

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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September 26, 2016
Start: 1:30 p.m.
Recess: 2:09 p.m.

HELD AT: 250 Broadway - Committee Rm.
16th Fl

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

COUNCIL MEMBERS: Rosie Mendez
Ydanis A. Rodriguez
Robert E. Cornegy, Jr.
Rafael L. Espinal, Jr.
Mark Levine
Helen K. Rosenthal
Ritchie J. Torres
Barry S. Grodenchik
Rafael Salamanca, Jr.
Eric A. Ulrich

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

James Roberts, Deputy Commissioner
Water and Sewer Operations
Department of Environmental Protection

Felice Farber, Director
External Affairs
General Contractors Association of New York

John Beatty, Resident
Upper West Side, Manhattan

Rick Mueller, Director
Legislative Affairs
Department of Environmental Protection, DEP

2 [sound check, pause]

3 CHAIRPERSON WILLIAMS: Good morning.

4 Good afternoon actually. [laughter] My name is
5 Council Member Jumaane Williams for Council Committee
6 on Housing and Buildings. I chair the Council
7 Committee on Housing and Buildings. I'm joined by
8 Council Members Ulrich, Rosenthal, Salamanca, Cornegy
9 and Grodenchik. We are her today to discuss two
10 bills. The first bill Intro No. 179 sponsored by
11 myself by request of the Manhattan Borough President
12 would require street numbers to be placed on side of
13 a building that contains an entrance, and would also
14 increase the civil penalty for failing to post street
15 numbers. Briefly, Borough Brewer was going to
16 introduce this bill as a council member in 2004 and
17 consistently did so throughout her council tenure,
18 and I'm proud to re-introduce it with her. The most
19 important rationale to me and the borough president
20 is facilitating emergency response. No emergency
21 responder should ever have to waste precious seconds
22 or minutes trying to find the exact locations of a
23 distressed person or persons, and having numbers at
24 each pedestrian entrance would facilitate their
25 responses and potentially save lives. As it stands,

2 building numbers are required to be displayed or
3 there's a penalty of just \$25. The bill would bump
4 the penalty from \$25 to \$150 with an additional \$50
5 per day until the violation is fixed. I thank the
6 Borough President for her release on this and many of
7 the matters. I think everyone knows the frustration
8 to try and find a house with no number on it, and I
9 can only imagine what that is for our first
10 responders. I'm going to give a shout out to my
11 girlfriend who actually had this idea before she even
12 knew I put this in. Second bill, Intro No. 11—Yeah,
13 I'm giving a shout-out. Relax. I know what I'm
14 doing. [laughter] The second bill, Intro No. 1120,
15 sponsored by myself. Huh? Intro second, the second
16 bill Intro No. 1120 sponsored by myself by the
17 request of the Mayor would require the Department of
18 Environmental Protection to be notified whenever an
19 evacuation or exit. I'm sorry, whenever excavation
20 or drilling to a depth greater than 50 feet is
21 proposed. If the drilling or excavation activity is
22 in close proximity to critical infrastructure, a
23 permit must be obtained from DEP in addition to any
24 DOB required permits or approvals. We will also be
25 conducting a vote on Propose Intro 1277-A, which

2 would make various technical areas to the New York
3 City Energy Conservation Code. I'd like to thank my
4 staff for the work they did to assemble this hearing
5 including Nick Smith, my Deputy Chief of Staff and
6 Legislative Director Jim Wilcox and Megan Chin,
7 Counsel to the Committee; Guillermo Patino, Jose
8 Conde, Policy Analysts for the Committee and Sarah
9 Gastelum the committee's Finance Analyst. I would
10 also like to remind everyone—remind everyone that—who
11 would like to testify today to please fill out a card
12 with the sergeant. With that said— No, we're going t
13 do the vote first right?

14 LEGAL COUNSEL: Yes, we are.

15 CHAIRPERSON WILLIAMS: So I'd like to—
16 [laughter] Oh, I'd like to ask the Clerk to please
17 call the roll.

18 CLERK: William Martin, Committee Clerk,
19 rollcall vote Committee on Housing and Buildings.
20 Intro 1277-A. Chair Williams.

21 CHAIRPERSON WILLIAMS: I vote aye.

22 CLERK: Cornegy.

23 COUNCIL MEMBER CORNEGY: Aye.

24 CLERK: Rosenthal.

25 COUNCIL MEMBER ROSENTHAL: Aye.

2 CLERK: Grodenchik.

3 COUNCIL MEMBER GRODENCHIK: Aye.

4 CLERK: Salamanca.

5 COUNCIL MEMBER SALAMANCA: Aye.

6 CLERK: Ulrich.

7 COUNCIL MEMBER ULRICH: Yes.

8 CLERK: By a vote of 6 in the affirmative,
9 0 in the negative and no abstentions, the item has
10 been adopted.

11 CHAIRPERSON WILLIAMS: With that, we'll
12 call up Govs from the Administration as a first
13 panel. If I could ask—I'd like to let everyone know
14 that we maybe pausing for votes throughout as members
15 come in. Ah.

16 COUNCIL MEMBER LEVINE: Now, maybe we can
17 get started.

18 CHAIRPERSON WILLIAMS: Now we have—who
19 has the exciting hearing across the street. Thank
20 you for blessing us with your presence.

21 COUNCIL MEMBER LEVINE: [off mic] So
22 thank you. [laughs] Thank you.

23 CHAIRPERSON WILLIAMS: Council Member
24 Mark Levine.

25 COUNCIL MEMBER LEVINE: Is that right?

2 CHAIRPERSON WILLIAMS: Oh, I called it.
3 You should call it again.

4 CLERK: Introduction 1277-A, Council
5 Member Levine.

6 COUNCIL MEMBER LEVINE: Thank you, Mr.
7 Martin and I am proud to vote aye on all. Thank you.

8 CLERK: The vote now stands at 7 in the
9 affirmative. Thank you. [background comments,
10 pause]

11 CHAIRPERSON WILLIAMS: Tod we have James
12 Roberts, NYDEP; Eric Landau, Deputy Commissioner of
13 DEP. Could you please raise your right hand? Do you
14 affirm to tell the truth, the whole truth and nothing
15 but the truth in your testimony before this
16 committee, and to respond honestly to council member
17 questions?

18 We do.

19 CHAIRPERSON WILLIAMS: Alright, you can
20 feel free to start in whichever order you prefer.

21 DEPUTY COMMISSIONER ROBERTS: So good
22 morning chairman Williams, members and staff of the
23 committee. I'm James Roberts. I'm the Deputy
24 Commissioner with the Department of Environmental
25 Protection's Water and Sewer Operations. I'm joined

2 today by Eric Landau, who is the Deputy Commissioner
3 for our Bureau of Public Affairs and Communications.
4 I'd like to thank you for the opportunity to testify
5 today in support of Introduction 1120, which
6 addresses notification to DEP for proposed excavation
7 and drilling. Simply stated, the bill before you
8 today is intended to help ensure the integrity of
9 some of the most critical infrastructure in the City
10 of New York. It will affect the simple change in the
11 New York City's Administrative Code and Building Code
12 in order to ensure that the protection of our water
13 supply tunnels, the life blood of the city are
14 maintained. The bill requires notification to DEP a
15 minimum of 30 business days prior to commencing any
16 drilling or excavation deeper than 50 feet, and
17 directs DEP within 10 business days of receiving such
18 notification to determine whether the drilling or
19 excavation is in a potential—is in a—is in close
20 proximity to critical infrastructure such that a
21 permit is necessary to drill or excavate. I want to
22 thank you, Mr. Chairman and also to Council Member
23 Chin for your sponsorship of this legislation. It's
24 important to understand the historical context in
25 which our tunnel systems were constructed. Very

2 early on in the history of the city, it was decided
3 to create deep tunnels and aqueducts that could carry
4 water across the various boroughs and geographies
5 without disrupting the world above, and at the same
6 time providing a level of protection to the system
7 because of their depths. In some cases, we do have
8 infrastructure that's within 50 vertical feet of the
9 surface. We are sometimes asked why now? Well, in
10 most cases our tunnels, which can be as deep as 1,200
11 feet have never been a concern because frankly nobody
12 else was in the—was working in the world underground.
13 Two issues were brought to our attention over the
14 past several years that became the driver for this
15 bill. First, was the contemplation of the—and
16 planning of the Trans Hudson Tunnel, the ARC Tunnel,
17 and second was the advent of technologies that made
18 the utilize—the utilization of technology such as
19 geothermal wells for heating and cooling possible?
20 These wells can at times be driven over a thousand
21 feet deep. When we were approached about the ARC
22 Tunnel, we quickly saw that City Tunnel. No. 1, which
23 is approximately 200 feet below the surface in the
24 Midtown area would potentially be at risk of damage
25 related to the proposed new subway tunnels. This was

1 a bit of a wake up call as we for the first time in
2 31-year career needed to be mindful that others may
3 contemplate exploring depths that heretofore had been
4 reserved only for us. The second was a proposal to
5 install geothermal wells for the construction of a
6 new development, which is I call contemplated a depth
7 of approximate 1,200 feet. We realized that at-at
8 that point that we could not responsibly allow
9 parties to be drilling blindly with regard to our
10 tunnels when a mistake could result in a major impact
11 to the water system. The current law requires
12 notification to DEP whenever someone proposes to
13 drill in the city to a depth greater than 100 feet.
14 Since some of our critical water supply
15 infrastructure is at a depth between 50 and 100 feet,
16 DEP needs to change-needs this change in order
17 protect all of the city's water supply tunnels
18 regardless of depth. Again, the bill requires
19 notification to DEP 30 days prior to commencing any
20 drilling or excavation deeper than 50 feet and
21 directs DEP within 10 days of receiving such
22 notification to determine whether the drilling or
23 excavation is in close proximity to the critical
24 infrastructure, and such that a permit is necessary
25

2 to drill or excavate. DEP is aware of the concern
3 that another permit requirement beyond that required
4 by the Department of Transportation for work in the
5 public right-of-way as well as the 30-day lead time
6 is—is contemplated to building projects, but we
7 believe that any project that would necessitate
8 drilling or excavation of depths 50 feet or greater
9 would likely involve planning and design far in
10 advance of the 30-days prior to the initiation of
11 such work. It is therefore unlikely that 30-day
12 notification would delay construction. DEP welcomes
13 examples of projects that might suffer delay as a
14 result of the new law (sic) so that this concern can
15 be openly addressed. And again, I'd like to thank
16 the chair, and the council members for sponsoring
17 this legislation. We look forward to working the
18 Council and stakeholders to pass a bill that protects
19 the infrastructure that is critical to the life of
20 the city. And I appreciate the opportunity to
21 present testimony today, and would be happy to answer
22 any questions you may have.

23 CHAIRPERSON WILLIAMS: Thank you very
24 much for the testimony. I much appreciate it. Do

2 you have any specific examples or incidents when a
3 notification would have been helpful?

4 DEPUTY COMMISSIONER ROBERTS: Well,
5 Council Member, we actually have been fortunate in
6 that we haven't had in my career anyway and no-nobody
7 before me has-has-has known of any place where-where
8 a tunnel has been hit within the city. We've-we've
9 had one of our tunnels hit Upstate in-in Westchester.
10 The-what-what really was the driver here was the fact
11 that apparently there were-there were efforts that-
12 that were going on that we were blind to, and-and so
13 our-our concern is really just about having the
14 ability to sort of put our eyes on it, and understand
15 that somebody isn't working in an area where they
16 could potentially not know that there was a problem
17 below.

18 CHAIRPERSON WILLIAMS: You mentioned in
19 the testimony that you don't figure it would delay
20 any-any construction. Do you think there will be any
21 costs associated, additional costs associates?

22 DEPUTY COMMISSIONER ROBERTS: So-so we-we
23 think that the projects at-at-at level are-are known
24 so that the requirement that you-you might have to go
25 50 feet deep would be known very, very early on in a

2 project of-of this type, and that, you know, most of
3 these projects last years. So, so the sooner-while
4 the 30 days is a minimum requirement, you know, the
5 sooner that-that-that the parties would reach out to
6 us and allow us to advise me as to whether there's a
7 concern or there isn't a concern, that could happen
8 years in advance of actually any excavation. As it
9 relates to additional costs, there's a-there's an-and
10 administrative fee that for-for actually executing
11 the permit, which fairly de minimis with-with regard
12 to it, but outside of that we don't really see that
13 it should a provide a burden to-to the parties doing
14 the work.

15 CHAIRPERSON WILLIAMS: Thank you and I
16 think we have some questions from Council Member
17 Grodenchik.

18 COUNCIL MEMBER GRODENCHIK: Thank you,
19 Mr. Chair. Just a quick question. We have those
20 one-call. You know, before you dig, you're supposed
21 to call.

22 DEPUTY COMMISSIONER ROBERTS: Uh-huh.

23 COUNCIL MEMBER GRODENCHIK: I guess it's-
24 it's digging that through or how does that work?

2 DEPUTY COMMISSIONER ROBERTS: Well, one-
3 one call is-is really predominantly for the work
4 that's being done within the-within the city right-
5 of-way, and-and again, our-our concern, we're-we're
6 very well aware of all the work that's happening
7 within the city right-of-way, and in most cases we're
8 the ones doing it as some level. But-but, these-
9 these instances are really private-private developers
10 on private properties where they could be-they could
11 be drilling deep, and what-what happens sometimes is
12 they hit-if the hit an impediment on the way down
13 where they think they're going straight, they might
14 wind up going left by-by several hundred feet. So,
15 we're-we're not sure that the-that the one call is
16 really-really applicable to what this issue is here,
17 and we think this is a really narrow population. You
18 know, albeit, we're-we're concerned or obviously or
19 we wouldn't be here but we think it's a really narrow
20 population of-of-of properties and projects that will
21 be involved.

22 COUNCIL MEMBER GRODENCHIK: okay, thank
23 you very much. Thank you, Mr. Chair.

24 CHAIRPERSON WILLIAMS: Thank you. No
25 problem. We don't have any additional questions so

2 thank you so much for coming out. I much appreciate
3 it. You got off easy.

4 DEPUTY COMMISSIONER ROBERTS: I like it.

5 CHAIRPERSON WILLIAMS: And reaching off.

6 DEPUTY COMMISSIONER ROBERTS: Thank you
7 very much.

8 CHAIRPERSON WILLIAMS: We are now going
9 to call up the illustrious Manhattan Borough
10 President Gale Brewer, who is the catalyst for one of
11 the bills that we have here today. [pause]
12 Manhattan Borough President, may you please raise
13 your right hand. Do you affirm to tell the truth, and
14 also everybody. [background comments] I thought
15 everybody would.

16 GALE BREWER: She—I'm happy to do this.

17 CHAIRPERSON WILLIAMS: Oh, thank you.

18 [background comments] I do it for everybody.

19 [background comments] Sorry. Tell the truth, the
20 whole truth and nothing but the truth in your
21 testimony before this committee, and to respond
22 honestly to council member questions.

23 GALE BREWER: I do.

24 CHAIRPERSON WILLIAMS: Thank you.

2 GALE BREWER: Thank you and good
3 afternoon. I am Gale Brewer. I am the Manhattan
4 Borough President. Thank you Chair Williams for many
5 things, but today for the opportunity to testify in
6 support of the bill we introduced together, Intro 179
7 of 2014, to amend the Administrative Code in relation
8 to street numbers. For the record, I first
9 introduced this common sense bill in 2004 when I was
10 in the Council, and at each subsequent legislative
11 session it died an administrative death with
12 inaction, and I've been lost ever since. I
13 appreciate my colleague's partnership on this bill,
14 and scheduling a public hearing for consideration.
15 When I say lost, I mean I get lost trying to find
16 street numbers. As some of you know--you have to
17 have a little humor in this job. As some of you
18 know, New York City's borough presidents are charged
19 with determining a building's street number and for
20 regulating the display of such numbers. The fines
21 for non-compliance are currently so low they are a
22 \$25 fine after 30-day notice period has elapsed with
23 a \$5 fine for each additional day of non-compliance.
24 That's the current law. They are so low that
25 building owners have virtually no reason to adhere to

1 the current law. As a result, many of the city's
2 residential buildings, businesses and other buildings
3 choose to leave off their building number for a
4 variety of reasons. Some due to lack of awareness.
5 Other—others will perceive aesthetics and perhaps
6 even to establish an air of exclusivity. You're
7 supposed to just know that the building is there. In
8 2010, then Manhattan Borough President Scott Stringer
9 released a report, which found that nearly 40% of
10 buildings studied along certain stretches or 13 busy
11 corridors do not display their addresses. On 8th
12 Avenue between 42nd and 59th Streets, 58.2% of 165
13 locations surveyed have no displayed addresses. On
14 Greenwich (sic) Street between Murray and Spring
15 Street, 48.7% of 119 locations, no address. A
16 building number may seem like a little, but it makes
17 a huge difference in the quality of life for so many
18 people. The primary intent behind this bill is
19 promoting public safety. First responders, such as
20 NYPD and FDNY and Emergency Medical Services as well
21 as volunteer ambulance organizations such as Hatzola
22 may unnecessarily waste critical time locating
23 buildings whose numbers are not posted or waiting for
24 a person calling in an emergency to locate an exact
25

2 building address. And I believe the City Council has
3 just received a letter from the Fire Department today
4 on behalf of their Fire Department to express support
5 for Intro 179. They say that the men and women of
6 FDNY respond on a daily basis, and a key component of
7 responding quickly and accurately to calls is the
8 ability of responding members whether it's a fire or
9 an emergency medical vehicle to arrive on site and be
10 able to determine the proper location of the
11 emergency, and they go on to talk about their support
12 of this bill. And then the coordinators of West Side
13 Espola(sp?), which is a volunteer ambulance service
14 applause (sic) is measured to have building addresses
15 easily and clearly visible. He says that his
16 volunteers understand that any delay can feel like an
17 eternity. These responders encounter a variety of
18 issues in identifying buildings. Some buildings have
19 vanity multiple addresses and complexes like Lincoln
20 Towers and NYCHA developments have multiple entrances
21 that are difficult to identify particularly at night.
22 The proposed law addresses these concerns by
23 expanding—expanding the posting requirement to
24 include any entrance that is primarily used by
25 pedestrians and increasing the initial fine for non-

2 compliance to \$250 and to \$50 a day after 30 days
3 until resolution. In addition to emergency
4 personnel, this legislation will help mail carriers,
5 cab drivers, Access-A-Ride and other services workers
6 who help us everyday to do their jobs more quickly
7 and efficiently. It will help other residents and
8 New York visitors in finding the commercial
9 establishments and other buildings they are looking
10 for. The leadership of the Columbus Avenue Business
11 Improvement District, and I think other BIDs, thinks
12 that the lack—thinks that the lack of visible shop
13 numbers is a real detriment to patrons, and the
14 visitors and to delivery people. This BID purchased
15 inexpensive, legible adhesive stickers that fit
16 within the character of the BID that's an historic
17 district. Then they distributed the street numbers
18 to the shops that do not currently comply with the
19 law. So finally, I would like to briefly address the
20 enforcement powers behind the current and proposed
21 expanded law because it's complicated. Due to its
22 placement within the Borough President's Section of
23 the Administrative Code, I and my colleagues as
24 borough presidents are responsible for enforcing the
25 law. Yet, we don't necessarily have the staff that

2 each borough president once had in their Bureau of
3 Encroachments and Encumbrances. I never heard of
4 that bureau, but I guess it existed in the borough
5 president's office. So, suggested alternatives--and
6 this needs to be worked out--are to work with the
7 Department of Sanitation or Buildings or Finance or
8 HPD. I think HPD has the issue of no address
9 displayed on their checklist, but they don't
10 necessarily do the enforcement, nor do they go to all
11 the buildings, understandably for that purpose. So I
12 welcome further discussion on the topic with the city
13 Council and the Administration to identify an agency
14 or a process that would educate building owners on
15 the law, and expand the compliance and enforcement.
16 So thank you again for the opportunity to testify. I
17 am pleased to have introduced this common sense
18 public safety and quality of life measure with Chair
19 Williams, and I urge the City Council to vote in
20 favor of Intro 179. Thank you very much.

21 CHAIRPERSON WILLIAMS: Thank you very
22 much, Madam Borough President for your leadership on
23 this and other issues. We desperately--

24 CHAIRPERSON GIBSON: [interposing] That's
25 what I said about you.

2 CHAIRPERSON WILLIAMS: Okay. [laughs]

3 This is the type of thing that is so simple to solve
4 that I think will make everyone's life so much
5 easier. So it's a no-brainer to me. So thank you so
6 much.

7 GALE BREWER: Thank you very much.

8 CHAIRPERSON WILLIAMS: Oh, hold on.
9 Sorry. Before we go to questions, I need to have one
10 of my colleagues vote.

11 CLERK: Introduction 1277-A. Council
12 Member Rodriguez.

13 COUNCIL MEMBER RODRIGUEZ: Aye.

14 CHAIRPERSON WILLIAMS: Council Member
15 Grodenchik.

16 COUNCIL MEMBER GRODENCHIK: Thank you,
17 Chair. I just want to thank the Manhattan Borough
18 President who is a long-time friend. When I left the
19 Cuomo Administration where we both worked a long time
20 ago, I went to work at the borough president's
21 office. I have never heard of the encumbrance—the
22 encumbrances and encroachments at least in the Queens
23 Borough President's Office, but it is a very
24 important function of the—all the borough president's
25 offices to issue house numbers, and every building

2 should have one, and you may have saved somebody's
3 life today with this bill. So I want to thank you.
4 I don't have any questions, but I do want to thank--
5 It--it seems mundane, Mr. Chair, but it's certainly
6 not when the fire department or police or voluntary
7 needs, or anybody is looking for that. It could be a
8 matter of life and death. So thank you very much.

9 GALE BREWER: Thank you very much.

10 CHAIRPERSON WILLIAMS: Absolutely. Thank
11 you. I did also earlier give some credit to my
12 girlfriend on that. She had the same idea, but you
13 already had it. So I really put it in.

14 GALE BREWER: Thank you very much, Mr.
15 Chair.

16 CHAIRPERSON WILLIAMS: Thank you. We
17 have two more people who are signed up. So if
18 anybody else wants to testify and you don't hear your
19 name, please fill out a form. Felice Farber, General
20 Contractors Association and John Beatty a self-
21 frustrated NYC resident with a smiley face. Please
22 come up.

23 JOHN BEATTY: [off mic] Can we sit here?

24 CHAIRPERSON WILLIAMS: Yes. [background
25 comments, pause]

2 CHAIRPERSON WILLIAMS: We'll give
3 everyone three minutes for testimony. Can you both
4 please raise your right hand? Thank you. Do you
5 affirm to tell the truth, the whole truth and nothing
6 but the truth in your testimony before this
7 committee, and to respond honestly to council member
8 questions?

9 FELICE FARBER: Yes.

10 JOHN BEATTY: [off mic] Yes, I do.

11 CHAIRPERSON WILLIAMS: You each have
12 three minutes. You can begin in order of your
13 preference.

14 FELICE FARBER: Thank you, Chairman
15 Williams and members of the Housing and Buildings
16 Committee. I'm Felice Farber, Director of External
17 Affairs for the General Contractors Association of
18 New York. We appreciate the opportunity to comment
19 on Intro 1120. GCA represents the city's unionized
20 heavy civil and public works contractors who have
21 built the very foundations of New York City for more
22 than 100 years. Our members construct and
23 rehabilitate New York's roads, bridges, parks,
24 schools, transit systems, building foundations and
25 water infrastructure including the water tunnels. The

2 GCA supports efforts to protect New York City's
3 essential infrastructure. However, we believe the
4 bill as written is vague and leaves many critical
5 items undefined. Before action is taken on this
6 bill, we urge the Council and the Administration to
7 work with the GCA and other stakeholders to clarify
8 this bill. The City's Building Code currently
9 requires DEP to be notified when excavating and
10 drilling to a depth greater than 100 feet. The DEP
11 determines that the drilling or excavating is within
12 500 feet of the center line of the water tunnel, and
13 that an approval and permit must be obtained from
14 DEP. While it is rare for drilling or excavating to
15 exceed 100 feet, it is not uncommon for a building
16 foundation in New York City to require excavating or
17 drilling to a depth of 50 feet or more. New York
18 City's water tunnels are located at a depth about the
19 order of 500 feet. Changing the depth from 100 to 50
20 feet would require notification to DEP for many of
21 the foundations for the larger buildings in New York
22 City, and we're concerned it could overwhelm DEP and
23 delay the process for obtaining a building excavation
24 permit. If there are areas in New York City where
25 the water tunnel is shallower than 100 feet, then the

2 bill should be clarified and limited to require
3 notification to DEP and approval when drilling or
4 excavating to adapt at 50 feet or greater in those
5 specified parts of the city. The bill further adds a
6 new section to the Administrative Code that
7 authorizes DEP by rule to require notification
8 approval on a permit when drilling or excavating to a
9 depth of greater than 50 feet in close proximity to
10 critical infrastructure. The GCA opposes these
11 additions to the Administrative Code as the terms
12 "close proximity" and "critical infrastructure" are
13 undefined and too broad in their reach. By leaving
14 terms that are so vague and open-ended to be defined
15 in the rule making process, an agency would have
16 carte blanche to expand the noticed requirements to
17 virtually all infrastructure. The types of
18 infrastructure covered by this legislation, and the
19 distance from drilling or excavating and with DEP
20 approval and a permit is required must be spelled out
21 in the legislation, and not left to the rule making
22 process. Such an expansion of the law must be
23 publicly debated and considered as part of the
24 legislative process so that every owner, developer
25 and contractor knows what the expectations are and

2 the city agencies know what to enforce. The current
3 Building Code also required DEP approval and a permit
4 as part of the building excavation permit process.

5 The new section of the Administrative Code requires
6 DEP notification 30 days before digging or

7 excavating. The newly added notification period
8 takes place too late in the construction process.

9 Finding out that the water tunnel runs through or
10 nearby a project site is not similar to the call
11 before you dig mark-out of utility infrastructure.

12 This information must be as-ascertained as early in
13 the plan review process as possible, and should

14 remain part of the DOB ex-excavation permit approval
15 process. The location of the water tunnel through or

16 near a job site could necessitate alterations to the
17 foundation design, including type of piles used, pile
18 length, location to be drilled, and drilling methods.

19 Supportive excavation procedures could be impacted as
20 well. A water tunnel is not equivalent to the type

21 of utility infrastructure marked out in a call before
22 you dig process. Its location cannot be moved.

23 Accordingly, the time period for notification to DEP
24 should be deleted. The notification and approval or

25 permit process should be included in the DOB

2 excavation Permit approval process so that there's
3 sufficient opportunity to design an alternative
4 foundation plan for excavation method. Thank you for
5 the opportunity to comment today. We look forward to
6 working with the Council and the Administration on
7 the bill that protects New York City's
8 infrastructure, infrastructure that was built by GCA
9 members.

10 CHAIRPERSON WILLIAMS: Thank you. Mr.—is
11 it Batey or Beatty?

12 JOHN BEATTY: Beatty, John Beatty.

13 CHAIRPERSON WILLIAMS: Oh, one second,
14 Mr. Beatty. We have to have a—a colleague vote.

15 CLERK: Introduction 1277-A. Council
16 Member Espinal.

17 COUNCIL MEMBER ESPINAL: I vote aye and
18 thank you, Mr. Chair for holding the roll open. I
19 actually—I am chair of another committee hearing now.
20 So I have to run.

21 CHAIRPERSON WILLIAMS: No, problem.
22 Thank you. I hope the committee is watching how busy
23 we are today actually. Thank you, Ms. Farber. I do
24 have a couple of questions if you could hang on, and
25

2 you got lucky. You got a couple extra—you got about
3 a minute extra accident.

4 FELICE FARBER: I—I appreciate that.

5 CHAIRPERSON WILLIAMS: No problem. Mr.
6 Beatty.

7 JOHN BEATTY: My name is John Beatty. I
8 live on the Upper West Side—I live on the Upper—

9 FELICE FARBER: You're mic is not on.

10 JOHN BEATTY: Oh, I'll fix it. (sic) Oh,

11 so the red light is on. Okay. My name is John

12 Beatty. I live on the Upper West Side of Manhattan,

13 testifying as an ordinary citizen and it's pretty

14 brief. [coughs] May I first say I am greatly

15 enthusiastic about the street numbers legislation.

16 This has been a pet peeve of mine for more than half

17 century. It's a nuisance finding one's way around

18 this city, and it's not just New York City, all the

19 cities, but certainly New York City. Can I help get

20 this passed? Can I do any canvassing or whatever?

21 So then these comments. Mentioned in the summaries

22 of the legislation such as the City Council

23 description of today's meeting, the—respond—emergency

24 responders issue, it's not mentioned in there. That

25 makes—and I hadn't thought of that—it makes this

2 legislation really important actually. It's not just
3 kind of an after thought because emergency responders
4 it affects everyone. So this should be regarded as
5 important legislation. It should be on TV, newspaper
6 articles, social media. It has a constituency
7 comprising everyone. It should be something that now
8 comes up into the public consciousness, and then the
9 last comment is: Not people call these numbers, they
10 call them house numbers. Another term is building
11 numbers. So in the--in the written legislation simply
12 put it in parenthesis, street numbers--parenthesis--
13 sometimes known as house numbers or building numbers.
14 For instance, for this building the number is 250
15 just so there's no ambiguity. Thank you.

16 CHAIRPERSON WILLIAMS: Thank you Mr.
17 Beatty for your comments on 1120. Ms. Farber--

18 JOHN BEATTY: [interposing] That's 0179.

19 CHAIRPERSON WILLIAMS: 0179. I'm sorry--
20 for your comments on--on 179. Mr. Farber, I had some
21 questions on your comments.

22 JOHN BEATTY: [interposing] Can I turn
23 this off?

24 CHAIRPERSON WILLIAMS: Yes. I had some
25 questions about your comments on 1120. So I think

2 you were trying to imply in your comments that DEP
3 does not have infrastructure before 50–50 feet? Is
4 that what you were trying to imply?

5 FELICE FARBER: I think in many parts of
6 the city, if not most—most parts of the city, the
7 water tunnel is not that shallow. And so, the—I
8 think it's something that should be clarified and
9 worked out where there's a need to actually reduce
10 the depth from 50—from 100 feet to 50 feet. We're
11 concerned that many of the larger buildings in the
12 city will have excavation or piles that go deeper
13 than 50 feet. And if it requires notifying and
14 getting DEP's approval every time we need to do this,
15 that—that there's an infrastructure in place in which
16 DEP can be responding and recognize that it's more
17 than just a handful of situations every year. We
18 want to make sure that there really is the need for
19 it, and that we've identified where—where you need to
20 be notifying and below 50 feet. I think it's mainly
21 in the Bronx, and so we should clarify where—where
22 that is—where that is an issue.

23 CHAIRPERSON WILLIAMS: Well, you
24 testified that New York City's water tunnels are
25 located at a depth of—or about 500 feet.

2 FELICE FARBER: Correct. Most of them.

3 CHAIRPERSON WILLIAMS: So in your line of
4 arguing, the current 100 feet is not good either?

5 FELICE FARBER: At 100—we—we don't ever
6 want to hit the city's water tunnel. At 100 feet,
7 none of our members are aware of ever having to
8 contact DEP to notify them or the situation of having
9 it be a problem.

10 CHAIRPERSON WILLIAMS: Yeah, I'm just—I'm
11 trying to understand the logic of your argument, and
12 so if you're--

13 FELICE FARBER: [interposing] Part-part--

14 CHAIRPERSON WILLIAMS: --saying that 50
15 feet is too shallow, I'm trying to figure out why 100
16 feet isn't if you're testifying that their—their
17 tunnels start at 500.

18 FELICE FARBER: I—I think the—there are a
19 couple of issues. One is that the terms in the bill
20 are unclear. Close proximity and critical
21 infrastructure is—is not defined. So if we're only
22 talking about the water tunnel, then we should say it
23 clearly in the bill that we're talking about the
24 water tunnel. But in addition, we're—we're just
25 concerned about the point at which you end up having

2 to notify DEP and make sure that they are able to
3 respond. So for example, most of the larger
4 buildings will have piles or foundations that are
5 deeper than 50 feet. So right now as part of the
6 process to get your building excavation permit, there
7 needs to be sign-off at a certain depth.

8 CHAIRPERSON WILLIAMS: [interposing] So
9 most of the piles start at 50 feet?

10 FELICE FARBER: It-for-for the larger
11 buildings in the city, it's not uncommon for the
12 excavation or the drilling to be greater than 50
13 feet.

14 CHAIRPERSON WILLIAMS: But less than 100?

15 FELICE FARBER: But less than 100. It-
16 so, the issue has to do when you get a DOB excavation
17 permit, you have to notify DEP if you're going
18 greater than a certain feet, and New York City
19 Transit if you're going greater than a certain feet.
20 So this would just incorporate a much larger group
21 of-of properties involved, and making sure that DEP
22 actually has a process to respond or has some time
23 period to respond so this doesn't further hold up
24 the-the process to get the building permit. In
25 addition, we just question whether there's really a

2 need to go down to—to change it from 100 feet to 50
3 feet throughout the city. But if there's specific
4 areas of the city such as the Bronx where the water
5 tunnel comes in through—from Croton, whether that's
6 shallower, and so maybe it makes sense to say in the
7 Bronx it should be 50 feet, but in every other
8 borough it's 100 feet.

9 CHAIRPERSON WILLIAMS: So you don't want
10 to shift the work of—to DEP to—to give a zone of
11 where it's 50 and 100 as opposed to a blanket?

12 FELICE FARBER: If possible, yes. So I
13 think these are issues that can be worked out with
14 the Council and the Administration to make sure that
15 the bill is as clear as possible, and is defined in a
16 way that makes the most sense.

17 CHAIRPERSON WILLIAMS: So, D-A-P, DEP
18 testified that in some cases they have infrastructure
19 that's within 50 vertical feet, and you're saying
20 that's just only in certain places?

21 FELICE FARBER: It's—it's our—it's our
22 belief that it is, but I think the most important
23 element here is that we define in the legislation
24 what is meant by close proximity and to critical
25 infrastructure, and that we make sure that the

2 process is—is early—the notification and approval is
3 as early on in the process as possible. I think it's
4 meant as one of the questions that came out, this is
5 not similar to call you dig situation. If there is
6 there major infrastructure going through where you're
7 going to dig very deep, you need to know as early in
8 the process as possible. So there shouldn't—so it
9 should be part of the DOB approval process as it
10 currently is now. We're concerned that by amending
11 the Administrative Code and kind of changing the
12 notification to a different time period, that it
13 could—it could be perceived a kind of call before you
14 did, and that's not appropriate for infrastructure of
15 this size.

16 CHAIRPERSON WILLIAMS: Is anybody from
17 DEP still here? Can you—would you be able to come
18 back answer questions? For sure. Thank you so much
19 for your testimony. I really appreciate it.

20 FELICE FARBER: Thanks.

21 CHAIRPERSON WILLIAMS: Mr. Beatty, you're
22 finished. Thank you.

23 JOHN BEATTY: Thanks.

24 CHAIRPERSON WILLIAMS: Does he need to
25 fill out a card or something? Oh, thank you.

2 [background comments] Just for the record, sir, your
3 name and--

4 RICK MUELLER: My name is Mueller and
5 I'm the Director of Legislative Affairs at DEP.

6 CHAIRPERSON WILLIAMS: [pause] Would you
7 please raise your right hand? Do you affirm to tell
8 the truth, the whole truth and nothing but the truth
9 in your testimony before this committee, and to
10 respond honestly to council member questions?

11 RICK MUELLER: Yes.

12 CHAIRPERSON WILLIAMS: So you heard the
13 testimony that was given. I just wanted to get some
14 clarification on what critical infrastructure means,
15 and is it more than just water tunnels? Is it other
16 infrastructure, and how prevalent is 50 feet or how
17 prevalent is it at 50 feet throughout the city?

18 RICK MUELLER: Thank you, Mr. Chair.
19 What--we want to protect the water tunnels, and they
20 are most of the time very, very deep, 500 feet or
21 deeper, and there--but there are sections of water
22 tunnels that are shallower than 100 feet, but deeper
23 than 50 feet, and so that's--that's why we're seeking
24 this change. We want to correct--protect all of the
25 water tunnels.

2 CHAIRPERSON WILLIAMS: So for clarity,
3 infrastructure in the testimony that given by the
4 Deputy Commissioner means water tunnel?

5 RICK MUELLER: Yes.

6 CHAIRPERSON WILLIAMS: So, you know
7 exactly where they are. Is there a way you can make
8 the bill so that it covers that area without covering
9 the places where the tunnels are 500 feet?

10 RICK MUELLER: I think what's motivating
11 us is—is security concerns. We're not or we don't
12 want to advertise the location of the water tunnels,
13 and so it is more efficient and protective to
14 specific deeper than 50 feet throughout the city.

15 CHAIRPERSON WILLIAMS: I see. Do you
16 know—is it more prevalent in other boroughs where
17 it's just not 50 feet?

18 RICK MUELLER: That's correct, and—and
19 we're actually looking to protect the new Croton
20 Aqueduct, which is or which runs form Yonkers down
21 into the Bronx.

22 CHAIRPERSON WILLIAMS: So their security
23 concern actually makes sense? So thank you for that
24 explanation, but I was just wondering if there's
25 boroughs—could we eliminate certain boroughs if we

2 elect to. Is there-is there some boroughs that we
3 could say the law doesn't apply here because they
4 just don't have any?

5 RICK MUELLER: I think we'd be open to
6 discussing that.

7 CHAIRPERSON WILLIAMS: Okay. Alright,
8 thank you very much.

9 RICK MUELLER: Thank you.

10 CHAIRPERSON WILLIAMS: For the record, we
11 have testimony from FDNY on Local Law 179. Seeing no
12 one has signed up, and there's no other questions I
13 just want to thank everybody for coming out, and this
14 hearing is now closed. [gavel]

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C E R T I F I C A T E

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



Date October 8, 2016