

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES
Of the
COMMITTEE ON SMALL BUSINESS

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April 24, 2017
Start: 1:18 p.m.
Recess: 3:47 p.m.

HELD AT: Council Chamber - City Hall

B E F O R E: ROBERT E. CORNEGY, JR.
Chairperson

COUNCIL MEMBERS: Mathieu Eugene
Petera A. Koo
Karen Koslowitz
Ruben Wills
Carlos Menchaca
Paul A. Vallone
Bill Perkins
Eric A. Ulrich

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

Melissa Chapman, Senior Vice President
Brooklyn Chamber Commerce
Appearing for Andrew Hoan, President & CEO
Brooklyn Chamber of Commerce

Jenna Tatum, Senior Policy Advisor
Mayor's Office of Sustainability

Amit S. Bagga, Deputy Commissioner
External Affairs
NYC Department of Consumer Affairs

Anne Marie Santiago, Assistant Deputy Commissioner
Department of Housing Preservation and Development

Molly Hartman, Senior Advisor for Food Policy
Office of Deputy Mayor for Health and Human Services

Mike Grinthal, Supervising Attorney
MFY Legal Services

Ellen Davidson, Staff Attorney
Legal Aid Society

Sam Chiera, Attorney
Group Representation Unit
Brooklyn Legal Services Corporation A

Lena Afridi Appearing for: Benjamin Dulchin
Association for Neighborhood and Housing
Development, ANHD

Jessica Reed, Staff Attorney
Housing Unit
Brooklyn Legal Services

Molly Weston Williams, Staff Attorney
A Better Balance

Joanna Lane, Tenants Rights Lawyer
Brooklyn Legal Services Corporation A

2 [sound check, pause]

3 SERGEANT-AT-ARMS: Quiet, please. Quiet,
4 quiet. Down.

5 CHAIRPERSON CORNEGY: Good afternoon.

6 We're going to call this hearing to order. Good
7 afternoon. I'm Council Member Robert Cornegy, chair
8 of the Council's Committee on Small Business. Today,
9 we're hearing a package of bills that will address
10 the concerns of small businesses in New York City.
11 These bills will require agencies to specify which
12 type of violation should be curable by means other
13 than fines, establish other ways to satisfy penalties
14 without payment, and offer additional on-site
15 assistance services for small businesses and multi-
16 family homes. New York City is a major hub for small
17 business activity, but the climate for small
18 businesses is frequently challenging and adverse.
19 Many neighborhood establishments feel overburdened by
20 fines and regulations, and this Council has sought to
21 address these issues under the leadership of Melissa
22 Mark-Viverito. These proposed laws present a
23 restorative approach to compliance and show that the
24 city wants to work collaboratively with our small
25 businesses community while continuing to promote the

2 public good. This hearing is a first step in the
3 hearing and deliberative process concerning the
4 package of bills before the committee today. We
5 welcome comments and feedback to improve the
6 provisions of the bills. We'll also be voting on
7 legislation that I'm sponsoring, Proposed Intro No.
8 891-A, a local law to amend the Administrative Code
9 of the City of New York in relation to notifying a
10 business when the City has received a request for
11 service or complaint about its operation. This bill
12 would require that the Department of Internet
13 Technology and Telecommunications have an online
14 system that would send text and email notification to
15 small business owners if the address of their
16 business has been mentioned in 311 complaint. Time
17 is a precious resource for mom and pop stores. Many
18 of them don't have the ability to spend hours
19 searching for this information on city websites. So
20 these notifications will simplify the process and allow
21 businesses to focus on what they do best, providing
22 high quality products and services at competitive
23 prices. I'd like to thank the Committee on—the
24 committee staff Nicole Abien (sp?), Counsel Michael
25 Kurtz; Policy Analyst William Crimontag(sp?); Finance

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2 Analyst and my Legislative Director Daniel Libscomb
3 (sp?). Finally, I'd like to recognize the committee
4 members that have joined us today, Council Member
5 Vallone, Council Member Koslowitz; Council Member
6 Eugene, Council Member Koo, and we've also been
7 joined by Council Members Constantinides and Council
8 Member Treyger from the great Borough of Brooklyn.
9 So I'd like to call the first panel. [pause] Oh, we
10 do have quorum. So, well take this opportunity to
11 have the vote. You'd like that? Yes. [background
12 comments] Alright, okay. [background comments] Oh,
13 I'm sorry. I didn't see Council Member Jumaane
14 Williams also from the great borough of Brooklyn.

15 CLERK: Committee Clerk Matthew
16 DiStefano, Committed on Small Business. Roll call on
17 Intro 891-A. Chair Cornegy.

18 CHAIRPERSON CORNEGY: I proudly vote aye.

19 CLERK: Eugene.

20 COUNCIL MEMBER EUGENE: I vote aye.

21 CLERK: Koo.

22 COUNCIL MEMBER KOO: Aye.

23 CLERK: Koslowitz?

24 COUNCIL MEMBER KOSLOWITZ: Aye.

25 CLERK: Vallone.

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2 COUNCIL MEMBER VALLONE: Aye-aye.

3 CLERK: By a vote of 5 in the
4 affirmative, 0 in the negative-- Council Member
5 Menchaca.

6 COUNCIL MEMBER MENCHACA: I vote aye.

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

10 CHAIRPERSON CORNEGY: Thank you. So
11 we're going to call the first panel or panelist.
12 Melissa Chapman, Brooklyn Chamber of Commerce.
13 [banging door, pause]

14 LEGAL COUNSEL: And you please raise your
15 right hand?

16 MELISSA CHAPMAN: [off mic] I'm sorry?

17 LEGAL COUNSEL: Can you please raise your
18 right hand? Do you affirm to tell the truth, the
19 whole truth, and nothing but the truth and answer
20 Council Member questions honestly?

21 MELISSA CHAPMAN: [off mic] I do.

22 LEGAL COUNSEL: Thank you.

23 MELISSA CHAPMAN: Good afternoon Chair
24 Cornegy, other members of the Small Business

25 Committee and guests. My name is Melissa Chapman and

2 I serve as a Senior Vice President for the Brooklyn
3 Chamber Commerce. I bring testimony on behalf of our
4 President and CEO Andrew Hoan. With over 2,100
5 active members, the Brooklyn Chamber is the largest
6 chamber of commerce in New York State. We promote
7 economic development across the Borough of Brooklyn
8 as well as advocates on behalf of our member
9 businesses. The Brooklyn Alliance is a not-for-
10 profit economic development affiliate of the Brooklyn
11 Chamber, which works to address the needs of
12 businesses through direct assistance programs. As
13 the leading voice of the Brooklyn business community,
14 we applaud this committee for proposing a package of
15 forward thinking bills that seeks to reduce the
16 burden of civil penalties on small businesses, and
17 providing them with alternatives to correct
18 compliance issues. In our 2016 Member Issue Survey,
19 21% of our respondents expressed that government
20 regulations, fines and violations represented a
21 significant obstacle to doing business. For the past
22 five years, these issues have been emerged in the top
23 ten list of obstacles to doing business. Therefore,
24 this hearing is very timely, and will enhance the
25 experience of doing business in our city. That being

2 said, we wanted to highlight our position on some of
3 the bills being proposed. Regarding Intro 1499,
4 which would require commissioners of Housing
5 Preservation, Development, Buildings, Sanitation and
6 Consumer Affairs to create a list of violations for
7 which civil penalties may be waived. We believe that
8 this represents an important extension of the
9 provisions outlined here today since its
10 implementation would take a broader look at areas in
11 each agency where civil penalties could be
12 potentially mitigated. Similarly, the on-site
13 compliance consultation program being proposed in
14 Intro 1507 and 1516 would take a proactive approach
15 in agencies working with businesses—with business
16 owners to help identify and present possible
17 solutions for compliance issues in an effort to
18 correct them. Currently, both Intro 1507 and 1516
19 gives a six to eight time frame for which a business
20 should be able to make all corrections to issues that
21 would have been outlined in the consultation. We
22 would suggest that in cases where there--many issues
23 are in single and multiple dwellings that
24 consideration be given to a longer time period such a
25 s 90 or a 120-day extension, which would give the

2 small business enough time, and in some cases enough
3 resources to make the requisite corrections. We are
4 in particular support of Intro 1504 and 1515, which
5 seeks to have agencies create an energy efficiency
6 program for individual businesses in multiple
7 dwellings. This legislation present yet another
8 option to have civil penalties waived or reduced. It
9 can create energy savings for businesses in the long
10 run, and help us to create cooperative social
11 responsibility as this relates to sustainable energy
12 consumption. Intro 1521 and 1526 gives restaurants
13 and other food establishments an option to waive
14 civil penalties by donating or recycling organic
15 waste, and also donating leftover food. This
16 measure—this measure creates a benefit to business
17 owners, not-for-profits organizations and the city's
18 hungry population. However, many food establishments
19 may be uneasy about such an arrangement because of
20 liability concerns. In order to reduce such concerns
21 and increase program participation, it may be helpful
22 to include protections for business owners should
23 frivolous claims be directed at them in Intro—as it
24 relates to Intro 1526. Also, we would encourage
25 extensive training of agency inspectors so that they

2 will be well equipped to offer these alternatives
3 that are contained in the package of bills as opposed
4 to being more inclined to issue violations that would
5 create added burden for businesses. Thank you very
6 much for the opportunity to testify on this matter.

7 CHAIRPERSON CORNEGY: Thank you so much.

8 MELISSA CHAPMAN: Okay.

9 CHAIRPERSON CORNEGY: No questions.

10 Before we move to the next panel, I'd like let one of
11 the bill's sponsors who's present speak about his
12 bill, Council Member Constantinides.

13 COUNCIL MEMBER CONSTANTINIDES: Thank you,
14 Chairman Cornegy, and thank for your great leadership
15 on both the Small Business and the Environment. So
16 thank you, and I look forward to partnering with you
17 on this legislation. Several years ago, New York
18 City set a reduction of city emissions by 80% by 2050
19 as its goal for. Since then, the Council and the
20 Administration have worked hand-in-hand to create new
21 standards for green building for alternative forms of
22 transportation such as electric vehicles and reduce
23 the city's reliance on outdated fossil fuels. In
24 order to meet this necessary target we have to ensure
25 it in this same building. We provide the bulk of the

2 city's emissions, have programs and incentive to-made
3 available to them to help their owners go-go green.
4 That's 15-Intro 1504 is so important. It directions
5 the Department of Buildings to create a program where
6 fines for certain non-hazardous conditions can be
7 dismissed on a showing that the property owner will
8 take steps to improve that building's energy
9 efficiency. Under this bill, the property owner's
10 fines will be reduced by the amount that they spend
11 on efficiency measures up to \$3,000, and while the
12 main barriers to install green upgrades are initial
13 costs, this program could go a long way to
14 incentivizing green upgrades in smaller buildings.
15 Any upgrades conducted under this provision would not
16 be eligible for a major capital improvement or
17 increase either. So that tenants aren't penalized
18 because their buildings went green. When over 70% of
19 our greenhouse gas emissions come from our own
20 buildings, we need creative solutions to bring our
21 older stock into compliance for their 80 x 50 goal.
22 I want to again thank Chair Cornegy for his strong
23 leadership in fighting for our business owners, and
24 making our city greener and, of course, our Speaker

2 Melissa Mark-Viverito for her strong bold vision of
3 the environment. Thank you. [pause]

4 CHAIRPERSON CORNEGY: We'd also like to
5 hear from another one of the bill's sponsors, Council
6 member Mark Treyger.

7 COUNCIL MEMBER TREYGER: Thank you,
8 Chair. Good afternoon, and once again thank you to
9 Chair Cornegy and my colleagues for hearing testimony
10 today about an innovative piece of legislation, Intro
11 1526. This legislation, which would require the
12 Department of Sanitation and the Department of
13 Consumer Affairs to establish a program where food
14 service establishment could have civil penalties for
15 low-level violations waived if they agreed to donate
16 excess food to emergency food providers. It is
17 designed to address our city's growing shortages at
18 food pantries and food banks while simultaneously
19 giving local businesses incentives to make positive
20 impacts in their communities. As you may know, our
21 city's food pantries, food banks and emergency food
22 providers have been struggling with food shortages
23 for some time, and they're challenged to meet the
24 needs of those New Yorkers who rely on them for
25 sustenance is only growing. Last fall more than 70%

2 of the city's food pantries and soup kitchens
3 reported an increase in the amount of people they
4 were serving yet numerous media outlets reported that
5 as of last September nearly half of the city's food
6 pantries and soup kitchen had run out of food
7 entirely. With recent studies indicating that nearly
8 40% of New Yorkers report hunger as a hardship and
9 16% of New Yorkers reporting food insecurity, meaning
10 that they have difficulty providing enough food to
11 feed their households at least once over the course
12 of the previous year, we need innovative new methods
13 of supporting the emergency food providers who offer
14 meals to those in need. Intro 1526 is meant to help
15 address this very real concern without putting an
16 additional burden on the city. Under the program
17 this legislation would create food service
18 establishments including full service restaurants,
19 fast food restaurants, cafes, delicatessens, coffee
20 shops, grocery stores, vending trucks or carts and
21 cafeterias will be able to enter into agreements
22 directly with not-for-profit organizations and
23 emergency food providers to donate excess food stock
24 in lieu of paying fines for low-level violations.
25 Fines for violations such as failing to comply with

2 regulation on source separation, recycling of
3 materials, displaying the prices, accuracy of
4 scanners or-or posting of signage could all be waived
5 to the terms of the proposed program. The incentive
6 for food service establishments to participate in
7 this program would be more than just the avoidance of
8 fines. There would not be any set amounts of food
9 they would be required to donate. Rather, the
10 agreements entered with emergency food providers
11 would specify that the establishment would simply
12 donate all qualifying excess food meaning food that
13 meets all quality labeling standards, and that the
14 establishment does not intend to make available to
15 its customers over the course of a pre-agreed upon
16 period time. Let me be clear. This legislation is
17 not designed to give food service establishments a
18 free pass. This program would not apply to any kind
19 of major violations and establishments guilty of
20 repeat offenses during any six-month period would not
21 be eligible. Likewise, businesses, which try to take
22 advantage of the program by not complying with the
23 terms of their agreement with the emergency food
24 provider would see their original fine reinstated and
25 potentially doubled. While I'm cognizant of the

2 administration's concerns regarding a potential loss
3 of revenue stemming from the waiving of fines, this
4 potential program would reduce the financial burden
5 on the city to offer support to food providers while
6 making positive progress in some of our city's most
7 serious challenges, hunger and food shortages. I
8 want to take this opportunity first of all to thank
9 Speaker Melissa Mark-Viverito for highlighting this
10 package of bills that incentivizes local businesses
11 to be neighborhood stewards in her State of the City
12 Address. I also want to thank Chair Cornegy and the
13 staff of the Small Business Committee for holding
14 this very important hearing on innovative and
15 altruistic package of legislation. Thank you to
16 Guillermo Patino, Terzah Nasser Nicole Levine, and
17 thank you to my staff Anna Scafe, Ethan Lustig and
18 Eric Fainberg. I respectfully ask my colleagues to
19 support this creative and impactful bill and I
20 welcome input from the business community and from
21 and from food providers on how to strengthen this
22 legislation. Let's encourage our city's businesses
23 to be better members of their community by helping
24 address one of our city's most pressing challenges.
25 Thank you. [pause]

2 CHAIRPERSON CORNEGY: Sorry. So we'd
3 like to hear from another bill sponsor Barry
4 Grodenchik from the Borough of Queens.

5 COUNCIL MEMBER GRODENCHIK: Thank you.
6 Good afternoon to everybody. I just stopped by from
7 another committee meeting and I-I apologize for
8 running a little late. My bill is Intro 1515, which
9 would allow for small business owners who are being
10 fined to convert those fines to do energy refits and
11 like all of my colleagues in the City Council, almost
12 all of my businesses are small businesses. I have
13 exactly one block of manufacturing, and one of the
14 biggest complaints that I get from my businesses are
15 being nitpicked by city agencies. And-what this
16 would do-it would do five things really. One it
17 would-it would cover certain violations from the Fire
18 Department, Sanitation, Health and Department of
19 Mental Hygiene or Consumer Affairs. It would allow
20 the Mayor or his designated agencies to develop
21 energy efficiency upgrades that would be eligible.
22 Civil penalties up to \$3,000 would be able to be
23 converted. These would be upgrades to lighting,
24 appliances, the outside of the building, whatever it
25 would take to create energy efficiencies, and it

2 would be for buildings up to 25,000 gross square
3 feet, also to do energy audits or retrofitting. So I
4 want to thank the committed today for moving this
5 bill, and I look forward to voting on it tomorrow as
6 I am not a member of this committee. So thank you.

7 CHAIRPERSON CORNEGY: Thank you and—and
8 lastly, Council Member Inez Barron, who is one of the
9 bill's sponsors as well.

10 COUNCIL MEMBER BARRON: Thank you, Mr.
11 Chair, and thank you to the committee for putting
12 this bill on the agenda. The bill that I'm
13 sponsoring is Intro 1501, and what this bill does it
14 allows for a waiver of fees that might be incurred—
15 might be incurred by small businesses, and we know
16 that small businesses for the most part employ—employ
17 less than 20 employees. So this would certainly be a
18 way for them to alleviate having to pay that fine,
19 and what it says is that where there are minor
20 violations, that the employer would have the
21 opportunity to provide restroom services to those who
22 are in need of the restroom. We know that New York
23 City has great scarcity of public restrooms. We know
24 that in most restaurants, there are restrooms for
25 customers only. So what this bill would is provide

2 an opportunity for the employee-employer to not have
3 to pay the fine, but provide services. They have to
4 post a notice so that people would know, and it would
5 be a way for him and, of course, you cannot have a
6 repeat offense, or then you would not be eligible to
7 participate in this program. So I want to thank the
8 Chair for putting this on for today, and look forward
9 to hearing testimony of those who are here to
10 testify. Thank you.

11 CHAIRPERSON CORNEGY: Thank you, Council
12 Member. So at this time we're going to call the
13 Administration to testify. [pause] I would just ask
14 that before you're sworn in that you just state your
15 state and your role. [pause]

16 JENNA TATUM: Jenna Tatum. I'm a Senior
17 Policy Advisor in the Mayor's Office of
18 Sustainability.

19 DEPUTY COMMISSIONER BAGGA: Good
20 afternoon, Council Member. Always a pleasure to see
21 you. Amit S. Bagga, Deputy Commissioner of External
22 Affairs at the New York City Department of Consumer
23 Affairs.

24

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2 ANNE MARIE SANTIAGO: And Ann Marie
3 Santiago, Assistant Deputy Commissioner for the
4 Department of Housing Preservation and Development.

5 MOLLY HARTMAN: Molly Hartman. I'm a
6 Senior Advisor for Food Policy in the Office of the
7 Deputy Mayor for Health and Human Services.

8 CHAIRPERSON CORNEGY: Than you and I'm
9 going to ask that you prepare to be sworn by Nicole.

10 LEGAL COUNSEL: Pleas raise your right
11 hand. Do you affirm to tell the truth, the whole
12 truth, and nothing but the truth in your testimony
13 today and answer Council Member questions honestly?

14 PANEL MEMBER? Right.

15 DEPUTY COMMISSIONER BAGGA: I do.

16 LEGAL COUNSEL: Thank you.

17 CHAIRPERSON CORNEGY: You can begin.

18 Squeeze in there.

19 DEPUTY COMMISSIONER BAGGA: [pause] Okay.
20 Sorry. Good afternoon, Chairman Cornegy and members
21 of the committee. My name is Amit S. Bagga, and I am
22 the Deputy Commissioner for External Affairs at the
23 New York City Department of Consumer Affairs or DCA.
24 I am joined today by several colleagues from out
25 agency as well as representatives from sister city

2 agencies. I would like to thank the Committee for
3 the opportunity to offer testimony today about a
4 package of bills that proposed forgiving fines for
5 violations of the law in exchange for the
6 implementation of an assortment of public policy
7 initiatives. DCA very much commends the Council's
8 attention to the needs of small businesses, and we
9 welcome the conversation about how to ease the
10 regulatory burdens. The de Blasio Administration and
11 DCA in particular very much share the Council's
12 overall goal of making life easier for small
13 businesses here in New York City. We are very
14 pleased to have this opportunity to once again
15 present to you the many proactive steps we have
16 undertaken to ease those burdens. We will offer—we
17 will also be offering some additional ideas for how
18 we might continue to do so. The ideas we will offer
19 represent our support for strengthening current
20 programs that we believe are working well. Following
21 an overview of our efforts to reduce burdens on small
22 businesses, we will share with you our concerns about
23 the Penalty Mitigation Programs, which we believe
24 might negative unintended consequences and might not
25 ultimately achieve what is intended. Since Mayor de

2 Blasio has taken office, we at DCA have very
3 aggressively reduced small business fines, and
4 invested millions in translation, outreach and
5 education. We are proud to report that compared to
6 the prior administration's last year in office when
7 DCA assessed more than \$32 million in small business
8 patrol fines, we have now reduced those fines by more
9 than 50%. This unprecedented scope of reduction
10 represents DCA's steadfast commitment under this
11 administration to prioritize education, outreach,
12 training and the robust implementation of Cure Laws
13 whenever possible. We know that the average brick
14 and mortar mom and pop store in New York City needs
15 as much support as possible to thrive, and we make it
16 our business to ensure that these stores stay in
17 business. Since January 2014, we have conducted
18 hundreds of legal and informational trainings and
19 significantly expanded and enhanced our consumer-
20 excuse me-our customer service capabilities through
21 our expanded licensing center at 42 Broadway. DCA
22 has also prioritized helping immigrant business
23 owners who are estimated to be two-thirds of all
24 small business owners here in New York City meaning
25 that language access is a critical component of our

2 work. To this end, DCA has made its materials
3 available in as many as 26 different languages, and
4 routinely ensures that industry specific information
5 is available in those languages commonly spoken by
6 proprietors in any given industry. DCA's staff
7 speaks approximately 20 different languages, and the
8 large majority of our non-subway print and radio
9 advertising dollars are dedicated to advertising in
10 local and foreign language media. As we know, these
11 are the outlets where many small business owners get
12 their news. We have also been a pioneer agency
13 within city government when it comes to revamping our
14 processes and procedures to ease burdens on small
15 businesses. In early 2014, we were the first agency
16 to require all of our inspectors to carry with them
17 laminated cards featuring 16 different languages that
18 business owners could simply point to in order to
19 have their inspection conducted in that language
20 using telephonic translation. Additionally, we have
21 made approximately 40 of our most commonly used
22 inspector checklist available on our website both in
23 plain language and in as many as additional—as 12
24 additional languages for businesses to easily access.
25 These are essentially the same checklists that our

2 inspectors use when they are conducting an
3 inspection. This level of accessibility is further
4 enhanced by our signature Business Education Days
5 program. On these days, DCA staff hit the streets
6 going door-to-door along commercial corridors across
7 the five boroughs to talk to business owners directly
8 about their individual concerns, provide information,
9 and go through questions they might have about
10 compliance right there on the spot. During these
11 visits, no violations are issued and no fines are
12 assessed. Since 2014, DCA has visited thousands of
13 businesses across the city to educate owners about
14 general retail laws, tobacco laws, paid sick leave,
15 the increase in the minimum wage among many other
16 laws. Just last year, DCA visited 14 different
17 neighborhoods including Flatbush Avenue, 116th Street
18 in East Harlem, East Tremont Avenue in Throgs Neck,
19 Forest Avenue in Northwesterly on Staten Island and
20 Steinway Street in Astoria. In 2014, we created the
21 position of Business Compliance Counsel. This agency
22 attorney is dedicated almost exclusively to providing
23 our licensees with information on legal compliance.
24 In addition to being able to ask questions directly
25 to our Business Compliance Counsel, proprietors can

2 also access a live representative through our online
3 live chat services, which have served more than
4 41,000 business owners since January 2014. In
5 addition to all of these initiatives, the city's
6 Department of Small Business Services or SBS,
7 provides completely free compliance consultations
8 with guidance on how to avoid common violations from
9 various agencies in the Departments of Health,
10 Environmental Protection, Sanitation, Fire, Buildings
11 and, of course, Consumer Affairs. To date, that
12 program has served more than 1,000 businesses.
13 Compliance advisors are trained to understand
14 regulatory requirements across multiple agencies.
15 They are available to visit businesses and provide
16 on-site consultations to help a new business or an
17 existing business understand how to comply with some
18 of the most—with-with the city's most prevalent
19 regulatory requirements. Advisors can also help you
20 if you've already received a violation by providing
21 guidance on what the violation is for, and how it can
22 resolved. Additionally, as part of the compliance
23 consultation, business owners receive a customized
24 checklist highlighting the most common violations
25 they could possibly have. Compliance advisors

2 conduct their consultations not only in English but
3 also in Mandarin, Cantonese, Urdu, Spanish and
4 Russian. Notably, these compliance consultations do
5 not result in agency enforcement, making them a
6 particularly valuable resource to business owners.

7 As I mentioned a few moments ago, DCA has reduced
8 small business fines by more 50% since the beginning
9 of this administration. These efforts have largely
10 been made possible as a result of DCA choosing to
11 issue warnings for many different first-time
12 violations and also as a result of our successful
13 implementation of the Cure Law, a joint initiative of
14 the Council's and the Mayor's Office of Operations.
15 The Cure Law made dozens of types of first-times
16 violations curable. DCA's successful implementation
17 of this law, which includes a process that is
18 extremely easy for businesses to follow, has saved
19 local businesses millions of dollars in fines, and
20 likely additional millions and saved time, energy and
21 hassle. Our partner agencies utilize similar cure
22 policies with an emphasis on incentivizing correction
23 versus assessing punitive penalties. With respect to
24 the package of bills that we're here to discuss
25 today, it is our view that while the stated public

2 policy goals of this package are indeed laudable,
3 taken together we are concerned that this package
4 could undermine important consumer and worker
5 protection laws passed by this Council in ways that
6 outweigh the potential public policy benefits. These
7 laws include the landmark Paid Sick Leave Law and our
8 Consumer Protection Law. Diminishing DCA's ability
9 to effectively enforce these laws could weaken many
10 key protections this Council has enacted, and would
11 pose significant challenges for implementation in
12 addition to likely being cost-prohibitive.

13 Introduction 1499 would require DCA as well as the
14 Departments Housing, Preservation and Development,
15 Sanitation, and Buildings to conduct a review of all
16 violations we issue, tell the Mayor and the Council
17 which ones could potentially be ineligible for a
18 penalty mitigation program, and explain why
19 violations left off of this list were not included.

20 Introductions 1501, 1515, 1521 and 1526 allow for a
21 waiver of fines—excuse me—allow for a waiver of fines
22 for violations that are related to scanner (sic)
23 accuracy, signage or recordkeeping in exchange for
24 providing bathroom access to the public, the
25 installation of energy efficiency measures, donation

2 of organic waste, or donation of excess food.

3 Introduction 1516 requires SBS to develop a program
4 that would allow businesses to ask for a compliance
5 consultation and give them the opportunity to fix any
6 violations found during the consultation, thus
7 avoiding fines, which is a function, as I've
8 mentioned, SBS already performs. Introduction 1508
9 allows for a waiver of fines related to recordkeeping
10 violations if businesses attend a future compliance
11 course that would be in theory designed by DCA. We
12 have several concerns about the feasibility of
13 implementation of this package. A major concern is
14 that the proposed penalty mitigation programs
15 conflict with and in many cases could be more
16 burdensome than existing processes available to
17 businesses under the Cure Law. Currently, the Cure
18 Law process is very straightforward. For a business
19 owner. After receiving the curable violation an owner
20 simply signs a letter stating that they will fix the
21 violation within 30 days, and as a result, they are
22 relieved of any fine burden provided, of course, it
23 is the first time that they've received that
24 violation. Expanding the Cure Law to cover
25 additional violations is an initiative the

2 Administration is quite eager to work with the
3 Council on. I should note that we know that the Cure
4 Law, and the way it's currently implemented is, in
5 fact, working. Of all the businesses that have
6 received curable violations since the implementation
7 of the law two years ago, we have found that of the
8 universe that have been re-inspected, 92% have been
9 in compliance. In contrast, we believe that the
10 penalty mitigation programs proposed by the package,
11 would likely be extremely challenging to implement
12 and could also be more complicated for small
13 businesses to navigate. First, the creation of these
14 programs would require the development and
15 implementation of a completely new and completely
16 separate administrative process, one that cannot use
17 or repurpose existing resources. After receiving a
18 violation, business owners would likely first have to
19 appear before the Office of Administrative Trials and
20 Hearings or OATH. If OATH finds the business owner
21 guilty of the violation, and administrative law judge
22 would then have to determine based on a city agency's
23 testimony and data whether or not the violation is
24 eligible to have any associated fines forgiven under
25 a penalty mitigation program. Then, pursuant to the

2 OATH determination, a business owner would have to
3 come back to the appropriate agency to request part-
4 to participate in a penalty mitigation program.
5 Businesses could only enter into a regulatory
6 agreement with the city if they are, in fact,
7 eligible. Based on then the nature of the agreement,
8 businesses would be required to make capital
9 improvements or undertake other time consuming work
10 to demonstrate compliance, which would likely cost
11 them far more money than paying fines that in some
12 cases are as low as \$25 and in may cases not likely
13 to exceed \$250. Lastly, businesses would be subject
14 to future inspection, which could lead to a whole
15 host of challenges for them if they were—if they
16 found they were unable to comply with the regulatory
17 agreement they've entered into with the city. It is
18 unclear as to how this process would be easier on
19 businesses especially compared to the existing cure
20 process, which I outlined a few moments ago. It
21 should be noted that the broad expansion of
22 compliance assessments required by these bills far
23 exceeds the resources we have today. Our small core
24 of 35 inspectors is responsible for inspecting tens
25 of thousands of brick and mortar businesses annually

2 for compliance with important consumer protection and
3 licensing laws. Our inspectors ensure that
4 businesses such as tax preparers, pawn brokers, used
5 care dealers, employment agencies, and others all
6 known very well for engaging in consumer harm are
7 not, in fact, defrauding consumers. Given their
8 critical mandate, it would be challenging to expect
9 that our inspectors could also assess restrooms for
10 their level of public accessibility for example.

11 We will not take a moment to discuss the
12 bill of greatest concern to us: Introduction 1508,
13 provisions of which would allow fines associated with
14 "recordkeeping violations" to be easily forgiven.
15 While one might presume that recordkeeping is a pesky
16 onerous task for a busy and hardworking business
17 owner, it is, in fact, an analysis of records,
18 whether they're missing, inaccurate, accurate,
19 complete, falsified, what have you, that enables DCA
20 to determine whether or not egregious consumer or
21 worker harm has, in fact, occurred. Analyzing
22 records allows DCA to reconstruct past events or
23 transactions to determine whether or not underlying
24 law were, in fact, broken. Even requirements for
25 recordkeeping would be particularly problematic in

2 certain licensing and labor law areas where
3 recordkeeping is integral to our ability to enforce
4 the law. DCA does not typically fine businesses for
5 clerical errors with respect to records. In cases of
6 missing records, which is a common issue, for
7 example, in the towing industry widely known to be
8 among the egregious when it comes to consumer fraud,
9 we have often found that the fact that records are
10 missing is not simply an honest mistake, but rather
11 key evidence that deceptive or predatory practices
12 are being actively concealed. In the paid sick leave
13 context, a review of records is critical to enabling
14 us to determine whether or not employees have been
15 robbed of their right to take sick time. As you are
16 aware, the passage and implementation of the Paid
17 Sick Leave Law are signature accomplishments both for
18 the Council and the Administration. It is almost
19 exclusively through review of existing records that
20 we are able to determine whether or not an employer
21 is in or out of compliance. For example, because of
22 an analysis of employee records, we were able to
23 secure \$380,000 in worker restitution--and I should
24 note that that is 3-1/2 times more than the fine we
25 assessed in this case--for approximately 2,400 CBS

2 employees who were denied access to paid sick leave.
3 This case along with the large majority of cases we
4 bring based on recordkeeping violations came not as
5 the result of the record simply showing clerical
6 errors or being incomplete, but rather because the
7 information in the existing records demonstrated
8 clear non-compliance. In the CBS case and in many
9 others, the issue is not that records—that businesses
10 did not know how to keep their records or needed
11 training on how to do so, the issue is that the
12 records were, in fact, kept and that the kept records
13 demonstrated that the businesses were not following
14 the law. Importantly, many records that are
15 routinely kept by businesses to help demonstrate
16 compliance with city laws are also the very same
17 records that state and federal agencies might inspect
18 for as well. In several cases the payroll records
19 being reviewed by our investigators for paid sick
20 leave compliance are the very same records other
21 agencies review for compliance with payment of the
22 minimum wage and overtime wages. Because the absence
23 or falsification of such records would render an
24 employer subject to punitive action by state or
25 federal authorities, undermining the importance of

2 recordkeeping via city law is only likely to hurt,
3 not help, businesses. We should also note that the
4 total amount of a number of—excuse me—of—of the total
5 amount of money that we have been able to secure in
6 terms of fines and restitution together when it comes
7 to paid sick leave, our worker restitution numbers
8 outstrip our fine number two to one meaning that
9 money that businesses are paying is going much
10 disproportionately towards workers than it is into
11 the city coffers. In the consumer protection
12 context, it is worth noting that in the used car and
13 process server industries, both of which we license,
14 recordkeeping is a critical tool that enables us to
15 determine whether or not consumers have been sold
16 sometimes dangerous cars at high interest rates
17 through predatory or deceptive practices or whether
18 or individuals who are supposed to have been served
19 with legal documents actually ever received them.
20 Base on our many years of enforcement experience, we
21 believe that the legislative proposals before us
22 today ease recordkeeping requirements in a manner
23 that could unintentionally have an adverse impact on
24 consumers and workers. Lastly, I should note that it
25 is not clear that record keeping is a serious problem

2 for small businesses. In Calendar Year 2016, only
3 one percent of patrol based violations that we issued
4 were actually related to recordkeeping. There are
5 very important reasons why recordkeeping violations
6 were not previously included in the Cure Law, and we
7 hope that that examples we have provided today are
8 illustrative of that. While we very much appreciate
9 the Council's intent with this package to ease
10 burdens on small businesses, again, a commitment that
11 the administration deeply share, we are concerned
12 that these bills link fine forgiveness to the
13 implementation of unrelated policy initiatives. As
14 someone who personally spent close to two years
15 working to end childhood hunger in the United States
16 and here in New York City, I am deeply aware of and
17 sympathetic to the notion that a tremendous more can
18 be done to tackle food insecurity—security in our
19 cities. Respectfully, we're not sure that the
20 approach outlined in these bills will necessarily
21 achieve that intended goal. The central purpose of
22 having penalties in consumer, worker and
23 environmental protection laws is to establish an
24 important, but not overly punitive incentive to
25 comply with these laws. We are concerned that

2 allowing fines for one category to be waived in
3 exchange for the implementation of unrelated public
4 policy goals such as potentially exchanging the
5 failure to provide paid sick leave or public
6 restroom access might not result in a cure of the
7 original issue and fundamentally undermines the
8 original purpose of the violations. We are concerned
9 that these proposals could inadvertently supplant
10 existing policies identified as priorities by the
11 Council thus sending mixed signal—mixed signals—
12 excuse me—to businesses about how they must comply
13 with existing laws. We would like to reiterate that
14 we very much appreciate the value of the public
15 policy goals that the Council has-is seeking to
16 achieve as part of this package and in particular
17 your goal of reducing burdens on small businesses.

18 Under Mayor de Blasio's leadership, we
19 have been quite successful in reducing a large
20 variety of burdens that small businesses might face,
21 and we broadly agree that more can be done. We are
22 eager to work closely with the Council on ways in
23 which we can further make life easier on small
24 businesses such as expanding the Cure Law as a start.
25 DCA already has a list of approximately 20 different

2 violation types we would seek to make curable. We'd
3 very much welcome the opportunity to discuss those
4 with the Council and our colleagues at City Hall in
5 the near future. While we believe an expansion of
6 the Cure Law would ultimately help businesses, we are
7 concerned that the implementation of the Penalty
8 Mitigation Programs proposed by this package will not
9 do so. As a result, we do not believe that these
10 programs are likely to result in the realization of
11 the stated public policy goals. Additionally, we
12 remain concerned about the ways in which the bills
13 could undermine important existing laws that the
14 Council has prioritized, and we remain very concerned
15 about the feasibility of implementation. Thank you
16 for the opportunity to testify today. We look
17 forward to working closely with you on this and many
18 other issues. My colleagues and I will be happy to
19 answer any questions you might have. Before we do,
20 our colleague from HPD and Ann Marie Santiago will
21 provide testimony on Introductions 1507 and 1518.
22 Thank you.

23 ANN MARIE SANTIAGO: Good morn—good
24 afternoon, Council Member Cornegy and members of the
25 Small Business Committee. My name is Ann Marie

2 Santiago, and I am Assistant Deputy Commissioner of
3 the Office of Enforcement and Neighborhood Services
4 at HPD. I appreciate the opportunity to testify
5 regarding Intro Nos. 1507 and 1518, which are related
6 to mitigation of HPD's civil penalties. Before us
7 today are a number of bills that would allow property
8 owners an opportunity to correct violations in
9 exchange for mitigating penalties. HPD appreciates
10 the Council's intent to seek compliance through
11 penalty mitigation in certain circumstances. While
12 this may be an issue that property owners have when
13 an immediate penalty is assessed based upon the
14 issuance of a violation HPD penalties must be
15 affirmatively sought by the agency in Housing Court
16 and can already be mitigated along the lines
17 envisions by the Council. Let me take a minute to
18 explain how our current penalty process works. HPD
19 violations do not result in an immediate penalty upon
20 issuance of the violation. All violations have a
21 legal compliance period provided during which time
22 the civil penalties do not accrue except for heat and
23 hot water violations, which must be corrected
24 immediately. For example, in the case of non-
25 hazardous violations, property owners have 90 days to

2 correct the condition from the date the owner is
3 assumed to receive the notice of violation plus an
4 additional 14 days to certify correction of the
5 violation. Property owners also have an opportunity
6 to seek a postponement of the correction and
7 certification dates of the violations. Based on
8 criteria including the inability to gain access to
9 finish work immediately—timely. The system that HPD
10 uses for adjudicating civil penalties is established
11 by the State Civil Court Act, which established a
12 housing part of the Civil Court to hear such claims.
13 The City's Housing Maintenance Code Section 27-2116
14 also states that HPD may bring an action for civil
15 penalties in Housing Court and sets forth a list of
16 various appropriate factors that would mitigate—
17 mitigate the civil penalty claim. HPD has the
18 ability to settle civil penalties for less than the
19 maximum penalty given mitigating circumstances and
20 the court has the authority to issue a judgment for
21 less than the maximum penalty if the matter goes to
22 trial. Every HPD settlement of civil penalties in
23 court is subject to Comptroller's approval. HPD does
24 seek correction of all violations when the agency
25 initiates comprehensive litigation and also seeks

2 civil penalties on the most serious violations.

3 HPD's primary goal in Housing Court is to obtain

4 compliance with the correction of the conditions. We

5 seek appropriate civil penalties as warranted both as

6 a penalty for past non-compliance and as a deterrent

7 against future failure to correct violations. When

8 HPD does seek civil penalties related to violations,

9 property owners can pursue appropriate arguments in

10 court to mitigate—mitigate those penalties if they

11 believe that a settlement offer does not adequately

12 account for extenuating circumstances. Judges review

13 all relevant arguments from a property owner about

14 the mitigation of penalties when there is a trial in

15 Housing Court. The Housing Maintenance Code already

16 requires HPD to offer assistance to owners who

17 request it, and an extension of time to complete

18 repairs. HPD also offers owner assistance through

19 the Division of Neighborhood Preservation, which

20 provides services to help property owners who are

21 trying to comply with Housing Maintenance Code issues

22 to meet these challenges. The DNP offers the

23 following services: One-on-one counseling;

24 assistance with violation removal and corrections;

25 landlord/tenant mediation and referrals for loans and

2 grants. HPD supports education and training for all
3 of us through our Office of Neighborhood Strategies,
4 which includes owners nights, owner resource fairs,
5 educational classes on lead-based paint, which we do
6 in coordination with the Department of Health, and
7 general property management. Any property owner can
8 receive assistance from HPD in a number of ways if
9 they simply seek us out by coming into our borough
10 offices or contacting DNP. We will continue to try
11 to contract property owners to let them know about
12 existing programs. We also continually try to reach
13 out to property owners in order to keep them informed
14 about changes to the law or important HPD processes.
15 HPD's ABCs of Housing, which is why widely known as
16 the tenant's document, also provides important
17 information for owners. This document highlights the
18 most important compliance requirements in the Housing
19 Maintenance Code, and provides referrals to available
20 resources. HPD keeps its website updated with recent
21 changes and conducts appropriate owner outreach to
22 include this information. In sum, we believe that
23 HPD already has sufficient processes in place under
24 current law and practice, which achieve the Council's
25 intent of Intros 1507 and 1518. At a time of federal

2 funding uncertainty, it is important that we partner
3 with the Council to ensure that we do not add
4 unnecessary and costly requirements on HPD code
5 enforcement. We look forward to continuing our work
6 with the Council to identify and move forward to make
7 New York City housing safe. Thank you for the
8 opportune--opportunity to testify today, and we are
9 happy to answer any questions you may have. I will
10 now turn to the Mayor's Office of Sustainability to
11 speak about Intros 1504 and 1515. [pause]

12 JENNA TATUM: Good afternoon, Chair
13 Cornegy and member of the Committee. I'm Jenna
14 Tatum, Senior Policy Adviser for Buildings and Energy
15 Efficiency in the Mayor's Office of Sustainability or
16 MOS. Thank you for this opportunity to speak about
17 energy efficiency programs for multiple dwellings,
18 energy efficiency planning for businesses, and the de
19 Blasio Administration's efforts to reduce New York
20 City' greenhouse gas emissions by 80% by 2050. The
21 de Blasio Administration is taking aggressive action
22 to improve energy efficiency and reduce fossil fuel
23 use in buildings. This work requires and currently
24 includes the partnership of building owners,
25 community members and businesses alluded in Intro

2 1504 and Intro 1515. Today, I would like to speak
3 about two programs that already exist that accomplish
4 much of what the administration believes 1504 and
5 1515 seek to do. The New York City Retrofit
6 Accelerator and Community Retrofit NYC. The New York
7 City Retrofit Accelerator program offers free
8 personalized advisory services for building owners
9 and operators to streamline the process of making
10 energy efficiency improvements that will reduce
11 operating costs, enhance resident comfort and improve
12 our environment. The New York City Mayor's Office of
13 Sustainability launched the Retrofit Accelerator as
14 part of New York City's commitment to 80 x 50. The
15 Retrofit Accelerator's Efficiency Advisors serves as
16 trusted experts who help buildings make energy
17 efficiency improvements. This assistance includes
18 working with buildings one-on-one to understand their
19 needs, connecting buildings with qualified
20 contractors, finding cash incentives and financing to
21 help pay for upgrades, training building staff so
22 buildings run efficiently for years to come and
23 providing ongoing technical assistance and guidance
24 for projects from initial project evaluation to
25 completion. Since launching in September 2015, the

2 Retrofit Accelerator has engaged with owners and
3 operators over 3,800 buildings with projects already
4 in construction or compete in over 500 buildings.
5 This represents significant progress toward the
6 objectives of Intro 1504 and 1515 to improve energy
7 efficiency in our buildings. The second program
8 within MOS is Community Retrofit NYC, which is a
9 complementary program to the New York City Retrofit
10 Accelerator specifically for small and midsize multi-
11 family buildings located in Central Brooklyn and
12 Southern Queens. MOS created Community Retrofit NYC
13 to provide free advisory services for owners and
14 operators of these buildings to make energy and water
15 improvements that will realize cost savings, address
16 health and electric grid vulnerabilities, and help
17 preserve affordable housing in neighborhoods facing
18 upward pressures on rent. Community Retrofit NYC
19 works with Community Boards, elected officials and
20 civic groups to develop trust and build a pipeline as
21 New Yorkers who can benefit from its advisory
22 services similar to the goals outlined in Intro 1504.
23 Additionally, Community Retrofit NYC also identifies
24 candidates that could benefit from the low and no
25 cost financing and technical support for energy

2 efficiency and water conservation improvements
3 through the New York City Housing, Preservation and
4 Development's Green Housing Preservation Program as
5 part of New York City's commitment to preserve the
6 housing affordability. Since—since launching just
7 over a year ago, Community Retrofit NYC has engaged
8 over 300 building owners. In summary, the Mayor's
9 Office of Sustainability shares the goal to reduce
10 New York City's carbon footprint and improve energy
11 efficiency for dwellings and businesses.

12 Furthermore, MOS appreciates the Council's intent on
13 these bills. However, MOS believes that our current
14 programs address the goals described in the bill.
15 Additionally, the size of the penalties could—that
16 could theoretically be waived would be very likely be
17 insufficient to incentivize owners to make
18 significant energy or water efficiency improvements.

19 Thank you for this opportunity to testify. Lastly,
20 we will have Molly Hartman from the Mayor's Office of
21 Policy discuss Intros 1521 and 1526.

22 MOLLY HARTMAN: Good afternoon, Chair
23 Cornegy and members of the Committee. I am Molly
24 Hartman, Senior Advisory for Food Policy, and I work
25 for the Director of Food Policy within the Office of

2 the Deputy Mayor for Health and Human services. Thank
3 you for this opportunity to speak about the critical
4 issue of food waste and the de Blasio
5 Administration's efforts to send zero waste to
6 landfills by 2030 as outlined in OneNYC. Food plays
7 a critical role in promoting a more sustainable,
8 healthy and equitable city, and we have an important
9 role to play as a leader in building a better food
10 system for New York where we all have access to
11 nutritious food and where we limit the impact that
12 food has on the environment. As you know, the issue
13 of food waste and loss is gaining attention at the
14 national and local level. We are working with our
15 partners to build on this energy and make real
16 progress. One NYC made ambitious commitments to
17 create a more equitable and sustainable city. Our
18 goal to send zero waste to landfill by 2030 is an
19 essential piece of this. Diverting organic materials
20 from landfill is essential to cut greenhouse gas
21 emissions from the waste sector, and furthermore, the
22 effort of our partners to recover edible food from
23 businesses across the city is a crucial component of
24 the food supply for the city's food pantries and—and
25 community kitchens. Today, I would like to speak

2 about the work the administration is already doing to
3 make progress—to make progress on reducing food waste
4 in New York City. Households and business in New
5 York City discard approximate 1.5 million tons of
6 food waste each year equating to roughly a quarter of
7 the city's waste stream. Approximately 700,000 tons
8 of it is residential, and 815,000 tons of it is
9 commercial. In recent years, the Department of
10 Sanitation and partners have been steadily increasing
11 the diversion rate of residential organic waste by
12 expanding curbside collection services, and through
13 the New York City Compost Program and neighborhood
14 drop-off sites. With the implementation of new
15 organics collections rules for food service
16 establishments, vendors, food manufacturers and
17 wholesalers that went into the place last July, the
18 city has significantly expanded its outreach and
19 education to encourage compliance and participation
20 by businesses. The department has created materials
21 and trainings to assist businesses in complying with
22 requirements and to encourage additional waste
23 prevention efforts. To help businesses avoid
24 violations and improve recycling, the Department of
25 Sanitation offers free trainings for business owners

2 and employees, building management companies and
3 chambers and associations. There are also videos of
4 these trainings available on You Tube. In advance of
5 the rules going into place last year, the Mayor's
6 Office of Sustainability in partnership with the
7 Department of Sanitation lead the Zero Waste
8 challenge. Thirty business locations participated
9 from a variety of sectors including arenas,
10 restaurants, hotels, building owners and commercial
11 tenants, schools, TV productions, caterers and food
12 wholesalers. Participant committed to diverting 50%
13 of their total waste from landfill and incineration.
14 The program offered free technical assurance and
15 support in donating leftover food to food recovery
16 organizations, and it encouraged businesses to
17 utilize best practices in food source reduction
18 handling and engaging in creative waste reduction
19 strategies such as using all of the parts of fruits
20 and vegetables and dishes based there. While our
21 primary goal must be to prevent food waste from
22 occurring in the first place, recovering wholesome
23 and nutritious food for human consumption supports
24 our emergency food providers, and puts food on the
25 table for New Yorkers in need. The Department of

2 Sanitation, the Human Resources Administration and my
3 colleagues in the Mayor's Office worked with our
4 partners in the non-profit sector that collect edible
5 food that would otherwise go to waste and distribute—
6 and distribute it to food pantries, shelters,
7 community kitchens and other emergency food program.
8 If a food business wants to donate their food, they
9 can contact a food recovery organization such as City
10 Harvest, Food Bank for New York City,
11 AmpleHverst.org, Rescuing Leftover Cuisine or a local
12 shelter or social services provider to arrange for
13 their food to be picked up for donation. The
14 Department of Sanitation's Donate NYC website has a
15 director that can help a business find a local
16 organization that accepts donated goods, which
17 includes food, and the Health Department's website
18 had a lot of information to help businesses donate
19 health food. The New York City Food Assistance
20 Collaborative. We are working with City Harvest and
21 others to better understand where this should be—
22 where this food should be going, and supporting
23 emergency food providers, increasing their capacity
24 to accept donated food and better serve their
25 communities. While the Administration shares the

2 Council's goals under Intros 1521 and 1526 to promote
3 food recovery for donation and reducing the
4 environmental impact of our food system, we believe
5 that waiving penalties for recycling infractions
6 undermines the broader Zero Waste policy goals the
7 city is trying to achieve. We also have concerns
8 that these bill pose real implementation challenges
9 with potentially limited impact on reducing food
10 waste. We also question whether the small size of
11 the penalties that could be waived would be
12 sufficient incentive for participation in these
13 programs. We share your goals to reduce food waste
14 in New York City and are eager to work with you to
15 strengthen the existing food donation programs in the
16 city and to successfully encourage greater
17 participation in these programs. Thank you for the
18 opportunity to testify. We are happy to answer any
19 questions you may have at this time. [background
20 noise, pause]

21 CHAIRPERSON CORNEGY: So I want to thank
22 you for your testimony. I have a couple of
23 questions. Actually, I'm going to do something very
24 unusual. Because we have a very busy schedule and
25 members have had to run to several different hearings

2 some chaired by themselves, I'm going to let my
3 colleagues first ask questions starting with Council
4 Member Williams.

5 COUNCIL MEMBER WILLIAMS: Thank you, sir.
6 It is very unorthodox. We will catch on. That was a
7 leadership move. [laughs] Thank you, Mr. Chair.
8 Thank you all for—for your testimony. I'm actually
9 present today in my role as the Chair of Housing.
10 There are some issues with the package in generally
11 and hopefully that would be worked out, but there
12 were four in particular that I had concerns with,
13 Intros 1499, 1504, 1507 and 1518. They have to do
14 with, it seems they're trying to create a waiver
15 program for landlords, and I just wanted to put on
16 record I'm very concerned about those bills at a time
17 when we're passing a package of the Stand for Tenant
18 Safety and we're doing all these things against
19 harassment. This seems to move backwards, and so I'm
20 a little confused at what we as a Council are trying
21 to do and my hope is that perhaps the bills are not
22 worded correctly or we haven't made clear what the
23 intent is. But I do hope as we move forward as the
24 Housing Chair I'll be moved involved in that package
25 of legislation so I can lend my support because right

2 now I really can't support them. But I do want to
3 ask just so I—I clearly have it on the record. So
4 HPD Intros 1507 and 1518, you don't think that they
5 are necessary at this point in time and will not have
6 any benefit to your code enforcement?

7 ANN MARIE SANTIAGO: Again, we appreciate
8 the—the intent to mitigate penalties if the—for small
9 offenses I think is what the Council is trying to get
10 to. However, our existing system already provides
11 owners with ample opportunity to comply and to
12 certify that compliance to us. I think that these
13 bills would create a—a—an entirely different system,
14 a new system but it's not really necessary in order
15 to have a fair system of—of penalties.

16 COUNCIL MEMBER WILLIAMS: Do you think it
17 may be harmful to some of the harassment issues that
18 we're trying to get at now, and—and also giving a
19 potential longer time period for tenants to have to
20 live under some bad conditions?

21 ANN MARIE SANTIAGO: Again, I think our
22 current system provides that—that niche that you're
23 looking for. So I don't think that these bills would
24 enhance our ability to enforce.

2 COUNCIL MEMBER WILLIAMS: I'm trying to
3 get some additional things on the record, but you're
4 not going to go there for me, but [laughter] alright,
5 I appreciate that, and for the Mayor's Office of
6 Sustainability I have similar questions for 1504 and
7 1515 and you can really go—feel free to go further if
8 you like. [laughter]

9 MOLLY HARTMAN: So we fully agree with
10 the policy objective of helping businesses and
11 building owners invest in energy efficiency. The New
12 York City Retrofit Accelerator and Community Retrofit
13 NYC are two successful programs that we've launched
14 that are already serving the city's goals of
15 accelerating energy efficiency investments in New
16 York City. We do this by providing free personalized
17 advisory assistance and advisory services to building
18 owners and operators that are into streamlining the
19 processes of implementing energy efficiency projects
20 connecting building owners and operators with the
21 resources that are available, and all around making
22 it easier to invest in energy efficiency in New York
23 City.

24 COUNCIL MEMBER WILLIAMS: So you don't
25 think these bills are necessary?

2 MOLLY HARTMAN: We agree that there needs
3 to be further efforts to engage building owners, and
4 operators in New York City to improve energy
5 efficiency and deliver on the energy and cost savings
6 for these buildings. That's why we created these two
7 programs Retrofit Accelerator and Community Retrofit
8 NYC. So for example there are many rebates and cash
9 incentives available from state agencies and the
10 local utilities for energy efficiency improvements,
11 but we actually found that there were hundreds of
12 millions of dollars in unspent incentives on the
13 cable in New York City, and that was because building
14 owners and operators didn't know that the rebates and
15 incentives were available and found that accessing
16 these resources were too difficult. So the Retrofit
17 Accelerator and Community Retrofit NYC were created
18 to provide these advisory services to help building
19 owners and operators decide on the right project for
20 their buildings and access these rebates incentives
21 and other resources. So our goal overall is--

22 COUNCIL MEMBER WILLIAMS: It's a long way
23 of saying no.

24 MOLLY HARTMAN: The—the goal is to engage
25 with more building owners and operators and so we

2 agree with the intent of these bills. However, we
3 think we are doing that with our existing program.

4 COUNCIL MEMBER WILLIAMS: Sounds like
5 another way to say no. So, I [laughs] I appreciate
6 that. I appreciate all of the answers. I actually
7 also appreciate trying to find a way to help
8 particularly the good actors in the industry and the
9 smaller homeowners. I don't think we've done that
10 here. I think we might create as mentioned another
11 system that I think will be terribly in contradiction
12 with what we're doing in terms of helping tenants get
13 code enforcement quicker, and to stop harassment. So
14 I would respectfully ask the chair particularly with
15 these bills if we can pause for a second on them and
16 have some more conversation with—particularly with
17 tenant advocates who are working on this a lot, and
18 myself as the Housing Chair. But thank you very much
19 for this opportunity. Thanks for your testimony.

20 CHAIRPERSON CORNEGY: Thank you, Council
21 Member. Next, we have Council Member Treyger. Oh,
22 wait, before Council Member Treyger goes, I'd like to
23 allow an opportunity for Council Member Wills to
24 vote.

2 CLERK: Continuation of roll call, Intro
3 891-A, Council Member Wills.

4 COUNCIL MEMBER WILLS: Thank you, Mr.
5 Chair and I vote ayes.

6 CLERK: The vote now stands at 7 in the
7 affirmative, 0 in the negative and no abstentions.

8 CHAIRPERSON CORNEGY: Thank you. Council
9 Member Treyger.

10 COUNCIL MEMBER TREYGER: Thank you, Chair
11 Cornegy. I'm going to speak to the Intro that
12 obviously the bill that I've introduced Intro 1526.
13 I just want to first go over areas of agreements and
14 then we'll go into areas of concern. Can we agree
15 that New York City is facing a tremendous food
16 security issue?

17 MOLLY HARTMAN: I'm sorry. Can you
18 repeat that?

19 COUNCIL MEMBER TREYGER: Yes, can we
20 agree that New York City is facing a—a tremendous
21 food security issue facing many families?

22 MOLLY HARTMAN: Yes, food security is a
23 concern for us in the Mayor's Office.

24 COUNCIL MEMBER TREYGER: Can we agree
25 that a significant number of food pantries and well

2 respected food organizations reported depleted or
3 completely depleted amounts of—of food in the past
4 year in dealing with food security issues?

5 MOLLY HARTMAN: Sure, yes.

6 COUNCIL MEMBER TREYGER: You've also
7 mentioned in your testimony a—there is, and I'm happy
8 you mentioned it that there is a significant amount
9 of food that's thrown out or for—for a variety of
10 reasons and factors from our commercial businesses.
11 I'm—I'm glad that you mentioned that. If I heard
12 correctly, and that's why I would like to just—can
13 you just specify clearly what are—in a bullet point
14 in a sentence or two what are the main concerns the
15 administration has of Intro 1526? If you can just
16 summarize just like in a couple of lines, a couple
17 of—of sentences for me.

18 MOLLY HARTMAN: Yes, I—I think as I said
19 in my testimony we're concerned that the bills as
20 written will be administratively burdensome.

21 COUNCIL MEMBER TREYGER: The bill.

22 MOLLY HARTMAN: The bill.

23 COUNCIL MEMBER TREYGER: Yes.

24 MOLLY HARTMAN: And on businesses,
25 agencies, potentially the non-profit sector as well

2 with a potentially limited impact in the amount of
3 food that would be able to be captured for the
4 emergency food network.

5 COUNCIL MEMBER TREYGER: Is that correct?

6 DEPUTY COMMISSIONER BAGGA: Yes, I mean
7 I--what I can add to that is that though--though a
8 number of types of businesses that are sort of
9 included in the bill are not the types of businesses
10 that DCA would routinely inspect. For example,
11 restaurants. What I can say is that the
12 establishment, the devising and implementing this
13 type of program what that would require not only of
14 the administration but in particular what that would
15 require of the business owner in terms of
16 participation we believe is rather burdensome, and as
17 a result we don't necessarily believe that businesses
18 would necessarily choose to go through the process
19 where they're participating in the penalty mitigation
20 program in this way. So if I may just spend a moment
21 more talking about that, and I'll refer to my
22 testimony, in order for this to sort of work as
23 envisioned or as what we understand the way it's
24 envisioned, the business would first have to go to
25 OATH, whatever the violation is that they received

2 they would have to be found guilty of that violation.
3 They would then come back to the agency to request
4 participation in such a program. The agency would
5 have to assess the eligibility of the business to be
6 able to participate in the program, If they are, in
7 fact, eligible, we would—we would enter into some
8 sort of regulatory agreement with them, and then that
9 regulatory agreement would have to be enforced. So
10 I—I should say that, you know, we very much are—are
11 concerned about food security as an administration
12 food security issues in New York City. We're also
13 very concerned about easing burdens on small
14 businesses. That is a top priority of the Mayor's
15 and of the entire administration, but in exchange for
16 the fines, as I mentioned as low as \$25 and not
17 likely to exceed \$250, we're not sure that businesses
18 would necessarily be incentivized to go through this
19 process to actually donate the food or to—you know,
20 make their bathrooms publicly accessible, et cetera.

21 COUNCIL MEMBER TREYGER: So-so if—if I
22 may respond, and I'm trying to really—and I
23 appreciate that—your understanding of the seriousness
24 of this issue for both in terms of dealing with food
25 insecurity and dealing with the burdens on small

2 businesses. But to first address the issue of-of the
3 burdens on businesses, as you-you noted in your-in
4 your response just now, you said they would choose,
5 businesses choose voluntarily to participate in this
6 program. No one is forcing them to do that.

7 Secondly, we work with small businesses and non
8 profits in other areas to address issues of great
9 importance to the City of New York, and I'm sure that
10 they faced significant compliance issues. So for
11 example a program that I think should be very much
12 respected and, you know, IDNYC a major program. It
13 certainly addresses an issue that is very important
14 to us here in New York and around the country, but
15 there are certain compliance costs and burdens placed
16 on those organizations that were administering the
17 program. The issue of the plastic bag fee that
18 certainly would have added compliance and
19 administrative duties to small businesses to comply
20 with that, and the administration wasn't supportive
21 to deal with environmental goals. So, this is a
22 voluntary program. No one is forcing people to
23 participate. I-I also just want to say with regards
24 to-you mentioned the agreements that they'd have to
25 enter it-an agreement after an OATH judge issues a

2 ruling. The agreement—the-the bill as written, and
3 by the way, the bill is flexible. I'm open to
4 hearing concerns to strengthen it. The agreement
5 doesn't have to be after a penalty is issued. They
6 could enter into agreements with the city and the
7 non-profit sector before just to go over, you know,
8 what can be donated, what—what may not. And let me
9 just point to the fact New York prides itself
10 rightfully so for being a visionary progressive city
11 around—a country around the world, but the city of
12 Lexington, Kentucky has established a food for fines
13 program. Now, it's a little bit different here. In—
14 in their city, folks who donate 10 cans of food can
15 knock off \$15 off their parking ticket. Now, we're
16 not discussing parking tickets this hearing, but
17 their city is addressing food—food security there.
18 Many cities across the country are now looking to
19 waive library late fees in return for food donations
20 to food pantries. So, people are starting to address
21 this issue around the country, and we are kind of I
22 think, you know, behind—behind the ball. So, I—I
23 again, on the issue of burdens, this is a choice.
24 It's voluntary. Also just to—you raised a concern
25 about whether we're going to be promoting, you know,

2 certain bad behaviors. These are low-level offense
3 and the program would not apply to repeat offenders.
4 So if they repeat the same offense over-more than
5 once, they will not eligible for the program any
6 longer. If anything, the-the fine would be
7 reinstated. So I just think that we have to get
8 innovative. We have to think outside the box, and I
9 think that there is-where there's a will, there's a
10 way, and we are addressing a significant issue, which
11 this Council takes very serious, and I'm hearing the
12 administration takes serious as well of food-food
13 security in New York City, and trying to lower as
14 much as possible the burdens on small businesses.
15 And I would very much like to work with the
16 administration on to maybe-and-and stakeholders, the
17 non-profit sector, small businesses on how to
18 strengthen the language to make this possible. Any
19 feedback of response to that.

20 DEPUTY COMMISSIONER BAGGA: Thank you,
21 Council Member. Yes, I think as my colleagues have
22 stated and I have stated, everyone at this table and
23 the agencies and offices that we represent are deeply
24 aware of the food insecurity crisis that we are
25 experiencing as a city, and I think we would like to

2 be able to do everything we possibly can to address
3 it. And I think our colleagues from the Mayor's
4 Office of Food Policy have laid out that the city has
5 taken a number of steps and—and that is not at all to
6 say that the city can't do more. I think we are
7 always very open to any conversation with all
8 stakeholders chiefly, of course, the Council on what
9 are additional steps the administration can take to
10 address these types of problems that really
11 disproportionately impact our most vulnerable
12 residents. I think one of the differences, one of
13 the key differences between what this bill seeks to
14 accomplish or what I should say is the way in which
15 it is structured. And some of the examples that you
16 gave such as IDNYC or the Plastic Bag Bill or, you
17 know, library late fees is that in none of those
18 other contexts do we have an exchange or essentially
19 saying you've broken key consumer protection or
20 licensing laws and in exchange we will allow you to
21 alleviate yourself of that burden for donating food,
22 and while I think we all agree that we should find
23 smarter, better, more creative ways to incentivize
24 businesses, engaging in civic actions such as food
25 donation, we're not sure that typing that type of

2 civic action to essentially what amounts to an
3 incentive to break the law is necessarily the right
4 approach. As enforcement agencies, it is our job to
5 ensure that businesses are, in fact, in compliance,
6 and I should not that under this administration more
7 so than certainly the last administration, we have
8 proactively—the enforcement agencies have take very
9 proactive steps to ensure that we are easing burdens
10 on small business. As I mentioned, of course, we
11 reduced fines by 50% at DCA in the last several
12 years, and I know that not only DCA but several of
13 our sister agencies, for example, have really
14 prioritized direct business owner engagement,
15 language access, outreach, education, et cetera. I
16 think we would like to work with you to identify ways
17 in which we could perhaps incentivize food donation.
18 But the establishment of a program that is an
19 administrative burden and yes, you're right, the
20 businesses would have to choose to go through it, but
21 it would be an administrative burden both for the
22 agencies as well as the business, and one that ties
23 together food donation with violation of the law.
24 We're not sure that that is an approach that we

2 necessary agree with. And we—we don't believe that
3 those two policy realms are related.

4 COUNCIL MEMBER TREYGER: Right, I—I would
5 just respectfully respond that yes, we're talking
6 about the creation of a new program, but as you noted
7 and as we noted, we have a food crisis in New York
8 and I'm not hearing that many other innovative
9 proposals or solutions to deal with it other than,
10 you know, us just kind of going back a forth talking
11 about it. And I think that we have to come up with—
12 with a new way to deal with it in addition to getting
13 more resources. Secondly, again, the programs the
14 administration has championed or with the Council,
15 which again are tremendous programs, did place
16 burdens on businesses and—and the non-profit sector.
17 I know this for a fact because I hear from them. As
18 a matter of fact, some non-profit organizations are
19 no longer participating in the IDNYC program because
20 of that very fact. It's not because they don't share
21 the goals of the program. It's because it placed
22 enormous financial burdens on them. So I get that,
23 but in this case it is a choice for businesses to
24 comply. Secondly, these are low-level offenses.
25 These are not—we're not talking about someone selling

2 something that was spoiled or-or rotten or someone
3 got sick. These are about signage, and again we
4 could work. That's where I'm flexible to work with
5 the administration on-on low-level offenses. Repeat
6 offenders will not apply, and so I-I just think that
7 with all this food just being thrown out, and again
8 Lexington, Kentucky is more-is ahead of the curve
9 than-than us with regards to the Food for Fines
10 Program. I mean I have much respect for Lexington,
11 but New York can also think about innovative ways to
12 deal with this, and cities across the country are
13 already moving in this direction. I-I just think
14 this-this can be a win-win structured the right way
15 with-with the right input from the stakeholders. But
16 simply just to-to-to throw this aside without
17 offering something back to the-to alleviate the food
18 security crisis and to alleviate some of the-the
19 burdens, I-I think that's not constructive. But I-I
20 look forward to working with your agency and the
21 administration and-and my colleagues and-and
22 stakeholders to strengthen this language. Thank you,
23 Chair.

24

25

2 CHAIRPERSON CORNEGY: Thank you, Council
3 Member. I'd like to take a second to allow Council
4 Member Ulrich to-to vote.

5 CLERK: Continuation of roll call, Intro
6 891-A, Council Member Ulrich.

7 COUNCIL MEMBER ULRICH: I vote aye.

8 CLERK: The vote now stands at 8 in the
9 affirmative, 0 in the negative and no abstentions.

10 CHAIRPERSON CORNEGY: Yes, and Council
11 Member Barron has questions.

12 COUNCIL MEMBER BARRON: Thank you, Mr.
13 Chair. Just a few questions. I'm sponsoring Intro
14 1501, and in your testimony, you lay out the ability
15 of your department to have been able to correct some
16 injustice where workers were robbed of the right to
17 take sick time, and you were able to do that by
18 analyzing employee records, and looking at somewhat
19 blatant violations and recordkeeping processes. And
20 then in your statement after talking about those
21 egregious offenses, you say we're concerned that
22 allowing fines for one category to be waived in
23 exchange for unrelated behavior such as potentially
24 exchanging the failure to provide sick time for
25 public restroom access might not be a cure. How did

2 you come to the conclusion that we were equating that
3 public room access for people who were breaking the
4 law regarding employee sick time?

5 DEPUTY COMMISSIONER BAGGA: So if—if not
6 mistaken, Intro 1501 does include fine forgiveness
7 for certain recordkeeping requirements, and I will
8 double check that in a moment, but our concern is—

9 COUNCIL MEMBER BARRON: [interposing] Yes,
10 please because according to what I've said, it's for
11 a display of prices, recycling separation issues,
12 inaccuracy of scanners. So if you could find where
13 that might be indicated, I would appreciate that.
14 You can get back to us.

15 DEPUTY COMMISSIONER BAGGA: [interposing]
16 We'll take—we'll take a look at the bill.

17 COUNCIL MEMBER BARRON: Yes.

18 DEPUTY COMMISSIONER BAGGA: We'll take a
19 look at the bill and get back to you.

20 COUNCIL MEMBER BARRON: Right, and then--

21 DEPUTY COMMISSIONER BAGGA: [interposing]
22 But I will—I will just note that one of the
23 significant challenges with the implementation of the
24 accessibility of public restrooms is that the bill
25 does require—the bill would subject a business to

2 future inspection once they've entered into a
3 regulatory agreement with the city--

4 COUNCIL MEMBER BARRON: [interposing]
5 Right.

6 DEPUTY COMMISSIONER BAGGA: --to ensure
7 that the bathroom is, in fact, public accessible.

8 COUNCIL MEMBER BARRON: Yes.

9 DEPUTY COMMISSIONER BAGGA: Not only--not
10 only does DCA not have the resources to currently do
11 that, which is a discussion we can, of course, have
12 at some point, but it--it is not clear to us that
13 business owners would necessarily be incentivized
14 again when they're receiving fines as low as \$25 or
15 in some cases \$100, in some cases \$250 to necessarily
16 provide that bathroom access. There are--

17 COUNCIL MEMBER BARRON: [interposing]
18 Yes, but as my colleague has pointed out, this is a
19 voluntary program. We're not forcing them to do
20 this. We're not saying you've got to do this. We're
21 giving you this mitigation, you've got to do it.
22 It's their choice.

23 DEPUTY COMMISSIONER BAGGA: Of course.

24 COUNCIL MEMBER BARRON: And then the last
25 question that is like it would just--

2 DEPUTY COMMISSIONER BAGGA: [interposing]

3 If I may just--

4 COUNCIL MEMBER BARRON: I'm sorry. Go
5 ahead.

6 DEPUTY COMMISSIONER BAGGA: Sorry. If I
7 may just finish, I think you're absolutely right. It
8 is a choice, but I think one of our serious concerns
9 that we have is that, as I mentioned in my testimony,
10 the whole legislative package would require city
11 agencies to set up a completely new and separate
12 system. No businesses would be able to--city agencies
13 would not be able to repurpose existing resources to
14 enable businesses to participate in these programs,
15 which means that even if it's a relatively small
16 number of business and, of course, we have no way of
17 know. It could be small and it could be large were
18 the bills to pass. Even if it's a relatively small
19 number of businesses, we could be in a position where
20 we're spending potentially tens of millions of
21 dollars to set up an administrative program that
22 business like you mentioned can choose to participate
23 in, but may not actually ultimately serve that many
24 businesses if they feel as though the fine amounts
25 are low enough where the incentive is not necessarily

2 high enough for them to—to choose to participate. So
3 you're absolutely right, but I think we—we as a city
4 need to be very aware about how we're utilizing our—
5 our resources. I think as my colleague from HPD
6 mentioned there is a degree of uncertainly around,
7 you know, what the federal budget will bring, and we
8 want to make sure that we're being as effective and
9 efficient as we possibly can be.

10 COUNCIL MEMBER BARRON: Thank you, and I
11 just want to say this is an attempt to ease the
12 burden not to incentivize anyone to break the law.
13 So this is what the intent is, not incentivizing
14 people to break the law, and I heard you refer to
15 fines ranging from \$25 to \$250. Is that the maximum
16 fine that is levied \$250?

17 DEPUTY COMMISSIONER BAGGA: I can get
18 back to you on what the absolute maximum would be,
19 but the large--

20 COUNCIL MEMBER BARRON: But it's--\$250 is
21 not the maximum? There are fines that are more than
22 that?

23 DEPUTY COMMISSIONER BAGGA: There are but
24 if I may, on patrol in terms of the—related to the
25 violations that are issued by our patrol inspectors--

2 COUNCIL MEMBER BARRON: Uh-huh.

3 DEPUTY COMMISSIONER BAGGA: --with the
4 exception of the tobacco fines, tobacco fines tend to
5 be a little higher, but all of the other laws and
6 rules that we inspect for, which, you know, which
7 include general real laws and rules and other
8 licensing laws and rules, the majority of those fines
9 that are inspected for on patrol tend to be in the
10 \$100 to \$250 range.

11 COUNCIL MEMBER BARRON: And are--

12 DEPUTY COMMISSIONER BAGGA: And tobacco
13 fines are higher.

14 COUNCIL MEMBER BARRON: Are those find
15 cumulative? Is it for each occurrences that you've--
16 that there is--that's there's a fine levy or is it
17 just--are all of these together, you did this and it
18 will come to \$250 or--

19 DEPUTY COMMISSIONER BAGGA: No.

20 COUNCIL MEMBER BARRON: is each--yes.

21 DEPUTY COMMISSIONER BAGGA: Sorry, sorry,
22 I didn't mean to interrupt,

23 COUNCIL MEMBER BARRON: And as far as each
24 instance a fine amount?

25

2 DEPUTY COMMISSIONER BAGGA: So it all-it
3 all depends on every business' particular situation
4 and what it, in fact, they are receiving a violation
5 for. So in some instances an inspector may walk in
6 and he or she may see that there are three different
7 sections of the ad code that are being violated of
8 the Administrative Code or-or DCA's rules. In which
9 case the violation that's written will have, you
10 know, three different-the hearing-the-the notice of
11 hearing entry will have three different violations on
12 it. In some cases it could be that there's only one
13 section of the Administrative Code that's broke, but
14 for whatever reason based on the way that particular
15 law is being implemented there are number of counts.
16 So it's one-it's one type of violation, but there are
17 a number of counts. So, what we typically see is
18 that when there are a number of different types of
19 violations, yes, each violation has an associated
20 penalty. Those individual penalties don't tend to be
21 particularly high. When you start getting into an
22 issue of counts, which primarily we see in the
23 tobacco context, that's when fines can start to-to
24 become higher, but to-to be clear in the tobacco
25 context, those fines that are-that are high and-and

2 can add u to be even larger, those fines have been
3 established by the City Council, and those fines are
4 primarily for the sale of tobacco to minors. In New
5 York City we have—we have prevented the sale of
6 tobacco to minors and youth under the age of 21. We
7 have prevented the sale via the City Council of
8 tobacco to—of flavored tobacco, and so I think what
9 we want to be aware of is that there are a variety of
10 fine amounts, laws and—that are provided for in
11 different sections of the Ad Code established by the
12 City Council as priorities. And the reason that the
13 fine amounts are high is because they're meant to
14 serve as a deterrent.

15 COUNCIL MEMBER BARRON: Thank you, and I
16 just want to say we're not looking to include all
17 violations. We're looking to include minor
18 violations.

19 DEPUTY COMMISSIONER BAGGA: Right.

20 COUNCIL MEMBER BARRON: Thank you, Mr.
21 Chair.

22 CHAIRPERSON CORNEGY: Thank you, Council
23 Member. Council Member Antonio Reynoso.

24 COUNCIL MEMBER REYNOSO: Thank you,
25 Chair, for this great hearing, and I thank the panel

2 for being here. A lot of--well, the entire panel I
3 respect deeply and I was coming in here with more
4 optimism about a lot of these bills, and you guys
5 kind of shut them down. But I do want to say thank
6 you for all the work that you do outside of coming
7 hearing. You know, there's a lot of great work in
8 the communities. When I call on you, you're always
9 available, Commissioner Bagga. Thank you for all
10 the--the work you did in my community regarding one of
11 my--my supermarket owners. So I guess my biggest
12 concern here is created strategies to push policy for
13 small businesses, and how that can--it works both ways
14 here. I think the most resonating example that you--
15 you gave us was for example paid sick leave, having
16 someone not comply with the Paid Sick Leave Law, and
17 think that they can donate, you know, a bag of
18 potatoes and get away with it, and I hear that. But
19 I guess what I'm saying is if you do it a second
20 time, I don't think you would be eligible for this
21 program any more because--so-- Go ahead if you want
22 to reply.

23 DEPUTY COMMISSIONER BAGGA: No, it's
24 fine.

2 COUNCIL MEMBER REYNOSO: Alright, so
3 that's—that's my first concern is if you are a repeat
4 offender then we know you're a bad person and we no
5 longer want you to be a part of this program. This
6 is for folks that make mistakes unintentional, good
7 business people that want to do right by a policy
8 initiative and—and can do it through this one. Not
9 repeat offenders, not the bad business owners and so
10 forth. I do have concerns with the housing bills. I
11 do want to say the housing ones I'm concerned about
12 because if you have multiple violations as a housing
13 owner, you're probably not a good guy or a good
14 person. I apologize, a good person, but the business
15 ones. Even if it's five supermarkets that could—that
16 do this, that's—that's more, that's just more food or
17 opportunity for food waste to be diverted. In my
18 case, organics and people actually complying with
19 getting—getting rid of the food the right way,
20 disposing of it the right way. So, if it's not
21 repeat offenders, if we can have a conversation about
22 what curable violations look like, right, being more
23 detailed about the curable violations so that we're
24 not encompassing 80% of the violations that you guys
25 are eligible to give. What other objections would

2 you have outside of that for my bill I guess. I want
3 to speak to my bill, which is actually the one, the
4 food-the-the food waste one there. So, I guess
5 objections do you have outside of if we sit together
6 and we modify the curable violations, and two, we're
7 not talking about repeat offenders or egregious
8 actors in this case.

9 MOLLY HARTMAN: Thank you, We-

10 COUNCIL MEMBER REYNOSO: Okay.

11 MOLLY HARTMAN: You know, I just want to
12 reiterate again that we share the goal that Council
13 has in increasing the amount of food that businesses
14 divert from landfill or posting or donating, and we
15 agree that we need to more creative strategies as
16 city overall to encourage businesses to participated
17 in those programs. We would like to-we are doing
18 extensive outreach to businesses. We want to
19 increase that program, and increase organic diversion
20 and donation in a systematic and strategic way in-
21 among business that will be able to do it.

22 COUNCIL MEMBER REYNOSO: So what is
23 there: So let's talk about that. How is that going?
24 How are businesses doing with compliance regarding-
25 not compliance, right, voluntarily entering into a

2 program for organics is—for—for food waste or not
3 food waste. I'm sorry. I keep—I'm sorry, I have my—
4 recycling organic waste. There you go, for the
5 recycling of organic waste. How good are businesses
6 doing on that—on that front?

7 MOLLY HARTMAN: I don't have the numbers
8 in front of me.

9 COUNCIL MEMBER REYNOSO: But would you
10 agree that they're extremely low?

11 MOLLY HARTMAN: I—I don't have the answer
12 to that question, but we can talk with my colleagues
13 with Sanitation then.

14 COUNCIL MEMBER REYNOSO: Okay, yes,
15 please talk to the department. I'm—I'm the Chair of
16 the Sanitation Committee and I can tell you it is
17 extremely low, almost to non-existent when it comes
18 to compliance, and not—and it's not compliance
19 because it's a voluntary program. So I guess what
20 I'm doing here anything would be a jump. We could go
21 up 50% by getting two new businesses entering into
22 the Organics Program. So, I just want to let you
23 know that, but I guess I know what you guys are
24 doing. I know you care deeply. No one here
25 disagrees with—I think we're on the same page as to

2 policy goals. I guess what I'm asking is the two
3 biggest issues I have is we're not talking about
4 egregious actors. We're waiting to sit down to talk
5 about what curable violations look like. In those
6 two cases if those things aren't taken care of, what
7 other objections would the Administration have to my
8 bill, which the organic recycling?

9 DEPUTY COMMISSIONER BAGGA: So, I think
10 in addition to what my colleagues have shared, and I
11 don't know if you have anything you wanted to add. I
12 think our concern remains. So, to-to be clear and--
13 and I want to reiterate I think the administration
14 very much shares these public policy goals. I think
15 we can all agree that more food should be donated,
16 you know, restrooms should be accessible provided a
17 business owner wants to make them accessible, et
18 cetera. I think what we are concerned about is the
19 approach, and the way in which these bills--the type
20 of structure that the bills would establish both for
21 city agencies as well as for independent businesses,
22 and being that we do this work day in and day out,
23 the Department of Sanitation, the Department of
24 Health, DCA, what we see in terms of our enforcement
25 is that the easier you can make a process for a

2 business, the more likely it is that they are going
3 to work with you. So, as you mentioned in your
4 opening remarks, very recently you and I worked very
5 closely together to help a grocery store in your
6 neighborhood cure their violation. That process for
7 them was very straightforward. They got a one-page
8 letter. The letter simply stated that if you agree
9 that this violation has occurred, sign it at the
10 bottom return it to us. You self-certify that the
11 violation will be cured in 30 days, and the fine will
12 go away. We believe that type of approach, which
13 really is very, very easy for a business owner to-to-
14 to be involve with, is one that would ultimately
15 enable business owners to be in a position where they
16 feel that the city is, in fact, willing to work with
17 them when it comes to what we might consider to be
18 "low level offenses." And as I mentioned, we have
19 DCA, and I don't want to speak for my sister
20 agencies, but DICA has a list of approximately 20,
21 which we feel we would very much be eager to work
22 with you and including an expanded cure law. The
23 approach, however, just returning to-to what the bill
24 would require, in terms of the administrative burden
25 that would be placed both on agencies as well as the

2 business, again acknowledging that a business is
3 choosing to participate, we're just not sure that
4 the—a business would be sufficiently incentivized to
5 participate. Our concern is that a very, very
6 business—busy business owner may say well, if the
7 fine is, in fact \$100 or \$250 or in Sanitation's case
8 I think their fines are actually lower than ours in—
9 in many instances, I would much rather pay the fine
10 than I would go through the administrative process of
11 entering into regulatory—entering it with the city
12 and then determining what are the different ways I
13 can comply with that agreement? While that is I
14 think a—a, you know, a worthy goal and, of course, we
15 want to incentivize people participating more
16 robustly in civic life, and contributing to their
17 communities. We're just not sure that this approach
18 will actually result in that. So, we—we are eager to
19 work with you on figuring out other—other ideas.

20 COUNCIL MEMBER REYNOSO: So,
21 Commissioner, so Commissioner, how about—so—so if we
22 were to remove some of those barriers, and that
23 letter that you gave that grocery store owner let's
24 say has the (a) is what you're guilty of that's non-
25 curable, (b) what you're—what we're presuming you're

2 guilty of, and that you're going to accept
3 responsibility for, but it is curable, and then a (c)
4 version, which is, these items are not—these items
5 are not curable. You have to pay the fine, and this
6 is at different levels right. This will be a third
7 level. You—this you can, you know, give away so many
8 potatoes or food or recycle organically, we can do
9 that, and you can lose another \$500 off that—that—
10 your violations. I like—and—and so it's simpler,
11 right? It's in the beginning of the process and you
12 don't need to go through all the—you don't need to
13 get through a regulatory agreement. It's just you got
14 A, B or C. This is how much money you saved on
15 every—either of these options, and within that are a
16 lot of these incentives and goals. And if you're
17 repeat violation offender, you won't—your letter will
18 be modified so that it won't even include C because
19 they can't cure any of those violations because
20 they're multiple violations. So I guess should we go
21 through a process by which we could modify going
22 through a regular curable (sic) agreement, being
23 guilty or saying you're guilty and with OATH, and
24 just going through that process, which I think it is
25 onerous for the city that you might be able to come

2 back to the table and say we could have a discussion
3 about that.

4 DEPUTY COMMISSIONER BAGGA: Yeah, I
5 think—I think we're very much in support of easing
6 regulatory burdens on small businesses. I'm going to
7 suspend my response to you for just a moment to say
8 Council Member Barron recordkeeping is not included
9 in your bill, and we find this did.

10 COUNCIL MEMBER REYNOSO: [interposing]
11 Council Member Barron, I think they really-

12 DEPUTY COMMISSIONER BAGGA: I was just
13 correcting the record. I was correcting my own
14 record before you have to leave about recordkeeping
15 in your bill. That's all. Thank you. But just to
16 return to—to your question, Council Member, you know,
17 again, we're—we're very, very supportive of ease-
18 making burdens on small businesses easier. You know,
19 we—we want to make sure that people have as many
20 tools as possible in their toolbox to be able to go
21 about and thrive. I think one of the challenges
22 with—for example the approach that you laid out just
23 now is that if, in fact, we want to incentivize
24 something like food donation--excuse me—the city, it
25 would then behoove the city to identify some way to

2 ensure that the business owner is, in fact,
3 complying, And so absent some sort of regulatory
4 agreement and further compliance check, we would have
5 no way of knowing whether or not the business owner
6 has, in fact, done what they said they would do, and
7 I think that that is notable in its difference from a
8 self-certification for example for a signage
9 violation because we as a city, the Council and the
10 Administration together in the case of the Cure Law
11 have decided that certain types of offenses are, in
12 fact "lower level offenses" and do not necessarily
13 present serious consumer harm, and/or worker harm.
14 And we are making the decision collectively that we
15 are comfortable with the self-certification. I think
16 we would all be worried were we to find ourselves in
17 a position where businesses were saying well, we're
18 going to donate 50 pounds of food, but there is no
19 structure by which we could actually have oversight
20 over that. So I think the oversight is necessary,
21 but given how complex, how expensive that structure
22 would be, and given that the fine amounts don't tend
23 to be very high, particularly in the sanitation
24 context, and my colleagues can correct me if I'm
25 wrong. We are concerned that—that the structure

2 doesn't create enough of an incentive. So we would
3 seek to work with you to identify alternate
4 approaches on--on achieving some of your public policy
5 goals.

6 COUNCIL MEMBER REYNOSO: Okay, so just
7 two more statements, and I'll be done. There's a
8 statement I just make sure that Intro No. 518 we're
9 talking about civil penalties being waived for
10 housing maintenance code violations where an owner
11 made a good faith effort to correct such violations
12 is something that I'm adamantly against. And two,
13 Commissioner Bagga just said that he thinks we should
14 increase fines to make them so--so onerous that they
15 would be incentivized [laughter] to do food
16 reduction, and so

17 DEPUTY COMMISSIONER BAGGA: [interposing]
18 You know, I'm not sure I said that. I'm not sure I
19 said that, Council Member.

20 COUNCIL MEMBER REYNOSO: That's what I
21 heard. That's what I hear. No, but that is a joke.
22 On the record, that is a joke. The Commissioner did
23 not say that, but I do want to say that--

24

25

2 DEPUTY COMMISSIONER BAGGA: [interposing]

3 And I'm going to go back to my agency and lose my
4 job.

5 COUNCIL MEMBER REYNOSO: Exactly.

6 [laughter] But I do want to say--

7 DEPUTY COMMISSIONER BAGGA: [interposing]

8 Also a joke.

9 COUNCIL MEMBER REYNOSO: --to the people
10 and to the people sitting on this panel are people
11 that I respect and that have actually done great work
12 when it comes to a lot of these policy issues that
13 we're trying think creatively about how to push
14 forward. So I thank you guys for your time and your
15 job, and the work that you do, and Commissioner, I
16 mean Chairman. You're not a commissioner yet, right,
17 Chairman [laughter] thank you for this great topic.
18 Thank you very much.

19 CHAIRPERSON CORNEGY: Thank you, Council
20 Member. So I just have a couple of questions before
21 we move to the next panel. I want to thank you for
22 your patience and for answering that--that--that--that
23 first round of questions in the way that you did. I
24 want to know if you can tell me how much money is
25

2 owed to the city by small business for unpaid civil
3 penalties?

4 DEPUTY COMMISSIONER BAGGA: I would not
5 have access to that information right at this moment,
6 but I can work with the sister agencies and get that
7 to you. They're un—they're unpaid.

8 CHAIRPERSON CORNEGY: [interposing] That,
9 well, that would be interesting for context purposes
10 as these laws go forward, what—what would we be
11 missing and what are we missing outstanding fines? I
12 think in—in other instances, we found that civil
13 penalties were so—the people just weren't really
14 paying attention to them, and it made good sense to
15 go in direct—you know, in a different direction.

16 DEPUTY COMMISSIONER BAGGA: Uh-huh.

17 CHAIRPERSON CORNEGY: So I just—I would
18 be interested if this was the same case.

19 DEPUTY COMMISSIONER BAGGA: Right. If I
20 may, one thing I can say is I do know that the
21 majority of fines that we assessed are, in fact, we
22 do collect on them. I don't have the exact
23 percentage in front of me, but it is the majority.

24 CHAIRPERSON CORNEGY: So how many
25 violations are issued annually by the Department of

2 HPD, and upon building owners? So I know that--that
3 you may not have that number, but if you do I'd
4 really like to know what it is.

5 ANNE MARIE SANTIAGO: Hi, good afternoon
6 again. This fiscal year thus far we've issued
7 345,000 violations.

8 CHAIRPERSON CORNEGY: I'm sorry, 345,000?

9 ANNE MARIE SANTIAGO: That's correct

10 CHAIRPERSON CORNEGY: And, so,
11 Commissioner you said generally you do collect on
12 those fines. Do you know what the percentage of--

13 ANNE MARIE SANTIAGO: So again, HPD
14 violations do not result in immediate fines. So the
15 owner has a period to correct, and then we actually
16 have to go to Housing Court to seek penalties. So
17 there is usually not that kind of collection.

18 DEPUTY COMMISSIONER BAGGA: And--and just
19 to be clear, I was referring only to fines assessed
20 by DCA, and my colleague has just informed me that
21 it's upwards of 80% that we collect on.

22 CHAIRPERSON CORNEGY: Collect upon?

23 DEPUTY COMMISSIONER BAGGA: Uh-huh.

24 CHAIRPERSON CORNEGY: In the cal--in the
25 calendar that it was issued?

2 DEPUTY COMMISSIONER BAGGA: Yes.

3 CHAIRPERSON CORNEGY: Okay, that's—that's

4 all the questions I have for now. I want to thank

5 you again for—for being patient. Thank you.

6 [background comments] So I'd like to call the second

7 panel. Thank you so much. I'd like to call the

8 second panel Michael Grinthal, Ellen Davidson and I

9 think that's Sam—Sam Shagraw (sp?). [background

10 comments, pause] Was that all the Administration

11 staff? [background comments] Wow. Let the record

12 show I know how to—I know how to clear a room.

13 [background comments, pause] So if you—it you could

14 come up to be sworn in at this time, please. Thank

15 you.

16 LEGAL COUNSEL: Hands are already raised.

17 Do you affirm to tell the truth, the whole truth, and

18 nothing but the truth in your testimony today, and to

19 answer Council Member questions honestly?

20 PANEL MEMBER: I do.

21 LEGAL COUNSEL: Thank you.

22 CHAIRPERSON CORNEGY: If you can just

23 start by stating your name and your—and your role or

24 your position.

25

2 MIKE GRINTHAL: Sure. My name is Mike
3 Grinthal. I'm the Supervising Attorney at MFY Legal
4 Services. Good afternoon and thanks for this
5 opportunity to testify. I wanted to speak this
6 afternoon on Intros 1507 and 1504. 1507 would allow a
7 landlord to request a compliance consultation from
8 the Department of Housing, Preservation and
9 Development to identify potential code violations,
10 and correct them within 60 days in exchanged for
11 which HPD would waive all liability for civil
12 penalties during that 60-day period. MFY Legal
13 Services is a non-profit legal services provider. We
14 provide free legal services to thousands of tenants
15 every year. We understand that the purpose of this
16 bill is to encourage landlords to proactively
17 identify and correct conditions in their buildings,
18 and we support that goal in principle, but we do have
19 deep reservations about this particular bill. First,
20 we are troubled by the bill—that the bill as current
21 written would allow landlords to request compliance
22 consultations and—and get a waiver of civil penalties
23 for violations that have already been placed. A
24 landlord that has already received notices of
25 violation would presumably have no need to have a

2 compliance consultation to-to-to point out to them
3 the existence of violations that have already-they've
4 already provided notice of, and it seems more like a
5 way for a landlord to have a-use a get out of jail
6 free card when they've had a violation placed
7 especially considering that most violations that are
8 placed are placed because of tenant complaints. So
9 these are violations that are already visible and
10 identifiable by tenants. It doesn't seem that that
11 kind of violation would be the type of violation that
12 a landlord would really need an expert opinion to re-
13 to-to confirm the existence of. Second, the bill
14 currently would allow HPD to designate any violation
15 as eligible for the compliance consultation. That
16 would include hazardous Class B violations, and
17 immediately hazardous Class C violations, which
18 include things like no heat, no hot water,
19 electricity outage, cascading water leaks, collapsed
20 ceilings. No tenant should ever have the experience
21 of calling 311 to report a violation like that and
22 being told that the landlord has 60 days to correct
23 it. That's needlessly dangerous and again it would
24 apply to violations that presumably no landlord
25 should have to have a-a consultation in order to be

2 told that these are things that need to be fixed.
3 Nor should all non-hazardous violations be eligible
4 and the bill, as currently drafted, would
5 automatically make all non-hazardous Class A
6 violations eligible. Again, landlords don't need to
7 be told that peeling paint, cracked plaster, missing
8 apartment numbers, blown light bulbs are things that
9 need to be repaired. The—the bill, if it passes, if
10 it is going—if there is going to be a—a program like
11 this then the bill should give more guidance to the
12 department to—to direct them to target only
13 violations that are either bureaucratic in nature or
14 clerical, the kinds of things that landlords might be
15 reasonably expected not to realize were in place, and
16 that could be--

17 CHAIRPERSON CORNEGY: [interposing] I'm
18 sorry, what term did you use, bureaucratic amnesia?

19 FEMALE SPEAKER: [off mic] In nature.

20 CHAIRPERSON CORNEGY: [bell] Oh, I'm
21 sorry. She—she clarified it for me. Thank you.

22 MIKE GRINTHAL: Okay. [laughs]

23 CHAIRPERSON CORNEGY: I thought you said
24 bureaucratic amnesia. I didn't--

25 MIKE GRINTHAL: Clerical—oh, in nature.

2 CHAIRPERSON CORNEGY: Oh, thank you.

3 MIKE GRINTHAL: And major-landlords would
4 need a different agency to help with that I think.
5 So again, just to wrap up quickly, the-the bill
6 currently puts a limit on post-notice of violation,
7 compliance consultations. They say they can only
8 have them every five years. That limit should apply
9 to any kind of compliance consultation. A landlord
10 shouldn't be able to get a consultation, get 60 free
11 days, request a new one at the end of 60 days and so
12 on ad infinitum and basically create a walled zone.
13 Finally, we wanted to say briefly about Intro 1504,
14 which would allow landlords the mitigation of civil
15 penalties if they correct them with energy approved-
16 efficient improvements. We agree with that again in
17 goal and principle. We think it's very important
18 that the bill as written exempts-prohibits landlords
19 from using any of those improvements as a basis for a
20 rent increase. We would suggest a further amendment
21 so that the-so that they also can't be used as a
22 basis to deregulate an apartment as part of a
23 substantial rehabilitation. Thanks.

24

25

2 CHAIRPERSON CORNEGY: So the only thing
3 I'd ask from you, Mr. Grinthal, if you could submit
4 your recommendations in writing.

5 MIKE GRINTHAL: Yes.

6 CHAIRPERSON CORNEGY: I would greatly
7 appreciate that.

8 MIKE GRINTHAL: I did, but thank you.

9 CHAIRPERSON CORNEGY: Alright, so the
10 testimony—it's in the testimony? Okay. [background
11 comments]

12 ELLEN DAVIDSON: Good afternoon. My name
13 is Ellen Davidson. I'm a staff attorney at the Legal
14 Aid Society and I think this may be my first time
15 appearing before this committee probably because most
16 of my testimony is about residential real estate, you
17 know, tenant issues, and in general, that is the big
18 business of New York City residential multi-family
19 housing. We don't come across a lot of small
20 businesses, and I will note that unlike a lot of the
21 bills I think that were before the committee, the
22 bills this time dealing with multi-family residents
23 don't limit other—the—the program that they would
24 create two small landlords and so, you know,
25 landlords with hundreds—with—with tens of thousands—I

2 guess it's thousands of units of housing would have
3 the same opportunity, and as in most things when you
4 have a big business versus a small business, chances
5 are HPD would pay more attention to the big business
6 than the small business. So if the intention is to
7 help small businesses, this bill doesn't do that. But
8 in general, I will tell you that in my experience
9 representing tenants and my colleagues' experience
10 representing tenants, the problem with civil
11 penalties is not that there are too many that are
12 collected from landlords, it's that most of the times
13 when the conditions have gotten really terrible for
14 tenants, and the case has gotten into court with a
15 comprehensive case from HPD because remember it's not
16 an automatic thing. It has to go through a court
17 process. In order to get the landlord to make the
18 repairs so that tenants can live in safe and
19 habitable apartments, what we experience is that the
20 department is willing to waive all civil penalties.
21 I'm not talking about civil penalties because
22 there's, you know, the—the tenant a paint job for ten
23 years, which is usual in which landlords don't get
24 penalized for, and I'm not talking about failing to
25 post some notices, which landlords are given 90 days

2 to fix, and I would assume even a good landlord
3 doesn't need 90 days and a consultation in order to
4 figure out how to do that. But even in the most
5 serious of conditions where landlords have failed to
6 provide heat, whether they're cascading leaks. But
7 when their cases get in front of the Housing Court,
8 and the fight is over whether or not these violations
9 will be correct, in order to ensure that the
10 violations are corrected, HPD basically agrees to
11 waive all fines. So, I—I understand that people
12 don't like the fact that there could be civil
13 penalties out there, but indeed it's not actually
14 something that most landlords will ever face. And,
15 you know, as—as I said, we mainly see lawlessness
16 when it comes to Housing Code violations and
17 correcting of them. [bell] And I guess lastly I
18 would say that in a time in which we have a code
19 enforcement agency where 76% of their fines come from
20 federal funding in a program that the Trump
21 Administration has suggested zeroing out, I don't
22 think creating a new program that would have no
23 federal funds, and I assume no city funds makes the
24 most sense at this time. So I appreciate the
25 opportunity to testify. Thank you very much.

2 CHAIRPERSON CORNEGY: [off mic] Thank
3 you, Ms. Davidson.

4 SAM CHIERA: Hello. My name is Sam
5 Chiera I'm from Brooklyn Legal Services Corporation
6 A. I'm—I'm an attorney in the Group Representation
7 Unit. We represent low-income tenant association in
8 Williamsburg, Bushwick, Greenpoint, parts of Bed-Stuy
9 and East New York, and I hope that my testimony isn't
10 too duplicative today, but as, you know, I'm—I'm sure
11 you hear from my colleagues, we're all somewhat
12 united in opposition to waiving civil penalties in
13 regards to HPD and the violations of the Housing and
14 Maintenance Code. As someone who regularly goes
15 after landlords for violations of the Housing
16 Maintenance Code in Court, I can tell you that fines
17 for non-hazardous violations are very difficult to
18 get-get. As my colleague was saying, often once you
19 go into court, if the landlord makes a good faith
20 effort to make the repairs, all the fines are waived
21 or are reduced to such a small amount that there
22 utterly negligible. The-the-as-as HPD pointed out
23 earlier, this is not the same as getting like a
24 ticket on your car--you--for a parking violation.
25 These fines all come with a grace period built in up

2 to 90 days for these violations, and then even if the
3 landlord doesn't act within that time, either the
4 tenants or HPD have got go and bring a lawsuit, drag
5 the--the landlord into court in order to begin the
6 fairly arduous process of--of attempting to collect on
7 these fines. HPD violations are--are generally
8 eligible to be cured landlords' self-certification,
9 and even after--and I would invite you guys to take a
10 look at--at--at a report that Scott Stringer the,
11 Comptroller, wrote last year regarding HPD violations
12 that--that have been--that have--HPD has gone into court
13 to have these violations places, has gotten an award
14 and these violations still go uncollected. There's
15 just a tremendous amount out there. Landlords don't
16 take them particular seriously. As it is right now,
17 I think that we would be going completely the wrong
18 direction to ease up on these violations. I would
19 also like to comment on 518, which allows for fines
20 to be waived when there's been a good faith effort
21 for repair shown. That's already a defense to an HBT
22 or to HP case. Landlords can already show that in
23 court. Again, I would--I would also like to--to
24 reiterate my colleagues' concern regarding limitation
25 on small business. We don't see how this this would

2 be limited to--to collections of fines for--for small
3 businesses his seems to be [bell] open to landlords
4 across the city, and something that it--there are
5 limitations that could--could be placed on this if
6 this should be passed. Thank you.

7 CHAIRPERSON CORNEGY: Thank you. So I--I
8 didn't have any questions, but my colleague Helen
9 Rosenthal has a question.

10 COUNCIL MEMBER ROSENTHAL: Thank you.
11 Thank you, Chair, and thank you for holding this
12 hearing. I hear your concerns but I also see what,
13 you know, what we're trying to achieve here--

14 MIKE GRINTHAL: [interposing] Sure.

15 MEMBER ROSENTHAL: --to lighten the
16 burden on the small businesses. Do you have
17 recommendations on each--in your mind's eye--

18 MIKE GRINTHAL: Sure--

19 COUNCIL MEMBER ROSENTHAL: --are there
20 ways to fix the--any of these, all of these so that
21 they would not have the unintended consequences that
22 I agree with you--

23 MIKE GRINTHAL: Sure.

24 COUNCIL MEMBER ROSENTHAL: --they may
25 very well have.

2 MIKE GRINTHAL: So-so-

3 COUNCIL MEMBER ROSENTHAL: [interposing]

4 And that's for everyone on the panel.

5 MIKE GRINTHAL: I-I'm not sure these thins
6 need to be fixed. Quite frankly, as I-as I said, I'm
7 not sure whether you caught the very beginning of my
8 testimony, but I-I think it's very difficult to get
9 fines imposed on-on landlords for non-hazardous
10 violations. Either the tenants have to drag the
11 landlord into court, or the city is going to have to
12 initiative a court case, and the just won't do that
13 for non-hazardous, non-immediately hazardous fines.
14 That said, I do think that this could be limited. If
15 this should pass, I think this could be limited to-to
16 maybe non-stabilized housing, housing of-of-of five
17 units or less. I think it could be limited to
18 certain types of corporations. And I-I-I-I don't
19 think this is something that's intended to benefit
20 like the-the Cromans of the city as well as the mom
21 and pops.

22 COUNCIL MEMBER ROSENTHAL: [off mic]

23 Sure, we're having [on mic] unintended consequences.

24 ELLEN DAVIDSON: Yeah, I guess I would
25 say that I think HPD has an immense amount of

2 programs that are available for small landlords that
3 actually do what this bill intended to encourage them
4 to do. It feels duplicative. There are an immense
5 amount of programs that if you are a small landlord,
6 I think they'll probably do it with a big landlord,
7 but they specifically target small landlords where
8 they will go through the building and talk about ways
9 to make the building—bring the building up to code.
10 They have loans even where they will loan the
11 landlord money in order to help them if they are not
12 getting enough. If—if the building's financial
13 situation isn't secure enough, they will work with
14 the building to get that to be sustainable, and then
15 work on physical sustainability as well. So, it may
16 be that there is not enough—there's not enough
17 information out there although I know they go out as
18 much as possible into neighborhoods to make sure
19 landlords know about these programs. But more
20 publicity about the programs that they do have, but
21 considering, as I said that they do more than
22 consultation in their current programs, which is they
23 will find ways of helping landlords fund the major
24 capital needs they have. That that seems to me to be
25 a superior program than what's in here, which is just

2 a waiving of fines, which again I don't think small
3 businesses actually face. I'd be curious to hear
4 whether HPD was able to get you that information of,
5 you know, breaking down not only what civil penalties
6 they collect, but breaking it down into large and
7 small businesses, and—and what—what class of
8 violation. Because I suspect the answer is that they
9 do not collect on A violations ever, the—the non-
10 hazardous.

11 COUNCIL MEMBER ROSENTHAL: And when you
12 say not collect like in a way they could—I'm just
13 thinking about the OATH data and the Department of
14 Finance data, and I'm thinking about how in our small
15 business, you know, we're doing a lot to try to help
16 small businesses, and I guess I should have processed
17 by saying this: Council Member Cornegy is the
18 leader. I mean it's great he has this committee and
19 I don't know if you're doing it because you have the
20 committee or you just are smart on this stuff, but he
21 is the leader in trying to wrestle the unbelievable
22 horrible situation we're in with the loss of small
23 businesses. I mean on the Upper West Side they're
24 dropping like flies—

25 CHAIRPERSON CORNEGY: Uh-huh.

2 COUNCIL MEMBER ROSENTHAL: --and I think
3 fundamentally, you know, the question is are we ever
4 going to get commercial rent regulation, and the
5 answer is probably no, but that fundamentally this is
6 an issue that has to do with the rights of ownership,
7 right? But, what I see Council Member Cornegy doing
8 I'm trying to do it a little bit as well, not as much
9 as he is, it's like so we have to get at this from
10 multiple different ways to make the life of a small
11 business person easier. I've got a bill that says
12 let's just--let's just not give the burden of the
13 commercial rent tax on the ones in Manhattan, you
14 know. We're all trying to get at this from multiple
15 different ways, and I guess I'm just trying to
16 understand, you know, there are a lot of pieces of
17 legislation in here and, you know, what you support,
18 what you think could be made better. How can we get
19 at supporting our small businesses? Is it an
20 education program so--

21 ELLEN DAVIDSON: [interposing] Right.

22 COUNCIL MEMBER ROSENTHAL: --I should
23 have set the stage with that.

24 ELLEN DAVIDSON: Right, so, you know as I
25 read the bills that have to do with HPD, they are not

2 targeted at small businesses. They just aren't.
3 They are targeted—the other bills that I understand,
4 which we take no position on, and there are—I'm
5 talking—we're talking about like three or four bills.
6 There were ten on the—on the—at the hearing this
7 afternoon. All of—all the other bills see it as far
8 as I could tell from listening to the administration
9 and listening to the council members are all about
10 small businesses and providing relief to small
11 businesses. We don't—we just don't have a position
12 on them, but the—specifically the ones having to do
13 with the civil penalty relief to landlords is just—
14 it's not a small business bill, and what makes it
15 tricky is that unlike the small business civil
16 penalties, which you can get data from OATH and
17 probably do the analysis, but you—the civil penalties
18 don't go through OATH for correcting violations. HPD
19 has to take the landlords to court, and has to either
20 have the landlord agree to them or have a judge
21 decide. So you're—collecting that data is
22 completely—HPD will have to collect that data for
23 you, and hopefully they'll have some data about
24 whether they're going after large businesses or small
25 businesses. I will say, you know, when you look at,

2 you know, Ved Parkash, for example, who's on the top
3 of the Public Advocate's worst landlord list, he
4 would describe himself as a small business owner—

5 MIKE GRINTHAL: Right.

6 ELLEN DAVIDSON: --because he owns a
7 bunch of small buildings, which is how they define
8 small businesses, and they're all separate LLCs.

9 MIKE GRINTHAL: Correct.

10 ELLEN DAVIDSON: So he other—the other
11 complicating thing about designating what's a small
12 business and not a small business when you're talking
13 about multi-family real estate is that you might have
14 a landlord that owns, you know, that—that has an
15 immense amount of units of housing, but because they
16 own some buildings that are ten units and small as a
17 separate LLC, they would be designated, I assume as a
18 small landlord. And do it maybe that every landlords
19 in this city is a small landlords under that
20 definition. So that complicates, and again there was
21 no attempt here to—to try to narrow it, but how do
22 you—how do you deal with the LLC problem, right,
23 where you have—you may have a landlord that owns 100
24 buildings, and each one is a separate LLC and each
25 building is a small building. So, as—and as I said,

2 and as we talked about and HPD said that since the
3 only--it's--the only way to even get a fine is to go in
4 front of a judge in Housing Court and--and--and win a--
5 win a lawsuit where the landlords has an immense, you
6 know, built into the law is what's in, what is it,
7 15-1518. Built into the law is the same --

8 MIKE GRINTHAL: Yes, correct.

9 ELLEN DAVIDSON: --defenses that are in
10 this Intro 1518 that allow a landlord to have defense
11 of good faith efforts.

12 MIKE GRINTHAL: Correct.

13 ELLEN DAVIDSON: That's actually
14 currently in the law, and landlords can go in front
15 of the judges and do and say well I wasn't able to
16 get access or I couldn't the building permit, or I
17 couldn't get the--actually it's--it's a more extensive--
18 the current law has a more extensive list of defenses
19 a landlord could raise in front of a judge when HPD
20 is seeking civil penalties, and I guess lastly, it
21 has been my long experience, and my experience with
22 my colleagues both here and at the Legal Aid Society
23 that it is very rare for landlords to even at the end
24 of a case face civil penalties or face the penalties
25 that, you know-- There's--there's a lot of voluntary

2 waiver that happens with HPD currently because their
3 target is getting the repairs done, and they will
4 waive pretty much anything if they think they're not
5 going to get—end up with a situation with a tenant
6 being a safe apartment.

7 CHAIRPERSON CORNEGY: Okay.

8 COUNCIL MEMBER ROSENTHAL: I always have
9 something add because the Council Member has been so
10 patient.

11 MIKE GRINTHAL: Well, I think in my
12 written testimony I do suggest some concrete changes
13 to 1507 that would make it more specifically targeted
14 and—and hopefully and not impose as much of a burden
15 on tenants. I think it—I think it's been well said
16 by my colleagues. I'll just add that in—in
17 residential buildings most violations are placed
18 because tenants have made complaints, and it's very
19 different from a situation where say, you know, a
20 store or a restaurant is mostly—there's mostly an
21 adversarial relationship between the government and
22 the small business owner, and the, you know, most
23 custom—most small business customers don't make
24 complaints. I could be wrong about that, but in
25 residential buildings there's a—the key relationship

2 is between the landlord and the tenant, and the
3 tenant is the one who is really on the, you know, on
4 the losing end of that power dynamic, and so, you
5 know, the relationship between the landlord and the
6 enforcement agency is not the only relationship to
7 consider there. It's not just HPD crushing landlords
8 with red tape. There are people living there, and
9 they are facing very real violations, most of which
10 are never placed. Those of which are—that are placed
11 very, very few are ever litigated or enforced in any
12 way, and of those, only a tiny percentage ever are—
13 are charged civil penalties.

14 COUNCIL MEMBER ROSENTHAL: Well, I thank
15 you.

16 CHAIRPERSON CORNEGY: Thank you.

17 MIKE GRINTHAL: Thank you so much.

18 CHAIRPERSON CORNEGY: I'll call the next
19 panel. [coughs] Jessica Reed, Benjamin Dulchin, and
20 oh, Assistance Chief Thomas McKavanaugh. I thin he
21 had to leave. [background comments]

22 LEGAL COUNSEL: Do you affirm to tell the
23 truth, the whole truth, and nothing but the truth in
24 your testimony today, and to answer Council Member
25 questions honestly?

2 PANEL MEMBER: [off mic] I do.

3 LEGAL COUNSEL: Thank you.

4 [pause][banging door, [background comments]

5 LENA AFRIDI: Good afternoon. I'm here
6 for Benjamin Dulchin from ANHD, the Association for
7 neighborhood and Housing Development. My name is
8 Lena Afridi. We're here to say that ANHD is opposed
9 to the ten bills in the Committee on Small Business.
10 They have potential to give housing and commercial
11 landlords a pass on civil penalties and fines. New
12 Yorkers across the city have been facing a
13 displacement crisis due to rising rents and landlord
14 harassment, and one of the most common tools of
15 displacement is disinvestment and neglect. Landlords
16 who want to clear out a building often know that the
17 one way to do it is let the building fall into
18 disrepair as the fines they might face are modest
19 compared to the value of just one vacant unit,
20 commercial or residential. Each of these bills
21 provides new tools that could allow landlord who fail
22 to properly maintain or run their buildings to escape
23 accountability. Together, they weaken the interest
24 of tenants, both residential and commercial in place
25 of the interests of negligent landlords. ANHD is

2 concerned about an opening created by these bills
3 could have a negative impact on commercial tenants
4 across New York City as well. ANHD is committed to
5 strengthening the needs of communities citywide and
6 see small business as integral to the fabric to New
7 York's neighborhoods. ANHD convenes United for Small
8 Business NYC, a coalition that includes community
9 groups—community organizations from across New York
10 City to protect New York's small businesses and non-
11 residential tenants from threats of displacement with
12 a particular focus on owner operated low-income
13 minority and immigrant run businesses that serve low-
14 income immigrant and minority communities. USBNYC
15 knows that commercial tenants in low-income
16 neighborhoods and communities of color often face the
17 same displacement pressures as residential tenants,
18 and are impacted by the same dangerous behavior of
19 unscrupulous landlords looking to flip units for a
20 profit. Additionally, small business tenants are
21 often the same residential tenants who will face the
22 brunt of the impacts of this legislation. As
23 advocates for our communities, we have and continue
24 to fight for all residential and small business
25 tenants rights to safe, decent and affordable places

2 to thrive and operate. This package of legislation
3 undermines many years of work that has been done to
4 prevent dangerous and unlawful behavior by landlords,
5 strengthen tenants' rights, protect our local small
6 businesses, expand the city's code enforcement, and
7 ensure worker safety and consumer rights. We are
8 looking forward to working with Council to craft
9 legislation that is truly beneficial for small
10 businesses or protecting both residential and
11 commercial tenants. Thank you.

12 JESSICA REED: [off mic] Hello. My name
13 is Jessica Reed, and I'm staff attorney in the
14 Housing Unit of—

15 CHAIRPERSON CORNEGY: We can't hear you
16 without the mic.

17 JESSICA REED: [on mic] My name is
18 Jessica Reed, and I'm a staff attorney in the Housing
19 Unit of Brooklyn Legal Services. I speak on behalf
20 of Legal Services NYC, the National Organization of
21 Legal Service Workers and Local 2320 of the UAW.
22 Thank you for the opportunity to give testimony
23 before the New York City Committee on Small Business,
24 and thank you to the City Council for holding this
25 hearing pertaining to Intros 1499, 1504, 1507 and

2 1518. We strongly oppose these bills, each of which
3 would deleteriously affect HPD's Code Enforcement in
4 multiple dwellings. These bills create opportunities
5 for landlords to avoid paying overdue fines and to
6 have new fines waived. They unfairly benefit non-
7 compliant landlords, and undermine code enforcement
8 while tenants struggle to live with conditions that
9 are hazardous to their health and safety.

10 Unfortunately, the current process that tenants must
11 endure to demand repairs already failed to motivate
12 their landlords. Tenants need stricter enforcement,
13 and stronger deterrents not additional means for
14 their landlords to evade civil penalties. In our
15 experience representing tenants, many of whom have
16 lived in unsafe and unhealthy apartments for years on
17 end, and have sought repairs for just as long, many
18 landlords ignore the threat or imposition of civil
19 penalties. These tenants struggle with horrifying
20 conditions such as no heat or hot water in the dead
21 of winter, no window panes to keep out the snow and
22 rain and black mold that causes or exacerbates lung
23 disease. New York City's rising rental costs keep
24 tenants tethered to their unsafe homes, and the
25 current threat of penalties is woefully inadequate to

2 motivate most landlords to repair their buildings.
3 With fewer penalties, recalcitrant landlords will be
4 even less inclined to repair their property so that
5 New Yorkers can live in safe and healthy homes.
6 Reducing or entirely removing these penalties
7 incentivizes landlords from beginning much less
8 completing necessary repairs. For too long tenants
9 have struggled to obtain repairs and services through
10 HP actions and calls to 311 only to find the landlord
11 ignore HPD's recording of violations and threat of
12 civil penalties. In this frustrating position,
13 tenants often become discouraged and demoralized
14 resigning themselves to living with conditions that
15 endanger the health of their families. Tenants must
16 appear multiple times in court, missing work each
17 time merely to obtain a judicial order directing the
18 landlord to make repairs. When, as frequently
19 happens, the landlord violates the order, the tenant
20 must then return to court to seek civil penalties.
21 Often the second phase of the case becomes an even
22 longer saga with multiple adjournments at the
23 landlord's request. Even when attorneys advocate for
24 tenants, the delays remain. One tenant that I
25 represented had been pleading with her landlord for

2 three years to exterminate the rats that ran through
3 her basement apartment and ate food from her pantry.
4 In her desperation, she took to killing the rats with
5 a drill as they scurried within her walls. In our
6 experience at the end of this long process, the court
7 often declines to impose penalties and imposes only a
8 minimal sanction no matter how long after the
9 original deadline the repairs are finally completed.
10 The chronic delays and minimal penalties send a clear
11 signal to landlords that they can ignore court orders
12 with impunity, and they send a painful signal to
13 tenants that their concerns are not take seriously.
14 [bell] The only time that I have witnessed a
15 landlord correcting conditions timely occurred when
16 the building was entered into HPD's Alternate
17 Enforcement Program, which threatened thousands of
18 dollars in penalties. Intro 1518 sets forth defenses
19 to the imposition of civil penalties that are already
20 contained in Section 27, 2115(k) (3) of the Housing
21 Maintenance Code. It is unclear what purpose is
22 served is by duplicating these positions, except to
23 further encourage landlords to evade penalties by
24 falsely accusing their tenants of refusing access for
25 the repairs they desperately seek. Intros 1499 and

2 1507 create a system that allows landlords to evade
3 penalties by requesting a consultation. Such bills
4 appear based on the false premise that landlords do
5 not already know without being informed by HPD that
6 leaky ceilings, peeling paint and mold constitute
7 Housing Maintenance Code Violations. Thank you and
8 we look forward to working with the committee to
9 address these serious issues.

10 CHAIRPERSON CORNEGY: Thank you for your
11 testimony. [pause] I'd like to call the last panel.
12 Molly Weston Williamson and Joanna Lane. [pause]
13 Unfortunately, I do not have a prize for the last
14 panel standing, but I do appreciate your patience.
15 [pause]

16 LEGAL COUNSEL: Please raise your right
17 hand. Do you affirm to tell the truth, the whole
18 truth, and nothing but the truth in your testimony
19 today, and to answer Council Member questions
20 honestly?

21 PANEL MEMBERS: [off mic] [in unison] I
22 do.

23 LEGAL COUNSEL: Thank you. [pause]

24 MOLLY WESTON WILLIAMSON: Okay, I
25 apologize. Thank you for the opportunity to submit

2 this testimony. My name is Molly Weston Williams and
3 I'm a staff attorney with a Better Balance, a
4 national legal non-profit that helps working men and
5 women care for themselves and their families without
6 compromising their economic security through policy
7 advocacy, outreach and direct legal services. Our
8 organization was at the forefront of drafting and
9 advocating for the New York City Earned Sick Time
10 Act, and now advises and represents workers
11 particularly low-income workers whose rights under
12 the act have been violated. We testify today because
13 of the potential impact of the bills presented at
14 this hearing on enforcement of the Earned Sick Time
15 Act and other important labor protections. While it
16 is our understanding that the bills considered today
17 are intended to apply only to civil penalties payable
18 to the city, we are concerned that they might be
19 misread to apply to monetary amounts payable to
20 workers or for that matter to consumers or other
21 individuals. For example, the City Administrative
22 Code describes the remedies available to workers
23 under the Earned Sick Time Act as "penalties." To
24 prevent any potential misinterpretation, we strong
25 suggest adding language to each of the bills proposed

2 today including Intro 1499 to affirmatively state
3 that only civil penalties payable to the city agency
4 may be waived through any penalty mitigation program.

5 Intro 1499 charges the heads of various city
6 departments including the Commissioner of the
7 Department of Consumer Affairs with creating a list
8 of such violations for which civil penalties may be

9 waived if the individual receiving such violation
10 participates in a penalty mitigation program. At

11 present, the bill does not specify whether only

12 penalties that are explicitly subject to a penalty
13 mitigation program by statute, such as the one

14 proposed in Intro 1508, may be or should be included
15 in this list or whether or civil penalties may or

16 should be included. We suggest that language be

17 added to clarify this point. In addition, the bill

18 does not currently specify any criteria by which the

19 various commissioner should select civil penalties

20 for inclusions on their respective lists. We suggest

21 adding explicit criteria by which the commissioners

22 could determine which civil penalty is payable to the

23 city or other agencies should be included in their

24 list for submission to the Mayor and the Council.

25 Intro 1508 would create a specific penalty mitigation

2 program for violations related to recordkeeping
3 requirements. At present under the city rules, a
4 violation of the recordkeeping requirements under the
5 Earned Sick Time Act, generates an inference
6 regarding that information contained in such records
7 that can be helpful to workers in enforcing their
8 rights. We suggest adding language to clarify the
9 participation in a penalty mitigation program
10 regarding a recordkeeping violation would have no
11 impact on this or any other similar inference.
12 Finally, the Department of Consumer Affairs has
13 explicit powers under the City Charter to conduct
14 investigations on its own initiative of violations of
15 the Earned Sick Time Act. To ensure that these
16 powers are not inadvertently curtailed, we strongly
17 suggest adding language specifying that nothing in
18 the bill shall prohibit the Department from
19 conducting an investigation on its own initiative
20 based on a violation of a recordkeeping requirement.
21 Thank you and we look forward to working with you to
22 make these improvements. [bell]

23 CHAIRPERSON CORNEGY: Than you so much,
24 and Molly thank you personally for your help on the

2 breast feeding in my office and those types of
3 things. I really appreciate your help in that way.

4 JOANNA LANE: Good afternoon, and thank
5 you for the opportunity to testify today. My name is
6 Joanna Lane and I'm a Tenants Rights Lawyer at
7 Brooklyn Legal Services Corporation A. I am
8 testifying in opposition to Intros No. 14--

9 CHAIRPERSON CORNEGY: [interposing] I'm
10 sorry, Joanna.

11 JOANNA LANE: That's alright.

12 CHAIRPERSON CORNEGY: I have to beg your
13 indulgence. I am going to have to after 3-1/2 hours
14 take a bathroom break.

15 JOANNA LANE: Yes.

16 CHAIRPERSON CORNEGY: Would you just give
17 me 30 seconds.

18 JOANNA LANE: Sure. Absolutely.

19 CHAIRPERSON CORNEGY: Thank you very
20 much.

21 JOANNA LANE: [laughs] [pause] [door
22 slams, background conversation, pause]

23 CHAIRPERSON CORNEGY: Please resume.

24 JOANNA LANE: Thank you and again thank
25 you for the opportunity to testify especially after

2 such a long afternoon. My name is Joanna Lane and
3 I'm a tenants rights lawyer at Brooklyn Legal
4 Services Corporation. I'm testifying in opposition
5 to Intros No. 1499, 1504, 1507 and 1518 as they apply
6 to the Department of Housing, Preservation and
7 Development. As my colleagues have explained,
8 although we do have a crisis for small businesses in
9 New York City, we do not have a crisis for landlords
10 in New York City and that's why we are opposing these
11 bills today. To avoid duplicating my colleagues'
12 testimony, I will—hope to just describe a particular
13 case I've been working on that really illustrates a
14 number of cases in which the civil penalties really
15 just are not enforced against landlords in New York
16 City, and it's really very emblematic of the overall
17 situation. This is a building in Williamsburg full
18 of low-income tenants where they are living in a
19 variety of deplorable conditions. Most notably, they
20 have not had cooking gas for over a year since
21 February of 2016. To date, they have 179 HPD
22 violations, and these violations have often been, you
23 know, outstanding since even the 90s or, you know,
24 many have been at least for several years not
25 enforced upon and in many cases not corrected.

2 Nonetheless, we began working with this building, and
3 we brought an HP action on the tenants' behalf
4 seeking to enforce the violations and most especially
5 get the cooking gas restored. We brought this case
6 back in September, and to date, even with our efforts
7 to try to enforce the violations have remained and
8 the cooking gas is still not restored in the
9 building. HPD also brought a partner case, you know,
10 a case against the building, and also sought an order
11 to correct, and settled with the landlord for a
12 fraction of the violations that they could have
13 potentially collected on in exchange for the
14 landlord's agreement that they would restore the gas
15 by January 9th. The landlord entered into this
16 agreement and yet nonetheless it is now months after
17 January 9th, and they have not corrected the cooking
18 gas violation. So, that's one example, but it really
19 has been the broader experience of myself and others
20 at my organization that civil penalties are placed
21 and not collected, which is a very bad thing for
22 tenants, and it also means that there really just
23 isn't a crisis of landlords facing civil penalties
24 that they're not able to get out from under because
25 the reality is if landlords are even the most

2 slightly compliant or even suggest that they are
3 going to comply, they are in many cases able to get
4 away without paying civil penalties. So thank you
5 again for the opportunity to testify, and I would
6 welcome any questions that you might have.

7 CHAIRPERSON CORNEGY: And I want to thank
8 you for your testimony, and all of the advocates for
9 your testimony. I can assure that myself and Council
10 Member Williams, the Chair of Housing, will be
11 meeting on these bills on behalf of all that we heard
12 today. So thank you again.

13 JOANNA LANE: Thank you.

14 CHAIRPERSON CORNEGY: [pause]

15 [END OF AUDIO]

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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 May 15, 2017