

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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October 25, 2017
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HELD AT: 250 Broadway-Committee Rm. 16th Fl.

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

COUNCIL MEMBERS:

- ROSIE MENDEZ
- YDANIS A. RODRIGUEZ
- ROBERT E. CORNEGY, JR.
- RAFAEL L. ESPINAL, JR.
- MARK LEVINE
- HELEN K. ROSENTHAL
- RITCHIE J. TORRES
- BARRY S. GRODENCHIK
- RAFAEL SALAMANCA, JR.
- ERIC A. ULRICH
- BEN KALLOS

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

Patrick Wehle
Assistant Commissioner for External Affairs,
Department of Buildings

Carl Hum
Senior Vice President for Management Services in
Government Affairs at the Real Estate Board in
New York

Michael Wolfe
Co-Chair of the Resident Management Council of
The City of New York, Owner of Midboro Management

Bilgi Zoonan
Resident of 51 Walker Street, 10013 and Member of
Condo Board

Dale Frederick
Resident of New York City

Kevin Dugan
Director of Government Affairs for the New York
State Restaurant Association

Andrew Rigie
Executive Director of the New York City
Hospitality Alliance

Rob Bookman
Council to the Alliance and Partner in Small Firm

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[gavel]

CHAIRPERSON WILLIAMS: Good morning everyone, I'm Council...

COUNCIL MEMBER ESPINAL: Afternoon...

CHAIRPERSON WILLIAMS: Afternoon...

COUNCIL MEMBER ESPINAL: Afternoon...

CC: I'm sorry...

CHAIRPERSON WILLIAMS: Thank you very much for pointing that out, that's very... [cross-talk]

COUNCIL MEMBER ESPINAL: I'm just saying... [cross-talk]

CHAIRPERSON WILLIAMS: It was good leadership speaker moment, I appreciate it.

COUNCIL MEMBER ESPINAL: Trying to help you man...

CHAIRPERSON WILLIAMS: Good afternoon everyone, I'm Council Member Jumaane Williams, Chair of the Committee on Housing and Buildings. I'm joined today by Council Member Kallos, Council Member Cornegy and Council Member Ulrich. We're here to hold a hearing on Intro Number 106, Intro Number 1241, Intro Number 1389. Intro Number 106 sponsored by Council Member Rose would require building owners to post a sign that a portable ramp is available for

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2 access to the building at inaccessible building
3 entrances where the ramp exists. Intro Number 1241
4 sponsored by Council Member Espinal would require
5 that new or renovated buildings that contain places
6 of public accommodation include diaper changing
7 tables that are accessible to person's regardless of
8 their gender. Intro Number 1389 sponsored by Council
9 Member Kallos would create time frames for the
10 removal of construction related equipment such as
11 sidewalk sheds when there's no active construction
12 and would permit the city to correct unsafe
13 conditions of exterior walls. I'm going to allow
14 Council Member Kallos to give his opening. I did want
15 to ask Guillermo Patino how the weather is over
16 there, how's it feeling, you alright? We lost
17 Guillermo Patino and it's been DOB's gain, he was
18 over on this side here, a wonderful addition to our
19 Housing and Building staff but congratulations and I
20 hope you're enjoying yourself. Council Member Kallos.

21 COUNCIL MEMBER KALLOS: First, thank you
22 to Chair Williams for your leadership of the Housing
23 and Buildings Committee, we've gotten so very much
24 done under your leadership including hearing every
25 single one of my bills other than this one but now

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2 this one is done so I appreciate it and you've been
3 doing... you've, you've been keeping Guillermo and, and
4 Megan very busy and, and now as we negotiate all
5 those bills into passage you will continue to keep
6 both of them busy. Scaffolding or sidewalk sheds are
7 like the once welcomed house guest that just never
8 leaves. While we need them for safety during
9 construction that construction must happen
10 immediately and then it's time for that sidewalk shed
11 to come down. Unfortunately, that's not how it works,
12 nearly 9,000 sidewalk sheds entomb over 190 miles of
13 city sidewalks and there are no requirements for
14 building owners to complete needed safety related
15 construction work and then take the sheds down in a
16 timely manner. Introduction 1389 imposes such
17 requirements and with exceptions for safety forces
18 the removal of scaffolding, so our pedestrians can
19 use the sidewalks unimpeded, our local businesses
20 aren't losing money because of their store fronts are
21 obscured and people living and working in those
22 buildings can rest easier knowing their building is
23 fully up to code. Right now, residents and businesses
24 have no other recourse than to make a 3-1-1 complaint
25 if the Department of Buildings is even able to send

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2 an inspector to check this scaffolding a fine may be
3 issued but the fine and continual rental fees for the
4 sidewalk shed are actually often cheaper than paying
5 for the repairs, so some owners just choose to keep
6 the scaffolding up. The worst of these landlords
7 leave scaffolding up as a form of tenant harassing
8 often in rent stabilized buildings that's why we see
9 scaffolding remain in place with no construction work
10 ever being done for years and years and years. It's
11 time to change the city landscape by removing the
12 swarm of sidewalk sheds that blight our
13 neighborhoods. This legislation is good for business,
14 tenants and pedestrians and will improve our quality
15 of life in the city. In my district we had
16 scaffolding up for two years at 340 East 64th Street
17 and 301 East 95th Street and over three years at 349
18 East 74th Street and those are just three examples in
19 one council district. A building in Harlem has had
20 scaffolding up for over 17 years and is almost old
21 enough to vote all without any work ever being done,
22 this needs to change. Since I started working on this
23 bill with Megan Chin I've had many conversations with
24 industry members about the cost of sidewalk sheds
25 versus construction, financial hardships from owners

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2 and timelines tied to construction season. I'm
3 looking forward to continuing those discussions today
4 and coming out with a strong bill that is fair to all
5 parties but a bill that finally rids our sidewalks
6 from unnecessary scaffolding and just my personal pet
7 peeve, getting dripped on when you don't know what it
8 is that just dripped on you and it isn't even
9 raining. So, I think we can all get this done. I
10 think there's one other provision that's important
11 which is where a landlord needs to make the report...
12 repairs but they can't afford it, the city would have
13 to step in and get it done and then arrange a payment
14 plan and I think that would actually ensure that our
15 buildings were in great condition and I'm not HPD but
16 I, I know this guy named Bill De Blasio who wants to
17 do affordable housing and if somebody needs to pay
18 for their repairs we might be able to say hey, we'll
19 cover that and maybe we can make some of the units in
20 your building that are vacant to affordable but
21 that's just an idea for somebody much taller than I
22 am. Thank you very much.

23 CHAIRPERSON WILLIAMS: It depends on the
24 hair style... depends on the hair style...

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2 COUNCIL MEMBER KALLOS: You're also much
3 taller but it, it wasn't for you.

4 CHAIRPERSON WILLIAMS: There's... I just
5 want to thank Council Member Kallos for his
6 leadership on this issue, it's one of those I guess
7 pothole type issues that, that, that don't, don't
8 generate enough attention but it's clearly something
9 that we should be addressing, I definitely support
10 the in... the intent of this legislation. The way I see
11 it now is it's just cost effective for people to keep
12 it up and that's unfortunate because there's a, a
13 bunch of ancillary effects that happen so hopefully
14 we can come to some kind of conclusion to get this
15 bill moving. We've been joined by Council Member
16 Espinal and Grodenchik and I believe Espinal has some
17 statements.

18 COUNCIL MEMBER ESPINAL: I mean I don't
19 have an opening statement as witty as Ben Kallos but
20 I'm... my, my bill is... yeah... my bill is to require
21 renovated bathrooms and new buildings to have diaper
22 changing stations, I don't have any kids, I don't
23 plan on having any... one any, anytime soon but this,
24 this came after idea after I saw on many occasions
25 seeing fathers actually changing their baby's diapers

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2 on top of the bathroom sinks which I believe are
3 unsanitary and I think that in this day and age when
4 we're promoting equality across the board and all
5 genders and dad should have that, that space to
6 change their child's diapers as well. So, you know I,
7 I think this will be very important legislation and I
8 know that a few years ago President Barack Obama
9 actually did a federal order that would require all
10 federal buildings to have diaper changing stations
11 and there was actually a big movement in Hollywood
12 through some actors to, to, to push for this sort of
13 change and, and action across the country. Thank you.

14 CHAIRPERSON WILLIAMS: Thank you very
15 much Council Member, another I think very worthy
16 bill. I'd like to thank my staff for the work they
17 did to assemble this hearing including Mike Toomey,
18 my Legislative Director, Director; Kevin Fagan, my
19 Communication Director; Megan Chin, Counsel to the
20 Committee; Jose Conde, Policy Analyst to the
21 Committee and Sarah Gastelum, the Committee's Finance
22 Analyst. I'd like to remind everyone who would like
23 to testify today to please fill out a, a card with
24 the Sergeant of Arms. I just really, I'm looking over
25 here and two people over there next to Smith and

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2 Gamble used to work with or for me... is it me, I just
3 want to make sure... no, okay let me know if it is I
4 don't want to lose anybody else to the other side.

5 [off-mic dialogue]

6 CHAIRPERSON WILLIAMS: Oh boy... you know
7 one of us might be able to change that very, very
8 soon. We're going to hear from Patrick Wehle, AC over
9 External Affairs from the DOB. Can you please raise
10 your right hand, do you affirm to tell the truth, the
11 whole truth and nothing but the truth in your
12 testimony before this committee and to respond
13 honestly to Council Member questions?

14 PATRICK WEHLE: I will.

15 CHAIRPERSON WILLIAMS: You can begin,
16 thank you.

17 PATRICK WEHLE: Doesn't Guillermo have to
18 be sworn in?

19 CHAIRPERSON WILLIAMS: If, if Guillermo
20 speaks Guillermo will be affirmed in. Are you... are
21 you planning to speak, I don't know that's...

22 PATRICK WEHLE: Good afternoon Chair
23 Williams and members of the Housing and Buildings and
24 City Council. I am Patrick Wehle, Assistant
25 Commissioner for External Affairs at the New York

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2 City Department of Buildings. I am happy to be joined
3 by our newly minted Senior Advisor for Legislative
4 Affair Guillermo Patino. I am pleased to be here to
5 offer testimony on the bills before this committee
6 today, Introduction Numbers 106, 1241, and 1389.
7 Introductory Number 106 would require that a sign be
8 posted at inaccessible building entrances indicating
9 that a portable ramp is available when such a ramp
10 exists. Since 2008 the New York City Building Code
11 has required that all public entrances be permanently
12 accessible to persons with physical disabilities thus
13 buildings constructed under the 2008 and more recent
14 2014 codes are already required to be accessible and
15 would not be permitted to utilize portable ramps as a
16 means of compliance with the codes accessibility
17 requirements. The accessibility requirements of the
18 code also apply to buildings built before 2008
19 version of the code took effect whenever such
20 buildings undertake certain alterations or changed
21 their use or occupancy therefor buildings constructed
22 after 2008 via 2008 code took effect and the pre 2008
23 code buildings that undertook certain alterations or
24 changed their use of or occupancy thereby trigger the
25 accessibility requirements of the code, it must be

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2 permanently accessible and are not permitted to use
3 portable ramps. Additionally, the American with
4 Disabilities Act requires that places of public
5 accommodation remove barriers to access even when no
6 alterations or renovations to such places are
7 planned. The Department supports this bill as it
8 would make it easier for persons with disabilities to
9 access buildings that are not permanently accessible.
10 We suggest that the bill be amended to specify that
11 the requirements to the bill only apply to those
12 buildings that are not otherwise required to be
13 accessible by the code or any other applicable rule
14 or law. Intro 12... Introductory Number 1241 would
15 require that newly constructed assembly and
16 mercantile occupancies both male and female occupants
17 have access to at least one diaper changing station
18 on each floor containing a public restroom. The
19 Department again is supportive of this measure as it
20 would ensure that these types of occupancies which
21 include places like movie theaters and department
22 stores are family friendly. The Department recommends
23 that the bill be amended to reference ICC A117.1
24 Section 603.5 which states the technical requirements
25 for installing diapers changing stations. Next, I

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2 would move... like to move on to Introductory Number
3 1389, this bill would require the Department to
4 direct HPD or DCAS or another agency to perform or
5 arrange for the performance of the correction of
6 unsafe conditions of exterior walls where such
7 conditions have not been corrected within 90 days or
8 180 days if the Department grants an extension such
9 as through an emergency repair program. The bill also
10 requires that sidewalk sheds be removed if the
11 Department determines there has been no work at the
12 site for seven days. The bill also requires bat...
13 requires barriers placed in the roadway to prohibit
14 vehicular traffic be removed if there has been no
15 work for a period of one or more hours. It also
16 requires that contractor sheds or offices not placed
17 on the street... not be placed on the street unless
18 placement on the construction site is impracticable
19 and such placement on the street complies with DOT
20 rules. And finally, requires that temporary walkways
21 for the public and barriers placed in the roadway to
22 prohibit vehicular traffic be removed within seven
23 days or one hour respectively if the Department
24 determines that there has been no work at the site.
25 In order to ensure the safety and structural

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2 stability of buildings owners must comply with Local
3 Law 11 of 1998 which requires the inspection of the
4 exterior walls of buildings which are greater than
5 six stories in height. Owners of more than 14,000
6 buildings must submit the results of such inspections
7 in five-year cycles. Following inspection which is
8 conducted by a private qualified registered design
9 professional an inspector assigns one of three
10 categories to the exterior walls of these buildings;
11 either they're safe which means that there are no
12 problems and that the exterior walls are in good
13 condition, or they're safe with a repair and
14 maintenance program meaning that the building owner
15 will need to conduct repairs to keep the façade from
16 deteriorating and finally unsafe which means that
17 there are problems or defects present at the façade
18 that pose a threat to public safety. In cycle seven
19 of the façade inspection safety program which ended
20 in 2015 and which was the last five-year cycle that
21 was completed there were 975 buildings in the unsafe
22 category. So far in cycle, cycle eight which ends in
23 2020 there are 912 buildings in the unsafe category.
24 Under this bill these building would be referred to
25 HPD or DCAS for emergency repairs after 90 or 180

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2 days if they have not completed repairs. While the
3 Department does not track the cost to owners to
4 undertake façade repairs anecdotally we have heard
5 that the cost is significant. In some cases, owner
6 opt to postpone façade repairs and simply renew
7 permits for their sidewalk sheds which protect the
8 public because it is more cost effective to do so.
9 While the Department agrees that there are sidewalk
10 sheds in place for a period of time, longer than it
11 is reasonably... that it reasonably takes to make the
12 façade safe we do not support shifting the burden,
13 burden of conducting the façade repairs from owners
14 to the city. From the Department's perspective even,
15 buildings categorized as unsafe do not pose a safety
16 risk to the public once sidewalk sheds are erected.
17 The city does not have a program to address façade
18 repair and more importantly lacks the significant
19 resources necessary to fund it. The city should
20 continue to prioritize its limited resources to
21 address immediately hazardous conditions. Turning now
22 to the issue of sidewalk sheds, as of yesterday there
23 were 8,843 active sidewalk shed permits citywide.
24 Nearly 25 percent of those sheds result from local
25 law façade inspections with another 25 resulting from

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2 building construction and the remaining 50 percent
3 resulting from general maintenance. The primary
4 purpose of a sidewalk shed is to protect the public
5 for that reason we do not support the provision in
6 this bill that requires that sidewalk sheds be
7 removed within seven days... the seven-day time frame
8 if no work has occurred at the site. The bill
9 provides an exception for keeping the shed in place
10 if removing it would pose... would pose a risk to
11 pedestrians, in nearly every case that exception
12 would apply. If a sidewalk shed is up at a site, it
13 is because the owner of the site has not proved to
14 the Department's satisfaction that the building no
15 longer poses a safety risk to the public. From our
16 perspective it benefits the public for the Department
17 to assume the safety risk is still present until a
18 building owner proves to us otherwise. The Department
19 understands that sidewalk sheds can have an adverse
20 impact on the quality of life of building residents
21 and for business owners and would like to work with
22 our partner agencies and the city council to mitigate
23 these issues. In fact, last year the Department
24 performed a sweep of all 7,700 buildings in the city
25 with active sidewalk shed permits, permits. As a

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2 result of that sweep the Department issued hundreds
3 of violations to address quality of life issues
4 associated with sidewalk sheds including accumulated
5 garbage, dim or missing lighting, graffiti and so
6 forth in an attempt to make their presence more
7 tolerable for New Yorkers who have to live with them
8 on a daily basis. The Department determined that 98
9 percent of the sidewalk sheds with active permits
10 needed to remain in place to keep the public safe.
11 Finally, the Department believes that its outside
12 the... our purview to require that contractor sheds not
13 be placed on a street unless such placement complies
14 with DOT rules and to ensure that temporary walkways
15 and barriers placed, placed in roadways be removed in
16 a time frame laid out in the bill. Currently DOT
17 regulates the placement of contractor sheds on, on
18 the street, temporary pedestrian walkways and the
19 temporary closing of roadways. Additionally, the
20 permits issued by DOT can last 30, 60, or 90 days
21 renewable as needed therefor the time frames laid out
22 in the bill would directly conflict with DOT's
23 permitting scheme. Thank you for the attention and..
24 your attention and opportunity to testify, we welcome
25 any questions that you may have.

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CHAIRPERSON WILLIAMS: Thank you very much for your testimony. I'm seeing that this is more of bills hearing than an oversight hearing, I'm actually going to allow my colleagues who have bills to ask questions first. I'm going to put five minutes on... for their first round and then I will ask questions after. Council Member Espinal if you have questions... no questions, alright. Oh nice. Alright, then I'll go to Council Member Kallos who I, I presume will have some questions.

COUNCIL MEMBER KALLOS: So, just to be clear... so, so just to quote from your testimony, the Department agrees that there are sidewalk sheds in place for a period of time longer than it reasonably takes to make the façade safe?

PATRICK WEHLE: Correct.

COUNCIL MEMBER KALLOS: However in your testimony you do not provide any, any, any methods or, or suggestions or solutions for taking this problem on.

PATRICK WEHLE: That's also correct. So, certainly we understand that there are situations throughout the city where there are sidewalk sheds in place for longer... for a longer period of time than it

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2 reasonably takes to, to correct the situation on the
3 façade. We recognize this is an issue and we are
4 going to work with agencies and the council to find
5 solutions to this problem however safety comes first
6 and we don't think in an emergency repair program or
7 removing sidewalk sheds from site... from the locations
8 that have unsafe conditions is the way to, to, to
9 solve that problem but we're actively looking into
10 this issue, we recognize it's a serious concern and
11 we look forward in the coming weeks and months in
12 sharing with the, the city council some ideas to
13 address this problem.

14 COUNCIL MEMBER KALLOS: So, in your
15 testimony you indicated there are four...
16 approximately... owners of more than 14,000 buildings
17 must... are... Local Law 11... okay, sorry, I'm doing a new
18 thing where I'm trying to use less jargon and more
19 language that somebody watching on TV who didn't fall
20 asleep during our various opening statements and
21 testimony will be able to follow so... [cross-talk]

22 PATRICK WEHLE: I'm falling asleep now
23 though, go ahead... [cross-talk]

24 COUNCIL MEMBER KALLOS: It's, it's true.
25 So, Local Law 11 requires folks to inspect the

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2 outside of buildings and, and you may see those folks
3 out looking at the brickwork, right, that's a fair
4 characterization...

5 PATRICK WEHLE: Yeah, certain types of
6 buildings, seven stories or greater.

7 COUNCIL MEMBER KALLOS: Great, so there
8 are 14,000 buildings that need to have their brick
9 work on the outside of their building inspected?

10 PATRICK WEHLE: Once every five years,
11 yes. It's based on a five-year cycle so once every
12 five years those buildings, those 14,000 buildings
13 within that universe require inspection.

14 COUNCIL MEMBER KALLOS: And then in your
15 testimony you indicated 8,843... there are 8,843 active
16 sidewalk shed permits citywide, so when I did the
17 quick math on that that comes out to about 63 percent
18 so, so roughly two thirds of all the buildings that
19 are... have to have their brickwork inspected because
20 they're taller than six stories have a sidewalk shed
21 up?

22 PATRICK WEHLE: To be clear it's, it's
23 not... that's not exactly right so there's a universe
24 of these Local Law 11 buildings which is one issue
25 and then you have the permits that have been issued.

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2 The permits that have been issued aren't just limited
3 to those buildings within the Local Law 11 universe,
4 it's actually broader than that so you can get a
5 permit for a façade... for a sidewalk shed for a whole
6 host of reasons not just because of the Local Law 11
7 work, you could be doing routine maintenance, you
8 could be actually constructing a new building, there
9 are a whole host of reasons why you would be getting
10 a permit for a sidewalk shed, a limited universe of
11 that are these 14,000 buildings that are, are within
12 the Local Law 11 universe. Now not all of those
13 buildings require a sidewalk shed based on the
14 engineer's inspection the engineer will determine
15 whether or the not the building is, is unsafe or in
16 need of some repair and in those instances a sidewalk
17 shed would be required.

18 COUNCIL MEMBER KALLOS: Okay, so if I do...
19 in your testimony you indicated 25 percent of the
20 sidewalk sheds were for Local Law 11 so 25 percent of
21 8,843 is 2,210.75 and so when you divide that 14,000
22 by 2,210.75 it comes out to about 15.7 percent so is
23 that more accurate?

24 PATRICK WEHLE: I would say that
25 certainly your, your point is well taken that there

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2 is a, a large percentage of the Local Law universe
3 who has an unsafe façade who are... who do have a
4 sidewalk shed up but have not commenced work to
5 repair that façade.

6 COUNCIL MEMBER KALLOS: Okay and just FYI
7 for folks you can... I, I take questions so that
8 question actually came courtesy of the, the, the New
9 York Post but you can tweet me at Ben Kallos and you
10 can tweet the Chair at...

11 CHAIRPERSON WILLIAMS: Jumaane Williams
12 if they can spell it.

13 COUNCIL MEMBER KALLOS: Spell it for
14 them...

15 CHAIRPERSON WILLIAMS: I appreciate it...
16 I'll spell it later.

17 COUNCIL MEMBER KALLOS: No worries. Okay,
18 so along those... okay, so, so we, we understand that
19 there... this is a, a big problem and it's something,
20 can you talk to me a little bit about what
21 enforcement you can do and how the penalties work and
22 how the liens work and why liens may or may not be
23 the best enforcement tool?

24 PATRICK WEHLE: Certainly, so there is a
25 number of different types of enforcement actions the

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2 Department can take and based on the violations that
3 are issued penalties of course would be assessed...
4 would be assessed. The ranges of these penalties vary
5 from as little as 1,000 dollars to as high as 25,000
6 dollars, some of the examples of violations that
7 could be issued as it relates to the work that we're
8 describing would be obviously failure to maintain the
9 exterior walls of the building, failure to file the
10 report that's required under the Local Law 11, filing
11 a late report, if you have an unsafe condition and
12 you're failing to, to file, you know one of the
13 things of note that's specifically related to the
14 issue we're discussing here today is the way the law
15 works today is if there's an unsafe condition on the
16 façade you have 90 days to correct that condition
17 however you have the opportunity to request an
18 extension from the Buildings Department for 90 days
19 to, to keep going and there's no cap on the amount of
20 requests for extensions that you can ask for. So, as
21 long as the owner is demonstrating to the
22 Department's satisfaction that it's safe, there's a
23 sidewalk shed in place, they have permits pulled,
24 they're making efforts to correct those conditions we
25 will continue issuing an extension on fixing those

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2 conditions however if the owner fails to request an
3 extension they are assessed a penalty and that
4 penalty is 1,000 dollars per month for their failure
5 to request an extension and, and correct those
6 conditions. In terms of liens we've had this
7 discussion with this committee and with yourself
8 before, the, the, the city's ability, ability to
9 attach liens for penalties resulting from building
10 code violations is somewhat limited. For quite some
11 time it only really applied to one, two and three
12 family homes, only recently there are a couple of
13 laws that enacted that in... expanded that somewhat,
14 one applying to illegal conversions, the second I
15 believe was sponsored by you that applies it to
16 multiple dwellings of a certain number of units with
17 a certain number of total outstanding penalties. So,
18 as a general matter with that exception we do not
19 have the authority to attach liens to any penalties
20 associated with any type of façade issue.

21 CHAIRPERSON WILLIAMS: Thank you Council
22 Member, thank you Assistant Commissioner. I, I just
23 want to also make sure I'm clarifying, so you're
24 saying the, the sidewalk sheds and the scaffolding
25 that are on, on top of them they... the way it's set up

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2 now it's a... it's less expensive for owners to renew
3 the permits for the sidewalk shed then to make the
4 repairs to the façade, correct?

5 PATRICK WEHLE: In some instances that's
6 correct, yes.

7 CHAIRPERSON WILLIAMS: How many... what
8 percentage of those... of the instances?

9 PATRICK WEHLE: It's not... it's very
10 difficult if not impossible for us to say. In terms
11 of the cost of, of façade repair work it obviously
12 varies greatly depending on the scope of work, how
13 significant the, the repair is, you know we tried to,
14 to do a look into our data, it's difficult to do
15 because a lot of the, the scope of work is more than
16 just façade work ultimately so it's hard for us to
17 pull out just the façade work to arrive at what the
18 cost would be. The, the best we can determine is
19 certainly at an average you're looking at 300,000
20 dollars about for your average façade repair job,
21 keep in mind though that applies to all façade work
22 be it like the very expensive stuff and general
23 maintenance. This bill speaks to only those unsafe
24 conditions and certainly unsafe conditions you would
25 reasonably assume that kind of work is far more

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2 expensive than your... then your sort of run of the
3 mill maintenance work. So, we would... we could assume
4 that certainly the cost to perform that work to
5 correct those conditions to make those repairs would
6 be far in excess of the... you know close to 300,000-
7 dollar figure we arrived at.

8 CHAIRPERSON WILLIAMS: So, if, if, if the
9 cost of the façade work is not... if, if... is not... if I
10 don't fall in that category what's another reason
11 that I'd want to keep the sidewalk shed or
12 scaffolding up?

13 PATRICK WEHLE: So, the, the, the shed
14 goes up and the scaffolding goes up if it's for this
15 Local Law 11 work for unsafe buildings... [cross-talk]

16 CHAIRPERSON WILLIAMS: Uh-huh... [cross-
17 talk]

18 PATRICK WEHLE: ...if there's just general
19 maintenance of a façade that needs to happen you put
20 that up and if you're constructing a new building.
21 Now if you're constructing a new building or you're
22 doing routine maintenance on your building as a
23 general matter this is less of an issue because you
24 have the resources in place to do this work, you're
25 building your building, you're not going to sit on it

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2 with your building not being created, you have a plan
3 in place, you have the resources in place. I think to
4 a large extent the, the concern that's being
5 identified here that we're talking about relates to
6 these Local Law 11 buildings and particularly the
7 unsafe buildings or the buildings that aren't exact...
8 somewhere in between safe and unsafe that require the
9 shed and, and, and so forth.

10 CHAIRPERSON WILLIAMS: So, you believe
11 that the, the ones that are up just for construction
12 they generally come down in a reasonable time and the
13 ones that are up of primarily the Local Laws that
14 have to do with façade repair?

15 PATRICK WEHLE: As a general matter, I
16 would say yes that's correct.

17 CHAIRPERSON WILLIAMS: I just want to
18 mention we were joined... we've been joined by Council
19 Member Rosenthal and Council Member Mendez as well. I
20 mean there comes a time... I don't know if this is that
21 but there comes a time where an owner may not have
22 the capacity to own a building if they can't follow
23 the law so at what, what point do we make that
24 decision obviously... I think the, the sidewalk sheds
25 and the... and the scaffolding do pose some, some

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2 public safety issues in terms of navigating them but
3 as you mentioned they do... we do want to address
4 quality of life issues as well and so what it sounded
5 like you were saying is that you recognize and
6 acknowledge that there is a severe quality of life
7 issue with the sheds remaining up, but we don't have
8 the funding to attend to it, is that correct?

9 PATRICK WEHLE: Most... I'm... most of that I
10 would agree with, certainly there's a problem here
11 and it's a problem that needs correction. As, as a
12 Department and as a city we haven't really figured
13 out what that is yet certainly as we go down this
14 road we need to be very careful in terms of solutions
15 to this problem because sidewalk sheds are there for
16 a reason, there are certainly quality of life issues
17 associated with sidewalk sheds, but they are there
18 for a reason, they are there to protect the safety of
19 the public and that is absolutely paramount. So, when
20 we think about ways to address this issue it has to
21 be seen through the lens of public safety and, and
22 you know protection of the public.

23 CHAIRPERSON WILLIAMS: So, we don't want
24 the sheds to come down if the public is going to be
25 unsafe, we want the conditions to be corrected so

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2 then now it's about how we make sure the conditions
3 are corrected. I'm not sure if we should be allowing
4 quality of life issues... or I... and I think some public
5 safety issues additionally maybe not as much as a
6 façade but definitely trying to navigate it and... you
7 know I don't... as was mentioned you don't know what's
8 dripping down on you, that's all... into consideration.
9 That shouldn't be the, the result of an owner who may
10 not be able to uphold the building and also now it
11 sounds like we don't have a way to figure out if that
12 owner can't afford to make the repairs or simply
13 deciding not to make the repairs.

14 PATRICK WEHLE: That's correct, it's very
15 challenging for us to, to, to understand that, I mean
16 often times with façade work, you know it's a
17 tremendous amount of work and not only is it quite
18 expensive but it's also quite time consuming and in
19 many of these buildings say for like coops and
20 condos, you know a lot of these older buildings
21 masonry, masonry buildings they have to establish a
22 capital campaign to raise the money before they can
23 even commence the work so they have a Local Law 11
24 inspection performed, the inspection reveals that
25 the, the façade of the building is unsafe or borders

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2 being unsafe, obviously the sidewalk shed needs to go
3 up right away and then... that... those conditions need
4 to be corrected but in certain instances monies...
5 large sums of monies need to be raised to perform
6 that work.

7 CHAIRPERSON WILLIAMS: And that makes
8 sense, I don't know that inaction is the, the... is the
9 answer and now that makes sense that something may go
10 over a year or two years. Well we have a building
11 that was mentioned that was almost 18 years and so
12 that to me is a long time of inaction and so... what... I
13 think what we're good here at in, in the city council
14 is, is nudging that, that conversation and so I just...
15 Council Member Kallos is also a good nudger and I
16 think this bill is, is meant to push that and so if
17 there isn't a plan I think we're trying to come up
18 with a plan for you and, so I think it would be good
19 to present a different plan or we got to figure out
20 how to make this bill work because we can't leave
21 these questions unanswered which just means sheds...
22 sidewalk sheds will stay up in perpetuity that
23 doesn't make any sense also.

24 PATRICK WEHLE: Regrettably you're right,
25 we, we don't have a plan, we need to create a plan.

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2 We are actively thinking through potential solutions,
3 ways perhaps to create disincentives for owners to
4 not perform this work, it's a very challenging thing
5 to do because there's a lot we don't know and
6 difficult to find out. We certainly again don't want
7 to imperil the safety of the public, we are thinking
8 through ideas and we certainly welcome the
9 opportunity to sit down with our partner agencies and
10 the city council to sort of work through some of this
11 stuff and, and come up with something that works.

12 CHAIRPERSON WILLIAMS: And particularly
13 with NYCHA, do the sidewalk sheds and... that are up
14 there they fall under the Local 11, 11 category I
15 assume?

16 PATRICK WEHLE: Correct.

17 CHAIRPERSON WILLIAMS: And have they said
18 it's because they can't afford to make the façade
19 repairs?

20 PATRICK WEHLE: I, I think the issues
21 that we have as it relates to... the issues we have it
22 applies the same, so whether it's a city owned
23 building, NYCHA or private building if there's... if
24 there's a structure... if there's an unsafe condition
25 with the façade even a NYCHA property the sidewalk

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2 shed has to come up and then capital funding needs to
3 be provided to correct those conditions. I, I can't
4 speak with specificity but I think we all know this
5 administration has devoted a significant sum of
6 resources to correcting these conditions not so just
7 that the, the, the sidewalk shed comes down and it
8 improves the quality of life for the residents but
9 again more importantly that the unsafe condition is
10 corrected but we are talking about as we all know a
11 large volume of work and so it's a problem at NYCHA...
12 a, a NYCHA building just as it is in other types of
13 buildings as well.

14 CHAIRPERSON WILLIAMS: I'm asking a
15 specific question because we have said that it's
16 difficult to find out whether an owner has the shed
17 up because they don't want to pay or because they
18 don't have the ability to pay and so it seems like we
19 have a reasonable expectation to get an answer from
20 at least NYCHA because we own it of which one it is
21 so I'm saying is it that they are not doing it or are
22 they saying in... that they don't have the capital
23 funds?

24 PATRICK WEHLE: It's hard for me
25 obviously to speak on behalf of NYCHA, I imagine

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2 certainly though that its funding issue but I, I
3 can't say for certain.

4 CHAIRPERSON WILLIAMS: So, there hasn't
5 been an, an official conversation yet?

6 PATRICK WEHLE: I don't think there's a,
7 a, a lack of desire to do this... [cross-talk]

8 CHAIRPERSON WILLIAMS: Okay... [cross-talk]

9 PATRICK WEHLE: ...I think it's just a
10 question of getting the necessary funding to make it
11 happen.

12 CHAIRPERSON WILLIAMS: Alright, still on
13 1389, of the sidewalk shed permits issued in 2016 how
14 many are still active now?

15 PATRICK WEHLE: There are 5,860 sidewalk
16 shed permits that have been active for a year.

17 CHAIRPERSON WILLIAMS: When was the
18 sidewalk shed permit for 280 Broadway, not too far
19 from this issue?

20 PATRICK WEHLE: 280 Broadway is the
21 Building Department... Building Department's
22 headquarters.

23 COUNCIL MEMBER KALLOS: Yes, it is.

24 PATRICK WEHLE: And, and, and yes, we,
25 we, we do have a, a sidewalk shed outside our

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2 building, it has been there since August of 2008
3 we've had a shed in place on our building and I think
4 280 Broadway is actually unfortunately a, a good
5 example of the challenges that one faces in
6 performing façade repair, it takes a, a lot of time
7 to scope out the work to, you know get the necessary
8 funding to make it happen. Thankfully there... work has
9 commenced as of a few months ago on 280 Broadway so
10 we expect within I think a couple of years and that's
11 how long it takes to perform this work, that the work
12 will be completed.

13 CHAIRPERSON WILLIAMS: So, I, I am
14 amusing you have spoken to yourself so the, the
15 reason that you were unable to do it sooner was
16 because you didn't have the capital funds to fix the
17 façade?

18 PATRICK WEHLE: I believe that's correct,
19 yes.

20 CHAIRPERSON WILLIAMS: You believe it's
21 correct, oh...

22 PATRICK WEHLE: Well I, I, I mean...
23 [cross-talk]

24 CHAIRPERSON WILLIAMS: I... [cross-talk]
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2 PATRICK WEHLE: I, I don't work in our... I
3 don't really deal with DCAS directly, but I imagine
4 that's the case, it was a question of getting the
5 capital funding to perform the work.

6 CHAIRPERSON WILLIAMS: Did anybody ask
7 for the capital funding?

8 PATRICK WEHLE: I'm sure that's correct,
9 yes.

10 CHAIRPERSON WILLIAMS: They did ask for
11 the capital funding?

12 PATRICK WEHLE: I imagine that... I, I
13 imagine, you know we asked for the resources through
14 the board aside... ultimately, it's a situation for
15 DCAS, right, they own and operate a number of
16 buildings, ours is one of them, it's a city owned
17 building so, you know they make the determination
18 ultimately the schedule by which this work... which
19 work, work occurs.

20 CHAIRPERSON WILLIAMS: I, I don't... I
21 don't recall getting... I've went through several
22 budgets as the Housing Chair, I just don't recall
23 getting requests for capital funding to fix the
24 façade of the DOB building.

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2 PATRICK WEHLE: I don't... I can't... I don't
3 have an answer to that, I'm happy to look into it
4 further and get back to... [cross-talk]

5 CHAIRPERSON WILLIAMS: Yeah, well...
6 [cross-talk]

7 PATRICK WEHLE: ...the city... [cross-talk]

8 CHAIRPERSON WILLIAMS: ...the Gov ops Chair
9 is saying that they have not so... [cross-talk]

10 PATRICK WEHLE: Okay... [cross-talk]

11 CHAIRPERSON WILLIAMS: that, that funding
12 hasn't come in so... you know I just... I just want to be
13 sure if people are just not making it a priority, I
14 understand funding is an issue definitely, but people
15 would also have to prioritize it and so this may be a
16 case where the city agency has a façade on their
17 building did not prioritize it and.. [cross-talk]

18 PATRICK WEHLE: Well they're certainly
19 always competing priorities for expense and capital
20 monies where this specific issue ranked on that list
21 I can't say.

22 CHAIRPERSON WILLIAMS: Okay. what was the
23 average length of time for completion of façade Local
24 Law 11 work, what is the average length of time?
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2 PATRICK WEHLE: So, it, it varies greatly
3 depending upon the scope of work and, and obviously
4 the ability to raise funds to pay for that work. In
5 our experience it varies from as little as a few
6 months just to work that can take a number of years
7 obviously.

8 CHAIRPERSON WILLIAMS: For other
9 construction related equipment for which DOT issues
10 the permits does, does DOB and DOT interact for
11 permit issues?

12 PATRICK WEHLE: We do interact related to
13 permit issues, you know to the extent that work on a
14 construction site requires work to happen offsite on
15 the street or the sidewalk, there is coordination
16 between, between our agencies. For example, if you
17 had to use a crane to install say mechanical
18 equipment on their construction site that crane will
19 likely be situated on the street and there needs to
20 be a certain level of coordination between the
21 Department and DOT on the permitting for that crane.

22 CHAIRPERSON WILLIAMS: And the way your
23 testimony read it... I assume that there were buildings
24 that were in cycle seven that are still in cycle
25 eight, is that correct?

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2 PATRICK WEHLE: There are buildings in
3 cycle seven that were deemed unsafe... [cross-talk]

4 CHAIRPERSON WILLIAMS: Uh-huh... [cross-
5 talk]

6 PATRICK WEHLE: ...that remain unsafe, yes,
7 in this cycle.

8 CHAIRPERSON WILLIAMS: Okay, thank you.
9 I'm going to... I do have some additional questions,
10 but I want to go back to my colleagues for five-
11 minute questions each, Council Member Grodenchik,
12 Council Member Rosenthal and Council Member Kallos,
13 just if you weren't here they are supportive of Intro
14 Number 106 with some changes. I, I want... I just want
15 to speak to... have you spoken to the sponsor about the
16 changes of 106?

17 PATRICK WEHLE: I have not had the
18 opportunity, no.

19 CHAIRPERSON WILLIAMS: Okay, they seem
20 pretty reasonable, I want you to hear what she has to
21 say and they're supportive of Intro Number 1241, they
22 are not supportive of Intro Number 1389. We were also
23 joined by Council Member Salamanca, Torres and
24 Rodriguez, Council Member Grodenchik?

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2 COUNCIL MEMBER GRODENCHIK: Thank you Mr.
3 Chair. When someone comes... I own a building and it's
4 found to have an insufficient facade, do they file
5 for the shed first, is that what the first plan of
6 action would be?

7 PATRICK WEHLE: An unsafe façade
8 certainly the first step is to put a shed up to
9 protect the safety of the public, yes.

10 COUNCIL MEMBER GRODENCHIK: And then you
11 have seemingly forever, correct me if I'm wrong, you
12 can go on and on and on and we know that it's at
13 least 9 years at, at, at 280 and there's absolute..
14 according to your testimony that I heard there's
15 absolutely no mechanism to force people to perform
16 this work and I understand that there are co-ops or
17 condos that might not have a... large enough reserve
18 fund to perform unexpected work or, or a commercial
19 building could be the same thing, an owner that is in
20 financial distress then no plans at all from the DOB,
21 it's kind of depressing because, you know these sheds
22 are not just up... some of them are at schools, some of
23 them are at commercial buildings, some of them are..
24 you know in other areas, it's far worse I'm sure in
25 Manhattan than it is in, in my neck of the woods

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2 though but there... do you have an estimated date when
3 you might have a plan?

4 PATRICK WEHLE: So, it's, it's a very...
5 so, from the Buildings Department's perspective first
6 and foremost as long as there's an unsafe condition
7 on the façade the shed needs to remain in place but
8 again as we've discussed there is certainly occasions
9 where the shed is up for longer than, then is
10 reasonable. This is a very complicated situation
11 because whatever we come up with... whatever we come up
12 with to address the problem we got to make sure it's
13 not impinging on the safety of the public, we're
14 working through a number of ideas, we're not quite
15 there yet to share anything, we're working with our
16 agency partners, we look forward to sitting down with
17 the council, I don't have anything firm yet to share
18 but again happy to sit down and look forward to
19 sitting down with the council to discuss these issues
20 and challenges and see what we can come up with but
21 we do have some ideas that we're thinking through.

22 COUNCIL MEMBER GRODENCHIK: It seems to
23 me that at least some of the people that have these
24 sheds up... I wouldn't say they're doing it on purpose
25 but there's, there's almost no recourse for the city

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2 if they don't take them down, they could be up
3 indefinitely.

4 PATRICK WEHLE: I agree and that's part
5 of the problem. What we're thinking about is creating
6 perhaps for lack of a better word, disincentives for
7 folks to maintain their shed and not to fix these,
8 these conditions in a reasonable amount of time but
9 it's a very difficult exercise to, to get there and
10 understand what that standard and threshold is but
11 it's something we are thinking through.

12 COUNCIL MEMBER GRODENCHIK: It's
13 discouraging, it's like the guy in my district that
14 has a... he's been building a house for 14 years, I
15 mean it's just... you imagine having... it's not the same
16 thing but they have a... yeah, they have a fence up
17 around the property which is for public safety, so
18 nobody wanders on especially children... [cross-talk]

19 PATRICK WEHLE: Yes... [cross-talk]

20 COUNCIL MEMBER GRODENCHIK: ...but... [cross-
21 talk]

22 PATRICK WEHLE: Ordinarily we don't put a
23 time table on the amount of time it takes to perform
24 the work, whatever kind of work it is, our concern is
25 that the work be performed safely however in certain

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2 instances... and we're talking about today as one of
3 them there is this sort of ancillary impact, right...
4 [cross-talk]

5 COUNCIL MEMBER GRODENCHIK: Sure... [cross-
6 talk]

7 PATRICK WEHLE: ...we're allowing folks to
8 keep their sheds up that present quality of life
9 issues for a period of time longer than it reasonably
10 takes to fix the work, that's clearly a problem and
11 we need to figure it out.

12 COUNCIL MEMBER GRODENCHIK: Your
13 testimony indicated that Department of Buildings
14 feels it would not be a good thing if the city... the
15 city of New York were to do these repairs and I'm
16 sorry I missed part of your testimony but it would
17 seem to me that we... you know we do demolish unsafe
18 buildings, we do other kinds of work and I'm sure
19 that there would be any number of people who would be
20 willing to do this work and the city would slap a
21 lien on the property and that would move them... move
22 things along quicker, is there any thought at all to
23 the city doing this work?

24 PATRICK WEHLE: So, there's a big...
25 [cross-talk]

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2 COUNCIL MEMBER GRODENCHIK: ...or hiring
3 somebody to do the work... [cross-talk]

4 PATRICK WEHLE: There's a big distinct,
5 distinction we think between the work that currently
6 the city hires the contractors to perform versus what
7 we're talking about here. the work the city hires the
8 contractor to perform is emergency unsafe work,
9 right, we give an owner the opportunity to demolish
10 their building because it's unsafe and if they fail
11 to do so we show up and take care of it for them. In
12 this instance we don't... we don't consider these
13 buildings to be unsafe, now they do have an unsafe..
14 [cross-talk]

15 COUNCIL MEMBER GRODENCHIK: Well they
16 are... [cross-talk]

17 PATRICK WEHLE: ...façade... [cross-talk]

18 COUNCIL MEMBER GRODENCHIK: ...unsafe at
19 some level, right, the façade is... [cross-talk]

20 PATRICK WEHLE: But however... [cross-talk]

21 COUNCIL MEMBER GRODENCHIK: ...unsafe
22 which... [cross-talk]

23 PATRICK WEHLE: ...however the difference
24 is there's a sidewalk shed put in place to protect
25 the safety of the public, so the unsafe immediately

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2 hazardous condition is addressed by the installation
3 of the sidewalk shed and so therefor we don't
4 associate this type of work to be akin with the
5 immediately hazardous, hazardous emergency work that
6 we ordinarily as a city refer to the emergency repair
7 program.

8 COUNCIL MEMBER GRODENCHIK: Last
9 question, I got 17 seconds, theoretically I mean the
10 higher up you go and if a section of, you know the,
11 the cladding of the building peeled away, and it was
12 three stories high you could have a real big problem
13 because the shed only covers the sidewalk and maybe
14 part of the street, it could go all the way across to
15 the other side of the street.

16 PATRICK WEHLE: Yeah, so there's
17 requirements in the law that govern the side of the
18 shed, how far it goes and its length, if there were
19 sort of conditions that you described that are unique
20 then we would... then it would fall into the category
21 of... [cross-talk]

22 COUNCIL MEMBER GRODENCHIK: Of an
23 emergency... [cross-talk]

24 PATRICK WEHLE: ...having to do... perhaps...
25 [cross-talk]

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

4 PATRICK WEHLE: ...but your point is well
5 taken, there certainly are those unique circumstances
6 where additional measures need to be taken.

7 COUNCIL MEMBER GRODENCHIK: It just
8 sounds... [cross-talk]

9 PATRICK WEHLE: That's the exception...
10 [cross-talk]

11 COUNCIL MEMBER GRODENCHIK: I can
12 understand my colleague's frustration, thank you very
13 much Mr. Wehle, thank you Mr. Chair.

14 CHAIRPERSON WILLIAMS: Council Member
15 Rosenthal, Kallos and Salamanca.

16 COUNCIL MEMBER ROSENTHAL: Thank you so
17 much Chair Williams. Good to see you Assistant
18 Commissioner, aren't you a Deputy yet? No, is Deputy
19 higher or lower?

20 PATRICK WEHLE: It's higher.

21 COUNCIL MEMBER ROSENTHAL: It's higher..

22 PATRICK WEHLE: Last, last time I checked
23 I'm still... [cross-talk]

24 COUNCIL MEMBER ROSENTHAL: Alright, I'm
25 putting in a good word to your boss.

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PATRICK WEHLE: Thank you.

COUNCIL MEMBER ROSENTHAL: I'm wondering, last... you, you say last year the Department performed a sweep of all 7,700 buildings with active sidewalk shed permits and then you issued hundreds of violations for quality of life which I totally get, were you... how many buildings received violations because one shed could receive several?

PATRICK WEHLE: Yeah, unfortunately I can get you... the committee that information, I don't have it, it was certainly... [cross-talk]

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

PATRICK WEHLE: ...a large number of violations representing a good portion of those buildings, I don't have an exact number offhand, but we can provide that to the committee.

COUNCIL MEMBER ROSENTHAL: How many had been up longer than the three years it might take to get the work done?

PATRICK WEHLE: Well again every building is different in terms of its scope of work... [cross-talk]

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2 COUNCIL MEMBER ROSENTHAL: Yeah... [cross-
3 talk]

4 PATRICK WEHLE: ...and it could reasonably
5 take a few months or maybe even a few years depending
6 on the need to raise the funds to perform the work.
7 Again, I don't have a specific number on those
8 buildings that have been around for say longer than
9 three years but again there's not a small number, I
10 mean provide the number to the committee but... I would
11 say it's... I don't know if it's quite like a hundred
12 but it's in the tens perhaps but we'll, we'll provide
13 that to the committee.

14 COUNCIL MEMBER ROSENTHAL: Okay, that's
15 helpful. How many do you think... is, is, is one of the
16 issues enough staffing on behalf of DOB to get
17 inspectors out to sign off on buildings in the façade
18 work being done and the safety of taking down the
19 shed?

20 PATRICK WEHLE: No, I don't think that's
21 the issue, I think we're appropriately staffed, I
22 don't know exactly what our service level is on these
23 types of requests to get sign off on the work but
24 it's... you know it's a matter of days at most so
25 that's not really what presents... you know the, the

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2 large... the large issue that we have here so I think
3 we're sufficiently resourced to perform those
4 inspections to sign off on the work.

5 COUNCIL MEMBER ROSENTHAL: I'd love to
6 know the service level, I mean the notion of days and
7 maybe what the longest or... among the longest has
8 been... [cross-talk]

9 PATRICK WEHLE: We, we can certainly
10 provide that.

11 COUNCIL MEMBER ROSENTHAL: Great and then
12 can you drill down to know what's going on which...
13 with each building or subset of buildings, not... you
14 know I'm sure there's a proportion of the 7,700 that
15 are solid, you know need to be there and no other
16 reasons but I'm wondering if there are... if there are
17 ways to have criteria for taking down part of a
18 sidewalk shed, another words when it wraps around a
19 whole block what can be done to take... you know take
20 down a third of it or, or two of the facades...

21 PATRICK WEHLE: That, that is also
22 something we're thinking through right now, if there
23 are circumstances where perhaps it's reasonable to
24 not require as much of a sidewalk shed as the law
25 currently requires. One of the particular challenges

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2 actually relates to NYCHA buildings because of the
3 style and configuration of those buildings the tower
4 in the park you sometimes have sidewalk sheds that
5 extend, you know across from one building to another
6 building and do you really need to have sidewalk
7 sheds that, you know based on... it's a... it's an
8 equation that determines the sort of length of the...
9 linear length of the shedding and based on the design
10 and configuration of those buildings it sometimes
11 results in the shedding... there being more shedding
12 than you really need so that's also something we're
13 thinking through as well but I think the, the one
14 thing we all obviously need to be mindful of is Local
15 Law 11 and our, our whole façade inspection program
16 is there to protect the safety of the public and it,
17 it works remarkably well, we traverse the city
18 streets without fear of any part of a building
19 falling on top of us and almost without exception
20 that's the case, we've had some... a very small number
21 of examples where there have been conditions, you
22 Council Member of course are very much... [cross-talk]

23 COUNCIL MEMBER ROSENTHAL: Yeah, it's
24 criminal... [cross-talk]

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2 PATRICK WEHLE: ...familiar with... [cross-
3 talk]

4 COUNCIL MEMBER ROSENTHAL: ...activity...
5 [cross-talk]

6 PATRICK WEHLE: ...one that was in your
7 district which was certainly tragic but Local Law 11
8 as a general matter works exceptionally well.

9 COUNCIL MEMBER ROSENTHAL: You know and
10 just to be clear... I don't speak for the sponsor, you
11 know just from my district's perspective we love
12 that, I mean if there's one thing the Department of
13 Buildings does exceedingly well it's protecting the
14 public, you know when, when tall buildings go up and
15 the, the area of the sidewalk sheds, I don't think
16 that's being debated and maybe we don't say it enough
17 but that's very well appreciated, you know what... I
18 think what we're all juggling is the reality of
19 sidewalk sheds that are up for a long time that
20 effect, you know retail for example, that's, that's
21 what we're looking at and that's why the notion of
22 picking off pieces of it are attractive like taking
23 down part of a sidewalk shed.

24 PATRICK WEHLE: Yeah and that's... again
25 that's an approach we're considering as well.

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2 COUNCIL MEMBER ROSENTHAL: I appreciate
3 that, thank you.

4 CHAIRPERSON WILLIAMS: Council Member
5 Salamanca and then Council Member Kallos.

6 COUNCIL MEMBER SALAMANCA: Alright, thank
7 you. How are you Commissioner? Some quick questions,
8 does the Department of Buildings have oversight of
9 the sheds outside or the sheds that NYCHA
10 developments have?

11 PATRICK WEHLE: Correct.

12 COUNCIL MEMBER SALAMANCA: They do and
13 does NYCHA... does NYCHA come and apply for a permit
14 just like a private building would do?

15 PATRICK WEHLE: The same process, yes.

16 COUNCIL MEMBER SALAMANCA: And, and do
17 they apply for extensions?

18 PATRICK WEHLE: Certainly.

19 COUNCIL MEMBER SALAMANCA: And are they
20 compliant?

21 PATRICK WEHLE: They are compliant in the
22 sense that they are receiving... if... assuming the
23 building has an unsafe condition they request an
24 extension, the... to, to receive the extension they
25 need to demonstrate to us that the, the safety of the

1
2 public is protected meaning there's a, a sidewalk
3 shed in place, that the sort of stability and the
4 integrity of that sidewalk shed is appropriate, that
5 they have permits to do the work, and that they're
6 making efforts to correct those conditions. So, I
7 mean yes, as a general matter they are compliant for
8 sure.

9 COUNCIL MEMBER SALAMANCA: And does DO...
10 does the Department of Buildings go out and inspect
11 these sheds and the reason I ask I, I have... I have
12 the third largest NYCHA portfolio in the city of New
13 York and I have quite a few NYCHA developments that
14 just have sheds and they've been there for years and
15 there's issues about not enough lighting, there's
16 issues about some of these sheds actually blocking
17 the surveillance cameras so there's a lot of criminal
18 activity happening under... within these sheds and you
19 know my, my concern and in, in speaking with, with,
20 with NYCHA is when... well when are you going to get
21 the work that needs to be done, done so that we can
22 remove these sheds and so my question to you is how
23 often does DOB go out and inspect these sheds?

24 PATRICK WEHLE: So, as a general matter
25 our inspections are complaint based, when we receive

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2 a complaint we perform an inspection, on occasion we
3 do, do sweeps where we actively look at all the
4 active permits for sidewalk sheds out there and based
5 on what we see we'd issue violations, NYCHA's a
6 little bit unique, we, we still of course.. [cross-
7 talk]

8

COUNCIL MEMBER SALAMANCA: Do you... do you
9 give them violations as well?

10

PATRICK WEHLE: There, there wouldn't be
11 any penalty associated with that but if we see
12 something we'll let them know. I think specifically
13 to your issues if you want to share with me those
14 locations I'm happy to have somebody take a look to
15 see what's going on and then we could have a
16 conversation with your office and NYCHA and see what
17 if anything can be done.

18

COUNCIL MEMBER SALAMANCA: And is NYCHA
19 required to provide buildings with a timeline as to,
20 you know what capital work needs to be done that
21 requires these sheds?

22

PATRICK WEHLE: I don't think there's a
23 requirement that they provide us with a timeline, I
24 imagine they do, I don't... there's... the requirement
25 for NYCHA as it relates to us and their permitting is

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2 to demonstrate to us that NYCHA residents are being
3 protected by the condition on the façade and if they
4 satisfy that they're, they're fine from our
5 perspective, I don't believe they provide us with a
6 timeline, I imagine there is a timeline, I don't
7 believe they provide us with a timeline of that, that
8 it will take to complete the work or.. generally
9 speaking.

10 COUNCIL MEMBER SALAMANCA: Okay, alright,
11 thank you Mr. Chair.

12 CHAIRPERSON WILLIAMS: Thank you, Council
13 Member Kallos?

14 COUNCIL MEMBER KALLOS: On this.. [cross-
15 talk]

16 CHAIRPERSON WILLIAMS: Wait a minute.. I'm
17 sorry.. I'm sorry, I did just want to follow up really
18 quickly on some of the NYCHA questions, you said that
19 you don't give any violations to NYCHA?

20 PATRICK WEHLE: I have to check and.. to
21 see how it works with, you know city owned buildings,
22 I, I believe we do issue violations, but I imagine
23 there wouldn't be any penalty associated with those
24 violations.

1
2 CHAIRPERSON WILLIAMS: Both of those
3 things concern me, one if you don't give any
4 violations obviously that's a problem so I really
5 want to get an answer to that and even if they're not
6 being paid which is bad there should be on record
7 that there's a violation that occurred there...

8 PATRICK WEHLE: Yeah, again I, I'm... I'll...
9 I will confirm that but I'm pretty sure there is it
10 just wouldn't be a monetary penalty associated with
11 that.

12 CHAIRPERSON WILLIAMS: I understand, I...
13 whether... I mean it's another question of whether its
14 paid or not, I think they should be... the city should
15 be treated like any other landlord so if there's a
16 monetary assessment that's assessed with the
17 violation I think that should go along with it so I'd
18 like to know what's... you know what's happening with
19 that and again I brought up the NYCHA thing and it's
20 a... it's a good example of, you know safety issues
21 because as was mentioned sometimes the lights are out
22 it does cause crevices for people to do activity they
23 might not otherwise do in the light and, and lastly
24 just in general when you have a, a bunch of people
25 like that in, in that small area that feel neglected

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2 for various reasons and then look like they're
3 neglected with sheds all over the place it does set a
4 kind of mindset and help assign a mindset that we're
5 trying to reverse so I do think it is part of the,
6 the public safety overall, the physical space that
7 people... sorry, Council Member Kallos.

8 COUNCIL MEMBER KALLOS: In your testimony
9 you were skeptical of the impact of this legislation
10 on Local Law 11 sheds so let's start with the 25
11 percent for new construction, so that's 2,210 sheds
12 for new construction, is there any reason why new
13 construction should or would need to stop for more
14 than seven days?

15 PATRICK WEHLE: Certainly, there could be
16 a, a number of reasons.

17 COUNCIL MEMBER KALLOS: And if you can
18 spend like no more than 30 seconds explaining why it
19 would need to stop for seven days and why the
20 sidewalk shed couldn't come down during that
21 stoppage?

22 PATRICK WEHLE: I think it's, it's hard
23 to say specifically, I really... it depends on the site
24 and the scope of work, it could be related to, to
25 deliveries, work schedules, it could be... some of the

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2 exceptions obviously that you outline in your bill, I
3 mean it depends on the specific site but it wouldn't
4 be unreasonable for a site to not... for there not to
5 be activity on a site for a period of seven days and
6 more importantly I don't think it's reasonable if
7 there is no activity on the site for a period of
8 seven days that the sheds should come down so when
9 they go back to work on the eighth day you're going
10 to put the shed back up?

11 COUNCIL MEMBER KALLOS: So, I think I'd
12 be eager to under... have, have a better understanding
13 of what a reasonable work... stopping work on a site
14 would be, I think everyone gets frustrated when they
15 look and see a sidewalk shed but no work happening
16 and seven days seems reasonable because you pick up
17 the phone, you call 3-1-1 and they say well when did
18 they stop doing work and you're like well last week,
19 I didn't see it for a week, if you say two weeks
20 whatever it gets a little bit harder to do but DOB
21 occasionally issues stop work orders, occasionally
22 it's at my request but when work stops at a site for
23 six months in that case they can just... and, and
24 during 2001 following 9/11 work stopped all over the
25 city as financing dropped off and all these sidewalk

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2 sheds stayed up, why can't we just cap off those
3 building, make them safe, put the netting up that you
4 need to, to keep what's in the building in the
5 building and then get the sidewalk sheds down if
6 you're not doing actual construction anymore?

7 PATRICK WEHLE: So, certainly when there
8 are slowdowns in the economy we have... we've had a
9 number of stalled sites throughout the city like you
10 described that's not really a problem today
11 thankfully, but I think you'll have to hear in part
12 from, you know ownership and industry and contractors
13 to get a better sense of their schedule and for the
14 amount of time that work might not be occurring. I, I
15 think in... you know in our experience from where we
16 are as the regulator the, the situation you're
17 describing isn't the situation that is causing the
18 problem that we're discussing here today... [cross-
19 talk]

20 COUNCIL MEMBER KALLOS: But it's... that's...
21 [cross-talk]

22 PATRICK WEHLE: ...more of them... [cross-
23 talk]

24 COUNCIL MEMBER KALLOS: ...that's 25
25 percent of them so I just want to move on so the next

1
2 one is 50 percent are for general maintenance, that's
3 approximately 4,421, I'm going to ask the same type
4 of question, is there a reason why maintenance work
5 would need to stop for more than seven days and a
6 reason why the sidewalk shed could, couldn't come
7 down when that work has stopped and then go back when
8 they need to do more?

9 PATRICK WEHLE: I would... I would give you
10 the same answer, it really depends on the scope of
11 work, I think there are reasonable situations where
12 work could stop for seven days and again moreover I
13 don't... I don't think it's practical to go through all
14 the work, time and expense to remove a sidewalk shed
15 only to put it back up maybe on the eighth day or a
16 couple of days later.

17 COUNCIL MEMBER KALLOS: What... so, so what
18 if it was six months?

19 PATRICK WEHLE: I think it's something to
20 consider, I, I get... I think the, the universe that
21 you're discussing represents the minority of the
22 universe we're talking about here... [cross-talk]

23 COUNCIL MEMBER KALLOS: Its 25 or 50
24 percent.

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2 PATRICK WEHLE: Of the... of the shed
3 permits but we're not discussing whether or not those
4 sites are not active, right, the sites that are not
5 active routinely are the Local Law 11 sites but the
6 sites that are doing maintenance work and are new
7 construction... [cross-talk]

8 COUNCIL MEMBER KALLOS: Uh-huh... [cross-
9 talk]

10 PATRICK WEHLE: ...not in every instance
11 but ordinarily the works occurring..

12 COUNCIL MEMBER KALLOS: And so... [cross-
13 talk]

14 PATRICK WEHLE: ...on a reasonable
15 schedule.

16 COUNCIL MEMBER KALLOS: So, I don't know
17 if you've been to law school or if you're an
18 attorney, are you or... [cross-talk]

19 PATRICK WEHLE: I am not.

20 COUNCIL MEMBER KALLOS: So, you've been
21 giving the, the very lawyerly answer of it depends
22 so, let's separate how long work takes because of
23 work versus funding so, if building contractors were
24 to file a work plan with a timeline does DOB have the
25

1
2 expertise to review the work plan and timeline to see
3 if that is reasonable?

4 PATRICK WEHLE: That gets to one of the
5 things we're considering as a Department to help
6 address this issue. So, one of the things we're
7 thinking about is exactly what you're describing and
8 we're thinking through our means to perform that
9 evaluation.

10 COUNCIL MEMBER KALLOS: Okay, okay, so it
11 looks like I may have stumbled or, or perhaps
12 something we were probably both thinking about at the
13 same time of having folks file a work plan and then
14 have DOB approve it and if they don't hit their work
15 plan then some sort of mechanism to get that sidewalk
16 shed down. Along the same lines, so for funding, so,
17 I understand that... DCAS has never asked me, I oversee
18 them as Chair of the Gov ops Chair, they have never
19 actually asked for funding to fix your façade at the
20 DOB building which has been up for almost a decade
21 and that's a problem... if I may continue?

22 CHAIRPERSON WILLIAMS: You can finish
23 that question.

24 COUNCIL MEMBER KALLOS: Sure. So, on the
25 funding piece I'm, I'm not sure exactly and Guillermo

1
2 may know just as much as I or Megan to the extent HPD
3 or DCAS wasn't interested in doing the work
4 themselves as I open... Chair to my opening and I'm not
5 sure whether or not we can direct HPD to make funding
6 available but if folks are having trouble arranging
7 funding the federal, state, and local government all
8 have creative precedence where we make money
9 available for folks to borrow whether it's to buy a
10 new home, whether it's to build affordable housing
11 and so I guess the question is do you think it is a
12 wise investment of the city resources to provide
13 funding to building owners that may be responsible
14 but just can't get to the borrowing window or can't
15 afford it to be able to do the work that's needed to
16 provide the subsidy or even unsubsidized we can
17 borrow at a lower rate than most anyone else can and
18 get that work done and perhaps, perhaps say well if
19 you have vacant units in your building we'd love
20 those to be affordable now?

21 PATRICK WEHLE: So, I work at the
22 Buildings Department and that question is a little
23 bit outside of my scope of expertise, I'm happy to
24 take that back and share with my colleagues.
25

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2 COUNCIL MEMBER KALLOS: Well, well to the
3 extent that HPD and, and DOT were in this legislation
4 I think it would have been appropriate for them to be
5 here to speak to that specific question which we've
6 been posing to them for quite a while. I am done on
7 this round of questions.

8 CHAIRPERSON WILLIAMS: Thank you, do you
9 have additional questions you want to ask the board?

10 COUNCIL MEMBER KALLOS: [off-mic] I, I, I
11 do...

12 CHAIRPERSON WILLIAMS: Okay, thank you
13 Council Member. Well I might as well... now let's go to
14 Intro 106, I just have a, a few more questions on
15 these bills. Does DOB issue violations for
16 accessibility requirements?

17 PATRICK WEHLE: We do.

18 CHAIRPERSON WILLIAMS: If so how many
19 violations did DOB issue in 2016 or year to date and
20 what are the penalties associated with violations of
21 accessibility requirements?

22 PATRICK WEHLE: So, we don't receive many
23 complaints, very few actually related to the
24 accessibility requirements. In 2016 we issued eight
25 violations, year to date 2017 we've issued three

1
2 violations. In terms of the, the penalties they range
3 from 300 dollars to 1,600 dollars.

4 CHAIRPERSON WILLIAMS: Grab him. Sorry.
5 Does DOB work with the Mayor's Office of People with
6 Disabilities for enforcement of the Accessibility
7 requirements?

8 PATRICK WEHLE: Certainly we do, they
9 refer complaints to us as well for an enforcement.

10 CHAIRPERSON WILLIAMS: Sorry.

11 PATRICK WEHLE: No problem.

12 CHAIRPERSON WILLIAMS: I'm good. For
13 Intro Number 1241 does DOB issue any violations
14 issued for failure to have diaper changing
15 accommodations and if so how many did you issue in
16 2016 or year to date?

17 PATRICK WEHLE: We currently do not issue
18 any violations because there's currently no
19 requirement that there.. these be, be in place so
20 presumably if this bill becomes law we'd have the
21 authority to do so.

22 CHAIRPERSON WILLIAMS: Thank you very
23 much. Just back to 1389, I did.. I just want to make
24 clear so, what you're saying in terms of contractor
25

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2 sheds is that you do not have the authority to do it,
3 I just wanted to get... [cross-talk]

4 PATRICK WEHLE: Yeah, so as a general
5 matter in most instances the contractor shed or
6 contractor office is located on the site... on the
7 actual construction site with that being the case
8 it's certainly something we're aware of and we govern
9 and we regulate, there might be very limited
10 instances where the shed needs to be located off the
11 site because it interferes with construction
12 operations therefore the site... the shed would be
13 placed off the building site likely on the street and
14 that would be subject to DOT regulations and
15 permitting.

16 CHAIRPERSON WILLIAMS: Alright, thank you
17 very much. Council Member Kallos is not here, he did
18 say he had some additional questions, but I have no
19 more questions I can think of right now so hopefully
20 you will follow up with Council Member Kallos and his
21 additional... [cross-talk]

22 PATRICK WEHLE: Certainly... [cross-talk]

23 CHAIRPERSON WILLIAMS: ...questions. I do
24 believe that we want to get some place real with this
25 and perhaps codify what that is. By, by the way with

1
2 the seven days part is it the theory of it coming
3 down if there's no stop work orders or is it the time
4 frame that was suggested here?

5 PATRICK WEHLE: I think... well from the
6 Department's perspective again as it relates to
7 sidewalk sheds they should not be coming down as long
8 as there's an unsafe condition on the façade but
9 specifically as it relates to seven days every
10 operation is different and it... there might be
11 reasonable circumstances why there is not work
12 occurring for seven days moreover the bill requires
13 the Buildings Department to, to show up on two... at
14 two separate times within those seven days and if at
15 those two instances we don't see work occurring then
16 we'd require the shed to come down, that seems
17 impractical and unreasonable to us.

18 CHAIRPERSON WILLIAMS: But again that,
19 that's the time frame, that's why I'm trying to
20 expand it out, obviously if there's unsafe conditions
21 that is one thing and that makes sense and I
22 understand you said this is a smaller universe but
23 there may be a universe of people who aren't doing
24 work and a shed is up and, so I want to see if
25

1
2 there's a time frame issue or you just feel they
3 should be up for some other... [cross-talk]

4 PATRICK WEHLE: So, as it relates to the
5 Local Law 11 buildings which again are most, most of
6 the buildings we're talking about are those, in
7 pretty much every instance it's an unsafe condition
8 and the sidewalk shed should, should not come down.
9 There are those other types of buildings where it
10 might be just maintenance work or new construction
11 where it was suggested maybe that seven days isn't
12 reasonable and should be something more than that.
13 What I would say those buildings aren't really the
14 buildings we're talking about here to the extent that
15 they are it's something to think about and see what
16 would be reasonable, I don't have an exact number off
17 hand from my perspective seven days doesn't seem like
18 enough, but I imagine there are others who might want
19 to weigh in on that as well.

20 CHAIRPERSON WILLIAMS: Alright, thank you
21 very much for your testimony.

22 PATRICK WEHLE: Thank you.

23 CHAIRPERSON WILLIAMS: We have Michael
24 Wolfe from Midbar and REBNY and Carl Hum from REBNY
25 who are up next. Can you please each raise your right

1
2 hand? Do you affirm to tell the truth, the whole
3 truth and nothing but the truth in your testimony
4 before this committee and to respond honestly,
5 honestly to Council Member questions?

6 MICHAEL WOLFE: I do.

7 CHAIRPERSON WILLIAMS: Alright, you'll
8 each have two minutes to give your testimony, you can
9 begin in the order of your preference. You got to
10 press the button.

11 CARL HUM: Did I? Good afternoon Council
12 Member Williams and the, the Committee on Housing and
13 Buildings. My name is Carl Hum, I am the Senior Vice
14 President for Management Services in Government
15 Affairs at the Real Estate Board in New York. part of
16 my portfolio is handling the residential managers,
17 developers and owners who are members of REBNY, part
18 of that is the residential management council who is...
19 actually chaired by the gentleman to my left, Michael
20 Wolfe who you will hear from very... in, in a short
21 while but the Residential Management Committee...
22 Council rather represents developers, owners, and
23 managers of the city's brand named residential
24 buildings throughout the five boroughs and beyond and
25 collectively when they heard about this bill there

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2 was an... a, a collective concern over this bill and
3 with... and particularly it's the intent of the bill.
4 The committee feels that the bill is well intentioned
5 but unfortunately there are too many unattended
6 consequences. Let me make this very clear from the
7 committee's point of view is that no one likes
8 sidewalk sheds, there's no incentive to keep these
9 sheds, the... is something that they feel is an eyesore
10 and that has, has caused many complaints for their
11 residents and for their tenants. However, in regard
12 to dealing with these sidewalk sheds there are often
13 delays that are experienced from... whether it be from
14 the city of New York, from the DOB, Landmarks... or
15 what... other... or what may have you and other city
16 agencies. Additionally, as Assistant Commissioner
17 Wehle had referenced there could be also financing
18 issues with regards to carrying out the repairs that
19 are required under Local Law 11. Again, the committee
20 feels that this is a well-intentioned bill, but
21 unintended consequences are, are too great and it...
22 just... I want to point out in Commissioner,
23 Commissioner Wehle's testimony he noted that in many
24 cases that 98 percent of the case sidewalk sheds... 98
25 percent of them cannot come down because of unsafe

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2 conditions and that leaves two percent of all the
3 8,800 and some odd sheds that are out there so you're
4 really targeting 176 sheds with this piece of
5 legislation that's going to affect the entire city.
6 So, that's a great example of a very blunt instrument
7 being used to kill what seems like a fly.

8 MICHAEL WOLFE: Good afternoon, thank you
9 for having me. My name is Michael Wolfe, I wear two
10 hats this afternoon, one is the Co-Chair of the
11 Residential Management Council of the city of New
12 York as well as the owner of Midboro Management that
13 represents about 120 buildings many of which are in
14 the sponsor's district as well of, of the Council
15 Members and I do have sidewalk sheds up at the
16 current time. I, I assure you that none of my clients
17 in no building that I know of wants a sidewalk shed
18 up ever, it's certainly necessary to protect, protect
19 the public, passersby. Sidewalk sheds breed excess..
20 excessive dog urine, they breed unofficial places of
21 homeless... they become a homeless shelter at times, we
22 understand why a sidewalk shed would be a nuisance to
23 someone especially to retail, people on the second
24 floor. We found in our buildings is we're trying to
25 raise the height of some sidewalk sheds to be under a

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2 window or above a window to allow light into a
3 person's apartment, put signage up for the retailers,
4 to put clear panels or mesh panels as opposed to
5 solid wood panels so people could look through the
6 shed but still provide safety. I actually printed out
7 a 1989 article that was in New York Times and the New
8 York Times article said those stay forever a sidewalk
9 sheds or bridges they called them, the actual term is
10 sheds and the reason why I printed this article is
11 because one of the buildings that I, I started
12 managing approximately 30 years ago is referenced. At
13 that time the Commissioner.. the Department of
14 Building Commissioner Mr. Smith proposed a one-year
15 period for a sidewalk shed to remain with a renewal
16 for one year and then one-year periods thereafter.
17 The reason why seven days is certainly not a
18 reasonable amount of time with all due respect is
19 that certain things happen, if you have an unsafe
20 condition you may be in a landmark district, you may
21 have to get a mold made, you may be.. may have to
22 order materials, you may need an assessment and then
23 also defining what no work means and we're concerned
24 that if there's a rush to remove a sidewalk shed it
25

1
2 will lead to... lead to substandard work... may I
3 continue?

4 CHAIRPERSON WILLIAMS: You can finish
5 your statement.

6 MICHAEL WOLFE: Okay, it would... I could
7 lead to substandard work, it could lead to people
8 cheating which would then put the pedestrians at
9 risk, somebody may be in such dire straits
10 financially that they do not... they... that they rush to
11 remove a sidewalk shed just to comply with code and
12 avoid fines but, yet they open the public up to, to,
13 to unsafe conditions. Other things that, that...
14 [cross-talk]

15 CHAIRPERSON WILLIAMS: Thank you... thank
16 you for the testimony, we have a couple questions for
17 you, so you might be able... [cross-talk]

18 MICHAEL WOLFE: Sure... [cross-talk]

19 CHAIRPERSON WILLIAMS: ...continue doing
20 that but first residential management... what was it
21 you, you chair or...

22 MICHAEL WOLFE: The, the Real Estate
23 Board of New York's Residential Management Council.

24

25

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2 CHAIRPERSON WILLIAMS: Residential
3 Management Council and, and what's the relationship
4 to, to REBNY?

5 MICHAEL WOLFE: It's a sector of REBNY as
6 they have a brokerage division, and this is... our, our
7 council are owners and operators and third-party
8 managers of real estate in, in the city probably
9 thousands of buildings.

10 CARL HUM: It's a subset of our
11 membership that... [cross-talk]

12 CHAIRPERSON WILLIAMS: Okay... [cross-talk]

13 CARL HUM: ...gets together... [cross-talk]

14 CHAIRPERSON WILLIAMS: ...like a
15 subcommittee or... [cross-talk]

16 CARL HUM: ...and talks about... [cross-talk]

17 CHAIRPERSON WILLIAMS: ...it's a... it's a...
18 [cross-talk]

19 CARL HUM: It's... they're called the
20 council yeah, so it is a committee... [cross-talk]

21 CHAIRPERSON WILLIAMS: Okay... [cross-talk]

22 CARL HUM: ...if you will.

23 CHAIRPERSON WILLIAMS: So, so Mr. Hum I
24 just wanted to mention that we're not only targeting
25 the 179 buildings that you reference, we're actually

1
2 are targeting all of them. I think... we're trying to
3 figure out which ones are up because the owners can't
4 afford it and which ones the owners don't want to do
5 it because it's just cheaper to them to keep up and
6 so we do need at some point for those sheds to come
7 down and it... we agree that they shouldn't come down
8 if they are not... if it's not safe to bring them down
9 but in perpetuity is not the answer and so to both of
10 you how do we figure out and you guys have more
11 access to owner's books than we do, how do we figure
12 out if someone is keeping it up because it's cheaper
13 to keep up or because they really can't afford it so
14 that we help them access financing because you
15 mentioned a few good reasons as to why it would be a
16 nuisance and there are additional reasons as to why
17 it's a nuisance so it's not something that we can
18 just keep saying it's unsafe... it's unsafe without
19 addressing the core issue?

20 MICHAEL WOLFE: I thought... one idea I had
21 was that the Department of Buildings changed the
22 procedure for Local Law 11 filing where you could
23 upload your compliance and one thought I had was that
24 perhaps if a sidewalk shed was up for more than x
25 period of time that that owner or that management

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2 company or whoever the responsible party was, the
3 Registered Managing Agent for that building could
4 upload a contract with a vendor to prove that, that
5 there is a contract out for the work to proceed, you
6 know short of that you, you, you don't know so you
7 could put up a shed, pull a permit for work and never
8 do it... [cross-talk]

9 CHAIRPERSON WILLIAMS: So, wait just for
10 clarity... [cross-talk]

11 MICHAEL WOLFE: Yeah... [cross-talk]

12 CHAIRPERSON WILLIAMS: That's for... and
13 that sounds good for the ones that we're saying no
14 work is being done so that sounds like a good
15 possible solution, but it doesn't answer the question
16 of ones that are up because it's unsafe not
17 necessarily because no work is being done.

18 MICHAEL WOLFE: Well the ones that are
19 unsafe is it, it really is what, what is the unsafe
20 condition, so I can get... I can give you an example
21 if, if you don't mind. So, I, I have a shed up in
22 your district currently on 95th Street and we have
23 not only a shed but we have pipe scaffolding so the
24 building is in a cocoon, it's in a screen net, no one
25 is happy and we were waiting for two terracotta

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2 stones to be made and because so much work is going
3 on in the city, is the buildings are getting old and
4 not, not younger the, the molds take anywhere from
5 four to eight weeks so... or the terracotta product
6 that we're looking for to comply with landmarks, the
7 pieces came incorrect so now we have to go back to
8 the mold company so now I have my shed up for that
9 much longer when everyone wants the shed down
10 including us, the, the building, the board and now
11 we're waiting for that to occur. I think one thing
12 that could help some of the sheds come down sooner is
13 perhaps look at, you know what the guidelines and
14 requirements are for sheds so some buildings have
15 either what they call a moat around the building or
16 they have large garden areas that maybe could be
17 fenced off as opposed to a sidewalk shed so we have..
18 if we have very little work or there is no pedestrian
19 traffic in a certain area then we could limit just
20 how much sidewalk shedding we have.

21 CHAIRPERSON WILLIAMS: Again it... your
22 example... you gave a good example of why it stayed up
23 and, and so I'm really trying to attack the heart..
24 [cross-talk]

25 MICHAEL WOLFE: So... [cross-talk]

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CHAIRPERSON WILLIAMS: ...of... [cross-talk]

MICHAEL WOLFE: ...how do you get it down,
yeah... [cross-talk]

CHAIRPERSON WILLIAMS: Well no... well
yours, yours stayed up because there was work being
done and I understand that there could be work that
postponed it, but no one is getting to the cost
issue, at... some, some of these are up because they
either don't want to pay the cost to fix the façade
or they have financial burdens and are unable to pay
for it and I'm trying to figure out... [cross-talk]

CARL HUM: And, and some of those
instances and I think that Assistant Commissioner
Wehle had pointed it out that in some of these
instances they are co-ops that are self-financed and
you know they go through the Local Law 11 inspection
and at that point figure... they are... they are at point
of discovery that repairs have to be made and a, a, a
financing campaign has to be undertaken whether it be
through self-assessment or whether it be looking for
loans in the market and as you know... you know self-
assessment is a sometimes a long task with regards to
trying to get it past... for... trying to get it passed

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2 through co-op boards and also convincing other
3 residents of it...

4 CHAIRPERSON WILLIAMS: Let me just ask
5 another question, do you think that there are some
6 owners taking advantage of the fact that they can
7 keep this up and it's cheaper than opposed to paying
8 for the façade repair?

9 MICHAEL WOLFE: I'm, I'm sure there are,
10 it's no different than when Local Law 11 first
11 started that owners ripped cornices off and
12 decorative areas of the building which really I guess
13 landmarks expanded so I'm sure there are people doing
14 that but from our perspective I'd rather have an
15 owner putting up a shed not doing work, unfortunately
16 taking advantage until we figure out how to... how to
17 motivate them to take it down sooner than for them
18 not to have a shed and have something fall down and
19 obviously kill someone... [cross-talk]

20 CHAIRPERSON WILLIAMS: I understand I
21 just wanted to know if you had ideas... [cross-talk]

22 MICHAEL WOLFE: I agree with you... [cross-
23 talk]

24 CHAIRPERSON WILLIAMS: ...how we figure
25 that out...

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CARL HUM: Council, Councilman yeah, I mean there's always going to be whatever law that you put out there there's always going people that are going to try gain the system and so the point I was trying to make earlier with regards to who is this going to affect, what is this going to effect this bill, you know I, I look at Assistant Commissioner Wehle's testimony who says... gives us two facts, I mean one is that there's 8,843 active sidewalk sheds citywide, right, so we're talking about that's a very defined universe of how many sidewalk sheds there are and then also in his testimony he said that 98 percent of the sheds out there are up there for a reason because of safety reasons so that, that leaves two percent so two percent times 8,843 is going to give you 176... [cross-talk]

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CHAIRPERSON WILLIAMS: No, no but...

[cross-talk]

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CARL HUM: ...sites... [cross-talk]

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CHAIRPERSON WILLIAMS: ...this is where we're disagreeing, you're, you're not acknowledging that we're trying to actually deal with those unsafe buildings...

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2 CARL HUM: Oh I, I... no, no I... no, I do
3 acknowledge... [cross-talk]

4 CHAIRPERSON WILLIAMS: And so... [cross-
5 talk]

6 CARL HUM: ...it but I'm saying that the...
7 you're... I'm, I'm saying that the, the instrument that
8 we're using namely a piece of citywide legislation
9 that's going to affect all owners such as Michael,
10 such as every, everyone else in the Residential
11 Management Council and beyond when you're really
12 trying to effect 176 sites.

13 CHAIRPERSON WILLIAMS: No, but we're not,
14 I just want to be clear that we are trying to affect
15 all of the sidewalk sheds that are up for a
16 particularly extended long-time period some of which
17 are the two percent that you spoke about and the
18 others are people who have them up because it's
19 cheaper to have them up than to make the repairs...
20 [cross-talk]

21 CARL HUM: Right but they're all within
22 the universe of active sidewalk sheds and that's
23 what... [cross-talk]

24 MICHAEL WOLFE: I, I, I applaud no work
25 and then the city comes in and they do some work to

1
2 get the unsafe condition removed and the sidewalk
3 shed down, the question is how do we define what that
4 period of time is and that's certainly subjective
5 however, however, you know if you had an unsafe
6 condition and the building does a Local Law 11 study
7 the shed may go up, you have to do specifications,
8 file with the city, wait for landmarks, wait for DOB
9 so, you know if I just had an off the cuff think what
10 would be a reasonable time is more of a six month
11 window than a seven day window...

12 CHAIRPERSON WILLIAMS: I understand, and
13 I want to go to my, my colleague for five minutes'
14 worth of, of questions. I just... I just want to just
15 keep reiterating that we, we are bouncing around the
16 fact that we got to figure out how to get the repairs
17 made and not excuse owners who can pay for the
18 repairs to get made, to not making the repairs and if
19 there are owners who are in financial burdens maybe
20 we can guide them to some products that can assist
21 but the answer is not just to keep the sheds up..
22 [cross-talk]

23 CARL HUM: We, we... [cross-talk]

24 MICHAEL WOLFE: We... right... [cross-talk]

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2 CARL HUM: We agree, and we will... we, we
3 are... we're here and ready to, to try to find, find an
4 answer with you.

5 CHAIRPERSON WILLIAMS: Council Member
6 Kallos.

7 COUNCIL MEMBER KALLOS: Could I come meet
8 with the Residential Management Council with our
9 committee staff and, and even our Chair if he wishes
10 to join to discuss this specific problem?

11 CARL HUM: We would welcome your
12 attendance and your participation.

13 MICHAEL WOLFE: Our... we meet every third
14 Wednesday of the month.

15 COUNCIL MEMBER KALLOS: I will be there
16 this third Wednesday of the month in, in November if
17 that is acceptable... [cross-talk]

18 CARL HUM: We ask you... well you know
19 nationally... yeah, we could do that..

20 MICHAEL WOLFE: Sure... [cross-talk]

21 CARL HUM: Absolutely, yes, November 15th...
22 [cross-talk]

23 COUNCIL MEMBER KALLOS: If you could... if
24 you could please pass on to your leadership and your
25 lobbyists that if council members request to meet

1
2 with you that... it shouldn't have to happen at a
3 hearing. I've been hoping to sit down with REBNY for
4 years and on this specific topic so I, I welcome this
5 and I will see you on the... [cross-talk]

6 CARL HUM: Well, well Councilman... [cross-
7 talk]

8 COUNCIL MEMBER KALLOS: ...third Thursday...
9 [cross-talk]

10 CARL HUM: ...I will... I will give you my...
11 [cross-talk]

12 COUNCIL MEMBER KALLOS: ...Wednesday...
13 [cross-talk]

14 CARL HUM: ...personal contact information
15 after my appearance here and make sure that if you're
16 not... if you're... if you're phone calls not being
17 returned please give me a call, I'll give you my cell
18 phone as well... [cross-talk]

19 MICHAEL WOLFE: And mine as well from our
20 perspective or... [cross-talk]

21 CARL HUM: Yes... [cross-talk]

22 MICHAEL WOLFE: ...we, we feel just the
23 opposite we would love to have you.

24 COUNCIL MEMBER KALLOS: Perfect, I, I
25 love the idea of fencing off in an inaccessible area,

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2 I think would also be very helpful for NYCHA because
3 a lot of those areas are open space areas but not
4 supposed to be used and I think it would change
5 quality of life on the first floors and second floors
6 where there are units. So, I just want to speak to
7 the location at 95th Street. So, I guess the question
8 is, so you were waiting for terracotta so you, you
9 found that the terracotta was loose, I imagine you
10 removed all that terracotta that was loose, is that
11 correct?

12 MICHAEL WOLFE: Yes.

13 COUNCIL MEMBER KALLOS: So, then the
14 question is how much would it have been to take down
15 the scaffolding for four to eight weeks and in this
16 case 16 weeks which was four months and then would it
17 have even been possible to work with the city or DOT
18 or DOB to just say, you know what putting back in the
19 terracotta is a one day job or, or however long it
20 takes and we will just corner off that section of the
21 sidewalk so that we can go up, put it in and, and
22 what have you?

23 MICHAEL WOLFE: So, we're trying to do
24 that. In fact, I found out about this wrong mold
25 issue last week so what we're doing is we're, we're

1
2 trying to foresee behind the scenes, we're going back
3 to the contractor and saying this is your fault, we
4 want to take down the shed, take down the pipe, hire
5 a boom truck at your expense and come back and put up
6 the terracotta so, we're trying to, to, to work that
7 out over the next couple of weeks to get that
8 removed.

9 COUNCIL MEMBER KALLOS: We are... [cross-
10 talk]

11 MICHAEL WOLFE: To, to your point.

12 COUNCIL MEMBER KALLOS: I... and my
13 constituents on 95th Street now know I'm doing a
14 great job for them, but I guess the question is how
15 can we get folks... how do we change the scaffold law
16 and even Local Law 11 which I heard from our
17 representatives from RSA... [cross-talk]

18 MICHAEL WOLFE: Uh-huh... [cross-talk]

19 COUNCIL MEMBER KALLOS: ...so that it isn't
20 this, this giant I, I would sledge hammer where
21 something goes wrong, you have to put this
22 scaffolding up even if you don't necessarily need
23 that you just need to go with the boom truck and take
24 the offending material out and then get it down and
25 then come back later and fix it.

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MICHAEL WOLFE: One thing you can help us with possibly is that if we complete a job today and we file with the DOB that the job is done we want to remove our scaffold it could take anywhere from 30 to 90 days before we get approval to remove the shed so... and, and not to poo-poo the DOB but everyone's busy. The other issue that we have is that Landmarks have... are understaffed and have so many files that to get a landmark permit to proceed with work as well could take months as... and... as well... [cross-talk]

COUNCIL MEMBER KALLOS: So, so let's take... [cross-talk]

MICHAEL WOLFE: ...which... [cross-talk]

COUNCIL MEMBER KALLOS: ...these suggestions and say that DOB and LPC have seven days to respond to a request to inspect and take down the scaffolding.

MICHAEL WOLFE: We actually met with DOB at REBNY... [cross-talk]

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

MICHAEL WOLFE: ...and they were going to endeavor to do a 30 day or less window, clearly... [cross-talk]

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2 COUNCIL MEMBER KALLOS: I'll start with
3 seven... [cross-talk]

4 MICHAEL WOLFE: That would be fabulous.

5 COUNCIL MEMBER KALLOS: Now then the next
6 question which we were a little focused, so I, I
7 think we're all on the same page, so have you ever
8 had occasion where you hire a contractor, they come
9 in, they do the demo, they do the demo quickly and
10 then the disappear for days, weeks or months before
11 you can get the men to come back and finish the job?

12 MICHAEL WOLFE: Not typically in these
13 jobs, not, not in my company, not in my experience
14 that often.

15 COUNCIL MEMBER KALLOS: You will be my GC
16 moving forward... no, that, that is incredibly
17 impressive, so have you had occasion where work
18 stopped for seven days after you hire... [cross-talk]

19 MICHAEL WOLFE: Absolutely and sometimes
20 work stops because you find a condition that you
21 didn't anticipate but let's say for example... [cross-
22 talk]

23 COUNCIL MEMBER KALLOS: So, so what's the
24 reasonable amount of time where if it's more than... is
25 it two weeks, is it one month, at one point of like a

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2 work stoppage is it, you know what we should really
3 take it down for instance in this terracotta
4 situation where you're waiting four to eight weeks to
5 get it back?

6 MICHAEL WOLFE: I think that in, in the
7 vicinity for four to... four to seven months is
8 probably reasonable off the top of my head, it... every
9 job is different, and I'll give you a perfect
10 example.

11 COUNCIL MEMBER KALLOS: Wait, I'm sorry
12 to... [cross-talk]

13 MICHAEL WOLFE: ...if I... [cross-talk]

14 COUNCIL MEMBER KALLOS: ...interrupt just...
15 [cross-talk]

16 MICHAEL WOLFE: Sure... [cross-talk]

17 COUNCIL MEMBER KALLOS? ...because I have
18 ten seconds so I guess it's hard for me to wrap my
19 head around having to wait four to seven months for
20 work to happen, my, my feeling is that somewhere in
21 days or weeks of... if, if you need more than a certain
22 amount of time then it's, it's reasonable to say okay
23 let's just get the scaffolding down and since you
24 have the expertise how much does it cost to take the
25 scaffolding up and put it down and is this a, a...

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2 through every single vendor or are there vendors that
3 are less expensive for that?

4 MICHAEL WOLFE: Industry standards, if I
5 gave you an average about 130 dollars a foot to put
6 up a standard sized shed that's for the erection,
7 dismantling and three months of rental. So, keeping
8 it up is inexpensive, the... putting it up and taking
9 it down is really where it has an adverse effect on
10 the co-op board or the owner that's why it's, it's
11 much less expensive to keep it up while you're
12 waiting and, and the unfortunate reality is there's
13 so many different reasons that could stop a job and I
14 know we're focusing on those that either can't afford
15 it, don't want to do it or trying to do the cheap way
16 out but it really would make the people that can
17 afford to do it that are waiting for molds or steel
18 to be made or special inspections they all suffer
19 because of the minority that, that are trying to, to
20 beat the system if I can call it that.

21 COUNCIL MEMBER KALLOS: If you went to a
22 scaffold company and said I want to put up the
23 scaffolding for a week, get it back down and then put
24 it back up when I have to do the work in six or seven
25 months again for another two weeks...

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MICHAEL WOLFE: Same price... it doubles.

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COUNCIL MEMBER KALLOS: So, just... has that... has this been reported to the Attorney General's Office or another piece because as, as, as an attorney... [cross-talk]

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MICHAEL WOLFE: Yeah... [cross-talk]

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COUNCIL MEMBER KALLOS: ...if, if my rate for two weeks of work was the same as seven months I, I would get disbarred so there seems to be some sort of... there's something wrong with the market that doing it right is more expensive than doing it wrong.

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MICHAEL WOLFE: Well it depends on right, right from the standpoint of quality of life and the residents that live there, some feel leaving it up is, is right but to remove it for the... for the first floor and the second-floor residents because the, the reality is nobody else cares except for the noise, right, it's the people on the ground floor and the people on the second floor that are really much more effected by it.

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CHAIRPERSON WILLIAMS: Alright, thank you Council Member, I thank you for your answers, I, I do just want to ask while we, we all agree that we want to make sure we're getting at people who are trying

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2 to, to gain the system as you said, I also want to
3 get to the people who may need some financial
4 assistance, but I also think as... I think my colleague
5 was trying to point out there has to be a time period
6 where it has to be in the cost of doing business of
7 taking it up and taking it down, I mean seven days
8 might, might not be it, you know 12 years is probably
9 too long so we have to find something where it's
10 going to... that it's just going to add to the cost for
11 the betterment of the people of the city of New York
12 particularly people who... like NYCHA's up for decades
13 and decades. We had one that was up for 20 years and
14 I mean that's ridiculous so there has to be
15 additional costs that are going to be incurred if it
16 is not safety and is about a waiting period then we,
17 we got to... we have to figure that out.

18 MICHAEL WOLFE: If I could add if, if a
19 registered architect, licensed engineer is involved
20 which most of these jobs are at least the larger ones
21 they could... we could also submit under their license
22 on their letterhead an affidavit or some form that
23 says what... how long this job should take and that
24 they are working on it. So... that, that would probably
25 remove a lot of this, that if somebody did hire

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2 somebody like that the... where their license was on
3 the line they would at least say I'm dealing with
4 this property at this address, here is what we think
5 the scope of work is and here is what we think the
6 timeline is and this way you could see there's
7 actually somebody that, that is sincere about
8 completing the job but I... but I do anticipate if, if
9 the shed has to be removed and put back up and that
10 cost burden will now be distributed amongst co-op
11 owners, renters, owners I think that the complaint
12 level if, if we want to focus on that for a second
13 will be much higher than a shed being up in different
14 areas for a perceived too long of a period.

15 CHAIRPERSON WILLIAMS: Alright, thank you
16 very much for your testimony.

17 CARL HUM: Thank you...

18 MICHAEL WOLFE: Thank you.

19 CHAIRPERSON WILLIAMS: We have one more
20 panel; Kevin Dugan; Dave Frederick; Belgi Zannon;
21 Andrew Rigie and Robert Bookman. Is Kevin Dugan here,
22 is he...

23 KEVIN DUGAN: Yeah...

24 CHAIRPERSON WILLIAMS: Dave Frederick?

25 DALE FREDERICK: Dale Frederick.

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2 CHAIRPERSON WILLIAMS: Sorry, Dale
3 Frederick, Belgi Zannon?

4 BELGI: Yep.

5 [off-mic dialogue]

6 CHAIRPERSON WILLIAMS: Okay.

7 [off-mic dialogue]

8 CHAIRPERSON WILLIAMS: Alright, I saw
9 Andrew Rigie...

10 ANDREW RIGIE: Right.

11 CHAIRPERSON WILLIAMS: And Robert
12 Bookman, okay.

13 [off-mic dialogue]

14 CHAIRPERSON WILLIAMS: Can everyone
15 please raise their right hand? Do you affirm to tell
16 the truth, the whole truth and nothing but the truth
17 in your testimony before this committee and to
18 respond honestly to Council Member questions?

19 [off-mic affirmations]

20 CHAIRPERSON WILLIAMS: But you'll each
21 have two minutes to give your testimony, you can give
22 the testimony in the order of your preference, it
23 sounds like you were giving the parent the benefit of
24 going first.

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2 BILGI ZONAN: Okay. So, my name is Bilgi
3 Zoonan, I'm a, a resident at 51 Walker Street in
4 10013 and I'm also on the condo buildings board and
5 we've had a... our neighboring building 49 Walker
6 Street has had a sidewalk shed up for nine years now,
7 2008 and the building is... it's clearly deteriorating
8 the façade and it's obviously for safety issues and
9 so the residents have filed complaints over the
10 years, our building management has inquired with a
11 representative of the building owner to find out when
12 work would start, every year we are told that oh yeah
13 we're going start work now. Occasionally complaints
14 are filed when the permits expire, and it's just
15 being extended so... since we've been hearing the same
16 thing for all these years it's pretty clear to us
17 that this is one of those instances to where the
18 owner just doesn't want to do the work because it's,
19 it's, it's been very long and, and you know we've
20 heard the issues that have been talked about land...
21 it's a landmark building, it will be extensive. So,
22 for us I've attached photos, I mean this... the
23 scaffolding shed actually stretches into our
24 entrance, people lock their bikes up so they're... you
25 have to actually get around to, to enter our

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2 building, there are people sitting day and night in
3 the... under that shed and it's, it's... parts have come
4 loose so it's just... when we read about Mr. Kallos...
5 Mr. Kallos's bill we contacted our city Council
6 Member and just thought that we have... you know this
7 is one of those classic cases where we feel like it's
8 just... it, it is cheaper for the owner to keep
9 extending this permit which he has done sometimes... it
10 was behind and he probably had to pay the fine but
11 then it was extended and the latest is that until...
12 it's now up until 2000 and... no, May next year and
13 it's a luxury rental building so it's not a building
14 that's empty or doesn't generate any income for the
15 owner.

16 CHAIRPERSON WILLIAMS: Thank you.

17 BILGI ZONAN: Thank you.

18 DALE FREDERICK: Okay, I'm here to speak
19 about the infant changing station. I support the
20 legislation, but I don't believe it goes far enough
21 to protect the health and safety of children today.
22 My name is Dale Frederick. Just over two years ago my
23 husband and I adopted our daughter, as a same sex
24 male couple we were required to either use the men's
25 changing room or endure unpleasant confrontations

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2 with women uncomfortable in our... with our presence in
3 the lady's room. In some occasions we were directed
4 by the operators of various facilities to only use
5 the men's room. While we could have challenged these
6 issues in the moment having a crying baby in soiled
7 diapers made that impractical. This is not something
8 that you should have to endure as a parent. Either
9 individually or together we had to change our
10 daughters diaper while she laid in our lap as we sat
11 on a toilet in a stall while we tried to avoid
12 keeping her from falling on the floor or her products
13 from falling on the floor. On other occasions we went
14 to a department store where we were required to have
15 them close the women's changing station so that we
16 could use the disability stall in order to change our
17 daughter. Sometimes when the... these stalls in the
18 men's room were either too dirty or too small we were
19 forced to change her diaper at a dinner table or
20 inside the backseat of our car... our car and as our
21 daughter got older and less compliant with diaper
22 changes as children do it went from being difficult
23 to dangerous as she would twist and squirm in our
24 lap, this is also something not parents... something
25 that parents should not have to endure. It is

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2 important for single fathers, for same sex male
3 couples and heterosexual married couples where
4 fathers are taking responsibility at this legislation
5 goes beyond just future renovations and modifications
6 but addresses the issues of parents today. It's an
7 excellent start but it's just not enough, we need to
8 change an old archaic law that, that emphasizes a
9 misogynistic practice and is at its heart
10 discriminatory and I ask this court to pass this
11 legislation for the future but to think about
12 expanding it to deal with issues that fathers are
13 facing today.

14 CHAIRPERSON WILLIAMS: Thank you.

15 KEVIN DUGAN: Good afternoon, my name is
16 Kevin Dugan and I'm the Director of Government
17 Affairs for the New York State Restaurant Association
18 and we represent food and beverage establishments
19 both here in New York City and across the state. I'm
20 here today to voice the industry's support for Intro
21 1389 and applaud Council Members Kallos and Williams
22 for bringing forth this important piece of
23 legislation. The bars and restaurants that call this
24 great city home face some of the most stringent
25 regulations and steepest costs of any industry in the

1
2 United States; rents are higher than ever before, and
3 labor costs continue to grow every year. Running a
4 restaurant is harder than ever and every single
5 dollar that is taken on an unprecedented... every
6 single dollar has taken on an unprecedented level of
7 importance and is vital and the city of New York is
8 taking the needed steps to ease some of this pressure
9 on this important industry. For years scaffolding has
10 been a significant problem for restaurants in New
11 York, often times these immense structures go up
12 shielding storefronts from pedestrians is... and
13 significantly hurting a restaurants ability to
14 attract walk up business. For example, a member
15 restaurant in our association has estimated that
16 scaffolding cut into his business upwards of 30
17 percent when it was out in front of his restaurants,
18 he was able to ride out the storm as it were, but
19 many restaurants are not. It is harder than ever
20 before to recover from a bad month and many eateries
21 are simply not able to survive when their business
22 has experienced a loss like this. The most
23 frustrating aspect of this for many owners is the
24 fact that they have little to know control over the
25 process. Landlords are the ones who are working with

1
2 the companies on what type of work is getting done
3 and how long these structures may be in place,
4 restaurants find themselves at the mercy of these
5 companies and complaints almost always fall on deaf
6 ears as there is no impetus for change financial or
7 otherwise. It's rare that our organization calls for
8 more regulations and greater government oversight but
9 in this instance, it is sorely needed, we need your
10 help in monitoring when scaffolding has been up for
11 too long without and work being done, it is simply a
12 financial killer and a complaint that I hear
13 constantly from our membership. In conclusion the New
14 York State Restaurant Association supports Intro 1389
15 and urges the council to look for further ways to
16 ensure that scaffolding remains up a shorter period...
17 for a shorter period of time as possible and we look
18 forward to working with the council going forward,
19 thank you.

20 CHAIRPERSON WILLIAMS: Thank you.

21 ANDREW RIGIE: Good afternoon, my name is
22 Andrew Rigie, I am the Executive Director of the New
23 York City Hospitality Alliance. We are a trade
24 association that represents restaurants and night
25 life establishments throughout the five boroughs. I

1
2 want to thank the Chair and Council Member for this
3 legislation and kind of bringing the other side of
4 the story into the equation, obviously public safety
5 is of the utmost importance not just for all of the
6 pedestrians but also those people that are working
7 inside of the restaurants and bars where the
8 scaffolding may be constructed. To put in perspective
9 what the impact is on the small business community,
10 it's pretty devastating when scaffolding goes up and
11 especially when it is left up unnecessarily, and we
12 have reason to believe that in cases it is left up
13 longer than it should or needs to be. Last year we
14 conducted a survey of about 100 restaurants
15 throughout the city, I in the partnership with the
16 Department of Small Business Services. Really quickly
17 we asked members how long was the sidewalk shed or
18 scaffolding up, about 20... 18 percent said up to six
19 months, about 13 percent of those businesses said
20 that it was up for at least one year. We then asked
21 did you receive prior notification that the
22 construction would be done, and sidewalk scaffolding
23 would be constructed, about 40 percent of those
24 businesses said no so they were not able to
25 anticipate. We asked about a loss of revenue to, to

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2 businesses when scaffolding goes up, about 42 percent
3 of those businesses said that their revenue was
4 reduced about 25 percent due to scaffolding, another
5 almost 33 percent of those businesses said that their
6 revenue dropped between 25 and 50 percent. What other
7 impacts did the scaffolding have, some of the things
8 that were mentioned obviously the negative appearance
9 and we're talking about the, the discussion perhaps
10 there's a way to make the scaffolding a little bit
11 more attractive, right now it's pretty ugly to look
12 at. Some other issues... may I go on for another 30
13 seconds?

14 CHAIRPERSON WILLIAMS: You can give a
15 closing state...

16 ANDREW RIGIE: Perfect... [cross-talk]

17 CHAIRPERSON WILLIAMS: ...sentence...

18 ANDREW RIGIE: So, just at the end of the
19 day we understand this is a complex issue but
20 businesses especially our small businesses are
21 suffering because of scaffolding and there has to be
22 a way and we believe there are some very good ideas
23 in this legislation and we're happy to be a part of
24 the discussion to ensure that scaffolding is not left
25 up unnecessarily and if business owners are... or I

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2 should say landlords are keeping the scaffolding up
3 for a longer amount of time that's needed because
4 they cannot afford it I think these are things that
5 should be explored. Finally, I would say there are
6 other complaints that I've heard from businesses in
7 which they feel scaffolding is left up because it
8 reduces their business and in, in a way can push them
9 out of business for another type of business to come
10 in maybe that can pay a higher rent.

11 CHAIRPERSON WILLIAMS: Scaffolding as
12 harassment, thank you.

13 ROB BOOKMAN: Hey, I'm Rob Bookman, I'm
14 the Counsel to the Alliance and Partner in Small Firm
15 and representing thousands of small businesses over
16 the decades. Most... I like to listen, you know to the...
17 to the questions and the comments and, and then
18 comment on that and I thought that Mr. Chairman your
19 comment was the most telling today saying, you know
20 maybe some... you know we expect landlords to be able
21 to take care of their buildings, we expect that
22 inside and outside, it's not acceptable for a
23 landlord to say well an elevator is unsafe or a
24 stairway is unsafe so we're just going to close it
25 off indefinitely and I don't have the money for it so

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2 I'm never going to fix it, we won't accept that there
3 why do we accept it here? This is not just a quality
4 of life issue for small businesses, you heard some of
5 the numbers here, it's life and death for small
6 businesses. If you have a sidewalk café as we say in
7 Brooklyn just forget about it you're, you're... you...
8 that's completely gone, nobody wants to sit under a
9 scaffolding. So, we... you know we, we need to look at
10 this carefully, Council Members are always asking how
11 do we help small businesses well this is one way to
12 help, you know perhaps thousands of small businesses,
13 you know the Building Department said 8,843 shed
14 permits up now, 25 percent are because of Local Law
15 11 that's about 2,200 buildings yet only 975 were
16 deemed unsafe under that law in, in 2015, he said
17 another 912 so far in this next cycle that means
18 these things are never coming down under Local Law
19 11, you know we probably have... for the 2010 cycle up
20 we still have... we still have sheds so they're never
21 coming down, they... it's, it's just nonsense and we,
22 we need to dig down deeper into... to borrow some of
23 the language from REBNY did Local Law 11 itself in
24 1998 create a problem by swatting a fly with a sledge
25 hammer, you know where it looks like we're trying to

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2 create what's the solution but maybe the Local Law
3 itself is the problem and we need to look at that a
4 little bit. I'm not comfortable by the way with what
5 I heard today that its private contractors that make
6 that decision about whether it's unsafe or not, not a
7 New York City Inspector who has no potential economic
8 conflict of interest, would anybody be shocked,
9 shocked, shocked if some of these private contractors
10 that make that determination get referral fees from
11 shed companies, I wouldn't be and I'm sure you
12 wouldn't be. So, I mean there's, there's a structure
13 here that we have to look at, nobody wants unsafe,
14 but this is... we've... you've heard enough to say... know
15 today that that's not the issue anymore and I'm not
16 convinced that all of these are, are in fact unsafe.

17 CHAIRPERSON WILLIAMS: Thank you very
18 much for, for all of your testimony, Mr. Frederick
19 thank you for your testimony on 1241 and giving a, a
20 personal perspective, your testimony seemed to imply
21 that you were saying the bill only will apply to
22 future buildings?

23 DALE FREDERICK: Maybe I'm mistaken but
24 my reading of it seems to indicate it's for new
25

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2 construction and renovation not for existing
3 businesses now.

4 CHAIRPERSON WILLIAMS: Well I just
5 confirmed so we, we... our understanding is that it is
6 for, for existing building as well.

7 DALE FREDERICK: Yeah, I will.

8 CHAIRPERSON WILLIAMS: So, does that...
9 does that deal with all the concerns or did you have...
10 [cross-talk]

11 DALE FREDERICK: The fact... [cross-talk]

12 CHAIRPERSON WILLIAMS: ...other... [cross-
13 talk]

14 DALE FREDERICK: If it... if it actually
15 addresses the existing businesses now and requires
16 that they do that everywhere then yes, that addresses
17 my concern.

18 CHAIRPERSON WILLIAMS: Thank you and
19 thank you so, so much for coming in for your
20 testimony. I know that my colleague has some
21 questions so we're going to give five minutes for
22 Council Member Kallos to ask his questions.

23 COUNCIL MEMBER KALLOS: I want to thank
24 everyone on this panel, I, I... no one should have to
25 go through what you went through in terms of trying

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2 to change their child and so support that
3 legislation. I want to thank the New York State
4 Restaurant Association and the New York City
5 Hospitality Alliance for coming together on this
6 legislation and so I, I had a chance to meet with
7 both of your memberships and so when scaffolding goes
8 up does that have a financial impact on restaurants
9 on the first floor and hospitality establishments?

10 ANDREW RIGIE: The, the, the financial
11 impact, certainly, I mean just agreed with some of
12 the statistics... you know the... almost I think it was
13 40 percent see a drop between 25 and 50 percent and
14 one thing to add to that this is not just a small
15 business issue, it's also an employee issue. One of
16 the pieces of data I did not get to in my testimony
17 we asked the question is... did the sidewalk shed slash
18 scaffolding impact your business enough that you had
19 to reduce employee hours or eliminate jobs, the
20 respondents, 50 percent of respondents said yes
21 reduced employee's hours, 39.74 almost 40 percent
22 said yes, reduced jobs. So, this is also an
23 employment issue in addition to being a small
24 business issue.
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2 COUNCIL MEMBER KALLOS: Where can I get a
3 copy of that survey... [cross-talk]

4 ROB BOOKMAN: I will get it for you.

5 COUNCIL MEMBER KALLOS: Perfect and if
6 you're able to share it on your website, it usually
7 asks government agencies but if we're able to share
8 it and perhaps even... we'll, we'll work together on
9 getting this report out there, but I think these
10 numbers are helpful and to the Restaurant
11 Association.

12 KEVIN DUGAN: Yeah, a, a dramatic effect
13 on first floor business... first floor business, I mean
14 there's, there's the additional effect of not knowing
15 that the establishment is there to begin with, I know
16 there's been a debate about whether, you know
17 companies are allowed to have some sort of signage
18 on, on the scaffolding itself to, to let folks know
19 that their businesses are actually there, countless
20 neighborhoods in Manhattan where restaurants reside
21 rely on tourism and walk up business as it were, if
22 you don't know something's there you're not going to
23 go so it has a dramatic effect on...

24 COUNCIL MEMBER KALLOS: And, and so I was
25 shocked to hear from the previous panel which

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involved people from the real estate board of New York that the scaffolding is actually so cheap for three months, it was in the hundreds of dollars per foot and so I guess one question is the landlords want to save money so they're paying like three grand for 20 foot... for scaffolding to cover a 20 foot storefront, does that three grand have more than a three grand impact on the businesses and perhaps... [cross-talk]

ROB BOOKMAN: Yes... [cross-talk]

COUNCIL MEMBER KALLOS: ...I'm, I'm almost shocked and I don't think it's been engaged but whether or not if, if I was a... if I was a business owner on the first floor with scaffolding I would actually just say I will give you the three grand if you just take this scaffolding down, I'll pay for it to go back down... [cross-talk]

ROB BOOKMAN: Sure... [cross-talk]

COUNCIL MEMBER KALLOS: ...just so I can have it for three months over the summer...

ROB BOOKMAN: By a large multiplier. As a matter of fact, if you really, you know want to get these scaffoldings down put in the bill that they have to reduce the, the rent of their commercial

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2 tenant by a certain... by 25 percent every month beyond
3 the first 90 days that that scaffolding stays up
4 you'll see them come down pretty fast.

5 COUNCIL MEMBER KALLOS: So, so quick
6 question, as a... as a fellow attorney it... do you
7 believe we as a city council are not precluded by
8 Erstat on commercial law and we can say that rents
9 have to go... that, that it... there's a certain type of
10 offense for which a tenant may bring a class... a
11 suite, I would... I would be so interested in doing so.

12 ROB BOOKMAN: Yeah, I'm not sure you
13 could... I think you could create a cause of action
14 for... a private course of action, you, you know for...
15 [cross-talk]

16 COUNCIL MEMBER KALLOS: Get, get, get me
17 specific... [cross-talk]

18 ROB BOOKMAN: ...you can't regulate...
19 [cross-talk]

20 COUNCIL MEMBER KALLOS: ...language and...
21 [cross-talk]

22 ROB BOOKMAN: ...you can't regulate the
23 commercial rent but you could create a private cause
24 of action, it... you know in addition you guys do it
25 with... in... with New York labor laws all the time, you

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2 know you're creating a private cause of action for
3 both an agency to go after a business and for private
4 attorneys to go after a business, you... and this
5 council in the last few years has passed a number of
6 bills like that... [cross-talk]

7 COUNCIL MEMBER KALLOS: Get me... get me
8 some language quickly.

9 KEVIN DUGAN: Also just to... just to
10 reiterate the Restaurant Association would also be in
11 favor of such, such private right of action...

12 COUNCIL MEMBER KALLOS: So, private cause
13 of action, the damage would be lost revenue and the
14 cause would be a failure to timely make repairs?

15 ROB BOOKMAN: Correct.

16 COUNCIL MEMBER KALLOS: And so the
17 discovery would just revolve around did the
18 scaffolding go up before it was needed and was there
19 a reason why it couldn't come down. Okay, that is
20 useful. Are there any other specific changes or
21 suggestions that you might have to make this even
22 stronger or further benefit our... [cross-talk]

23 ROB BOOKMAN: Just one quick anecdote is
24 because it's, it's, it's rare but it's not always
25 just the first floor tenant, one of our members

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2 wanted us to share this story that they just recently
3 got notice that the building next to them, not their
4 building, has to have... put a scaffolding up, they
5 have a very expensive... they're in the top of a
6 building, they... and they have a very expensive glass
7 enclosed that's able to open, roof garden which is
8 their business and they were told that the
9 scaffolding is going to have to cover their glass
10 enclosed roof for at least another year with zero
11 compensation to them, it's a... it will literally put
12 them out of business.

13 COUNCIL MEMBER KALLOS: And so I guess is
14 there any cause... so, when somebody puts up
15 scaffolding and that scaffolding is going to infect
16 your property and I... that's one of the larger
17 complaints, I think we have testimony on that that
18 somebody submitted, is there a process for saying no,
19 no, no don't put that here or does there need to be a
20 process so that a neighboring building that is
21 subject to somebody else's scaffolding can actually
22 come back and say actually we'd prefer within... as
23 long as it doesn't cost more than 20... or a certain
24 amount more that you do an alternative... [cross-talk]

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2 ROB BOOKMAN: Not only is there no
3 process and their response to this, this member was
4 well we've got to put it up, you know but it seems to
5 me that there should also be... if you're asking for
6 ideas, an administrative process when this private
7 contractor makes the determination under the Local
8 Law unsafe, scaffolding goes up with no level of
9 evidence, no administrative hearing, there should be
10 a way for interested parties that could be the
11 building owner, it could be commercial tenants to be
12 able to go to an administrative hearing and have that
13 contractor prove it, you know and maybe you could
14 have your expert witness respond to show that... it
15 seems to me that the default for these private
16 contractors to say, it's unsafe because there's no
17 liability to say it's unsafe, you failed, you know
18 but they may be a little worried about saying it
19 otherwise. So, there is no... you know it's a private
20 person making a decision that's going to... that
21 effects lives and businesses for as you said
22 sometimes as long as a decade and there was no way to
23 initially even challenge that determination, there
24 would be if, if, if the building inspector gave you a
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2 violation you get a right to have a hearing on the
3 violation.

4 CHAIRPERSON WILLIAMS: Alright, thank you
5 Council Member and thank you all for your testimony,
6 I really appreciate it...

7 ROB BOOKMAN: Thank you...

8 ANDREW RIGIE: Thank you guys... [cross-
9 talk]

10 CHAIRPERSON WILLIAMS: I believe... how
11 many... for the record... testimony for RSA for the
12 record, in opposition of Intro 1389 and with that
13 this hearing is now closed.

14 [gavel]

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C E R T I F I C A T E

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



Date

November 18, 2017