

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

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May 3, 2017  
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HELD AT: Council Chambers - City Hall

B E F O R E: COREY D. JOHNSON  
Chairperson

COUNCIL MEMBERS:

ROSIE MENDEZ  
DANIEL DROMM  
MATHIEU EUGENE  
PETER A. KOO  
JAMES VACCA  
JAMES G. VAN BRAMER  
INEZ D. BARRON  
ROBERT BOOKMAN E CORNEGY, JR.  
RAFAEL L. ESPINAL, JR.

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

Corinne Schiff  
Deputy Commissioner for Environmental Health at  
The New York City Department of Health and Mental  
Hygiene

Robert Bookman  
Council to the New York City Hospitality Alliance  
Council's Appointee to the Food Advisory Board

Andrew Rigie  
Executive Director of the New York City  
Hospitality Alliance

Kevin Dugan  
Regional Director for the New York State  
Restaurant Association

Mathew Shapiro  
Staff Attorney at the Street Vendor Project of  
The Urban Justice Center

Jennifer Pomeranz  
Assistant Professor at New York University's  
College of Global Public Health and Interim Chair  
Of the Department of Public Health, Policy, and  
Management

Tom Merrill  
General Counsel at New York City Department of  
Health

Matt Greller  
NATO, Theatre Association of New York State

Julia McCarthy  
Attorney and Policy Analyst at the Laurie M.  
Tisch Center from Food, Education, and Policy

Melissa Olson  
Director of Nutrition at Community Health Care  
Network

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

Terence Tubridy  
New York City resident, Business Owner

Kim Kessler  
Assistant Commissioner for Chronic Disease  
Prevention and Tobacco Control

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[gavel]

CHAIRPERSON JOHNSON: Good morning

everyone. I'm Council Member Corey Johnson, Chair of the New York City Council's Committee on Health and I welcome you to today's hearing on a package of bills related to restaurants and food safety. All New Yorkers should feel confident that their food is safe when they're going out to eat whether it's at a food truck or a brick and mortar restaurant. It is the city's governments job to enforce proper rules to ensure the safety. However, it is also essential that our regulatory system allows law abiding restaurants to operate without feeling like they're under siege from inspectors. Hard working small business owners should not feel like the city is working against them. that is why the council passed a package of reforms to the restaurant grading system in 2013 and it is why I introduce Introduction 1571 which would build on these reforms. One of the reforms from 2013 created the Food Service Establishment Advisory Board. This board has a majority of its members appointed by the Mayor and includes experts in food safety as well as the restaurant industry representatives. It came up with a series of

1  
2 recommendations last year to improve the fairness of  
3 the restaurant inspection grading system but the  
4 Department of Health and Mental Hygiene has now said  
5 that it will not implement many of these reforms. My  
6 bill would require these reforms to be implemented to  
7 make the system more fair. This bill would ensure  
8 that the city is respecting the outcomes of its own  
9 tribunals. Currently if a restaurant challenges  
10 inspection results in a tribunal the tribunal throws  
11 the alleged violations out as unfounded. DOHMH puts  
12 that restaurant on an accelerated inspection schedule  
13 anyway, they inspect that restaurant more frequently  
14 than other restaurants even though the tribunal said  
15 the violations were invalid, this is unfair and it  
16 undermines the due process rights of restaurant  
17 owners to challenge alleged violations by making them  
18 worse off than other restaurant owners regardless of  
19 the hearing outcome. We are also hearing bills by  
20 Council Member's Koslowitz and Dromm to increase  
21 transparency in the inspection system. Council Member  
22 Koslowitz's bill, Introduction 1456 would bring  
23 letter grades to food carts and Council Member  
24 Dromm's bill, Introduction 1263 would require school  
25 cafeteria health inspection results to be posted

1  
2 online. Food vendors in cafeterias are inspected by  
3 the Department of Health and Mental Hygiene just like  
4 restaurants are and these bills would allow the  
5 public to more easily access these results. Finally,  
6 we are hearing Introduction 1103 by Council Member  
7 Inez Barron, this bill would require diabetes  
8 information signs to be posted in restaurants. Over  
9 29 million Americans suffer from diabetes and  
10 millions more have pre-diabetes, watching your weight  
11 and exercising, I need to do a better job at that,  
12 are the most effective ways to prevent type two  
13 diabetes and we must do everything we can to educate  
14 New Yorkers about how lifestyle effects the risk of  
15 diabetes. I want to thank Council Member's Dromm,  
16 Koslowitz, and Barron on their leadership in  
17 introducing these bills and I look forward to hearing  
18 from the Department of Health and Mental Hygiene,  
19 advocates, and others today. I want to first call on  
20 Council Member Koslowitz to make an opening  
21 statement.

22 COUNCIL MEMBER KOSLOWITZ: Thank you Mr.  
23 Chair. I'm going to make a very short speech. The  
24 bill to letter grade vendors is long overdue and I  
25 think to the health of our city it is important that

1  
2 we letter grade vendors just like we letter grade  
3 restaurants. I think that this bill like I said is  
4 long overdue and should help people decide whether  
5 they want to go to a vendor and have food, we have  
6 people in this city that depend on the vendors for  
7 their lunches sometimes even dinners because they  
8 can't afford to go into a restaurant and I think they  
9 have a right to know the cleanliness of that vendor.  
10 So, I fully support it, a lot of my colleagues  
11 support it and I look forward to it passing. Thank  
12 you.

13 CHAIRPERSON JOHNSON: Thank you Council  
14 Member, I want to call on Council Member Dromm for an  
15 opening statement as well.

16 COUNCIL MEMBER DROMM: Thank you very  
17 much Chair Johnson for hearing my bill about health  
18 inspections of food facilities in schools. What's on  
19 the school menu for today, sloppy joes with a side of  
20 salmonella, tator tots topped with Tomean, perhaps  
21 baked beans breeding botulism, such nasty hidden  
22 contamination is not so farfetched when considering  
23 the problems patently visible to students at  
24 cafeterias throughout the city including moldy pizza  
25 and metal laden chicken tenders turning up at schools

1 here in Lower Manhattan. If that isn't enough to turn  
2 your stomach health inspectors commonly see  
3 conditions in kitchens that clearly attract vermin  
4 and even the evidence of such vermin. One  
5 particularly egregious example was an elementary  
6 cited for 400 incidents of mice waste found during a  
7 cafeteria inspection. Serving well over 100 million  
8 meals a year, the New York City's school food program  
9 is one of the largest school service... food service  
10 operation in the country and systemwide quality  
11 control is crucial to ensuring that our schools are  
12 serving fair to nourish young minds and encourage a  
13 lifetime of healthy eating. Without a doubt parents  
14 and students deserve to know whether the food from  
15 their cafeteria could make them sick. Intro 1263  
16 would require the Department of Health and Mental  
17 Hygiene to post on its website the results of food  
18 related inspections in both public and private  
19 schools. While our city's commercial dining  
20 establishments have been cleaning up their act after  
21 restaurant... after the restaurant grading system was  
22 introduced school facilities lack such a public  
23 reporting requirement and unsurprisingly have not  
24 improved over the same period. The saying, "sunlight



1 is the bestest infectant" describes the benefits of  
2 transparency in this situation quite appropriately  
3 since the negative attention an unhygienic cafeteria  
4 conditions may encourage the use of literal  
5 disinfectant. Thank you to the administration and the  
6 advocates here, I look forward to working with you to  
7 ensure our schools serve fulfilling meals without the  
8 unexpected and unappetizing extras.  
9

10 CHAIRPERSON JOHNSON: Thank you Council  
11 Member, we have Council Member Espinal from Brooklyn  
12 who's a member of this committee and Council Member  
13 Koo from Queens who are members of this committee as  
14 well. Before I turn it over to the Department to  
15 present some testimony I just want to mention and I  
16 think this was mentioned in my opening remarks but it  
17 would be helpful and we can have Q and A about this  
18 as well after the testimony, I want to understand why  
19 the Health Department believes a judge's ruling does  
20 not determine a letter grade on the initial  
21 inspection but does determine a letter grade on re-  
22 inspection, that's really the crux of what I, I want  
23 to understand today. So, if you could please address  
24 that in your remarks that would be great. So, I'm  
25 going to turn it over to Kim Kessler who is the

1  
2 Assistant Commissioner for Chronic Disease,  
3 Prevention, and Tobacco Control at the Department of  
4 Health and Mental Hygiene and Deputy Commissioner  
5 Corrine Schiff of Environmental Health at DOHMH,  
6 before you testify I would like to swear you in. So,  
7 if you could please raise your right hand. Do you  
8 affirm to tell the truth, the whole truth and nothing  
9 but the truth in your testimony before this committee  
10 and to respond honestly to council member questions?  
11 Thank you very much, just make sure your mics are on  
12 and you may begin.

13 CORINNE SCHIFF: Good morning Chairman  
14 Johnson and members of the Health Committee... [cross-  
15 talk]

16 CHAIRPERSON JOHNSON: You could pull the  
17 mic a little closer... [cross-talk]

18 CORINNE SCHIFF: Sure, yeah...

19 CHAIRPERSON JOHNSON: Thank you.

20 CORINNE SCHIFF: Okay. Good morning  
21 Chairman Johnson and members of the Health Committee.  
22 I'm Corinne Schiff, Deputy Commissioner for  
23 Environmental Health at the New York City Department  
24 of Health and Mental Hygiene. I am joined by my  
25 colleague Kim Kessler, Assistant Commissioner for

1  
2 Chronic Disease Prevention and Tobacco Control. On  
3 behalf of Commissioner Bassett, thank you for the  
4 opportunity to testify today on four bills related to  
5 food safety inspection. Ten years ago, a video of  
6 rats swarming a Manhattan fast food restaurant went  
7 viral. The video undermined public confidence in  
8 restaurant safety and prompted the Health Department  
9 to undertake a comprehensive review of our  
10 inspectional system. We concluded that too many  
11 restaurants had poor food handling practices, that  
12 restaurants had little incentive to improve and that  
13 the public was unaware of how restaurants performed.  
14 Restaurants that maintained high standards received  
15 no public benefit and appeared to diners to be no  
16 different from those demonstrating poor restaurant  
17 hygiene on their inspections. After an 18-month  
18 planning process, we created a letter grading system  
19 that combines transparency with powerful incentives  
20 for restaurants to improve their food safety  
21 practices and risk based oversights that promotes  
22 public health. The letter grade cards had become part  
23 of our street culture. Restaurant grading is hugely  
24 popular among New Yorkers and visitors alike, and the  
25 grades allow consumers to make informed decisions

1 based on easy to understand information. The  
2 incentive based system that forms the foundation of  
3 letter grading is less well known than the grades  
4 themselves but is just as important. The system is  
5 designed to motivate restaurants to meet the highest  
6 standards by rewarding those that earn an "A" grade  
7 on their initial unannounced inspection with no fines  
8 and no new inspection for a year. Getting an "A" on  
9 an unannounced inspection is key because it is the  
10 inspection most likely to reflect ongoing food  
11 hygiene practices. Our data shows that an initial "A"  
12 is the single best predictor that a future inspection  
13 will also yield an "A". Restaurants that do not earn  
14 an "A" on that initial inspection receive a second  
15 chance at a re-inspection conducted about a month  
16 later. Many restaurants improve by the re-inspection  
17 and if they do and earn an "A", again there are no  
18 fines. These incentives incorporate a risk based  
19 inspection schedule tailored to each restaurant based  
20 on its immediate inspection history. Poorer  
21 performing restaurants are inspected more frequently  
22 than better performing ones. As a restaurant improves  
23 it demonstrates less need for department oversight  
24 and is inspected less often. A risk based inspection  
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1  
2 schedule is the regulatory standard and it is what  
3 the U.S. Food and Drug Administration and New York  
4 State Department of Health recommend. We have seen  
5 dramatic improvement in sanitary conditions in  
6 restaurants since launching letter grading and  
7 incentive based inspections in 2010. Before 2010, a  
8 majority of restaurants scored what is now in the "B"  
9 or "C" range on their initial inspection. Today 62  
10 percent of restaurants post an "A" on initial  
11 inspection. The improvement was rapid; in just one  
12 year after we launched the program, 81 percent of  
13 restaurants were posting "A's"; at three years, 86  
14 percent of restaurants had "A's" and after five  
15 years, 93 percent of restaurants were posting "A's"  
16 in their windows. What does this mean in terms of  
17 food safety? Overall sanitary violations are down 41  
18 percent since Fiscal Year 2012 and when we look at  
19 key food safety violations; ten percent of  
20 restaurants cited for cold... for holding cold food at  
21 the wrong temperature which can allow dangerous  
22 pathogens to multiply quickly in food and make a lot  
23 of people sick is down 38 percent from 29 percent of  
24 restaurants cited in 2010 pre-grading to 18 percent  
25 today. Violations for signs of mice and roaches each

1 decreased 44 percent in that same period. Similarly,  
2 we've seen a decrease in the percent of restaurant  
3 cited for not having proper hand washing facilities,  
4 overall this violation is down 67 percent from nine  
5 percent in 2010 to only three percent today. And  
6 finally, before 2010, 12 percent of restaurants  
7 received violations for not having a supervisor on  
8 site trained in food protection. Having a trained  
9 supervisor is not just a health code requirement but  
10 it is the single best predictor of good sanitary  
11 practices. The percentage of restaurants failing to  
12 meet this requirement is now down to only seven  
13 percent, a 42 percent decrease. Coinciding with  
14 letter grading and incentive based inspections we  
15 have seen a 32 percent drop in the rate of salmonella  
16 cases in New York City since 2010 after years when  
17 there were... rate remained flat. During the same  
18 period, combined salmonella rates in Connecticut, New  
19 Jersey, and areas of New York State outside of the  
20 New York City declined by only seven percent.  
21 Restaurants have also seen tremendous benefits from  
22 letter grading and incentive based inspections. Fewer  
23 restaurants are being closed because they've improved  
24 their practices. In Fiscal Year 2010, we temporarily  
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1 closed 1,051 restaurants because of serious health  
2 violations. In Fiscal Year 2016, that number dropped  
3 to 566 and fines are down. Fines paid by restaurants  
4 have declined dramatically in the last few years,  
5 from 52 million in Fiscal Year 2012 to 22 million  
6 dollars in Fiscal Year 2016, a 58 percent decrease.  
7 Fines are now at a level below what they were before  
8 grading began and at the lowest point in the past ten  
9 years. In fact, 85 percent of restaurants earn "A"  
10 grades at the time of their inspections and with that  
11 "A" grade they pay no fines at all. Restaurants not  
12 yet earning "A's" have benefited from fine reduction  
13 too. Working with the council in 2014, the Department  
14 capped fines for the majority of violations at 200  
15 dollars, the lowest level allowed under the New York  
16 City Health Code. And, together with the Council, we  
17 created a fine waiver program, eliminating fines for  
18 restaurants that end up with an "A" range score after  
19 contesting an initial inspection ticket at a hearing.  
20 These changes have brought fine relief to restaurants  
21 without lowering standards and compromising safety.  
22 Owning a restaurant in New York is incredibly  
23 challenging, which is why we're gratified that more  
24 operators are performing well on inspections and  
25

1  
2 avoiding fines. The food service industry is a vital  
3 part of New York City's economy and it has thrived  
4 since grading and incentive based inspections began.  
5 In 2010, New York City restaurants saw taxable sales  
6 of 11.4 billion dollars. In 2016, that number rose to  
7 18.5 billion an increase of more than 60 percent and  
8 not all of the increase was due to an improving  
9 overall economy. In 2010, New York City restaurants  
10 and bars made up 10.4 percent of taxable sales across  
11 all industries. In 2016, this increased to 12.6  
12 percent demonstrating strong growth in the restaurant  
13 sector. With 93 percent of restaurants posting an  
14 "A", the Department is focused on helping the  
15 remaining small number of restaurants reach that top  
16 mark. Thanks to 2013 city council legislation, we  
17 created a consultative inspection program that offers  
18 one on one, violation free, educational inspections  
19 for restaurant owners. We established Ombuds office  
20 that provides restaurant owners with a point of  
21 contact in the department so they can easily ask  
22 questions about inspection results, make complaints,  
23 and sometimes even pass along a compliment. And we  
24 established a formal mechanism by which the  
25 restaurant industry along with food safety and



1 nutrition experts could advise the Health Department  
2 by constituting a Food Service Establishment Advisory  
3 Board. To advance language access, we recently  
4 published the study guide for our Food Protection  
5 Course online for free in thirty-six languages other  
6 than English. We developed and are piloting an  
7 inspection history report, an individualized review  
8 of a particular restaurant's pattern of violations.  
9 The report enables a restaurant to focus on areas for  
10 improvement and it... and it provides detailed guidance  
11 on how to comply with the food safety rule in need of  
12 attention. With input from the advisory board, we are  
13 testing different methods of delivering this report  
14 to restaurant owners. This spring we are offering a  
15 series of free "Practicing A-Grade Food Safety"  
16 courses for restaurants owners and managers. The  
17 course will be held in each borough, the first is  
18 tomorrow in Queens and has been organized in  
19 partnership with the borough presidents. More than  
20 300 people representing 163 restaurants have so far  
21 enrolled in tomorrow's class. We believe that there's  
22 always room to improve any program and restaurant  
23 inspections are no exception. But fundamental to the  
24 improvement in food safety practices since 2010 is  
25

1 the incentive based inspection schedule for  
2 restaurants and transparency for the public through  
3 letter grading. I will turn now to the bill, bills  
4 under consideration today. Intro 1571 would severely  
5 undermine the incentive based system that has led to  
6 these historic improvements in food safety practices.  
7 Moreover, the legislation would restrict the Health  
8 Department's discretion to use its scientific  
9 judgement and analysis to determine when it's  
10 appropriate to conduct food safety inspections. The  
11 bill would also undermine the advisory board created  
12 just four years ago by the council, by mandating in  
13 the administrative code significant changes to the  
14 department's food safety program. The department  
15 recommends that the changes to the inspection  
16 schedule proposed by the bill be reviewed by the  
17 advisory board so the council and the department can  
18 benefit from the board member's multiple  
19 perspectives. The proposed changes to the inspection  
20 schedule are not supported by the data showing that  
21 the current emphasis on the initial inspection leads  
22 to better sanitary practices by restaurants. Seventy-  
23 seven percent of restaurants that earn an "A" grade  
24 at their initial inspection go on to earn an "A" at  
25

1 their next initial inspection but only 53 percent of  
2 restaurants that reduced their score to below 14  
3 points at the Office of Administrative Trials and  
4 Hearings get an "A" on their next inspection. The  
5 Health Department determines the level of oversight  
6 appropriate for each restaurant based on the outcome  
7 of that restaurant's inspections rather than the  
8 outcome of administrative hearing as the bill would  
9 require because our data show that the inspection  
10 result is a far better predictor of food safety  
11 practices than the results of a hearing. Moreover,  
12 tying an inspection schedule to the adjudication  
13 schedule as the bill would require would create  
14 safety risks for diners. OATH, not the Health  
15 Department controls the timing of the hearings on  
16 restaurant tickets, juggling hearing calendars for  
17 multiple agencies. Hearings after an initial  
18 inspection are scheduled weeks later and owners are  
19 granted an automatic delay upon request. Under this  
20 bill, the Health Department would have to postpone a  
21 restaurant's re-inspection until a hearing is held,  
22 even if the initial inspection revealed very serious  
23 Health Code violations. The department respects the  
24 role of OATH and the need for due process which is  
25

1 why adjudications were built into our system from the  
2 beginning. The current system provides for due  
3 process while allowing the department to follow up  
4 quickly on violations that pose a potential health  
5 and safety risk to New Yorkers. Intro 1571 would also  
6 require the Health Department to make changes to the  
7 inspectional scoring system that were recommended for  
8 review by the Advisory Board and rejected by the  
9 department. The Advisory Board had asked the  
10 department to consider whether eight current  
11 violations should be removed from the scoring system  
12 so they would not be part of the letter grade and  
13 that the requirement for one violation be relaxed.  
14 Based on an analysis of our data and our review of  
15 the FTA Model Code, the New York State Sanitary Code,  
16 and the scientific literature, the department agreed  
17 with some of those suggestions, modified others, and  
18 rejected still others. We provided our response to  
19 the Advisory Board at its quarterly meeting this past  
20 March and the board will have an opportunity to  
21 respond to our analysis. This conversation between  
22 the department and the Advisory Board is ongoing and  
23 as intended, provides an opportunity for the board to  
24 help guide the department in refining the inspection  
25

1  
2 system, bypassing this process in this bill would  
3 undermine the 2013 law that created the Advisory  
4 Board. Based on our review of the science, we believe  
5 that requiring the department to make the changes we  
6 have rejected would create risks for the dining  
7 public. For example, the bill would require the  
8 department to remove from grading the requirement to  
9 provide handwashing signs in customer bathrooms.  
10 Since its good hygiene practice for everyone to wash  
11 hands after using the bathroom and restaurant  
12 employees may use customer bathrooms we rejected this  
13 recommendation. Similarly, we rejected a  
14 recommendation that the requirement to main... maintain  
15 proper lighting in a food prep area be removed from  
16 the graded inspection because we think it's hard to  
17 prep food safely if you cannot see the food you are  
18 prepping. In both of these cases the requirements in  
19 question are part of the New York State sanitary code  
20 and the FDA Model Food Code and the vast majority of  
21 the city's restaurants fully comply. Let me turn  
22 briefly to the other bills under consideration today.  
23 Intro 1263, introduced by Council Member Dromm would  
24 require the Health Department to post to its website  
25 results of the department's inspections of public and

1 private school cafeterias. The Health Department  
2 supports more transparency for parents and students  
3 about cafeteria inspections which generally result in  
4 fewer violations than restaurants. We are working  
5 with the Department of Education to make inspection  
6 results available on the DOE's school food web page  
7 where we think parents are most likely to look for  
8 them. Intro 1456, introduced by Council Member  
9 Koslowitz would require the Health Department to  
10 assign letter grades to mobile food carts and trucks.  
11 This is an idea the department has contemplated in  
12 the past and we agree that there should be more  
13 transparency about our mobile food vending  
14 inspections. We recommend that any local law changes  
15 to mobile vending be discussed as part of the larger  
16 conversation that the council and the administration  
17 are having about overall reform of the mobile vending  
18 industry. Finally, Intro 1103 introduced by Council  
19 Member Barron would require restaurants to hang an  
20 informational poster about the risks of excessive  
21 sugar and other carbohydrate intake for diabetic and  
22 pre-diabetic individuals. We appreciate the intent of  
23 this bill to address this disease on a population  
24 level by providing information to consumers and we  
25

1  
2 agree that restaurants are an important place for  
3 approaches to address public health including through  
4 health warnings. For people living with diabetes and  
5 pre-diabetes, diet is a key component of the  
6 individualized care plan. However, because there is  
7 no one size fits all dietary recommendation for all  
8 people with diabetes and pre-diabetes, crafting a  
9 poster that provides sufficiently tailored  
10 information on a complex topic could present  
11 challenges. We also note that experts recommend that  
12 nutrition labels be simple and easy to understand  
13 requiring no specific or sophisticated nutritional  
14 knowledge, however the proposed signage may not  
15 provide actionable information to consumers as it  
16 does not link health messaging to specific menu  
17 items. We look forward to discussing this bill  
18 further. Thank you for the opportunity to testify, I  
19 would be happy to take questions.

20 CHAIRPERSON JOHNSON: Thank you Deputy  
21 Commissioner, I appreciate your testimony. I want to  
22 start by establishing hopefully a few facts. When a  
23 restaurant is inspected not all violations have an  
24 effect on its ultimate letter grade, is that correct?  
25

1  
2 CORINNE SCHIFF: That's right, there are  
3 food safety violations that are part of the grade and  
4 then there are other items that we inspect for that  
5 are not part of the grade.

6 CHAIRPERSON JOHNSON: So, the difference  
7 as I understand it is that when violations relate to  
8 the potential contamination of food they have an  
9 impact on the letter grade whereas violations that  
10 relate to other unrelated parts of the restaurant's  
11 operations don't affect the letter grade, is that  
12 correct?

13 CORINNE SCHIFF: The violations that are  
14 part of the grade are violations that relate to food  
15 safety and the other violations are violations that  
16 are other, other conditions that the restaurant needs  
17 to maintain.

18 CHAIRPERSON JOHNSON: So, I don't think  
19 anyone on this council in the city would disagree on  
20 whether unsanitary food handling should be rigorously  
21 enforced and made known to the public, I support  
22 that, we support that but as I understand it some of  
23 the violations that impact the letter grade don't  
24 meet that standard. For instance, isn't it currently  
25 true that if there's a dented can on premises a



1  
2 restaurant can accrue points potentially pushing it  
3 past the threshold from an "A" to a "B" grade.

4 CORINNE SCHIFF: Before we launched  
5 grading in 2010, we took a really hard look at all of  
6 the violations that would make up the grade and... it's  
7 actually part of the regulations so it was open to  
8 notice and comment. The, the dented can was actually  
9 one of the violations that we did change and the, the  
10 change that we made in that the can, can be on  
11 premises but we want it to be separated from the  
12 active food supply and that's because a dented can  
13 poses a risk of botulism but we know that a  
14 restaurant could get a delivery of a dented can and  
15 it's on site, we don't cite for that. What we require  
16 is for the restaurant to put that can aside, they may  
17 want to... they might want to return it to their  
18 distributor as defective, that's, that's up to them  
19 but what we care about is making sure that the active  
20 supply of food contains food that's safe for  
21 consumption and we know that when it... when  
22 restaurants are busy preparing for the next meal its  
23 very busy and it would be very easy to grab that can,  
24 open it and that poses a risk. So, there is a risk

1  
2 of, of... to food safety and that's how we modified  
3 that, that rule.

4 CHAIRPERSON JOHNSON: So, if there's a  
5 dented can that is not separated from the other cans  
6 you would accrue points for that and that could  
7 potentially affect your grade from being an... going  
8 from an "A" to a "B"?

9 CORINNE SCHIFF: If there's a dented can...  
10 [cross-talk]

11 CHAIRPERSON JOHNSON: ...that's mixed in  
12 with other... [cross-talk]

13 CORINNE SCHIFF: ...the... [cross-talk]

14 CHAIRPERSON JOHNSON: ...cans... [cross-talk]

15 CORINNE SCHIFF: ...the, the, the  
16 requirement is to put that can aside and not leave it  
17 with the food supply.

18 CHAIRPERSON JOHNSON: And you can be  
19 fined and that could affect your grade?

20 CORINNE SCHIFF: And we would accrue  
21 pointes for that violation... [cross-talk]

22 CHAIRPERSON JOHNSON: You would accrue  
23 points, got it. And isn't it also true that when a  
24 customer only bathroom does not have a self-closing  
25 door then a restaurant letter's grade can be affected

1  
2 potentially pushing it past the threshold from an "A"  
3 to a "B"?

4 CORINNE SCHIFF: The... there are... there  
5 are rules that apply to bathrooms, obviously, I think  
6 we would all agree hygiene after using the bathroom  
7 is, is critically important to food safety. We apply  
8 those rules to all bathrooms because employees may  
9 use any bathroom in the restaurant even if the  
10 restaurant intends that a bathroom be for customers,  
11 an employee may use that bathroom and so it's  
12 critically important to all of our safety that the  
13 food worker maintains good hygiene especially after  
14 using the bathroom.

15 CHAIRPERSON JOHNSON: But a self-closing  
16 door is something that you can get a fine for which  
17 could potentially push you from an "A" to a "B", is  
18 that correct?

19 CORINNE SCHIFF: It is standard and FDA  
20 Food Code and in the State Sanitary Code to have that  
21 self-closing door because we want restaurant workers  
22 to wash their hands and not touch the door.

23 CHAIRPERSON JOHNSON: So, the answer is  
24 yes, you could be fined for that and that could push  
25 you from an "A"... [cross-talk]

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2 CORINNE SCHIFF: That would be... [cross-  
3 talk]

4 CHAIRPERSON JOHNSON: ...to a "B"... [cross-  
5 talk]

6 CORINNE SCHIFF: ...a, a violation for  
7 which points could accrue because it is a critical  
8 food... [cross-talk]

9 CHAIRPERSON JOHNSON: ...which could push  
10 you... [cross-talk]

11 CORINNE SCHIFF: ...safety violation...  
12 [cross-talk]

13 CHAIRPERSON JOHNSON: ...from... which could  
14 push you from an "A" to a "B", okay. And isn't it  
15 true that when a food protection certificate is not  
16 held by a supervisor on the premises at the time of  
17 the inspection it results in a whopping ten points  
18 that can be deducted which would almost exclusively  
19 account for a restaurant not earning an "A" grade?

20 CORINNE SCHIFF: The literature is, is  
21 very strong on the point that having a supervisor on  
22 site trained in food protection is really perhaps the  
23 very best thing a restaurant can do to maintain good  
24 practices. We've seen increased enrollment at our  
25 health academy in response to letter grading and

1  
2 there's, there's a... the, the food worker industry  
3 that... the employees in the city are much better  
4 trained than they were before grading and that's a  
5 really great thing and it frankly may be driving the  
6 overall increases in "A's". What we tell restaurants  
7 right from the beginning including in the permit  
8 information packet that we give to restaurants is  
9 that part of opening a restaurant is making sure that  
10 you have a worker trained in food protection, that  
11 you need to have that person on site from the get go  
12 and we made that violation very serious because it is  
13 so serious.

14 CHAIRPERSON JOHNSON: So, you can get ten  
15 points deducted if there isn't someone on premises?

16 CORINNE SCHIFF: That's correct.

17 CHAIRPERSON JOHNSON: Which could very  
18 easily push you to a "B"?

19 CORINNE SCHIFF: And you know what we're  
20 really happy to say is that this is one of the  
21 violations that we've seen dramatic improvements, is  
22 it on there? You can see from our, our chart over  
23 there in the year before grading we cited 12 percent  
24 of restaurants for not having a trained supervisor on  
25 site and that's down to seven percent which is a, a

1  
2 really.. a, a wonderful achievement for the  
3 restaurants.

4           CHAIRPERSON JOHNSON: So, it seems to me  
5 that there are a number of ways in which an  
6 establishment can fail to achieve an "A" grade even  
7 if the restaurant meets what we consider to be  
8 reasonable standards for safe sanitary food  
9 preparation and I want to tie that and with what I  
10 think is a larger point here. Restaurants are an... are  
11 a notoriously difficult enterprise, a frequently  
12 cited study by Ohio State University found that 60  
13 percent of restaurants do not survive in their first  
14 year and 80 percent of restaurants do not make it  
15 past five years add in the fact that when a  
16 restaurant puts up a huge sign that says "B" or grade  
17 pending it has a very real, a very damaging effect on  
18 the amount of business that that restaurant is able  
19 to attract. Would you agree that the stakes are  
20 pretty high for a restaurant to achieve an "A"  
21 rating?

22           CORINNE SCHIFF: No, the, the system was  
23 designed to create incentive based inspection  
24 schedule and a risk based inspection schedule to  
25 motivate restaurants to perform at the top levels and

1  
2 to maintain excellent food safety practices and  
3 that's to the benefit of the restaurants and to New  
4 Yorkers. I agree, running a restaurant is, is  
5 difficult and we think that they've been meeting the,  
6 the food safety inspection challenge remarkably well,  
7 we are posting... 93 percent of restaurants are posting  
8 "A's" in the window, 68... 62 percent are getting "A's"  
9 on that initial inspection. Our goal is that every  
10 restaurant in New York City have an "A" and we are  
11 doing all kinds of outreach and, and education  
12 targeted to that remaining small number of  
13 restaurants that still don't have an "A" in the  
14 window.

15 CHAIRPERSON JOHNSON: So, the answer is  
16 yes, I mean it's a pretty high stake for restaurants  
17 to achieve an "A" and it seems that the food service  
18 establishment advisory board does think that the  
19 stakes are pretty high and it recently released  
20 recommendations that certain violations is too  
21 onerous like the ones I mentioned earlier and you  
22 referenced that report in your testimony. Now it's  
23 safe to say that the food safety... Food Service  
24 Establishment Advisory Board includes restaurants  
25 owners but it also includes food safety experts,

1  
2 nutritionists, and even representatives of the Health  
3 Department, that's correct right, those are the folks  
4 that are on it? Yeah. And this advisory board was  
5 commissioned explicitly for the purpose of evaluation  
6 the sanitary inspection program and its effect on the  
7 restaurant industry food safety and public health,  
8 that's what it says, do you agree with that, that's  
9 why it was established?

10 CORINNE SCHIFF: Were you reading from  
11 the local law, is that what you're saying, is that...  
12 [cross-talk]

13 CHAIRPERSON JOHNSON: Yeah, that... [cross-  
14 talk]

15 CORINNE SCHIFF: ...you think that... [cross-  
16 talk]

17 CHAIRPERSON JOHNSON: ...I was just quoting  
18 the local law, okay. So, to review the  
19 recommendations the Advisory Board takes issue with  
20 the following violations; points will be accrued for  
21 permanent lighting not provided in food preparation  
22 areas where washing areas and storage rooms, points  
23 will be accrued if a restroom does not have toilet  
24 paper, a waste receptacle, a self-closing door, and a  
25 wash hands sign even if it's a customer only



1  
2 bathroom. Points will be accrued if someone is eating  
3 from an open container in a food storage or  
4 dishwashing area. Ten points are accrued for not  
5 having a food protection certificate. If a customer  
6 uses a restroom without a self-closing door does that  
7 pose a significant risk of contaminating the  
8 restaurant's food, if a... if a customer uses that,  
9 that bathroom without a self-closing door is that  
10 posing a significant risk for contaminating food?

11 CORINNE SCHIFF: The regulations speak  
12 to, to the requirements for the people working in the  
13 restaurant, we, we would encourage customers to  
14 follow good bathroom hygiene practices but the  
15 regulations are addressed to restaurant workers.

16 CHAIRPERSON JOHNSON: But what if it's a  
17 customer only bathroom?

18 CORINNE SCHIFF: So, when we took a look  
19 at this question which was presented to us by the  
20 Advisory Board and we reviewed the food... the FDA  
21 Model Food Code, the State Sanitary Code, and our...  
22 and our data we concluded that we couldn't make the  
23 distinction, that the Advisory Board was recommending  
24 and that's because an employee may use a customer  
25 only bathroom even if the restaurant intends that

1  
2 that bathroom primarily be used for customers and so  
3 to stay in line with federal guidelines and state  
4 guidelines we, we rejected that recommendation. We  
5 think it's not in the best interest of, of the  
6 restaurant to maintain high food safety standards and  
7 therefore it's not in the best interest of the dining  
8 public.

9 CHAIRPERSON JOHNSON: And if the lights  
10 in the kitchen are not a high enough wattage as you  
11 referenced in your testimony or they aren't part of a  
12 quote, unquote "permanent fixture" as it says in the  
13 code is that going to potentially infect the food  
14 with salmonella, I mean I don't think so, I mean you  
15 think it's... of course it's important to have adequate  
16 lighting to look at the food but the point I'm trying  
17 to get at if an employee is taking a quick snack  
18 break in a secluded area like a pantry are we really  
19 concerned about the risk that he or she is posing to  
20 the general public, I'm not. So, I'm not saying that  
21 these concerns are unimportant but I will say is that  
22 we need to take a... the responsibility of evaluating  
23 these restaurants very seriously, I agree with that.  
24 The restaurant business is tough, the deck is already  
25 stacked against these business owners and we need to

1 do a better job of drawing the line between  
2 violations that do cause potential contamination  
3 versus those that don't. I'll conclude by pointing  
4 out that the food service establishment Advisory  
5 Board clearly feels this way as you said, this is a  
6 body that includes food safety experts and it's one  
7 that exists almost exclusively for the purpose of  
8 evaluation food safety standards in New York City  
9 restaurants even if they take issue with the damage  
10 that some of these violations can cause. I think it's  
11 critical that our city do a better job at  
12 incorporating these recommendations. So, the point  
13 here is I, I'm trying to figure out how we can be a  
14 little more sensible about this system and ensuring  
15 that we are not being unfair when it comes to these  
16 restaurant inspections, the establishment aboard.. the  
17 establishment advisory board made these  
18 recommendations, you all rejected it, you talked  
19 about that, can, can you talk a little bit... and then  
20 I'm going to go to my colleagues who have questions  
21 but could you talk a little bit about the, the  
22 adjudication system, so can you explain why it makes  
23 sense to waive fines for restaurants that receive an  
24

1  
2 adjudicated "A" but not put these restaurants on a  
3 regular "A" inspection cycle?

4 CORINNE SCHIFF: Sure, what I can tell  
5 you is what our data show and, and that is that the  
6 inspection outcome is far more predictive of ongoing  
7 top food safety practices than the hearing outcome  
8 and so we... when we're designing the program we look  
9 to the evidence and we design evidence based policies  
10 in setting our risk based schedule.

11 CHAIRPERSON JOHNSON: Can you explain  
12 why the department chooses to ignore the dismissal of  
13 violations by a tribunal when setting the inspection  
14 schedule for a restaurant, so tribunal says we  
15 dismiss what the Health Department found, we're the  
16 ones that adjudicate this, we don't believe that,  
17 that it's real or that it was done properly and the  
18 Health Department dismisses that when they set the  
19 re-inspection cycle? How, how is that fair, that's  
20 due process, it's their own course of due process in  
21 this process?

22 CORINNE SCHIFF: So, when we designed our  
23 incentive based schedule, inspection schedule and our  
24 risk based schedule we've, we've looked at the data  
25 and what the data tell us is that to protect New

1  
2 Yorkers what we need to do is rely on our inspections  
3 which are... which are predictive of ongoing food  
4 safety practices and not the hearings which are not  
5 predictive of ongoing food safety practices and  
6 that's why we've designed a system that... [cross-talk]

7 CHAIRPERSON JOHNSON: But other city  
8 agencies don't behave this way. The Department of  
9 Consumer Affairs and other regulatory agencies in New  
10 York City do not set a re-inspection cycle based off  
11 of what they think is proper even when it comes to  
12 the health, safety, and wellbeing of New Yorkers they  
13 go by what OATH determines. The Health Department is  
14 the only department in New York City that does this  
15 where you don't adequately observe due process.

16 CORINNE SCHIFF: The, the due process  
17 measures that are established at OATH do address the,  
18 the fines for the restaurants on the... on the initial  
19 inspection but you're right, they don't inspect the...  
20 address the inspection schedule and that's... our  
21 concern about this bill is that it would prohibit the  
22 department from conducting risk based and inspection...  
23 and...

24 CHAIRPERSON JOHNSON: I see your General  
25 Council gave you something. Hi Tom. Okay, shouldn't

1  
2 restaurants have the opportunity to contest alleged  
3 violations from an initial inspection before being  
4 subjected to re-inspection?

5 CORINNE SCHIFF: So, we, we, we think as,  
6 as, as I've testified to that the incentive based  
7 schedule and the risk based schedule that we have set  
8 up has been extremely effective in motivating  
9 restaurants to, to practice... [cross-talk]

10 CHAIRPERSON JOHNSON: No more  
11 improvements can be made, it's, it's great the way it  
12 is?

13 CORINNE SCHIFF: We think there's more  
14 improvement to be made. Ninety-three percent of  
15 restaurants are posting "A's" and we're looking for  
16 that final seven percent and what we're doing is  
17 increasing our educational opportunities, promoting  
18 our consultative inspections, offering the, the  
19 spring series on practicing "A" grade food safety but  
20 what, what our data show is that to protect New  
21 Yorkers it's this schedule that is motivating  
22 restaurants to do... to do well. Sixty-two percent of  
23 restaurants now getting "A's" on the initial  
24 inspection that's where we want to focus our  
25

1  
2 attention, we want all restaurants to be achieving  
3 those high standards.

4 CHAIRPERSON JOHNSON: How many points do  
5 you need to get an "A"?

6 CORINNE SCHIFF: Zero to 13 points is an  
7 "A".

8 CHAIRPERSON JOHNSON: Say that again?

9 CORINNE SCHIFF: Up to 14, zero to 13  
10 points is an "A".

11 CHAIRPERSON JOHNSON: Zero to 13 is an  
12 "A", what's a "B"?

13 CORINNE SCHIFF: 14 to 27.

14 CHAIRPERSON JOHNSON: 14 to 27 is a "B",  
15 what's a "C"?

16 CORINNE SCHIFF: 28 and above.

17 CHAIRPERSON JOHNSON: What's a "D"?

18 CORINNE SCHIFF: There's no "D".

19 CHAIRPERSON JOHNSON: There's no "D",  
20 okay...

21 CORINNE SCHIFF: "A", "B", "C".

22 CHAIRPERSON JOHNSON: So, what year was  
23 this restaurant inspection system created?

24 CORINNE SCHIFF: We launched restaurant  
25 grading in July 2010.

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CHAIRPERSON JOHNSON: 2010?

CORINNE SCHIFF: Yes.

CHAIRPERSON JOHNSON: Was it modeled off the city of Los Angeles, is that what the Mayor at the time said?

CORINNE SCHIFF: We did look to Los Angeles to learn about how their system worked.

CHAIRPERSON JOHNSON: Did they have a schedule where an "A" grade is below 13 and a "B" grade is 13 to 27 and a "C" grade is 28 and above?

CORINNE SCHIFF: Los Angeles uses a different point system, when... [cross-talk]

CHAIRPERSON JOHNSON: Zero to 100?

CORINNE SCHIFF: They use zero to 100.

CHAIRPERSON JOHNSON: Which is what we teach, teach elementary school students is how you get an "A", "B", or "C" is zero to 100.

CORINNE SCHIFF: A one test scale is certainly zero to 100. I, I will say that when we were designing the program before 2010, we spent a... it was about an 18-month planning process, we did go out to Los Angeles, we had our inspector do an inspection side by side with an inspector from the Los Angeles Health Department and the results were



1  
2 essentially the same. So, while, while the point  
3 scale that the two cities developed are different  
4 both cities are following the same standard food  
5 safety guidance from the FDA and the standard food  
6 safety rules.

7 CHAIRPERSON JOHNSON: Do you think it's  
8 easier for New Yorkers to understand a point schedule  
9 that goes zero to 100 or a point scale that goes from  
10 zero to 13, 13 to 27, and 28 and above, the average  
11 New Yorker?

12 CORINNE SCHIFF: So, the, the, the  
13 restaurant grading program was really designed to  
14 develop a communications tool for New Yorkers so that  
15 they don't need to understand the point system, if  
16 they want to they can... [cross-talk]

17 CHAIRPERSON JOHNSON: They don't need to  
18 understand... isn't that the whole point?

19 CORINNE SCHIFF: The point is that we  
20 have summarized the results of our inspection into  
21 something very easy to understand.

22 CHAIRPERSON JOHNSON: Most New Yorkers  
23 when you walk down the street they have no idea what  
24 getting an "A" means, they don't know.

1  
2 CORINNE SCHIFF: I think that what we've  
3 seen... [cross-talk]

4 CHAIRPERSON JOHNSON: We could do like a  
5 Jay Leno like thing and stand in front of 50  
6 restaurants and ask people how do you get an "A",  
7 people won't know how you get an "A", people won't  
8 know how you get a "B", people won't know how you get  
9 a "C", they won't understand the process. If this is  
10 about informing the public and having accountability  
11 we should have a grading system that the public can  
12 easily understand so that when people are making  
13 informed decisions about which restaurants to go to  
14 they understand. I'm going to end with this anecdote  
15 and go to my colleagues. This is from, I'm not going  
16 to say his name because I don't want to get him in  
17 trouble but it's a real person who owns a series of  
18 bars and restaurants in New York City. He says quote,  
19 "we received a violation for a little bit of dust on  
20 a restaurant exhaust fan which had nothing to do with  
21 food safety, it ended up being the difference between  
22 earning a "B" instead of an "A" letter grade. Another  
23 time we received a violation for a cracked light  
24 fixture in a liquor room that resulted in me wasting  
25 a half a day in court instead of being at my small

1  
2 businesses". He owns several bars and restaurants in  
3 New York City and he's asking for relief when it  
4 comes to the restaurant grading system. I want to go  
5 to my colleagues, we're going to start with Council  
6 Member Dromm followed by Council Member Koslowitz and  
7 thank you to my colleagues for indulging me and going  
8 on for a long time, thank you.

9 COUNCIL MEMBER DROMM: Thank you Mr.  
10 Chair and I just have a few questions. One, I just...  
11 should the city run or city contracted food service  
12 program be held to the same standard as privately run  
13 restaurants?

14 CORINNE SCHIFF: Do you mean in, in the  
15 schools, you're... [cross-talk]

16 COUNCIL MEMBER DROMM: Yeah, I mean...  
17 [cross-talk]

18 CORINNE SCHIFF: ...your bill is about the...  
19 [cross-talk]

20 COUNCIL MEMBER DROMM: ...you know the  
21 city... [cross-talk]

22 CORINNE SCHIFF: ...and, and... [cross-talk]

23 COUNCIL MEMBER DROMM: ...either runs them  
24 or they prepare the food or they contract the service  
25 out to get the food to the... [cross-talk]

1  
2 CORINNE SCHIFF: ...and, and they.. and they  
3 are. Our inspection of a food service establishment  
4 is the same, the rules are the same and the  
5 inspection is the same whether it's a food service  
6 establishment that's a restaurant or a school  
7 cafeteria.

8 COUNCIL MEMBER DROMM: So, when we hear  
9 reports like we've heard recently on the news about  
10 schools that are serving chicken with metal pieces in  
11 it or pizza with mold on it what is the.. what does  
12 the Health Department do there to intervene?

13 CORINNE SCHIFF: So, the restaurant.. the,  
14 the Health Department conducts routine inspections of  
15 school cafeterias just as we conduct routine  
16 inspections of restaurants, we report all of the  
17 outcomes of those inspections to the Department of  
18 Education, we meet with them regularly to review  
19 those to see how they have changed, you know fixed  
20 anything that was wrong and I'm.. and I'll say that  
21 the, the Department of Education is extremely  
22 responsive, they take those.. that feedback from us  
23 very seriously and, and for the reasons that you've  
24 put forth in, in your bill we support that, we  
25 support more transparency.

1  
2 COUNCIL MEMBER DROMM: How often, you  
3 know and a... on an average do you inspect school  
4 cafeterias?

5 CORINNE SCHIFF: So, schools are  
6 inspected twice a year as a general matter and then  
7 if... but if on an inspection, we see violations we  
8 will do a compliance inspection so it depends on the  
9 schools and, and what we're seeing on those  
10 inspections.

11 COUNCIL MEMBER DROMM: Does that include  
12 privately run schools?

13 CORINNE SCHIFF: Yes, we inspect  
14 cafeterias... [cross-talk]

15 COUNCIL MEMBER DROMM: And charter  
16 schools?

17 CORINNE SCHIFF: We... yes, we inspect all  
18 school cafeterias.

19 COUNCIL MEMBER DROMM: So, when schools  
20 contract out the lunch services to places like  
21 FreshDirect or something like that, do you inspect  
22 that, how does that work?

23 CORINNE SCHIFF: We inspect the, the food  
24 service, it doesn't matter who's providing it.

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COMMITTEE ON HEALTH

COUNCIL MEMBER DROMM: You inspect on, on the site?

CORINNE SCHIFF: Correct.

COUNCIL MEMBER DROMM: Okay. So, is there currently any way to access these inspection results?

CORINNE SCHIFF: We support your bill to promote transparency for that reason.

COUNCIL MEMBER DROMM: So, right now there's nothing?

CORINNE SCHIFF: No, no... [cross-talk]

COUNCIL MEMBER DROMM: No way... [cross-talk]

CORINNE SCHIFF: ...regular... no regular easy way for, for a parent to do that so we think you've got... you've got a good idea.

COUNCIL MEMBER DROMM: Okay and is there any reason that the public should not be able to access, access these results?

CORINNE SCHIFF: No and we're working as I mentioned in my testimony we're working closely with the Department of Education to make this happen. We think that their school food website is probably the more appropriate place, that's where parents are

1  
2 going for that information and so we're working on  
3 that.

4 COUNCIL MEMBER DROMM: So... and I'm  
5 appreciative of that fact that you're working with  
6 the DOE now but what about private schools and what  
7 about charter schools?

8 CORINNE SCHIFF: So, we would like to  
9 talk with you about the best way... the best way to do  
10 that but we... you know bottom line is we support more  
11 transparency.

12 COUNCIL MEMBER DROMM: Okay, good because  
13 I don't want to leave them out as well, thank you.  
14 Thank you Mr. Chair.

15 CHAIRPERSON JOHNSON: Do, do the  
16 bathrooms in cafeterias have to have self-closing  
17 doors?

18 CORINNE SCHIFF: The list of health code  
19 requirements applies to all food service  
20 establishments.

21 CHAIRPERSON JOHNSON: So, cafeterias and  
22 schools as well have to have self-closing doors, do  
23 we check that?

24 CORINNE SCHIFF: I... why don't I... why  
25 don't I check because I think your question is

1  
2 probably going to which bathrooms so, so let me... let  
3 me check to make sure I give you a full... a full  
4 answer.

5 CHAIRPERSON JOHNSON: Because we're  
6 talking about our kid's food so if we're having the  
7 standard for the public we should have that same  
8 standard for children.

9 CORINNE SCHIFF: The, the set of, of, of  
10 food safety requirements under the health code  
11 applies to all food service establishments including  
12 in cafeterias but I want to get you a full answer to  
13 that question so let me get back to you.

14 CHAIRPERSON JOHNSON: And we check on  
15 dented cans as well in cafeterias and being separated  
16 and if they're not separated we go... we, you know come  
17 down hard on that cafeteria and that school?

18 CORINNE SCHIFF: You know as I said  
19 dented cans pose a risk of botulism we certainly  
20 don't want to expose school children to that and so  
21 the rules to separate cans apply to school cafeterias  
22 as well and we observe that violation it would be  
23 something we would report to the Department of  
24 Education and help them to modify their practice so  
25 that they are removing those dented cans from the



1  
2 area where the supply is, is active and we don't want  
3 that cafeteria food worker to grab that can.

4 CHAIRPERSON JOHNSON: Council Member  
5 Koslowitz.

6 COUNCIL MEMBER KOSLOWITZ: Thank you. I  
7 see in your testimony that on 1456 you want to  
8 connect this bill with other bills that are before...  
9 on... before the council that haven't been heard yet,  
10 why is that?

11 CORINNE SCHIFF: We're... as I... as I noted  
12 in my testimony we, we agree with you that there  
13 could be more transparency of our mobile food vending  
14 inspections but we know that the council and the  
15 administration are in discussion about larger reform  
16 package for the industry and we just suggest that  
17 this be rolled up into that.

18 COUNCIL MEMBER KOSLOWITZ: I think this  
19 is a health problem that has to be addressed now. We  
20 didn't attach the letter grading for restaurants to  
21 any other bills, we voted on that bill alone and I  
22 don't understand why we can't do that.

23 CORINNE SCHIFF: The, the, the bill  
24 addressing mobile food vending grading is one that  
25 touches upon a variety of issues in the mobile food

1  
2 vending industry and so that... this is our  
3 recommendation that we talk about that as part of the  
4 larger conversation.

5 COUNCIL MEMBER KOSLOWITZ: I don't buy  
6 that, I don't buy that at all. I think it's a bill  
7 that's long overdue, I know we graded the restaurants  
8 in 2010, we've worked on food vendors... I myself have  
9 worked on food vendors because I was the Chair of  
10 Consumer Affairs for 11 years and then four more  
11 years when I returned to the council so that's 15  
12 years. I think this is long overdue and I don't think  
13 it should be attached to any other bill. I've spoken  
14 to food vendors, they love this bill because it will  
15 increase business just like the "A", "B", and "C's"  
16 do or don't for the restaurants. So, I don't see  
17 where this should be connected to how many carts...  
18 more carts should be put on the street. This is a  
19 health issue that should be addressed right now for  
20 the businesses how often do you inspect these carts?

21 CORINNE SCHIFF: Like, like restaurants  
22 the inspection schedule for the mobile food vending  
23 is, is risk based so every mobile food vending unit  
24 would be inspected would on a, a schedule to be  
25 inspected at least once a year and if it does not

1  
2 perform well... if, if there are significant food  
3 safety violations there would be follow up  
4 inspections. So, I, I understand your, your interest  
5 in urgency and we, we would be happy to talk with you  
6 about that.

7 COUNCIL MEMBER KOSLOWITZ: Okay, because  
8 I really don't want this bill to wait for any other  
9 bills, it's, it's the health of the public and of the  
10 food cart industry and right now we have many food  
11 carts. I know in my community which is Forest Hills  
12 and Rego Park, I have seen an influx of food carts  
13 and I have questions about some of the carts are  
14 there late at night. On Continental Avenue, there is  
15 a cart there 24 hours a day. Now during the day, I  
16 understand where they can go to a bathroom but what  
17 happens at night when all the other stores are  
18 closed, how do they function and what happens. So, I  
19 think this is very important, it has to be done now  
20 not waiting for any other. I myself will speak to the  
21 administration. Are you aware that the New York State  
22 has a bill that they have introduced, the same bill  
23 and what happens if their bill goes before our bill,  
24 wouldn't that be a shame that since it's a city issue  
25 that the state takes over?

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2 CORINNE SCHIFF: We do know that your  
3 colleagues and the state have similar interests in  
4 expanding transparency in the mobile food industry.

5 COUNCIL MEMBER KOSLOWITZ: Okay, I really  
6 appreciate anything that we could do to get this bill  
7 passed and I will speak to the Mayor's Office myself,  
8 thank you.

9 CHAIRPERSON JOHNSON: I don't want my  
10 bill which is seemingly the most contentious bill  
11 here to hold up my colleague's bills. So, Council  
12 Member Koslowitz I think that's a very good bill as  
13 do Council Member's Barron and Dromm and I don't want  
14 my bill which I know is the most contentious bill  
15 we're talking about today to get in the way of being  
16 able to have a rational conversation about my  
17 colleague's good bills they've worked hard on. So,  
18 you can separate my bill from the package and we can  
19 talk about that separately after this hearing today  
20 but I do... I don't want my bill to be used in a way to  
21 hold up my colleague's bills and I want to go on the  
22 record as saying that. Okay, I want to go to... Council  
23 Member Koo is not here, we're going to go to Council  
24 Member Barron then Council Member Vacca.

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2 COUNCIL MEMBER BARRON: Thank you Mr.  
3 Chair and I think that's very gracious of you to  
4 offer to separate your bill out from the package, we  
5 thank you for that. To the panel thank you for  
6 coming, we're glad that you're here. My bill is 1103,  
7 which talks about a poster so that the public can be  
8 informed and know that carbs are an important factor  
9 along with the obvious sugars when we talk about  
10 people who are pre-diabetic and diabetic. Would you  
11 say that most people living in the city know that  
12 carbs turn to sugar?

13 KIM KESSLER: I couldn't answer that  
14 question specifically but I would say that there in  
15 general it would be difficult for most New Yorkers to  
16 understand the complexity of how carbs appear in our  
17 food and in fact that would be one of our concerns  
18 about drafting a... creating an effective poster that  
19 could give information to people that was actionable  
20 for them in the restaurant setting. While we  
21 generally agree with the overall intent of the bill  
22 and the importance of addressing diabetes.

23 COUNCIL MEMBER BARRON: Where would...  
24 where would people learn about the fact that carbs  
25 eventually turn to sugar, when would that happen?

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2 KIM KESSLER: Our overall nutrition  
3 messaging, we've very committed to providing New  
4 Yorkers of information about a healthy diet and what  
5 we emphasize is eating a well-balanced diet that is  
6 high in fruits and vegetables, high.. making choices  
7 that are high in fiber and limiting sugars overall  
8 particularly sugary drinks as well as sodium. So, our  
9 messaging in general is eat more of what's healthy  
10 and eat less of what's unhealthy and we think that  
11 those messages are consistent with the kind of diet  
12 that would-be health promoting for diabetics but at  
13 the same time there's, there's no one specific diet  
14 that's recommendable for all people with diabetes or  
15 pre-diabetes.

16 COUNCIL MEMBER BARRON: Do you have a... do  
17 you have or is there an agency, federal agency that  
18 has established a range of the amount of sugars that  
19 is considered healthy?

20 KIM KESSLER: The... there is... I... one, one  
21 minute.

22 COUNCIL MEMBER BARRON: Thank you.

23 KIM KESSLER: The U.S. Dietary Guidelines  
24 recommend... [cross-talk]

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COUNCIL MEMBER BARRON: I'm sorry, start again...

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KIM KESSLER: The USDA dietary guidelines recommend that we have less than 10 percent of our calories from added sugars.

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COUNCIL MEMBER BARRON: Less than 10 percent from sugars?

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KIM KESSLER: Added sugars.

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COUNCIL MEMBER BARRON: Added sugars. What about the sugars that are in foods... existing in foods that are not a part of this added sugar, don't they all come together?

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KIM KESSLER: Do you... do they contribute to... I mean they contribute to caloric intake and we want people to, to have a balanced diet so they don't overconsume calories, many sugars can be in foods that are also healthy for you for, for example fruits and vegetables.

20

21

COUNCIL MEMBER BARRON: For example, I didn't hear the end?

22

KIM KESSLER: Fruits and vegetables.

23

24

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COUNCIL MEMBER BARRON: Fruits and vegetables. So, are you differentiating, differentiating between the simple sugars and the

1  
2 complex sugars and the... we know that they add  
3 different nutritional value?

4 KIM KESSLER: So, the government's  
5 recommendation focus is on added sugars which the  
6 leading contributor in our diets of added sugars is  
7 sugary drinks which contribute almost 50 percent of  
8 the added sugars that Americans consume. We as a  
9 department focus on the overconsumption of sugary  
10 beverages because it's such a contributor of added  
11 sugars in our diets and that's what we're most  
12 concerned about because it has no nutritive content  
13 and, and when in sugary drinks doesn't give people  
14 the sense of fullness that will help them modulate  
15 their consumption.

16 COUNCIL MEMBER BARRON: Can you just give  
17 us a... elementary school version of how carbs work in  
18 the body and they turn to glucose and we know that  
19 they get stored or not stored and then they get used  
20 by insulin, can you just give us an elementary school  
21 lesson on that?

22 KIM KESSLER: What I would say generally  
23 is that when you are a diabetic if you... when you are  
24 consuming certain types of carbohydrates they're  
25 going to convert to the, the... when insulin will help



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2 them convert to glucose which makes energy... is used  
3 by energy and when you don't have sufficient insulin  
4 or your body isn't using insulin efficiently then  
5 that is where you add added sugars in your blood or  
6 create, create more added sugars in your blood so  
7 that is what's of concern for diabetics. What you're  
8 asking about carbohydrates are actually they appear  
9 in all... a wide variety of foods and many healthy  
10 foods as well as in unhealthy foods and part of what  
11 the concern would be around creating a one simple  
12 poster is that it would be difficult to create one  
13 given the, the wide range of, variety of menu items  
14 that exist in a restaurant environment to have a  
15 poster that would give people actionable information.  
16 What we know from evidence about, about warning  
17 labels or labeling paradigms around food is that  
18 they're most effective for consumers when they're  
19 linked to one particular item so that they can for  
20 example with the sodium warning label see that  
21 particular item and make a choice about it whereas  
22 more generalized information that isn't linked to a  
23 specific item on the menu is more difficult for  
24 people to take action on or is more likely to be,  
25 that's what the evidence would lead us to think.

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2 COUNCIL MEMBER BARRON: I, I don't agree,  
3 I differ with you on that, I think a generic kind of  
4 notice to consumers beware, be mindful that as you're  
5 looking at these items that if they're carbs they're  
6 going to turn to sugar and, and... of course we know...  
7 the other point we need to make sure is that people  
8 understand the body needs the carbs, they need it for  
9 the energy, they need it for brain functioning, they  
10 need it to help regulate the insulin so we want to  
11 make sure that we're not telling people they  
12 shouldn't have carbohydrates because it does play an  
13 important part in, in the diet... in the diet that  
14 we're talking people have healthy diets but I  
15 disagree I think that if we talk generally about the  
16 impact of excessive sugars in the diet that we can  
17 then have people... have their interest peaked as to  
18 whether or not they should make the selection and you  
19 do talk about, in your testimony you say you want  
20 people to be informed, they want... you want people to  
21 make informed decisions based on easy to understand  
22 information and I think that a poster that is generic  
23 and not particularly talking about a particular food  
24 item but generally understanding how the body works  
25 and the impact of excessive added sugars would have a

1  
2 negative impact especially for people who are pre-  
3 diabetic and, and diabetic. I think if we talk about  
4 informing our public as to the benefits of making  
5 informed decisions as they make their selections it  
6 would be helpful. We know that the runners before the  
7 big marathons are told pile up on the carbs so we  
8 certainly want to have that balance of having people  
9 understand that a balanced diet as you have said is  
10 important but we need to I think help people  
11 understand that carbs turn to sugar; starches, pasta,  
12 breads turn to sugar but I thank you and I'm, I'm  
13 glad that you're looking to be able to work together  
14 to see how we can make that a reality. Thank you Mr.  
15 Chair.

16 CHAIRPERSON JOHNSON: Thank you very much  
17 Council Member Barron, we're going to go to Council  
18 Member Vacca.

19 COUNCIL MEMBER VACCA: Thank you Mr.  
20 Chair. I first would like to sign onto the  
21 legislation sponsored by Council Member's Barron,  
22 Dromm, and Karen Koslowitz and Corey your bill I have  
23 to read a little more but... [cross-talk]  
24  
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2 CHAIRPERSON JOHNSON: Okay, thanks  
3 Council Member we're going to go back to who's... once  
4 we...

5 COUNCIL MEMBER VACCA: I got to be honest  
6 I have to study it... [cross-talk]

7 CHAIRPERSON JOHNSON: Put this Council  
8 Member on the clock, no I'm just joking... [cross-talk]

9 COUNCIL MEMBER VACCA: See, right, right  
10 away he starts in with me now but let me just say  
11 this, I, I'm not happy with what we're doing or what  
12 we're not doing regarding sugar consumption, it  
13 doesn't seem we're doing much at all. I, I raised  
14 this several months ago when the Health Department  
15 came to another hearing at the Health Committee, you  
16 do know that the use of sugar beverages is going up  
17 in this city statistics have shown that it is rising  
18 and I want your reaction to that, why is that  
19 happening, are, are you aware of that and what are we  
20 doing about it? At the last committee meeting I had  
21 urged that we establish a task force to assess what  
22 we should do and that we include the council and the  
23 administration and health experts but the reality is  
24 that we have to do something because people are  
25 drinking more sugar beverages, that health variable

1  
2 is going in the wrong direction in this city. So, can  
3 you respond to that?

4 KIM KESSLER: Thank you for your  
5 question, we certainly are very closely monitoring  
6 the sugary drink data that we collect every year and  
7 while the city has made tremendous progress overall  
8 in reducing sugary drink consumption we have seen  
9 that that progress has stagnated and so we, we very  
10 much share your concern. We do continue to implement  
11 a host of policies and, and in particular have  
12 removed sugary drinks from environments that children  
13 are in from our schools, from our daycares, and from  
14 our day camps and we are also continuing with public  
15 health messaging and nutrition education around that  
16 so we do have nutrition education that reaches more  
17 than 30,000 kids and adults a year through our  
18 farmers market programs and our programs in early  
19 child care centers and that includes messaging on  
20 sugary drinks and also public health campaigns and we  
21 have an upcoming campaign planned.

22 COUNCIL MEMBER VACCA: But I have to tell  
23 you whatever you're doing is not working because last  
24 year the number of adults or, or the percentage of  
25 adults who consume one or more sugar sweetened

1 beverages increased last year from 23.7 up from 22.5  
2 the year before. So, what we're doing is not working,  
3 it's not adequate and it's not working and that's why  
4 several months ago I had asked that a task force be  
5 established. I realize that several things need  
6 Albany approval and I realize that there is great  
7 opposition to other things and so on and so on. I can  
8 only tell you that there was great opposition when  
9 former Mayor Bloomberg imposed a smoking ban in the  
10 bars but now we've all come to the conclusion that  
11 that was the right thing to do. I think that Council  
12 Member Barron touched on the diabetes aspect most  
13 effectively, I want to talk to you about obesity  
14 which in the Bronx is leading the state. We have a  
15 major obesity issue in the... in the borough more than  
16 any other borough in the city and more than any other  
17 county in the state unfortunately. The Bronx is 62  
18 out of 62 counties in the state when it comes to  
19 being the unhealthiest and I refuse to accept that  
20 continued distinction for my borough and sugar is a  
21 main culprit and I offer you my help and, and my  
22 cooperation but I'm, I'm not happy at this point that  
23 we're doing enough. If there's legislation let's  
24 consider it but I do at least say that we, we got to  
25

1  
2 get our heads together because this escalating number  
3 is unacceptable.

4 KIM KESSLER: We absolutely share your  
5 concern and appreciate hearing your great interest in  
6 tackling this contributor to diet related disease and  
7 are currently continuing as I said to press on this  
8 issue, continue with the policies that we do have in  
9 place as well as public awareness and we're happy to  
10 further consult with you about what other options we  
11 can look at.

12 COUNCIL MEMBER VACCA: I, I think we need  
13 a timetable, I think we need to know what and when,  
14 I'll be a part of that discussion if that's helpful  
15 but I think we need to know what and when, it just  
16 can't be a general statement that we will continue to  
17 have conversations and look into this and look into  
18 that. We need a timetable, the number I, I just gave  
19 is alarming in one year that so much consumption of  
20 sugar laden beverages has gone up to that degree.  
21 Some of these cans of soda and.. what do they call  
22 these things, energy drinks and all, you have to see  
23 how much sugar is in one can, we're talking 27 to 53  
24 grams of sugar in one can or one bottle, it is  
25 alarming and, and some of the drinks go even beyond,

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2 beyond that into the 70... into the 70's when it comes  
3 to grams of sugar. So, we're talking about people who  
4 need us to come to a policy action plan. Thank you.

5 KIM KESSLER: Thank you.

6 CHAIRPERSON JOHNSON: Council Member  
7 Vacca how often do you go to the gym?

8 COUNCIL MEMBER VACCA: No comment, I'm  
9 not answering that. I exercise very... a, a lot and I,  
10 I, I have not had a can of regular soda... I cannot  
11 remember having it and I do not urge anyone to have  
12 it.

13 CHAIRPERSON JOHNSON: How old are you  
14 Council Member Vacca?

15 COUNCIL MEMBER VACCA: What's that.

16 CHAIRPERSON JOHNSON: How old... how old  
17 are you?

18 COUNCIL MEMBER VACCA: How old am I, I'm  
19 not answering that question.

20 CHAIRPERSON JOHNSON: You know when the  
21 weather gets warmer and the sun's out Jimmy's guns  
22 are out because he is... he, he goes to the gym a lot.  
23 Okay, we're going to get back to some questions  
24 quickly. Are either one of you attorneys?

25 CORINNE SCHIFF: Yes.



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CHAIRPERSON JOHNSON: Yes?

CORINNE SCHIFF: Yes.

CHAIRPERSON JOHNSON: Yes, okay great.

So, I want to get... skip back to the due process issue just quickly. So, you said that you're basing it off data that you have, the reason why you don't want to go by what the tribunal has said, what OATH has said on the re-inspection cycle is because of your own data, is that correct, the New York State Sanitary Code and the FDA Model, is that correct?

CORINNE SCHIFF: That's right the data supports our returning to the restaurants based on our observations and not based on the outcome of the hearing.

CHAIRPERSON JOHNSON: Okay. So, if the FDNY was here today.. sorry, if the NYPD was here today and the NYPD said to us, you know we have data that when people do certain things instead of going to a judge we're just going to make our own decision based on the data, all of us would be outraged, we would say due process matters, having your day in court matters, being able to rebut the claims against you matter, and you should have due process, you all are saying we're going to take due process away

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2 because we have data, how is that fair, I just don't  
3 understand how that... how that's fair? This is like  
4 fun... put Health Department inspections aside, the  
5 larger issue of due process and fairness in America  
6 is a bigger issue here and this is the one part of...  
7 one city agency that does not allow due process, I  
8 don't understand how that's fair and Tom if you want  
9 to come up and talk about this you can but I don't  
10 understand how this is defensible, we don't allow  
11 other city agencies to do this, we don't allow the  
12 NYPD to do it... This is Tom Merrill... [cross-talk]

13 CORINNE SCHIFF: Hi... [cross-talk]

14 CHAIRPERSON JOHNSON: Tom you're going to  
15 tell us the truth today?

16 TOM MERRILL: Promise to tell you the  
17 truth.

18 CHAIRPERSON JOHNSON: Okay, got it so go  
19 ahead.

20 TOM MERRILL: Okay. So, I want to correct  
21 something you said earlier in terms of re-inspections  
22 and we're talking about re-inspections, DOB and other  
23 agencies when it's a health and safety violation  
24 we'll re-inspect even if, if the violations thrown  
25 out the, the tribunal. I agree with you in terms of a

1  
2 grade that if, if... you know if, if we're going to  
3 make a restaurant post a, a... you know we can only  
4 make them post a grade that corresponds to violations  
5 that have been sustained at the tribunal. The systems  
6 designed for that, the systems actually designed to  
7 even give restaurants a second bite at the apple to  
8 earn a higher grade. I don't agree with you that due  
9 process demands that we in terms of balancing the  
10 rights of the public, the safety to the rights of, of  
11 health... you know and then... and scheduling the... a  
12 subsequent inspection that due process demands that  
13 we... that we change our inspection schedules because  
14 of a, a violation which may have been thrown out for  
15 a non-substantive grounds at the tribunal that that  
16 dictates that we cannot go back and make a risk based  
17 determination on, on scheduling based on, on, on that  
18 first inspection.

19 CHAIRPERSON JOHNSON: But a self-closing  
20 door is not putting someone at risk, if you guys had  
21 a more sane point system that the public understood  
22 then I would agree in some ways on, on this but, but  
23 right now the system is all over the place.

24 TOM MERRILL: I think we're going to have  
25 to disagree on that as well. I think... [cross-talk]

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COMMITTEE ON HEALTH

CHAIRPERSON JOHNSON: A self-closing door... [cross-talk]

TOM MERRILL: The, the problem... [cross-talk]

CHAIRPERSON JOHNSON: ...door is, is, is posing a risk to the public?

TOM MERRILL: The public understands that "A", "B", and "C" measures to the, the, the overall performance that that restaurants inspection... [cross-talk]

CHAIRPERSON JOHNSON: But let's not... [cross-talk]

TOM MERRILL: ...and... [cross-talk]

CHAIRPERSON JOHNSON: ...talk about "A", "B", and "C" conceptually what goes into an "A", "B", and "C"... [cross-talk]

TOM MERRILL: ...I think... [cross-talk]

CHAIRPERSON JOHNSON: ...a self-closing door... [cross-talk]

TOM MERRILL: ...I think that most members of the public would also want their... the people who work at their restaurants to, to not... to, to, to be using a bathroom that has a self-closing door, okay, I think they'd be worried about that violation.

1  
2 CORINNE SCHIFF: I mean I, I do want to  
3 highlight that the, the task before the advisory  
4 board was to take a look at all of the violations and  
5 determine which ones they thought were not connected  
6 to food safety and, and this violation isn't one that  
7 they suggested that we take a look at and that was  
8 right because the, the food and drug administration  
9 model food code includes this and... this and, and does  
10 the state sanitary code. So, when we look across the  
11 violations that we use as part of the grade they are  
12 connected to food safety.

13 CHAIRPERSON JOHNSON: I don't think it's  
14 fair, I think it needs to be reformed and I think  
15 that we should have... would, would you guys be open to  
16 changing the, the, the grading point system so that  
17 it goes zero to 100 instead of zero to 13, 14 to 27,  
18 28 and above, would you be open to that?

19 CORINNE SCHIFF: We, we think that the  
20 system we have with this... with this point scale  
21 allows us to do a very accurate inspection and  
22 provide really good detailed information to the  
23 restaurant and that's why it's designed this way. No,  
24 our, our goals in the program are to main... to promote  
25 high food safety standards to protect New Yorkers, to

1  
2 promote transparency and to promote fairness for  
3 restaurants. So, we're happy to talk with you about,  
4 about... [cross-talk]

5 CHAIRPERSON JOHNSON: The restaurants are  
6 going to come today and say that they don't think  
7 you're doing that, you're going to hear from many  
8 restaurants. So, your goals are not in line what the...  
9 what the industry's going to say and let's walk out  
10 on the street one afternoon and ask a New Yorker that  
11 has lived here since 2010 if they understand the  
12 point system. If it's about transparency the public  
13 should understand it, the public doesn't understand  
14 the system because the system... the grading system  
15 doesn't make sense. If you go to LA and you say to  
16 someone how do you get an "A" they would probably say  
17 oh you have to get between 90 and 100, you come to  
18 New York and you say to someone on the street how do  
19 you get an "A" how many people are going to say you  
20 have to have zero to 13 points, how many people do  
21 you think will know that, many?

22 CORINNE SCHIFF: The reason that we  
23 created the, the grade card was to create an  
24 intuitive symbol to communicate the outcomes of the  
25 inspections and, and what we saw very soon after we

1  
2 launched is that New Yorkers got it, they understand  
3 "A", "B", "C" and they, they decide where to eat  
4 based on that grade, they take that... [cross-talk]

5 CHAIRPERSON JOHNSON: What do we base...  
6 how do we know New Yorkers get it, how do we know New  
7 Yorkers understand the, the grading system?

8 CORINNE SCHIFF: What we know is that New  
9 Yorkers understand "A", "B", "C" and that... [cross-  
10 talk]

11 CHAIRPERSON JOHNSON: ...but we don't  
12 under... we, we, we don't know if they understand what  
13 that... how you get an "A", "B", or "C"; what's being...  
14 what's being looked at to get an "A", "B", or "C".

15 CORINNE SCHIFF: New Yorkers that are  
16 interested in knowing that can go on our website,  
17 they can see exactly what we found at that  
18 inspection, they can read our fact sheet on how we  
19 grade and score. We don't restaurants... New Yorkers to  
20 know that what we want them to know is "A", "B", "C"  
21 and they can use that information if they want to  
22 make decisions about where to eat and we know that  
23 that's been extremely effective in motivating  
24 restaurants to adopt high food safety standards and  
25

1  
2 that's why 93 percent of restaurants today are  
3 posting "A's" in their windows.

4 CHAIRPERSON JOHNSON: Council Member  
5 Barron has some more questions.

6 COUNCIL MEMBER BARRON: Thank you just a  
7 few more questions. I do want to acknowledge that the  
8 idea from this bill came from my staffer, my  
9 legislative director Indigo Washington and she was  
10 very much concerned about it because of her family's  
11 connections with diabetes and pre-diabetes and, and  
12 in your... in your testimony... well how does... how does  
13 your department inform the public about... what kind of  
14 education programs do you have, I heard you mention  
15 day cares but what other education formats do you  
16 have for the public to become aware and informed?

17 KIM KESSLER: We use both our media  
18 campaigns to promote healthy diets. We've had media  
19 campaigns around eating fruits and vegetables and  
20 eating them as a snack on the go as well as campaigns  
21 around over consumption of sodium and salt as well as  
22 campaigns on sugary drinks and again... are have...  
23 would... will continue to do that so that's one form  
24 of, of mass education, mass public education around  
25 these issues and then in terms of nutrition education



1  
2 we do provide that both at farmers markets, many  
3 farmers markets throughout the city, through our  
4 stellar farmers markets programs and then we have a  
5 program that works in early child care centers  
6 throughout the city and we reach about 30,000 New  
7 Yorkers a year through those two nutrition education  
8 programs.

9 COUNCIL MEMBER BARRON: What... how much of  
10 the budget is allocated to the campaigns to educate  
11 the public, what percentage?

12 KIM KESSLER: I don't actually have that  
13 information with me today but I can tell you that we  
14 continue to be very committed to that in all of our,  
15 our broader efforts around primary prevention of  
16 reducing diet related disease is something that's  
17 represented in a whole host of programs and  
18 approaches that the department foresees.

19 COUNCIL MEMBER BARRON: So, the media  
20 campaign that you run is though... where, where's your  
21 message broadcast or published?

22 KIM KESSLER: Television, digital,  
23 subways, bus shelters, a, a whole variety of ways of  
24 reaching New Yorkers.

1  
2 COUNCIL MEMBER BARRON: Are there  
3 pamphlets that you also prepare for distribution and  
4 where are they sent or how... [cross-talk]

5 KIM KESSLER: We do, we also... we have a  
6 whole variety of public health materials and  
7 education materials including a healthy eating and  
8 active living guide that provides information on a  
9 healthy diet and how you can get exercise. We put out  
10 health bulletins on topics related to this including  
11 on diabetes and those are available if... people can  
12 call 311 and order them and we, we work with partners  
13 to disseminate them as well.

14 COUNCIL MEMBER BARRON: Thank you and  
15 finally I heard you say... one of my colleagues asked a  
16 question and in your response, you cited, I think it  
17 was Council Member Vacca, you said well we monitor  
18 how the increase is being reflected and there's a  
19 commercial, I don't know... I don't want to give cite..  
20 give reference to the producer of the commercial but  
21 it says there's an activity going on and the woman  
22 says do something, he says oh we're a monitoring  
23 agency, we don't take action, we don't do anything so  
24 we certainly don't want to limit the Department of  
25 Health to just saying that they monitor, we do want

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to support you as you find those measures to take action and we look forward to doing that because we need to make sure the people understand that the high fructose corn syrup is added sugar, you know and there are other added sugars that are being combined with the sugars that are inherent in, in the foods that we're already eating. So, we look forward to working with you in that regard.

KIM KESSLER: Thank you Council Member...

[cross-talk]

COUNCIL MEMBER BARRON: Thank you...

[cross-talk]

KIM KESSLER: I think... I was responding to his question about our awareness of the changes in data and I wanted to make sure that he understood of course we do carefully track this information and we want to monitor and track that data so that we can use it to inform our... [cross-talk]

COUNCIL MEMBER BARRON: Certainly, right...

[cross-talk]

KIM KESSLER: ...actions but we... [cross-talk]

COUNCIL MEMBER BARRON: ...and, and we...

[cross-talk]

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KIM KESSLER: ...agree very... [cross-talk]

COUNCIL MEMBER BARRON: ...we do need the data... [cross-talk]

KIM KESSLER: ...committed to action... [cross-talk]

COUNCIL MEMBER BARRON: ...to be able to take the action that needs to be taken because Brooklyn is the... is the epicenter, it's the highest... the highest location of people with diabetes in the nation. So, it's really an, an, an issue that we really need to take action on. Thank you so much.

CHAIRPERSON JOHNSON: Thank you Council Member Barron, Council Member Koslowitz wants to say something.

COUNCIL MEMBER KOSLOWITZ: I would like to go on the bills that we're discussing today; 1103, 1203, 1263, 1456, and 1571.

CHAIRPERSON JOHNSON: Council Member Koslowitz I like you more than Council Member Vacca so thank you for, for being here today. We're going to keep pushing these bills, we can have conversations about it but I'm not giving up, I don't think it's fair, I don't think that it makes sense fully, we disagree and we're going to continue to

1  
2 probably disagree but maybe we can come to some type  
3 of agreement on how to move forward because I'm going  
4 to keep pushing this, it's important to me, I would  
5 ask for one thing Deputy Commissioner, Assistant  
6 Commissioner I see other leadership from the Health  
7 Department here we're going to call up a member of  
8 the food, food service establishment board, Advisory  
9 Council to testify, the Council's Appointee, I would  
10 be grateful if you would stay for his testimony and  
11 listen to his testimony before you leave today that  
12 would be really... I would really appreciate that. So,  
13 will you all agree to stay for his testimony? Yes,  
14 great, thank you very much for testifying. Okay...

15 [cross-talk]

16 CORINNE SCHIFF: Thank you... [cross-talk]

17 CHAIRPERSON JOHNSON: ...we're going to  
18 call up Robert Bookman from Pesetsky and Bookman who  
19 is the Council's Appointee to the Food Service  
20 Establishment Advisory Board, we're going to call him  
21 up by himself and then we're going to get to the  
22 other panels after this. So, Mr. Bookman I don't... I  
23 don't typically swear the public in but since I  
24 called you up in your capacity in some ways as a

25

1  
2 member of the Food Safety Establishment Advisory  
3 Council I would like to swear you in... [cross-talk]

4 ROBERT BOOKMAN: Absolutely... [cross-talk]

5 CHAIRPERSON JOHNSON: ...since you're the  
6 Council's Appointee are you okay with that?

7 ROBERT BOOKMAN: Absolutely.

8 CHAIRPERSON JOHNSON: Okay. So, do you  
9 affirm to tell the truth, the whole truth and nothing  
10 but the truth and answer honestly to council member  
11 questions?

12 ROBERT BOOKMAN: I do.

13 CHAIRPERSON JOHNSON: Okay, you may begin  
14 your testimony.

15 ROBERT BOOKMAN: So, thank you very much.  
16 Yeah, my name is Robert Bookman, I am a practicing  
17 attorney for 30 some odd years ever since I left city  
18 government, I am also Council to the New York City  
19 Hospitality Alliance and I am privileged and honored  
20 to be one of the council's Appointees to the Food  
21 Advisory Board which came as a result of a series of  
22 reforms pushed by the council with quite frankly the  
23 Bloomberg Administration kicking and screaming for  
24 some of them after a major oversight hearing that  
25 this committee had back in 2012 resulting in

1  
2 legislation in 2013 concerning the letter grade  
3 system which was newer then and I... before I get into  
4 my comments, there's a lot to discuss, you... a lot of  
5 good points were raised today, I, I want to  
6 compliment Deputy Commissioner Schiff and her staff,  
7 worked very closely with them on the Food Service  
8 Advisory Board, they are the consummate  
9 professionals, I think the city is... and I've known  
10 Tom for many years, their council, I think the city  
11 is lucky to have such people who could probably  
12 frankly make a lot more money working in the private  
13 sector than they do. I have no question about their  
14 motive which is a safe and healthy New York and our  
15 industry and I certainly share that but we do have  
16 some fundamental differences about approach, about  
17 what due process means, and about what's fair and  
18 what the proper balance should be with the business  
19 community.

20 CHAIRPERSON JOHNSON: Can you say all  
21 that... can you say that again?

22 ROBERT BOOKMAN: No, once is enough...  
23 [cross-talk]

24 CHAIRPERSON JOHNSON: Okay, got it once  
25 is enough. I'm going to hold you to that, I'm going

1  
2 to remind you when you call me screaming about them  
3 remember what you said about Deputy Commissioner  
4 Schiff and the... [cross-talk]

5 ROBERT BOOKMAN: Uh-huh... [cross-talk]

6 CHAIRPERSON JOHNSON: ...General Council,  
7 okay keep going Mr. Bookman.

8 ROBERT BOOKMAN: Okay, so a little  
9 background first, you know these reforms like I said...  
10 you know we started in 2013 a variety of inform...  
11 reforms, some of those reforms had to do with  
12 lowering fines and the fines as you heard today have  
13 gone down dramatically but what, what I want you to  
14 think about as I make my comments and respond to your  
15 questions is what I think are three overriding simple  
16 questions that should be in all of your minds. One,  
17 why should an ALJ decide the grade on a re-inspection  
18 but an ALJ should not decide a grade on an initial  
19 inspection... [cross-talk]

20 CHAIRPERSON JOHNSON: An Administrative  
21 Law Judge.

22 ROBERT BOOKMAN: Correct, that's question  
23 number one. Question number two is why are fines  
24 still double what they were before letter grades even  
25 with these reductions when we have 93 percent of



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2 restaurants having an "A", something's not correct  
3 there. How is it that fines are still twice the...  
4 twice what they were when the Health Department says  
5 before letter grades restaurants weren't taking all  
6 this stuff seriously now more than nine out of ten  
7 are taking it seriously but we're fining them double  
8 what they were before... in, in those bad old days,  
9 that's question number two. And question number three  
10 is, is there anything being proposed specifically in  
11 your bill today Mr. Chairman which would jeopardize  
12 food safety. So, those are the three overriding  
13 issues here it seems to me. In my mind, there have  
14 been certain... certainly there's been improvements by  
15 the Health Department in outreach and education since  
16 these reforms, we've discussed those extensively and  
17 I compliment them for them and there are more things  
18 on the way. They're using technology better, they're  
19 trying to reach out to restaurants better and give  
20 them more data but they're still problems. If, if the  
21 Sergeant of Arms could take the... what I'm handing up  
22 to you now is some excellent data given to, to us by  
23 the Health Department which is a history of the top  
24 violations cited by the Health Departments and what  
25 you'll see unfortunately is that there are ten

1  
2 violations out of the dozens and dozens and dozens  
3 that they inspect for that account for almost two  
4 thirds of all violations issued by the Health  
5 Department and, and about 25 percent of those are  
6 minor violations, things like plumbing not properly  
7 installed that do go toward your letter grade. So,  
8 this is some institutional problems here that either  
9 education is not reaching sufficiently the industry  
10 when the same violations year after year after year  
11 are the top ten and they account for two thirds of  
12 all violations and they... many of them... the top two  
13 are in the old system before there was points when  
14 there was just critical and non-critical, the top two  
15 violations issued year after year are what I consider  
16 minor violations yet they still impact your letter  
17 grade. So, what you said earlier Mr. Chairman do New  
18 Yorkers and more importantly do the 60 million  
19 tourists that come to New York who see grades on  
20 windows who are a significant portion of our city's  
21 economy do they understand, I don't think so. I think  
22 what most people believe is that an "A" is a safe  
23 place to eat, a "B" is a somewhat place to eat but  
24 not... and a "C" is not a safe place to eat. Well  
25 that's not the reality, that's not the system that

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2 they design but even today they fell into their own  
3 trap by basically implying that "B" and "C"  
4 restaurants are not safe and that your bill would  
5 prevent them from going back to restaurants that are  
6 not safe and re-inspecting and that's not true.  
7 Unsafe restaurants there's another term for them,  
8 closed restaurants... [cross-talk]

9 CHAIRPERSON JOHNSON: They, they get...

10 [cross-talk]

11 ROBERT BOOKMAN: ...the Health Department...

12 [cross-talk]

13 CHAIRPERSON JOHNSON: ...shut down.

14 ROBERT BOOKMAN: They get shut down, the  
15 Health Department has that authority, no one is  
16 saying they shouldn't, our industry is the first one  
17 to, to be at the... at the... at the forefront that  
18 unsafe places should be shut down and they do shut  
19 them down, "B's" and "C's" are safe places to eat  
20 otherwise they wouldn't be open. So, consumers are  
21 confused, tourists are certainly confused and what  
22 they do think those letters mean to a certain extent  
23 or a large extent is that those grades only reflect  
24 cleanliness and food safety and we know that that's  
25 not the case that there are many, many violations

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2 that are included in your letter grade that do not  
3 have any direct relationship to cleanliness or food  
4 safety. So, you created an advisory board, it wasn't...  
5 the administration, the prior administration didn't  
6 create an advisory board, the Health Department  
7 didn't request an advisory board with due respect to  
8 the excellent Health Department people here, you  
9 folks insisted on it and we've met and we came up  
10 with recommendations and there were a lot fewer by  
11 the way since a majority of the members, let's be  
12 honest, a majority of the members were appointed by  
13 the administration, a lot fewer recommendations than  
14 the industry representatives or the council  
15 representatives recommended. I have a list here  
16 highlighted in yellow of many more that we discussed  
17 that we couldn't get a unanimous vote on and we  
18 wanted to work unanimously. So, what we recommended  
19 to the Health Department was a very, very slim group  
20 of what we thought very clear cut types of  
21 recommendations for violations that would stay  
22 violations by the way, nobody was saying take it out  
23 of the health code, if you, you found guilty of it  
24 you would be fined for it, nobody was saying, you  
25 know you shouldn't be fined for it although that's

1  
2 another issue to discuss simply that they should have  
3 no points or fewer points, you brought up one about  
4 the, the supervisor not being present during an  
5 unannounced inspection...

6 CHAIRPERSON JOHNSON: The food protection  
7 certificate... [cross-talk]

8 ROBERT BOOKMAN: ...the food protection...  
9 [cross-talk]

10 CHAIRPERSON JOHNSON: ...holder... [cross-  
11 talk]

12 ROBERT BOOKMAN: ...holder, right during  
13 unannounced inspection. So... and after six months of  
14 de-consideration they came back and didn't even agree  
15 with majority of the small group of recommendations  
16 that we made and that was extremely disappointing to  
17 me and other members of the food protection advisory  
18 board that you created.

19 CHAIRPERSON JOHNSON: Was that... were  
20 those recommendations unanimously adopted?

21 ROBERT BOOKMAN: Unanimously.

22 CHAIRPERSON JOHNSON: Unanimously, every  
23 member?

24 ROBERT BOOKMAN: Even their appointees.  
25

1  
2 CHAIRPERSON JOHNSON: Even their  
3 appointees agreed?

4 ROBERT BOOKMAN: That's correct and it...  
5 [cross-talk]

6 CHAIRPERSON JOHNSON: Keep going... keep  
7 going, thank you... [cross-talk]

8 ROBERT BOOKMAN: And it was low hanging  
9 fruit quite frankly, it was easy stuff. So, yours for  
10 example, the one that you suggested... you... the one  
11 that you raised. The truth to the matter is a lot of  
12 restaurants are mom and pops, they don't have tons of  
13 staff and its often mom or pop who holds the food  
14 handler certificate and may not be in the restaurant  
15 when the inspector shows up, it is after all an  
16 unannounced inspection, they may not even show up  
17 when there's any food prep going on or food service  
18 going on. They may be at... in the Bronx buying fruits  
19 and vegetables, they may be running to the bank, you  
20 know they may be sitting at a hearing from some  
21 agencies because they didn't have a sign posted, you  
22 know more often than not. So, there's lots of  
23 reasons, it doesn't mean that... and this is where form  
24 comes over substance with a lot of these things here,  
25 it doesn't mean that they're observing anything

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2 that's not proper because if they were they'd give  
3 violations for that. So, for them to say the data  
4 shows, they're very data driven when it supports  
5 their position, data shows that having those trained  
6 people there reduce violations and that may be true  
7 in the... in the macro but in the micro they're there,  
8 are you seeing any food handling, food prep  
9 violations if you are giving them a violation for it  
10 and they get points for it, there's... the list is  
11 endless, there's a hundred and some odd items here  
12 and if they're not then why bang somebody ten points  
13 which is almost a "B" already because the person is  
14 simply not there. Same thing with the... and that's  
15 what we felt in the advisory board, real stuff.

16 CHAIRPERSON JOHNSON: Unanimously  
17 supported... [cross-talk]

18 ROBERT BOOKMAN: Real stuff, a sign which  
19 by the way you notice when they don't produce data,  
20 where's the data that a sign reminding employees to  
21 wash their hands actually increases employees washing  
22 their hands. Now maybe, maybe... you know certainly  
23 where is the data that says that a sign in an... in a  
24 customer only bathroom saying employees must wash  
25 their hands increased the number of employees who

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2 wash their hands when they go to the employee  
3 bathroom that has the sign. We try to take some  
4 common-sense things like that and make reforms and we  
5 were very disappointed with the response and this is  
6 your advisory board and these were reports to you,  
7 annual reports to you. So, we think it's very  
8 appropriate that the council take the recommendations  
9 and... I don't even think you went as far as the  
10 advisory board did and adopt it legislatively. Now  
11 let's move onto a few other issues.

12 CHAIRPERSON JOHNSON: So, just to be  
13 clear the... [cross-talk]

14 ROBERT BOOKMAN: Sure... [cross-talk]

15 CHAIRPERSON JOHNSON: ...things that we're  
16 proposing in my bill this legislation are things that  
17 this advisory board unanimously asked that the Health  
18 Department do on their own?

19 ROBERT BOOKMAN: That's true on all... on,  
20 on all the point section of your bill, right.

21 CHAIRPERSON JOHNSON: Thank you.

22 ROBERT BOOKMAN: The due process was  
23 another issue... the due process issue... the other part  
24 of your bill I'll get to it now. We, we had a  
25 committee meeting on that issue, it, it didn't get to



1 the full advisory board yet on the issue of due  
2 process, it was an issue that was raised at the first  
3 meeting, it was put off for well over a year until we  
4 got to some of these other things that we thought we  
5 could both agree on, didn't... we didn't know it would  
6 take six months for them to get back to us and I know  
7 there was some personnel change, I don't blame any of  
8 the people sitting here, I think Deputy Commissioner  
9 Schiff is... was honest in trying to get us answers to  
10 that but... and then we did have one committee meeting  
11 on this due process issue that I was the only member  
12 of the committee that actually showed up for the  
13 hear... you know for that committee meeting, a couple  
14 other people were on the phone and it was clear as a  
15 result of that committee meeting just as they  
16 testified to you today that they're satisfied with  
17 their due process system and had no intention of  
18 changing it so we didn't need to waste another year  
19 to make a recommendation that they were not going to  
20 go along with and I appreciate their honesty in  
21 saying today no we don't agree with it. So, you... it's  
22 not dishonoring the advisory board, it's honoring the  
23 advisory board not to have us waste a year to come up  
24 with a recommendation that after six months'

1 consideration is not going to be approved anyway. We  
2 do not believe that that proposal in your bill  
3 undermines the incentive system that they created at  
4 all, you're not suggesting a change in the process  
5 that they have where people who are adjudicated  
6 having a "B" or a "C" get a re-inspection, they still  
7 have that incentive to get that "A", that's not going  
8 to change. The only thing that's going to change is  
9 there will be thousands fewer restaurants  
10 unnecessarily getting a re-inspection than the  
11 current system which endures to everyone's benefit  
12 including their limited resources, they don't even  
13 have all their inspector lines filled it's so hard to  
14 get qualified people at what the city government pays  
15 for a very important job but the... all your bill would  
16 do if adopted by law would reduce by thousands the  
17 number of places that need to get a re-inspection  
18 because in reality they are "A" restaurants and they...  
19 and I say in reality they are "A" restaurants because  
20 that's what a judge as you point out determines after  
21 a due process hearing just like that same judge  
22 determines after a hearing on the re-inspection. So,  
23 we're not saying nor are they saying that the judges  
24 are not qualified to make that determination or an  
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2 inspector's accusation trumps a judge, they concede  
3 that it's a judge who has the final determination  
4 except under an initial inspection but the data that  
5 they gave us at the advisory board what that... that  
6 was and this is really informing, I think it was 2015  
7 data, that 2,000 establishments, 2,000 establishments  
8 who were accused of 14 or more points on initial  
9 inspection decided to go to the hearing and won, a  
10 lot more I'm sure went to the hearing and lost but  
11 2,000 won meaning they had enough points dismissed by  
12 a judge that they wound up with 13 or fewer points  
13 but they did not get their "A" because of this  
14 current system. There is nobody; Councilman Barron,  
15 Councilman Koslowitz, Council, Council person..  
16 Council people, Mr. Chairman there's nobody in our  
17 personal lives would accept such a system where  
18 you're accused by some government official, a police  
19 officer or somebody else of violating the law and  
20 it's the accuser that determines your guilt or  
21 innocence, nobody would accept that in our personal  
22 lives, how can we accept that here? And what's worse  
23 is that there are an unknown thousands of others who  
24 didn't even bother to go to that hearing because the  
25 only thing that hearing could determine is a fine,

1 they can't determine your grade. So, thousands of  
2 others accepted the fine offer that the Health  
3 Department gave them and didn't even bother to go to  
4 a hearing, who knows first of all how many millions  
5 of dollars they collect therefore from those people  
6 and maybe that's an answer to one of those questions  
7 about why fines are still higher even though people..  
8 93 percent of the restaurants get "A's" is because  
9 they're collecting unknown millions of dollars from  
10 people who on the initial inspections who are accused  
11 of 14 or more points who didn't even bother to go to  
12 the hearing they'd rather just pay a fine and wait  
13 for the re-inspection than to spend a half a day down  
14 there just to maybe reduce marginally, you know a  
15 fine or whatever but as professor... I, I think it was  
16 Professor Ho was his name who was here at your  
17 oversight hearing and it was in our, our outfit in  
18 Cranes today, Daniel Ho who did a study in 2012 with  
19 NYU Stanford and Yale, minor organizations and he  
20 determined that there lack of due process, the way  
21 they handle it is a major waste of their limited  
22 resources and it is misplacing resources from  
23 restaurants that are in fact safe to... rather than  
24 focusing on restaurants which are not safe.  
25

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2 CHAIRPERSON JOHNSON: Mr. Brookman can  
3 you respond to the General Council's comment about  
4 the Department of Buildings will not change their re-  
5 inspection schedule if they determine something... they  
6 determine something to be dangerous?

7 ROBERT BOOKMAN: I'm not a building  
8 department expert but my understanding is it's no  
9 different than what they will still have the right to  
10 do here should your bill be passed and that is if  
11 there's a clear safety problem, an imminent safety  
12 problem that they believe exists at a location then  
13 no hearing schedule or re-inspection schedule is  
14 going to stop a government agency; Fire Department,  
15 Building Department, Health Department from coming  
16 back to a place shorter than some regularly scheduled  
17 re-inspection to deal with that and of course they  
18 should and we're hard... we're not suggesting  
19 otherwise, what we're suggesting here though is in  
20 the regular letter grade which is different from an...  
21 you know a... you know they have the right to go into a  
22 restaurant anytime they believe that there's a safety  
23 problem whether it be from a 311 call or any other  
24 reason and this does not stop that. What we're saying  
25 here though is you accuse me of 15 points I want my

1  
2 day in court and on a letter grade I'm choosing not  
3 to have a re-inspection until such time as it's  
4 determined by a court of law whether in fact I have  
5 an "A" or not, it's pretty simple, pretty basic it  
6 seems to me. So, to get to those three questions that  
7 I posed at the beginning clearly there should be no...  
8 I think we've addressed the issue that an ALJ should  
9 decide what your... whether the accusation is accurate  
10 or not even for an initial one and that endures to  
11 the benefits of thousands of small business owners  
12 and, and despite their disagreeing I think it endures  
13 to the benefit of the Health Department's limited  
14 resources as well. I think we started to suggest why  
15 fines have gone up and let me raise one other reason  
16 that you sort of touched on is the point system was  
17 not the system that always existed, prior to the  
18 point system the Health Department... first of all, New  
19 York City never had a reputation for being Torean  
20 capital of the world quite the opposite, people...  
21 we've had the reputation since I've been born for  
22 sure of being the food capital of the world, nobody  
23 was dropping dead in New York City streets prior to  
24 the letter grades, you know from getting sick in  
25 restaurants maybe in some street food vendors which

1 is... the last time I got sick from food by the way  
2 and... but not from... not from restaurants. We've always  
3 had an excellent reputation for safety and quality of  
4 food in our city's restaurants. So, it's a little  
5 offensive when the Health Department takes... says the  
6 letter... takes credit through the letter grade system  
7 for saying, you know how we're all so safe now and we  
8 weren't before. I think Mayor Giuliani was certainly  
9 not known as a guy who's easy on, on the business  
10 community and yet, yet fines were much lower when  
11 they had more inspectors under his administration  
12 than they became later on with Mayor Bloomberg and  
13 why because they created this very confusing point  
14 system rather than the prior system of critical and  
15 non-critical, safe, serious minor depending... you can  
16 call it much... a bunch of different things and if you  
17 had a bunch of minor stuff you corrected it, if you  
18 had a bunch of serious stuff they would come back  
19 real fast or they'd shut you down. They created this  
20 convoluted point system where there's approximately  
21 1200 possible points that's when fines started to go  
22 up by the way and they started to go up dramatically.  
23 When they decided to do letter grades rather than  
24 adopt the LA common sense system of one to 100; 90 is  
25

1  
2 an "A", 80 is a "B", 70 is a "C", something that  
3 makes sense for everybody and the way that LA who  
4 does inspect for the same things that they inspect  
5 like, like Deputy Commissioner said the way they fit  
6 that into 100-point system is the overwhelmingly  
7 majority of the minor things carry no points or they  
8 carry minor points or they group it into categories.  
9 So, if you have one dented can or five dented cans  
10 it's still one violation as opposed to here five  
11 dented cans could give you a, a "C"... [cross-talk]

12 CHAIRPERSON JOHNSON: That doesn't make  
13 any sense.

14 ROBERT BOOKMAN: Of course it doesn't  
15 make any sense, it's another form of over substance,  
16 it's not that they observe the dented can being used  
17 it's that they found the dented can that's not  
18 segregated, well the reality is... [cross-talk]

19 CHAIRPERSON JOHNSON: Great, I, I...  
20 [cross-talk]

21 ROBERT BOOKMAN: ...a lot of mom and pop  
22 restaurants... [cross-talk]

23 CHAIRPERSON JOHNSON: ...I, I... [cross-talk]

24 ROBERT BOOKMAN: ...get a big delivery,  
25 everything goes up on the shelf and when the worker



1  
2 goes to grab that can if it's dented he then  
3 segregates it but if they're looking in 42 cans and  
4 they find two that are dented it's because we didn't  
5 get to those cans yet.

6 CHAIRPERSON JOHNSON: But I didn't  
7 realize that if... one dented can is one violation, six  
8 dented cans... [cross-talk]

9 ROBERT BOOKMAN: You can go... [cross-talk]

10 CHAIRPERSON JOHNSON: ...is six violations...  
11 [cross-talk]

12 ROBERT BOOKMAN: ...I think it's up to five  
13 points on dented cans depending on how many dented  
14 cans, I think the maximum is five points, I don't... I,  
15 I could look, what is... [cross-talk]

16 CHAIRPERSON JOHNSON: No, it's okay but,  
17 but... [cross-talk]

18 ROBERT BOOKMAN: ...I had it in front of  
19 me... [cross-talk]

20 CHAIRPERSON JOHNSON: ...it's on... [cross-  
21 talk]

22 ROBERT BOOKMAN: ...if you want... [cross-  
23 talk]

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COMMITTEE ON HEALTH

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CHAIRPERSON JOHNSON: ...but you... but you can get a... you can get points for each dented can up to certain... [cross-talk]

ROBERT BOOKMAN: ...well... [cross-talk]

CHAIRPERSON JOHNSON: ...amount... [cross-talk]

ROBERT BOOKMAN: To a certain amount, yes, what is that... [cross-talk]

CHAIRPERSON JOHNSON: That doesn't make any sense...

ROBERT BOOKMAN: 13... I forget which one it is, it's one of the highlighted... [cross-talk]

CHAIRPERSON JOHNSON: That doesn't make any sense, okay keep going... [cross-talk]

ROBERT BOOKMAN: ...I think it's up... it, it could be one, two, or I think up to five points on dented cans. So... but... when they came up with the letter grade rather than doing the LA scoring system they kind of Jerry rigged their new point system onto the letter... the letter grade system or Jerry rigged the letter grade system onto the point system and that's why we have this very convoluted type of, you know number of points that equals an "A" or "B" or a "C" because they already had started this point

1 system and it... the truth of the matter is a "C" you...  
2 I believe we did the math, you've passed 92 percent...  
3 you really have a 92 if you... you know if you get 28,  
4 30 points out of the 1,200 possible points that's a  
5 92 percent that you actually got so it clearly  
6 doesn't make any... it, it doesn't make any sense. And  
7 the third... overarching question is anything being  
8 proposed which would jeopardize food safety, we don't  
9 think so. The Advisory Board didn't think so and your  
10 legislation we don't think so because again it's not  
11 changing the incentive, people still want to get an  
12 "A" so if on that initial inspection they are  
13 adjudicated a "B" or... they're adjudicated... excuse me,  
14 14 or 15 points their rules still allow that person  
15 for a re-inspection or as Tom said the second bite  
16 out of the apple we, we certainly always... we think  
17 that's a good idea incentivizes people who do need to  
18 do better to do better, you're not changing that,  
19 they'll still be incentivized for that... to do better  
20 when they do get their re-inspection and we don't see  
21 therefore why it would hurt the system at all, it  
22 simply would reduce the number of places that need to  
23 get re-inspection not the incentive for people that  
24 do need to be re-inspected to do better. So, I think  
25

1  
2 that's... you know unless you have other questions  
3 that's... [cross-talk]

4 CHAIRPERSON JOHNSON: Yeah, I, I have a  
5 couple questions and then... and then I want to move on  
6 to the other folks that are here to... [cross-talk]

7 ROBERT BOOKMAN: Sure... [cross-talk]

8 CHAIRPERSON JOHNSON: ...testify today  
9 because they are small business owners and I want  
10 them to be able to get back to their... [cross-talk]

11 ROBERT BOOKMAN: Right... [cross-talk]

12 CHAIRPERSON JOHNSON: ...business because  
13 they might be holding the food protection certificate  
14 and I don't want them to get ten points if they're  
15 not there at their restaurant. Okay, so we're going  
16 to... I want to ask you; do you believe that the Health  
17 Department is giving the food service establishment  
18 advisory board all the information that it needs to  
19 conduct its work?

20 ROBERT BOOKMAN: Yes, they're very good  
21 in giving information.

22 CHAIRPERSON JOHNSON: Do you believe that  
23 the Advisory Board is operating well?

24 ROBERT BOOKMAN: No.  
25

1  
2 CHAIRPERSON JOHNSON: What, what could be  
3 done better?

4 ROBERT BOOKMAN: Well this is... look there  
5 are 20 some... 20 members appointed to the Advisory  
6 Board, the truth of the matter is the last few  
7 meetings I don't think we've had more than seven or  
8 eight people show up. So, it's clearly not deemed a  
9 valuable use of time by the overwhelming majority of  
10 the members of the committee. I think that the..

11 [cross-talk]

12 CHAIRPERSON JOHNSON: If some of those  
13 members are council appointees we will replace them.

14 ROBERT BOOKMAN: Some are.

15 CHAIRPERSON JOHNSON: So, we should  
16 replace them if they're not showing up.

17 ROBERT BOOKMAN: People aren't showing  
18 up, I have my own reasons, you know I'd be happy to  
19 discuss them with you but I, I think it could be more  
20 effective than, than it has been.

21 CHAIRPERSON JOHNSON: And how do the  
22 meetings tend to function regardless of who's there?

23 ROBERT BOOKMAN: Well it started off this  
24 way and it... and it never changed, it wasn't what I  
25 envisioned let's put it that way. I, I, I may be a

1 minority here, you know and I often am and it's okay,  
2 I've, I've, I've... I envision the Advisory Board when  
3 we discussed the legislation that it would be these  
4 people, we would decide... we would decide when we  
5 meet, we would set our agenda and when we needed help  
6 from the Health Department we'd ask for it and then  
7 we would come up with recommendations to the council,  
8 it's kind of not the way it works.

10 CHAIRPERSON JOHNSON: How does it work?

11 ROBERT BOOKMAN: The Health Department  
12 decides when we meet, they set the agenda, there are  
13 more people from the Health Department there every  
14 meeting than there are members of the committee. I  
15 think some members of the committee who stopped  
16 coming found it difficult to speak honestly about  
17 some issues with the entire Health Department there  
18 however, you know the time that... you know the time  
19 that they do... they haven't prohibited us from putting  
20 items on the agenda, I don't want to say that, but  
21 when we come... there's an agenda and the agenda is, is  
22 generally driven... the majority of the time is driven  
23 not on the statutory requirements that you asked us  
24 to but on valuable information that they want to  
25 impart to us and you know... and I think that's helpful

1  
2 and it's valuable and, and I've learned from it and  
3 we posted stuff on our website on things that they've  
4 asked and they asked for good feedback but it's more  
5 like it's their Advisory Board to get feedback on  
6 ideas that they have... [cross-talk]

7 CHAIRPERSON JOHNSON: Well that wasn't  
8 the point of creating... [cross-talk]

9 ROBERT BOOKMAN: ...which is... which is a  
10 good thing to have... [cross-talk]

11 CHAIRPERSON JOHNSON: ...but that wasn't...  
12 [cross-talk]

13 ROBERT BOOKMAN: ...rather than... [cross-  
14 talk]

15 CHAIRPERSON JOHNSON: ...that wasn't why  
16 the legislation was created... [cross-talk]

17 ROBERT BOOKMAN: ...rather than our  
18 advisory to the council on making changes to the law  
19 so... that's just my personal opinion.

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

21 ROBERT BOOKMAN: ...I don't know if a  
22 majority of the members agree with me but it's hard  
23 to say because a majority of the members don't show  
24 up anymore.

1  
2 CHAIRPERSON JOHNSON: Before Council  
3 Member Koslowitz leaves do you support the... does the  
4 industry support the, the letter grading for food  
5 carts?

6 ROBERT BOOKMAN: I'm going to let Mr.  
7 Rigie testify to that I believe the answer is yes.

8 CHAIRPERSON JOHNSON: Okay and then are  
9 there any changes to the inspection program that you  
10 think should be made beyond those in my bill,  
11 Introduction 1571?

12 ROBERT BOOKMAN: We believe that... the  
13 council passed legislation at... in the last few  
14 months... last year of the last administration  
15 requiring six agencies that deal with small  
16 businesses; Consumer Affairs, buildings, I think  
17 fire, sanitation, health and I forget the other one  
18 to come up with a list of rules and regulations that  
19 they enforce where there could be a... on a first-time  
20 violation of a non-serious matter no fine but an  
21 opportunity to cure. About... the Bloomberg  
22 Administration was not happy with that legislation as  
23 you might recall and the report that was given to the  
24 council one month before... you know before the... that  
25 administration, that council ended only had a very



1  
2 low hanging fruit sign violations. Now there were  
3 sign violations that amounted to millions literally,  
4 millions of dollars a year that businesses were  
5 getting but one of those six agencies and only one  
6 even removed themselves from that process and came  
7 back with zero, I'll give you one guess who that  
8 agency was...

9 CHAIRPERSON JOHNSON: The Health  
10 Department.

11 ROBERT BOOKMAN: Correct. So, the answer  
12 to your question is we believe, hand is up, we  
13 believe that there are many, many violations that are  
14 in the health code and I've highlighted them in  
15 yellow here for you for your future consideration  
16 where the inspection process would work better from  
17 our perspective if these were changed to an  
18 opportunity to cure for at least a first-time  
19 offender. The Fire Department does that and they're  
20 the Fire Department with non-serious violations, they  
21 give you 30 days and you submit an affidavit showing  
22 proof of compliance and you don't get a fine, it  
23 seems to me that the Health Department with some of  
24 these types of things that we've highlighted could  
25 surely give you an opportunity for a no fine and an

1  
2 opportunity to cure and I think that would help the  
3 inspection process and I think that would help reduce  
4 fines even further back to where they were one year  
5 into the Bloomberg Administration where it was 12  
6 million dollars a year in fines. I think if 93  
7 percent of the restaurants are doing great now, I  
8 think fines should certainly be at or lower where  
9 they were which was 12 million dollars a year not 22,  
10 23 million dollars a year.

11 CHAIRPERSON JOHNSON: Thank you Mr.  
12 Bookman for your testimony.

13 ROBERT BOOKMAN: Thank you... [cross-talk]

14 CHAIRPERSON JOHNSON: I mean I... I'm... I  
15 don't want this to be a back and forth but I also... if  
16 the Health Department wants to respond you're allowed  
17 to because I don't want you to... you can if you'd  
18 like...

19 CORINNE SCHIFF: [off-mic] No.

20 CHAIRPERSON JOHNSON: No, okay. Thank you  
21 Mr. Bookman.

22 ROBERT BOOKMAN: Thank you.

23 CHAIRPERSON JOHNSON: Okay, we're going  
24 to call up the next panel. Andrew Rigie from the New  
25 York City Hospitality Alliance, Ken Dugan from the

1  
2 Restaurant Association and Mathew Shapiro from the  
3 Street Vendor Project. We don't have many panels so  
4 if the Health Department would stay to hear that  
5 would be really, really helpful. Mr. Rigie if you  
6 want to begin and then we'll go down the line, just  
7 make sure your mic is on. We're not going to put  
8 people on the clock just because we don't have a lot  
9 of people to testify today. Go ahead.

10           ANDREW RIGIE: Thank you. Mr. Chair,  
11 Council Members thank you. My name is Andrew Rigie, I  
12 am the Executive Director of the New York City  
13 Hospitality Alliance, we are a trade association that  
14 represents thousands of restaurants throughout the  
15 five boroughs that are regulated by the New York City  
16 Department of Health. First I want to say, you know  
17 it's important that this is a cooperative  
18 relationship between the restaurant industry and the  
19 Health Department. It is in the best interest of  
20 every single restaurateur to serve safe and sanitary  
21 food. The last thing anybody wants to do is get one  
22 of their customers sick, it's not good for business,  
23 it's not good for their employees, it's not good for  
24 anyone. So, we are on the same team but there are  
25 certainly ways as we've seen over the years to be

1  
2 able to reform the letter grade system to reduce  
3 fines, to work together collectively on education  
4 training that ensures greater compliance and today  
5 this package of bills is exactly that, sensible  
6 reforms that can be implemented to reduce regulatory  
7 burdens, reduce fines while ensuring high food safety  
8 standards. I will certainly echo some of my  
9 colleague, Mr. Bookman's comments and touch on a few  
10 of the additional bills being heard today. First, the  
11 Alliance supports Introduction 1571 that will reform  
12 the letter grade inspection system. This legislation  
13 will provide due process to restaurants by ensuring  
14 that it's a judge's ruling that takes precedent over  
15 inspector's accusations from the initial inspection.  
16 This will also provide consistency to the system  
17 because it'll apply the same due process standard to  
18 the initial inspection that the Department of Health  
19 already uses on their re-inspection. If this  
20 consistent standard had been applied back in 2014,  
21 2,000 restaurants would have been awarded an "A"  
22 grade on their initial inspection. This would have  
23 spared them and the city the time, the expense of  
24 going and challenging the re-inspection thus as we  
25 discussed earlier allowing the Department of Health

1 to focus greater resources on going back and re-  
2 inspecting those restaurants that may have sanitary  
3 issues or pose a greater risk to public health. It is  
4 important to go back to those risks that are  
5 highlighted back in a New York Times article titled  
6 "The Restaurant Grade System is Broken." As was  
7 spoken before the author, Daniel Ho collaborated with  
8 researchers at New York Law, or NYU, Stanford, and  
9 Yale school. They analyzed hundreds of thousands of  
10 inspections of restaurants throughout the whole  
11 entire country and Mr. Ho when he testified in this  
12 chamber said but a second and perhaps more  
13 disconcerting flaw of the inspection system goes  
14 beyond whether the grades themselves offer useful  
15 information. Grading appears to shift inspection  
16 resources away from the worst offenders, unquote.  
17 Again, that's troubling, what's also troubling is  
18 that those 2,000 restaurants that should have been  
19 awarded an "A" grade on their initial inspection as a  
20 result of a judication is artificially low because so  
21 many of those restaurants don't go waste the whole  
22 day at a tribunal to go and have their inspection  
23 adjudicated because the letter grade doesn't depend  
24 on it so they pay the fines which goes and feeds the  
25

1  
2 30 some odd million dollars a year the Health  
3 Department is levying in fines and they wait for the  
4 re-inspection to determine what their letter grade is  
5 going to be. So, we support the reforms to the  
6 process, we also support the reforms to the point  
7 violations whether it's modifying the points or  
8 eliminating the points so that they better reflect  
9 risk and food safety matters. We also do believe  
10 there are many more violations that accrue points and  
11 fines in the code that should be added to that list  
12 but there's no doubt that those included in this bill  
13 are a very, very good start. So, that's a major  
14 priority for so many people in the industry, we will  
15 go on and we will also support Introduction 1456  
16 which would require mobile vendors post, post letter  
17 grades. While we certainly have many concerns with  
18 the letter grade system we do at the same time  
19 believe while there is a letter grade system that all  
20 food service businesses are regulated under the same  
21 standards and held to the same requirements. So, we  
22 do support that. Finally, bill 1103 seeks to  
23 certainly address a very, very important health  
24 issue, diabetes and pre-diabetes and so many of our  
25 members now have a focus on health, wellness, and

1 want to offer their guests and their customers  
2 information so they can make educated decisions but  
3 we also believe as to some of the points the  
4 department made, it's a very complex issue and it's a  
5 challenge to be able to provide that complexity to a  
6 customer just on a sign and this is a subset, an  
7 important subset but it is a subset of the  
8 population. So, while we do not support this  
9 legislation we do support working with the council,  
10 the council member and the Department on other ways  
11 to address this and focusing what we would believe is  
12 resources on other approaches. So, all in all we want  
13 to thank the council and the Chairman for this  
14 hearing, we hope to work collaboratively with the  
15 department on this issue. Again, no restaurant wants  
16 to get their customers sick, restaurants are doing an  
17 incredibly, incredibly amazing job ensuring high food  
18 safety standards and it should be a torch and it... we  
19 should really show everyone how safe our restaurants  
20 are and we shouldn't have a system that unnecessarily  
21 can embarrass and burden them with letter grades and  
22 issues them fined. We need money in the pocket of  
23 business owners and in the pockets of those workers  
24 so thank you.

1  
2 CHAIRPERSON JOHNSON: Thank you Mr.  
3 Rigie.

4 KEVIN DUGAN: Good afternoon everybody.  
5 My name is Kevin Dugan and I'm the Regional Director  
6 for the New York State Restaurant Association, we're  
7 a trade group here in the state of New York  
8 representing food and restaurant locations throughout  
9 the... throughout the state. The Association is the  
10 largest hospitality trade association in the state  
11 and has advocated on behalf of its members for more  
12 than 80 years. Our members represent one of the  
13 largest constituencies regulated by the city as  
14 nearly every agency regulates restaurants in one way  
15 or another. Restaurants employ hundreds of thousands  
16 of New Yorkers and are a backbone of the tourism  
17 trade here in New York City. To ensure the continued  
18 viability of the restaurant and hospitality industry,  
19 New York City must have sensible and reasonable  
20 regulations that protect consumers and the  
21 restaurants that serve them. I'm here today to voice  
22 the industry's support for Intro's 1571 and 1456. I'd  
23 like to applaud Chairman Johnson who... seems he has  
24 left for the moment and Councilwoman Koslowitz for  
25 their... for bringing forth these important pieces of



1  
2 legislation. First, we'll touch on 15... I'll briefly  
3 touch on 1571 as much of what I'm going to say is...  
4 I've... has been touched on already. Letter grading in  
5 many ways represents the largest concerns for owners  
6 and operators here in the city. Restaurants face  
7 enormous penalties for seemingly, seemingly noxious  
8 violations that seem to be completely subjective and  
9 changes depending on... and changes depending on which  
10 inspector they receive on a given day. This continues  
11 to be a major problem. Restaurateurs are spending  
12 hours away from operating their business to pour over  
13 these regulations to ensure that their establishments  
14 will make the grade. However often times this  
15 preparation is not enough and eateries are dinged  
16 with minor infractions most of the time these  
17 violations having nothing to do with food safety as  
18 we've discussed at length earlier today and owners  
19 are faced with a very real possibility of receiving a  
20 "B" grade which can cause... have a dramatic effect on  
21 business and a traumatic effect on a business's  
22 ability to operate and cost them thousands and may  
23 even in some extreme cases force them to, to close.  
24 It is simply not fair for a restaurant that receives  
25 a "B" grade for issues non-related to food safety and

1 this piece of legislation helps that issue immensely.  
2 Intro 1571 also codifies a small number of  
3 infractions that will go on the record as a violation  
4 but again will not count against your letter grade  
5 that effects food safety, again an issue that we  
6 touched on before. The other thing that this  
7 legislation does is allow restaurants who receive an  
8 "A" grade after adjudication to be re-inspected on  
9 the A re-inspection cycle rather than the more  
10 frequent B cycle. As you might imagine restaurant  
11 inspections can be sometimes quite invasive and it  
12 costs restaurants the ability to operate and operate  
13 at full strength. We believe that restaurants that  
14 receive the "A" grade whether on their first  
15 inspection or rather through adjudication should be  
16 evaluated on the yearly cycle rather than the more  
17 frequently B cycle. And again, we applaud the  
18 Council's notice that this, this, this does need to  
19 change. Like I mentioned before there's a significant  
20 difference between these two different timelines  
21 mainly on when you undergo your inspections.  
22 Inspection days are often the most stressful and  
23 volatile days the restaurateur will experience. Not  
24 only do you... do they have somebody coming into their  
25

1  
2 space and looking over their entire operation but  
3 often times these establishments will have to shut  
4 down their entire restaurant losing valuable dollars  
5 in the process. Restaurants who receive an "A" grade  
6 on their first inspection will not face re-inspection  
7 for at least one year and we encourage that  
8 restaurants who again will be adjudicated to receive  
9 such an "A" grade would, would go on this, this  
10 cycle. The restaurant industry in New York is one of  
11 the most highly regulated industries in the entire  
12 city and letter grading has taken these regulations  
13 to unprecedented levels. To their credit the industry  
14 in New York has adapted and as this past year saw  
15 more "A" grades than ever before but this is not to  
16 say that the process is any less invasive or punitive  
17 than it was before. We are seeing for the first time  
18 in years' restaurant closings are beginning to  
19 outpace restaurant openings here in the five boroughs  
20 and that's a concern... an obvious concern for the  
21 restaurant industry as a... the health of the  
22 restaurant industry as a whole here in New York. we  
23 as a whole as an entire city need to do more to help  
24 restaurants find success and this legislation takes a  
25 common sense and fair handed approach to doing just

1 that. So, we fully support all aspects of, of Bill  
2 1571. I will also briefly just touch on, on 1456,  
3 letter grading for food carts. The restaurant  
4 association supports this legislation as... again as,  
5 as much like my, my compatriot Andrew mentioned  
6 before not necessarily because we are, are fans of  
7 letter grading but it would bring a fairness to the  
8 entire landscape and we think that all, all  
9 restaurants that are, are all... whether they be mobile  
10 or brick and mortar restaurants that are looking to  
11 serve the public kind of abide by the same rules when  
12 it comes to health inspections and the like. So, I  
13 thank the council for its time and thank you very  
14 much.  
15

16 MATHEW SHAPIRO: Good afternoon council  
17 members and staff. My name is Mathew Shapiro and I'm  
18 a Staff Attorney at the Street Vendor Project of the  
19 Urban Justice Center. The Street Vendor Project is a  
20 membership based organization with more than 2,000  
21 members who sell food and merchandise from trucks,  
22 carts, and tables across the city. We organize  
23 vendors to make their voices heard and provide legal  
24 representation and small business advice. I'm here in  
25 regard to Intro 1456 which would require mobile food

1 vendors to post letter grades received from food  
2 safety inspections. We support this bill and we  
3 support the idea of giving letter grades to mobile  
4 food vendors. Vendors serve delicious and safe food  
5 that needs to be recognized as such by the city.  
6 However, there needs to be more detail provided in  
7 the legislation to ensure the parity between mobile  
8 food vendors and other food service establishments.  
9 The current wording in the bill does little more than  
10 define an inspection results placard and require it  
11 to be posted on the vendor's vehicle or cart. This  
12 will allow the Health Department to create its own  
13 rules for vendor letter grades and we already know  
14 examples of food vendors being treated differently  
15 than restaurants by the Department of Health. For  
16 example, vendors can technically have their food  
17 service establishment permit revoked after one  
18 violation of the Health Code within a two-year  
19 period. Restaurants, on the other hand, can have  
20 their permit revoked for serious and repeated  
21 violations. We acknowledge that some Health Code  
22 provisions apply exclusively to vendors and not  
23 restaurants and we'll be happy to work with the  
24 Health Department to make sure that the grading  
25

1 system fairly accounts for these differences. Some  
2 other differences between restaurants and food  
3 vendors are that restaurants can use time as a public  
4 health control so they can keep food out of  
5 temperature for a certain amount of time where  
6 vendors cannot. Another big difference is that if you  
7 have an unlicensed vendor on a cart that has a permit  
8 on it with another licensed vendor there is still  
9 1,000 dollar fine for that unlicensed vendor even if  
10 a licensed vendor is there, a licensed vendor means  
11 they've gone through the application process, they've  
12 completed the food safety certification requirement  
13 just like you have to have one person on the cart...  
14 one person in a restaurant that has that food  
15 certification there should be one person on the cart  
16 that should have that. So, you receive a 1,000-dollar  
17 fine if you have an unlicensed vendor on an otherwise  
18 permanent cart with a licensed vendor, two people  
19 working, it actually results in two 1,000 dollar  
20 fines, one for the permit owner and one for the  
21 vendor themselves. These types of unequal enforcement  
22 mechanisms we want to make sure that it doesn't exist  
23 in any grading system applied for food vendors. We  
24 don't want food vendors being graded more severely  
25

1  
2 than restaurants for the same violations. This would  
3 harm the vendors and mislead the public, who expect  
4 an "A" to mean the same, whether on a cart or in a  
5 restaurant window. Since food vendors and restaurants  
6 are already following nearly all the same Health Code  
7 regulations, there should be no reason to treat them  
8 differently in the grading process and this  
9 legislation should ensure that. Additionally, any  
10 grading system for food vendors should only be  
11 premised only on violations that directly impact food  
12 safety. A vendor should not get a lower grade because  
13 they are nine feet from the crosswalk instead of ten  
14 feet from the crosswalk. A potential 500-dollar  
15 penalty is enough. Mobile food vendors are proud of  
16 the food that they serve and they should be graded  
17 accordingly. Although food vending is already  
18 transparent, I mean they're cooking the food right in  
19 front of you, this legislation will help to  
20 legitimize food vendors as small business owners who  
21 deserve the same praise as other food service  
22 establishments. Thank you for the opportunity to  
23 testify.

24 COUNCIL MEMBER BARRON: I want to thank  
25 the panel and I just have a few questions. So, Mr.

1  
2 Shapiro you talk about the inequities between the  
3 fines that are levied for the vendors as opposed to  
4 restaurants, if those inequities were addressed and  
5 if the same standard were applied to the vendors as  
6 to the restaurants what would be your concerns then?

7 MATHEW SHAPIRO: I'm not sure I  
8 understand. Vendors are already, you know... [cross-  
9 talk]

10 COUNCIL MEMBER BARRON: You said that a  
11 vendor might be subjected to two 1,000 dollar fines  
12 simply applied to the fact that they didn't have...  
13 each the vendor and the license holder would both be  
14 subjected to the 1,000-dollar fine whereas a  
15 restaurant would just have it as a 1,000 dollar one  
16 time 1,000... [cross-talk]

17 MATHEW SHAPIRO: Right... [cross-talk]

18 COUNCIL MEMBER BARRON: ...dollar fine...  
19 [cross-talk]

20 MATHEW SHAPIRO: The difference is in a  
21 restaurant you just need to have one person that,  
22 that holds the food safety certification license.

23 COUNCIL MEMBER BARRON: Right... [cross-  
24 talk]



1  
2 MATHEW SHAPIRO: ...on a vending cart...

3 [cross-talk]

4 COUNCIL MEMBER BARRON: So, my question  
5 to you is then if that were limited or capped at  
6 1,000 dollars as it applies to a restaurant then what  
7 would be your concerns?

8 MATHEW SHAPIRO: I... if... I wouldn't have a  
9 concern, I'm saying that as long as there's one  
10 person on the cart that holds the food safety  
11 certification and the license that should be okay, if  
12 there's someone on the cart that doesn't have a  
13 license or hasn't gotten their license yet in the  
14 mail even though they've already completed all the  
15 training they still get a 1,000-dollar fine. So, I'd  
16 like... you know these types of inequities I don't want  
17 to see that reflected in the grading system. We can  
18 talk about those inequities in... perhaps different  
19 potential legislation because that's not before the  
20 council right now. I was just providing examples of,  
21 of times where vendors are treated differently than  
22 restaurants. Restaurants suffer from, you know  
23 tremendous high fines and, and tremendous enforcement  
24 just like vendors do, we want to make sure there's,  
25 there's parity there.

1  
2 COUNCIL MEMBER BARRON: Okay and Mr.  
3 Dugan I'm the sponsor of the 1103 so I just have some  
4 questions for you.

5 KEVIN DUGAN: Sure.

6 COUNCIL MEMBER BARRON: You say that  
7 posting the signs warning against excessive  
8 consumption actually is perhaps not needed because  
9 they already know that what their diet restrictions  
10 should be?

11 KEVIN DUGAN: Is that in the testimony  
12 that I, I don't remember writing that but yeah, we do  
13 have some concerns... [cross-talk]

14 COUNCIL MEMBER BARRON: The requirement  
15 of restaurants to post signage warning against the  
16 dangers of excessive consumption of sugar and  
17 carbohydrates for diabetic and pre-diabetic, diabetic  
18 individuals. So, I believe in your testimony you said  
19 that they already know what the requirements are so  
20 it'd be unnecessary.

21 KEVIN DUGAN: I didn't say... I didn't  
22 speak on that bill today but I would... but I will say  
23 is, is that kind of what my compatriot Andrew  
24 mentioned to it is like where... you know anytime we  
25 get into... I agree... [cross-talk]

1  
2 COUNCIL MEMBER BARRON: Okay... [cross-  
3 talk]

4 KEVIN DUGAN: ...with what was said before  
5 that Andrew mentioned that Mr. Rigie mentioned before  
6 about how it... we do have some concerns over, you know  
7 not providing the, the full context of the  
8 information that, that may be required for, for  
9 people with... diabetics or pre-diabetics that is our  
10 main concern with the bill that this, this signage  
11 would just kind of not provide enough context to  
12 those... to those folks who have been diagnosed as such  
13 and that they should... if they have questions they  
14 should be kind of guided towards a, a medical  
15 professional... I don't... [cross-talk]

16 COUNCIL MEMBER BARRON: Right, okay so  
17 your testimony says attracting customers is paramount  
18 and the association fears that by having signage up  
19 that warns customers about the dangers of consuming  
20 items that are sold in these particular restaurants  
21 that folks would be turned off and look elsewhere.

22 KEVIN DUGAN: Yes, I guess our concern is  
23 that without the proper context behind the, the  
24 signage folks might just make assumptions that, that  
25 all carbohydrates and all sugars are, are harmful to

1  
2 them without, you know depending on what the sign  
3 would look like, I guess that... our main concern is  
4 what... what would be going on this posting and what  
5 these signs would look like and the information  
6 provided there if it's enough information not just  
7 warning folks against sugars and carbohydrates more  
8 straight out but making sure that they are aware of,  
9 you know the certain... that they can have dramatic  
10 effects on folks with certain types of diagnosis.

11 COUNCIL MEMBER BARRON: Well the, the  
12 purpose of the bill actually is to warn against  
13 excessive sugars and carbohydrates and the impact  
14 that they would have so it's not as... and as I said  
15 earlier we certainly know that a balanced diet  
16 requires carbohydrates be a part of a balanced diet,  
17 diet so it's not that we're just saying outright all  
18 carbs are bad and that you shouldn't eat anything  
19 that has carbohydrates and sugars but we want to  
20 heighten the awareness at the excessive levels and  
21 the added sugars are the types of dangers that pre-  
22 diabetics and diabetics in particular should be aware  
23 of but certainly all people because we don't want  
24 people to even have blood levels that get to that  
25 stage where they are then diagnosed as being pre-

1  
2 diabetic and also to the first presenter you also  
3 referenced something similar so would you like to  
4 comment?

5           ANDREW RIGIE: Yes, just to add onto that  
6 my understanding is many times if a person is  
7 diabetic or pre-diabetic they may be under some sort  
8 of medical supervision and we believe that it is  
9 beneficial that the medical professional is advising  
10 that person on the diet and the type of consumption  
11 that they should have and that's, you know pretty  
12 much it, I think going back again to some experts and  
13 when the department testified the different types of  
14 sugars, the types of consumptions that it cannot  
15 always just be conveyed in a simple sign and you know  
16 restaurants want to do what they can to accommodate  
17 all of their guests but as you know there are many,  
18 many different types of disorder, disorders or  
19 allergies and other so we try to give the information  
20 when possible but also my understanding from this  
21 issue speaking with some professionals that just a  
22 sign cannot convey the complexity of the matter  
23 efficiently.

24           COUNCIL MEMBER BARRON: Do you... do you  
25 agree then that the, the salt shaker symbol has been

1  
2 a benefit to heighten people's awareness as to the  
3 salt content of particular menu items?

4           ANDREW RIGIE: There are a lot of  
5 questions I have concerning the salt shaker and other  
6 types of postings as to their actual influence on  
7 consumer behavior. I'm sure we could go back and  
8 forth and cite many different studies that would  
9 contradict one another what I do know is our members  
10 that operate restaurants want to serve food in many  
11 cases helpful that it's also demanded enjoyable by  
12 their guests and I guess instead of just moving  
13 directly to a posting requirement would be to sit  
14 down with you and others and have a discussion and be  
15 better informed in the case of your bill what kind of  
16 impact on consumer behavior would this posting sign  
17 have. I think that we should be data driven and we  
18 also need to look in the context of what it means to  
19 operate a business not to put this in a different  
20 light but you know there are many, many different  
21 signs and posters that restaurants are post... you know  
22 required to post, it goes back to the idea of this  
23 hearing many of them assign violations if a sign is  
24 posted here and not there it's fines, it impacts your  
25 letter grade so I'm really looking at the context of

1  
2 this bill within the regulatory experiment for our  
3 business owners but I would be more than happy to  
4 engage in a conversation about how we can... [cross-  
5 talk]

6 COUNCIL MEMBER BARRON: Great... [cross-  
7 talk]

8 ANDREW RIGIE: ...address this issue.

9 COUNCIL MEMBER BARRON: Great. Okay,  
10 we're going to call the next panel, thank you so much  
11 and we look... [cross-talk]

12 ANDREW RIGIE: Thank you.

13 COUNCIL MEMBER BARRON: ...forward to  
14 working with you on all of the bills as been cited.

15 CHAIRPERSON JOHNSON: [off-mic] Council  
16 Member Barron (??) go ahead you can call the next  
17 panel.

18 COUNCIL MEMBER BARRON: Okay, thank you.  
19 The next panel that's coming up is Jennifer Pomeranz  
20 from NYU, Julia McCarthy from Laurie M. Tisch Center  
21 for Food, Education, and Policy, Robert Sunshine from  
22 NATO the Theatre Association of New York State, and  
23 Matt Greller of, of NATO, the Theatre Association of  
24 New York State. If those panel members would come  
25 forward and take a seat, thank you.

1  
2 CHAIRPERSON JOHNSON: You may begin just  
3 make sure the mic is on.

4 JENNIFER POMERANZ: Hi, thank you for  
5 having me. My name is Jennifer Pomeranz, I'm an  
6 Assistant Professor at NYU's College of Global Public  
7 Health and I'm the Interim Chair of the Department of  
8 Public Health Policy and Management. I'm also a  
9 member of the Food Service Establishment Advisory  
10 Board. I'd like to just briefly respond to some  
11 things that Mr. Bookman said and then I'll read my  
12 testimony. He... his viewpoint is... I would consider it  
13 a minority viewpoint on the board and I would like to  
14 speak to... I, I have joined quite recently so I can't...  
15 I was not there when they put forth those  
16 recommendations that you've adopted in your bill but  
17 I do want to point out that the concept of the  
18 recommendations is for the Department of Health to  
19 consider with their expertise and it certainly  
20 wasn't... is not the board... the Advisory Boards  
21 understanding that they would become law if the  
22 department had rejected them. So, I'd like you to  
23 please keep that in mind. I also represent with my  
24 written comments the Allen Rosen from Juniors  
25 Restaurant and Bakery and also Elizabeth Meltz who's



1  
2 at the Bastianich... Batali Bastianich Hospitality  
3 Group. So, also, they are on the Food Service  
4 Establishment Advisory Board and they are food  
5 industry members who, who like me oppose 1571 and  
6 have signed onto my letter to you in opposition which  
7 I will read. We are members of the Food Service  
8 Establishment Advisory Board and citizens of New York  
9 City, we oppose 1571 and urge the city council to  
10 reject this amendment to the administrative code for  
11 five reasons which I'll briefly explain but first it  
12 directly contravenes the city council's purpose for  
13 establishing the Food Service Establishment Advisory  
14 Board, it undermines the very purpose of the  
15 Department of Health, it is of deep concern from a  
16 public health and food safety perspective, it adds  
17 administrative and financial burdens to the food  
18 service inspection process for restaurants and it's  
19 also the notice is procedurally defective. First, the  
20 city council established the Food Service Advisory  
21 Board to review, evaluate, and understand the food  
22 service inspection program. By law, you established  
23 this board to be comprised of an appropriate mix of  
24 public health, food safety, restaurant, and food  
25 industry representatives and they are represented on

1  
2 the board. We're charged with advising you and the  
3 Department of Health for... and making recommendations  
4 with a balanced viewpoint to ensure efficacy from a  
5 food safety inspection... from a food safety  
6 perspective, health and restaurant perspective. The  
7 board has never seen anything like section two of the  
8 bill so unlike Mr. Bookman's representation that we  
9 all voted on it that is not true, section two has  
10 never... was not considered, your other section three  
11 was but not section two but the... very importantly  
12 this 1571 is bypassing the, the Advisory Board and  
13 undermining our legally established role while  
14 section two was not seen Chairman... [cross-talk]

15 CHAIRPERSON JOHNSON: Well this is a...  
16 this is a legislative body.

17 JENNIFER POMERANZ: I understand... [cross-  
18 talk]

19 CHAIRPERSON JOHNSON: We have oversight  
20 over... [cross-talk]

21 JENNIFER POMERANZ: Of course you do...  
22 [cross-talk]

23 CHAIRPERSON JOHNSON: ...the Department of  
24 Health and Mental Hygiene... [cross-talk]

25

1 JENNIFER POMERANZ: Of course you...

2 [cross-talk]

3 CHAIRPERSON JOHNSON: We adopt... [cross-  
4 talk]

5 JENNIFER POMERANZ: ...do... [cross-talk]

6 CHAIRPERSON JOHNSON: ...legislation in New  
7 York City, that is what this body does... [cross-talk]

8 JENNIFER POMERANZ: ...of course... [cross-  
9 talk]

10 CHAIRPERSON JOHNSON: ...that is how we're  
11 mandated be a charter so, to say we are overstepping  
12 our responsibility you are there to make  
13 recommendations, you are not there to make law that's  
14 what this body does, you may continue.

15 JENNIFER POMERANZ: Of course I agree,  
16 I'm saying it's undermining our role. The... [cross-  
17 talk]

18 CHAIRPERSON JOHNSON: Your role was  
19 created by us by law, keep going.

20 JENNIFER POMERANZ: The announcement was  
21 only made with... one week ago so we have not had an  
22 opportunity to meet but I can report to you that the...  
23 that we are not in consensus on, on this bill. The  
24 second opposition we have to 1571 is that it  
25

1  
2 undermines the most knowledgeable food safety experts  
3 in the city which are at the Department of Health.  
4 They are charged with monitoring, preventing, and  
5 responding to food safety concerns and this is a  
6 poor... core public health function of our department  
7 and those nationwide. Pursuant to New York law our  
8 Department of Health has the clear authority to  
9 engage in these activities and make evidence based  
10 decisions related to food safety issues. The, the  
11 Department has the expertise to reform this role and  
12 is in the frontline of food safety work. Respectfully  
13 it is not the city council's role to make these  
14 determinations but it is the role of the Department  
15 of Health. I believe it's bad policy for the city  
16 council to bypass the Department of Health to enact  
17 laws that seek to remove food safety and public  
18 health protection for New Yorkers while undermining  
19 the Food Safety Authority in the city. At most the  
20 council should suggest that the department use its  
21 rule making powers to enact evidence based  
22 regulations to amend the program. As many people  
23 testified today there are amendments you'd like to  
24 see this is for the Department of Health to consider.  
25 However, okay, so I... and I don't believe it's

1 warranted in this instance especially for section two  
2 of the bill. Third, 1571 raises true food safety  
3 concerns. The CDC has identified the most frequently  
4 reported factors contributing to food born illness  
5 and these are directly related to food safety  
6 concerns with retail and food services  
7 establishments. In response, the Food and Drug  
8 Administration, the federal one, created a manual on  
9 conducting risk based inspections. 1571 directly  
10 contravenes the FDA guidelines and exposes New  
11 Yorkers to unnecessary food safety concerns. By  
12 requiring the department to wait an entire year for  
13 re-inspection and tying re-inspection to the hearing  
14 schedule the administrative tribunal 1571 is not  
15 evidence based and is a concern for health and  
16 safety. The FDA guidelines support a public health  
17 department's ability to conduct re-inspections based  
18 on its observations over food safety issues thus  
19 based on risk and not in arbitrary time periods set  
20 of... set forth by officials without food safety  
21 expertise. Moreover, our understanding and the press  
22 releases and evidence presented by the Department of  
23 Health today do show that the food safety inspection  
24 program is working as intended and working well  
25

1  
2 regardless of whether people agree with it. New  
3 Yorkers all do want to eat in safe and clean  
4 restaurants which, which this bill would compromise.  
5 From a restaurant owner's perspective, there is also  
6 an argument that instead of inspecting based on risk  
7 based schedule the bill slows down the inspection and  
8 improvement process by delaying the second  
9 inspection. This is of concern to some restaurants.  
10 Additionally, more restaurants will likely go to the  
11 tribunal for a hearing and this could create a  
12 backlog of cases and increase the time and resources  
13 necessary for restaurants to comply which is  
14 unnecessary and burdensome and we were talking about  
15 mom and pop shops earlier and this is especially  
16 burdensome for them. and then fifth I would like to  
17 note that there is a procedural defect with the  
18 announcement, the summary of the bill does not  
19 capture the actual intent of the bill, the  
20 requirement to wait one year, it seems to be  
21 misleading and I, I believe this should give  
22 interested parties more time to be informed and, and  
23 a realistic opportunity to provide feedback. So, in  
24 summary 1571 is not an evidence based policy it  
25 contravenes FDA guidance and exposes New Yorkers to

1  
2 food born illness. It undermines our very own  
3 Department of Health whose role and authority is to  
4 address food safety issues and is bad policy. Thank  
5 you for your consideration.

6 CHAIRPERSON JOHNSON: So, Professor I  
7 want to just tell you that there is no procedural  
8 defect, that's not what the lawyers at the council  
9 believe, that's now what our committee council  
10 believes, that's not what the legislative director of  
11 the council believes, that's not what anyone believes  
12 so for you to come here and tell us that it is a  
13 procedural defect and what we're doing today is  
14 offensive and incorrect, that's number one. Number  
15 two is how long have you been on the Food Service  
16 Establishment Advisory Board?

17 JENNIFER POMERANZ: A little less than a  
18 year.

19 CHAIRPERSON JOHNSON: Who were you  
20 appointed by?

21 JENNIFER POMERANZ: De Blasio, I don't...  
22 my letter was signed by Mayor De Blasio.

23 CHAIRPERSON JOHNSON: You were appointed  
24 by the... you're a Mayor appointments. The  
25

1  
2 recommendations that were made that Mr. Bookman  
3 talked about those were not unanimously adopted?

4 JENNIFER POMERANZ: My... I was not on the  
5 board at the time but my understanding is that the  
6 subcommittee was not unanimous and I don't know the  
7 answer to... but I, I would like to still urge that...  
8 [cross-talk]

9 CHAIRPERSON JOHNSON: But I don't... I, I  
10 want to... I just want to... you, you said in here... I  
11 want to look at your testimony, you just testified.

12 JENNIFER POMERANZ: Yes, I did not say  
13 anything about unanimously adopted.

14 CHAIRPERSON JOHNSON: You said that  
15 Introduction 1571 undermines the most knowledgeable  
16 experts on food safety issues in the city at DOHMH  
17 everything... all the recommendations we made are  
18 recommendations that were adopted unanimously by the  
19 food service establishment... [cross-talk]

20 JENNIFER POMERANZ: Oh I know what you're  
21 referring to, no I... sir I was... I believe that section  
22 three is exactly what you just said but section two I  
23 have not seen at the food service establishment  
24 Advisory Board and it's not in the, the amendment to  
25 your bill, section two is new information for me but



1  
2 I agree with you on section three of your bill, yes,  
3 was, was recommended by the Food Service  
4 Establishment Advisory Board before I was a member.

5 CHAIRPERSON JOHNSON: Have you ever  
6 worked at a restaurant?

7 JENNIFER POMERANZ: Actually I did and I...  
8 and I think that the kitchens are quite small so I  
9 wouldn't be comfortable with people smoking over my  
10 stored food or... [cross-talk]

11 CHAIRPERSON JOHNSON: Well that's not...  
12 [cross-talk]

13 JENNIFER POMERANZ: ...near the  
14 dishwashing... [cross-talk]

15 CHAIRPERSON JOHNSON: ...what this is about  
16 today... [cross-talk]

17 JENNIFER POMERANZ: Well actually...  
18 [cross-talk]

19 CHAIRPERSON JOHNSON: ...where, where is  
20 that in the bill?

21 JENNIFER POMERANZ: It, it is.

22 CHAIRPERSON JOHNSON: Well tell me... okay,  
23 please I mean I want to go through the bill text...  
24 [cross-talk]

25 JENNIFER POMERANZ: It says... [cross-talk]

1  
2 CHAIRPERSON JOHNSON: ...let's go through  
3 that together so you can point out to me where we're  
4 trying to legalize people smoking above stoves in  
5 kitchens and all that.

6 JENNIFER POMERANZ: Violations 6B.

7 CHAIRPERSON JOHNSON: Yeah, what does it  
8 say?

9 JENNIFER POMERANZ: Tobacco use... eating  
10 or drinking from open container in food preparation,  
11 food storage, or dishwashing areas, the board  
12 recommends removing the language related to food  
13 storage or dishwashing area from subsection and the  
14 department declines and I believe your bill says...

15 [cross-talk]

16 CHAIRPERSON JOHNSON: It doesn't allow...

17 [cross-talk]

18 JENNIFER POMERANZ: 16... [cross-talk]

19 CHAIRPERSON JOHNSON: ...it doesn't allow  
20 that to happen, people will still be fined, there  
21 will still be violations, a restaurant can still be  
22 shut down, what we're saying is that the things we're  
23 recommending is that it wouldn't count on points...

24

25

1  
2 JENNIFER POMERANZ: I, I understand but I  
3 do believe the point system is a deterrent for  
4 behavior.

5 CHAIRPERSON JOHNSON: Got it. We're you  
6 asked to testify here today by the administration?

7 JENNIFER POMERANZ: No.

8 CHAIRPERSON JOHNSON: They didn't ask  
9 you?

10 JENNIFER POMERANZ: No, I, I offered.

11 CHAIRPERSON JOHNSON: Were you contacted  
12 by them with, with... about this hearing?

13 JENNIFER POMERANZ: I was... learned about  
14 the law as part of the Food Service Establishment  
15 Advisory Committee and was in... in the... got an email  
16 about the... [cross-talk]

17 CHAIRPERSON JOHNSON: Were you alerted by  
18 the Health Department about this committee hearing  
19 today?

20 JENNIFER POMERANZ: Magda who is our  
21 liaison, I don't know her last... [cross-talk]

22 CHAIRPERSON JOHNSON: Alerted you to the  
23 hearing today and then you offered to testify?

24 JENNIFER POMERANZ: Yes.  
25

1  
2 CHAIRPERSON JOHNSON: Got it. They didn't  
3 ask you to testify?

4 JENNIFER POMERANZ: No.

5 CHAIRPERSON JOHNSON: Matt, Matt didn't  
6 say will you come testify at this hearing?

7 JENNIFER POMERANZ: No, I offered to  
8 testify because I'm a public health expert and  
9 believe in food safety and public health.

10 CHAIRPERSON JOHNSON: Well so the Health  
11 Department, my understanding talking to Commissioner  
12 Bassett she wants the council to take measures on  
13 portion size control on soda, your testimony today  
14 says that the Health Department should do all these  
15 things on their own and elected officials stay..  
16 should stay out of public policy or public health  
17 policy related matters, it should be up to the Health  
18 Department that's what you say in your testimony  
19 today. So, should elected officials not pass measures  
20 that effect good public health, should the council  
21 not adopt the Commissioners proposal on portion... on  
22 portion size, should it just be up to the Health  
23 Department even though the court of appeals said they  
24 can't do it that has to go through a legislative  
25

1  
2 body, should we not do it because we don't have that  
3 public health expertise?

4 JENNIFER POMERANZ: No, I, I, I believe  
5 that the health... if the Health Department disagrees  
6 with a measure... the Health Department makes its  
7 decisions based on evidence and science so if they  
8 disagree with a measure by the city council I think  
9 that's' a warning to you that it's not evidence based  
10 so the, the Department of Health strongly supports  
11 portion caps because it's based on science, it will  
12 be fantastic for the city council to pick up an  
13 evidence based policy like but if the Department of  
14 Health thinks that a measure is not evidence based,  
15 based on science and could cause food born illness  
16 outbreaks I would be... think that that's not the right  
17 role for the city council... [cross-talk]

18 CHAIRPERSON JOHNSON: Well, well I think  
19 that... I think that the General Counsel and the  
20 Assistant Commissioner and the Deputy Commissioner  
21 and Commissioner Bassett who I like very much and I  
22 think is an excellent, excellent Commissioner and I  
23 love working with her staff who are consummate  
24 professionals even when we disagree which we disagree  
25 on this, they are great fantastic people to work with

1 and they do a great job on behalf of the city of New  
2 York. As I have said probably at every hearing that  
3 they have testified on even when I disagree with them  
4 and at every budget hearing we have the best Health  
5 Department in the Nation and one of the best Health  
6 Departments in the world. I have been one of their  
7 biggest champions in asking for more money for them  
8 for pleading for the Mayor to give them more money,  
9 for being a champion of them. So, I... they're great,  
10 they're not infallible, infallible just because they  
11 say it's true doesn't mean it's true, this is a  
12 democracy, there is a give and take, the city council  
13 has oversight responsibility, the city council has  
14 legislative authority, we do those things. Under  
15 Mayor Bloomberg the Police Commissioner Ray Kelly,  
16 stop and frisk is fine, it's great, there's no  
17 problem with it, it's making our city safer, we don't  
18 just listen to a city agency because they say it's so  
19 and they have the expertise, we question them, we  
20 pass legislation, we listen to the public, we listen  
21 to the people it's effecting that's what we do. So,  
22 to sit here today and say that just because the  
23 Department of Health says something we go along with  
24 it that is not a democracy, that is not what the city  
25

1 council does, that is not what the charter mandates,  
2 that is not how we operate. I think the Department is  
3 great, I love Commissioner Bassett, Tom Merrill is an  
4 amazing lawyer and I'm really glad that Deputy  
5 Commissioner Schiff took this difficult job after  
6 Deputy Commissioner Kass left, they're all great  
7 people but I can disagree with them and I'm not  
8 compromising public health and safety in New York  
9 City. It's offensive to say that today, I am one of  
10 the biggest champions in New York City for public  
11 health, every year I ask for more money, every year I  
12 go to bat. So, to sit here today and attack this  
13 legislation and this council saying I am compromising  
14 public health and safety is offensive and I take  
15 great umbrage at it.

17 JENNIFER POMERANZ: I'm sorry that you're  
18 offended... [cross-talk]

19 CHAIRPERSON JOHNSON: That's what your  
20 testimony says... [cross-talk]

21 JENNIFER POMERANZ: I, I just think... I  
22 believe in evidence based policy making red...  
23 regardless of whether the public likes it or not.

24 CHAIRPERSON JOHNSON: Thank you, you may  
25 begin Mr. Greller.

1  
2 MATT GRELLER: Thank you Mr. Chairman  
3 and, and may I just say that I, I echo your  
4 sentiments about the Department of Health and, and  
5 think that the city council has much nicer chambers  
6 to provide testimony in so I appreciate the  
7 opportunity this afternoon. I'm here only to talk  
8 about Intro 1103 and I'm here on behalf of my client,  
9 the Movie Theatre Trade Association, the National  
10 Association of theatre owners in New York State.  
11 Unfortunately, my colleague Bob Sunshine who does  
12 have diabetes is not available to be with us right  
13 now but NATO is a not for profit that represents 37  
14 movie theatres in the city across the five boroughs,  
15 has 1,800 employees, we also represent the Chelsea  
16 and many members of the committee are familiar with  
17 the movie theatres in their districts. We're here  
18 because movie theatres are classified as food service  
19 establishments and we're opposed to Introduction  
20 1103. Several of our theatres have seating areas but  
21 several do not so some would be affected and some  
22 would not and this would create different posting  
23 requirements between theatres operated by the same  
24 business entities in the same city. To be clear  
25 though we are not against public health awareness nor



1  
2 are we against public health education both we think  
3 are vitally important and we share the sponsor's  
4 concerns about very important public health issues  
5 like diabetes. However, we firmly believe that these  
6 concerns can be addressed in a much better fashion.  
7 When it comes to posting yet another sign or warning  
8 label it reminds me about the first rule of real  
9 estate and that is location, location, location. Yet  
10 another posting requirement may cause confusion for  
11 our consumers. Additionally, the clutter of another  
12 special label for sugars and carbohydrates will be  
13 difficult in the very small menu area for our  
14 theatres. This is precisely the reason why the United  
15 States Congress enacted the menu labeling provision  
16 to the Affordable Care Act. These provisions will be  
17 delayed but will become effective on May 7<sup>th</sup>, of 2018  
18 and they require food service establishments to post  
19 the following nationwide standard on menus and I  
20 quote, "2,000 calories a day is used for general  
21 nutrition advice but calorie needs vary, additional  
22 nutrition information available upon request". In  
23 addition to this sign food service establishments  
24 will be required to have the following information  
25 available for every single menu item, it includes

1 total calories, calories from fat, total fat,  
2 saturated fat, trans fat, cholesterol, sodium, fiber,  
3 protein, and yes, total carbohydrates and sugars.

4 Presumably this information can easily be printed  
5 out, laminated, and offered to patrons when asked as  
6 well as made available on the internet. So, instead  
7 of one separate sign for sugars and carbohydrates now  
8 and then possibly another ingredient later ought we  
9 not to consider a more comprehensive approach.  
10

11 Instead of potentially creating confusion now and  
12 crowding counterspace shouldn't we look to try to get  
13 the most impact on public health with the least  
14 impact on businesses. Additionally, why not take one  
15 step further and show again that New York City can  
16 lead the way on public health initiatives. The simple  
17 insertion of the words and allergens to additional  
18 nutrition information available upon request will  
19 effectively cover the entire field of potential  
20 public health menu labeling. This will provide  
21 clarity for the food service industry and it makes it  
22 easier for businesses both large and small to comply.  
23 This is especially true again with the limited and  
24 very small counterspace available to New York City's  
25 movie theatres. There are only eight major allergens,

1 which include nuts, tree nuts, fish, shell fish, soy,  
2 wheat, eggs, and dairy. While some council  
3 legislation already seeks to label these individual  
4 allergens or specific ingredients doing so in one  
5 fail swoop will again demonstrate that New York is at  
6 the forefront of public health initiatives while at  
7 the same time being fair to businesses. Moreover,  
8 since New York already requires an allergen poster in  
9 the kitchen for employees bringing a similar sign to  
10 the point of purchase will help improve public health  
11 through awareness. In short, we are respectfully  
12 asking that the sponsors and members of the Health  
13 Committee to both think bigger to promote public  
14 health and at the same time to simplify things with  
15 just one effective sign. Doing so will help customers  
16 and the food service industry covering the entire  
17 field through posting the FDA requirements and  
18 allergen information again on just one sign will meet  
19 the very laudable goals of the sponsors and prevent  
20 confusion caused by the clutter of many signs for  
21 every ingredient or every allergen. We hope to  
22 collaborate with the sponsors and committee members  
23 on improving public health, helping businesses and  
24 putting New, New York City at the forefront of menu  
25

1  
2 labeling efforts and I'm happy to answer any  
3 questions. Thank you.

4 CHAIRPERSON JOHNSON: Thank you Mr.  
5 Greller.

6 JULIA MCCARTHY: Good afternoon,  
7 afternoon Chairman Johnson. I'm Julia McCarthy, an  
8 Attorney and Policy Analyst at the Laurie M. Tisch  
9 Center from Food, Education, and Policy housed in the  
10 program and nutrition at Teachers College Columbia  
11 University. The Tisch Food Center researches the  
12 connections between a just, sustainable food system  
13 and healthy eating. We translate that research into  
14 recommendations and resources for educators, policy  
15 makers, and community advocates. We are very happy  
16 that Council Woman asked earlier today where New  
17 Yorkers can get information about food choices  
18 because we're working on a report on that very issue.  
19 We're looking across the city at agencies to see  
20 where, where New York funds, nutrition education  
21 programs and policies such as the one before the  
22 council today. We thank you for the opportunity to  
23 testify on the diabetes and pre-diabetes warning  
24 bill. I think both the council and audience are very  
25 familiar with facts about diabetes so I'm going to

1  
2 get to the point. To identify, prevent, and treat  
3 diabetes New Yorkers need access to information,  
4 health services, and spaces that support healthy  
5 lifestyles. While we agree with the intent of the  
6 signage bill before the council, research shows that  
7 posters alone have limited effectiveness in changing  
8 behaviors. Approaches that combine environmental  
9 interventions, nutrition education, and social  
10 marketing are the most effective. That means for New  
11 Yorkers to make healthy choices food needs to be  
12 accessible, affordable, and familiar. With this in  
13 mind the Tisch Food Center advocates for a  
14 comprehensive policy, policies that make it easier  
15 for New Yorkers to purchase healthful foods and that  
16 support community based nutrition education. New York  
17 City's Department of Health and Mental Hygiene is  
18 currently doing great work to help individuals  
19 prevent and manage diabetes both in the bureau of  
20 chronic disease prevention and the center for health  
21 equity. The report that we're working on which I  
22 mentioned earlier highlights several of these  
23 examples. One notable initiative is the Harlem Health  
24 Advocacy Partnership. This initiative trains Harlem  
25 residents as community health workers to help public

1 housing residents manage chronic disease, access  
2 health care, and advocate within their communities  
3 and outside of their communities. Another example is  
4 the National Diabetes Prevention Program or NDPP.  
5 NDPP also relies on community health workers, in this  
6 case to help pre-diabetic individuals maintain weight  
7 and prevent diabetes. NDPP is an evidence based  
8 program, it's one of CDC's hallmark programs and it  
9 runs out of community organizations across the city.  
10 It's funded through the Prevention and Public Health  
11 Fund which congress is currently threatening to cut.  
12 I mention the Prevention and Public Health Fund  
13 because in such vulnerable times, the council needs  
14 to be thinking about how the city will continue to  
15 support chronic disease prevention. The vast majority  
16 of the city's prevention dollars come from federal  
17 sources, without which the Department of Health could  
18 not currently afford to provide the program such as  
19 the National Diabetes Prevention Program. Our report  
20 discusses a scope of the city's diet related disease  
21 prevention work and explains how reliant the city is  
22 on the federal government for prevention funding.  
23 [sneezes] excuse me... and I would be happy to brief  
24 the council on our findings when we publish that  
25

1  
2 report this summer. In closing we're excited that the  
3 council continues to propose legislation to prevent  
4 diet related diseases. We urge the committee to  
5 consider comprehensive new policies that provide  
6 education, access, and resources needed to make  
7 healthy food choices and we urge you to think  
8 seriously... continue thinking seriously about how to  
9 protect the important prevention work that's already  
10 happening in New York City.

11 CHAIRPERSON JOHNSON: Thank you very  
12 much. I, I want to mention we have a, a budget  
13 hearing, the executive budget hearing for the Health  
14 Department next week, the administration is going to  
15 come back in a few days and show us their executive  
16 plan, it's my hope that in this upcoming budget we'll  
17 see some money dedicated to diabetes related issues  
18 in New York City from the Health Department, looking  
19 at issues that are as you've testified today  
20 chronically effecting communities of color, poor  
21 communities and to get them the resources they need.  
22 The Health Department has that expertise and skill  
23 set and I hope that the administration steps up with  
24 greater dollars for them to do that type of work. We  
25 totally support it, it's become an epidemic in New

1  
2 York City. As Council Member Vacca said earlier today  
3 the Bronx is one of the major epicenters of it and  
4 it's having pretty serious health effects that are  
5 costly for the city of New York, costly for the  
6 health care system and disproportionately affecting  
7 poor New Yorkers and communities of color so I'm glad  
8 you're here today and I'm glad we're hearing this  
9 bill. Thank you to the panel for testifying today,  
10 our last panel is Terence Tubridy, Melissa Olson, and  
11 Dan Pisark, is Dan Pisark still here, okay so just  
12 Terence Tubridy and Melissa and that's our final  
13 panel. You may begin just make sure the mic is on Mr.  
14 Tubridy if you want to start first.

15                   TERENCE TUBRIDY: Sure. My name is  
16 Terence Tubridy and I'm a New York City resident,  
17 resident and third generation New York City business  
18 owner and I guess I'm the only one present today,  
19 under three hours Mr. Council Member just, just short  
20 of what I usually deal with at the tribunal. I have  
21 the privilege of owning restaurants in three boroughs  
22 and I want to thank the council members here looking  
23 to make the grading system more fair and equitable.  
24 The public has the right to know that they are being  
25 protected. The graded system has certainly made us



1 better and our industry more focused on food safety.  
2 I'm not here to argue this, I'm here to argue the  
3 system is rigged against us. The commissioner speaks  
4 of motivation and incentive with all due respect I  
5 don't need any more motivation, my motivation is my  
6 livelihood; my family, yelp, employees, trip advisor,  
7 rent, word of mouth and the ten other city agencies I  
8 have to deal with on a daily basis. The grading  
9 system in my perspective is a fining system in place  
10 to keep us there. Inspectors walk into my restaurant  
11 and its sheer terror that runs through my staff  
12 because we know it's not really how clean or dirty  
13 our, our space is, it's really the luck of the draw;  
14 one inspector looks at this the other inspector looks  
15 at that, it doesn't really matter, it's really... I've,  
16 I've given up. Our last inspection one of our  
17 restaurants we passed with flying colors, zero  
18 points, the next day another inspector walked in to  
19 check his inspection. Now we weren't going to get  
20 fined for that inspection but again the stress level  
21 on my staff, on our management, the disruption of  
22 business, it just goes to show you that it is hard to  
23 do business in the city. My incentive, again we're  
24 talking about incentives is surely to keep an "A"

1  
2 grade because a "C" grade... a "C" grade is a business  
3 killer that's why 92 percent of restaurants pay for  
4 the "A" grade and they'll go through this system. And  
5 I want to thank you for your work on this.

6 CHAIRPERSON JOHNSON: Thank you, I have a  
7 few questions for you before we go to Mrs. Olsen. Can  
8 you give me some examples of you get your annual  
9 inspection, an inspector comes in, you either get no  
10 points or very little points and then another  
11 inspector comes in like you said or the inspector  
12 comes in the following year and they, they fine you  
13 for something that a previous inspector said was fine  
14 that, that there was no problem with it, can you give  
15 some examples of when that happens and what those  
16 issues have been?

17 TERENCE TUBRIDY: I have seven... eight  
18 establishments; Queens, Brooklyn, and Manhattan so  
19 the examples are kind of countless. We're not... the  
20 industry... we're, we're all for the public safety,  
21 nobody is saying that we shouldn't be inspected that,  
22 that we shouldn't be held to a higher standard, we  
23 certainly agree and since Mayor Bloomberg and, and  
24 the Department of Health put in the grading system we  
25 certainly have stepped up our game. The, the issue I

1 think that we deal with is when an inspector walks in  
2 its, it's... we stop because we can't do anything if we  
3 do something they'll look at that as they're... you  
4 know it's, it's, it's... we'll be in service and  
5 there'll be food on the... on the kitchen floor, on the  
6 back of house kitchen floor because we're in service  
7 and one inspector will say that's a... that's a dirty  
8 floor and he'll say that's points, how, how are we  
9 supposed to continue to keep that kitchen... you know  
10 with crumbs and you know just... you know you're in the  
11 middle of service it's the back of the line, how... I  
12 mean have they... have, have... has... have these  
13 inspectors ever worked in a restaurant. We're talking  
14 about I think the, the Professor was mentioning about  
15 smoking over the... you know that example I think that  
16 was pertaining to you know whether it was a, a water  
17 bottle or, or a glass of water that a bartender may  
18 have behind the bar and it... if they want to drink a  
19 glass of water or a glass of soda behind the bar that  
20 technically is a food prep area that's, that's a  
21 fine, that's, that's points, they can't keep... if they  
22 want a glass of water behind the bar they have to  
23 step outside behind the bar drink the glass of water  
24 and then come back behind the bar... [cross-talk]

1  
2 CHAIRPERSON JOHNSON: This is so crazy..  
3 its crazy.

4 TERENCE TUBRIDY: I've had inspectors  
5 tell me, we have an outside bar out in Rockaway  
6 Beach, I've had inspectors tell me no we need four  
7 walls around our outside bar because that's a food  
8 prep area then he waited an hour and a half as he's  
9 doing... to get an answer from his inspector, from his  
10 supervisor to find out oh no it's an outside bar it's  
11 okay but I'm sitting there again and, and my anxiety  
12 through the roof that I'm going to get a "B" or a "C"  
13 and I have to explain this to my customers that no  
14 it's, it's because of... it's because of an outside bar  
15 or whether it's because... [cross-talk]

16 CHAIRPERSON JOHNSON: Was that the first  
17 time that outside bar was inspected?

18 TERENCE TUBRIDY: No... well no it gets  
19 inspected all the time.

20 CHAIRPERSON JOHNSON: That's what I'm  
21 saying so one time one inspector showed up and said  
22 this when previous inspectors... [cross-talk]

23 TERENCE TUBRIDY: Yeah and look... [cross-  
24 talk]

1  
2 CHAIRPERSON JOHNSON: ...never said that...  
3 [cross-talk]

4 TERENCE TUBRIDY: ...I know... I know it's,  
5 it's entry level training and I get it and we try to  
6 be, you know we, we, we... you know we're working with  
7 them and it's just very difficult to, to... when, when  
8 I mentioned it was the inspector... we, we have it... we  
9 had an initial "A" and I'm talking about the next  
10 day; it was June 29<sup>th</sup> we had an "A", June 30<sup>th</sup> another  
11 inspector walked in just to check that inspector's  
12 work but to us we don't... we don't know that and yeah  
13 he made that clear walking in but again like that's a  
14 disruption of our business, it's a disruption, it's a  
15 harassment, is that, that... as, as I... as I look at it...

16 CHAIRPERSON JOHNSON: So, you have eight  
17 establishments in the five boroughs?

18 TERENCE TUBRIDY: Yes and they all have  
19 "A" grades.

20 CHAIRPERSON JOHNSON: They all have "A"  
21 grades and... [cross-talk]

22 TERENCE TUBRIDY: I can't put a "B" or  
23 "C"... [cross-talk]

24 CHAIRPERSON JOHNSON: ...and, and when did  
25 you open your first establishment, what year?

1  
2 TERENCE TUBRIDY: 2002.

3 CHAIRPERSON JOHNSON: So, it's been you  
4 know almost 15 years...

5 TERENCE TUBRIDY: I've been in the  
6 business since I... my, my father owned the business in  
7 1978 I've been working in the business since 1991.

8 CHAIRPERSON JOHNSON: The cost of rent  
9 has gone up for you I assume over the last 15 years?

10 TERENCE TUBRIDY: Yes.

11 CHAIRPERSON JOHNSON: The counsel which I  
12 supported adopted a paid sick leave policy which  
13 affected the industry, minimum wage laws going up  
14 affect the industry all of these things affect the  
15 industry and your bottom line and then you have  
16 inspectors that come in and one day, I'm giving an  
17 example that I hear all the time from restaurants,  
18 that an inspector comes in and says oh there's a pipe  
19 on that wall up there and that pipe, you know needs  
20 to be covered a certain way or needs to be connected  
21 to something or shouldn't be exposed that way and the  
22 business owner says that pipe's been like that for  
23 nine years and no one's ever said anything, okay well  
24 now you're getting a, a fine for it or a violation  
25 and they have to spend their day down at the tribunal

1  
2 fighting it showing evidence that it's always been  
3 there, taking time away from their businesses and  
4 when the price of everything else is going up that  
5 affects a small business owner's bottom line, is that  
6 right?

7           TERENCE TUBRIDY: Yeah, it, it happens  
8 look I'm, I'm, I'm a mom and pop, I'm a New York City  
9 resident, I'm not going anywhere, do I think twice,  
10 do I think three times, do I think a million times  
11 about opening up another business in New York City,  
12 absolutely. Yet the increased business that they're  
13 talking about in restaurants opening up, yeah, the  
14 shakes acts of the world are, you know with billions  
15 of dollars behind them in venture capital's money  
16 they're going to continue to open up but the American  
17 dream of, of opening up your corner bar, café, mom  
18 and pop that's... it's, it's just way too costly and,  
19 and, and so yeah, I mean that's... it's... that's a whole  
20 another conversation.

21           CHAIRPERSON JOHNSON: Well you're clearly  
22 doing something right most restaurants don't stay  
23 open past a year or past five years so for you to  
24 have five restaurants, you're a good businessman  
25 clearly and I appreciate you taking time out of your

1  
2 very busy schedule with eight establishments earning  
3 a lot of tax dollars for the city of New York in  
4 sales tax, providing a lot of good paying jobs for  
5 New Yorkers that live in the five boroughs and  
6 providing a good service to New Yorkers and tourists  
7 for you to spend time out of your busy schedule to  
8 get here at ten o'clock in the morning, to be here  
9 until one o'clock to not get back to your  
10 establishment probably after two o'clock and take  
11 half a day away from running your business I really  
12 appreciate you being here to give us your firsthand  
13 perspective.

14                   TERENCE TUBRIDY: Thank you.

15                   CHAIRPERSON JOHNSON: Thank you, Mrs.  
16 Olsen.

17                   MELISSA OLSON: Thank you Chairperson  
18 Johnson and members of the committee for the  
19 opportunity to speak this morning. A particular  
20 thanks to Council Member Barron for introducing this  
21 important legislation. My name is Melissa Olson and I  
22 am the Director of Nutrition at Community Health Care  
23 Network. CHN is a network of 11 federally qualified  
24 health centers plus two mobile medical vans and two  
25 school based health centers. We provide affordable



1 primary care, dental, behavioral health and social  
2 services for 85,000 New Yorkers annually in four  
3 boroughs. On behalf of CHN, we fully support the New  
4 York City Council in passing Intro 1103, a bill which  
5 will educate individuals about diabetes, specifically  
6 that sugary sodas and candy are not the only types of  
7 food that contribute to negative diabetic outcomes.  
8 Diabetes in New York City has become a crisis, and  
9 while we are encouraged by the strides the city is  
10 making to address this, we feel there is much more to  
11 be done. Over 700,000 New Yorkers have diabetes and  
12 almost one third of them are unaware. Last year, out  
13 of the 20,000 patients with chronic conditions that  
14 CHN providers saw, nearly 5,000 had diabetes. At CHN  
15 we have 12 registered dietician nutritionists who are  
16 all trained in diabetes education using health  
17 literate methods. It is far too common for patients  
18 who have diabetes or pre-diabetes to come to us with  
19 misinformation. The idea that patients need to cut  
20 sugar has been effectively communicated, however,  
21 most patients do not consider that our body makes  
22 sugar from carbohydrates too. It is vital that people  
23 who have diabetes and pre-diabetes know to limit the  
24 portion of carbs that they eat. To give you a few  
25

1  
2 examples; a patient recently came to us and couldn't  
3 understand why his sugar levels weren't dropping  
4 since he had cut his soda habit and we found out that  
5 he was eating large amounts of pasta and rice for  
6 most of his meals. Another patient switched to brown  
7 rice at the Chinese restaurant thinking she could  
8 still eat a large portion of it but even brown rice  
9 and whole wheat pasta need to be consumed in small  
10 amounts for diabetes control or prevention. And last  
11 a female patient I saw thought that if she switched  
12 to the bran muffin at Dunkin Donuts instead of the  
13 white bagels, she was eating healthier for her  
14 diabetes. The truth is though that it... even a large  
15 bran muffin breaks down into a lot of sugar so that  
16 doesn't help with diabetes control either. When it  
17 comes to nutrition, there are three primary barriers  
18 that result in negative health outcomes, the first  
19 being healthy diet knowledge and then also having  
20 access to healthy food and the cost of healthy food.  
21 With our patients, we have found that they respond  
22 best when it is easy for them to make healthy  
23 choices. We highly recommend that any posters include  
24 images of healthy choices and appropriate portions of  
25 various types of foods. It is critical that patients

1 know they don't have to eliminate items from their  
2 diet rather they need to manage the portion sizes.  
3 I'm also aware that restaurants don't always offer  
4 healthy options or substitutions for customers who  
5 are trying to control their carb intake but perhaps  
6 the pressure of a sign like this bill proposes would  
7 motivate restaurants to have more options for those  
8 with diabetes or pre-diabetes. This is as simple as  
9 offering modifications on the menu like ask for less  
10 rice or noodles and more salad. Additionally, the  
11 more places a campaign poster like this is seen, the  
12 better. The same poster should be available in  
13 doctor's offices and health clinics to demonstrate  
14 that the medical society is in agreement with the  
15 city and we have joined together to combat diabetes.  
16 New York City has been a pioneer in so many public  
17 health efforts and it's time for us to take the lead  
18 in addressing an illness that is running rampant  
19 throughout this country. A healthy diet is the least  
20 expensive treatment for chronic conditions out there  
21 but patients are simply unaware of how to manage  
22 their diet to treat their diabetes. We urge the  
23 council to recognize how critical it is to work in  
24 partnership with existing community organizations  
25

1  
2 when developing health and nutrition plans such as  
3 this. In closing, I strongly encourage the New York  
4 City Council to support Intro 1103. Thank you.

5 CHAIRPERSON JOHNSON: Thank you Mrs.  
6 Olson, I'm really glad that you're here today on  
7 behalf of Community Health Care Network, Catherine  
8 Abate was a dear friend of mine, I miss her, she was  
9 amazing and Freddy Molano is amazing and Bob Hayes is  
10 a great guy so I love the work that CHN does. The  
11 real quality health care that you provide New Yorkers  
12 all over the city regardless of their ability to pay  
13 so I'm really grateful that you came today to give us  
14 this expertise on diabetes and I look forward to  
15 working together moving forward.

16 MELISSA OLSON: Thank you.

17 CHAIRPERSON JOHNSON: Okay, with that  
18 this very fun hearing is now adjourned.

19 [gavel]  
20  
21  
22  
23  
24  
25

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 29, 2017