyone so I hope we will continue to have
4 conversations even though the administration has
5 expressed their opposition, we're always up to
6 continued conversations for changes and other
7 measures and certainly I know my name is on the
8 bill and I know I will continue to speak to BIC, to
9 all of you as well as the industry because
10 certainly I know that whatever we do there are
11 unintended consequences and I certainly do not want
12 to set up a pattern where we have exemption after
13 exemption after exemption and then we have no
14 reason to create laws in the first place..

15 DANIEL BROWNELL: Right..

16 COUNCIL MEMBER GIBSON: Because everyone
17 is carved out and so I appreciate that and I
18 understand you know the magnitude of what we're
19 talking about and certainly know that there is room
20 for obviously a very delicate balance but
21 ultimately I chair public safety so I'm very, very
22 concerned and want to make sure that whatever we do
23 is always in the best interest of every New Yorker
24 that lives across the city so.. Thank you so much
25 and thank you.. [cross-talk]

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DANIEL BROWNELL: Sure... [cross-talk]

COUNCIL MEMBER GIBSON: ...to our chair for your leadership and bringing this hearing to the forefront, thank you very much.

DANIEL BROWNELL: And Council Member if there's any other information you need from us and that goes to any of the Council Members please feel free to ask and we're happy to provide whatever we can.

CHAIRPERSON REYNOSO: Alright, now I want to bring it to Council Member in Queens, Costa Constantinides.

COUNCIL MEMBER CONSTANTINIDES: Thank you Mr. Chair, thank you Commissioner for being here today and for your testimony and your thoroughness and definitely appreciate all the work you're doing and I... I do not believe it's the intent of the council to undermine that work at all, I think we're all as... as my colleague aptly and eloquently talk... just talked about we definitely want to find a good solution here and I think through cooperation we can do that. First, how much is the... the license and registration with BIC?

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2 DANIEL BROWNELL: I'm going to switch
3 that to John because it depends what kind of a
4 license you're getting.

5 COUNCIL MEMBER CONSTANTINIDES: Okay...
6 [cross-talk]

7 JOHN CURRY: Yeah, it would be a class
8 two registration I would imagine for C and D
9 material and that would be 45 hundred dollars.

10 COUNCIL MEMBER CONSTANTINIDES: 45
11 hundred dollars and is there another fee they'd
12 have to pay to... for registration for... as a hauler
13 or that's something else they would have to pay or...
14 [cross-talk]

15 JOHN CURRY: No as far as like there's...
16 we don't regulate the transfer stations where the
17 material goes and obviously any other permitting
18 that for us it would be... that's the fee and then
19 you'd pay per truck... excuse me... 500 dollars per
20 truck that you would be adding on and that's it and
21 the application lists the company where you park
22 your trucks, your employees, it's basically a
23 snapshot of your entire company. We... with part of
24 it is you know we then do a background on the
25 company meaning the company... the cooperate entity

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2 and then all the way down from its principles to
3 its employees and to the vehicles, we... we run DMV's
4 to make sure that the vehicles are properly titled,
5 registered and insured. That's all... [cross-talk]

6 COUNCIL MEMBER CONSTANTINIDES: Okay, so
7 that's... [cross-talk]

8 JOHN CURRY: Part of what you get.

9 COUNCIL MEMBER CONSTANTINIDES: Okay, so
10 it's a 45 hundred you'll... there is... once you
11 register with BIC there... you're going to run all
12 these background checks and those are... those are
13 much different than DOB, correct?

14 JOHN CURRY: Correct.

15 DANIEL BROWNELL: Yeah and Council
16 Member I just might add that we don't set the rate,
17 the fees, OMD sets them based on the work that we
18 do to do the background checks so I just want to
19 make that clear that BIC doesn't directly set our
20 fees.

21 COUNCIL MEMBER CONSTANTINIDES: Okay and
22 then is... no but it's an additional 500 dollars
23 that's added on per truck?

24 JOHN CURRY: Correct.

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COUNCIL MEMBER CONSTANTINIDES: Correct,

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okay. I... so there's some of the things I just want...

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[cross-talk]

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JOHN CURRY: And again those would be

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the trucks that are being used to haul C and D

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materials... [cross-talk]

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COUNCIL MEMBER CONSTANTINIDES: To haul

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C and D... [cross-talk]

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JOHN CURRY: Meaning if you have a Ford

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pick-up van that you drive back and forth you...

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that's... like we're not trying to get all of the

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other trucks, we wouldn't... you don't need a big...

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like... that you would be registering the backhoes

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and the other vehicles it's just the trucks... the...

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the tri-axles... [cross-talk]

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COUNCIL MEMBER CONSTANTINIDES: Just the

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trucks that haul the C and D materials and that's...

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and that's something that's charged to anyone who

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shows up at the... at the transfer stations in order

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to... to dispose of the C and D waste or that's

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something that's only through BIC that you have to...

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[cross-talk]

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JOHN CURRY: That's... [cross-talk]

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COUNCIL MEMBER CONSTANTINIDES: Add the additional 500... [cross-talk]

JOHN CURRY: That's BIC... [cross-talk]

COUNCIL MEMBER CONSTANTINIDES: Dollars... [cross-talk]

JOHN CURRY: It's a one shot when the application comes in and if you were adding trucks proactive like I'm sure it's... [cross-talk]

COUNCIL MEMBER CONSTANTINIDES: Oh so it's... [cross-talk]

JOHN CURRY: Prorated... [cross-talk]

COUNCIL MEMBER CONSTANTINIDES: Not every time, it's' just... [cross-talk]

JOHN CURRY: No, it's... [cross-talk]

COUNCIL MEMBER CONSTANTINIDES: 500 dollars... [cross-talk]

JOHN CURRY: A one... it's... [cross-talk]

COUNCIL MEMBER CONSTANTINIDES: One time trip... [cross-talk]

JOHN CURRY: Exactly and then when you... [cross-talk]

COUNCIL MEMBER CONSTANTINIDES: Okay... [cross-talk]

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2 JOHN CURRY: Come up and the... the fees
3 at the transfer stations again while DSNY could
4 probably speak to it most of the transfer stations
5 I should say, most, a large percent are privately
6 owned so the... another words the competition will
7 set what the rates are to basically get rid of
8 trade waste or C and D material and more
9 importantly is they are the ones who sort of self-
10 monitor themselves if someone's charging too much
11 or whatever it is and there's all different types
12 of transfer stations. Some do not take C and D
13 material, some take... some will accept some
14 material, recyclables and so forth and some won't.

15 COUNCIL MEMBER CONSTANTINIDES: Okay.
16 Thank you very much, thank...

17 CHAIRPERSON REYNOSO: Council could I
18 ask a follow-up question? So you said after you pay
19 the first... the first time you never pay again,
20 there's no like renewal for the fee?

21 JOHN CURRY: It's for two years.

22 CHAIRPERSON REYNOSO: Oh it's... [cross-
23 talk]

24 JOHN CURRY: It's every two years..
25 [cross-talk]

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CHAIRPERSON REYNOSO: So... every two

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years you pay the 4,500 initial fee plus 500... plus

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the 500 per truck?

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DANIEL BROWNELL: Yes.

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JOHN CURRY: Well not every two years

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for the truck just once for truck.

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CHAIRPERSON REYNOSO: Okay, once for the

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truck but the 4,500 dollar... [cross-talk]

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DANIEL BROWNELL: Right... [cross-talk]

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CHAIRPERSON REYNOSO: Fee is once every...

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[cross-talk]

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DANIEL BROWNELL: Right... [cross-talk]

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CHAIRPERSON REYNOSO: Two years. Okay

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and OMB sets that and that's a... the work that you

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guys have to do for the investigations value...

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[cross-talk]

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JOHN CURRY: Right... right, correct.

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CHAIRPERSON REYNOSO: Alright, so they

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pay your salaries. Oh look at that. [cross-talk]

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JOHN CURRY: Somebody over here does.

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CHAIRPERSON REYNOSO: Some... right,

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somebody does. The... do any other Council Members

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have any other... extra questions? No? I do want to

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say I wanted to know if... because we're going to

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2 hear from the plumbers... now the master plumbers and
3 we... I might want to call you guys back up for a
4 couple of... to... like follow up questions and things
5 like that that we might not have asked because
6 they're... they're definitely going to speak on a lot
7 of these concerns that you have and I want to make
8 sure that we have an opportunity to educate
9 ourselves thoroughly as to... [cross-talk]

10 DANIEL BROWNELL: Sure... [cross-talk]

11 CHAIRPERSON REYNOSO: What... what that
12 is. So thank you guys, I really appreciate your
13 presentation and would really appreciate if you
14 guys did.

15 JOHN CURRY: Thank you.

16 CHAIRPERSON REYNOSO: Thank you.

17 [background comments]

18 CHAIRPERSON REYNOSO: So we want to call
19 up a couple of folks now, Michael Martone, Rocco
20 Murdocca, Arthur Goldstein and John Figliolia and I
21 apologize if I... if I said the names incorrectly.
22 And I'm going to allow you guys to... I don't know
23 which... how you want to do it... [cross-talk]

24 ARTHUR GOLDSTEIN: We'll start with the
25 two of us if we can and then I'd like to get

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2 through our written testimony that the two of us
3 have and then try to be responsive to... [cross-talk]

4 CHAIRPERSON REYNOSO: Yeah, absolutely...
5 [cross-talk]

6 ARTHUR GOLDSTEIN: Some of the comments
7 that the commissioner had.

8 CHAIRPERSON REYNOSO: Yeah, we're going
9 to do... we're going to do the best we can, we're
10 going to give you as much time as you guys... [cross-
11 talk]

12 ARTHUR GOLDSTEIN: Appreciate it very...
13 [cross-talk]

14 CHAIRPERSON REYNOSO: ...would need...
15 [cross-talk]

16 ARTHUR GOLDSTEIN: Much... [cross-talk]

17 CHAIRPERSON REYNOSO: To... to make sure
18 you make your case. So fortunately we have... you
19 know it's two sides and its very clear so we want
20 to make sure it's a thorough... a thorough committee
21 hearing so that everyone can get... be heard so
22 absolutely Arthur go ahead.

23 ARTHUR GOLDSTEIN: Thank you... [cross-
24 talk]

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2 CHAIRPERSON REYNOSO: And make sure you
3 state your name and your title and go for it.

4 ARTHUR GOLDSTEIN: My name is Arthur
5 Goldstein with the firm of Davidoff Hutcher and
6 Citron and I'm council to the Association of Water
7 and Sewer Excavators who are master plumbers that
8 do work on city streets. We are asking for an
9 exemption because two of the last three
10 commissioners of BIC deemed the material
11 transported by master plumbers... plumber businesses
12 from city streets under a DOT permit carting that
13 requires businesses to submit to another
14 registration process without the city council
15 authorizing it and that is probably the most
16 crucial line of the testimony. We... we believe it's
17 over regulation and therefore we're asking for this
18 highly regulated plumbing industry to be exempt
19 under the narrow circumstances presented in this
20 legislation. I would argue that BIC doesn't have
21 the clear authority from the city council to
22 require master plumbers who work on city streets
23 under a DOT permit to register and this legislation
24 simply makes that clear. First the history, the
25 trade waste commission was established by the city

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2 council as your predecessors found that the carting
3 industry had been corruptly influenced by organized
4 crime. City businesses were paying a mock tax to
5 remove trade waste. BIC thoroughly vets carting
6 businesses and their employees and they have
7 cleaned up the carting industry so I would
8 certainly applaud them. The city council had a
9 mission and BIC's through the years have got us to
10 where we are today. Trade waste is defined by
11 section 16501 of the administrative code as
12 materials discarded by a commercial establishment
13 that are generated by such by such commercial
14 establishments. That's what the city council wrote
15 and was passed and signed by the Mayor at... at... at
16 the time and I've attached the full definition
17 which we probably should read into the record
18 afterwards because it explains where we're starting
19 from. What the law was meant to do to deal with
20 commercial establishments that's where we start.
21 Simply put restaurants as an example must have a
22 license carter to discard its waste they generated.
23 The law was meant to protect commercial
24 establishments from that mock tax and that was
25 around in... you know prior to the mid 90's when...

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2 when the... the trade waste commission was
3 established. In section 505 it requires a business
4 for the purpose of the collection of waste from the
5 premises of the commercial establishment to be
6 licensed. It further states and I'm quoting, "a
7 business solely engaged in the removal of waste
8 materials resulting from building demolition,
9 contraction, alteration, or... or excavation shall be
10 exempt close... there a rest of a sentence and I'm
11 closing the quote there, after the commission fully
12 vets the principles and... and the company and I have
13 attached the full section. The... the key to this
14 phrase is a business solely engaged, master
15 plumbers are not solely engaged in removal of the
16 debris from the street. It's incidental to the work
17 they do and therefore is not covered. Before we
18 examine law under this... fact ban... one must
19 understand that the ad [phonetic] code in section
20 130 defines this material from city streets as fill
21 material and I've attached that definition. Thus
22 plumbers can use this so called waste as a work
23 material, the equivalent of transporting pieces of
24 pipe. And I'll just move away from my testimony
25 just a tiny bit. So for example if one of these

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2 companies packs up a truck... loads up a truck and is
3 driving towards a transfer station and let's say a
4 BIC agent stops him... a truck right outside the
5 transfer station and says what are you doing and
6 the driver says well here I have a DOT permit, oh
7 wait my phone's ringing, yes boss, yeah I still
8 have the material, yeah, okay, they need it on
9 another job site. Up until the moment that they
10 give it over to... to be crushed, let's use some old
11 material. Another scenario is they could actually
12 drive back to their shop, keep it on the truck
13 because if you take it off the truck it's
14 technically becomes a transfer station and then
15 drive it somewhere in the five boroughs to be fill
16 under the city council definition which is at the
17 end of my testimony so this is a work material up..
18 up until the time that they drop it off just to
19 conclude here. The... the city council was trying to
20 protect businesses from the mock tax... from the mock
21 tax, who is the business being protected in this
22 scenario? The city owns the streets that the
23 plumbers are removing the material from, the
24 homeowners who... who hires the master plumbers is
25 not a commercial establishment, no material or

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2 waste is being generated by a commercial
3 establishment, BIC doesn't have the authority to
4 regulate a master plumber's contract with their
5 costumers and BIC is not protecting the plumbers
6 from themselves. So how do master plumbers fit into
7 this law without express authorization from the
8 city council? The material that is sometimes
9 considered waste is generated from random streets
10 owned by the city of New York is not generated by a
11 commercial establishment that needs to be protected
12 from unscrupulous carters. The plumbers are not
13 solely engaged in carting; it is incidental to the
14 work they need to accomplish to fix pipe. The
15 language above deals with building construction
16 issues not plumbing work under city streets. In the
17 city charter section 2101 it clearly states that
18 BIC is specifically responsible for trade waste
19 industry and ship board gambling etcetera. The city
20 council was quite specific about what it wanted
21 covered as each industry added to the law had a
22 history. So many of you know later on the... the
23 markets in Hunts Point were added. How was that
24 added? It was added by the city council, okay.
25 Master plumbers were not added to a list of carting

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2 industry. The history and the legislative intent to
3 eradicate organized crime are crucial in analyzing
4 this matter. BIC's unilateral expansion of their
5 powers without the city council's authorization
6 actually doesn't pass the smell test. Plumbers
7 should be exempt because no commercial
8 establishment has discarded such material nor does
9 it control the material that comes from the city
10 streets. In... in other words if... if they're working
11 for a homeowner or a commercial establishment
12 either one of those people can come out to the
13 street and look to one of these plumbers and say do
14 this with this material, put it on my land,
15 alright, they are responsible for following DOT
16 rules with... with what to do here. The removal of
17 such material is incidental to their work and... and
18 the material is actually usable on jobs. The
19 exemption here is... is warranted, it actually... the
20 way this came about is I didn't want to do the
21 legislation, I wanted the commissioners to
22 understand the fact pattern and only one out of
23 three did. I... I happen to interview Mike Mansfield
24 and you know he gave me the phrase how he dealt
25 with it when he was commissioner that this work of

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2 removing this material was incidental to the work
3 of master plumbers but the next two commissioners
4 don't have that opinion and I appreciate the time
5 the commissioner gave me because it... literally over
6 two meetings and a phone conversation and some
7 written material, it was... it was a healthy dialogue
8 we just happen to disagree but they are using Mr.
9 Curry's language I actually think they are
10 expanding their... their empire because if... if I
11 could before John starts comment on at least a few
12 things. A lot of the violations you saw shows that
13 the rest of the city agencies work. They receive
14 violations for things that have really nothing to
15 do with this bill. If... if someone is improperly
16 dumping whether it's one of these plumbers or
17 someone else and DOS catches them that system work,
18 in cases where plumbers did things wrong you saw a
19 list of... I... I saw some that he mentioned. License
20 surrendered, fines, you could... you could read
21 through it and I'm sure some of those plumbers on
22 the list were not plumbers who just do work on the
23 city streets because there's about 12 hundred
24 plumbers. so... you know the commissioner stated it
25 wasn't trying to smear an industry but it sure

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2 sounded like it and I'm sure some of them feel the
3 same way that the... in... in fact it was throwing a
4 lot against the wall but it had nothing to do with...
5 with stopping these trucks. The fact is if you go
6 through a license procedure and you have the BIC
7 license he said there's no way to tell where... where
8 it came from so if there's no way to tell where it
9 came from before and now they're licensed by BIC
10 and they stop a truck how do they tell where it
11 came from before? They still don't so the... the
12 appropriate agency has to do what they're supposed
13 to do and apparently they do it and they... they
14 catch people who... who commit fraud and... and... and
15 bribe people etcetera and John may talk about his
16 brother, you know being brought into this but his
17 brother lost his license. So again the process
18 worked and you know the thing is the council made
19 some specific authorizations and an agency can't
20 just go beyond those authorizations. So let... let me
21 let John go and...

22 JOHN FIGLIOLIA: [off mic] Is this on...

23 ARTHUR GOLDSTEIN: Yes, I think so.

24 JOHN FIGLIOLIA: Okay great.

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2 CHAIRPERSON REYNOSO: Make sure that
3 one's on and just state your name and... [cross-talk]

4 JOHN FIGLIOLIA: My name is John
5 Figliolia, I'm a proud licensed master plumber and
6 I own a plumbing business. I'm also the president
7 of the Association of Water and Sewer Excavators.
8 Plumbers who obtain New York City Department of
9 Transportation work permit to do work issued in the
10 city streets when hired by homeowners and
11 commercial properties. DOT requires us to be
12 bonded, in my case I have a 250,000-dollar bond and
13 we have insurance. We take out permits to do the
14 work that we are specifically doing, that's to
15 excavate the roadways and the sidewalks which
16 sidewalks are roadways. It takes seven years to
17 become a licensed master plumber. We are regulated
18 by DOB, DEP, DOT and the work... and work with other
19 agencies as well. We are highly regulated small
20 businesses. My commercial establishment... a licensed
21 carter take away my... my carting business stuff. The
22 material we take from the city streets is good
23 material as defined by the city council and local
24 law 45 of 2003 attached. We can use it on jobs, we
25 can take it to other jobs, we can take it to our

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2 shop, we can bring it to other jobs the next day or
3 use it, we can drive it to a recycling plant and
4 just before releasing it find out that the material
5 is needed for another job as well. The incidental
6 carting is not what the city council intended. They
7 were going after trash haulers who had commercial
8 establishments under their thumb. I'm going to read
9 something.. say something that's not in this paper..

10 CHAIRPERSON REYNOSO: Go ahead.. go
11 ahead.

12 JOHN FIGLIOLIA: When this was created
13 by Giuliani the reason it was created is if you had
14 a carter and he and he dropped a container at your
15 business and he started to raise his prices you
16 could not hire another carter, you would call a
17 carter and they would say is someone carting for
18 you now and you say yes then I can't give you a
19 container. That's what Giuliani was protecting.
20 That commercial establishment is throwing out his
21 garbage because he couldn't get somebody reasonable
22 to come in and give him a price to take away this
23 garbage, that's not what we're doing. We do not
24 charge anybody for this, this is the smallest part
25 of the work. Up until recently even if I wanted to

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2 sign a regulation offered by Business Integrity I
3 would have to sign a false statement that was
4 talked about that I had licensed summonses. Yes, I
5 did get summonses and I went to the meet with the
6 commissioner and I told them I can't sign this
7 regulation because if I signed this I'm signing a
8 false document which you in... in your application
9 say if I signed this application and... sign a false
10 document I'm going to be held criminally...

11 ARTHUR GOLDSTEIN: Perjury...

12 JOHN FIGLIOLIA: For perjury. I said I'm
13 not in the business of carting, I don't advertise
14 for it, I don't charge for it, we don't do that, we
15 are licensed plumbers who happen to dig city
16 streets. I... I would... I would not sign this so it
17 was also written in this... after years of pointing
18 out plumbers can't sign BIC now I'm a president of
19 an association, I tell my members do not sign the
20 big registration because you're committing perjury.
21 We've met with the city council members prior to
22 this hearing and we've discussed it with them under
23 the last trade commissioner and they altered some
24 of the words in the BIC application but today if
25 you still read it... it says businesses solely

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2 engaged in carting. How can I sign that as a
3 licensed master plumber who has a plumbing
4 business? I'm required by law to put a plaque on my
5 wall from the Department of Buildings that I pay
6 for every time I renew my license that says I'm a
7 plumbing business. How can I sign a document that
8 says I'm a carter, my sole business is carting?
9 that's not what we do. BIC was not created to
10 oversee plumbers; they're grasping beyond their
11 authority. This is... this amendment clears the law
12 in a... in a appropriate way, it does not stop BIC
13 from stopping a master plumber's truck and once the
14 agents reviews the side panel of the truck and sees
15 the DOT permit either by paper or electronically
16 then the driver will be able to complete his task.
17 I ask you please to support this bill which would
18 exempt us. Now I would also like to say that the
19 city streets belong to the city of New York,
20 they're not owned by any commercial establishment.
21 In fact, there are DOT rules and books that's used
22 to say on the city project if you took this
23 material out it is owned by the city of New York
24 you have to bring it to the Staten Island plant and
25 let them use it as excess back fill material to

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2 cover their landfills and it was three or four
3 different categories. It was excess fill, it was
4 concrete rubble, all as... for the Department of
5 Transportation and the Sanitation acceptable,
6 usable material not garbage, not waste, this is
7 earth, earth is not waste. They're talking about a...
8 a C and D license. A C and D license is for
9 building construction, building demolition,
10 building excavation that means on a trade site
11 where they're going to knock down a building and do
12 demolition that guy has to have a container but
13 what does he have to do? He has to hire a company,
14 post a sign and say this is the carting company
15 that's going to take the garbage, this is when he's
16 going to come and take the garbage, this is for all
17 commercial establishments, we're plumbers, we're
18 digging streets. it's overseen by DOT; they tell us
19 on this street you dug the hole to do a sewer
20 repair or to do a water main repair. You can't
21 leave the material on this particular street
22 because every lane has to be open at the end of the
23 night so put it on your truck, take it away to your
24 shop and then bring it back. That's DOT's telling
25 us to do this, that's who we took the permit out to

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2 dig up our streets. we've been doing this work, my
3 family's been doing this, my father since 1930's,
4 we don't dump this in the shop, we don't dump this
5 in some yard if I do I deserve a summons for that
6 and we're not stopping BIC from giving us a summons
7 or anybody else for illegally dumping but I've
8 never been given a summons for illegally dumping,
9 I... they... they have a picture of a truck with
10 asphalt and concrete and dirt that's sitting on a
11 job, it wasn't even moved yet and I got a summons
12 for that. So I said look I've already paid more in
13 summonses and lawyer fees than the BIC license and
14 registration would of costed me but I can't sign
15 this so what are you going to do to make the bill,
16 the law not say solely engaged. They fooled...

17 [cross-talk]

18 CHAIRPERSON REYNOSO: So... [cross-talk]

19 JOHN FIGLIOLIA: Around with the
20 application... [cross-talk]

21 CHAIRPERSON REYNOSO: Uh-huh... [cross-
22 talk]

23 JOHN FIGLIOLIA: They changed a few... but
24 if you pull up today the paperwork it still says

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the C and D license that they want us to get...
[cross-talk]

CHAIRPERSON REYNOSO: Uh-huh... [cross-talk]

JOHN FIGLIOLIA: Is for businesses solely engaged, how can I sign that, how can I ask any of my members who are licensed master plumbers to falsify a document?

ARTHUR GOLDSTEIN: I'll pass it around but if I could read it into the record this is a page that's dated November 17th, 2015 off of NYC dot gov slash NYC business etcetera, you'll see it for yourself and it's... let me just read it first, it says Class 2 registration for removal of construction and debris also known as an exemption from licensing requirements is required for any person or business engaging solely in the removal of waste material resulting from building demolition, construction alteration and excavation. It can't be any more plain than that... [cross-talk]

CHAIRPERSON REYNOSO: So... so... [cross-talk]

ARTHUR GOLDSTEIN: They're just...

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CHAIRPERSON REYNOSO: ...Arthur... alright...

[cross-talk]

ARTHUR GOLDSTEIN: Wrong.

CHAIRPERSON REYNOSO: So Arthur let me ask some questions I guess... [cross-talk]

ARTHUR GOLDSTEIN: Yes...

CHAIRPERSON REYNOSO: So let's... before you guys go because we got the second group as well and I think a couple of Council Members do have some questions and... and I kind of hinted at it in the beginning of my questions to the commissioner before we started that you guys... you guys are talking about a technicality in the... in the language that makes it so that you guys shouldn't be a part... a part of BIC's oversight for the most part but what we... what we're saying is that in the information that we've received today or that we saw today there are cases in which BIC's authority can be useful. It's a... BIC's authority can allow for the bad apples and we're not saying everyone is for... for them to be able to investigate the bad apples and we've seen in some cases where a person just loses his license, removes it, right and then gives that... goes to New Jersey to get a license or

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2 is second in command to a new business that they're
3 a part of now and... and is using... and is still
4 working as a... as a master plumber per se and or
5 they're doing contractor slash master plumbing
6 work, what makes it so that everything you remove
7 from a site doesn't fall within the plumber... the
8 master plumber license, right so that you can go up
9 to anyone that's trying to stop you and say this is
10 supposed to go... this is transportation of waste so
11 BIC is... is allowed to... to hold you accountable for
12 you to say actually all this waste is plumber's
13 waste. BIC won't be able to tell what's the
14 difference whether it's not... at this... but if you're
15 licensed it doesn't matter, it's waste is waste is
16 waste, right? So... and for them waste is waste is
17 waste so it doesn't matter where it's coming from,
18 who it's coming from if it's waste they're able to...
19 to... to have some oversight and what I think is
20 happening here is that while technically there
21 might be an argument to be made here... the intent of
22 BIC, right, the intent of BIC is to ensure that
23 there was no corruption, there was no organized
24 crime within the system and in this one case there
25 is an opportunity for a loop hole that can allow

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2 for a contractor or a someone within the trade
3 industry to use this master plumber exemption to
4 continue that type of work. So while technically
5 you might have a case, the intent of local law 42
6 is to make sure that corruption doesn't exist and
7 in this one case your exemption can lead to that
8 and we've seen... we've seen the presentation and
9 they didn't just talk about one or two cases,
10 they've showed us several cases where the bad
11 apples did what the bad apples do and if there's
12 one bad apple then I think BIC's authority makes
13 sense there. So I just want you to speak to the
14 technicality versus the intent here.

15 ARTHUR GOLDSTEIN: Okay... [cross-talk]

16 CHAIRPERSON REYNOSO: And I don't think
17 that in the intent you have as strong an argument
18 as... as to the technicality portion of it.

19 ARTHUR GOLDSTEIN: Okay. First of all,
20 when a legislative body such as yourself passes a
21 legislation I... I... I think history and the facts
22 that surrounded that are absolutely crucial and
23 they stand the test of time. Law suits are won when
24 you go back to legislative intent, okay and
25 legislative history. So it has to be respected in

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2 my humble opinion and the facts are what they are
3 and the council wrote the... the lawyers for the
4 council or the council members participated in
5 writing specific language, it has meaning that
6 usually stands up in court and so you can't
7 disregard when it says solely engaged in and it...
8 and... and explains what it is and that it comes from
9 a commercial establishment, it... the phrase is
10 generated from a commercial establishment, where is
11 this waste being generated? So that's what it is.
12 Your predecessors spoke to what the bill should be.

13 CHAIRPERSON REYNOSO: So then... [cross-
14 talk]

15 ARTHUR GOLDSTEIN: Okay, so let me...
16 [cross-talk]

17 CHAIRPERSON REYNOSO: So then... [cross-
18 talk]

19 ARTHUR GOLDSTEIN: But you...

20 CHAIRPERSON REYNOSO: And I get what
21 you're saying.

22 ARTHUR GOLDSTEIN: So if you're
23 suggesting that from a public policy perspective...

24 CHAIRPERSON REYNOSO: Yes...

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2 ARTHUR GOLDSTEIN: The commissioner has
3 thrown some items on the table now it's a question
4 of this council saying well I don't like the
5 scenario with that Phillip guy from Jersey maybe we
6 go back... that's a plumber regulation type issue
7 that belongs in a dialogue with DOB not made up by
8 BIC and saying we'll just take that for you and
9 we'll take it our way not... [cross-talk] how did
10 this come about, it came about because they started
11 going after a couple of... of plumbers, okay. If all
12 the sudden he wakes up tomorrow morning this
13 commissioner or the next one and says gee we saw a
14 bunch of wires and maybe electrical panels in an
15 open truck let's start going after electricians,
16 the electricians would be running in here too
17 saying guys we've been doing this for... for 90
18 years, we... we load up the stuff, we bring it back
19 to our shop and we throw it away what are you
20 talking about, the council wasn't going after
21 electricians back then.

22 CHAIRPERSON REYNOSO: Right but... but
23 it's the... the... the... the oversight and regulation of
24 trade waste, right of... of the movement of any type
25 of waste and make... ensuring... [cross-talk]

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ARTHUR GOLDSTEIN: It's not any type of...
[cross-talk]

CHAIRPERSON REYNOSO: Yes, it is [cross-talk]
talk]

ARTHUR GOLDSTEIN: It's what's in the
law.

CHAIRPERSON REYNOSO: It's... it's... what...
what... what... the... it's a... how do... it's a sub-
division of the waste is what I'm talking about.
That there's an opportunity here for an industry...
to move from A right to or from one to... to... sub-
division A. Oh we're a different... type of
transportation of Trade Waste. And... and allow for
that to... to just re-open a can of worms that we
don't want to go back down through and the limited
amount of oversight that we would be able to have
legally through BIC if we are exempted. And... and...
and there's clearly... what... what I think we're
getting to... what I think I'm getting to Arthur, and
this is what I want to get to you is that possibly
here is not necessarily the exemption of the master
plumbers but a more... a more direct and... and... and...
and... and reinterpretation of what we're seeing here
to absolutely include these types of trade wastes

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2 into the legislation right. What... what... what I see
3 more so than anything after their presentation is
4 that we have to be more clear that this is
5 absolutely a type of industry we want to make sure
6 that BIC is overseeing. And that's what I'm trying
7 to tell you that... we're... what we're getting at is
8 that the intent is to go after these type of
9 situations and even though maybe in the letter of
10 the law there is an argument to be made that it
11 isn't, it absolutely should be. And in doing so the
12 law should be changed to including more directly...
13 but definitely not exempting is what I'm trying to
14 say.

15 ARTHUR GOLDSTEIN: You're shoe horning
16 because of the... the... they are shoe horning, and
17 essentially by your comment, you're shoe horning
18 because a piece of a... and entity's business which
19 in... I... argue includes electricians...

20 CHAIRPERSON REYNOSO: Yeah

21 ARTHUR GOLDSTEIN: And... and anyone else
22 who might take something out of someone's building.
23 Okay?

24 CHAIRPERSON REYNOSO: Yeah. Yeah.

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ARTHUR GOLDSTEIN: It's all of a sudden in this small industry BIC that you are specifically through the decades have given specific responsibilities... Okay? I... I... hear you clearly on this Phillip situation if from a public policy perspective, the council agrees with your comment it belongs in the master plumbers because that's the key thing. But what they're saying is that... that making up a scenario... that guys who go through seven years to create a business, by regulation have to be 51 percent owners, ensured and bonded, in the cases working on... on city... city streets. okay? That they're going to jeopardize their business by allowing someone who... who doesn't get a... a home's license to push their way into the business there's no evidence of that. And... and what happened [cross-talk]

CHAIRPERSON REYNOSO: The... there... there is

ARTHUR GOLDSTEIN: Back in the 90's is... there is. He didn't give you evidence of someone shoe horning themselves or pushing themselves into business like organized crime did in... in... in the

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2 70's and the 80's and the early 90's. [cross-talk]

3 There was an evidence of it. [cross-talk]

4 CHAIRPERSON REYNOSO: They presented...
5 they presented a situation to us that clearly,
6 clearly showcases a master plumber's truck carrying
7 debris that received a... a... a... a summons or
8 violations from whatever agencies that you think
9 are doing the appropriate job to oversee this.
10 Right? But in... in the cases where in that.. that
11 oversight is not happening and these guys are bad
12 players, for example, or they might have a
13 connection in the past with being bad players or...
14 are... are... are trying to circumvent the process of
15 actually identifying themselves as bad players that
16 BIC needs to be involved in those types of
17 situations.

18 ARTHUR GOLDSTEIN: Why isn't it DOB who
19 licensed master plumbers or electricians or others?
20 It should start from the base if that's what you're
21 worried about. The... the... the hauling of waste is
22 shoe horning.

23 CHAIRPERSON REYNOSO: The... cause exactly
24 the DOB has nothing to do with moving waste.

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2 Alright? They have... they have to do with the actual
3 construction site.

4 ARTHUR GOLDSTEIN: They're using the
5 waste to further examine the company. So you might
6 as well examine the company better from the agency
7 that's supposed to examine them in the first place.

8 CHAIRPERSON REYNOSO: They're... they're
9 two different types... they're two different types of
10 agencies though. Right? Now... one is just... one, the
11 Department of Buildings, wants to make sure that
12 you do what you do well. Alright? That you're
13 licensed to be a master plumber. So that I don't go
14 in there and just jack up a... a building and then
15 say and... and just leave and I'm not licensed or
16 whatever... They care that I'm a plumber and that I
17 am a licensed plumber, that I have the skill set to
18 be able to do that job. BIC does not care that I'm
19 a plumber, they just care about the... the waste.
20 It's the only thing they care about. DOB does not
21 care about the waste at all. So everyone... so...
22 that's the... and DOT and DOB doesn't care about the
23 streets either. Right? So everyone has their
24 responsibility. That's why there's four agencies
25 that are doing this work is because unfortunately...

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2 you... not unfortunately but just the reality is that
3 you guys are interfering or are... are... are apart of
4 a business that goes after the streets, goes
5 through the buildings, goes... transports waste, you
6 do all these things. And that's what we're here for
7 is just making sure everybody's okay. Yeah and I
8 think other council members do have other questions
9 and I want to give them that. I just want you to
10 know that there's some sense to this. And... and
11 we're seeing that here. And I get what you're
12 saying, but it doesn't necessarily justify the... the
13 exemption of the master plumbers from this. That's
14 what I'm saying. Doesn't necessarily do that. I
15 want to give... a couple of council members an
16 opportunity... I know Council Member King had a
17 question. so...

18 COUNCIL MEMBER KING: By the... I want to
19 thank you... for your testimony. I know your... I saw
20 your response when I back peddled on this
21 legislation. And I know you spoke with the
22 commission and I'm glad you all had a chance to sit
23 down and talk, but my... my concern is you guys are
24 bright, you guys couldn't figure out what's the
25 best way to handle the situation because BIC has a

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2 reasonability... to what... being transferred on the
3 streets of New York. And you have a responsibility
4 to figure out what do you do with the stuff after
5 you break it down. So I'm asking you all what piece
6 of legislation that you can get behind or you think
7 we should handle because to exempt you... from their
8 only responsibility have to the roads when trash...
9 trash is carted... is not responsible and I only want
10 to totally exempt as opposed to what legislation
11 makes sense for you to continue to do your job
12 because... whether I'm hearing them or that they're
13 saying is that if you need to move it, find
14 somebody who carts stuff and then you okay. But
15 you're saying no it doesn't work for you... well
16 because we need the master to be able to do all of
17 this. So what piece of legislation because that
18 little piece that you do infringes on the power
19 that they have, the responsibility that they have,
20 so they cannot ignore it and if they did not stop
21 some of you we wouldn't have the evidence today of
22 the fraud and the people who are violating. If they
23 were not responsible and stopping some of the
24 transport... transport. So what do you recommend that
25 we do other than this?

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ARTHUR GOLDSTEIN: Councilor let... let first of all what was thrown up on the screen was a hodgepodge of violations. Most of them were irrelevant to this legislation. The ones that were relevant are, they stopped the truck, okay, that had debris in it and they weren't licensed by BIC and they deemed that they should be licensed. Those are the only ones that are relevant, but its... it may have sounded good that they were talking about transfer stations and violations and dumping violations but that's not what they would do. If a truck comes up to a recycling plant and they stop them they want them to be registered, okay and they'll stop them later on just to make sure they're registered but as far as I know that's... that's the... the extent. They're... [cross-talk]

COUNCIL MEMBER KING: Okay... [cross-talk]

ARTHUR GOLDSTEIN: They're... it... they've looked through the integrity of the company and they license them and then other agencies take over, if you do a dumping violation they... they don't issue a violation it's DOS...

COUNCIL MEMBER KING: Okay.

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2 ARTHUR GOLDSTEIN: Okay, anything
3 involving transfer stations is a whole different
4 set of laws but part of what you missed I think
5 when you have to take a call was this law was
6 specifically written by your predecessors and it
7 has some key phrases in there solely engaged in the
8 removal of waste. They... your predecessors were
9 going after someone, okay and it... and it said
10 things like from a commercial establishment, it was
11 to protect the restaurants of our time or a widget
12 maker who had excess widgets to be thrown out and..
13 and that they shouldn't be strong armed and that's
14 where it all came from and what BIC is doing is
15 expanding their empire because they've done a good
16 job on a lot of things like the carting industry...

17 COUNCIL MEMBER KING: Uh-huh...

18 ARTHUR GOLDSTEIN: So I don't know maybe
19 they don't have enough to do so they're expanding
20 their empire but they could expand it two months
21 from now to electricians and anyone else who throws
22 stuff in that have been doing it for 90 years and
23 takes it back to their... their shop and throws in
24 their own carting bin or... or maybe takes out some
25 of the wires that maybe could be used somewhere

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2 else and the others they put in their carting bin.

3 All the sudden the next commissioner could wake up

4 four years from now and say let's go after them.

5 You guys, your predecessors... [cross-talk]

6 CHAIRPERSON REYNOSO: And let's try to

7 be as concise as possible out there. [cross-talk]

8 Let's try to be as concise as possible when you're

9 talking.

10 COUNCIL MEMBER KING: I think I can...

11 [cross-talk]

12 CHAIRPERSON REYNOSO: I... [cross-talk]

13 COUNCIL MEMBER KING: Thank you

14 Chairman... [cross-talk]

15 CHAIRPERSON REYNOSO: On both sides... on

16 both sides, I'll try to do the same...

17 COUNCIL MEMBER KING: And I got your

18 point. My question is did they mention anything

19 that was true? Could you hear anything that they

20 said that was true?

21 ARTHUR GOLDSTEIN: That's a... [cross-

22 talk] Yes, very broad question, yes... [cross-talk]

23 COUNCIL MEMBER KING: Okay, because the

24 question is legislation usually comes out when

25 something goes wrong if everyone who was carting

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2 who was a master plumber was doing everything right
3 and it there was never no violation we probably
4 wouldn't be sitting here today. So I'm hopeful that
5 in the future that we figure out a piece of
6 legislation that can find some balance on both
7 sides that we can make sense of but I think the way
8 it is... where... where this is constructed today we
9 have some challenges to say how do we move it
10 forward. So I'm going to continue to... you know as a
11 person that's sitting on this committee to work
12 with the Chair and I ask you all... or both of you...
13 both sides because everyone can't be wrong and
14 everybody can't be right but you've got to figure
15 out a medium side because they... everything they're
16 saying can't be wrong and everything you can't be
17 saying is wrong so how do we come to a balance to
18 get a piece of legislation that clears up the
19 issue. I'm not saying because our predecessors did
20 something some years ago means that it stands and
21 it's true today and we just go for it you know. We
22 have some currents... concerns, I know I had some
23 concerns with it that's why I just... I stepped back
24 from it. Until we can come to the meeting of the

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minds I think we need to continue to have more conversations. Thank you Mr. Chair.

CHAIRPERSON REYNOSO: Thank you Council Member King. And I do want to say when you talk about solely, so what about if I'm a company that has 90 percent of my business is carting and ten percent is plumbing and I'm Reynoso Carting and Plumbing I'm exempt from this business because it's not the sole job of my... that I do, right? I just want you to know that it... it's just when you talk about those type of things it makes it very difficult for us to... to get to a place where... where it's like an exact science and it's black and white, it isn't and I think what Council Member King is trying to say is that there's some grey areas here that we do need to discuss and get clarity on where it might be beneficial to what the master plumbers are asking for but the straight out exemption might not be the answer. That's what I'm saying Arthur, I just want to... I'm just trying to get to a place here where we... we can get something done appropriately but at this moment... [cross-talk]

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2 ARTHUR GOLDSTEIN: And... and that may be
3 fine but I've... [cross-talk] ...never heard of a
4 company that way.

5 CHAIRPERSON REYNOSO: I know I'm going
6 to open it up, you are going to see... no, but I'm
7 saying it's a... it's a... it's a... it's a... [cross-talk]

8 ARTHUR GOLDSTEIN: And again the..
9 [cross-talk]

10 CHAIRPERSON REYNOSO: Possibility..
11 [cross-talk]

12 ARTHUR GOLDSTEIN: Those people wouldn't
13 be doing 90 percent of their work under a DOT
14 permit.

15 CHAIRPERSON REYNOSO: But I would still
16 have to register under DOT if I'm doing any type of
17 plumbing work, right, and a building..

18 ARTHUR GOLDSTEIN: You'd have to get a
19 DOT permit... [cross-talk]

20 CHAIRPERSON REYNOSO: Yeah... [cross-talk]

21 ARTHUR GOLDSTEIN: With... from a... a
22 master plumber whose 51 percent owner of the
23 company can apply for that permit.

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CHAIRPERSON REYNOSO: Right, it can be

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51 percent owner of a company that... but the company

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doesn't need to do 51 percent of its... [cross-talk]

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[background sneeze]

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ARTHUR GOLDSTEIN: Bless you... [cross-

7

talk]

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CHAIRPERSON REYNOSO: Work as plumbing.

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I'm just saying that there's a... like... I just think

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there's some grey area here that I... I don't want

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you... you or the commissioner... [cross-talk]

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ARTHUR GOLDSTEIN: Yeah... [cross-talk]

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CHAIRPERSON REYNOSO: To kind of fall...

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[cross-talk]

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ARTHUR GOLDSTEIN: One... [cross-talk]

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CHAIRPERSON REYNOSO: Away from... [cross-

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talk]

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ARTHUR GOLDSTEIN: One of the bottom

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lines he didn't actually read the last line of his...

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his statement, his last line I think talks about

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you know a combination in his testimony of over

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regulating and...

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[background sneeze]

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ARTHUR GOLDSTEIN: Bless you... over

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regulating and what happens is these companies if

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2 you understand the work they do you'll have many
3 constituents who... who are on fixed incomes who have
4 plumbing emergencies and they end up calling one of
5 these 60, 70 companies that are out there that do
6 this and they get quoted a price, okay. And if a
7 job is 35 hundred dollars or was 30... 35 hundred
8 dollars without BIC's involvement these companies
9 have to charge more for your constituents. And so
10 public policy dictates questioning whether that
11 extra fee is necessary because of... of something...
12 some and I'll use the word huge history because
13 that's what led to the creation of trade waste
14 commission, huge evidence of you know terrible
15 ongoings that would require for every job that they
16 do they are going to have to raise their prices to
17 your constituents.

18 CHAIRPERSON REYNOSO: That's a... yeah and
19 I hear that argument. I would like to call on
20 Council Member Costa Constantinides followed by
21 Council Member Vanessa Gibson.

22 COUNCIL MEMBER CONSTANTINIDES: Thank
23 you Mr. Chair. Arthur so I have a few questions. So
24 it's 45 hundred dollars for the BIC license,
25 correct?

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ARTHUR GOLDSTEIN: Yes.

COUNCIL MEMBER CONSTANTINIDES: And then it's 500 dollars per truck but on a one-time basis and it's 45 hundred every two years. What sort of hardship does that create for the business owner? And then also then having to pass that on like you talked about it before, passing it on to the homeowner that calls at two o'clock in the morning because their sewer connection to the main is... is screwed up?

ARTHUR GOLDSTEIN: Okay, I'm going to break a... a lawyer's rule I'm going to ask a question that I don't know the answer to. How... how many trucks do you have?

[background comments]

ARTHUR GOLDSTEIN: That was Rocco speaking. Ten trucks. This one...

JOHN FIGLIOLIA: 15, about 15...

[background comments]

ARTHUR GOLDSTEIN: Four trucks, alright so ten... [cross-talk]

[background comments]

ARTHUR GOLDSTEIN: ...math... 5,000 dollars

[background comments]

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2 ARTHUR GOLDSTEIN: Okay, so that's one
3 time you might say but I'll ask another question I
4 don't know... know the answer to how long do these
5 trucks last?

6 [background comments]

7 ARTHUR GOLDSTEIN: Okay, so then every
8 time he changes a truck he's got to register.
9 Alright, so they've got to pass these costs on so
10 the question is why do you need to register the
11 trucks, are the trucks so evil? Is there a history
12 that was presented to the city council that... that
13 all of you are standing up and saying oh we've got
14 to register those trucks?

15 COUNCIL MEMBER CONSTANTINIDES: No... no,
16 they presented some pretty serious pictures there
17 that demonstrated illegal dumping, some malfeasance
18 by master plumbers that sort of cast a very wide
19 brush, right? If... with or without BIC's involvement
20 will there still be tickets for illegal dumping,
21 correct, right?

22 ARTHUR GOLDSTEIN: Yes.

23 COUNCIL MEMBER CONSTANTINIDES: With or
24 without BIC's and the DOB and other agencies will
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still be doing background.. you know some checks into the work that master plumbers do, right?

ARTHUR GOLDSTEIN: Yes.

COUNCIL MEMBER CONSTANTINIDES: So the BIC involvement is to look into.. do a background check on the company itself?

ARTHUR GOLDSTEIN: And their employees.

COUNCIL MEMBER CONSTANTINIDES: And their employees [cross-talk]

ARTHUR GOLDSTEIN: And sometimes they have people who.. you know.. I happen to be you know in.. in favor of work force development and I.. I have a not for profit that deals with formally incarcerated and those who the court send so that they could avoid incarceration. So you know what is.. what is BIC opinion about some of the.. the people who aren't plumbers in the company who.. who do some.. some of the excavating? Are they banned because they may have had some connection or be charged with something or actually have some sort of record? The council didn't.. on that, okay but it's clear what they're supposed to do with carting companies not with plumbing companies. The council didn't articulate a.. a position on that. So I don't

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2 know if we did... all the sudden all... all... all the
3 workers who may have had some incidents in their
4 life are... are they out of work now? And I think
5 Rocco wanted... [cross-talk]

6 CHAIRPERSON REYNOSO: Can I... can... yeah
7 we would like to have them... So you guys of course
8 can stay on the... on the panel. But I want to make
9 sure that we caught up Rocco... Rocco...

10 ROCCO MURDOCCA: [off mic] Murdocca.

11 CHAIRPERSON REYNOSO: Murdocca, Rocco
12 Murdocca There you go. And Michael Martone. If you
13 guys can also just have your testimony and then
14 we'll... because we want to make sure we get through
15 this. And then we still have... and then we still
16 have current questions from Council Member Gibson.

17 COUNCIL MEMBER CONSTANTINIDES: And...
18 this is my last question...

19 CHAIRPERSON REYNOSO: Yeah... [cross-talk]
20 So... so yeah go ahead.

21 ROCCO MURDOCCA: I just... I... I didn't
22 come here prepared to give a statement or anything
23 I'm just going to go off what I've seen and what
24 they said and everything else. First of all, they
25 showed a pictured of my truck then which you seen

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2 wood in a plastic bag which the officer that took
3 that picture asked my driver to open it and then he
4 took the picture that's the first thing. The... the
5 other thing is that this is wood that's also... that
6 we use for shoring, those are pieces of wood that
7 came off the job site we use for shoring when we
8 dig down. So there's more to what they're showing
9 you and what it is. Also my understanding of waste
10 is manmade material that's how I understand it. I'm
11 also an ex-sanitation worker so I do have
12 experience in the sanitation field thanks to the
13 city of New York. The other thing is dirt,
14 concrete, and asphalt aren't man made, dirt number
15 one is made by mother earth. Concrete is called a
16 concrete mix and asphalt is called an asphalt mix
17 where you take things and just mix them together
18 and they're reusable so I don't know how this is
19 waste because it's never waste. your biggest
20 example of dirt that's taken out from one place and
21 put to something else, Battery Park, look at it
22 they dug up from the World Trade Center and made
23 Battery Park. So was it wasted, the dirt, I don't
24 think so. The other thing is you want all these..
25 they want to go after our trucks and register our

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2 trucks and you want to look at the individuals of
3 the cooperation that's fine, you want to... the... the
4 trucks I don't get, I... it's just beyond me as a
5 common sense person, I... I just don't understand why
6 you got to... what happens if I lease a truck? What
7 are you going to tell me, the leasing company is
8 tied to somebody, you've got to do an investigation
9 on the leasing company, this... this doesn't make
10 sense. That's... the other thing is they want to do
11 the drivers, in this business we have a high
12 turnover ratio of workers so you want to go after
13 our drivers how... how do we do this by the time you
14 get to the driver that you... you've investigated
15 that guy might be gone, we have somebody else. So
16 the driver is... should be us just to make sure that
17 he has a clean driving record and themselves, the
18 state of New York, Department of Motor Vehicles.
19 What's with the driver? If... if he's... again we do
20 hire people that have been... been incarcerated and
21 everything else so what are they going to tell me
22 that you can't hire this guy? I... I'm lost... [cross-
23 talk]

24 CHAIRPERSON REYNOSO: And I... [cross-
25 talk]

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ROCCO MURDOCCA: ...in this... [cross-talk]

CHAIRPERSON REYNOSO: And I hear you and I just want to give you a little bit of background as to why I think... and by the way I've had conversations with BIC about not necessarily being over intrusive when it comes to people that have records that are just trying to like you know prevent recidivism and do their job. I think it's very important and I agree with like the intent is not to get... go after those guys but let me just give you an example of things that have happened under BIC is you know John Doe, criminal, organized crime what he does is I'm going to open up a business, I'm going to put my cousin to own the business and I'm going to be a driver that makes 300 grand a year or a million dollars a year and I'm only doing the driving and I'm... but my... my cousin is the front but I'm getting all the money anyway but I'm going to make myself a driver not a... not a owner of the business and they're using him... they're using that system and it's happened before, it's actual evidence and cases that have been won by BIC for those type of examples. So... and... and now what I do want to do is I would love to have a

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2 conversation with you about speeding up the process
3 for a driver like... for driver retention and driver
4 to... to go through this... this... so that the drivers
5 don't need to wait six months, right, it should be
6 something that happens in less than a week if it
7 can whatever it is. I'm... I'm dying to have a
8 conversation about that, right, I... I agree with
9 you.

10 ROCCO MURDOCCA: So let me... let me... let
11 me bring up another thing. The one... they also said
12 that they don't know where this is generated from.

13 CHAIRPERSON REYNOSO: Where what is
14 generated from?

15 ROCCO MURDOCCA: The... the waste,
16 alright?

17 CHAIRPERSON REYNOSO: Right because
18 there's also levels of contamination. You were
19 talking about man made... levels of contamination are
20 another issue so... [cross-talk]

21 ROCCO MURDOCCA: Well... [cross-talk]

22 CHAIRPERSON REYNOSO: I just think that...
23 go ahead... [cross-talk]

24 ROCCO MURDOCCA: But no... no, wait...
25 [cross-talk]

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CHAIRPERSON REYNOSO: Go ahead... [cross-talk]

ROCCO MURDOCCA: Just... just... [cross-talk]

CHAIRPERSON REYNOSO: I'm sorry... [cross-talk]

ROCCO MURDOCCA: ...the locations... [cross-talk]

CHAIRPERSON REYNOSO: I know you're next... I'm sorry... [cross-talk]

ROCCO MURDOCCA: Just the location, we have DOT permits for the location that we're digging, we have DEP permits for the location that we're digging than... repairing.. We have all these DOB whatever the... the case might be, we can just present them to them and say here's all the permits where this came from, you want to come with us and see? You go there there's going to be hole in the ground, there's going to be fresh asphalt. When the job was done you're going to see it right then and there. It... this is... they're saying that they don't know where this generated from, I'm a little lost and by the way we could also use the law of mass which takes you know width times length times depth

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equals X amount of excavation that came out and then what did you repair, pipes. Do you have pipes, yes, here's pipes, okay what... you know what kind of pipes, cast iron whatever this is... so again I'm... I'm at a loss at that one, I... I don't understand where they're saying that you don't know where it came from. As plumbers... as a plumber that I am, a licensed one I... here's my license, here's my thing about what you're saying with the driver that's the front I'm... I'm good with that, I agree with that 100 percent but... [cross-talk]

ARTHUR GOLDSTEIN: The only thing is that the... the cousin had... had to go through being seven years to get to get to be a master plumber...

ROCCO MURDOCCA: Yeah, the cousin had to... [cross-talk]

CHAIRPERSON REYNOSO: No, I'm talking about the... [cross-talk]

ROCCO MURDOCCA: ...go through be... [cross-talk]

CHAIRPERSON REYNOSO: Driver... right, the cousin did... [cross-talk]

ROCCO MURDOCCA: No... no... [cross-talk]

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CHAIRPERSON REYNOSO: Have to do his
job... [cross-talk]
ROCCO MURDOCCA: But hold on... hold on...
hold on... [cross-talk]
CHAIRPERSON REYNOSO: You're right but
I... but I guess... [cross-talk]
ROCCO MURDOCCA: DOB... [cross-talk]
CHAIRPERSON REYNOSO: So... so let's...
[cross-talk]
ROCCO MURDOCCA: DOB... [cross-talk]
CHAIRPERSON REYNOSO: But... I... I don't
want to get into... so what we're doing now is we're
using like anecdotes to kind of get to a point and
I don't necessarily think we need to do that but I
think at the... the... the most important thing here is
the BIC thinking... BIC thing that they think it's
important that they're a part of the investigations
that are going on in this industry because it can
easily be used to continue to work that's happened
in the past and it's very hard to sit here and have
me believe without a shadow of a doubt that this
industry needs no investigations when it comes to
organized crime or what... or it possibly being a...
like used for that and now I'm not saying that 99

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2 percent of the folks would be doing everything
3 right but it's just there's some legitimacy or some
4 validity I guess if I made up a word to... to what...
5 what they're claiming and you also have some... some
6 claims that make sense, right but I think this
7 exemption, outright exemption is not the answer to
8 it personally and that's all we're saying that
9 there's a grey area that we need to have a
10 discussion about well I think you've made strong
11 points, they've made strong points but this... I
12 don't... I personally do not think this is the answer
13 but I do want to allow... I'm sorry because the
14 Council Member does want to ask some questions and
15 I want to have Michael if you can make your
16 statement and then we're going to have Council
17 Member Gibson... [cross-talk]

18 MICHAEL MARTONE: Just very quickly.

19 CHAIRPERSON REYNOSO: Yeah.

20 MICHAEL MARTONE: I believe what you did
21 have up there the illegal dumping...

22 CHAIRPERSON REYNOSO: And make sure... is
23 the microphone on just... [cross-talk]

24 UNKNOWN MALE: State your full name for
25 the record.

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MICHAEL MARTONE: Michael Martone

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CHAIRPERSON REYNOSO: Okay, thank you

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Mike.

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MICHAEL MARTONE: The illegal dumping I

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agree with you 100 percent in fact I've found many

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people dumping in a certain area by me and now I

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put cameras up to try to catch them to help you

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guys because it's wrong to do what you're doing. As

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far as the other statement that you made that you

11

don't want to use this totally, what would you

12

believe that we could do instead of getting this

13

exemption?

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CHAIRPERSON REYNOSO: Right and those

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are the conversations I want to have with... with BIC

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because we also... I want to talk to OMB and talk

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about the... the price first and foremost as to is it

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4,500 dollars that we need to do... is it 500 dollars

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a truck, is it reregistering every single truck

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every single time, that's one thing and then... but

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outside of that I think everything else is somewhat

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appropriate but I want to have a conversation with

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you guys not here, right because we're discussing

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this legislation... Right but there is an opportunity

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here to really talk about things that don't make

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2 sense and making sense of them but a outright
3 exemption really concerns me, that's all but I
4 don't think we... we're finished here is what I'm
5 saying, this is not the end of it, right, this is...
6 this is just the beginning of a conversation that
7 we're having to improve a situation that you're
8 concerned of and that BIC thinks it has a... a place
9 in so... that's what I'm saying so I agree that we...
10 we should continue to talk.

11 MICHAEL MARTONE: Just... question. When
12 Sears sells an appliance and they deliver it to
13 your home and then they remove the old appliance is
14 that carting?

15 CHAIRPERSON REYNOSO: I... I can't answer
16 that right now because I'm not... [cross-talk]

17 ARTHUR GOLDSTEIN: Yes... [cross-talk]

18 CHAIRPERSON REYNOSO: ...100 percent but...
19 it is carting?

20 [cross-talk]

21 CHAIRPERSON REYNOSO: Well I was... listen
22 I... [cross-talk]

23 ARTHUR GOLDSTEIN: It's waste... its
24 waste... it's waste, it's... [cross-talk]

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2 CHAIRPERSON REYNOSO: So I'm not saying
3 it... [cross-talk]

4 ARTHUR GOLDSTEIN: It doesn't matter
5 what the definition... [cross-talk]

6 CHAIRPERSON REYNOSO: So Arthur I'm not...
7 [cross-talk]

8 ARTHUR GOLDSTEIN: ...anymore... [cross-
9 talk]

10 CHAIRPERSON REYNOSO: Saying it's...
11 [cross-talk]

12 ARTHUR GOLDSTEIN: ...it's carting.

13 CHAIRPERSON REYNOSO: I'm not saying
14 that it's wrong to consider it carting I'm just
15 saying I don't know if it is considered carting.

16 MICHAEL MARTONE: What if they deliver a
17 mattress and... [cross-talk]

18 CHAIRPERSON REYNOSO: And then you
19 remove the... [cross-talk]

20 MICHAEL MARTONE: ...they take the old one
21 back... [cross-talk]

22 CHAIRPERSON REYNOSO: ...mattress, it's
23 all carting to them, it's all waste, right so we...
24 we can have a conversation about what needs to
25 happen but the waste industry was taken advantage

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2 of and that's what happens, right the bad apples
3 ruin it for everyone and it's ruined it for
4 everyone but they've done their job and they
5 continue to... they continue to... they continue to
6 find... to make indictments and actually put people
7 in jail so there's a purpose there we just want to
8 make sure that they're doing what they're supposed
9 to do. Drivers... another thing we can talk about is
10 drivers and employees that don't make sense to be
11 investigated for so long and we can speed up that
12 process. We'll have this conversation thereafter. I
13 want to allow for Council Member Vanessa Gibson to
14 ask a few questions.

15 VANESSA GIBSON: Thank you very much
16 Chair and thank you gentleman for being here for
17 providing your input and your testimony and
18 certainly you are a powerful voice in this
19 conversation as representatives of the industry. So
20 I wanted to just ask and understand licensed
21 plumbers what... what is it about the work that you
22 do that makes licensed plumbers so unique that this
23 bill was introduced?

24 JOHN FIGLIOLIA: The work that we do...

25 CHAIRPERSON REYNOSO: Yeah...

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JOHN FIGLIOLIA: ...is in the city streets, we did the streets and the sidewalks... [cross-talk]

VANESSA GIBSON: Right... [cross-talk]

JOHN FIGLIOLIA: We do not hire, advertise and take waste away, we don't charge to take waste away. So when we take a permit out it's a city owned street... [cross-talk]

VANESSA GIBSON: Uh-huh... [cross-talk]

JOHN FIGLIOLIA: That material technically belongs to the city of New York, it was not discarded by a commercial establishment, it's the city's property. No other industry does what we do, they... if you talk about electricians they're working in the property, you talk about carpenters they're working in the property. We're asking for this exemption because we take out a permit from DOT and DEP to dig the streets and work on plumbing. No other industry does this, that material that we take up from the street either gets put on our truck because we can't leave it on the roadway because some roadways we do, we're allowed to stockpile that material under DOT regulations and leave it in that work area. Other

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2 areas where it's a busy street that has to be
3 opened at night for traffic we have to put steel
4 plates down and we have to put that material on our
5 truck to allow the traffic to go by. So we're
6 asking for that regulations because we're going to
7 use that material again and put it back, it's not
8 worthless, useless, it wasn't thrown out by
9 anybody. We talk about the carting industry trying
10 to get into this business for what purpose would
11 they get into our business if they can't charge for
12 it. We... this is an incidental piece of carting if
13 you want to call it carting. There's... there's no
14 money in that, what we charge for is our labor and
15 material to dig the streets, to put the plumbing
16 piping in, the shoring work, that's... that's the
17 business, an outside entity looking to get a
18 carting contract to make money on this little bit
19 of incidental work is... is ridiculous. No... no
20 organized crime's going to look to get into this
21 kind of a business. We're asking for this because
22 this material is a good material and we do reuse.
23 You see stockpiles on the street all the time, most
24 of that goes in the hole... [cross-talk]

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COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT

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2 COUNCIL MEMBER GIBSON: Right... [cross-
3 talk]

4 JOHN FIGLIOLIA: It goes back... [cross-
5 talk]

6 COUNCIL MEMBER GIBSON: So... [cross-talk]

7 JOHN FIGLIOLIA: So... [cross-talk]

8 COUNCIL MEMBER GIBSON: ...the... the fact...
9 [cross-talk]

10 JOHN FIGLIOLIA: No other business...
11 [cross-talk]

12 COUNCIL MEMBER GIBSON: That... [cross-
13 talk]

14 JOHN FIGLIOLIA: ...does that...

15 COUNCIL MEMBER GIBSON: Right, right I
16 understand so the fact that it's so unique and the
17 fact that you focus on the plumbing on our city
18 streets. If this exemption were to go through how
19 do we as a city and a council still regulate the
20 industry to ensure that the work done by licensed
21 plumbers is quality, is sound, and provides
22 longevity?

23 JOHN FIGLIOLIA: So the... [cross-talk]

24 COUNCIL MEMBER GIBSON: How do we...
25 [cross-talk]

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JOHN FIGLIOLIA: ...work... [cross-talk]

COUNCIL MEMBER GIBSON: Still maintain our oversight with an exemption?

JOHN FIGLIOLIA: Okay, so this is what happens when we go to do work on a city street we first... [cross-talk]

COUNCIL MEMBER GIBSON: Right now... [cross-talk]

JOHN FIGLIOLIA: We... right now we have... [cross-talk]

COUNCIL MEMBER GIBSON: Uh-huh... [cross-talk]

JOHN FIGLIOLIA: ...to first call in code 53 that means we notify all the utilities to come out and mark the streets up where their facilities are so there's no damage, that's number one, we do that prior to doing the excavation work then we file applications with DEP and then we go to DOT and take out a permit to dig the streets. when we do that we have DEP inspections come and see the work that we're actually doing in the hole. They come and witness not only the plumbing but that it's properly shored and barricaded and the storage of the material so if you leave the material on the

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2 roadway where it's not supposed to be left they
3 give you a summons for leaving that. Now once we
4 get our work completed and inspected by DEP or DOB,
5 sometimes it's a different agency then we're
6 allowed to backfill on a protected street which is
7 a street that's been resurfaced within the last
8 five years not only do we have to have an engineer
9 watch us backfill this but we have to call the city
10 DOT to come and stand there and watch us backfill
11 the hole. After we backfill the hole then we put
12 either a temporary restoration on it or we come
13 back and do the permanent restoration, okay so it's
14 inspected and inspected everything on the... the
15 roadway that we've done including the removal of
16 the material if there's anything left on the street
17 and the steel plates that we have to use..

18 ARTHUR GOLDSTEIN: And it's guaranteed..

19 JOHN FIGLIOLIA: Now we guarantee that
20 work to the city of New York for a minimum of three
21 years, a maximum of five years, if anything should
22 be wrong that we left material, we left a plate,
23 the hole went down, or we didn't resurface it we
24 get a CAR, corrective action notice, and if we
25 don't take care of it within the... the allotted time

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2 we get a summons. Now, on top of every other agency
3 we have... as... as I said the DOT watching us but we
4 have the traffic department so they come by also
5 and say you took up too much of the street or you
6 did something else and they give you a summons for
7 that or if something is unsafe they call OSHA and
8 OSHA comes down and gives us a violation if we
9 didn't shore the job properly. So we're over
10 regulated now, now you want us to pay all this
11 extra money to an agency that has no jurisdiction
12 over us. They were never created to juristic
13 plumbers, they were supposed to be for the seafood
14 markets, the meat markets that was their
15 jurisdiction. They've decided to expand to... to the
16 plumbing industry and we're telling them and I've
17 told them as they showed a picture of my company
18 with a violation I... I've spent so much time
19 fighting them to say I can't get this license even
20 if I want to, change it, they still haven't changed
21 it. They fooled around with the language in an
22 application but they never came back and changed
23 the law. So how does any licensed master plumber
24 get this exemption even if we wanted to pay for it
25 without falsifying a document which would take my

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2 license, which would put me in jail, I have never
3 been convicted of any crime. Not only that I have
4 myself personally been part of the New York City...
5 Council which was the people that mark the streets,
6 I helped create it, I was on the board of directors
7 for it. A couple of years ago I... my association
8 signed a contract with OSHA to give lessons, they
9 talk about safety and our safety. We do that on a
10 daily basis to protect the people of the city of
11 New York. If people don't know where the... the
12 utilities are they can kill people, blow up a
13 building, we do worry about that, we do make the
14 phone calls, we call every inspector to come and
15 see our work; highway, water, sewer you know I
16 don't know who else you want us to call but that's
17 what we do to make sure our work is done properly.
18 BIC themselves have told you that some people who
19 had a registration created a dump site, they showed
20 you, they were dumping in their property, they had
21 a license what stopped them from doing that?
22 Sanitation gives them a summons but the... getting
23 the license in itself does not stop people from
24 going and dumping it in east New York or any place
25 else it just gives them a... a pass that somebody

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2 looks at the truck and says oh he's got a license
3 I'm not going to stop him. And... not telling you
4 where he's going, where he went and dumped it. You
5 know and... and again we don't dump. We use this
6 material over and over again. If you have to have a
7 separate company show up on a city street and the...
8 the way it works is we have a certain amount of
9 hours to work on a roadway some... some jobs are four
10 o'clock, five o'clock we have to be off the roadway
11 and we're waiting for DEP inspectors if they show
12 up late we've got to get on the phone and call the
13 highway department say look we need an extra half
14 an hour or... or else we are going to get a
15 summonses, right because DEP didn't show up, and
16 sometimes they'll give us that extra time to stay
17 on a job and work. How are we going to coordinate
18 with an outside company, a carter to be there just
19 when we need them to take that material off the
20 street, we'd be getting summonses or the streets
21 would be tied up all over the place.

22 COUNCIL MEMBER GIBSON: Okay... [cross-
23 talk]

24 JOHN FIGLIOLIA: It's not as easy as
25 they talk about... [cross-talk]

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COUNCIL MEMBER GIBSON: Thank you. no...
no, I appreciate it we just have another panel so
I... I... I hear your passion.

JOHN FIGLIOLIA: I'm sorry.

COUNCIL MEMBER GIBSON: I know we have
to move so I'll turn it back over to the Chair.

JOHN FIGLIOLIA: Thank you... [cross-talk]

COUNCIL MEMBER GIBSON: Thank you so
much. Thank you.

JOHN FIGLIOLIA: Thank you.

CHAIRPERSON REYNOSO: And I want to
thank you guys for really being here and explaining
as much as you could to us about what the... your
situation is and... and I really do appreciate it but
thank you guys for your time.

[background comments]

ARTHUR GOLDSTEIN: Thank you. Mr.
Chairman you know I've been coming to hearings
since I left the city council for 26 years and I
really appreciate the kind of time and the kind of
questions... [cross-talk] ...we got today, thank you...
[cross-talk]

CHAIRPERSON REYNOSO: Absolutely, well
deserved, thank you guys. We have... Jay... Jayant

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Kairam. Is that Jayant? James, alright James. Looks like an N. That's alright. And then Sam Foley.

[background comments]

CHAIRPERSON REYNOSO: Okay. Okay thank you sir. Jayant... now you have the table all to yourself. Just make sure you say your name and where you're from and then go ahead and proceed with your testimony. Thank you.

JAYANT KAIRAM: Thank you Chair. Good after... Chair Reynoso and members of the committee. My name is James Kairam, I'm director of Clean Energy Partnerships and Urban Renewal Strategic Implementation with the Environmental Defense Fund. EDF is an international environmental non-profit that works on systems and solutions to address the world's most pressing environmental problems like climate change and preserving clean air. Thank you for the opportunity to speak on intro 76 concerning amendments to the licensing and permitting requirements to the New York City Business Integrity Commission administers the commercial trade waste industry. Our interest in intro... intro 76 are tied to our organizational commitments to address climate pollution and improve air quality

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2 at all levels. We built a strong relationship with
3 New York City government on policies and programs
4 tied to improving the city's air quality and
5 reducing greenhouse gases from mobile and
6 stationary sources. New York City now has the
7 cleanest air in over 50 years even while continuing
8 to grow and develop because of smart aggressive
9 actions taken by city officials, city council and
10 advocates. Over four years the Clean Heat Program
11 transitioned 6,000 buildings off dirty heating
12 oils, reducing harmful particulate emissions by 65
13 percent from these sources. Clean Heat's program's
14 success is being leveraged by the de Blasio
15 administration under its retrofit accelerated
16 program, one stop shop for building owners and
17 investors to take up energy efficiency upgrades and
18 achieve the city's 80 by 50 greenhouse gas target.
19 EDF was the main program partner on Clean Heat. In
20 December 2013 the city council took another
21 important step towards preserving important...
22 improving local air quality when approved local law
23 145. The law was a direct response to long standing
24 voicing from local neighborhoods and advocates
25 about the health and safety threats posed by dirty

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diesel garbage trucks. EDF primarily supported the activities of BIC and the council in codifying new emission standards for the commercial waste fleet. Preserving the full impact of local law 145 is the reason we're here today. Local law 145 requires all firms licensed and registrated [phonetic]... registered to remove trade waste by the New York City Business Integrity Commission to meet critical and reasonable federal engine standards for their fleets by January 1st, 2020. These standards matter because they eliminated between 85 to 95 percent of the particulate matter in air pollutant standards and other air pollutants that are produced from heavy duty trucks and that contributed to negative health outcomes like asthma and cardiovascular disease. Over 80 percent of the approximately 8,000 heavy duty diesel trucks that haul commercial and C and D waste predate 2007 when the EPA adopted the truck emission standards that local law 145 leverages to improve air quality in the city. This legislation which was signed my then Mayor Bloomberg and recently highlighted in Mayor de Blasio's 1-NYC plan was actively supported by environmental advocates like our organization. The

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2 council's now considering intro 76 which would have
3 been the New York City administrative code to
4 exempt licensed master plumbers from BIC trade
5 waste license and registration requirements. We
6 consider this proposed amendment detrimental to
7 public health and environmental aspirations of the
8 city. While we're certainly concerned that this
9 exemption would keep polluting and unsafe trucks
10 and the material they handle on the road we are
11 also greatly concerned that it could potentially
12 set a bad precedent for other trade waste sub-
13 groups and set in motion a slippery slope of
14 exemption after exemption that would gradually
15 undermine the intent and potential of local law
16 145. While there are 14 hundred Department of
17 Building licensed master.. master plumbers less than
18 40 are licensed with BIC. The vast majority use
19 other BIC license firms for C and D removal needs.
20 For a large majority of this industry BIC licensing
21 does not pose a problem to do.. to doing business,
22 it would be risky to amend an entire industry
23 regulatory structure at the behest of a very small
24 subset. In a report that EDF jointly commissioned
25 with BIC we saw the air quality benefits of.. of

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2 local law 145 were substantial and result in
3 sustained public health benefits for New Yorkers at
4 least through 2030 when most of these license
5 charges would come into compliance with EPA
6 standards. According to this report the net
7 benefits of eliminating nearly 800 tons of
8 particulate matter and 12,000 tons of nitrous oxide
9 in the 2020 to 2030 time frame is equivalent of
10 taking 11 hundred coach busses or 14 hundred
11 tractor trailers off the road until 2030. These air
12 quality and public health benefits will be
13 especially evident in some of the city's most
14 vulnerable neighborhoods in the south Bronx,
15 southeast Queens and northeast Brooklyn where a
16 number of commercial transfer facilities are
17 located. Clean air is one of our most important
18 precious resources and the progress New York has
19 made is working to make all parts of the city great
20 places to live. We strongly encourage the council
21 to maintain and build upon the air quality and
22 public health progress reflected in local law 145.
23 Therefore, urge the council to oppose passage of
24 the amendment... amendment to the administrative code
25 that being put forth in intro 76. Thank you for the

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opportunity to testify before this committee today.
I'm here to take any questions.

CHAIRPERSON REYNOSO: Okay. I just want to... thank you for... for speaking on our issue that we kind of didn't get to which was the fact that because they're currently regulated by BIC they also have to comply with standards through other local laws that are going to allow for of course cleaner air. I was going to ask questions but I think your testimony was extremely thorough and I really feel comfortable that people get the point of what your concerns are so I really appreciate you coming down, I don't know if other Council Members have any questions... Do... Alright, there you go.

COUNCIL MEMBER GIBSON: What I was hoping to ask before at the prior panel was I understand that with this exemption intro 76 there would also be an exemption of local law 145 of 2013 which you talked about which talks about emission standards for all trade waste trucks by the year 2020 and then side guards for trucks that would be pursuant to our local law 56 of 2015 which was just chaptered by the Mayor this summer so I... I know we

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2 didn't really talk about the... the trucks itself but
3 I'm... I'm obviously very concerned about that in
4 terms of what the exemption would... would call for
5 so... and judging by your testimony I know that
6 you're concerned about that as well.

7 JAYANT KAIRAM: Yeah, I... I mean the... the
8 local law 145 applies to heavy duty trade waste
9 vehicles that are regulated by BIC so it would
10 include any... any company that receives a license or
11 registration from BIC that has a vehicle that falls
12 under those... under those... under that definition
13 would have to meet these compliance standards by
14 2020 either through a diesel retrofit emission
15 technology or by buying a compliant truck and so
16 the impacts are clear, I mean these trucks are
17 plying the streets every day as previous testimony
18 indicated these are city streets and we should make
19 sure that city streets are safe, healthy and clean
20 for all residents. The... every waste company's
21 delivering an important municipal service but it...
22 it... we should hold them to the standards that we
23 hold ourselves and... and make sure that they're...
24 they're meeting clean air for... for city residents.

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CHAIRPERSON REYNOSO: Well thank you
very much for your testimony and appreciate your
time. I was going to call up the BIC team again but
I think we've... we've heard enough from both sides.
I think anyone that's watching this at home or here
currently present today really got a... a diverse
look at... or a comprehensive look at what we're
trying to do here and I appreciate everyone's
testimony. As of now this... this meeting is closed.
Thank you.

[gavel]

C E R T I F I C A T E

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



Date December 8, 2015