

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ECONOMIC DEVELOPMENT

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December 8, 2016  
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HELD AT: 250 Broadway - Committee Rm,  
14th Fl.

B E F O R E:  
DANIEL R. GARODNICK  
Chairperson

COUNCIL MEMBERS:  
Vincent J. Gentile  
Julissa Ferreras-Copeland  
Karen Koslowitz  
Ruben Wills  
Donovan J. Richards  
Inez D. Barron  
I. Daneek Miller  
Joseph C. Borelli  
Corey D. Johnson  
Helen K. Rosenthal

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

James Katz  
Chief of Staff  
New York City Economic Development  
Corporation

A. Mychal Johnson  
Co-Founding Member  
South Bronx Unite

Harry Bubbins  
South Bronx Unite

Elizabeth Thompson  
Representative  
Kingsbridge Armory Redevelopment Alliance  
Northwest Bronx Community

Liz Marcello  
Campaign Manager  
Reinvent Albany

Yvonne Viruet  
Representative  
Kingsbridge Armory Redevelopment Alliance  
Northwest Bronx Community

Marcel Negret  
Project Manager  
The Municipal Art Society

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

Armando Chapelliquen  
Representative  
Association for Neighborhood &  
Housing Development (ANHD)

[sound check]

[pause]

CHAIRPERSON GARODNICK: Good afternoon.

[gavel] Welcome to the Economic Development Committee of the New York City Council. Today's date is Thursday, December 8, 2016. My name is Dan Garodnick and I have the privilege of chairing this committee. I am joined by Council Members Corey Johnson and Donovan Richards and we will be hearing, among other things, a bill that has been introduced by Council Member Johnson.

The purpose of today's hearing is focused on the way that the City doles out funds for economic development projects and to ensure that the public has a clue of what is actually going on. The City spends over \$2.8 billion a year on economic development subsidies, these funds are dedicated to laudable goals, such as the creation of new jobs, the expansion of affordable housing, the improvement of the quality of city neighborhoods, or the refurbishment of sites of cultural or historic significance, among many others. While these projects are important, they are deeply within the discretion of the Economic Development Corporation

1 and too frequently with very little public  
2 consultation or awareness. Unfortunately, it is not  
3 always clear where these public dollars go and  
4 whether or not they achieved their intended  
5 objectives.  
6

7 This committee has worked with EDC to  
8 provide more transparency on its multi-year budgeting  
9 and has made progress. Several years ago we passed  
10 Local Law 62 which requires annual reporting on a  
11 variety of projects, and we applaud the 2014  
12 agreement between the City's Comptroller's Office and  
13 EDC which provides the Comptroller with significant  
14 data for each EDC contract. This data has been  
15 routinely added to the Comptroller's Checkbook NYC  
16 website and it is a good first step toward clarity in  
17 understanding how the City's economic development  
18 dollars are being spent on an ongoing basis.

19 However, the Committee believes more can  
20 be done to ensure openness and transparency of our  
21 economic development money and to continue to improve  
22 public access to the details of City spending.

23 In 2015, the City Council launched a Task  
24 Force on Economic Development Tax Expenditures, a  
25 task force created for the purpose of evaluating and

1  
2 improving transparency and efficiency in the way that  
3 the City provides incentives. The Task Force  
4 produced a report this September with  
5 recommendations, which are the subject of another  
6 bill that has already had a hearing.

7 The package of bills that we are hearing  
8 today, Intros. 1316, 1322 and 1337, introduced by  
9 myself, Council Member Johnson and Council Member  
10 Helen Rosenthal respectively, take steps toward  
11 improving public access to the specifics of the  
12 City's economic development spending.

13 The first bill, Int. 1316, would require  
14 EDC to submit fiscal impact statements as well as  
15 social environmental impact statements in advance of  
16 each project financed for the purpose of creating  
17 jobs or other economic development. The bill would  
18 also require the City Comptroller or a comptroller  
19 appointee to join EDC's Executive board. Finally,  
20 the bill would enable the Commissioner of Small  
21 Business Services to require EDC to hold a public  
22 hearing in a community impacted by a proposed EDC  
23 project.

24 We believe this bill strikes a good  
25 balance toward providing a clear and open

1 understanding of the expectations and collateral  
2 affects of EDC projects.

3  
4 The second bill, Int. 1322, would require  
5 SBS to amend its contract with EDC to ensure that all  
6 EDC contracts for economic development purposes  
7 contain mandatory recovery provisions, so-called  
8 clawback [sic] provisions in cases of material  
9 default by a third-party vendor.

10 Int. 1322 provides a detailed process for  
11 recovery that the Committee believes will enable EDC  
12 to more effectively secure City funds when  
13 contractors do not meet their job creation or other  
14 economic development obligations.

15 The final bill, Int. 1337, would require  
16 EDC to submit project descriptions and budgets for  
17 public review and comment prior to the execution of  
18 an economic development contract.

19 The bill would also require EDC to  
20 disaggregate some information in its annual report  
21 regarding contracts for \$150,000 or less.

22 Finally, Int. 1337 would clean up much of  
23 the current City Charter section addressing the  
24 contract between SBS and EDC; that's 1301, subsection  
25 1-b, and move it to the Administrative Code.

1  
2           These provisions would ensure additional  
3 public access to EDC projects under consideration as  
4 well as provide additional detail to the public on  
5 existing projects in the annual report.

6           It is our responsibility to ensure that  
7 City funds are being spent effectively; if there's no  
8 clear benefit, there should be no tax breaks, there  
9 should be no obscurity of public spending; it's time  
10 for the public to have the same level of access to  
11 economic development spending as it does from other  
12 agencies of the City.

13           I'd like to thank the Committee members  
14 and staff as well as the co-sponsors of this  
15 legislation for coming together to hold this hearing  
16 today. I want to note that we've been joined by  
17 former Committee Chair Karen Koslowitz and I'm not  
18 going to turn the floor over to Council Member Corey  
19 Johnson, who is the sponsor of Int. 1322, to say a  
20 few words. Council Member Johnson.

21           COUNCIL MEMBER JOHNSON: Thank you  
22 Mr. Chair. Good afternoon. I'd like to thank Chair  
23 Garodnick and this committee for giving me the  
24 opportunity to discuss Introduction 1322. I'd also  
25 like to thank Chair Garodnick and Council Member



1 Helen Rosenthal for joining me in sponsorship of this  
2 piece of legislation.  
3

4 This legislation serves a simple but  
5 important purpose -- in cases when an entity gives  
6 development assistance on behalf of our city, we need  
7 to have a formal, consistent process in place when  
8 the recipient defaults on its obligations under the  
9 contract.

10 This is not a case of hypotheticals;  
11 entities that give development assistance are  
12 constantly in a position where they have to recoup  
13 their investment because the recipient was unable to  
14 meet its obligations.

15 The problem we need to address with these  
16 clawbacks (as they're called), is that there  
17 currently is no baseline set of rules that apply to  
18 all of these deals that involve City money. Indeed,  
19 this legislation is about protecting taxpayer money;  
20 when we spend those tax dollars on economic  
21 development, we have objectives in mind --  
22 stimulating job creation, for example. The public is  
23 entitled to know when these objectives are not being  
24 met; they're entitled to know that the lending entity  
25

1 is actively supervising the contract and that there's  
2 a plan in place when default occurs.

3  
4 So this bill looks after the interests of  
5 the public by making sure their taxpayer investments  
6 are being protected; the lending agency, by ensuring  
7 a standard procedure for either having their contract  
8 upheld or recouping their investment; and the  
9 recipient, by creating clear standards to which  
10 they'll be held.

11 I believe all parties should feel  
12 comfortable adhering to the guidelines laid out in  
13 this legislation and it creates order in a part of  
14 the economic development process that has long lacked  
15 consistency.

16 I hope this committee also sees value in  
17 having these guidelines in place and I want to thank  
18 again Chair Garodnick for allowing me to make an  
19 opening statement today. I looked at EDC's testimony  
20 that they're about to give and I think there are some  
21 good comments in here, but I don't see that EDC's  
22 taken a position on the bill, so I look forward to  
23 having a kind of longer conversation about that, both  
24 in this hearing and outside this hearing. Thank you  
25 very much Mr. Chair.

1  
2 CHAIRPERSON GARODNICK: Thank you Council  
3 Member Johnson. Since you had a chance to have an  
4 early look, it wasn't a full-throated endorsement?

5 COUNCIL MEMBER JOHNSON: No.

6 CHAIRPERSON GARODNICK: [laugh] Okay,  
7 well we'll hear from them now; we're glad that James  
8 Katz, who is the Chief of Staff to the Economic  
9 Development Corporation, and somebody for whom we  
10 have a great deal of respect, is here to testify. We  
11 are going to be joined by Council Member Rosenthal in  
12 a few minutes and we'll give her a chance to say some  
13 comments then, but Mr. Katz, we don't want to keep  
14 you waiting, so please, whenever you're ready, go  
15 right ahead.

16 JAMES KATZ: Good afternoon members of  
17 the Committee on Economic Development. My name is  
18 James Katz and I am Chief of Staff of the New York  
19 City Economic Development Corporation. My colleagues  
20 and I appreciate today's opportunity to discuss  
21 Introductions 1316, 1322 and 1337. The three bills  
22 appear to share the promotion of transparency as a  
23 theme, but they touch on an assortment of issues  
24 whose rationales and connection to each other could  
25 be clearer to us. We look forward to hearing more

1 today about the precise issues this Council is  
2 seeking to endeavor to address through lawmaking.

3  
4 As drafted, the introductions appear to  
5 seek to regulate the operations of a number of  
6 entities beyond EDC, including the Brooklyn Navy Yard  
7 and some entities that are properly the province of  
8 the State of New York. The proposals contain more  
9 than a few provisions that are harmful to small  
10 businesses and for nonprofits and are duplicative of  
11 requirements that already exist under the various  
12 state, local and federal laws that govern EDC and the  
13 entities it administers, as well as those other city  
14 development instrumentalities.

15 At EDC we value transparency and have  
16 taken a number of steps in recent years to ensure the  
17 public is able to understand our activities. The IDA  
18 and Build NYC Resource Corporation publicly notice  
19 the proposals of all upcoming projects in the *New*  
20 *York Daily News* and elsewhere 30 days in advance of  
21 public hearings and send the same information to the  
22 local Council Members who have projects in their  
23 district. We've also enabled live and on demand  
24 videocasts and audiocasts of IDA and Build NYC board  
25 meetings and public hearings and the minutes of all

1 of these meetings and public hearings, like the  
2 minutes of EDC's board, are posted online for all to  
3 see. We have on our website an interactive map of  
4 all current projects which detail the project's  
5 fiscal impacts, assistance received and associated  
6 jobs. This is all in addition to statutorily  
7 required annual reporting pursuant to the Public  
8 Authorities Accountability Act, or PAAA, which is the  
9 State Law governing IDA, EDC and Build NYC. City  
10 Charter Section 1301(1)(b), the Federal Internal  
11 Revenue Code, and New York State's not-for-profit  
12 laws also govern our activities.

14 Under the State's PAAA, the Council and  
15 other policymakers each year receive a full set of  
16 electronic documents that includes a certified  
17 financial audit, assessment of EDC's internal  
18 controls, an investment report, a property report,  
19 and our performance measures. Under Charter Section  
20 1301(b) we provide an annual report each January to  
21 the Council that includes project level information  
22 on every land sale, ground lease, IDA transaction and  
23 Build NYC bond financing. That information includes  
24 the term of the agreement, purchase price of any land  
25 sales returned to the City, value of any assistance

1 extended, usage and conveyance restriction on land  
2 (also known as deed restriction), and jobs at the  
3 project site. It also includes the amount of money,  
4 if any, paid by the project company for purposes of  
5 recapture.  
6

7 Last year's annual report covered 575  
8 projects and included 1,007 pages of project  
9 information. That report is available right now to  
10 the Council and the public on our website, both in  
11 PDF and machine-readable format. We believe we share  
12 as much data on our operations with the public as any  
13 instrumentality of City government.

14 These transparency measures are  
15 important, but equally important to us is ensuring  
16 that the operational features that allow EDC to  
17 remain agile and flexible are not impaired. EDC  
18 serves the same purpose as a Local Development  
19 Corporation under Article 14 of New York State's Not-  
20 For-Profit Corporation Law. That statute exists  
21 because of a realization by the Legislature and the  
22 Governor some years ago that traditional agencies of  
23 government lack the flexibility to engage on equal  
24 footing with private sector actors. This is  
25 particularly true in the context of development,

1 where we engage every day with private parties  
2 looking to purchase or lease public property or  
3 space.  
4

5 But beyond real estate, interaction with  
6 the private sector is also a hallmark of our  
7 programmatic work. EDC's Center for Urban Innovation  
8 runs 40 programs which were approved at our public  
9 board meetings in partnership with private actors to  
10 catalyze growth in sectors that represent the future  
11 of our city's economy.

12 We are structured as we are under law for  
13 two simple reasons:

14 First, our nimbleness is what makes much  
15 of this work possible. Moving at the customary speed  
16 of government could cause these programmatic  
17 opportunities to disappear. A tech company  
18 interested in partnering on a competition to create  
19 apps to improve mental health might not sit through  
20 an eight-month agency RFP process. A manufacturing  
21 looking for affordable space to lease might not  
22 remain in New York and could flee to New Jersey. A  
23 not-for-profit organization accepting Reso A funds  
24 from its Council Members to build a new office might  
25 walk away from an EDC-administered funding agreement.

1  
2           Second, the ability to act nimbly when  
3 dealing with private actors is in the City's fiscal  
4 interest. EDC is self-sustaining and receives no  
5 operating funds from the City, deriving revenues from  
6 property management, financing fees and land sale  
7 proceeds. Because of this unique structure, EDC  
8 utilizes the revenue generated by our assets to  
9 invest back in them and to make financial  
10 contributions to the City of New York. Our structure  
11 creates a built-in incentive to manage City-owned  
12 properties well; the health of our balance sheet  
13 depends on it, and the ability to make ongoing  
14 payments to the City of New York does as well.

15           The structure also allows us to compete  
16 on more equal footing with private actors across the  
17 table who may be seeking to maximize their own  
18 return. If there is a dispute with a private party  
19 on value, we can have appraisers look at it quickly  
20 and resolve the matter. If there is a question about  
21 site conditions; for example, the ownership of  
22 subsurface infrastructure, we can have engineers and  
23 surveyors commissioned quickly to resolve that matter  
24 as well. In order to negotiate as aggressively as  
25 the public deserves, we need the flexibility to



1 marshal the tools available to our counterparties,  
2 and we are proud of our record.

3  
4 From the initial leases of the MetroTech  
5 Center which catalyze the creation of Downtown  
6 Brooklyn, to the Applied Sciences Competition that  
7 gave rise to Cornell-Technion campus on Roosevelt  
8 Island to our work today ensuring the successful  
9 launch next year of a citywide ferry system that will  
10 one day carry 4.6 million passengers between 21  
11 landings, all for the price of a MetroCard.

12 We think EDC's structure has served and  
13 continues to serve the City well. We're not always  
14 perfect, to be sure, but we will stand by that  
15 record. Perhaps that is the reason that so many of  
16 you seek out EDC to take on your own priority capital  
17 projects, from Stuyvesant Cove on Manhattan's East  
18 Side, the Coney Island Amphitheater, you and other  
19 elected officials regularly seek us out to take on  
20 the projects that you care about the most and the  
21 reason for that is that our capital program delivers  
22 those projects on time and on budget; experience has  
23 beared [sic] this out. In 2013, EDC was delighted to  
24 open the doors to the Henry J. Carter Specialty  
25 Hospital and Nursing Center in East Harlem. This was

1 a project made necessary by the closure of Goldwater  
2 Hospital on Roosevelt Island as part of the Applied  
3 Sciences Initiative. The Henry J. Carter project  
4 included the creation of a 202-bed hospital and a  
5 164-bed nursing home in a brand new building. To put  
6 it in the simplest terms, this meant picking up an  
7 entire hospital, constructing a new one and  
8 recommissioning in another place. By all accounts,  
9 it should have taken at least 36 months to complete  
10 construction; others told us it would take up to five  
11 years. Some members of our own board who work in  
12 real estate and construction said it simply could not  
13 be done. EDC and its construction partners completed  
14 the Henry J. Carter project in 18 months. That  
15 hospital is open today serving patients and the  
16 Cornell-Technion campus is nearing completion on  
17 Roosevelt Island.

19 As it relates to the introductions now  
20 before us, our concern is that they represent a  
21 chipping away of the essential features that make EDC  
22 what it is; more process, particularly duplicative  
23 process, makes us less able to do our jobs on behalf  
24 of the people we all serve.

1  
2 I will now walk briefly through each of  
3 the three proposals to identify the key areas of  
4 concern; in doing so, I'll take them roughly in the  
5 order of the portion of the project lifecycle with  
6 which they are associated.

7 Turning first to Int. 1316.

8 Int. 1316 addresses fiscal oversight at  
9 the stage of project authorization. The legislation  
10 will require EDC for the first time to include the  
11 City Comptroller on its board of directors. The bill  
12 also requires the submission to the Mayor, Public  
13 Advocate, Council, Borough Presidents, DoITT, and the  
14 Comptroller of a newly-invented fiscal, social and  
15 environmental impact statement for each EDC project.

16 We're concerned that the newly proposed  
17 requirements for environmental or social review could  
18 have the unintended consequences of dramatically and  
19 adversely affecting the many small businesses and  
20 nonprofits with which we work every day. In the end,  
21 it is they who will bear these costs. These new  
22 measures also run contrary to other City policy  
23 goals, including with respect to manufacturing and  
24 small business support.

1  
2 In addition, the City Charter has been  
3 structured in a very thoughtful way, delineating the  
4 proper roles of mayoral instrumentalities like the  
5 EDC, the Comptroller and the Council. At the  
6 simplest level, it is our job to negotiate the  
7 structure programs and transactions with our  
8 counterparties. The Council's role is to provide  
9 community input in the development of those  
10 initiatives and approvals in the case of land use  
11 matters. And it is the Comptroller's job to provide  
12 ongoing fiscal oversight over the efforts we have  
13 decided to undertake pursuant to our master contracts  
14 with the City. We believe that this bill could  
15 tangle that thoughtful structure.

16 Int. 1316 requires the preparation of a  
17 fiscal impact statement for each EDC project. This  
18 includes an estimate of the social and environmental  
19 impacts of each project, and the importance of  
20 environmental review is clear to us; we share the  
21 Council's interest in ensuring it is thorough and  
22 transparent; that is why EDC has a Planning  
23 Department staffed by eight full-time urban planners  
24 who undertake the environmental reviews covered by  
25 the City Environmental Quality Review process, the

1 State Environmental Quality Review Act and the  
2 National Environmental Policy Act. Compliance with  
3 CEQR is required for City land use decisions and most  
4 capital expenditures associated with our projects.  
5 CEQR reviews are available to the public, right now,  
6 on the website of the Mayor's Office of Environmental  
7 Coordination.  
8

9 IDA and Build NYC projects, on the other  
10 hand, are reviewed pursuant to the State's  
11 Environmental Review protocols and a summary can be  
12 found in the board books that go to the board in  
13 advance of each month's meeting. Fiscal impact  
14 analyses performed for each IDA project, and those  
15 are also required by State law, are posted online in  
16 advance of the public hearing at which members of the  
17 public can and do come to give comment. Those fiscal  
18 impact analyses are also included in respected board  
19 book; the environmental summaries and fiscal impact  
20 analyses are additionally placed in the minutes of  
21 each board meeting which are posted online.

22 To the extent that the proposed  
23 legislation calls for reviews of additional topics,  
24 we would note that these appear to be newly-created  
25 concepts and environmental practice that would

1  
2 require the development of a new technical manual and  
3 would likely contribute to the time and cost imposed  
4 on project companies, for it is the project companies  
5 that generally must pay for environmental reviews;  
6 not EDC; not IDA; not Build NYC.

7           The clientele of the IDA consists largely  
8 of smaller entities taking on industrial projects in  
9 the outer boroughs. Of the total portfolio of 457  
10 active IDA projects recorded in last year's report,  
11 81% are in the outer boroughs and 92% employ fewer  
12 than 50 people. The clientele of Build NYC consists  
13 almost entirely of not-for-profit organizations, and  
14 EDC's funding agreements practice similarly deals  
15 almost exclusively with nonprofits, endeavoring to  
16 make efficient use of the capital funds you and other  
17 elected officials allocate.

18           To the extent the impetus of these  
19 proposals is the oversight of tax incentive programs,  
20 it bears mentioning that the Comptroller already sits  
21 on the boards of both the IDA and Build NYC; that is  
22 where tax expenditures are principally awarded; not  
23 through the EDC Board. The State laws that govern  
24 IDA require the Comptroller's inclusion on that  
25 board, as do Build NYC's bylaws.

1                   The Comptroller annually reviews both of  
2 EDC's master contracts with the City of New York and  
3 through those contracts the Comptroller holds audit  
4 rights over all of our contracts with project  
5 companies. Not a year has gone by since the start of  
6 this administration that did not include at least one  
7 audit by the City Comptroller of an EDC project.  
8 Moreover, each time EDC seeks to expend City funds we  
9 must provide detailed information to the  
10 Comptroller's Office concerning the project; the  
11 office then reviews it and determines whether or not  
12 to register that amount. In addition, although not a  
13 City agency, EDC participates in the Comptroller's  
14 Checkbook program and provides detail on contract  
15 payments that is online, and as the Chair noted,  
16 updated weekly; we have committed to this in our  
17 master contract with the City.

18                   Turning now to Introduction 1337.

19                   The bill proposes a new framework for  
20 public review of EDC projects; notably, this  
21 framework only applies when another public review  
22 process involving a local Council Member does not.  
23

24                   We are curious to hear more from the  
25 sponsors about the classes of projects that prompted

1 this bill. To the extent that there are additional  
2 classes of projects the Council thinks will be  
3 reached, we are again deeply concerned about  
4 potential impacts to the small business and  
5 nonprofits with which we work. It appears the  
6 legislation captures space lease tenants, nonprofits  
7 seeking bond financing from Build NYC, and some of  
8 the small entrepreneurs that participate in EDC's  
9 sector-based programming. In the end, again, it is  
10 these companies who will bear the burdens associated  
11 with the proposals.  
12

13 An essential purpose of EDC is to cut  
14 through red tape for them and these proposals  
15 undermine that goal. As it stands, all EDC projects  
16 that entail the disposition of City-owned land  
17 trigger one or more of the Uniform Land Use Review  
18 procedure, 384B4 review by community boards, borough  
19 boards, borough presidents, or review by the Council  
20 pursuant to Section 1301 of the City Charter.

21 IDA and Build NYC provide email notice to  
22 the relevant Council Member in advance of the  
23 authorization of every project in his or her  
24 district. These are sent to you 30 days prior to  
25 review by those organization's boards. Those bodies



1 then hold a public hearing prior to authorization;  
2 both meetings are open, attended by members of the  
3 public and press and webcast live online. Meeting  
4 minutes inclusive of project information are posted  
5 online. Collectively, these steps have prompted good  
6 government groups to spotlight [sic] New York City's  
7 IDA as an example for its peers across the state.

9 And in the interest of going beyond mere  
10 procedural transparency, EDC has also expanded its  
11 engagement effort with local officials and community  
12 stakeholders. In the last year we have fully staffed  
13 our Government and Community Relations Department  
14 with ten full-time members, including five borough  
15 directors and a dedicated staff member for Citywide  
16 ferry service, ensuring that residents and elected  
17 leaders have an accessible point of contact  
18 throughout the project development process.

19 If a separate process is indeed required,  
20 we recommend a careful analysis of the projects and  
21 agreements covered by Int. 1337. We believe it may  
22 be going beyond what the Council intends. Would a  
23 license to host a one-day farmer's market on a pier  
24 now require 90 days of notice and comment? More  
25 alarmingly, the bill could require public review and

1  
2 comment every time EDC or the Brooklyn Navy Yard  
3 leased space to the mostly industrial tenants we  
4 endeavor to support. Creating tremendous cost and  
5 uncertainty for manufacturers seeking a space lease  
6 at the Yard or at the Brooklyn Army Terminal would  
7 dismantle recent efforts by the Administration and  
8 the Council to ensure that manufacturers do not  
9 continue to flee New York City. We have together  
10 committed hundreds of millions of dollars to  
11 investment in the City's industrial assets over the  
12 last three years and it now appears some Council  
13 Members are seeking to take a step back.

14 I turn now to Introduction 1322, a  
15 proposal that seeks to address the late stage of  
16 incentive deals focusing on the period after  
17 authorization and closing and ensuring project  
18 companies live up to their end of the bargain. The  
19 bill would require mandatory recapture provisions in  
20 economic development contracts, including apparently  
21 those of IDA and Build NYC.

22 Int. 1322 requires EDC to notify the  
23 local Council Member and the business no later than  
24 30 days after it has been discovered that the  
25 business is noncompliant with one or more material

1 terms of the contract. It further requires ongoing  
2 notification of the Council Member of the status of  
3 efforts to recapture tax expenditures from the  
4 business.

5  
6 We take compliance very seriously. We  
7 take a number of measures to monitor compliance and  
8 we take swift action to correct deficiencies. Our  
9 approach is one that benefits from a climate of  
10 confidentiality in which project companies that are  
11 under distress can productively engage with us to  
12 correct their shortcoming; that approach has proven  
13 effective. The proposal subjects the project company  
14 to the risk that its competitors, suppliers and its  
15 employees will become aware of its troubles in ways  
16 that could be unnecessarily damaging.

17 There are opportunities to work with  
18 companies to correct issues and believe that the  
19 added public role proposed here would interfere with  
20 our ability to do so.

21 Section 875 of the State's General  
22 Municipal Law requires that IDA recapture sales tax  
23 benefits in cases where a project company fails to  
24 comply with a material, term or condition of the IDA  
25 agreement. In the event of sustained noncompliance,

1  
2 IDA and Build NYC include recapture clauses in every  
3 contract providing City or State assistance.

4           Examples of recapture events include  
5 failing to complete the project, liquidation of  
6 operating assets at the site, ceasing operations,  
7 transferring all operations outside the city,  
8 transferring a substantial number of jobs away from  
9 the project site, substantially changing the scope of  
10 operations at the project site, selling, leasing,  
11 subleasing or otherwise exposing of the project  
12 facility. All IDA benefits are subject to recapture  
13 upon the occurrence of a recapture event, typically  
14 within the ten years following commencement of  
15 operations.

16           More businesses reach out to EDC prior to  
17 going into default and we work closely with them to  
18 find an appropriate workout wherever possible. By  
19 reserving court proceedings as a last resort, we keep  
20 lines of communication open with distressed  
21 businesses; as such, default is a rare occurrence.  
22 In cases where a workout is not feasible, EDC, IDA  
23 and Build NYC work with the City's Law Department to  
24 resolve noncompliance through the courts.

1  
2 Since 2007, seventeen IDA projects have  
3 been referred to the Law Department for potential  
4 litigation; the Law Department commenced litigation  
5 in ten of those matters, settled two of them without  
6 litigation, recommended sending two to private  
7 collection agencies, and is reviewing the remaining  
8 three. There is no Build NYC project in which there  
9 has been a default that is continuing. Since Fiscal  
10 14, we have recaptured \$8.4 million from project  
11 companies.

12 Confidentiality is crucial in order to  
13 resolve these issues without resort to the courts.  
14 Resolving the vast majority of our compliance issues  
15 is only possible because project companies do not  
16 fear reputational harm by coming forward. More often  
17 than not, a compliance issues arises because a  
18 company has fallen on challenging times -- the  
19 business isn't going as planned and the construction  
20 project suffers. To the extent that Int. 1322  
21 proposes disrupting that dynamic by bringing  
22 publicity into the process, we believe the effects  
23 would be disastrous for efforts to bring companies  
24 into compliance.

1  
2           Furthermore, these businesses, 92% of  
3 which have fewer than 50 employees, tend to be  
4 particularly vulnerable financially when a  
5 construction project is in distress, adding process  
6 to our discussions with them to bring about  
7 compliance worsens an already difficult situation for  
8 the very people we are working to help.

9           Turning to transparency, our compliance  
10 department is focused full-time on monitoring and  
11 when necessary, enforcing these agreements. The  
12 department consistently collects, reviews and  
13 analyzes financial and other supporting data for  
14 projects. This data is secured through annual  
15 reviews and reports by companies and visits by staff  
16 to project sites. IDA and Build NYC publish  
17 bimonthly enforcement reports based on that  
18 compliance department's work; these reports outline  
19 status of enforcement efforts including those seeking  
20 recapture and they appear in all IDA and Build NYC  
21 board books. In addition, EDC reports each recapture  
22 in the annual report that is shared with the Council  
23 and other elected officials. As of today, IDA has  
24 386 active projects; Build NYC has 102. Compliance  
25

1  
2 currently monitors 588 active projects including IDA,  
3 Build NYC, EDC's land sales and ground leases.

4           According to the November enforcement  
5 report, 96% of IDA projects are fully compliant,  
6 Build NYC projects are 100% compliant. In short, we  
7 think we have an effective system of compliance and  
8 are pleased to have the opportunity to discuss this  
9 system with you further today.

10           In closing, we look forward to the  
11 opportunity to discuss these three introductions with  
12 the Council and provide additional information where  
13 helpful. There are several instances where what is  
14 being requested would be contrary to the City's  
15 interest and we hope that the Council understands our  
16 limitations.

17           We thank the Economic Development  
18 Committee for the opportunity to testify and I'm  
19 happy now to take any questions you may have.

20           CHAIRPERSON GARODNICK: Thank you very  
21 much, Mr. Katz. Let me note that we've been joined  
22 by Council Members Rosenthal and Gentile and I'd like  
23 to give Council Member Rosenthal an opportunity to  
24 say a few words about her bill, with the benefit of  
25

1  
2 now having heard your testimony, so Council Member,  
3 the floor is yours.

4 COUNCIL MEMBER ROSENTHAL: Thank you so  
5 much Council Member Garodnick and yes, with the  
6 benefit... [background comment] I think I've tweaked my  
7 testimony just a little bit. Where am I supposed to...  
8 this is alright? Okay.

9 So I want to thank Chair Garodnick and  
10 Council Member Johnson for their work on this issue,  
11 and I do want to thank Chief of Staff to EDC, James  
12 Katz for his work. It is vital that our economic  
13 development financing lives up to the promises and  
14 that its benefits are shared broadly by New York  
15 communities. To that end, we must continue to do  
16 what we do now and do more to ensure that our  
17 communities are able to understand projects as they  
18 are proposed, monitor them as they implemented, and  
19 correct them if things don't go according to plan.

20 Int. 1337, in particular, aims to make it  
21 easier for us to address these concerns proactively  
22 and review them comprehensively. I especially  
23 appreciate Mr. Katz' comments about 1337, although  
24 the conclusions that he reaches of what the impact of  
25 this bill would be I think are a bit exaggerated.



1  
2 The intended effects are not to make it tougher for  
3 our small businesses' industrial assets or Build It  
4 Back; 1337 would simply codify best practices on  
5 community notifications, require more granular and  
6 useful data in EDC's annual report and clean up some  
7 of the legalese governing the EDC's reporting  
8 responsibilities.

9 This bill would require that for all  
10 economic development projects EDC must submit a  
11 project description and budget to the appropriate  
12 community board, borough presidents and council  
13 members before executing a project agreement or  
14 submitting the project for mayoral approval. EDC  
15 already does this, as you described, in so many cases  
16 and many of these measures are reflected in current  
17 law. The issue simply is that some are not. Indeed,  
18 advanced notification gives other stakeholders an  
19 opportunity to review the project and submit  
20 comments, helping to ensure that the local community  
21 needs are considered early in the process and that  
22 projects don't catch communities off guard.

23 And just want to reiterate -- Int. 1333  
24 [sic] is meant to, is intended to simply codify EDC's  
25 good work. The bill would also help us review the

1  
2 process more comprehensively in retrospect, requiring  
3 that EDC's annual report include all covered economic  
4 development projects and provide more information in  
5 a non-aggregated form. This would permit  
6 stakeholders to more comprehensively review current  
7 and previous development projects and draw more  
8 detailed and database conclusions going forward; it  
9 would serve all of us better, and my guess is that  
10 you already do much of this work internally; it would  
11 simply make the results of your analysis more public.

12 The bill would also move EDC's, indeed,  
13 reporting requirements from various places in the  
14 City Charter into one organized section of the  
15 Administrative Code; that sort of municipal  
16 housekeeping, while not too exciting, is necessary  
17 every now and then.

18 I look forward to working with EDC and  
19 with my colleagues to ensure that best practices are  
20 in place and that our communities are put first in  
21 economic development. And again, I want to thank  
22 Chair Garodnick for holding this hearing.

23 CHAIRPERSON GARODNICK: Thank you very  
24 much Council Member Rosenthal. And we have some



1  
2 also help to add more visibility for the public into  
3 what's going on.

4           So let me just jump into the fiscal  
5 impact question. In your testimony you noted that  
6 there are a variety of urban planners at EDC who go  
7 through projects and try to comply with CEQR as best  
8 as they can and that there is a CEQR requirement for  
9 most capital expenditures associated with new  
10 projects, and you also noted that in the IDA projects  
11 that there is a fiscal impact statement that is done.

12           So let's just talk about the distinction  
13 there between the projects that fall under the City  
14 Environmental Quality Review and those which fall  
15 under the state law and have a fiscal impact  
16 statement. So you divided those into two different  
17 categories in your testimony -- the capital  
18 expenditures that are usually associated with your  
19 projects and the ones that have CEQR as a requirement  
20 [background comment] versus the ones that are in the  
21 IDA realm. Am I understanding you correctly; you  
22 divided those into two different categories?

23           JAMES KATZ: There...

24

25

1  
2 CHAIRPERSON GARODNICK: 'Cause I'd like  
3 to talk about them separately, if that is the way we  
4 should be talking about them.. [crosstalk]

5 JAMES KATZ: There... I believe what I  
6 divided was those classes of projects that are  
7 subject to the City's environmental review protocols  
8 and those that are subject to the state's..

9 CHAIRPERSON GARODNICK: Okay, so let's  
10 just do it that way. [background comment] So the  
11 City's protocols, do those require a fiscal impact  
12 statement at this point?

13 JAMES KATZ: They do not require a fiscal  
14 impact statement at this point, but when those  
15 projects are brought before the EDC Board on which  
16 members of the Council have two appointees, as do the  
17 borough presidents and a number of mayoral  
18 appointees. The board item indicates the sources of  
19 funding to support the project, both private and  
20 public, and there is an opportunity for all members  
21 to opine on that.

22 So as to City capital funds, which I  
23 think you made reference to before, those that pass  
24 through EDC's contracts are also subject to the  
25 City's budget, and as you noted, rightly, the Council

1  
2 has an important role to play and does indeed play  
3 every year in the City's budget process; not a month  
4 from now, we will probably be sitting down to talk  
5 about those capital expenditures that flow through  
6 EDC contracts.

7           So as it comes to fiscal oversight  
8 ex-ante, I think there's actually quite a lot of  
9 review that goes into EDC's projects and practices,  
10 and in the discussion about the sort of proper legal  
11 delineated roles in the Charter for different actors,  
12 with which you took exception, my reference to those  
13 roles was mostly in connection with a suggestion that  
14 we would include the Comptroller on EDC's Board,  
15 which would put him in the position of authorizing  
16 contracts ex-ante and then reviewing them and  
17 auditing them ex-post, which is an unusual  
18 arrangement.

19           CHAIRPERSON GARODNICK: Well as to that  
20 point; I mean the Council, as you noted, also has  
21 appointees to the Board and also has a responsibility  
22 for reviewing them ex-post. So what's the difference  
23 there between having a Comptroller appointee and a  
24 City Council appointee? To me, if you have an entity  
25

1  
2 that both has the ability to vote and has the ability  
3 to review after the fact, what's the distinction?

4 JAMES KATZ: I think the distinction is  
5 the proper role of the Comptroller as envisioned  
6 under the Charter as the protector of the City's  
7 public fisc, and that role is carried out subsequent  
8 to the execution of contracts and through the  
9 monitoring and ongoing monitoring of programs as the  
10 Comptroller does his day-to-day work; that is a  
11 distinction that most of us have become comfortable  
12 with and familiar with and indeed that we see I think  
13 in all of the other relevant instrumentalities that  
14 do what we do in city life. I don't believe the  
15 Comptroller is on the Navy Yard Board, the HDC Board,  
16 the NYCHA Board, School Construction Authority Board,  
17 or others that do what we do in approving [sic] these  
18 projects beforehand.

19 CHAIRPERSON GARODNICK: But he is on the  
20 IDA Board.

21 JAMES KATZ: He is on the IDA Board..  
22 [interpose]

23 CHAIRPERSON GARODNICK: So..

24 JAMES KATZ: under state law and the IDA,  
25 to your point; I believe in your opening testimony

1  
2 you made reference to doling out tax benefits, to the  
3 extent that's a phrase you would use; it's probably  
4 not one I would pick; state law has seen fit that  
5 that is something the Comptroller should oversee; he  
6 does sit on that board and that is where that work  
7 happens; generally it is not a subject for the EDC  
8 Board.

9 CHAIRPERSON GARODNICK: Tell us why  
10 that's the wrong expression about doling out tax  
11 benefits. Does the City, through IDA or EDC, not  
12 have the ability to authorize tax benefits?

13 JAMES KATZ: My reference to doling out  
14 tax benefits more a sort of comment on the  
15 colloquialism with which the phrase was chosen.  
16 These projects go through a pretty rigorous analysis  
17 before they come to our board; we have PhD economists  
18 on our staff who look at the economic impacts, we  
19 have criteria for lending and underwriting; they go  
20 through our board, they go through City Hall, they go  
21 through community boards, they go through borough  
22 boards, they go through borough presidents; they come  
23 to you on the Council; generally there is a City  
24 Planning Commission in there somewhere as well, and  
25



1  
2 at the back end, maybe one day you get a project out  
3 of it. So to suggest... [crosstalk]

4 CHAIRPERSON GARODNICK: So the reason why  
5 we're...

6 JAMES KATZ: that it's a doling out I  
7 think is a mischaracterization of that... [crosstalk]

8 CHAIRPERSON GARODNICK: Okay. So let's  
9 talk about the fiscal impact, because that's the core  
10 of what we're trying to sort out here, and why there  
11 would be any hesitation by EDC not to state it  
12 ex-ante in a document that would allow the public,  
13 who perhaps was not participating in the EDC hearing,  
14 not appointed to the EDC board, and could review it  
15 years later to evaluate whether or not those initial  
16 projections were the ones that actually were  
17 satisfied. What's the resistance to that?

18 JAMES KATZ: I think the resistance to  
19 that is; the scope and nature of projects change  
20 throughout the lifecycle of the approvals process.  
21 If you believe that ULURP and 384B4 and 1301 of the  
22 Charter and those various processes have an important  
23 place in our public life, and I certainly do; we know  
24 periodically that through them these projects always  
25 change and those have impacts on the capital stack;

1 those have impacts on the return to City; those have  
2 return impacts on the tax analysis that you might  
3 undertake, and on and on, and even separate and apart  
4 from public approvals, capital stacks change by  
5 virtue of deal structures as well. And so when you  
6 talk about a fiscal impact statement ex-ante, what  
7 you are calculating and tabulating is somebody's  
8 guess at what might happen at that time, but it is  
9 likely, perhaps, to dramatically change by the end of  
10 that process.

12 CHAIRPERSON GARODNICK: Does EDC, before  
13 making decisions about offering tax benefits or other  
14 benefits that can be utilized, what the potential  
15 fiscal impact will be?

16 JAMES KATZ: Indeed; as I said in my  
17 testimony, when we offer tax benefits through the IDA  
18 or through Build NYC, a full fiscal impact analysis  
19 is conducted, is in the board book, it goes to the  
20 Board before convening; it winds up online  
21 afterwards.

22 CHAIRPERSON GARODNICK: That's the IDA  
23 project?

24 JAMES KATZ: That is the IDA and Build  
25 project.

1  
2 CHAIRPERSON GARODNICK: Okay. So for the  
3 IDA and Build projects, it seems like that is done,  
4 so perhaps it's not so hard for us to talk about that  
5 piece of this in the context of the Administrative  
6 Code. The part where I think you're resisting is the  
7 fiscal impact for the non-IDA project, if I'm  
8 understanding it correctly.

9 JAMES KATZ: I think the part that I am  
10 questioning -- you used the word resisting -- the  
11 part that I am questioning is the fiscal impact  
12 statement at the point in the process in which you  
13 propose it, and additionally, the social,  
14 environmental impact statements that you propose be  
15 added to those **[inaudible]**... [crosstalk]

16 CHAIRPERSON GARODNICK: Okay, hold those  
17 for a second, hold social and environmental, 'cause I  
18 just want to focus you on the fiscal impact, because  
19 that's the one where there's the clearest parallel to  
20 the IDA and one which I think is the core of what,  
21 you know most people would expect EDC to have a  
22 handle on and also have the ability to disclose  
23 ex-ante. So what is the problem with our asking EDC  
24 or requiring EDC to disclose your best thinking when  
25

1  
2 you are making the decision as to what likely will  
3 happen and the rationale for the project?

4 JAMES KATZ: I think the question is sort  
5 of grounded in the issue of what data is illuminating  
6 and when. The IDA projects tend to be smaller, they  
7 tend to be of a particular type -- they are  
8 industrial projects; they are manufacturing projects  
9 -- when you see them at the back end they are single-  
10 story manufacturing facilities, usually somewhere in  
11 the outer boroughs, and the question of what the  
12 fiscal impact of that is going to be is pretty clear  
13 ex-ante and is pretty easy to calculate. Real estate  
14 development projects, on the other hand, are  
15 infinitely more complicated, involve generally larger  
16 parcels, involve multiple uses, involve multiple land  
17 use approvals and tend to go through seven, eight,  
18 maybe fifteen different lifecycles before they  
19 manifest themselves as an actual project. And so to  
20 try to project the fiscal impact ex-ante of what a  
21 project will actually be is not an accurate  
22 reflection more times than not of what it will in  
23 fact be and if not particularly illuminating  
24 information to the public.

1  
2 CHAIRPERSON GARODNICK: But you do it  
3 though. I mean you do it internally and you have to...  
4 [crosstalk]

5 JAMES KATZ: We do it...

6 CHAIRPERSON GARODNICK: do it internally  
7 or else you would have no basis for making any of  
8 these decisions.

9 JAMES KATZ: Indeed, sir; we have an  
10 economic research team that does undertake economic  
11 impact analyses for our projects. They use what is  
12 know as the regional input-output modeling system  
13 (RIMS II); we like to add that to the acronym section  
14 of the handbook; it is a federal protocol that  
15 calculates both benefits and the impacts in that  
16 present basis of the project at a particular point in  
17 time. That analysis is done over and over and over  
18 again as project scopes change and indeed, it shows  
19 different things throughout the lifecycle.

20 CHAIRPERSON GARODNICK: Alright, I'm  
21 going to turn to Council Member Johnson for some  
22 questions and then the members of the Committee.  
23 Council Member.

24 COUNCIL MEMBER JOHNSON: Thank you,  
25 Mr. Chair. Thank you for your testimony today. I

1 wanted to ask a little bit more with regard to  
2 Int. 1322, my bill; I appreciate the comments you  
3 made on it; it was helpful to hear what some of the  
4 issues you think are. So I wanted to just ask, when  
5 there is a third-party default on an EDC contract,  
6 and I know that you gave the percentage that it  
7 happens very, very rarely; how often is EDC able to  
8 recover City funds when it happens?  
9

10 JAMES KATZ: Sure. I'll refer back to  
11 the metrics set forth in my testimony. Believe we  
12 said we have referred 15 matters to the City Law  
13 Department... seventeen matters to the City Law  
14 Department -- counsel is encouraging me to read it  
15 before I quote it.

16 COUNCIL MEMBER JOHNSON: Since 2007,  
17 seventeen IDA projects have been referred to the Law  
18 Department for potential litigation... [interpose]

19 JAMES KATZ: Correct.

20 COUNCIL MEMBER JOHNSON: the Law  
21 Department commenced litigation on ten matters,  
22 settled two matters without litigation, recommending  
23 setting two matters for private collection, so you've  
24 recaptured \$8.4 million from project companies.

25 JAMES KATZ: Since Fiscal 2014, yes.

1  
2 COUNCIL MEMBER JOHNSON: Since fiscal  
3 2014. And does EDC include explicit clawback  
4 provision in their contracts?

5 JAMES KATZ: Both the IDA [background  
6 comment] and Build NYC include recapture provisions  
7 in all deals and the IDA is required to do so with  
8 respect to sales taxes as a matter of state law.

9 COUNCIL MEMBER JOHNSON: And how long has  
10 recapture been a mandatory practice by EDC?

11 JAMES KATZ: [background comments]  
12 Counsel believes that it is since 1974.

13 COUNCIL MEMBER JOHNSON: And in 2014, EDC  
14 testified on a Bronx parking lot development company  
15 contract in which the company defaulted, leaving EDC  
16 to attempt to recover nearly \$40 million that it  
17 loaned to the company, and approximately \$50 million  
18 the company owes to the City in rent and payments in  
19 lieu of taxes. Can you give me a status of where  
20 that stands?

21 JAMES KATZ: Sure. The Bronx Parking  
22 Development Corporation arrangement involved the  
23 creation of parking garages at Yankee Stadium; it was  
24 predicated upon an assumption that a certain number  
25 of parking spaces would be needed to serve the

1 stadium's needs; that number has turned out to be  
2 greater than what was needed to serve the stadium's  
3 needs and the revenue of those parking operations has  
4 been impaired. It is not an ideal situation and not  
5 one that we love or that anyone else loves, but as  
6 concerns your recapture bill, which is where I think  
7 you are raising it, I think it bears mentioning that  
8 though unfortunate, the status of the Bronx Parking  
9 Corporation is not in and of itself a recapture  
10 event. The commitment of that organization, BPDC,  
11 was to build and operate parking garages consistent  
12 with the agency act; they did that and they continue  
13 to do that, albeit not at a level as profitable as  
14 any of us would have liked. And so when you ask  
15 about status, sir; I believe it has been reported  
16 that BPDC is working together with the bondholders,  
17 which are presently in default, there is a  
18 forbearance agreement in place and they are working  
19 to restructure that transaction to hopefully make it  
20 a more productive one for each other and for the  
21 City.  
22

23 COUNCIL MEMBER JOHNSON: So how much  
24 money is owed to the City?  
25



1  
2 JAMES KATZ: Monies owed to the City of  
3 New York.

4 UNKNOWN MALE: Well under the ground  
5 lease with the City of New York that's administered  
6 by the Parks Department, the ground rent and the  
7 pilot [sic] is subordinated, so there's approximately  
8 \$70 million in accrued rent and pilot included in the  
9 ground lease; the ground rent and pilot is  
10 subordinated to the debt service, so the bonds are in  
11 default; therefore, the rent and pilot are not being  
12 paid.

13 COUNCIL MEMBER JOHNSON: So how much  
14 money has the City been able to get back from the  
15 project? You know, the loan was \$40 million;  
16 correct, I'm assuming...? [crosstalk]

17 UNKNOWN MALE: No, there... [crosstalk]

18 JAMES KATZ: No.

19 UNKNOWN MALE: there wasn't **[inaudible]**...  
20 [crosstalk]

21 [background comments]

22 UNKNOWN MALE: There wasn't a loan in  
23 that case, it was actually capital funding and the  
24 capital funding was not for the parking facilities;  
25 it was for the City park; it was built on top of one

1 of the parking facilities, so there is no.. it's not a  
2 loan, it's a capital project owned by the City.

3  
4 COUNCIL MEMBER JOHNSON: How much do you  
5 believe the City's owed, \$70 million you said?

6 UNKNOWN MALE: That's rent and pilot..

7 COUNCIL MEMBER JOHNSON: Yeah.

8 UNKNOWN MALE: but a feature of the deal  
9 as originally structured is that it be subordinate to  
10 the payment of debt service and the bonds.

11 COUNCIL MEMBER JOHNSON: So how much do  
12 you hope that the City gets back?

13 UNKNOWN MALE: At this point I don't  
14 think it's realistic to expect that -- unless the  
15 deal is restructured -- that the City will get rent  
16 and pilot payments.

17 COUNCIL MEMBER JOHNSON: So it's just a  
18 significant loss?

19 UNKNOWN MALE: Because it's subordinated  
20 to the debt service, I don't think there's a  
21 realistic expectation of repayment at this point.

22 COUNCIL MEMBER JOHNSON: So.. I don't want  
23 to.. I'm going to turn it back to the Chair in a  
24 moment, and I don't meant this in any way to attack  
25 EDC and the good work that you all do, but I just

1 want to say that in your testimony, Mr. Katz, you  
2 said that... where is it? You said we are structured  
3 as we are -- this is not about my bill -- but we are  
4 structured as we are under law for two simple  
5 reasons: first, our nimbleness is what makes much of  
6 this work possible. Moving at the customary speed of  
7 government could cause these programmatic  
8 opportunities to disappear; then you give a bunch of  
9 potential examples, and then you say: our nimble  
10 structure also allows us to compete on a more equal  
11 footing with private actors across the table who may  
12 be seeking to maximize benefit on their own return.  
13 I'm dealing with EDC on a bunch of projects in my  
14 district; I'm pulling my hair out every time I talk  
15 to EDC, it's like a glacial pace, glacial. Every  
16 month I have a call with EDC and every month the  
17 target date on these pretty simple projects, I mean  
18 they're not super complicated, gets pushed off and  
19 gets pushed off and gets pushed off and gets pushed  
20 off; doesn't happen with City Planning, doesn't  
21 happen with HPD, doesn't happen with a bunch of other  
22 City agencies. So what you described here, for the  
23 projects you described, it sounds like it worked in  
24 those instances, but in the couple of projects that I

1 am working with EDC on, it has not been nimble, it  
2 has not been quick, it has not felt like it's been  
3 expedited, and the respondents who have tried to  
4 participate continue to come to me and say why is EDC  
5 taking so long on this? So maybe it's an anomaly,  
6 but to sort of hold the torch in saying we do it so  
7 much better, we're quick, we're nimble, we get things  
8 done, at least in my experience over the last two  
9 years and working on a couple of projects in my  
10 district, my experience has been actually the exact  
11 opposite of what you described in your testimony.  
12 Thank you, Mr. Chair. And if you want to respond,  
13 you can, but thank you, Mr. Chair.

14  
15 JAMES KATZ: I'd be delighted to respond  
16 to that comment; I'm not actually sure how it  
17 connects to any of the three bills that are before us  
18 today; none of which **[inaudible]**... [crosstalk]

19 COUNCIL MEMBER JOHNSON: It connects to  
20 your testimony.

21 JAMES KATZ: It does connect to my  
22 testimony, but none of the legislative proposals that  
23 are on the table before us today would address any of  
24 the issues that you have just so articulately raised  
25 before the body. I would note that one of the

1 projects you're referring to had a pretty significant  
2 potentially criminal matter that caused us to suspend  
3 it, and I know you're aware of that, and then when  
4 that ended, we brought it back online and are  
5 continuing to have those conversations and progress  
6 them now.  
7

8 COUNCIL MEMBER JOHNSON: Conversation  
9 hasn't been had with me; conversations have been had  
10 with other people, but your staff has not approached  
11 me since you resumed the project.

12 JAMES KATZ: Okay, well, we're delighted  
13 to engage with you further on those topics,  
14 Councilmember.

15 COUNCIL MEMBER JOHNSON: Okay. I mean it  
16 doesn't sound like you're taking criticism very well  
17 in the way you've responded here today. I have met  
18 with you and your staff -- I mean not you; I've met  
19 with your staff dozens of times, had dozens of phone  
20 calls and requested information many, many times from  
21 them and do not receive it. So you sound upset that  
22 I'm raising this, when I'm raising it because it is  
23 in total contravention of what was in your testimony  
24 today. So I mean it's not my bill, but if there's a  
25 bill that you're saying is going to impair EDC's

1  
2 ability to be nimble and get things done quickly and  
3 not have typical government bureaucracy moving at a  
4 glacial pace; that has not been my experience with  
5 you all for two years. And maybe you don't want to  
6 hear that, but that's the truth. Thank you,  
7 Mr. Chair.

8 CHAIRPERSON GARODNICK: Thank you,  
9 Council Member Johnson. We now have questions from  
10 Council Member Richards.

11 COUNCIL MEMBER RICHARDS: Thank you.  
12 Thank you, Chair, thank you for all these good bills.  
13 I want to touch on Int. 1316 and I will first speak  
14 of the great work EDC is doing with us in Far  
15 Rockaway, in terms of planning and around the \$91  
16 million, and we did do a public hearing in advance of  
17 ULURP, obviously, in Downtown Far Rockaway.  
18 Interested in knowing; are you doing this in all  
19 communities or am I just special?

20 [laughter]

21 JAMES KATZ: I don't know that it's a  
22 disjunctive, Councilmember; I think both can be true.

23 COUNCIL MEMBER RICHARDS: I mean I would  
24 love to be special. [laugh]

1 JAMES KATZ: Uh-huh, special to us.

2  
3 There are a number of communities where we've taken  
4 on similar task force type structures to the one that  
5 has been implemented in Downtown Far Rockaway...

6 [interpose]

7 COUNCIL MEMBER RICHARDS: Can you speak  
8 to which communities?

9 JAMES KATZ: Sure, absolutely. In Sunset  
10 Park we have an ongoing community task force that is  
11 meeting principally around the industrial assets on  
12 the waterfront; that is Brooklyn Army Terminal,  
13 Brooklyn Wholesale Meat Market, [background comment]  
14 Bush Terminal, and the South Brooklyn Marine  
15 Terminal; they are talking about neighborhood  
16 planning issues that include transportation and  
17 traffic flows, parks and other matters. In Inwood we  
18 have had a community process going with Council  
19 Member Rodriguez on a rezoning much like yours, to  
20 discuss the matters up there. In the Lower Concourse  
21 section of the South Bronx, in the Speaker's  
22 district, we have a community process and a working  
23 group going around the expenditure of \$194 million in  
24 City capital for streets, parks and other critical  
25 infrastructure. Historically, we've done much of

1  
2 this work as well; there was a Hunts Point working  
3 group, envisioning group that has met for many years  
4 to talk about a number of issues on the peninsula,  
5 including traffic and air quality. There was a very  
6 successful sewer and park task force on the Lower  
7 East Side that worked with Council Member Chin and  
8 other community stakeholders to develop what is the  
9 Essex Crossing project that is going up right now in  
10 that community and on and on -- I mean I can continue  
11 to do the list; I think **[inaudible]**... [crosstalk]

12 COUNCIL MEMBER RICHARDS: So in all... So I  
13 would assume DCP and you maybe lead on different  
14 projects, so is it safe to say you're taking a lead  
15 on all rezoned areas or... [crosstalk]

16 JAMES KATZ: Uh I think there are  
17 certain...

18 COUNCIL MEMBER RICHARDS: or they're  
19 split? Okay.

20 JAMES KATZ: there are certain rezonings  
21 -- setting aside real estate projects or capital  
22 construction for the moment -- there are certain  
23 rezonings in which EDC is presently taking the lead  
24 and that is generally for one or both of two reasons:  
25 one is capacity at City Planning and whatever the



1 relevant borough office may be; the other is some  
2 clear nexus in the rezoning areas to jobs and job  
3 growth -- is there an industrial business zone or is  
4 there some other component that **[inaudible]**...

5 [crosstalk]

6  
7 COUNCIL MEMBER RICHARDS: So everywhere...  
8 where these particular criteria are happening...

9 [crosstalk]

10 JAMES KATZ: There's a sort of commercial  
11 component like in Downtown Far Rockaway.

12 COUNCIL MEMBER RICHARDS: Okay, so... and  
13 you're taking a lead on all of those, and in all of  
14 those cases you're holding public hearings like we  
15 did in Downtown Far Rockaway?

16 JAMES KATZ: Yes, it's good process and  
17 it's good for our practice too.

18 COUNCIL MEMBER RICHARDS: Definitely.  
19 And I wanted to know -- so obviously 1312 [sic]  
20 speaks of codifying this particular action, so are  
21 you in support of that?

22 JAMES KATZ: Well I don't know that 1312  
23 [sic] speaks of codifying that action, right; 1312...

24 [crosstalk]

25

COUNCIL MEMBER RICHARDS: Am I wrong?

Ben; am I wrong? I think it spoke to it a bit in the bill; I could be wrong.. [crosstalk]

JAMES KATZ: This is Council Member Rosenthal's bill that you're referring to?

COUNCIL MEMBER RICHARDS: Uhm 1312... Am I wrong? [background comments] Okay, I'm sorry; wrong one. So 13... [background comment]... [interpose]

JAMES KATZ: Well...

COUNCIL MEMBER RICHARDS: 37, I'm sorry.

JAMES KATZ: I think we're interested in learning more about it, Councilmember, because her bill applies in instances where there isn't otherwise a land use process that goes before the council member in some form or fashion.

COUNCIL MEMBER RICHARDS: So you're open to...

JAMES KATZ: We're open to understanding what transactions or what deals that refers to.

COUNCIL MEMBER RICHARDS: Okay. And then lastly, I had a question and it's not really related to the bills, but -- so obviously Neighborhood Development Fund, we have these rezonings -- your agency is in charge of the fund?

1  
2 JAMES KATZ: We are holding the  
3 Neighborhood Development... [crosstalk]

4 COUNCIL MEMBER RICHARDS: Holding... okay.

5 JAMES KATZ: Fund on behalf of the City  
6 of New York... [crosstalk]

7 COUNCIL MEMBER RICHARDS: Okay, great.

8 JAMES KATZ: it's investment decisions  
9 are made by a broader group of people.

10 COUNCIL MEMBER RICHARDS: Okay. Any  
11 conversation about increasing the fund? It's a  
12 question I've raised with the Mayor as well.

13 JAMES KATZ: Not that I have heard,  
14 although my general understanding -- we can get you  
15 the precise figures -- is that the full capital  
16 commitment has not yet been spent.

17 COUNCIL MEMBER RICHARDS: Okay. And how  
18 much has been spent; do you have a guesstimate...?  
19 [crosstalk]

20 JAMES KATZ: We can get you that number.

21 COUNCIL MEMBER RICHARDS: Alrighty. So  
22 just want to make a point here... [crosstalk]

23 JAMES KATZ: We're committed.

24 COUNCIL MEMBER RICHARDS: because we  
25 have... we're going to have a bevy of rezonings next

1 year and you know a billion dollars is great, but it  
2 doesn't go a long way when there are so many  
3 different needs in so many communities, so I just  
4 wanted to put out there that we look forward to  
5 hearing more about how we're going to increase this  
6 fund...

8 JAMES KATZ: Right.

9 COUNCIL MEMBER RICHARDS: as we move  
10 forward in the budget this year.

11 JAMES KATZ: Outstanding.

12 COUNCIL MEMBER RICHARDS: Thank you.

13 JAMES KATZ: Thank you.

14 CHAIRPERSON GARODNICK: Thank you Council  
15 Member Richards. And Mr. Katz, just a few final  
16 questions and then we have some other folks who want  
17 to come up and say a few words on the bills.

18 Can we talk for a moment about the EDC  
19 Comptroller agreement as it relates to Checkbook NYC?  
20 There is an agreement from August 2014 between the  
21 Comptroller and EDC on this subject, and we just  
22 wanted to ask what information for each contract EDC  
23 is required to submit for publication on that site.

24 JAMES KATZ: Sure. So pursuant to the  
25 agreement with the Comptroller from 2014, which is

1 embodied in our master contract, we submit  
2 information on our contract amounts, using funds of  
3 the City and payments against those contract amounts  
4 on a roughly weekly basis.

5 CHAIRPERSON GARODNICK: But not the  
6 fiscal impact questions; it's just the core, what the  
7 contract is and how much money is going out on a  
8 weekly basis? So it keeps track of the dollars, but  
9 it does not answer those broader questions that we  
10 were talking about in our first **[inaudible]**...

11 [crosstalk]

12 JAMES KATZ: I'm not as familiar with the  
13 Checkbook tool as I should be, but I don't recall it  
14 as being a tool that projects forward in that way  
15 **[inaudible]**... [crosstalk]

16 CHAIRPERSON GARODNICK: Yeah, I think  
17 you're right, by the way. Okay. And then for the  
18 funds in the capital plan, like the one that Council  
19 Member Richards was just talking about, Neighborhood  
20 Development Fund, Acquisition Fund, Housing Fund and  
21 the Industrial Developer Fund, and you may not know  
22 this one offhand either, but does EDC provide  
23 information to Checkbook NYC for the dollars going  
24 out from those funds?  
25

1  
2 JAMES KATZ: To the extent those funds  
3 are using funds of the City, it should, but I will  
4 confirm that.

5 CHAIRPERSON GARODNICK: Okay. You noted  
6 regular comptroller audits; in the last five years,  
7 how many comptroller audits have you had?

8 JAMES KATZ: I can say that in the last  
9 four we have had four.

10 CHAIRPERSON GARODNICK: Okay. You noted  
11 that the requirement of the Comptroller that the  
12 Comptroller be a member of the IDA Board was a  
13 creature of state law and that you did not believe it  
14 was necessary, or even perhaps not even appropriate  
15 to have the Comptroller on the EDC Board; do you or  
16 does EDC have an objection to the Comptroller being  
17 on the IDA Board?

18 JAMES KATZ: We do not have an objection  
19 to the Comptroller being on the IDA Board, but that  
20 is perhaps borne of the fact that we don't have a  
21 choice.

22 CHAIRPERSON GARODNICK: If you had a  
23 choice, would you not have the Comptroller on the IDA  
24 Board?

1  
2 JAMES KATZ: If I had a choice... gosh, I  
3 don't know that I can indulge in hypotheticals,  
4 Councilmember.

5 CHAIRPERSON GARODNICK: I didn't think  
6 you would. Okay. Alright, I think those are all the  
7 questions that I have. Final note -- thank you, by  
8 the way, for your testimony, we appreciate it -- and  
9 I will note that we do want to talk to you about  
10 these bills and we want to think about what we have  
11 done in our proposals that are legitimately  
12 duplicative here and that are not actually helpful in  
13 adding transparency, but we do think that there are  
14 elements of these bills that deserve to move forward,  
15 but we'd like to talk to you about those on an  
16 ongoing basis. I will also note that in preparing  
17 for the hearing, really tried to dig into the Local  
18 Law 62 project statements, and there is information  
19 in there, there's no question; there's even a lot of  
20 information; it is just that this information's very  
21 hard to digest I think for any New Yorker, certainly  
22 this New Yorker, who was trying to digest it in  
23 preparation for the hearing, and at a minimum, I  
24 think we also need to talk about how to make that  
25 information a little more accessible, and I know that

1 you're always willing to have those conversations..

2 [crosstalk]

3  
4 JAMES KATZ: Sure. I'm always willing to  
5 have that conversation. To the extent that the bill  
6 is currently drafted, expands upon the data that  
7 would be required to be collected and reported; we  
8 would have to reconcile those two goals.

9 CHAIRPERSON GARODNICK: Right, but let's  
10 just be clear though; it does not have to be  
11 inconsistent to say there's more information but it's  
12 also expressed in a clearer manner.

13 JAMES KATZ: Sure.

14 CHAIRPERSON GARODNICK: Right? Okay.  
15 With that, we appreciate it and thank you. And we  
16 are going to call up our next panel. We're going to  
17 do two panels and the first panel is Michael Johnson  
18 from South Bronx Unite, Harry Bubbins from South  
19 Bronx Unite and Elizabeth Thompson, About the Armory  
20 and Liz Marcello from Reinvent Albany. Sorry if I've  
21 done damage to anybody's names.

22 A. MYCHAL JOHNSON: You have not. Thank  
23 you.

24 CHAIRPERSON GARODNICK: Okay.

25 [background comments]



1  
2 CHAIRPERSON GARODNICK: You look ready,  
3 so why don't you just... [crosstalk]

4 A. MYCHAL JOHNSON: I think I am.

5 CHAIRPERSON GARODNICK: go for it.

6 A. MYCHAL JOHNSON: Okay, I believe we're  
7 on. First of all, I want to say thank you, Council  
8 Member and Chairperson of this committee for holding  
9 this hearing and this opportunity for us to give a  
10 little word on EDC and its oversight and some of the  
11 things that have happened here we see in our  
12 communities.

13 My name is A. Mychal Johnson. I am co-  
14 founding member of South Bronx Unite, I also serve on  
15 the Board of Directors of the Bronx Council for  
16 Environmental Quality; I'm a Community Advisory Board  
17 member of the Columbia University NIEHS Center for  
18 Environmental Health in Northern Manhattan, and on  
19 the Board of Directors of the New York City Community  
20 Land Initiative. I am here to give testimony about  
21 my community's experience with EDC and I urge  
22 oversight and accountability of this entity that has  
23 pushed large scale developments with little to no  
24 input of the affected communities and/or local  
25 business interests.

1  
2 Community involvement is essential to  
3 economic development, which much prioritize the needs  
4 and desires of local community where the proposed  
5 project would be sited. Any city-sponsored economic  
6 development must take a holistic look at the  
7 community and account for the existing residents and  
8 businesses in short- and long-term plans of the  
9 community. Rigorous engagement of the local  
10 community must be achieved during the evaluation and  
11 planning stages of any project. This means engaging  
12 the community well in advance of any approvals and  
13 funding being contemplated.

14 However, EDC has ignored this principle  
15 in the past -- for example, it hurried through the  
16 relocation of FreshDirect to the South Bronx  
17 waterfront, a project which will bring an additional  
18 1,000 daily diesel truck trips through a community  
19 with asthma hospitalization rates eight times the  
20 national average.

21 The FreshDirect project was announced by  
22 Mayor Bloomberg as a done deal two days before a sole  
23 public hearing on the nearly \$100 million subsidy  
24 package to the company. Local residents had no say  
25 in that decision-making process.

1  
2 FreshDirect's entry-level jobs pay less  
3 than \$10 an hour because of successful lobbying  
4 efforts that exempted them from the living wage law  
5 for entities receiving subsidies of over \$1 million  
6 from the City. The online grocer's plan is to put  
7 local grocers out of business while clogging our city  
8 streets with massive diesel trucks and using public  
9 parking spaces as sidewalk depots so under-paid  
10 workers can schlep carts to building after building.  
11 This is neither the type of business nor the type of  
12 employer that our tax dollars should be subsidizing,  
13 yet we had no say.

14 EDC staff oversaw and approved the  
15 project's cursory environmental assessment process  
16 that relied on an Environmental Impact Statement that  
17 is more than 21 years old and concluded that 1,000  
18 additional diesel truck trips would not negatively  
19 impact this environmental justice community of color.

20 FreshDirect touted environmental  
21 mitigation through the promise of ten electric trucks  
22 to be added to its fleet from Smith Electric, another  
23 business subsidized by EDC and IDA to the tune of  
24 \$400,000 to relocate to the South Bronx. But first,  
25

1  
2 Smith Electric went bankrupt two months after  
3 receiving or entering into a contract with the City.

4 EDC and IDA totally ignored the fact that  
5 the proposed FreshDirect project conflicted with two  
6 recent city rezonings in the Mott Haven/Port Morris  
7 area, which has ushered in significant residential  
8 development.

9 And EDC thought it was okay to expand the  
10 largest Significant Maritime Industrial Area in the  
11 city even though this community has no waterfront  
12 access, in sharp contrast to the expanding waterfront  
13 access opportunities in other parts of the city.

14 Then the project received even more money  
15 and substantially expanded its footprint but received  
16 no additional oversight or review. EDC and IDA  
17 allocated \$14 million more to the project with no  
18 additional review, no recorded vote; no further  
19 documented authorization, and originally, the project  
20 was proposed to be a 500,000-square-foot project, but  
21 now the project is more than 800,000 square feet  
22 (notably in a high-risk flood zone), but again, there  
23 was no additional environmental review, no oversight;  
24 no public acknowledgement or engagement required of  
25 FreshDirect by EDC.

1  
2 It is high time that City Council use its  
3 budgetary and oversight powers to rein in this  
4 abusive and destructive behavior. We ask City  
5 Council to use its powers to require meaningful  
6 public participation on the front end; monitoring,  
7 oversight, clawback provisions on the back end if the  
8 jobs and economic benefits never materialize and if  
9 the scope changes from what was originally proposed.  
10 Thank you very much.

11 ELIZABETH THOMPSON: My name is Elizabeth  
12 Thompson; I'm one of the community members of the  
13 Northwest Bronx and we call ourselves under this  
14 project KARA [sic] -- you have to excuse me; I get  
15 nervous.

16 I'm listening to EDC about certain  
17 projects and money; our project about the Kingsbridge  
18 Armory has been in existence 20 years, so why is this  
19 taking them so long to do something about this  
20 project of rebuilding the Kingsbridge Armory. Our  
21 community is suffering, our merchants are suffering  
22 because the landlords are upgrading the rent, waiting  
23 till this project is finished or deciding what  
24 they're going to do with this project; they are  
25 upraising the rents -- so much stuff is happening to

1  
2 us and we want to know why. We would like you all to  
3 really sit down with us with; them, so we can come to  
4 agreement. Councilman Richards was saying he's  
5 special; he had two years and he got what he wants  
6 and Johnson was saying why he didn't get any coverage  
7 on a lot of this stuff that's happening. We in the  
8 Bronx would like to know why are we suffering, and  
9 this is suffering; some of the things that are  
10 happening in the Bronx is really sickening and we've  
11 come here to ask for you help and we could sit down,  
12 like I said, and come to agreement to make sure EDC  
13 does what they say they're supposed to do.

14           The community, we are about 27 different  
15 nonprofit organizations seeking answers; these  
16 answers have to be really pushed, like they were  
17 talking about Yankee Stadium; those merchants are  
18 having problems after what is happening; he's not  
19 getting any money from them, but they have to sit  
20 down and let this gentleman who's supposed to be the  
21 ice skating rink say he's supposed to give the money;  
22 they're not giving him a chance. We might not want  
23 them to do certain things, but the thing is, give  
24 this gentleman a chance; let's sit down with the  
25 community, CD.. CD.. -- I told you I'd get nervous. So

1 let's, EDC and you all, please let us work together  
2 so we can come to a decision. The landlords are  
3 raising the rent like mad; they're paying people to  
4 get out of their apartment; it's in the newspaper  
5 today that two kids got killed and he's our landlord;  
6 he's our landlord for that particular building, two  
7 young, beautiful babies just died because the  
8 radiator -- come on, we need help in the Bronx. We,  
9 KARA, Northwest Bronx and the other nonprofit  
10 organizations would like to get this done, our  
11 children, if it's going to be for us; let it bet, but  
12 please let us stop suffering. Unions, different  
13 things that are happening in the Bronx, we need help.  
14 Thank you.

16 CHAIRPERSON GARODNICK: Thank you very  
17 much.

18 LIZ MARCELLO: Hi, good afternoon. I am  
19 Liz Marcello; I'm Campaign Manager for Reinvent  
20 Albany. My organization has previously testified on  
21 EDC and IDA transparency issues in our role as co-  
22 chair of the New York City Transparency Working  
23 Group.

24 We greatly appreciate the intent behind  
25 all of these bills and especially this committee's

1  
2 efforts to increase the transparency and  
3 accountability of New York City economic development  
4 subsidies. That said, the Committee should know that  
5 my group and other members of the Transparency  
6 Working Group only learned of this hearing last  
7 night. We know of many groups not present here today  
8 who are interested in this very important topic.

9           Given the brief time that we have had to  
10 review the bills, we have some short substantive  
11 comments.

12           Regarding 1316:

13           First, we support adding the Comptroller  
14 to the board of the EDC and note that the  
15 Comptroller's Office has a large professional staff  
16 with the expertise to assess complex projects more  
17 thoroughly than the interested public. We are strong  
18 believers in the importance of independent oversight  
19 of public spending, especially with economic  
20 development subsidies.

21           Second, we support putting all EDC  
22 project data on the New York City's Open Data Portal,  
23 which exposes it to the broader share of the public  
24 and ensures it can be downloaded in a reasonable  
25 format with informative metadata.



1  
2 Finally, we support the idea behind  
3 mandating ESD release impact statements at least 30  
4 days prior to the commencement of any project.

5 However, we strongly suggest that the release of this  
6 information be mandated before a project is approved,  
7 not commenced. The public and their representatives  
8 should be full informed about a project while it is  
9 still being evaluated, not after it is approved and  
10 about to start. We suggest the sponsor consult with  
11 EDC and IDA staff to determine what point in the  
12 evaluation process this information becomes available  
13 to them, and can thus be published for the public's  
14 use.

15 Regarding 1322:

16 First, we strongly support adding  
17 mandatory recapture provisions to economic  
18 development contracts if the recipient of such  
19 assistance fails to comply with "material terms" of  
20 contract agreements. However, we suggest the sponsor  
21 consult with the EDC and IDA about whether this bill  
22 should implement a dollar-amount threshold for  
23 triggering recapture, since this may not make sense  
24 for some smaller contracts.

1  
2           Second, given the limited time we have  
3 had to evaluate this bill, we have questions about  
4 the specific bill language establishing the process  
5 for recapturing public funds. In particular, we do  
6 not know if the key phrase in the bill, in Section  
7 1301, is taken from a best practice elsewhere or is  
8 the result of consultation with expert stakeholders  
9 or the EDC or IDA. Our take is that the phrase  
10 "promptly take all reasonable actions..." gives EDC and  
11 IDA a great deal of latitude how exactly they  
12 recapture funds. We note that EDC and IDA tends to  
13 have a collaborative relationship with the recipient  
14 and that this phrase may need to be more specific and  
15 proscriptive to be meaningful.

16           Regarding 1337:

17           We have no comment on this bill and have  
18 not had time to assess its provisions.

19           But thank you very much for your time.

20           CHAIRPERSON GARODNICK: Thank you for  
21 your testimony. I want to note that we've been  
22 joined by Council Members Borelli and Barron, and  
23 we'll go to the next witness.

24           HARRY BUBBINS: Great. I'm Harry  
25 Bubbins; I'm here today as a member of South Bronx

1  
2 Unite with my colleague Mychal Johnson here, and a  
3 longtime Bronx resident. This is the written  
4 testimony I presented today, so I won't belabor some  
5 of the points Mr. Johnson went into in detail.

6 I want to commend the Council and the  
7 leadership here; I'm glad in public that everyone was  
8 able to see how respectful the EDC leadership is;  
9 imagine how they treat us in the community from  
10 seeing them today; it was really shocking, so I  
11 commend the Council Members for holding their  
12 composure despite the opaqueness that was received  
13 today.

14 I want to talk about the FreshDirect  
15 subsidies, one of the largest if not the largest  
16 package of subsidies. When then private citizen de  
17 Blasio was on the campaign trail he promised to end  
18 such subsidies; I guess that was a euphemism -- like  
19 our President-Elect.

20 I want to talk about -- this gentleman  
21 was very mindful of words here, who was speaking; the  
22 head of EDC, he used the word "guess" that their  
23 fiscal projections are a guess, he used that word.  
24 He also indicated, in response to the Council Member  
25 that the IDA was different in the sense that they

1 focus on industrial and manufacturing projects --  
2 there is no doubt that FreshDirect is a retail  
3 operation.  
4

5 In the fiscal impacts, I would suggest  
6 that somehow analysis be considered for the impact on  
7 competitive industries. As my colleague said,  
8 FreshDirect's sole business model is to take away  
9 jobs, take away business from existing mom and pop  
10 supermarkets, which are closing throughout the city,  
11 from Mr. Johnson's district, Associated, to all the  
12 way Uptown, Ydanis Rodriguez' district, to Brooklyn.  
13 There's no doubt that subsidizing unfair competition  
14 to FreshDirect and their idling trucks, without  
15 having to have any investment in actual local union  
16 jobs, has added to the climate of high rents and  
17 allowed these other businesses to suffer. That's one  
18 of the reasons why we were involved in a lawsuit at  
19 some point, to stop these subsidies.

20 As far as recapturing: FreshDirect got  
21 subsidies to open in Long Island City when they first  
22 started; are we going to recapture those subsidies?  
23 They shouldn't have gotten any new subsidies when  
24 they relocated to our waterfront without any public  
25 input.

1  
2 I will add again, because I think that as  
3 the Council moves forward with this vigorous  
4 oversight that having the Comptroller alone might not  
5 be adequate. Then Comptroller Liu voted against  
6 these subsidies and unfortunately they proceeded.  
7 They proceeded and the project has changed in every  
8 single facet, from the footprint to the amount of  
9 money -- they were given more money -- and to the  
10 juggling of numbers that the EDC relies upon the  
11 Excelsior state credits changed, the EB-5 Federal  
12 Immigrant Funding changed; the entire project changed  
13 and yet they were not forced to go back for a new  
14 inducement resolution. That needs to be looked at;  
15 it's not too late.

16 And finally, these subsidies are meant  
17 for businesses that do not have access to other  
18 capital. FreshDirect was founded by AIG Funding by  
19 Leon Black, a friend of Donald Trump; they have  
20 enormous access to capital; in fact, J.P. Morgan just  
21 gave them over \$170 million in financing, so rather  
22 than a small startup shop that wants to open a café  
23 and give them a half a million dollar tax credit for  
24 ten years, we're doling out -- to use the appropriate  
25 term -- tens of millions of dollars to corporations

1  
2 like FreshDirect that do not need the money. So I  
3 really appreciate the time to share today. Thank  
4 you.

5 CHAIRPERSON GARODNICK: We thank you all  
6 for your presence here and we'll certainly want to  
7 follow up with you.

8 We're now going to call up Marcel Negret  
9 of the Municipal Art Society and Armando... oh boy...  
10 Armando, I'm sorry... [background comments] you're  
11 going to introduce yourself when you come up here --  
12 and then we've got Yvonne Viruet of Northwest Bronx  
13 Community. [background comment] Welcome to all of  
14 you. [background comment] No, they're coming.  
15 [background comment] But you can start, since you're  
16 there, so go right ahead. [background comments] Hit  
17 the button.

18 YVONNE VIRUET: Hello. My name is Yvonne  
19 Viruet with Northwest Bronx Community and Clergy  
20 Coalition. I am a small business organizer, but I am  
21 also a member of KNIC and KARA, well actually, KARA,  
22 which is the Kingsbridge Armory Redevelopment  
23 Alliance.

24 So our situation with EDC is because of a  
25 lease, which is a piece of paper that let's for me,

1 if I rent, I need my lease in order to for me to move  
2 forward. So the situation with the lease is, with  
3 KNIC, which is the Kingsbridge National Ice Skating  
4 Center, they want to have a major ice skating rink in  
5 the Kingsbridge Armor in the Bronx. We have a CBA,  
6 okay, so a lot of people in the community want this  
7 to move forward; however, there is a hold because EDC  
8 has a situation with KNIC; they want KNIC to drop out  
9 of the whole building matter in terms of what's  
10 happening. Our situation is; we have to have  
11 meetings with thousands and thousands of people to  
12 find out and give them updates; our situation is we  
13 have no updates because EDC is giving us a hard time.

14 So in respect for us to continue and make  
15 our Bronx a better Bronx, okay we need people to  
16 really, really figure out and say you know what, we  
17 need to sit down with people and understand what the  
18 process is in order for us to continue with this  
19 project. Okay, we have no one to really sit down  
20 with us and say okay, this is what's going to happen,  
21 okay, and if this is not going to happen, we need to  
22 move forward to see what we're going to do with this  
23 Kingsbridge Armory; it is a beautiful landmark, okay,  
24 and we have other generations, we have young kids  
25

1 that if you do ask them if they want to learn how to  
2 ice skate, they will tell you yes. Okay, so we're  
3 here just to see what you can do for us, okay, in  
4 order for us to move forward in this project. Thank  
5 you.

6  
7 CHAIRPERSON GARODNICK: Thank you.

8 MARCEL NEGRET: Good afternoon. My name  
9 is Marcel; I'm a Project Manager with The Municipal  
10 Art Society (MAS).

11 The Municipal Art Society of New York  
12 supports Intros 1316 and 1337 with our  
13 recommendations included herein.

14 In addition to its primary function of  
15 stimulating economic development in New York City,  
16 EDC play a significant role in many of the city's  
17 land use and planning projects and initiatives.  
18 Similar to the Department of City Planning and the  
19 City Planning Commission, which are authorized under  
20 the City Chart to make discretionary planning  
21 decisions, EDC often serves as lead agency for  
22 actions subject to environmental review, coordinates  
23 with other city agencies, issues RFPs, selects  
24 consultants, facilitates public participation



1  
2 efforts, and represents the Mayor's Office in  
3 negotiations for actions subject to ULURP.

4 In terms of its land holdings, according  
5 to the City-Owned and Leased Properties dataset  
6 maintained by the Department of Citywide  
7 Administrative Services, EDC manages a total of 160  
8 properties, encompassing over 17 million square feet  
9 of land. Fifty-five of these holdings are  
10 characterized as properties with no current use and  
11 97 are committed for sale or long-term lease. The  
12 full list of these holdings is provided as an  
13 attachment to this testimony.

14 However, according to its asset  
15 management online map, EDC manages over 20 million  
16 square feet of property and a total of 108 sites.  
17 Based on these informational discrepancies, we feel  
18 the improvements proposed under 1316 with regard to  
19 EDC's datasets are well warranted.

20 Although MAS believes that amendments  
21 proposed under 1316 and 1337 will improve  
22 transparency and accountability for certain actions  
23 undertaken by EDC, we feel they do not go far enough.  
24 Therefore, we propose the following recommendations.  
25

1  
2           Based on EDC's involvement in major city  
3 planning efforts and the extent of its land holdings,  
4 MAS strongly recommends that the City Charter should  
5 be further amended to define EDC's role with regard  
6 to planning and ULURP.

7           The proposed amendments should apply to  
8 EDC contracts with all city agencies, and not be  
9 limited to only those with SBS.

10           Int. 1773 should include specific steps  
11 and mechanisms by which comments and feedback from  
12 community boards, council members and borough  
13 presidents would be incorporated into the planning  
14 process for projects undertaken by EDC.

15           Similar to Int. 1132, which was  
16 introduced by the Council earlier this summer, which  
17 would establish a tracking database for all city  
18 commitments for any city-sponsored applications  
19 subject to ULURP, MAS recommends that Intros 1316 and  
20 1337 should define tracking procedures for  
21 commitments made by EDC, including but not limited  
22 to, Community Benefit Agreements and memorandums of  
23 understanding.

24           Finally -- and this might be related to  
25 1322, but we didn't have enough time to evaluate --

1  
2 MAS recommends that the proposed legislation  
3 specifically address the disclosure of financial  
4 analysis and lease terms undertaken by EDC for each  
5 site within their purview.

6 We are hopeful that the Council will  
7 include our recommendations so that necessary  
8 regulatory changes would apply to these projects.

9 Thank you for this opportunity to testify  
10 on this important matter.

11 CHAIRPERSON GARODNICK: Thank you.

12 ARMANDO CHAPELLIQUEN: Good afternoon. I  
13 also don't have written testimony, with the short  
14 notice; we'll be submitting something more formal a  
15 little bit later.

16 My name is Armando Chapelliquen; I'm with  
17 the Association for Neighborhood & Housing  
18 Development (ANHD). Going toward the end, it's kind  
19 of difficult since there's -- I want to reiterate a  
20 lot of the great points that were **[inaudible]**...  
21 [crosstalk]

22 CHAIRPERSON GARODNICK: But you also have  
23 the last word, so there's an element...

24 ARMANDO CHAPELLIQUEN: This is true.  
25 This is true. And I did bring a visual, but I think

1 that there were a lot of great comments brought up by  
2 not just thinking about this in the abstract sense,  
3 but looking at specific community examples of where  
4 increased accountability and increased oversight over  
5 specific projects that EDC has initiated would have  
6 been really helpful, so in that vein, the multiple  
7 pieces of legislation are really, really promising,  
8 there's a lot of really good things in here and even  
9 in spite of the back and forth that happened earlier,  
10 I think that there is a lot of consensus that can be  
11 reached on this legislation to move things forward,  
12 because ultimately, for ANHD, we want to make sure  
13 that our community organizations and our member  
14 groups are able to continue to have input in economic  
15 development projects that are happening in their  
16 neighborhoods.

18 For those who may remember, and Council  
19 Member Garodnick, I think you had gotten one of  
20 these; last year we had sent around an Economic  
21 Development Risk Chart -- the copy that I have with  
22 me is from 2015 -- one of the specific parts out of  
23 it that grabbed a lot of attention was a column that  
24 specifically looked at economic development  
25 investment by neighborhood, by community district,

1 and one of the things that came out of this  
2 conversation was a very vigorous back and forth in  
3 terms of, is that the actual amount that's been  
4 invested in this neighborhood versus in that  
5 neighborhood, and one of the things that we had to  
6 include in the chart was that, the numbers that are  
7 here are really just based upon the discretion of EDC  
8 disclosing certain amounts for certain projects. So  
9 you'll notice that in the 2016 chart -- which we're  
10 making a quick plug for the chart for this year -- we  
11 didn't include an EDC dollar investment because we  
12 knew that the numbers would've been inaccurate. This  
13 legislation would help in addressing that major  
14 shortcoming so that we can have that information so  
15 that if we were to include this kind of information  
16 in a future chart at some point down the line, we  
17 would have more accurate information and community  
18 groups and organizers and community residents will be  
19 really informed in terms of where EDC investment is  
20 going and how it's being invested in their  
21 communities.  
22

23 I don't want to reiterate any of the  
24 points about neighborhood sentiment; I think a lot of  
25 the groups that have already spoken on their

1  
2 experiences did it best, but I think that ultimately,  
3 looking through each piece of legislation there's a  
4 recurring theme here in terms of oversight and  
5 accountability, in terms of different ways of  
6 approaching that, and I think each legislation does  
7 it in a different way, but I think each way is also  
8 very important and very valid, because ultimately,  
9 again, the main reason why we're in support of the  
10 legislation is because we want to make sure that  
11 community groups and community residents, especially,  
12 have more oversight and involvement in the process of  
13 how economic development dollars are being spent in  
14 their neighborhood. So thank you again for the  
15 opportunity.

16 CHAIRPERSON GARODNICK: Terrific. Well  
17 thank you and thanks to all of you for being here  
18 today to testify, and I will close by saying that we  
19 certainly heard a lot of informative testimony today;  
20 I think we, you know, obviously, hit a nerve with EDC  
21 and we're going to look forward to continuing this  
22 conversation and I feel certain that the Council is  
23 on the right track to try to add more transparency to  
24 what is a sizable sum of money where the public has  
25 an interest, and it's not to cast dispersions on any

1 particular thing that EDC is doing, but we want to  
2 make sure that the processes work and that the  
3 procedures are understood and the public has a chance  
4 to really know what's happening with their money.  
5

6 So with that we are going to close this  
7 hearing and thank you all. I want to thank Alex  
8 Paulenoff, Nadia Johnson; Howie Levine from my  
9 office, and with that, we're adjourned. [gavel]  
10 Thank you.

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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 December 30, 3016