

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC HOUSING

----- X

December 5, 2017
Start: 10:15 a.m.
Recess: 3:20 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E:
RITCHIE J. TORRES
Chairperson

COUNCIL MEMBERS:
Rosie Mendez
James G. Van Bramer
Vanessa L. Gibson
Donovan J. Richards
Laurie A. Cumbo
Rafael Salamanca, Jr.
Mark Treyger
Ydanis A. Rodriguez
Bill Perkins
Helen K. Rosenthal
Mark Levine
Andrew Cohen
Carlos Menchaca
Jumaane D. Williams
Public Advocate Letitia James

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

Dr. Herminia Palacio
Deputy Mayor
Health and Human Services

Corinne Schiff
Deputy Commissioner
Environmental Health
Department of Health and Mental Hygiene

Shola Olatoye
Chair & Chief Executive Officer
New York City Housing Authority

Shireen Riazi Kermani
Sr. Advisor to General Manager
New York City Housing Authority

Thomas Merrill
General Counsel
Department of Health and Mental Hygiene

Mark Peters
Commissioner
New York City Department of Investigation

Ralph Iannuzzi
Inspector General for NYCHA
New York City Department of Investigation

Tejah Duckworth
Inspector General
Integrity Monitoring Program
New York City Department of Investigation

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

Victor Bach
Senior Housing Policy Analyst
Community Service Society

Lucy Newman
Representative
The Legal Aid Society

Audrey Henry
NYCHA Resident

Davon Lomax
Political Director
District Council 9
International Union of
Painters and Allied Trades

Sherron Paige
NYCHA Resident

Charlene Nimmons
NYCHA Resident

Karen Blondel
NYCHA Resident

Jessie Smith
NYCHA Resident

Joel Kupterman
Attorney
Tenants Association at Smith Houses

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

Michele Holmes
NYCHA Resident

TRANSCRIPTION NOTE: Spanish spoken by Rodriguez and Olatoye at: time stamps 02:35:23 and 02:35:32.

[background comments]

[sound check]

[pause]

[background comments]

[gavel]

CHAIRPERSON TORRES: The hearing is coming to order. Good morning everyone; I am City Council Member Ritchie Torres and I chair the Committee on Public Housing. We are here to conduct a hearing on a finding by the Department of Investigation that NYCHA has been in violation of federal and local law on the subject of lead safety, a finding that comes amid an ongoing federal investigation from the U.S. Attorney's Office. The object of the hearing today is to peel, one by one, the layers of failure and falsehood that have begun to surface in the weeks since the DOI report.

Seemingly every day we read in the papers about a law that NYCHA did not comply with or truths that NYCHA did not tell. We first found out from the DOI report that NYCHA had been for years falsely

1 certifying lead safety inspections mandated by
2 federal and local law. We then found out from the
3 same report that the Chairperson, in September of
4 2016, knowingly filed one of those false
5 certifications, a decision she subsequently conceded
6 was a mistake. We then found out from the *Wall*
7 *Street Journal* and the *Daily News* that NYCHA
8 [background comments] has been conducting lead
9 inspections without the training and certification
10 mandated by HUD. We then found out from those very
11 same outlets that NYCHA has been conducting lead
12 abatements without the training and certification
13 mandated by the EPA. One has to wonder what else we
14 have yet to find out.

16 Notice that none of these revelations
17 came directly or voluntarily from the Housing
18 Authority. Were it not for an independent press or
19 were it not for the independent Department of
20 Investigation, we all would continue to be in the
21 dark about the failures in the lead safety program
22 and NYCHA would have been content to leave us there,
23 and therein lies the core crisis of credibility.

24 As a product of public housing, I feel
25 profound empathy for the plight of the Housing

1 Authority; NYCHA is struggling under the weight of a
2 crushing, multibillion dollar capital need; the \$17
3 billion capital need estimated in 2011 has grown to
4 an even larger number in the five years since. The
5 infrastructure is aging, deficits are widening;
6 living conditions are worsening, all at a
7 relentlessly rising pace in the age of Donald Trump.
8 With the exception of the Health and Hospitals
9 Corporation, no institution in New York City faces a
10 greater existential threat from the Trump
11 Administration than the New York City Housing
12 Authority. If NYCHA felt that it had insufficient
13 resources to meet the unfunded safety mandates of the
14 Federal government, it should have said so openly and
15 honestly, especially when it came to lead safety; the
16 burden would have then fallen on the political
17 leadership to find those resources. But instead, the
18 Housing Authority chose to falsely certify
19 inspections and then conceal those false
20 certifications from the general public.

22 So the issue before us is not about
23 dollars and cents; it is fundamentally about trust
24 and transparency. Decisions were made to falsely
25 certify inspections and decisions were made to

1
2 withhold from the public the truth about those false
3 certifications. Those decisions had nothing to do
4 with funding; those were choices for which the New
5 York City Housing Authority should take full
6 responsibility without wallowing in either excuse-
7 making or self-pity. But instead of simply taking
8 responsibility, humbly showing contrition and then
9 swiftly moving toward corrective action, NYCHA has
10 felt the need to embark on a public relations
11 campaign to defend the Chairperson. As part of that
12 campaign, NYCHA employees have ghostwritten glowing
13 letters of support under the names of resident
14 leaders. One of those letters takes aim at today's
15 hearing and expresses concern that elected officials
16 here will descend into "grandstanding, political
17 theater and opportunism."

18 Now I for one am appalled that NYCHA
19 would write such a letter denigrating the motives of
20 public officials; the elected officials here have
21 every right and reason to be outraged; the fact is,
22 NYCHA lied to the Federal government under oath for
23 four years on a matter of public health. The
24 Chairperson learned of those lies in March of April
25 of 2016 and did not disclose them to the elected

1 officials here until after the DOI report in November
2 of 2017. Waiting 20 months to tell us the full truth
3 about the failures in NYCHA's lead safety program is
4 hardly a show of transparency and it is certainly
5 cause for the outrage that we rightly feel. If any
6 one of us here were to lie to the Federal government
7 under the threat of perjury, we would likely face far
8 harsher consequences and public criticism. NYCHA has
9 no reason to see itself as a victim of political
10 grandstanding.
11

12 Beyond ghostwritten letters there have
13 also been attempts to dismiss the public outrage as
14 an overreaction; some have said that there is no need
15 to worry, only a few children have tested positive
16 for elevated levels of lead and therefore the
17 controversy is about little more than paperwork, but
18 this argument ignores the very point of lead safety
19 inspections. Even if not a single child were to test
20 positive for lead, the safety inspections are meant
21 as a precaution. By way of illustration, suppose for
22 a moment I'm a father who neglects to put a seat belt
23 on my child; the fact that I've gone four years
24 without ever getting into a car accident would not
25 exempt me from my legal obligation to put a seat belt

1 on my child, nor would the absence of a car accident
2 make me a responsible parent. The fact that there
3 might be negligible lead exposure in public housing
4 would not exempt NYCHA from its legal obligation to
5 inspect apartments for lead hazards, nor would the
6 absence of lead exposure make NYCHA a responsible
7 landlord. Whether it be seat belts or lead safety
8 inspections, precautions are about obligations
9 regardless of outcome. Failing to honor one's legal
10 obligations is one thing, but pretending to honor
11 those obligations through a pattern of false
12 certification is a far more serious transgression; it
13 speaks to a deeper collapse of institutional
14 credibility as a Housing Authority; the only hope for
15 restoring public confidence lies in the appointment
16 of an independent monitor, preferably from DOI or the
17 U.S. Attorney's Office. Resisting the need for
18 independent accountability is no longer a defensible
19 position for the Housing Authority; not if it seeks
20 to retain the leadership it has and not if it wishes
21 to regain the public trust it has lost.
22

23 So with that said; I will call the first
24 panel. We're joined by the Chairperson, Shola
25

1
2 Olatoye; Senior Advisor, Miss Kermani... [background
3 comment]

4 SHIREEN RIAZI KERMANI: Shireen Riaz
5 Kermani.

6 CHAIRPERSON TORRES: the Deputy Mayor,
7 Dr. Palacio; and the Deputy Commissioner from DOHMH.
8 Can you raise your right hand? Do you affirm to tell
9 the truth, the whole truth and nothing but the truth
10 in your testimony before this committee and to
11 respond honestly to council member questions?

12 DR. HERMINIA PALACIO: I... I do.

13 CHAIRPERSON TORRES: You may proceed.

14 DR. HERMINIA PALACIO: Good morning Chair
15 Torres and members of the Public Housing Committee.
16 I am Dr. Herminia Palacio, Deputy Mayor for Health
17 and Human Services and I thank you for the
18 opportunity to testify on the City's childhood lead
19 poisoning prevention work.

20 New York City has been a leader in the
21 effort to protect children from lead exposure since
22 1960, when the New York City Board of Health banned
23 lead-based paint for interior residential use -- 18
24 years before it was banned nationally. Because of
25 the City's protective laws, policies and programs,

1
2 there has been a dramatic decline in lead poisoning
3 in New York City over the past several decades. In
4 2005, 2,705 children under 6 years old were newly
5 identified with a blood lead level of 10 mcg/dL or
6 greater. Last year, that number was 702, a more than
7 70% decline in the number and rate of children with
8 lead poisoning. For children under 6 with a blood
9 lead level of 5 mcg/dL or greater, the drop has been
10 even sharper, decreasing by 87% between 2005 and
11 2016. The number of children with elevated blood
12 lead levels has decreased across all racial and
13 ethnic groups and across all neighborhoods, though
14 the burden does remain higher for children of color
15 and children living in high poverty neighborhoods.

16 Lead-based paint remains the primary
17 source of childhood lead exposure in New York City.
18 Lead-based paint hazards result when lead paint peels
19 or chips, creating lead dust that is then ingested.
20 This creates a hazard especially for our youngest
21 children, who often use their hands and mouth as they
22 explore their world.

23 Children living in NYCHA housing
24 typically have even lower rates of elevated blood
25 lead levels and fewer lead paint hazards are

1 identified in their homes than in the types of
2 housing in which other children live. Citywide, in
3 2016, fewer than 2% of children younger than 18 years
4 old had blood lead levels of 5 mcg/dL or greater.
5 Whereas, in NYCHA, it was fewer than 1%.

6
7 Though here in New York City, and across
8 the nation, we endeavor to drive the number of
9 children with elevated blood lead levels even lower,
10 it bears repeating that New York City has been, and
11 remains, a national leader in protecting children
12 from lead exposure. And so again, I thank you for
13 this opportunity to testify.

14 CORINNE SCHIFF: Good morning Chairperson
15 Torres and members of the Public Housing Committee.
16 I am Corinne Schiff, Deputy Commissioner for
17 Environmental Health at the New York City Department
18 of Health and Mental Hygiene. On behalf of
19 Commissioner Bassett, thank you for the opportunity
20 to testify on the Health Department's childhood lead
21 poisoning prevention work.

22 The Health Department's Healthy Homes
23 Program takes a rigorous, multi-pronged approach to
24 lead poisoning prevention that goes beyond what's
25 required under the law. This includes a daily review

1 of laboratory-reported blood lead test results, and
2 providing comprehensive risk assessment,
3 environmental investigation and case coordination
4 services. We conduct outreach and education for
5 parents, health care providers and property owners,
6 and we have a robust enforcement program. If lead
7 paint hazards are identified during our inspection,
8 the Health Department orders the property owner to
9 correct the condition.
10

11 New York City's Healthy Homes Program is
12 a national model and the dramatic reduction in
13 childhood lead poisoning in New York City is a public
14 health success story. Thank you for the opportunity
15 to testify. I am happy to take questions.

16 SHOLA OLATOYE: Good morning Chair
17 Ritchie Torres, members of the Committee on Public
18 Housing, and other distinguished members of the City
19 Council. I am Shola Olatoye, Chair and Chief
20 Executive Officer of the New York City Housing
21 Authority.

22 The health and safety of NYCHA residents
23 is our primary concern, so thank you for the
24 opportunity to set the record straight on NYCHA's
25 lead-based paint remediation and mitigation program.

1
2 Joining me today is Shireen Riazzi Kermani, Senior
3 Advisor to the General Manager. We would also like
4 to thank Deputy Mayor Dr. Herminia Palacio and our
5 partners from the New York City Department of Health
6 and Mental Hygiene, and many others for providing
7 testimony at today's hearing.

8 Let's start with the facts:

9 In August 2012, annual apartment
10 inspections were suspended. This was done in
11 accordance with a new published HUD rule that relaxed
12 the obligation of public housing authorities to
13 perform annual inspections. NYCHA's interpretation
14 of HUD's guidance was wrong, and we now know that
15 lead paint inspections were also not performed.

16 In June 2014, three months after I was
17 appointed Chair and CEO, the Authority resumed
18 biennial apartment inspections.

19 In May 2015, NYCHA sent letters to
20 residents and elected officials about lead-based
21 paint policies and inspections.

22 In November 2015, the U.S. Attorney's
23 Office for the Southern District of New York began
24 investigating NYCHA's general operations.
25

1
2 In April 2016, it became clear to me that
3 NYCHA was not in compliance with Local Law 1, the
4 City's law pertaining to the inspection of apartments
5 for lead paint hazards. When I learned we were not
6 in compliance, I informed City Hall, and we took
7 action. Our focus was on getting into apartments and
8 communicating with residents. We created a plan and
9 I led corrective actions to address the problem.

10 In May 2016, NYCHA contacted residents,
11 and we immediately started inspecting the
12 approximately 4,200 apartments with a possible lead
13 paint risk and with children under the age of 6.
14 Local Law 1 requires inspections of apartments with
15 children under the age of 6.

16 In June 2016, NYCHA and DOHMH discussed
17 lead-based paint with elected officials representing
18 Pomonok Houses. Another meeting on the topic was
19 later held that month with various elected officials
20 and their representatives.

21 In July and August 2016, I was informed
22 by staff that NYCHA was out of compliance with HUD
23 regulations, and informed City Hall and the then-HUD
24 regional administrator and staff.
25

1
2 In September 2016, I traveled to D.C. and
3 informed numerous senior HUD officials about the gaps
4 in compliance.

5 In October 2016, NYCHA submitted its
6 annual certification of compliance to HUD. I signed
7 the certificate of compliance believing that my
8 previous disclosures about the compliance gaps to HUD
9 were sufficient.

10 By December 2016, NYCHA completed or
11 attempted all of the Local Law 1-required in-unit
12 inspections, and completed all necessary repairs soon
13 thereafter.

14 In February 2017, HUD put into effect
15 another new regulation on children with elevated
16 blood levels, and we developed a plan to get into
17 compliance by the July 2017 deadline.

18 From February to June 2017, NYCHA
19 designed a new lead-based paint inspection form for
20 staff's smartphones.

21 In April 2017, NYCHA issued an RFP to
22 complete 55,000 lead-based paint visual assessments;
23 the contract was awarded to an EPA-certified vendor
24 in July 2017. In September 2017, NYCHA started
25

1 training the lead-based paint inspection vendor on
2 the new smartphone-based inspection form.

3
4 In May 2017, NYCHA began a comprehensive
5 review of our lead-safe housing procedures, as well
6 as our staff training requirements. Our procedures
7 were outdated and not consistent with HUD's new
8 regulation on children with elevated blood lead
9 levels.

10 In July 2017, after discussion with HUD,
11 NYCHA included an asterisk and notation in a required
12 certification regarding NYCHA's lead-based paint
13 compliance issues. We also informed residents,
14 staff, elected officials, the unions, and the public
15 about the lapse in compliance.

16 In August 2017, NYCHA began EPA lead-safe
17 certification training for its painters, plasterers,
18 and other front-line staff.

19 In October 2017, NYCHA issued an RFP to
20 train an additional 2,700 staff.

21 In November 2017, NYCHA announced
22 immediate and long-term corrective actions to fix the
23 compliance gaps, which I will discuss later in my
24 testimony.

1
2 As of today, we have completed more than
3 90% of the in-unit Local Law 1 annual inspections for
4 2017. That means we have inspected more than 8,000
5 apartments housing children under 6. Necessary
6 repairs from those inspections will be completed by
7 the end of the first quarter of 2018, in accordance
8 with the Federal law's 90-day deadline. As part of
9 this work, we are offering residents a complete
10 apartment painting, even when there isn't a lead-
11 based paint issue. We will ultimately fully paint
12 7,000 units through this initiative.

13 In addition to the wave of lead paint
14 inspections we launched, we implemented a number of
15 changes to improve the health and safety of NYCHA
16 apartments:

17 We're using a new digital work order
18 system to accurately identify apartments with
19 children under 6 where the presence of lead-based
20 paint has not been ruled out.

21 We equipped development staff with the
22 new lead-based paint inspection forms for their
23 smartphones to more efficiently and accurately record
24 inspection data.
25

1
2 We will continue and expand our EP lead-
3 safe certification training for all appropriate
4 staff.

5 We are revising our policies and
6 procedures based on a thorough review that we
7 conducted of local and federal regulations on lead-
8 based paint activities.

9 We announced that we will create NYCHA's
10 first-ever Executive Compliance Department. Edna
11 Wells Handy, legal counsel to the NYPD Commissioner,
12 will serve as the Acting Chief Compliance Officer.
13 She will provide operations oversight, manage
14 compliance training for employees, and review
15 external reporting by NYCHA, among other important
16 functions. We are creating a task force comprised of
17 national experts on lead paint safety that will
18 advise me and the Compliance Department; it's members
19 are Deborah Nagin, Director of the Healthy Homes
20 Program at DOHMH; Dr. Jack Caravanos, Clinical
21 Professor of Environmental Public Health Sciences at
22 New York University; Dr. Joseph Graziano,
23 Environmental Health Sciences and Pharmacology
24 Professor at Columbia University's Mailman School of
25

1
2 Public Health; and Rebecca Morley, founder of the
3 National Center for Healthy Housing.

4 We're in the process of establishing an
5 Environmental Health Officer position -- an expert on
6 health and housing who will serve as the agency's
7 lead paint expert and also provide guidance to the
8 new Compliance Department.

9 For the past two years, we have been
10 cooperating with the U.S. Attorney's Office for the
11 Southern District of New York.

12 Lastly, as you have called for, Chair
13 Torres, and as part of our cooperation with the U.S.
14 Attorney's Office, we embrace the partnership of an
15 independent federal monitor to support the continued
16 transformation of the Authority.

17 Preserving our apartments is a key focus
18 of NextGeneration NYCHA, our 10-year strategic plan
19 to chart a new course for the Authority: stability
20 for the organization and safe, clean, and connected
21 homes for residents.

22 Let me give you some context on the need
23 for this turnaround plan. When I walked in the door
24 in 2014, we were confronted with massive challenges
25 40 years in the making. Government disinvestment at

1
2 all levels had led to a \$17 billion capital need,
3 aging infrastructure, and annual operating deficits.
4 For FY 2014, the Authority had a deficit of \$281
5 million.

6 We closed that enormous budget gap, and
7 since then we've balanced the books every year and
8 replenished NYCHA's reserves. We brought the time it
9 takes to complete basic repairs down from 13 days to
10 4 days. The number of mold complaints this year is
11 8,000 fewer than it was in 2015. Since the launch of
12 NextGen, we've installed 6,200 new exterior lights at
13 14 developments and installed more than 1,700 new
14 security cameras and upgraded 350 cameras at 58
15 developments. We have more than a billion dollars of
16 capital work on the street, including over \$500
17 million in Sandy recovery construction. Our Office
18 of Resident Economic Empowerment and Sustainability
19 has facilitated more than 7,500 job placements and
20 more than 17,000 connections to partner services.

21 To improve service to residents and
22 better allocate staff, we're instituting third-party
23 management of boilers at certain sites. Our NextGen
24 Operations (NGO) property management model is
25 increasing staff control and accountability while

1
2 delivering greater customer service to residents
3 across the city. Maintenance and repair response
4 times are close to 30% faster at NGO developments
5 compared to the rest of the portfolio.

6 While we continue to make radical changes
7 to how we do business, we are constrained by
8 antiquated work rules: trying to manage a 24/7
9 operation between the hours of 8 a.m. to 4:30 p.m.
10 We're working to address that issue through FlexOps,
11 our expanded work hours pilot. FlexOps is currently
12 active on a provisional basis at 12 developments.
13 The initial FlexOps developments are 11% cleaner,
14 according to the latest data. That is the kind of
15 creative NextGen strategy we must aggressively
16 pursue.

17 We've done all of this despite the fact
18 that NYCHA, a federally funded agency, has lost \$3
19 billion in federal funding over the last 15 years --
20 while other City agencies have been able to increase
21 their spending. Washington is not a friend to NYCHA
22 -- there is talk about dismantling and even more
23 drastic funding cuts, despite the massive needs so
24 clearly at hand.

1
2 Thankfully, we have a mayor who has
3 stepped up to help us confront the challenges head-
4 on. With Mayor de Blasio's \$1.3 billion commitment,
5 we will be able to repair more than 950 roofs,
6 benefitting over 175,000 residents. That's on top of
7 the \$355 million investment in façade improvements
8 that he committed to earlier this year. The \$210
9 million Mayor's Action Plan for Neighborhood Safety
10 is bringing vital physical improvements and resources
11 to communities citywide.

12 The greatest threat facing the Authority
13 -- and one of the factors that led to our gaps in
14 compliance -- is NYCHA's funding crisis. When tasked
15 with a turnaround effort of this magnitude, it's easy
16 to identify the obvious problem, though it is much
17 harder to come up with the solutions, considering the
18 challenges. But that's exactly what we've been doing
19 for the past three years: working tirelessly to
20 improve the quality of life for the residents we
21 serve.

22 Let me be clear: I will not shy away from
23 continuing to identify gaps and problems at the
24 Housing Authority. Public housing is threatened
25 nationwide. Here in New York City, we won't just

1 stop at defending what we have; we will fight to
2 improve quality of life. I remain committed to the
3 residents and to my employees. I am here because I
4 believe in tackling difficult issues head-on. I
5 believe in public housing and its ability to
6 stabilize and change lives for the better.
7
8 Ultimately, the future of New York City's greatest
9 source of affordable housing will require everyone,
10 the city's mothers and fathers, to demand the
11 resources that will support improved conditions. I
12 hope you will stand with us as we continue to fight
13 for the 1 in 14 New Yorkers who call NYCHA home. We
14 will be happy to take your questions now. Thank you.

15 CHAIRPERSON TORRES: Thank you for your
16 testimony.

17 When you first learned of NYCHA's lack of
18 compliance with lead safety laws, I think you've said
19 publicly that you proceeded to keep City Hall
20 informed on a "weekly basis." Did you ever tell the
21 Mayor that you were going to file a false
22 certification with us?

23 SHOLA OLATOYE: As you indicated, Chair
24 Torres, I speak with City Hall on a regular basis,
25 not just in the context of this issue. And as you

1
2 also are aware, the annual plan of which the
3 certifications are a two-page attachment, sit on top
4 of what is a 200 plus document that is, a public
5 process that engages members of the community etc.
6 and really outlines the work of the agency. Having
7 just disclosed to our federal regulator, the
8 regulator in which this form goes to, I believed the
9 disclosures were sufficient. There were no
10 intentions to mislead or to lie to the regulator at
11 that time.

12 CHAIRPERSON TORRES: So you're not
13 actually answering my question. I'm asking you:
14 you're accountable to the Mayor; did you tell the
15 mayor that you were going to file a false
16 certification with us?

17 SHOLA OLATOYE: No.

18 CHAIRPERSON TORRES: You did not tell.
19 Did you tell the Deputy Mayor, Alicia Glen that you
20 file... [interpose]

21 SHOLA OLATOYE: I had no intention of
22 filing a false certification.

23 CHAIRPERSON TORRES: Uh did... You did not
24 file a false certification?

25

1
2 SHOLA OLATOYE: I said I had no intention
3 of filing a false certification. Again, the point
4 here was we had just sat with our regulator...
5 [crosstalk]

6 CHAIRPERSON TORRES: No; I understand the
7 extenuating circumstances that you mentioned, right,
8 'cause you did sign a document certifying that NYCHA
9 was in compliance with lead safety laws, right;
10 that's been established within the DOI report, so I'm
11 asking you; did you inform either the Mayor or the
12 Deputy Mayor or anyone at City Hall before proceeding
13 to sign those documents?

14 SHOLA OLATOYE: There is a process by
15 which we get to the signature of the form; if I could
16 just explain that, which enga... [crosstalk]

17 CHAIRPERSON TORRES: It seems like a yes
18 or no question, but you're free to explain it, yeah.

19 SHOLA OLATOYE: and that process includes
20 a public process, a time where all of the heads of
21 the business units develop the content in that
22 document; it actually goes through a process by which
23 we communicate that it is going to be publicly filed.
24 So I don't recall saying, I'm signing the document
25 today, Deputy Mayor, but again, given the disclosures

1
2 that we had just shared with our regulator, I
3 believed those disclosures were sufficient and there
4 was no intention to mislead about the remedial work
5 that we had shared that we were doing and actually
6 executed.

7 CHAIRPERSON TORRES: But you've
8 acknowledged publicly that signing those documents
9 were a mistake; do you regret not seeking the Mayor's
10 input before doing so?

11 SHOLA OLATOYE: I absolutely... as I've
12 said, signing the forms at that time was a mistaken,
13 given what we know. And in terms of my regrets, you
14 know there are... unfortunately, one of the things that
15 leaders do not have is hindsight as a master and
16 certainly, could our communication have been more
17 precise, and should we have made the notation that we
18 later did, with consultation with HUD in July 2017,
19 should we have done that in 2016? Perhaps that
20 would've been more helpful. But again, my
21 disclosures at that time about the compliance, and
22 more importantly, about how we were going to move the
23 agency to compliance I believed were sufficient.
24 There was never any intent to mislead our regulator
25 or our colleagues about the work of the agency and

1
2 the compliance gaps that we had identified as part of
3 our ongoing work.

4 CHAIRPERSON TORRES: Were you advised to
5 sign those documents?

6 SHOLA OLATOYE: Those documents... that is
7 an annual process that happens; it is somewhat
8 routinized.

9 CHAIRPERSON TORRES: Were you advised
10 internally to sign those documents certifying the
11 lead safety inspections that were never performed?

12 SHOLA OLATOYE: I was not... I don't recall
13 being advised specifically around signing that
14 particular form. Again, we had just sat with
15 counsel, with our regulator, talking about the depth
16 of the compliance gap, and more importantly...
17 [interpose]

18 CHAIRPERSON TORRES: But I imagine before
19 signing legal documents you would confer with your
20 general counsel; did you seek his opinion as to
21 whether it was appropriate... [crosstalk]

22 SHOLA OLATOYE: So one of the...

23 CHAIRPERSON TORRES: to certify documents
24 that...

1
2 SHOLA OLATOYE: Clearly, Chair Torres,
3 one of the things that has been present here is; we
4 had a process, we had a process for not only
5 developing the document, working across business
6 units, and that was clearly insufficient.
7 Compliance, historically, has been a decentralized
8 function at the Authority and that is why...

9 [interpose]

10 CHAIRPERSON TORRES: No, but I'm not
11 asking about the general practice; I'm asking
12 specifically when you filed a false certification
13 with HUD in September of 2016, did you do so under
14 advice from your general counsel, from any attorney
15 at the Housing Authority?

16 SHOLA OLATOYE: There are many people
17 involved in the process of executing upon that
18 document. I don't recall specifically... [interpose]

19 CHAIRPERSON TORRES: Okay.

20 SHOLA OLATOYE: that conversation, but
21 again, if I may, the process that existed was clearly
22 insufficient and that is why we are setting up the
23 very compliance department as we speak to ensure that
24 there is clearer checks and balances as well as

1
2 visibility for me to ensure that the veracity of the
3 work and documents that are going out are accurate.

4 CHAIRPERSON TORRES: I have a question
5 about concerns about lead exposure in public housing.
6 According to the *Daily News*, from 2010-2015 there
7 have been 202 children in 133 units who have tested
8 positive for elevated levels of lead paint; DOH's
9 testing found lead paint in 63 of those apartments,
10 whereas NYCHA found lead paint in only 17 of those
11 apartments; why the discrepancy between the lead
12 testing results of DOH and those of NYCHA?

13 DR. HERMINIA PALACIO: So Mr. Chair, let
14 me begin with the data. From 2010 through 2016 there
15 were 1.3 million children under the age of 18 tested
16 in New York City; of those, over 7,700 had elevated
17 blood lead levels; when you distill down, that
18 resulted in, over that time period, 21 apartments
19 associated with children that tested positive in
20 NYCHA and all 21 apartments were abated.

21 CHAIRPERSON TORRES: So are the numbers
22 reported in the *Daily News* inaccurate, the 63
23 apartments? It says DOH's testing found lead paint
24 in 63 of those apartments, whereas NYCHA found lead
25 paint in only 17 of those apartments. Is that..

1
2 DR. HERMINIA PALACIO: So there is no
3 discrepancy between what DOH found and NYCHA found,
4 so let me explain a little bit...

5 CHAIRPERSON TORRES: Sure.

6 DR. HERMINIA PALACIO: and I can turn it
7 over to the Deputy Commissioner to clarify and give
8 any additional details.

9 The Department of Health and Mental
10 Hygiene received blood tests from children; if the
11 blood test meets a certain criteria, they will go in
12 and do an environmental inspection of that apartment,
13 including a history with the parents and other
14 caregivers, any other space where that child may
15 spend significant amounts of time; that might be a
16 caregiver's apartment; might be another relative's
17 apartment, it's a very comprehensive investigation as
18 it directed under Department of Health and Mental
19 Hygiene.

20 There are screenings of lead using a
21 particular type of technology and when those
22 screenings reveal lead levels present, the Department
23 of Health issues an Order to Abate. NYCHA, as does
24 any other landlord in the City of New York, has the
25 ability to request that lead chips be sent to a

1
2 third-party lab to verify those results, because
3 sometimes the technology that's used in the
4 apartments can give a false positive -- if it's on a
5 radiator or a door knob it'll pick up other metal,
6 not just lead. Ultimately, those third-party lab
7 results that are testing lead paint make the final
8 determination of whether there is a lead hazard in
9 that apartment that requires abatement and that is
10 what DOH issues the order... [crosstalk]

11 CHAIRPERSON TORRES: So it sounds like
12 there could be discrepancies between DOH's testing
13 results and NYCHA's third-party testing results...

14 DR. HERMINIA PALACIO: No, it's not
15 NYCHA's third-party testing, it is a test result that
16 DOHMH accepts as the final arbiter, and I'll let the
17 Deputy Commissioner clarify.

18 CHAIRPERSON TORRES: I just wanna be
19 clear though, you just said that NYCHA, like any
20 landlord, could arrange for third-party verification,
21 right?

22 DR. HERMINIA PALACIO: It's a different
23 test, so it's a very specific test on the lead chip
24 paint, and I'll let the Deputy Commissioner clarify.

25

1
2 CORINNE SCHIFF: Thank you. I can
3 provide a little bit more context that might be...

4 CHAIRPERSON TORRES: Sure.

5 CORINNE SCHIFF: that might be helpful.
6 So as the Deputy Mayor has said, every day we receive
7 reports of blood lead test results for New Yorkers;
8 we review that every day to identify children with
9 elevated blood lead levels; we then are in contact
10 with that family, we do a home visit and an extremely
11 detailed assessment with that family to identify any
12 exposures that that child may have to lead. At that
13 time we are also doing an investigation of that
14 apartment and we use the equipment that Dr. Palacio
15 was referring to; it's called an x-ray fluorescence,
16 or XRF, and we use that machine to test any place in
17 the apartment where the paint is not intact, so
18 there's chipping, there's peeling and anything like
19 that, so we take a reading and when we're doing a
20 reading, for example, on a metal surface, we're doing
21 a very, very broad brush; we want to identify any
22 possible place where they may be lead paint because
23 we're trying to take the most protective approach
24 that we can. If we're taking a reading of a metal
25 surface -- a classic example is a radiator -- that

1 XRF is picking up, potentially, the radiator, made of
2 metal that has lead content, and we can't tell from
3 our reading whether the lead is in the paint or the
4 lead is in the radiator. Because we are taking the
5 most protective approach, we include that in our
6 order to abate. Property owners that receive that
7 order then have the opportunity to test the actual
8 paint, the remediation is about the paint, so they
9 then send the paint chip to a laboratory -- it has to
10 be a certified laboratory -- and that result comes to
11 us. We review that laboratory result; if that
12 laboratory result from a certified lab shows that in
13 fact the paint is not leaded, then there's no basis
14 for that order and we undo that order, essentially.
15 But I wanna make clear that our job is to pursue lead
16 exposure for children, so that doesn't end our
17 inquiry; we are then back with that family, we're
18 back in that apartment; we're still trying to find
19 what might be the exposure -- there could be multiple
20 exposures for that child -- and we continue to do
21 that work and we continue to follow those children
22 until their blood lead levels drop, but that's why
23 these numbers are different. But ultimately, as the
24 Deputy Mayor said, our numbers match those of NYCHA
25

1
2 and NYCHA has complied with all of those orders to
3 abate.

4 CHAIRPERSON TORRES: Remind me; what are
5 the numbers of children who have tested positive for
6 lead paint in public housing?

7 DR. HERMINIA PALACIO: So between 2010
8 and 2017, of all the children under... sorry, 2016,
9 between 2010 and 2016, of all the children tested in
10 New York City, there were 21 apartments associated
11 with 19 children... [crosstalk]

12 CHAIRPERSON TORRES: 19 children.

13 DR. HERMINIA PALACIO: that had elevated
14 blood lead levels in apartments that were determined
15 to have lead paint hazards.

16 CHAIRPERSON TORRES: Now in public
17 housing there are 55,000 units either known or
18 presumed to have lead paint and then 4,200 of those
19 units have a child under the age of 6; how many of
20 the 55,000 units have you inspected so far?

21 SHOLA OLATOYE: Thank you for the
22 question. In 2016, we [background comments]
23 inspected approximately 4,200 units, and then did the
24 associated work generated by those inspections. In
25 2017, we have inspected or are on track to inspect

1
2 approximately 8,900 units, and these are units with
3 children under the age of 6. We have an RFP out on
4 the street and will be securing a vendor to begin the
5 broader inspection of the 55,000 units beginning in
6 2018.

7 CHAIRPERSON TORRES: And were all of
8 those units inspected by NYCHA employees with the
9 HUD-mandated certification?

10 SHOLA OLATOYE: Which units, if you could
11 just clarify?

12 CHAIRPERSON TORRES: The 4,200 units.

13 SHOLA OLATOYE: Okay. So starting in
14 2016, those inspections were -- well let me just take
15 a step back. In 2016, there are approximately 30
16 NYCHA staff who have the requisite EPA certification
17 that allows them to do and remediate this type of
18 work. The remaining staff that conducted those 4,200
19 did not have that training and we have since expanded
20 the training, so now that number is 144 and have a
21 vendor to expand the training to the remaining 2,700
22 or so front-line staff, but more importantly, we
23 secured a vendor in 2017... [interpose]

24

25

1
2 CHAIRPERSON TORRES: But not all of those
3 4,200 units were inspected by NYCHA employees with the
4 proper training and certification?

5 SHOLA OLATOYE: That's what I said, yes.

6 CHAIRPERSON TORRES: That is correct?

7 SHOLA OLATOYE: Yes.

8 CHAIRPERSON TORRES: So what; all of
9 those units, a percentage of those units; what
10 percentage of those units were inspected by NYCHA
11 employees without proper training and certification?

12 SHOLA OLATOYE: So in 2016 there were
13 approximately 30 EPA-certified staff who can do and
14 respond to DOHMH orders to cure any potential issue.
15 We have now isolated that there are approximately 300
16 or so staff that received some level of training;
17 there is more that is required, both under Local Law 1
18 and the HUD regulation -- that's what we are working
19 to expand. Understanding that process would take some
20 time, in 2017 we have an EPA-certified vendor who is
21 doing that work while we are able to **[inaudible]**..
22 [crosstalk]

23 CHAIRPERSON TORRES: But I'm specifically
24 referring to the HUD certification, which as I
25 [background comment] understand is quite different

1
2 from the EPA certification. I mean if those 4,200
3 units which have a child under the age of 6 were
4 inspected by a NYCHA employee without the required
5 certification, it seems to me those apartments were
6 improperly inspected.

7 SHOLA OLATOYE: Let me just clarify.
8 There are multiple types of certification required;
9 the visual assessments... [interpose]

10 CHAIRPERSON TORRES: That's what I'm
11 referring to.

12 SHOLA OLATOYE: the visual assessments
13 are -- staff were trained; it's a very short training
14 that HUD offers online; staff had done that, so they
15 actually...

16 CHAIRPERSON TORRES: Okay.

17 SHOLA OLATOYE: had the ability to
18 reference best practices per HUD; it's the broader
19 training that I was referencing, the EPA training.

20 CHAIRPERSON TORRES: So those 4,200 units
21 were inspected by NYCHA employees who had the HUD
22 certification?

23 SHOLA OLATOYE: With the HUD
24 certification training, yes; that is correct...

25 [crosstalk]

1
2 CHAIRPERSON TORRES: Okay, but did not
3 have... now as far as lead abatement, you're required to
4 have EPA certification?

5 SHOLA OLATOYE: That is correct.

6 CHAIRPERSON TORRES: And your employees
7 did not have that certification?

8 SHOLA OLATOYE: Not all of them, sir.

9 CHAIRPERSON TORRES: Yet we're abating
10 lead without the certification; is that... So we know
11 about the 55,000 apartments that are presumed or known
12 to have lead paint; I'm curious to know about the
13 remaining 123,000 units; do you know with certainty if
14 those units are free of lead paint?

15 SHOLA OLATOYE: So the way that the local
16 law and the HUD law works -- and I will provide a
17 little context and then let Miss Riazi provide more
18 details -- the presumption is units built before 1960
19 had some use of lead-based paint. For units built
20 after 1960, there is a process by which the Authority
21 went either with local law to exempt with our
22 colleagues at HPD or exclude via an ongoing assessment
23 and evaluation process; that occurred during the 90s;
24 this is something that we have uncovered, so those
25 remaining 123,000 or so have been exempted and because

1
2 there are actually records that document that those --
3 either because they were built before and they've been
4 remediated, or they went through this exemption and/or
5 exclusion process. It is the 55,000 unit universe
6 where we need to work to ensure the removal or
7 elimination of a potential hazard.

8 CHAIRPERSON TORRES: But if you remediate
9 a unit, you can then have it exempt; is that...
10 [background comment] is that correct?

11 SHIREEN RIAZI KERMANI: I just wanna be
12 clear on some of the language here. Remediation is
13 different than abatement...

14 CHAIRPERSON TORRES: Okay.

15 SHIREEN RIAZI KERMANI: so if I can also
16 take a step back and talk just broadly. So following
17 the issuance of the lead-based housing rule, NYCHA
18 underwent an evaluation of all pre 1978 target housing
19 developments, and so that is where we're also able to
20 talk with a lower number than the total NYCHA units.
21 So after that evaluation, there are approximately 92
22 developments; in total, those developments have about
23 76,000 units, so that's what we started with after
24 that initial evaluation. Since that evaluation, we've

25

1
2 done testing and abatement, because we do abate upon
3 turnover, as required under local law..

4 CHAIRPERSON TORRES: Right.

5 SHIREEN RIAZI KERMANI: and we do have
6 the trained abatement workers to do that, so we do
7 abate upon turnover, and that's where you've heard the
8 55,000 number; that's why it's gone from 76,000 total
9 units at those 92 developments.. [crosstalk]

10 CHAIRPERSON TORRES: So that's what I'm
11 saying; once you abate.. [crosstalk]

12 SHIREEN RIAZI KERMANI: 5,000..

13 CHAIRPERSON TORRES: you can exempt the
14 units, right; is that..

15 SHIREEN RIAZI KERMANI: If it's pre 1960,
16 Chair, it goes to HPD and they approve the exemption,
17 so you are correct.

18 CHAIRPERSON TORRES: Okay. Now there is
19 concern; if those apartments were abated by NYCHA
20 employees without the proper training and
21 certification, there's a risk that improper abatement
22 could lead to improper exemption; [background
23 comments] can you be assured that those units were not
24 improperly exempt, given the lack of training?

25

1
2 SHOLA OLATOYE: So we have worked to
3 ensure that -- with our colleagues at HPD, etc., and
4 that's literally been the work of... the work is part of
5 the ongoing U.S. Attorney's Office, to ensure that
6 that is so. It is really the focus... and we will
7 continue to do... [interpose]

8 CHAIRPERSON TORRES: But we don't know
9 for sure, right? There is a risk that some of those
10 units were, if not all of them, were improperly abated
11 and therefore improperly exempted..

12 SHOLA OLATOYE: We..

13 CHAIRPERSON TORRES: which means the
14 number is larger than 55,000.

15 SHOLA OLATOYE: We know... we can operate
16 with what we know, and the data right now tells us
17 that the 55,000 units are where we need to focus our
18 attention to eliminate the risk of a potential lead-
19 based hazard. As part of our ongoing discussions with
20 the U.S. Attorney, if there is direction to go back,
21 we absolutely... [interpose]

22 CHAIRPERSON TORRES: Yeah, I feel like
23 that should be the basis for deeper review; if there
24 were NYCHA employees who were abating... and my concern
25 is that one thing that's worse than no abatement at

1
2 all is a poorly done abatement; is that you could risk
3 disturbing the lead paint and actually making matters
4 worse, and I'm concerned that if you're improperly
5 abating a unit, you're improperly exempting and
6 therefore there could be far more units that either
7 are known or presumed to have lead paint beyond the
8 55,000 that is normally the subject of our
9 conversation. Yeah, sure... [crosstalk]

10 SHOLA OLATOYE: If I may. So a couple
11 things: one, as you noted, you know we do conduct
12 abatement upon turnover, and so there is approximately
13 between 4-5,000 units that sort of open up every year;
14 testing occurs; if that testing results in the need
15 for abatement; that happens, so that's been one way
16 we've been able to drive down that number -- that's
17 just a fact in terms of basic apartment turnover. And
18 the document to support that is there, because we know
19 we have new tenants and we've been able to do the work
20 in those apartments. The other piece here is; as part
21 of our modernization efforts, there is abatement work
22 that occurs as well, so we've really gone back to
23 construct the historical record in terms of what has
24 happened, both in terms of the exemption and the
25 exclusion process, the turnover, and the modernization

1
2 work that's occurred over the last several years with
3 the onset of both the local law and the HUD
4 regulation.

5 DR. HERMINIA PALACIO: Mr. Chair, if I
6 might add...

7 CHAIRPERSON TORRES: Sure.

8 DR. HERMINIA PALACIO: something here
9 from the public health perspective. So as you've
10 heard, unlike Local Law 1, which is focused on the
11 apartment, the Department of Health and Mental Hygiene
12 investigations are done on the basis of children who
13 have elevated blood lead levels. In the City of New
14 York, those investigations, which are of children that
15 we know have elevated blood lead levels, lead-based
16 hazards are identified in less than 20% of NYCHA homes
17 that DOHMH inspects compared with 60-75% of non-NYCHA
18 homes -- just in broad context, sort of the... because
19 of, in some parts... in many ways, because lead-based
20 paint was banned so early in New York City.

21 The other issue is that in those children
22 who live in apartments under 6 years old in the
23 approximately 2,300 apartments that were recently
24 remediated on the basis of having lead-based hazards
25 by folks who did not have the proper training, out of

1
2 an abundance of caution and collaboration with NYCHA,
3 the City will be offering free testing to the parents
4 of those children under 6 who wish to get a
5 precautionary lead testing. So we are working with
6 Health and Hospitals; there will be a hotline number
7 set up shortly, and we expect that by next week we'll
8 have appointments. So to address your concern about
9 any remediation that may have been done without proper
10 certification in those 2,300 apartments -- that is,
11 the universe of apartments that were recently
12 remediated with people without the proper
13 certification; with children under 6 years old --
14 we'll be offering this out of an abundance of caution;
15 this, despite the fact that NYCHA, in general, we have
16 much lower rate of lead-based hazards affiliated with
17 those apartments.

18 CHAIRPERSON TORRES: And if you could
19 just remind me; the 55,000 apartments that are either
20 known or presumed to have lead paint, that was reduced
21 from what number?

22 SHIREEN RIAZI KERMANI: It was originally
23 reduced; the full number of units was about 76,000,
24 and actually, as of today, we're down to about... just
25 under 48,000.

1
2 CHAIRPERSON TORRES: Under 48,000. And
3 the reduction from 55,000 to 48,000, that's about
4 7,000 units; were all of those abated by any EPA-
5 certified professional?

6 SHIREEN RIAZI KERMANI: So we go through
7 a process; on average we're testing about 1,400 units
8 a year and our results tend to show that about half of
9 them actually show there is no lead paint and so if
10 they're pre 1960, we gather those packages of
11 information and we give that to HPD to file for an
12 exemption. And then about half of them do show that
13 there is some sort of lead paint in them and we go
14 through an abatement process of them. And I can just
15 say that as of today we do have **[inaudible]**..
16 [crosstalk]

17 CHAIRPERSON TORRES: Well my question
18 was; was the abatement done by an EPA-certified
19 professional?

20 SHIREEN RIAZI KERMANI: Have not gone
21 back historically to be able to [background comment]
22 confirm that, but and then we had to confer with HPD
23 on what they have, as a part of the exemption package,
24 what records they review.

25

1
2 CHAIRPERSON TORRES: I'm just concerned
3 that the nearly, what, 20,000 units, from 76,000 to
4 48,000, could have been improperly abated and
5 improperly exempted and so we should take a closer
6 look at those units, I would think, to make sure..
7 [crosstalk]

8 SHOLA OLATOYE: Uhm-hm. Thank you. Uhm-
9 hm.

10 CHAIRPERSON TORRES: I have a few
11 questions about transparency. When did you discover
12 that the Housing Authority was out of compliance with
13 federal and local law on lead safety?

14 SHOLA OLATOYE: With federal law. So as
15 I said, in April I was made aware that there were gaps
16 in compliance with local law; in June it became clear
17 that there were also compliance on the federal side as
18 well.

19 CHAIRPERSON TORRES: And why did you find
20 out about the two two months apart; it seems odd that
21 you would find out about noncompliance with local law;
22 did the person who informed you not inform you that we
23 were also not complying with federal as well or.. it
24 seems odd?

25

1
2 SHOLA OLATOYE: As you have said in your
3 opening remarks, this has been a process of peeling
4 back decades of policies and practices -- some that
5 are documented; some that have been, you know,
6 anecdotal -- and again, our focus in all of this had
7 been on how can we get into apartments as fast as
8 possible and fix whatever potential hazard there may
9 be. And as we began to dig more, it became clear to
10 me that there were also gaps in the federal side. So
11 starting with local, in terms of trying to ensure just
12 basic annual inspections, and then recognizing that
13 there's a different and similar obligation on the
14 federal side, began to investigate that as well.

15 CHAIRPERSON TORRES: How long after
16 finding out did you inform the general public about
17 the lack of compliance of both local and federal law?

18 SHOLA OLATOYE: Well when it was first
19 told to me in April, as I said, we both shared that
20 information with City Hall; when it became clear that
21 it was also a federal piece, communicated that
22 information to our regulator, developed a corrective
23 action plan, and communicated to the approximately
24 4,200 residents that we needed to get into their --
25 there was an urgency to get into their apartments;

1
2 there was actually information in that notice to those
3 households about lead safety, about questions about
4 potential symptoms... [crosstalk]

5 CHAIRPERSON TORRES: But my question is;
6 how long after finding out about NYCHA's noncompliance
7 did you inform the general public about NYCHA's
8 noncompliance?

9 SHOLA OLATOYE: Well first it was to the
10 residents that we were focused on, so that was in May
11 of 2016, and you know... [interpose]

12 CHAIRPERSON TORRES: And you sent them a
13 letter specifically state... [crosstalk]

14 SHOLA OLATOYE: There was a letter that
15 went underneath the door...

16 CHAIRPERSON TORRES: specifically stating
17 that NYCHA was out of compliance?

18 SHOLA OLATOYE: You know, what we did say
19 was that we needed to conduct an inspection...
20 [interpose]

21 CHAIRPERSON TORRES: Which is quite
22 different from saying that you were out of compliance.

23 SHOLA OLATOYE: And in hindsight, our
24 communication could have been more precise, but...
25 [interpose]

1
2 CHAIRPERSON TORRES: So I'm asking, how
3 long did you go without informing the general public
4 that your agency was out of compliance with federal
5 and local law? See you cannot be blamed for false
6 certifications since 2012, because that pre-exists
7 you, but you can be held responsible for your failure
8 to inform the general public about the failure of your
9 agency to comply with local and federal law on lead
10 safety. So how long did you go without telling the
11 general public the truth about your compliance?

12 SHOLA OLATOYE: So as I've said, when it
13 became clear to me in April of 2016, and later in
14 June, and as you know, we were trying to... I, as the
15 executive, was trying to balance the ongoing federal
16 investigation; it was in July of 2017 that we both put
17 a notification, in consultation with HUD, about the
18 Authority's compliance gap; it is also at that time
19 that we had briefings with you and your colleagues
20 about... [interpose]

21 CHAIRPERSON TORRES: So you went 15 to 16
22 months without telling the general public.

23 SHOLA OLATOYE: It was approximately a
24 year on the HUD compliance piece, yes.

25

1
2 CHAIRPERSON TORRES: No, regarding local
3 law, you've known about local law noncompliance since
4 April, so you've gone 15 months without telling the
5 general public that your agency was out of compliance.
6 Do you regret that?

7 SHOLA OLATOYE: Look, as I said, you know
8 I... in hindsight, our communication could have been
9 [background comments] more... [interpose]

10 CHAIRPERSON TORRES: Excuse me.

11 SHOLA OLATOYE: As I've said, my regret
12 is that we didn't tell people more sooner. Our focus,
13 when I was made aware of the gaps was getting into
14 apartments as quickly as possible and trying to
15 remedy... [interpose]

16 CHAIRPERSON TORRES: You could've done
17 both; you could've taken action and then tell the
18 truth to the public... [crosstalk]

19 SHOLA OLATOYE: And what I... well what I
20 said is; I could've... what I am saying is; we could
21 have told more sooner. And what we were clear about
22 is the urgency that was needed to get into people's
23 homes to eliminate any potential hazard. In
24 hindsight, could we have done more sooner? Perhaps,

25

1
2 and I think that that is a decision that I own and
3 will continue to work to improve going forward.

4 CHAIRPERSON TORRES: In July of 2007
5 [sic], you informed the public that your agency was
6 out of compliance, but you did not inform the public
7 that your agency had been falsely certifying; we did
8 not find that out until the DOI report. So do you
9 regret going 20 months without letting the public,
10 including the members of this Committee, know that
11 your agency had been falsely certifying lead safety
12 inspections for four years?

13 SHOLA OLATOYE: Well again, it was July
14 2017, and there was no intent to mislead or deceive
15 our regulators at any point in the process; the
16 information... [interpose]

17 CHAIRPERSON TORRES: I'm asking about the
18 general public and the City Council.

19 SHOLA OLATOYE: and the information --
20 and the document that I sign goes to HUD, which
21 ultimately is a public document -- the information
22 that I was provided in 2014 and 2015 was clear that we
23 were in compliance, and when that changed, it's when I
24 raised my hand; we came up with a plan to address the
25

1 compliance and a process to get the agency back...

2 [crosstalk]

3
4 CHAIRPERSON TORRES: When did you learn
5 of the false certification, beyond the noncompliance;
6 when did you learn of the false certification?

7 SHOLA OLATOYE: Well...

8 CHAIRPERSON TORRES: Since 2012.

9 SHOLA OLATOYE: So 2012 was when, as you
10 said, is when HUD issued a rule allowing housing
11 authorities to relax the annual inspection process...

12 [interpose]

13 CHAIRPERSON TORRES: I know the history,
14 but when did you... [interpose]

15 SHOLA OLATOYE: Right.

16 CHAIRPERSON TORRES: learn of the false
17 certification?

18 SHOLA OLATOYE: You know as part of the
19 ongoing Southern District investigation, we learned a
20 number of things, and as part of the... [interpose]

21 CHAIRPERSON TORRES: But specifically
22 that thing, when did you learn it... [crosstalk]

23 SHOLA OLATOYE: Well one...

24 CHAIRPERSON TORRES: false certification?

25

1
2 SHOLA OLATOYE: Those are your words; not
3 necessarily mine...

4 CHAIRPERSON TORRES: 'Kay.

5 SHOLA OLATOYE: I believe it's important
6 to say that when I signed the document, I believed
7 that the disclosures were... [interpose]

8 CHAIRPERSON TORRES: I'm not asking your
9 first... Did you learn of the history of false
10 certification before signing the document?

11 SHOLA OLATOYE: No. I mean this is part
12 of... [interpose]

13 CHAIRPERSON TORRES: So you did not... When
14 did you learn... When did it become apparent to you that
15 the agency had been falsely certifying lead safety
16 inspections?

17 SHOLA OLATOYE: When I signed the
18 document in July 2016, it was a document that went to
19 HUD; we had just sat with our regional and headquarter
20 staff to explain the scope of the compliance gap;
21 there was no indication from them that the agency
22 needed to behave in any different way other than
23 executing... [crosstalk]

24 CHAIRPERSON TORRES: I don't understand
25 why my... If someone were to ask me when did I find out

1
2 about NYCHA's false certification, I would've said,
3 November 2017, when I read the DOI report. I'm asking
4 you; when did you find out about the false
5 certification, and I'm not getting a clear answer from
6 you.

7 SHOLA OLATOYE: As part of the ongoing
8 investigation by the Southern District, we began to
9 uncover the compliance gaps and that information
10 became... [crosstalk]

11 CHAIRPERSON TORRES: When?

12 SHOLA OLATOYE: clearer to me in 2017.

13 CHAIRPERSON TORRES: When in 2017?

14 SHOLA OLATOYE: I don't recall a specific
15 date.

16 CHAIRPERSON TORRES: So you do not recall
17 when in 2017 you discovered that your agency was
18 falsely certifying lead safety inspections...?
19 [crosstalk]

20 SHOLA OLATOYE: I don't recall a specific
21 date, I do not.

22 CHAIRPERSON TORRES: I just... I find that
23 incredible. Okay. [background comments]

24 One overarching question about this whole
25 scandal is who know what when. According to DOI,

1 senior staff found out about the false certifications
2 in April of 2015; who are those senior staffers?

3 SHOLA OLATOYE: You know I'm not gonna,
4 and I don't believe even the DOI report mentioned
5 people by name, and it would not be appropriate for me
6 to talk about personnel matters in a public forum, but
7 it was clear that senior operations executives were
8 aware of some of the gaps in the timeframe that you
9 referenced.
10

11 CHAIRPERSON TORRES: Were those senior
12 staffers aware of the false certification?

13 SHOLA OLATOYE: I can't speak to what
14 they knew or didn't know.

15 CHAIRPERSON TORRES: Okay. And when you
16 found out that those senior staffers knew about the
17 noncompliance, did you immediately hold them
18 accountable; what actions did you take, without even
19 mentioning those particular individuals?

20 SHOLA OLATOYE: Sure. When it became
21 clearer that the compliance gaps were... When it became
22 clear that there were significant compliance gaps,
23 one; you know, I spend a lot of my time thinking and
24 recruiting and training staff and supporting staff;
25 the job of an executive is to not act rashly; I was

1
2 also very aware of the need to execute on the work at
3 hand, which was getting into apartments and getting
4 inspections done, and so you know, it was my decision-
5 making about the actions that were taken were part of
6 the overall work and conversations that we've
7 currently been having with the U.S. Attorney's Office.

8 CHAIRPERSON TORRES: So a decision about
9 whether to inspect a single apartment might be a staff
10 level decision, but a decision about whether to
11 inspect 55,000 apartments for lead-based paint strikes
12 me as an executive level decision, and so I want to
13 know who in the Housing Authority made the decision to
14 seize 55,000 lead safety inspections. I'm still not
15 clear who made that decision, and who had the
16 authority to make that decision...

17 SHOLA OLATOYE: Well as I've said..

18 CHAIRPERSON TORRES: below.

19 SHOLA OLATOYE: As I've said, you know,
20 the inspections were suspended in 2012; clearly I
21 wasn't there; I don't know who, what sort of made that
22 decision, but it is the role of ultimately me, with
23 the general manager and senior operations folks to
24 both set policies and then execute upon them and hold
25 staff accountable accordingly.

1
2 CHAIRPERSON TORRES: Who in the hierarchy
3 has the authority before this controversy -- now I
4 suspect that decision would have to be made directly
5 by you, but who in the hierarchy had the authority to
6 suspend 55,000 inspections?

7 SHOLA OLATOYE: It would be the general
8 manager.

9 CHAIRPERSON TORRES: The general manager?

10 SHOLA OLATOYE: Yes.

11 CHAIRPERSON TORRES: Now you run one of
12 the largest institutions in the country and no one can
13 expect an agency head to know every minute operational
14 detail, but an argument could be made that there is
15 nothing minute about lead safety, and so how could it
16 be that you went two years without knowing that your
17 own agency was out of compliance with federal and
18 local law regarding lead safety? I imagine that in
19 the first two years of your administration you've had
20 periodic meetings with your operational team; at any
21 point in those meetings did you ask them about lead
22 safety? Did you have a meeting regarding lead safety?

23 SHOLA OLATOYE: So you're absolutely
24 right, an executive of any agency, public or private,
25 relies on competent, skilled people to do their jobs,

1
2 and that is what I did. As you know, when we walked
3 in in 2014, we had a very long list of literal fires
4 that we needed to put out and in hindsight I wish I
5 had dug a bit deeper into these matters. We were so
6 focused on figuring out how do we get better services
7 out; how do we pay our bills, given the significant
8 financial crisis; how do we jumpstart development to
9 raise cash; how do we get the Sandy program back on
10 track? So someone asked me about regrets earlier;
11 that's a regret that we didn't dig a bit deeper here.

12 CHAIRPERSON TORRES: So I take it that in
13 the first two years of your administration you never
14 had a meeting regarding lead safety with your
15 operational team?

16 SHOLA OLATOYE: I don't recall a specific
17 meeting regarding lead safety; everything we do is
18 focused on... [crosstalk]

19 CHAIRPERSON TORRES: Do you recall ever
20 inquiring about lead safety with your executive team?

21 SHOLA OLATOYE: In fact, it was something
22 that we talked about in the context of -- when we came
23 in in 2014, we were restarting inspections, it was
24 actually discussed; I believe I even talked about it
25 here, as an affirmative action; we were restarting

1
2 inspections; realized [sic] the agency had been, the
3 previous administration, so focused on the very high
4 work orders and the Work Order Reduction Initiative,
5 that those inspections had stopped, and so we talked
6 about restarting inspections and really focusing on
7 health and safety as an affirmative action of this
8 administration coming in and cleaning up the agency.
9 I had no knowledge that that action of restarting
10 those inspections was important but also fell short of
11 this important compliance area.

12 CHAIRPERSON TORRES: Alright. I have
13 more questions, but I do want to give my colleagues an
14 opportunity; I will turn it over to the Public
15 Advocate.

16 PUBLIC ADVOCATE JAMES: I want to thank
17 the Chair; I want to thank the City Council; I want to
18 thank the staff, the committee staff; and I want to
19 thank -- I see in the audience a number of tenant
20 association presidents who I have gotten to know over
21 the years in my public life, and I want to thank all
22 of them for being here, and I want to thank the
23 Administration for being here as well.

24 Commissioner, I had the opportunity
25 yesterday of meeting some individuals, and since this

1 scandal broke out, I've met a number of residents of
2 public housing whose children have tested positive for
3 lead; let me just tell you about one I met yesterday,
4 her name is Luz [sp?]; she's a grandmother of two 3-
5 year-old children; she lives in Red Hook Houses, and
6 until June of this year her apartment had never, not
7 once, been tested for lead. When they came in June,
8 they discovered lead -- she's referring to NYCHA --
9 and said that they would come back in 90 days. They
10 have not come back; they didn't come back yesterday; I
11 don't know whether or not they are coming back today,
12 but it's basically exposing her grandchildren to lead
13 for an additional six months, even after this belated
14 discovery, Luz is so afraid of missing the inspectors
15 that she rarely leaves her apartment. And what's so
16 outrageous is that she received a notice stating that
17 they would be there this morning, [background
18 comments] and there were other individuals who were in
19 attendance yesterday who also said that they received
20 notices that the inspections would happen this morning
21 -- sort of ironic.

23 I also see another resident from Red
24 Hook; her 4-year-old tested positive for lead and to
25 this day, she said, "My apartment is still in need of

1
2 repairs and is not free of lead, and it's from NYCHA's
3 neglect my child now suffers with delayed speech and
4 behavioral issues." So I'm not apologizing to this
5 Mayor or to anyone else for my comment, publicly and
6 otherwise, I am the Public Advocate of the City of New
7 York, but more importantly, I recognize the vulnerable
8 state of residents of public housing and I recognize
9 that they are most at risk with being exposed to lead
10 and that is why I am here and that is why I will
11 continue to raise my voice.

12 Surely there are stories like Luz and
13 this woman who I just read, all across the city
14 because we know that NYCHA failed to conduct mandatory
15 lead testing in the homes of children under 6 for
16 nearly four years, two-and-a-half of which have
17 occurred on this Administration's watch, and it should
18 have been caught after it became clear that NYCHA was
19 under federal investigation for violating the False
20 Claims Act relating to lead paint in either October or
21 November of 2015, and yet according to NYCHA's own
22 admission, the failure was not discovered until more
23 than half a year later. And on March 28th in this
24 room, in front of this committee, Madam Chair, you
25 indicated that you were in compliance with our local

1
2 lead law and we are making sure all of our protocols
3 and procedures are consistent with that. There was no
4 subsequent effort to correct the record until more
5 than a year later, when it became clear the truth was
6 about to come out. Months after the belated
7 discovery, a year after learning of the investigation,
8 Madam Chair, you signed off on another false
9 certification in October 26 [sic], again violating the
10 False Claims Act. No discipline was imposed; no
11 accountability measures were created; no real effort
12 was made to ensure that this kind of thing wouldn't
13 happen, until two years later, after a scathing
14 Department of Investigation report made this scandal
15 widely known. NYCHA did not even begin precautionary
16 testing for lead until May 26, eight months after
17 learning it was under federal investigation. And
18 worse of all, NYCHA families were not informed of this
19 failure until July of 2017, meaning more than a year
20 passed between NYCHA learning the inspections were not
21 taking place and when families were informed their
22 kids, their children, my neighbors would be at risk.
23 If we are to rebuild public trust in our system, we
24 need an open airing of the facts and a robust debate
25 about what we should do going forward.

1
2 And so many individuals question why
3 there is so much apathy in public housing; why there
4 is not a response from residents of public housing;
5 why they don't come out to vote; why they're not
6 active and more organized, 600,000 plus residents;
7 this is why. They just don't have any trust in their
8 government.

9 Lead exposure in children can have
10 catastrophic effects on the children themselves; the
11 children in society at large, and children in public
12 housing are at the greatest risk because of lead
13 paint, because of years of neglect and because of
14 defunding at the federal level and at the state level
15 and at the local level. Lead poisoning in young
16 people can mean brain damage and lower IQ scores and
17 reduced potential for learning and learning disorders,
18 and even a deterioration of the brain's critical
19 executive functions, emotional regulation and impulse
20 control and attention and verbal reasoning and mental
21 flexibility, and the actions of NYCHA put the risk and
22 the safety in the lives of the children in this city
23 at risk, and if these were children living somewhere
24 else, [background comments] the public outcry would be
25 all-consuming and actions against leaders would be

1
2 swift, immediate and severe, but for some reason the
3 children of public housing -- excuses and excuses and
4 excuses. And to make matters even worse, not only did
5 NYCHA's failure endanger vulnerable children, the
6 years of false claims put the agency at risk of losing
7 millions of dollars in funding, and obviously that's
8 going to impact all public housing in the City of New
9 York, and yet there has been no accountability, no
10 real explanation for the dangerous and fundamental
11 failures that have occurred, and no explanation as to
12 why the public was kept in the dark for so long. And
13 so you know I have a number of questions and I'm just
14 going to get to it.

15 In an interview on New York1 on November
16 30th, you stated that there had been 17 children and
17 18 public housing residents where lead has been an
18 issue between 2010 and 2017; given the lack of
19 inspections; given the discrepancy between DOH and
20 NYCHA; given the comments that were made here today,
21 how can we trust this number; how can we trust this
22 number to be accurate and are we not taking into
23 account -- as I have talked to residents in public
24 housing all throughout the City of New York -- as you
25 know, there are grandmothers and grandfathers who are

1
2 taking care of grandchildren and there are children
3 who visit these public housings -- there's nieces,
4 there's nephews and there is a countless number of
5 individuals under the age of 6 and they're not listed
6 as residents -- what about those children? So what
7 can we do, obviously, to address those residents,
8 those grandchildren who visit and those nieces and
9 nephews? Can we test for them as well?

10 DR. HERMINIA PALACIO: Madam Public
11 Advocate, let me begin before I turn it over to the
12 Chair. As a physician and a public health
13 practitioner, my priority is to protect children from
14 lead poisoning, including our most vulnerable
15 children. I want to make clear, the Department of
16 Health and Mental Hygiene never stopped doing
17 environmental inspections that were indicated by
18 children with elevated blood lead level. Without
19 getting to the specifics of the children, and I don't
20 know the specifics that you mentioned, just in terms
21 of overall approach, if a child has an elevated blood
22 lead level the Department of Health does that
23 inspection timely; that inspection and interview is
24 not just for the residents of that child, it is for
25 any place where that child spends a significant amount

1
2 of time, and it includes a very thorough search for
3 multiple potential exposures: those exposures might be
4 cooking from a clay pot, it might be eating snacks
5 that the parents were unaware were lead contaminated
6 that were imported. This is a very thorough approach
7 and the Department of Health and Mental Hygiene, if it
8 does identify a lead paint hazard in an apartment,
9 issues a Commissioner's Order to comply and they will
10 follow on that Commissioner's Order and that
11 compliance is not 90 days; the landlords have 5 days
12 to either comply or show serious effort that they are
13 beginning to comply. So this is a very shortened
14 timeframe, so in the scenarios that you describe,
15 those inspections, regardless of whether NYCHA was
16 independently doing inspections of apartments,
17 children with elevated blood lead levels that met the
18 criteria for requiring an environmental inspection,
19 those inspections would have been done by the
20 Department of Health and Mental Hygiene.

21 PUBLIC ADVOCATE JAMES: Deputy Mayor,
22 earlier you mentioned that Local Law 1 goes to the
23 apartment; let me just correct you -- and I know the
24 author of Local Law 1 is here, Council Member Perkins.
25 But Local Law 1 requires that you investigate the

1
2 source of the lead poisoning; it also requires that
3 you incur expenses related to the environmental
4 investigation; that you also incur expenses related to
5 the medical treatment, and remediation of that unit.
6 Have all of those... Have we complied with local law
7 with respect to the responsibilities of this
8 administration?

9 DR. HERMINIA PALACIO: So the issues that
10 I was describing to you right now were really health
11 and safety code, so we are following health and safety
12 code in terms of going in and doing the appropriate
13 environmental inspections for children with elevated
14 blood lead level.

15 I also just wanted to clarify; you
16 mentioned that children in public housing were at
17 increased risk; the data in New York City is actually
18 that there are lower rates of lead hazards identified
19 through Department of Health and Mental Hygiene
20 inspections of children with elevated blood levels
21 than the proportion in private housing. So in this
22 instance, actually children who live in public housing
23 in New York City have a lower risk of being exposed to
24 lead paint hazards than in some many other older
25 stocks of housing here in New York City, and I would

1
2 just have to say that our administration's position is
3 never that poor children, vulnerable children are less
4 valuable; we test children across the city for
5 elevated blood lead levels. The Department of Health
6 goes in and investigates apartments regardless of
7 whether the child with an elevated lead level is in a
8 penthouse, or if that child is in NYCHA, or if that
9 child is in a brownstone.

10 PUBLIC ADVOCATE JAMES: So Deputy Mayor,
11 I respect that, but when NYCHA lead inspections come
12 up negative and Department of Health and Mental
13 Hygiene inspections turn up lead, NYCHA regularly
14 challenges your findings.

15 DR. HERMINIA PALACIO: So as you've heard
16 from the Deputy Commissioner, any landlord has the
17 ability to ask for additional testing. When the XRF
18 technology may be picking up metal, any landlord has
19 the ability to say please do this test through a
20 certified lab...

21 PUBLIC ADVOCATE JAMES: So when there is
22 a conflict between NYCHA and DOH, there's a third
23 party which resolves the conflict?

24 DR. HERMINIA PALACIO: There is a third-
25 party EPA-certified lab which tests the lead paint

1
2 chip very directly, which is different from the XRF
3 tool that is used within the apartment and that is...
4 [crosstalk]

5 PUBLIC ADVOCATE JAMES: It just seems...

6 DR. HERMINIA PALACIO: that test result
7 is the final test result that determines a DOHMH
8 decision; it's not a conflict between NYCHA and DOHMH.
9 That third-party test is a more detailed test that
10 really can give a level of information about the lead
11 levels in that paint that's different than what we can
12 do in the apartment.

13 PUBLIC ADVOCATE JAMES: So let me as you
14 this, so my point is, as opposed to wasting additional
15 resources, why can't you just resolve the difference
16 between your two findings and reduce the cost to
17 taxpayers?

18 DR. HERMINIA PALACIO: So as I said, any
19 landlord has the ability to say, I believe that the
20 test that you got on your initial inspection didn't
21 reflect lead and paint; it actually reflected the
22 metal that you were picking up because it was a
23 painted radiator or it was a painted door knob, and
24 therefore I would like a more definitive test of the
25 paint chip itself... [interpose]

1 PUBLIC ADVOCATE JAMES: And let me..

2 DR. HERMINIA PALACIO: that is standard
3 procedure available to any landlord.

4 PUBLIC ADVOCATE JAMES: Let me move on.

5 So the U.S. Attorney's Office for the
6 Southern District was investigating violations of the
7 Federal False Claims Act; I think in the opening the
8 Chair mentioned that the U.S. Attorney's Office for
9 the Southern District was investigating NYCHA's
10 general operations; that's not true; they were
11 investigating violations of the Federal False Claims
12 Act relating to lead certification in October 2015,
13 and what's so outrageous about this is that they were
14 not only investigating NYCHA, but two other agencies
15 -- Department of Health as well as... I'll get that
16 agency in one second... but it was a third agency that
17 was involved -- and yet inspectors did not resume
18 testing until eight months later. And Chair, you
19 stated that you did not learn that NYCHA was out of
20 compliance until ten months later, you did not inform
21 residents of the failure for a year-and-a-half, and
22 you did not take any disciplinary action or make any
23 operational changes for more than two years and how do
24 you explain these extraordinary delays after receiving
25

1
2 what should have been a clear call for immediate
3 action? The third agency is DHS.

4 SHOLA OLATOYE: So if I could also
5 respond to your first question, Madam Public Advocate.
6 One is; while I'm not familiar with Luz's case in Red
7 Hook, I will say that you know as a parent, I
8 empathize with any family that's struggling with
9 health challenges for their children and for residents
10 who are watching and New Yorkers in general; for NYCHA
11 residents specifically, if they have a child under the
12 age of 6 and they are concerned about the conditions
13 of the potential lead hazard in their apartment, they
14 can contact our Customer Contact Center; they can go
15 to their management office, and we will respond in
16 kind. And secondly, obviously the Deputy Mayor has
17 spoken to the broader issues with regard to the
18 public.

19 You also asked, so what do we do and..
20 and... [interpose]

21 PUBLIC ADVOCATE JAMES: I specifically
22 wanna know -- the U.S. Attorney's Office for the
23 Southern District was investigating and they sent
24 investigation with respect to a False Claims Act
25 relating to lead certification in October... [interpose]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SHOLA OLATOYE: So actually...

PUBLIC ADVOCATE JAMES: to NYCHA, to DHS...

SHOLA OLATOYE: Yeah.

PUBLIC ADVOCATE JAMES: and to DOH, and
that was in October of 2015... [crosstalk]

SHOLA OLATOYE: So actually...

PUBLIC ADVOCATE JAMES: it was not a
general...

SHOLA OLATOYE: it actually... the CID, the
Investigative Demand, was actually quite broad and it
did not specify False Claims Act and it was very
broad; it was an expansive request for information
about nearly every facet of the agency's operations of
which lead was one item; that was what we received at
the Authority on November 4, 2015; that is what it
specified.

But to answer the other question you
asked, which is: what can we do; how do we go forward?
And actually, I wanna go back to Luz and Red Hook.
Her apartment, her home is one of the approximately
8,900 units that we have inspected this year; we are
nearly 94-95% completed; the work to abate whatever
necessary conditions were found will also commence
soon as well, and if there is anything specific again,

1
2 she should visit her management office and they are on
3 a schedule for any work orders that would have been
4 generated by those inspections.

5 So then the other question... [interpose]

6 PUBLIC ADVOCATE JAMES: Let me just
7 interrupt you. So the investigation by the Southern
8 District, it's my understanding it specifically -- and
9 it's the one that is public -- specified that it was a
10 False Claims Act investigation, and that was the one
11 that was forwarded to the Department of Health, and
12 that was, again, in October of 2015; it specifically
13 said that it was a False Claims Act; it went directly
14 to DOH. But let me go to the Deputy Commissioner of
15 Department of Health. Do you recall receiving a
16 request by the Southern District in October of 2015...
17 [crosstalk]

18 DR. HERMINIA PALACIO: So that...

19 PUBLIC ADVOCATE JAMES: asking
20 information under the False Claims Act specifically
21 related to lead paint?

22 DR. HERMINIA PALACIO: No, Madam Public
23 Advocate, November 2015 predated my joining the
24 Administration, so if I may, can I have the general
25 counsel for DOHMH provide information?

1
2 CHAIRPERSON TORRES: Can you raise your
3 right hand? Do you affirm to tell the truth, the
4 whole truth and nothing but the truth in your
5 testimony before today's committee and respond to
6 council members' questions, as well as questions from
7 the Public Advocate?

8 THOMAS MERRILL: I do.

9 CHAIRPERSON TORRES: Thank you.

10 THOMAS MERRILL: Good morning; I'm Thomas
11 Merrill... [crosstalk]

12 PUBLIC ADVOCATE JAMES: Good morning; how
13 are you? Did you receive a demand letter from the
14 Southern District in November of 2015?

15 THOMAS MERRILL: November 9, 2015 I
16 received by email a CID, Civil Investigative Demand,
17 request from the U.S. Attorney.

18 PUBLIC ADVOCATE JAMES: Was it covered
19 under the False Claims Act?

20 THOMAS MERRILL: It was... I believe it
21 talked about false claims; it was directed at... it was
22 investigating housing conditions and statements that
23 possibly may have been made, very broadly, about NYCHA
24 and DHS in the context of federal money they received,
25 yes.

1
2 PUBLIC ADVOCATE JAMES: Okay. This was
3 in November of 2015?

4 THOMAS MERRILL: Correct, November 9th.

5 PUBLIC ADVOCATE JAMES: Okay. And Madam
6 Chair, did you receive a similar demand in November of
7 2015?

8 SHOLA OLATOYE: November 4th, yes.

9 PUBLIC ADVOCATE JAMES: November. And it
10 was under the False Claims Act, specifically asking
11 questions with respect to lead in... [interpose]

12 PUBLIC ADVOCATE JAMES: Again, and I will
13 check with my counsel; I believe it was a very general
14 request for information regarding decent, safe, and
15 sanitary conditions at the Housing Authority.

16 PUBLIC ADVOCATE JAMES: If you would be
17 so kind, if you could forward to my office a copy of
18 that demand letter.

19 SHOLA OLATOYE: 'Kay, I believe CIDs are
20 actually not public...

21 PUBLIC ADVOCATE JAMES: It's my
22 understanding that they are public.

23 SHOLA OLATOYE: Okay, well I believe the
24 other issue that actually made this issue public -- I
25 was here -- was there was a subpoena in March of 2016

1
2 that revealed that the CID had been received, and that
3 document was publicly filed, which is a public
4 document, so you are correct.

5 PUBLIC ADVOCATE JAMES: But I guess my
6 point in all of this is that if DOH received one in
7 2015, a demand for information, you received one as
8 well; at that point in time, in 2016, November of
9 2016, why didn't you go into action then?

10 SHOLA OLATOYE: November 2015, and again,
11 it was a very broad request for information about
12 every single aspect of our agency's operations, of
13 which lead was one item mentioned, and we were a year,
14 almost a year, in the midst of implementing our plan;
15 we were focused on restarting bi-annual inspections;
16 we were working to drive down maintenance times, etc.;
17 there was a lot of work underway; there was nothing,
18 at that point, that called out that this was an issue
19 for attention at that particular moment, for me..

20 [crosstalk]

21 PUBLIC ADVOCATE JAMES: So if I could
22 have that demand letter; that would be greatly
23 appreciated, and when DOH... [crosstalk]

24

25

CHAIRPERSON TORRES: Madam Public

Advocate, we'll have a second round, so if you could just...

PUBLIC ADVOCATE JAMES: Okay; just one...

the last question is: was there any coordination with DOH and NYCHA in response to that demand letter from the Southern District?

THOMAS MERRILL: Not by me. I can tell you this; that the demand was actually very broad; it was for not just... it was not clear what exactly what being looked into; there were requests for records that related to mold, to pests; to lead. So when we got the demand, as I do with any sort of demand like that we get, we send it to the Law Department to coordinate who is going to negotiate with the U.S. Attorney on timing and breadth of the response, 'cause again, it was very broad. Also, then internally we started to look to collect the documents -- there were a lot of documents that had to be collected and...
[interpose]

PUBLIC ADVOCATE JAMES: So I thank you for that. My last question is: given the fact that there were all of these agencies who received a demand

1
2 letter from the Southern District, did anyone inform
3 the Mayor?

4 SHOLA OLATOYE: I can't speak for corp.
5 counsel, but there... and we absolutely did inform --
6 which is standard practice, because as large agencies,
7 there are a lot of tort litigations that we receive;
8 in our standard communication with the New York City
9 corp. counsel we did make the corp. counsel aware that
10 we received the CID; I can't speak to when that
11 information was shared to the Mayor.

12 PUBLIC ADVOCATE JAMES: Thank you. Thank
13 you, Mr. Chair.

14 CHAIRPERSON TORRES: Thank you, Madam
15 Public Advocate. The Majority Leader, Jimmy Van
16 Bramer.

17 COUNCIL MEMBER VAN BRAMER: Thank you
18 very much, Mr. Chair. Madam Chair, in our work
19 together at Queensbridge, Ravenswood and the Woodside
20 Houses together, I've always been impressed with your
21 intelligence and integrity, which is why I want to
22 talk a little bit about the October 2016 signing of
23 the certificate of compliance, even though while I
24 understand your testimony that you believed that the
25 previous disclosures were sufficient, in some ways has

1 led to a lot of what's happening and the consequences
2 are clear, but I wanted to get from you: what were the
3 possible consequences of you filling out that document
4 differently; if you had not signed the Certificate of
5 Compliance because you knew that you weren't, what
6 would have been the consequences to the agency?
7

8 SHOLA OLATOYE: Thank you for your
9 question, Majority Leader. As I've said, this
10 certificate is a two-page document that is annually
11 submitted to our regulator. I can't speak to what
12 would have happened, in terms of trying to prove a
13 double negative, but I would imagine someone would
14 have asked where this important document was; I would
15 imagine that the agency's operating and capital funds
16 would have been delayed, because that is what allows
17 those resources to flow. But again, having just
18 disclosed the compliance gaps to the regulator, and at
19 no point did that regulator indicate that we needed to
20 proceed any differently with regard to this particular
21 item; we believed the disclosures and the associated
22 plan to get the agency into compliance was sufficient.

23 COUNCIL MEMBER VAN BRAMER: So let me
24 just follow up because -- did you in fact then sign it
25 because not signing it would have prevented you or

1
2 possibly prevented NYCHA from getting significant
3 funding and was that part of your thought process,
4 'cause I think a lot of folks who know you are trying
5 to figure out the thought process here and why you
6 would sign the document. I understand what you said,
7 but I'm also trying to drill down a little bit deeper
8 and see, you know, was this a conscious decision where
9 you thought, you know, I feel like I've done what I
10 needed to do to let folks know where we're at, but I'm
11 still gonna go ahead and sign this document because
12 not signing it would mean far worse consequences for
13 the agency that I represent; was that what you were
14 thinking?

15 SHOLA OLATOYE: Thank you, but you know,
16 what I was most focused on was making sure that the
17 disclosures occurred; that the remedial plan that we
18 had proposed was happening; that was my thought
19 process; it was... and I have said signing it was a
20 mistake, but it was a forward-looking -- in my mind,
21 it was a forward-looking action; we will get... and in
22 fact, the certificate, the last one says, you know,
23 will be in compliance with all federal law, so it was
24 a forward-looking attempt to the agency will be moving
25 into compliance; i.e., here is a plan that we

1
2 presented to our regulator that will move the agency
3 into compliance; that was my thought process, and we
4 were focused on getting the work done and executing on
5 the plan that was the subject of our monthly
6 monitoring meetings with our regulator.

7 COUNCIL MEMBER VAN BRAMER: And I know
8 the Chair asked this question earlier, but I want to
9 repeat it because I think it's very important and I
10 was certainly thinking it as well. No one demanded
11 that you sign this form at City Hall or otherwise,
12 right; no one told you, Madam Chair, I've heard what
13 you have to say about where we're at, but you need to
14 sign this form right now?

15 SHOLA OLATOYE: No. And neither did
16 anyone say that I shouldn't sign the form because of
17 the disclosures that we had just made. So you know I
18 think, again, there was never any intent to mislead or
19 deceive the agency in what had just been disclosed
20 about the gaps in compliance that we knew at that
21 moment, and more importantly, we were focused on how
22 do we ensure the health and safety of our residents;
23 how do we ensure that can this plan actually be done
24 in a timely manner.

25

1
2 COUNCIL MEMBER VAN BRAMER: So in the
3 short time that I have, one final question, which is
4 about transparency about this moment, 'cause it seems
5 to me that part of what brings us here today was in
6 fact the inability or the lack of desire to bring this
7 information out publicly before it became public,
8 right? And so if in fact you signed the document
9 [bell] believing that you were in the right in some
10 way, would it not have been a better decision to talk
11 about this in October of 2016 and let the world know
12 where you were at to then not seem like you were
13 trying to hide something when finally it came out?

14 SHOLA OLATOYE: So, as I said earlier,
15 unfortunately hindsight is not the master that
16 executives have; signing the form was a mistake, one;
17 two, our communications could have and should have
18 been more precise. I think... you know one of the
19 things that I, and any executive balances,
20 particularly one that is going through an ongoing
21 federal investigation, is how much information can be
22 shared, given the active investigation, one; two, I
23 was encouraged by the public health data that told us
24 the state of lead-based poisoning in New York City, or
25 the lack thereof, and we were executing on a remedial

1
2 action plan to move the agency into compliance. I
3 regret that we didn't share information more and
4 sooner, but we will continue to improve our
5 communication efforts and that's something that I've
6 been committed to as part of this agency; there's
7 always room for improvement and clearly we need to do
8 more here.

9 COUNCIL MEMBER VAN BRAMER: I'll have
10 more in the second round, Mr. Chair.

11 [clapping] [background comments]

12 CHAIRPERSON TORRES: I'm sorry; you're
13 out of order, sir. We'll have... [background comments]
14 sir, you're out of order. [background comments]
15 You're out of order. [background comments] Okay.
16 [background comments] Council Member Richards has the
17 next question.

18 [background comments]

19 COUNCIL MEMBER VAN BRAMER: Oh please.

20 CHAIRPERSON TORRES: So anyone who
21 interrupts this hearing will be removed from chambers,
22 so okay. Yeah. You'll... You... Consider... Consider
23 yourself removed. Thank you. Council Member
24 Richards.

25

1
2 COUNCIL MEMBER RICHARDS: Thank you,
3 Chair, for holding this hearing and Madam Chairwoman,
4 I wanna thank you for the work we've certainly done
5 together. I must admit that my faith has been shaken
6 a little bit after hearing your testimony today. We
7 have a whole lot more work to do and when we talk
8 about public housing residents, some who face many
9 disparities -- in education, economics, housing, and
10 now compounding health issues -- you know we have a
11 whole lot more work in the city to do to make sure
12 that individuals in our city, especially the most
13 vulnerable, are being taken care of.

14 I'll start with my first question, and
15 that question is: what can you tell this City Council
16 and the 600,000 public housing residents to assure us
17 that this will not become New York City's Flint,
18 Michigan moment?

19 SHOLA OLATOYE: Well thank you for your
20 question, Councilman. I mean one, and I [background
21 comments] think I will let Deputy Mayor speak to the
22 public health aspect of this and then I'll talk more
23 about the agency's actions going forward.

24 DR. HERMINIA PALACIO: So Councilman, I
25 appreciate your question and I want to address it very

1
2 directly, because what happened in Flint was a public
3 health crisis...

4 COUNCIL MEMBER RICHARDS: And this is
5 too.

6 DR. HERMINIA PALACIO: This is a very
7 important public health issue; I think it is
8 absolutely critically important that we don't address
9 a public health issue that happened when public health
10 here has been watching the store. Public health here
11 has not stopped doing any investigations. Public
12 health here continues to follow every child with an
13 elevated blood lead level until those levels drop
14 accordingly. Public health here is the leader in
15 requiring blood testing of children, identifying
16 elevated blood lead levels in children, and doing very
17 comprehensive investigations. Public health here
18 works with parents; works with providers to ensure
19 that we have good analysis of the risk of our
20 children, that we are doing everything we can to
21 protect our children; the City is a leader, evidenced
22 by nothing short of having banned lead paint fully 18
23 years before the Federal government did. So I just
24 wanted to set that as the context in which we're
25 having a very important discussion; I'm not minimizing

1
2 this discussion, this is a very important discussion,
3 but it's important to understand the context in which
4 we're having that discussion.

5 COUNCIL MEMBER RICHARDS: And I certainly
6 respect your answer, but for anyone living in an
7 apartment right now that has lead, they may not
8 absolutely feel that way, so we have a lot of work to
9 do still.

10 I wanted to know, so I've heard a lot
11 about the Mayor is going to do some testing; I wanna
12 know what resources are being offered to children and
13 families that have been affected by this. So it's one
14 thing to be tested, but what road map is being put in
15 place to ensure -- in the long-term, because we know
16 this can have long-term affects -- we're talking about
17 children, but also for adults, so what services will
18 be offered; do we anticipate class action lawsuits
19 here anywhere? Can you speak to that?

20 DR. HERMINIA PALACIO: So I cannot speak
21 to the litigation or suspicion of litigation, but what
22 I can say is, for the children, as we said, there were
23 approximately 2,300 apartments where lead hazards were
24 identified and where the repainting and that work was
25 done by employees who may or may not have had the

1
2 appropriate certification to do that. So out of an
3 abundance of caution, we the City are in fact offering
4 parents in those 2,300 apartments with children under
5 6 free testing at Health and Hospitals; we'll be
6 providing direct resources to inform those parents how
7 to address... [crosstalk]

8 COUNCIL MEMBER RICHARDS: And how long
9 will those resources end [sic]; will it follow them
10 for 18 year... up **[inaudible]** 18 years?

11 DR. HERMINIA PALACIO: I'm going to... to
12 complete your question... uhm right. Well to complete
13 your question, I actually want you to hear from the
14 Deputy Commissioner about how robust the follow-up
15 services are for any child; not just the children that
16 we're gonna be offering testing now, but for any child
17 with elevated blood lead levels. This is a very
18 important program that we already have here in New
19 York City.

20 CORINNE SCHIFF: Thank you. So when a
21 child enters our program because of an elevated blood
22 lead level, as you hear, it doesn't matter to us where
23 that child lives; we work very closely with that
24 family, and as needed, with the provider and we do
25 ongoing monitoring until we are sure that the blood

1
2 lead levels have fallen, and as part of that case
3 management we're also referring to necessary services
4 -- every child is different and so that service is
5 tailored to the needs of that child and that family.

6 SHOLA OLATOYE: And if I could respond to
7 your initial inquiry and the subsequent one, you know
8 so [bell] how do we move forward: 1) is by actually
9 getting and completing inspections in the apartments
10 with children under the age of 6. The health of our
11 residents is our primary concern here and we need to
12 do that work to ensure we are both identifying and
13 eliminating any potential hazard.. [interpose]

14 COUNCIL MEMBER RICHARDS: Uh...

15 SHOLA OLATOYE: The... the second is an
16 increased transparency about the potential hazard,
17 whether that be through partnership with the federal
18 monitor; 2) ongoing communications through a soon to
19 be published interactive tool where residents, public
20 officials, etc. can look and find their development to
21 understand sort of the history, context of potential
22 lead paint or not; and 3) it is really important for
23 the agency, which is standing up a compliance
24 department and really centralizing what has been a
25 decentralized and shared function and making it

1
2 centralized to both provide visibility for me so that
3 we can ensure the voracity of our statements going
4 forward.

5 COUNCIL MEMBER RICHARDS: Okay, last
6 question. I wanted to know; have we found particular
7 places where these cases are concentrated at, and then
8 lastly, you know one of your policies has been that if
9 NYCHA residents aren't home that you're gonna come
10 into the unit anyway and break their locks and I
11 wanted to know what's the protocol for replacing those
12 locks if NYCHA does have to come in to do the work and
13 residents aren't available and what that communication
14 looks like between residents and your agency, and I'll
15 just put on the record that although I understand you
16 are going to have a monitor compliance person within
17 NYCHA that I... Mr. Chairman, I certainly support an
18 independent monitor. And so that's my last two
19 questions. Are there specific locations where these
20 cases are concentrated at; I also wanna know what the
21 breakdown is in the boroughs or within our districts
22 -- you don't have to give that information now -- and
23 what is the protocol in terms of breaking locks and
24 replacing them?

25

1
2 SHOLA OLATOYE: So in terms of the -- as
3 was stated earlier -- from 2010 to 2016 there have
4 been 21 apartments that we have received violations
5 for via DOHMH and have abated those; they do not
6 represent a concentration, based on the knowledge that
7 we have. I will defer to DOHMH if there are other
8 patterns that their data speaks to.

9 The second piece of your previous
10 question was about what resources are we offering to
11 not only children, which DOHMH addressed, but also to
12 employees; we will offer testing for any of our
13 employees who wish that to be had and we'll have a
14 direct line for them to receive that at our cost.

15 And then you mentioned the tenant not at
16 home policy, which we actually updated earlier this
17 year to not only reflect the urgency around annual
18 lead inspections, but broader health and housing
19 issues like mold, like leaks; this has been one of..
20 and frankly, it's something that all landlords have
21 the right to do and it is actually within the lease
22 and we hadn't been enforcing it.

23 So specific to the policy with regard to
24 annual Local Law 1 inspections, there are a couple of
25 things that we've put in place. There are three

1 notices that go to the resident; the first is
2 approximately a two-week notice with a date; if the
3 resident has any issue with that date, he or she may
4 go to the management office and request a
5 rescheduling, so that's a two-week notice. Then there
6 is a five-day notice that's put on the door as a
7 reminder. Then there is a 48-hour robocall, which is
8 a new policy that we've put in place for a number of
9 different issues throughout the development, and if
10 the resident is not there, then we do proceed to go
11 and take the lock and the policy is very clear --
12 there is a note that they should go to either, during
13 office hours, the management office for the new key or
14 to the local police precinct to pick up **[inaudible]**...
15 [crosstalk]

17 COUNCIL MEMBER RICHARDS: And you replace
18 the lock; that's my big question [sic]?

19 SHOLA OLATOYE: That's right.

20 COUNCIL MEMBER RICHARDS: Okay.

21 SHOLA OLATOYE: We don't replace their
22 specific lock; some residents have their own locks on
23 our doors, but we replace the NYCHA locks.

24 So again, the urgency for us is to ensure
25 the health of our residents and to be able to

1
2 communicate that urgency to residents so that we can
3 get into these homes and identify any potential
4 hazards and correct them accordingly. And..

5 COUNCIL MEMBER RICHARDS: Thank you.

6 SHOLA OLATOYE: And if I may, just the
7 last piece is; of the approximately 8,900 or so
8 inspections that are underway -- we have about 200
9 that are left for this calendar year -- less than 2%
10 of those have required us to actually enter the
11 apartment without the resident being there. So it's
12 been a very small percentage; our residents have been
13 incredibly cooperative in being home and letting us
14 get into the apartments and do the visual inspections,
15 and we will need that as we come back and do the
16 actual remediation.

17 COUNCIL MEMBER RICHARDS: Thank you. And
18 I hope after work hours are also being offered and
19 perhaps weekend hours too, which you know, NYCHA
20 residents do work too, so it should be something we
21 consider as well.

22 CHAIRPERSON TORRES: Before I proceed to
23 the next question, I have a quick question for DOH.
24 If you conduct an initial test that detects lead paint

25

1
2 in a unit, do you immediately inform the household or
3 do you only inform the Housing Authority?

4 CORINNE SCHIFF: We inform both, the
5 household and the Housing Authority,

6 CHAIRPERSON TORRES: Okay. So even if
7 the results of the initial... so you inform the
8 household not only about the result of the third-party
9 verification but also the initial test as well?

10 CORINNE SCHIFF: At the household, the
11 family is aware of all of the steps, so we inform the
12 household and the property owner of our findings and
13 then if those..

14 CHAIRPERSON TORRES: Okay.

15 CORINNE SCHIFF: if the order changes
16 following the process that described before of lab
17 results, if that changes; we inform the property owner
18 of our determination and we inform the family as well.

19 CHAIRPERSON TORRES: Do you offer testing
20 to children within the unit or?

21 CORINNE SCHIFF: Blood testing; is that
22 what you mean...? [crosstalk]

23 CHAIRPERSON TORRES: Yes.

24 CORINNE SCHIFF: Well the children come
25 to us because they have had blood lead testing and if

1
2 those tests are elevated; then we're working with the
3 family and also with a provider to make sure that
4 follow-up testing is ongoing.

5 CHAIRPERSON TORRES: No, but if your
6 tests indicate that there is in fact lead in this
7 apartment, do you proactively then -- in response to
8 those results, do you test the children within the
9 apartment, the lead.. hazardous levels of lead?

10 DR. HERMINIA PALACIO: So I think I can
11 answer sort of very globally. So the reason we're in
12 the apartment in the first place is at least one child
13 and then every case is individual, so depending on
14 other age of children, what the circumstances are;
15 what the interview reveals; other risks, there may be
16 other children that are recommended. But we are
17 there, DOHMH conducts investigation of the apartment
18 in the first place through the identification of a
19 child with elevated blood lead, so that family is
20 already being involved in the discussions around the
21 health risk, the health monitoring, the laboratory
22 tests that need to follow up, and any other
23 identification of risk.

24 CHAIRPERSON TORRES: Okay, so DOH, it
25 begins with a child and then you inspect the

1
2 apartment... [background comment] but there is never a
3 scenario in which you're proactively inspecting
4 apartments for lead paint in the absence of a case?

5 CORINNE SCHIFF: Right. So the citywide
6 system has different components and our component is
7 an intervention where there has been a child who has
8 already had a blood test that has revealed an elevated
9 blood lead level. That's right.

10 CHAIRPERSON TORRES: But it sounds like
11 the City has no proactive system for inspecting units...
12 [crosstalk]

13 DR. HERMINIA PALACIO: So I think...

14 CHAIRPERSON TORRES: that might have lead
15 paint?

16 DR. HERMINIA PALACIO: That's Local
17 Law 1, so the City absolutely is doing primary
18 prevention on a variety of fronts: one, as I said,
19 again, with 1960, which eliminated lead paint; the
20 other is Local Law 1 which requires the inspection of
21 units that were built before a certain time -- 1960,
22 generally speaking -- that have a child living in it...
23 in the apartment under 6... [crosstalk]

24

25

1
2 CHAIRPERSON TORRES: But Local Law 1
3 requires the owner to conduct the inspection, right...
4 [interpose]

5 DR. HERMINIA PALACIO: That's correct.

6 CHAIRPERSON TORRES: there's no proactive
7 third-party inspection of units that have lead paint
8 unless there's a child that has been shown to have
9 lead poisoning or hazardous level of lead, and is that
10 a fair characterization of the City's approach to lead
11 inspections?

12 DR. HERMINIA PALACIO: I think it is a
13 very... the owner is required to secure that third-party
14 testing and to provide the tenant with those results
15 and to do the appropriate remediation; that is the
16 approach that the City Council, in writing Local
17 Law 1, has taken to ensure that these inspections are
18 carried out throughout the city for apartments that
19 are at risk.

20 CHAIRPERSON TORRES: Right. And do you
21 ensure that those third-party inspections are
22 certified or licensed or?

23 DR. HERMINIA PALACIO: So DOHMH is not
24 the enforcer of Local Law 1; we're not the regulatory
25 agency... [interpose]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRPERSON TORRES: Okay.

DR. HERMINIA PALACIO: for Local Law 1 inspections.

CHAIRPERSON TORRES: Okay. Do you know... yeah... [interpose]

SHOLA OLATOYE: But so when the -- the verification process, which I think is what we're talking about...

CHAIRPERSON TORRES: Yes.

SHOLA OLATOYE: that goes back and forth -- the verification process has to go to an EPA-certified; DOHMH recognized vendor to perform that work and as the Deputy Mayor indicated and the Deputy Commissioner, they are the final arbiter of the results of that test.

CHAIRPERSON TORRES: So you are the regulatory; it has to be...

DR. HERMINIA PALACIO: So...

CHAIRPERSON TORRES: certified by DOH, right, or recognized by DOH... [crosstalk]

DR. HERMINIA PALACIO: So... Okay, so I think there are multiple... intentionally, there are actually multiple pieces that are layered in on top of each other to make sure that we cast as broad a net

1
2 and as tight a net as possible. So on the one is,
3 inspections through Local Law 1 that are targeted at
4 certain housing stock built before lead paint was
5 banned where children under 6 years old are occupying.
6 On the other side there is a state law that requires
7 physicians to test children for lead [inaudible]...
8 [crosstalk]

9 CHAIRPERSON TORRES: I wanna focus on the
10 first one, if I can. How do you ensure that I as an
11 owner am actually arranging for an actual professional
12 to conduct those third-party inspections rather than
13 my friend, who... what's the quality control in those
14 third-party inspections?

15 DR. HERMINIA PALACIO: So I believe that
16 that is an HPD responsibility, so I don't... for DOH...
17 our certifications, we require... we do our own
18 certifications. DOHMH, when there is a child, does
19 its own inspections; when we are doing an inspection
20 of an apartment based on our lab results that we have
21 a child with elevated blood lead level. So there is a
22 whole different array of inspections that are very
23 different from the array of inspections that are
24 happening through Local Law 1.

25 CHAIRPERSON TORRES: Okay.

1
2 DR. HERMINIA PALACIO: We can get back to
3 you [background comments] on the enforcement on Local
4 Law 1... [crosstalk]

5 CHAIRPERSON TORRES: Yeah, if we can get...
6 and specifically, how do we ensure that the third-
7 party inspectors are actually certified and qualified
8 to do so? Council Member Gibson.

9 COUNCIL MEMBER GIBSON: Thank you very
10 much, Chair Torres; to all of my colleagues who are
11 here. Good afternoon, Deputy Mayor and Chair, thank
12 you for being here. I'm sitting here and it's really
13 painful to be here and certainly I appreciate all of
14 the work that we've done over the past three years
15 certainly on behalf of all of my residents in
16 Claremont Consolidated, Morris Senior and Highbridge;
17 we've done a lot of work together for the past three
18 years, but I think there is an acknowledgement here
19 from this body and all of my colleagues that clearly
20 the trust and the relationship that we've built so
21 hard for three years has really been compromised by
22 this. It would be one thing if we were just dealing
23 with lead-based paint, but unfortunately, because of
24 the challenges in NYCHA and the challenges that
25 families face every day, it's compounded with heat and

1
2 water and rodents and malfunctioning elevators and
3 poor lighting and scaffolding and gas outages and
4 [clapping, background comments] everything that
5 residents and families go through every single day --
6 you know it, I know it, and all of my colleagues know
7 it. And so we find ourselves in this unfortunate
8 state where you've chronicled a series of events that
9 have happened for two years and what I'm trying to
10 understand is where lead-based paint and lead
11 inspections fall on NYCHA's priority list. Why are we
12 now calling for a compliance unit two years later; a
13 task force of health-based experts two years later
14 when we knew some of the things that were going on?
15 So take out the DOI investigation, the U.S. Attorney's
16 Office and all of the other outside entities that have
17 been looking clearly at NYCHA's operations. When we
18 were first made aware of this, why was there not
19 better outreach and communication with the City
20 Council, who could have been a support system, as we
21 always have been? You cited a number of ongoing work
22 of exterior lighting and cameras and all sorts of
23 things; we are responsible for that, the City Council
24 has been making sure that our developments are taken
25 care of, so we've been a support for you. So what I'm

1
2 trying to understand and wrap my head around is why in
3 this instance the City Council, our citywide council
4 of presidents and all of the leaders that represent
5 the thousands of residents were not engaged more. I
6 think you acknowledged earlier that the communication,
7 certainly to me is unacceptable, and so what we're
8 trying to understand is how we move forward
9 understanding the thousands of children and their
10 parents who are possibly at risk. So what I say to
11 everyone, all of us that sit here with titles, we
12 should go and visit these apartments and see what it's
13 like for a mother or father to live in an apartment
14 that is possibly at risk of lead-based paint; that is
15 a crisis, Deputy Mayor, it's a crisis. This is not
16 Flint, Michigan; I get it, but certainly the fact that
17 we're talking about a large majority of children of
18 color, it is personal and it is a crisis, and so what
19 I'm asking now -- you've outlined some of the work
20 that we're now going to do two years later, we have a
21 compliance director, we have a task force, we have a
22 new RFP that is going to be administered in 2018 to
23 finish inspecting the remainder of the 55,000 units
24 and housing, so what I'm trying to understand, from
25 our perspective, is how we move forward together in a

1
2 more collaborative fashion with the resources we have
3 and how do we, and I say we, because we are partners,
4 we're supposed to be partners, and your decisions and
5 your actions have limited our options, so if this were
6 two years ago, I believe things would have been a
7 little bit different, and unfortunately we don't have
8 those two years back to get, but what we do have is a
9 responsibility, a fundamental responsibility to assure
10 the residents of public housing, that they are going
11 to get the services that they need. So Deputy Mayor,
12 you talked about all of the households potentially
13 impacted today by lead paint being able to get brand
14 new, newly painted apartment; how is that going to
15 happen when hundreds of residents are already waiting
16 for their apartments to be painted today? So my
17 question... my question, because in all that I say,
18 there is a question: what are we doing in terms of
19 capacity and staffing, inspectors, those who are
20 remediating work, those who are painting; what are we
21 going to do in terms of staff? Are we going to get
22 staff from DOHMH: Are we getting staff from [bell]
23 the Deputy Mayor's office? What are we going to do to
24 make sure that we respond in a different way and not

1
2 allow another two years to pass before we take
3 corrective action?

4 DR. HERMINIA PALACIO: So Council Member,
5 I appreciate your passion and your question, and I
6 appreciate the partnership, because our children are
7 critically important -- and I wanna keep going back to
8 as a physician and as a public health practitioner I
9 enter the lens with which I approach this -- it's the
10 health of our children, and over the past two decades
11 lead levels in New York City children have been and
12 continue to drop; that is the primary goal, lead
13 levels in New York City children continue to drop, and
14 we go in, from the health perspective, no matter where
15 a child lives; a child can live in NYCHA, a child can
16 live in a penthouse, a child can live in a private
17 home; we go in with the same sense of urgency, with
18 the same commitment to working with that family with
19 an elevated blood level; we go in with the same
20 compassion to making sure that that family has the
21 resources they need to follow their child, to get
22 their child the correct clinical follow-up, and we go
23 in with the same dedication and that has not changed.
24 Children continue to get their blood lead levels
25 tested by their physicians; we continue to do

1
2 everything we can to work with our communities to make
3 sure that parents and clinicians know to get their
4 children tested; we work with families; we follow
5 those children in a dedicated way, watching lead
6 levels drop. So it's not just a one-off; we don't
7 just get the elevated blood level and go in and say
8 here's what you need to do; we follow, we work with
9 that family; this is a care-coordinated thing. So
10 that's the context. Yes, there's work that needs to
11 be done, but I answer this as Deputy Mayor for Health
12 and Human Services, as a physician; as somebody who's
13 been in public health practice, I answer this from the
14 perspective of that children and that family.

15 SHOLA OLATOYE: Thank you Council Member
16 for your partnership and for your passion, and to
17 answer your question very succinctly in terms of how
18 do we move forward; how do we ensure that we can get
19 this work done, a couple of things have been put in
20 place. One, recognizing that we have a lot of work to
21 do and we need to do this work safely and quickly;
22 we'd already put forward a vendor to conduct the
23 actual inspections and that will continue into 2018.
24 We've also put in place; the board adopted an expanded
25 capacity for additional painting contracts to do the

1
2 actual work and yes, for those families that choose to
3 have a full painted apartment, they will have that
4 done. As I said in my testimony, we estimate that to
5 be approximately 7,000 apartments. Third, we have
6 some amount of EPA-certified trained staff already; we
7 continue to support those men and women in that
8 effort; we will add and expand that to include the
9 approximately 2,700 front-line staff who will, once
10 they are trained and certified, continue to augment
11 the annual inspection protocol. So training, vendors
12 to conduct the inspections, vendors to do the full
13 apartment painting, if that's what's needed, and then
14 training to support our staff to do whatever modest
15 painting is requested and generated by the
16 inspections.

17 COUNCIL MEMBER GIBSON: Okay. Well let
18 me just close and say it sounds great, but now we have
19 to make sure it's actually implemented. What I would
20 also suggest in terms of recommendations -- we talked
21 about a task force -- let's have a taskforce that
22 includes the City Council and the citywide council of
23 presidents who are the leaders of our developments
24 that call us every day with issues that their
25 residents are confronted with; they have not been

1 engaged in this process and they have a right to be.
2 The reason why we're so passionate is because we're
3 talking about public health and the public safety of
4 so many residents. Just because you live in public
5 housing doesn't mean they should expect anything less
6 from you or from us or from anyone in this
7 administration that carries a title. If you take the
8 title out, we're all public servants and humans anyway
9 and we owe it to the residents of this city. So I am
10 certainly urging you to include the City Council as we
11 move forward because we have been in the dark, I mean
12 it seems like everyone knew -- the Mayor's Office,
13 you, HUD, everyone knew about the noncompliance except
14 the very public that had a right to know, and so we
15 have to correct that and that's why you hear so much
16 passion, because we are disappointed. We have done
17 way too much work in the past three years to come to
18 the table and talk about lead-based paint and
19 thousands of children being impacted, when your agency
20 has known for two years; that's not acceptable. And
21 so I appreciate the recommendations that you've put in
22 place, but now we have to make sure it's really put in
23 place so that we can begin to rebuild whatever trust
24 that we think we can do under your leadership.
25

1
2 CHAIRPERSON TORRES: Council Member
3 Salamanca.

4 COUNCIL MEMBER SALAMANCA: Thank you,
5 Mr. Chair. Madam Chair, I would like to go back on a
6 timeline as presented in the DOI report. I want to
7 maximize my time, so we can be very direct with the
8 answers.

9 Is it factual that senior staff were made
10 aware that NYCHA was out of compliance with the City
11 lead laws in 2015?

12 SHOLA OLATOYE: I have come to know that
13 to be true.

14 COUNCIL MEMBER SALAMANCA: Yes, alright.
15 Is it true that you as Chair of the Housing Authority
16 were made aware in 2016 of noncompliance with both
17 city and federal rules as it pertains to lead paint
18 testing?

19 SHOLA OLATOYE: April 2016, Local Law and
20 then in June for the HUD law, yes.

21 COUNCIL MEMBER SALAMANCA: Alright, and
22 it is true. Is it true that despite knowing of this
23 state of noncompliance you signed off on
24 certifications that were submitted to the Federal
25

1
2 government stating that NYCHA was instead in
3 compliance despite you knowing that you were not?

4 SHOLA OLATOYE: As I've said, my
5 disclosures at the time to the regulator were about
6 the existing compliance gaps and I believed that those
7 disclosures were sufficient.

8 COUNCIL MEMBER SALAMANCA: And so you do
9 not think that you committed perjury?

10 SHOLA OLATOYE: I do not believe I
11 committed perjury.

12 COUNCIL MEMBER SALAMANCA: Alright. Now
13 in terms of your two senior staff... I'm sorry, the
14 three staff members, the two that resigned and the one
15 that was demoted, were they asked to resign or were
16 they forced to resign?

17 SHOLA OLATOYE: So perhaps... I'm not gonna
18 talk about personnel matters here... [crosstalk]

19 COUNCIL MEMBER SALAMANCA: Okay, that's
20 fine; I... I understand that. Why then did it take the
21 DOI report to be submitted and put out in public for
22 these two executives to resign and for one of them to
23 be demoted? Or, better yet, why did it take the DOI
24 report to be submitted to the public for you to take
25 actions in your own administration?

1
2 SHOLA OLATOYE: Well as you've noted, and
3 we've shared here this morning, there is actually a
4 fair amount of work underway at the Authority, whether
5 that be the inspections, the training, the painting,
6 etc. There has been, as part of our work over the
7 course of the last four years, a tremendous amount of
8 organizational change and specifically to your...
9 [crosstalk]

10 COUNCIL MEMBER SALAMANCA: I'm sorry, but
11 you knew a year ago... you knew a year ago... [crosstalk]

12 SHOLA OLATOYE: your question...

13 COUNCIL MEMBER SALAMANCA: that they...
14 that they were not giving you accurate information,
15 but you waited until the DOI report was submitted, or
16 until the DOI report came out for you to take actions
17 in your administration. I'm just trying to figure
18 out; why did you not do it immediately when you found
19 out that you were not getting accurate information?

20 SHOLA OLATOYE: Look, one of the things
21 that an executive who runs a large organization has to
22 do is make considered decisions and not act rashly,
23 and that was something that I did here. One, we also
24 had a very aggressive portfolio of work that was
25 underway and I was ensuring that we had the necessary

1
2 vendor capacity and other staff capacity to execute on
3 that work. This organization is more than any one
4 person, myself included; we have dedicated,
5 hardworking men and women who show up every day and
6 think about how to improve the lives of our residents,
7 so my job going forward is to ensure that I have the
8 right people doing their jobs and being held
9 accountable, and that's what we've done in this case.

10 COUNCIL MEMBER SALAMANCA: What do you
11 have to say to parents of children in NYCHA who are
12 not sure if their apartments are safe and have lost
13 trust in NYCHA, you know, as a whole?

14 SHOLA OLATOYE: Well the first thing; if
15 any resident of the New York City Housing Authority
16 with a child under 6 has concerns about their
17 apartment, they should contact the Customer Contact
18 Center or go to their management office and we will
19 respond accordingly. They may already have had an
20 inspection and be on the schedule for additional work
21 and remediation. Two, as the Deputy Mayor and Deputy
22 Commissioner have illustrated, we are making available
23 the ability for children to be tested, if that's a
24 concern, and work with their health provider to do
25 that. And third, for my workers -- and this is

1
2 something that we've communicated -- we will make, for
3 my staff, if they are concerned, we will also offer
4 that as something to ensure their peace of mind.

5 COUNCIL MEMBER SALAMANCA: Why did you
6 wait more than a year before informing families that
7 the lead inspections had not taken place? I'm just
8 trying to get my head.. a grasp around that..

9 [interpose]

10 SHOLA OLATOYE: Understood. Understood.
11 So you know, look, one of the things that I regret is
12 that we didn't communicate more information and
13 sooner. I was trying to balance a very active federal
14 investigation that was underway in all facets of my
15 agency, [bell] while also executing on a remedial
16 action plan. That latter piece of getting into the
17 apartments with urgency and communicating with those
18 families -- there was a very specific letter that went
19 to those families that talked about lead-based paint
20 hazards and our need to get into the apartments;
21 that's what was driving our work, and in hindsight --
22 something that executives don't always enjoy -- we
23 could have communicated in a more precise way. Going
24 forward, we will continue to improve and work on that
25 communication, whether it is through a soon-to-be

1
2 released lead Healthy Homes Tracker so that you and
3 your constituents and our residents can identify and
4 look up the status of their development and their
5 apartment, and again, for the family that you
6 referenced or any family who lives within the Housing
7 Authority, they should contact the Customer Contact
8 Center or visit their management office if there is an
9 immediate concern.

10 COUNCIL MEMBER SALAMANCA: In closing,
11 Mr. Chair -- Madam Chair, you know one of our... I would
12 say something that I pride myself is ensuring that my
13 community trusts me; that I can go to my community, I
14 can tell them the truth; I can tell them something and
15 it's actually the truth. It's difficult, after what
16 has occurred here and what has transpired with the DOI
17 report, where I go and I speak to my NYCHA residents
18 -- I do have the third largest NYCHA portfolio in the
19 City of New York -- and tell them, hey, we're working
20 with NYCHA on getting something done, but the trust
21 factor is gone. My residents have reached out to me;
22 my tenant leaders have reached out to me, and the
23 trust factor has been gone and I too have lost trust
24 in NYCHA and in this administration. Thank you.

25

1
2 CHAIRPERSON TORRES: Thank you, Council
3 Member Salamanca. Council Member Treyger.

4 COUNCIL MEMBER TREYGER: Thank you,
5 Mr. Chairman. I have to say that I find some of the
6 answers or lack of answers here today extremely
7 disappointing, and you know, Deputy Mayor, you claim
8 that lead levels continue to drop in the City of New
9 York, but how do we know if that's true if the City
10 can't get its story straight about lead testing in New
11 York City? [background comment] We will not...
12 [background comment] We will not accept fake news from
13 the White House and we will not accept fake news from
14 our city government either.

15 In the interest of time, I wanna make
16 sure that I get my questions out in one set and then
17 after my time is up, or once it's over, I would like
18 the response from the Administration.

19 In November of 2016, as we've heard, the
20 U.S. Attorney, Southern District demanded documents
21 regarding NYCHA buildings and lead compliance with
22 regard to DHS sites, DOHMH and NYCHA buildings.
23 Knowing what you know now, what prompted this request?
24 Because we're learning that there were false claims
25 filed to federal housing officials with regards to a

1
2 lack of compliance regarding environmental and safety
3 regulations.

4 We also learned, in a briefing report,
5 that NYCHA advised DOI in September of 2016 that it
6 self-disclosed noncompliance with lead laws privately
7 to HUD's central office and in a subsequent phone call
8 to HUD. What prompted this self-disclosure and who
9 was at this meeting with HUD? Because, interestingly,
10 in October of 2016, one month after this HUD meeting,
11 NYCHA submitted documents to HUD saying it was
12 compliant with lead-based regulations. So on one hand
13 you're telling HUD we're not compliant, verbally, or
14 on the phone, and then the following month you're
15 telling them in writing you are compliant. Why did
16 you claim compliance in writing after admitting to HUD
17 that you were noncompliant?

18 I also have to say that with regards to
19 the federal investigation prompted in November of
20 2015, it wasn't just NYCHA buildings, which has me now
21 concerned about is there a single standard of testing
22 or conflict of testing with regards to our public
23 schools and shelter sites, because this goes I think
24 beyond just our NYCHA public housing building stock.

1
2 I also want to ask: did HUD have a
3 reaction to this news; did it trigger a HUD IG
4 investigation? We're not hearing the reactions from
5 our HUD partners.

6 I also would like to raise the issue of
7 the discrepancy between DOHMH's XRF testing versus
8 NYCHA's paint chip samples. We heard from the Deputy
9 Mayor that a landlord has a right to contest or
10 challenge findings; Deputy Mayor, with all due
11 respect, NYCHA isn't just any landlord, it is the City
12 government, we are the landlord; we should be the
13 model landlord, protecting our residents and it
14 troubles me that we have conflicting standards. Why
15 did NYCHA feel the need to challenge the City? You
16 know the Mayor; his office is claiming that when the
17 City speaks it speaks with one voice, that's his
18 argument against the City Council with regards to
19 property taxes. Well if DOHMH is saying we have lead
20 in these apartments, how in the world, why in the
21 world is NYCHA contesting that? Aren't we speaking
22 with one voice across the board? We should be
23 accepting these findings and it should be one
24 standard.

25

1
2 I also would like to say that in a recent
3 Reuters report it showed elevated blood lead levels
4 for children in Coney Island, in a study of 155
5 children, more than 10% had elevated results, more
6 than double the levels in Flint, Michigan. What are
7 you doing to help our families, particularly in my
8 district as well in Coney Island?

9 So I tried to get all of those points as
10 succinct as possible and I'd like to hear a response.

11 DR. HERMINIA PALACIO: Well Council
12 Member, I will begin; you addressed a couple of things
13 to me directly.

14 So how do we know that lead levels in New
15 York City are dropping? Well we know because we have
16 a universal requirement for testing of children and
17 all of those blood tests of children in New York City
18 are reviewed by the Department of Health and Mental
19 Hygiene; we have one of the most robust surveillance
20 systems, and these data are produced publicly, and you
21 can review the report issued in September of 2017 for
22 the 2016 data. So we know -- you can map them; you
23 can look at the website; you can see the trends -- we
24 know because we are testing children; [bell] we are

25

1 reviewing lab tests of all of the children; that's how
2 we know.

3
4 You asked about conflicting standards.
5 There is no conflict here; there are two different
6 ways of testing for lead. The first initial test is
7 by aiming an XRF at a variety of different surfaces;
8 some of those are painted surfaces with metal that in
9 fact can give a false positive reading. So in those
10 instances where NYCHA or anyone else says hey, I think
11 that the test may be the metal in the radiator or the
12 door knob, not the paint; they're sent to an EPA-
13 certified lab, which DOHMH has confidence is doing --
14 third-party lab, EPA-certified -- confident that those
15 test results on those paint chips -- it's a deeper
16 dive into the test; it is as if you go to your
17 clinician, you might get a screening test; your
18 clinician might order a more sophisticated diagnostic
19 test to confirm. This is the type of situation that
20 we have here, so there is no daylight [sic]; the
21 Administration is in fact speaking with one voice.
22 Those final test results, if they are sent to a lab,
23 are what DOHMH uses to either uphold or revise or
24 modify a commissioner's order. So there is absolutely
25 one single voice when it comes to these tests. And I

1
2 will let the Deputy Commissioner respond to your
3 question about what we're doing in neighborhoods where
4 we might see areas of elevated lead, and I would say
5 that we follow our surveillance mechanisms really
6 quite closely.

7 CORINNE SCHIFF: Thank you. So there are
8 two ways that we intervene. As I've described before,
9 our program is taking in laboratory-reported blood
10 tests every day, and we're looking at those every day,
11 and that's how we're identifying children with
12 elevated blood lead levels and we're working with
13 those families to identify all possible exposures of
14 lead. We're also looking across the city to find
15 pockets of elevated blood lead levels and then we're
16 doing targeted interventions with those neighborhoods
17 to try to see what might be happening in those
18 neighborhoods. So we have an active surveillance
19 program in addition to a very active family-centered
20 program.

21 COUNCIL MEMBER TREYGER: I would just
22 like to respond. I know that, Chair, my time is up,
23 but Deputy Mayor, with all due respect, I understand
24 that you might have standards with regard to testing,
25 but the City has just admitted that it has not tested

1
2 thousands of apartments, so we don't know the full
3 scope of this and it's premature to say that things
4 are improving when we don't know the extent of this
5 public health crisis in New York City right now.

6 DR. HERMINIA PALACIO: We are testing
7 children; when I say blood lead levels are dropping
8 dramatically, I am talking about children, live human
9 beings...

10 COUNCIL MEMBER TREYGER: Who live in
11 these apartments that have not been tested...

12 [crosstalk]

13 DR. HERMINIA PALACIO: But... But we are
14 testing them regardless of where they live. We are
15 testing all children in... [interpose]

16 COUNCIL MEMBER TREYGER: Correct.

17 DR. HERMINIA PALACIO: New York City, all
18 children...

19 COUNCIL MEMBER TREYGER: Correct.

20 DR. HERMINIA PALACIO: regardless of
21 where they live...

22 COUNCIL MEMBER TREYGER: Correct.

23 DR. HERMINIA PALACIO: so we are
24 reviewing those lab tests every day and those lab
25 tests every day show an 87% decline in the number of

1
2 children with blood lead levels above 5 mcg over the
3 past 10 years.

4 COUNCIL MEMBER TREYGER: Of those tested,
5 but we have not tested... [crosstalk]

6 DR. HERMINIA PALACIO: But we...

7 COUNCIL MEMBER TREYGER: all that we
8 should be testing and that is what this hearing is all
9 about... [crosstalk]

10 DR. HERMINIA PALACIO: We are a national
11 leader in the... you are talking about testing
12 apartments; I am talking about testing children...
13 [crosstalk]

14 COUNCIL MEMBER TREYGER: Deputy Mayor,
15 who lives in the apartments, besides the roaches and
16 the mice and the vermin, people live in apartments;
17 [background comments] they are not being tested..
18 [crosstalk]

19 DR. HERMINIA PALACIO: But the children
20 we are testing are all New York City children is what
21 I'm trying to tell you; it is not... [crosstalk]

22 COUNCIL MEMBER TREYGER: Okay.

23 DR. HERMINIA PALACIO: not driven by
24 local law...

25 COUNCIL MEMBER TREYGER: I...

1 COMMITTEE ON PUBLIC HOUSING 123

2 DR. HERMINIA PALACIO: it's driven by...

3 COUNCIL MEMBER TREYGER: I... I will close
4 by saying...

5 DR. HERMINIA PALACIO: children and
6 parents in their physicians' offices... [crosstalk]

7 COUNCIL MEMBER TREYGER: Deputy Mayor...

8 DR. HERMINIA PALACIO: a much broader
9 array.

10 COUNCIL MEMBER TREYGER: I... I will close
11 by saying I recognize that housing is under federal
12 assault, but we need to be partners in this effort; we
13 should not be adversaries in this effort, and not
14 getting straight answers and taking ownership of this
15 issue is deeply disappointing. I turn my time over to
16 the Chair.

17 CHAIRPERSON TORRES: Thank you. How
18 often do you test children; is it...

19 DR. HERMINIA PALACIO: So New York State
20 law requires that physicians test children at ages 1
21 and 2 and that they test children based on any... any...
22 [interpose]

23 CHAIRPERSON TORRES: Ages 1... Ages...

24 DR. HERMINIA PALACIO: One and 2, and
25 that they test children up to age 6 regularly if they

1
2 have any identified risk factors; these are...

3 [crosstalk]

4 CHAIRPERSON TORRES: So what about
5 children... What about children beyond the age of 6?

6 DR. HERMINIA PALACIO: There are tests
7 that are done in children that... we monitored all lead
8 results of children up to 18; clinicians may decide
9 that they're ordering a blood level test by history
10 that they take.

11 CHAIRPERSON TORRES: But not every child
12 above the age of 6 is tested for lead poisoning?

13 DR. HERMINIA PALACIO: As a matter of
14 routine... no, because the main risk for children is
15 actually the youngest children because... [interpose]

16 CHAIRPERSON TORRES: Right, but even if
17 -- and I get that, but even if I'm an 8-year-old who's
18 exposed to lead, it still can do damage. [background
19 comment]

20 DR. HERMINIA PALACIO: Yes; what we're
21 saying is... [interpose]

22 CHAIRPERSON TORRES: So how do we ensure
23 that children above... like if you're 7 or 8 or 9...
24 [interpose]

25

1
2 DR. HERMINIA PALACIO: So New York State
3 law, it's one of the states, and not every state; it's
4 one of the states that actually has universal testing
5 requirements; there are other states that only do
6 testing of children based on risk. In New York we do
7 all children. It is the youngest children that are at
8 risk for lead poisoning, for a variety of reasons; one
9 is, they can absorb it a little bit easier; two,
10 frankly is that they're the ones who are sticking
11 their hands in their mouths or toys in their mouths or
12 eating lead paint -- so if there is an 8-year-old that
13 for any reason the clinician identifies has a medical
14 condition called pica; might be eating paint; might
15 have some other clinical symptoms that are suggestive
16 of blood poisoning; if that physician orders a lead
17 test, DOHMH will receive that lead test and act
18 accordingly... [crosstalk]

19 CHAIRPERSON TORRES: But one could
20 imagine an 8-year-old child in public housing who
21 might not see a physician, who might have
22 developmental delays, an IEP student; is there a
23 scenario in which that child was never tested for lead
24 poisoning?

1
2 DR. HERMINIA PALACIO: Now we're in
3 hypotheticals; right?

4 CHAIRPERSON TORRES: Yes.

5 DR. HERMINIA PALACIO: So in the
6 scenario, we have various touch points where we're
7 trying to make sure that we get... [crosstalk]

8 CHAIRPERSON TORRES: But if you could
9 address the hypothetical that I'm asking you, Deputy.

10 DR. HERMINIA PALACIO: I'm trying to
11 answer a broad question. You're asking about real
12 policy issues here; I'm trying to give you a very
13 real, honest answer about what we're doing. So we
14 are, for example, matching against Medicaid records,
15 right; New York City... you're supposing that a child
16 who has an IEP and is in school has also never had any
17 kind of contact with a health care provider; those...
18 we... [crosstalk]

19 CHAIRPERSON TORRES: What I'm suggesting
20 is...

21 DR. HERMINIA PALACIO: children are
22 required to get lead test...

23 CHAIRPERSON TORRES: and maybe my
24 assumption is wrong, but I assume there are children
25 who do fall through the cracks.

1
2 DR. HERMINIA PALACIO: And we are doing
3 everything we can to narrow those cracks, we have... so
4 we are doing everything we can to narrow those cracks;
5 we're doing Medicaid billing test; we're working with
6 providers; we working to do parent education; we're
7 working to do campaigns. I don't know if you wanted
8 to add.

9 CORINNE SCHIFF: Sure. So the system is
10 designed to have really multiple redundancies so that
11 we catch children. So as the Deputy Mayor has
12 explained, state law requires physicians to test
13 children at age 1 and at age 2 and to screen them up
14 until age 6 for risk factors, for the reasons that
15 were... [interpose]

16 CHAIRPERSON TORRES: You're not answering
17 my question, I'm sorry... [crosstalk]

18 CORINNE SCHIFF: I know...

19 CHAIRPERSON TORRES: My question is about
20 children above the age of 6.

21 CORINNE SCHIFF: I understand.

22 CHAIRPERSON TORRES: I understand that we
23 have a safety net that captures children under the age
24 of 6; what about children over the age of 6?

25

1
2 CORINNE SCHIFF: So for children over the
3 age of 6 there are a couple of different things. So
4 we work with Medicaid Managed Care companies to ensure
5 that testing during that age of risk has happened;
6 there are other redundancies as well, so for entry
7 into child care, parents fill out a form, it suggests
8 they provide the medical form that asks whether the
9 child has had testing; entry into schools has that
10 same form, and we say to families all the time that
11 when you are concerned about your child, the
12 traditional developmental stage after age 5, children
13 are no longer putting things in their mouth all the
14 time, but children are different and so if a parent
15 has concerns, they should talk to their health care
16 provider, but there are these steps along the way to
17 try to catch... [crosstalk]

18 CHAIRPERSON TORRES: So you can guarantee
19 that every child who is 1 or 2 has gone through
20 testing, right?

21 CORINNE SCHIFF: We cannot guarantee that
22 every... our records... [crosstalk]

23 CHAIRPERSON TORRES: Or most children.
24
25

1
2 CORINNE SCHIFF: Our records show that
3 80% of children in New York City have been tested
4 before they're 3 years old; we are work... [interpose]

5 CHAIRPERSON TORRES: But happened to that
6 20%?

7 CORINNE SCHIFF: That's where some of
8 these other redundancies kick in, and part of our
9 program is to educate providers, to educate families
10 and we work with Medicaid Managed Care companies; we
11 match those data against our birth record data, and
12 we're back in touch with Medicaid Managed Care to say
13 these are providers who need to test children; our
14 child care program works with child care providers to
15 make sure that they are checking those forms upon
16 entry; there is an entry form for school. There are
17 multiple places where... [crosstalk]

18 CHAIRPERSON TORRES: So 20% of children
19 go untested up to the age of 3; what's that number up
20 to the age of 6?

21 DR. HERMINIA PALACIO: So Council Member...

22 CHAIRPERSON TORRES: Do we know the
23 number up to the age of 6?

24 DR. HERMINIA PALACIO: I cannot produce
25 for you the ages, but let me... [crosstalk]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMITTEE ON PUBLIC HOUSING

CHAIRPERSON TORRES: Okay. One more question, if I can; I just wanna... do we track... [crosstalk]

DR. HERMINIA PALACIO: Let...

CHAIRPERSON TORRES: Let me... wait so I can ask my question. Do we track the percentage of children above the age of 6 who have gone through testing? Do we know the percentage of children above the age of 6 who have gone through testing? Is that something that we track as a city?

DR. HERMINIA PALACIO: Generally speaking, we report, as does the nation, on very young children because that is where the public health risks lives [sic]. Now we try to give every opportunity for children to be identified for testing through physicians, through their parents... [crosstalk]

CHAIRPERSON TORRES: But Deputy Mayor, you're not answering my question.

DR. HERMINIA PALACIO: at...

CHAIRPERSON TORRES: I'm asking specifically about tracking of children above the age of 6.

1
2 DR. HERMINIA PALACIO: We track children
3 at the highest risk and the children at the highest
4 risk are those younger than 6.

5 CHAIRPERSON TORRES: And so you're
6 telling me you do not track children above the age of..

7 DR. HERMINIA PALACIO: Any blood level up
8 to a child of 18, we receive those results, but there
9 is no requirement to routinely test children at 10,
10 12; 13 because they are not at risk of.. eating lead
11 paint is the risk [sic]... [crosstalk]

12 CHAIRPERSON TORRES: What about inhaling
13 lead dust; does that present a risk?

14 DR. HERMINIA PALACIO: Most of the risk
15 is actually through ingestion, it's by taking lead
16 dust and eating it.

17 CHAIRPERSON TORRES: Is there a risk from
18 inhalation?

19 DR. HERMINIA PALACIO: Generally
20 speaking, risk from inhalation is usually seen in very
21 high occupational settings, so it's people who are in
22 smelting; who are doing other things... [crosstalk]

23 CHAIRPERSON TORRES: It would seem to me
24 the City should be tracking lead testing among those
25 above the age of 6, even if the risk is lower than

1
2 those among the... below the age of 6. I wanna give
3 Council Member Rodriguez and then Council Member
4 Levine an opportunity to ask questions.

5 COUNCIL MEMBER RODRIGUEZ: First of all,
6 Deputy Mayor and President of NYCHA, this is not about
7 you too; I believe that I know where your heart is;
8 you care for children; you have decades of service;
9 this is about a crisis that is above our control; this
10 is something that you inherit; this is something that
11 I hope, when we go deep to the investigation, everyone
12 responsible for this crisis should pay the consequence
13 and going higher, as high as we have to. I am not in
14 the business to single out any particular individual;
15 I believe that there is a crisis that is affecting
16 hundreds of thousands of working-class children; they
17 don't have brothers who work in top law firms; they
18 don't have a sister who is a CEO or vice president of
19 those hospitals [sic]; they are voiceless.
20 Unfortunately, that's a reality. If we want to
21 imagine another world where we believe that a single
22 child who is poor gets the same support of someone who
23 is the upper-class; that's not where we are today. I
24 believe that we have to go deep to **[inaudible]**. One,
25 I hope that we can agree that the removal of lead

1
2 paint should be done by workers with the experience to
3 remove this toxic material. Is that something that we
4 can agree? And I have limited time; that's why I
5 don't want to be elaborate... [interpose]

6 SHOLA OLATOYE: Yes, we agree.

7 COUNCIL MEMBER RODRIGUEZ: We agree it
8 should be done by workers with experience, with
9 expertise; right?

10 SHOLA OLATOYE: Certified vendors or
11 employees that have been properly trained... [crosstalk]

12 COUNCIL MEMBER RODRIGUEZ: With the best
13 experience, you know workers that they're gonna be
14 removing those toxic materials in an apartment as we
15 are moving in. That's the type of quality work that
16 we like to see. I agree with the Public Advocate, you
17 know, my family has been living in the projects; my
18 grandfather, my mother and father have been living in
19 1738 Lexington Avenue since the beginning of the 90s
20 and now living in the Diamond Houses; Jonah [sic]
21 knows, I've been calling -- elevators are out of
22 service; senior citizens getting stuck in the
23 elevators -- we have 13 brothers and sisters, you know
24 in the Latino family; those nieces of mine, they had
25 children already; they have spent weekends with my

1
2 parents who are protecting those relatives who are
3 visiting those NYCHA residents who are infected with
4 the lead paint in our city. This is beyond you; you
5 will leave one day from your position somebody else
6 will take, but there is a percentage of New Yorkers
7 that they don't have any protection and the first
8 thing that I want to find out is; are we ready to
9 really get the best workers with the best experience
10 to remove those materials? I am concerned that you
11 currently are under an order with a judicious special
12 master to remedy mold in NYCHA; do you honestly have
13 the capacity in-house to tackle this immense task of
14 inspecting, remediating and abating lead and not fault
15 on your court-mandated obligation to remove mold, and
16 will you be hiring third-party outside experts to
17 tackle this big crisis?

18 SHOLA OLATOYE: Thank you for your
19 question. And as I've said in my testimony, we have
20 some 8,000 fewer mold work orders today because of the
21 investment that this Administration, including this
22 Council, has made and us replacing some of our worst
23 roofs. We are working with a special master within
24 the mold area, and working very collaboratively I
25

1
2 might add, to ensure that we are solving for the root
3 cause of those issues... [interpose]

4 COUNCIL MEMBER RODRIGUEZ: Okay.

5 SHOLA OLATOYE: So the second part of
6 your question was capacity, capacity to do the work;
7 that is why we have secured a vendor to do the
8 inspections as well as the associated work generated
9 by those inspections.

10 COUNCIL MEMBER RODRIGUEZ: I would like
11 to end saying that I hope that if we pass a law to
12 mandate that any lead paint removal is done by
13 professionals in the city, it should also include
14 NYCHA. And my last question is: should we have
15 concern about other reports, such as the condition of
16 elevators that [bell] have not been accurate as
17 they've been signed in NYCHA [sic]?

18 SHOLA OLATOYE: Well... Can you clarify
19 your question?

20 COUNCIL MEMBER RODRIGUEZ: This came out
21 of nowhere; no one was expecting that we are getting
22 to this crisis; elevators is a big crisis in NYCHA, I
23 live it every day visiting my mother at Diamond
24 Houses; should we have any concern that whoever is
25

1
2 signing a report about the condition of the elevators,
3 that all reports are accurate?

4 SHOLA OLATOYE: Well look, we have
5 absolutely made investments in improvements in our
6 elevator program in general, we have worked to ensure
7 that with buildings with two elevators or more there's
8 never one elevator down more than the requisite 24
9 hours; that's still not good enough, and we'll be
10 making further enhancements to that program. But this
11 is -- the elevators specifically is an issue..

12 [interpose]

13 COUNCIL MEMBER RODRIGUEZ: But is there
14 any report that NYCHA, that you have to get from any
15 division in NYCHA every year that talk about the
16 condition of the elevators that now you should go
17 back..

18 SHOLA OLATOYE: Yeah.

19 COUNCIL MEMBER RODRIGUEZ: and be sure
20 that those reports are accurate?

21 SHOLA OLATOYE: We are working on that;
22 one. Two; that is why we have set up a compliance
23 department to ensure that all reports are accurate and
24 we can confirm all of the veracity of our statements.

25

COUNCIL MEMBER RODRIGUEZ: [02:35:23] --

Spanish

SHOLA OLATOYE: [02:35:32] -- **Spanish**

COUNCIL MEMBER MENCHACA: Thank you, Council Member Rodriguez. Next we have in queue Council Member Levine, followed by Williams; then Rosenthal.

COUNCIL MEMBER LEVINE: Alright. Thank you, Mr. Acting Chair. I want to follow up on some of the questions that Chair Torres was asking on lead testing, but I just want to open with a thought that, you know the painful, painful history of double standards at NYCHA and the painful history of broken promises at NYCHA, and I say double standards because a scandal like this would never have been allowed to occur in luxury housing; it would never have been allowed to occur to the kids of the families in luxury housing, and we just can't be a city where kids in our housing, in public housing are subjected to this kind of risk; it's just unacceptable. And I say broken promises because the promise of NYCHA, as you well know, is that families can live in decent, and most importantly, safe housing and we have broken that promise, the promise people can live without mold or

1
2 live without leaky pipes or live without rodents in
3 their apartments, we've broken those promises, but
4 none of those have the risk of brain damage to a
5 child, so this is something more and it deals a
6 devastating blow to the trust that's left. So I do
7 wanna follow up on the Chair's questionings about the
8 impact and testing of lead paint.

9 Is there a safe amount of lead paint for
10 a child to ingest?

11 DR. HERMINIA PALACIO: So Mr. Council
12 Member, I will begin with our public health approach.
13 Our public health approach is that lead paint hazards
14 -- that's chipping paint, peeling paint; lead dust --
15 should not exist; that's why New York City banned lead
16 paint in 1960 and it's why children with elevated...
17 [crosstalk]

18 COUNCIL MEMBER LEVINE: And sorry to
19 interrupt, only because I know this and you've
20 testified on this, but I'm asking a narrow question
21 here. Look, there are some substances -- radon, I
22 don't know, carbon monoxide -- that scientists have
23 declared that in low levels are safe; is there a safe
24 level for lead consumption, ingestion?

25

1
2 DR. HERMINIA PALACIO: So in terms of
3 blood lead levels, there hasn't been a safe blood lead
4 level identified. So we understand that over time
5 we're trying to drive blood lead levels down, down,
6 down, down, down... [interpose]

7 COUNCIL MEMBER LEVINE: So a family
8 member then would be right to be scared if their child
9 has even ingested one paint chip, potentially, right;
10 that would be cause for concern...? [crosstalk]

11 DR. HERMINIA PALACIO: So I think the
12 science is not... you know the science is just not clear
13 on that, what our... [crosstalk]

14 COUNCIL MEMBER LEVINE: Okay, well that's
15 cold comfort to the families I think.

16 DR. HERMINIA PALACIO: So but we are... we
17 take this very seriously; we do follow children with
18 elevated blood lead levels; we are notifying families
19 at very low blood lead levels; we are providing them
20 with consultation and guidance; we're following them..
21 [interpose]

22 COUNCIL MEMBER LEVINE: Okay, understood.
23 Understood. I believe there are about -- and you'll
24 know the exact number; you can clarify -- about 8,000

25

1
2 or so kids under 6 in NYCHA apartments; is that... do we
3 have that number?

4 SHOLA OLATOYE: We are inspecting
5 approximately 8,900 units... [crosstalk]

6 COUNCIL MEMBER LEVINE: 8,900 units, so...

7 SHOLA OLATOYE: with children under the
8 age of 6...

9 COUNCIL MEMBER LEVINE: Got it. So the
10 number of children is gonna be much higher than that,
11 because there will be families with two or three or
12 more kids... [crosstalk]

13 SHOLA OLATOYE: Multiple children, sir
14 [sic].

15 COUNCIL MEMBER LEVINE: so we're talking,
16 I don't know, 15-20,000 kids. Do we now how many of
17 those... Madam Deputy Mayor, you gave stats on citywide
18 testing; how many of our children in our housing, in
19 the housing that the City manages, have been tested?
20 How many have been tested in the last 12 months? Do
21 we have answers to questions like that?

22 DR. HERMINIA PALACIO: We can give sort
23 of general numbers; let me... so we can say that while
24 citywide fewer than 2% of children younger than 18
25 years old had elevated blood levels... [crosstalk]

1
2 COUNCIL MEMBER LEVINE: But we don't know
3 for...

4 DR. HERMINIA PALACIO: in NYCHA it was
5 fewer than 1%.

6 COUNCIL MEMBER LEVINE: Right, but I
7 assume that was a random sample, and that's looking
8 at lead levels. So we actually don't know whether
9 the children in our housing... we don't have stats on
10 them; we don't know how many of them have been
11 tested; is that correct?

12 DR. HERMINIA PALACIO: We go for
13 universal testing and as I said, for these 2,300
14 apartments where we know that there's been both a
15 compliance issue and a lead hazard that may or may
16 not have been remediated, we are offering, out of an
17 abundance caution, additional testing to any of those
18 families who want it; we will be reaching those
19 families directly... [crosstalk]

20 COUNCIL MEMBER LEVINE: And in my very
21 little time left, I just wanna ask: you are creating
22 a task force, I believe, that's going to advise you
23 on the best way to proceed with remediation and
24 removal; [bell] I'm wondering; have you announced
25 who's on that task force and are the experts who are

1
2 doing this work -- of which are professional painters
3 and others who have had the benefit of training on
4 safety -- is a representative from DC9 there, like
5 are the people who know this work best going to be
6 given a seat and a voice in this task force?

7 SHOLA OLATOYE: The answer is yes. One,
8 we are still setting up that task force, Council
9 Member, and two, we have sought national experts that
10 have advised cities, etc. on this very issue, not
11 only in the compliance function, which we are
12 standing up as part of our ongoing conversations with
13 the U.S. Attorney's Office, but also making sure that
14 our interface with residents; employees happens
15 accordingly, so yes, it will be.. it is an emerging
16 task force and we've identified some initial national
17 experts right now.

18 COUNCIL MEMBER LEVINE: Okay. Thank you
19 and I'll yield back to the Chair.

20 CHAIRPERSON TORRES: Thank you. I have a
21 simple question about tracking again. Among children
22 between the ages of 1 to 6, do we know the number of
23 children at those ages who live in public housing who
24 might not have undergone lead testing? Is that
25 something we track as a city? Do we know the extent

1
2 to which public housing children in that age range
3 are falling through the cracks? If we don't know; we
4 don't know, but I guess I...

5 DR. HERMINIA PALACIO: I do not handy
6 have any data based on address; I can give you sort
7 of overall numbers on rates, but I can't tell you the
8 volume.

9 CHAIRPERSON TORRES: Okay. [background
10 comments] Okay. I will go to the next.. [background
11 comments] Council Member...

12 DR. HERMINIA PALACIO: We'll get back to
13 you.

14 CHAIRPERSON TORRES: Council Member
15 Williams.

16 COUNCIL MEMBER WILLIAMS: Thank you,
17 Mr. Chair. Thank you all for being here to testify.
18 I'm gonna try to get through what I can in five
19 minutes. I always resist the calls for knee-jerk
20 reactions of resignations and firing, even at the
21 heat of my battles with Commissioner Kelly and the
22 Police Department; 'cause I always found it a very
23 simplistic solution to a complex problem,
24 particularly in NYCHA with the history and so I'm
25 continuing to try to resist that, but particularly,

1
2 Chair Olatoye, I think in some regards you've done a
3 really good job in many areas and so I've been
4 welcoming that, but this is, I have to say,
5 particularly disturbing and I don't know what to do
6 and so I'm trying to get all the information I can
7 from here, because it's either just plain lying by
8 putting an instrument to the Federal government and
9 specifically not telling folks for a very bad reason
10 or egregious mismanagement, and I don't know which
11 one is worse and I'm trying to get all the
12 information I can.

13 Just to put it in perspective, on March
14 26th the Chair had a hearing; there was a lot of
15 questions asked; the Chair asked about an
16 investigation from Preet Bharara specifically on lead
17 paint -- I may be repeating things, so I apologize; I
18 did come late -- you testified that you were taking
19 the inquiry incredibly seriously; you said, "I can't
20 presume to know what the intent of the inquiry is,
21 but we and my team are taking it very seriously";
22 there was more line of questioning; I had some
23 questions about the testing that kids were getting
24 done in schools and things of that nature; you
25 testified: "I believe so; we should double-check; I

1 will double-check and follow up with you," but that
2 is the data that you had. I also said, "So with the
3 Attorney General's involvement, you don't think
4 they'll... you're comfortable with all the processes"
5 -- I'm just reading from the transcript -- "all the
6 processes you've done will satisfy any investigation
7 that's outstanding right now?" Mr. Brian Clark
8 testified that no complaint has been filed. I said,
9 "Obviously we'll be watching it closely; I hope
10 there's no more bombshells that come out of it."
11 That was March 26, 2016. According to your testimony
12 in April of 2016, which is less than a month, you
13 realized that you were not in compliance of Local
14 Law 1 and in July and August you realized you were
15 not in compliance with HUD regulations and you
16 informed City Hall staff. Was your discovery a
17 result of this hearing that occurred when we asked
18 about the investigations into lead paint?

19
20 SHOLA OLATOYE: Thank you for your
21 question, Council Member. My being made aware that
22 we were not in compliance was part of our asking
23 questions; my asking questions, was part of the
24 ongoing U.S. Attorney's investigation. My testimony
25

1 here in front of this body was as truthful, based on
2 the information that I had at that time.

3
4 COUNCIL MEMBER WILLIAMS: So did the line
5 of questioning from the hearing push you further to
6 get information? That's what I'm trying to figure
7 out. It seems pretty convenient that less than a
8 month after you got the information and so I'm trying
9 to figure if there's a correlation between the
10 hearing and the questions we asked and you digging.

11 SHOLA OLATOYE: While I always think
12 these hearings are informative, I can tell you that
13 we were... we were asking questions; I was asking
14 questions, and it became clear to me, based on the
15 answers to those questions, that there were some gaps
16 in compliance.

17 COUNCIL MEMBER WILLIAMS: Alright, so
18 it's just pure convenience that less than four weeks
19 after you got information. Uhm in Ju... [crosstalk]

20 SHOLA OLATOYE: Look...

21 COUNCIL MEMBER WILLIAMS: I've gotta go,
22 because... and I'll let you finish, because I only have
23 so much time. But in July and August you realized
24 that there was no HUD regulations -- I have a few
25 questions. Did you sign anything dealing with lead

1
2 in the years 2014 and 2015 either to the City or to
3 the government saying that lead inspections had been
4 occurring?

5 SHOLA OLATOYE: I did.

6 COUNCIL MEMBER WILLIAMS: You did? What
7 made you then try to figure out that something was
8 wrong; if you signed it in '14 and '15?

9 SHOLA OLATOYE: As I've said today, when
10 it became clear to me that there were gaps in
11 compliance...

12 COUNCIL MEMBER WILLIAMS: What made you
13 become clear?

14 SHOLA OLATOYE: When the answers to my
15 questions were unsatisfactory.

16 COUNCIL MEMBER WILLIAMS: The answers to
17 your questions to whom?

18 SHOLA OLATOYE: To key members of my
19 staff.

20 COUNCIL MEMBER WILLIAMS: What made you
21 ask those questions?

22 SHOLA OLATOYE: Because we were part of
23 an ongoing investigation to every aspect of the
24 agency's operations of which lead was one.

1
2 COUNCIL MEMBER WILLIAMS: So you asked
3 the questions because of the investigation?

4 SHOLA OLATOYE: Absolutely, the onset of
5 the CID and the eventual work to respond to that made
6 us... we had to prepare information and it made us have
7 to ask some questions.

8 COUNCIL MEMBER WILLIAMS: Mr. Chair; is
9 there gonna be a round two? Okay, [bell] let me
10 just... can I get through just a couple, because I
11 wanna come back to this. But you knew how important
12 this was to us, [background comment] based on the
13 questions that we gave you the last time; what made
14 you think it was okay not to give us the information
15 that you found out in July and August or even April;
16 why would you only go to City Hall and not to this
17 body that very clearly told you how important this
18 was to us?

19 SHOLA OLATOYE: Well as I've said
20 earlier, a regret is that we did not, I did not go
21 back to correct the record and share more information
22 or sooner. I also was... [crosstalk]

23 COUNCIL MEMBER WILLIAMS: But what was...
24 I...

25 SHOLA OLATOYE: balancing...

1
2 COUNCIL MEMBER WILLIAMS: I just... I mean
3 I have... What was the reason that you... I understand
4 the regret... [crosstalk]

5 SHOLA OLATOYE: I was gonna give you that
6 answer.

7 COUNCIL MEMBER WILLIAMS: Okay.

8 SHOLA OLATOYE: I was balancing the fact
9 that we were part of an ongoing federal investigation
10 in which we were peeling back lots of pieces to this
11 story and I made a judgment call that we needed to,
12 first, ensure that we could get into the apartments
13 of the potentially affected households, and that is
14 the plan that we put forward and we executed upon.
15 Those were the decisions that I made in the summer of
16 2016 and I stand by those.

17 COUNCIL MEMBER WILLIAMS: Okay...

18 SHOLA OLATOYE: Should we have... could we
19 have communicated more and sooner? Yes...

20 COUNCIL MEMBER WILLIAMS: If you stand by
21 it, that's a problem, I've just gotta tell you right...
22 [crosstalk]

23 SHOLA OLATOYE: I stand by the fact that
24 we put together a remedial plan...

25 COUNCIL MEMBER WILLIAMS: Oh I... I see.

1
2 SHOLA OLATOYE: to do the work to inspect
3 the apartments and to do the work as quickly as
4 possible; I stand by those actions... [crosstalk]

5 COUNCIL MEMBER WILLIAMS: Okay, I have to
6 relinquish to the Chair, but I do wanna say it's
7 difficult because some of us are taking hits for
8 supporting things like NextGen and controversial
9 things and we keep saying that what has happened to
10 NYCHA residents in the past won't happen again. This
11 is a major blow to that and I don't know how this
12 body trusts anything that's coming out of NYCHA
13 again, because you can be making the same judgment
14 call now that you were making a year-and-a-half ago
15 and there's no way for us to figure that out, and I
16 haven't cracked in my head what we can do to rebuild
17 that trust. But I have some more questions that I
18 hope to ask on the second round. Thank you.

19 CHAIRPERSON TORRES: Council Member
20 Rosenthal.

21 COUNCIL MEMBER ROSENTHAL: Thank you,
22 Chair Torres; thank you for holding this hearing.
23 Council Member Williams, I appreciate you; I think
24 you hit the nail on the head, because we're always
25 trying to build trust with our tenants and support

1
2 what the City can do for our residents in these
3 buildings and it makes it more challenging and that's
4 part of what we face.

5 I wanna ask -- and thank you, Chair
6 Olatoye for coming to testify today; to the Deputy
7 Mayor and all the staff. How many calls were made to
8 the NYCHA Customer Contact Center about peeling lead
9 paint during any period of time? If you wanna give
10 it to me on an annual basis; over the period of the
11 four years you've been here.

12 SHOLA OLATOYE: Well specific to the July
13 2017 disclosure, we set up a special number for
14 residents who may have had concerns about lead
15 potential hazard in their apartments, etc. and I
16 believe the number of calls was south of 10 there,
17 and we also set up a separate number for employees
18 and that was also a very low number as well.

19 COUNCIL MEMBER ROSENTHAL: So that's over
20 the last five months?

21 SHOLA OLATOYE: Correct.

22 COUNCIL MEMBER ROSENTHAL: Okay. So do
23 you know, in the call center, how many calls came in
24 on an annual basis since you've been here about
25 peeling lead paint?

1
2 SHOLA OLATOYE: So in answer to your
3 question about how many -- and I would, just to be
4 precise, calls versus work orders for potential lead
5 concerns -- I do have that data and in total, from
6 2010 to 2017 there have been approximately 527 work
7 orders that have been created; I do have the
8 breakdown; I'd be happy to share that with you later.

9 COUNCIL MEMBER ROSENTHAL: Yeah. So how
10 quickly were those work orders turned around and
11 fixed?

12 SHOLA OLATOYE: Well for painting work
13 orders, our averaged SLA is approximately 65 days,
14 and I'll wanna confirm that date for you. But for
15 lead conditions, there are, as you know, per Local
16 Law 1 -- actually, Local Law 1 does not specify
17 specific dates; HUD does, excuse me -- for the HUD
18 rule, when there is a lead condition, both identified
19 and found, there is a requirement that you abate that
20 within the 90-day timeframe, per HUD. So the...
21 [interpose]

22 COUNCIL MEMBER ROSENTHAL: Within the 90...
23 I just couldn't literally hear you... [crosstalk]

24 SHOLA OLATOYE: Within 90 days.
25

1
2 COUNCIL MEMBER ROSENTHAL: Within 90
3 days... [crosstalk]

4 SHOLA OLATOYE: of... of the inspection.

5 COUNCIL MEMBER ROSENTHAL: but that's
6 after it's been identified..

7 SHOLA OLATOYE: Correct.

8 COUNCIL MEMBER ROSENTHAL: and confirmed..

9 SHOLA OLATOYE: Correct.

10 COUNCIL MEMBER ROSENTHAL: how many days
11 does it take to identify, right; so what's the time
12 from work order placed to identification?

13 SHOLA OLATOYE: So I think it's important
14 to just step back and say we, the agency suspended
15 inspections in 2012; we now know that the
16 interpretation of that HUD rule that led to that was
17 incorrect. We started the inspection... [crosstalk]

18 COUNCIL MEMBER ROSENTHAL: You know what;
19 I think here's the problem -- and may I just say that
20 one of the things that's so frustrating is that it
21 doesn't take a HUD rule; it doesn't take a state law;
22 it doesn't take a city law to know lead paint
23 absorbed by children under the age of 6 is damaging
24 to their neuro functioning; it doesn't take any law
25 to tell us that, we know that; that's science, so

1
2 what the frustration is is that you keep going back
3 to -- well according to this law we didn't have to.
4 I really don't care about the law, you know I care
5 about the children; so do you, and so does this
6 Administration, it's common sense that says if
7 there's lead paint, right; we were all told that by
8 our pediatrician, I mean do you wanna bring in DOHMH;
9 your pediatricians are telling people that all the
10 time; that's why we test for lead, so the frustration
11 is, when you keep going back to well it wasn't a
12 requirement anymore, I mean I don't... [interpose]

13 SHOLA OLATOYE: If I could just... I didn't
14 say that actually and I think what I was trying to
15 provide are some context for what were some -- not
16 excuses -- context for the mismanagement of this
17 issue, whether it is prior to my joining the agency
18 or... or... [crosstalk]

19 COUNCIL MEMBER ROSENTHAL: Yeah, I don't
20 care about prior; I care about...

21 SHOLA OLATOYE: So... So...

22 COUNCIL MEMBER ROSENTHAL: this
23 Administration.

24 SHOLA OLATOYE: So right now... So right
25 now what we are trying to do -- and we are [bell] a

1 large agency and we have to be guided by policies and
2 procedures, which we recognize have fallen short here
3 -- is get into the apartments, do the inspections, do
4 the work, which is what we did in 2016 [sic]; is what
5 we're doing again in 2017..

7 COUNCIL MEMBER ROSENTHAL: I think I...
8 Chair, if I may, Chair Torres. I'd appreciate any
9 additional information you guys have about the 510 or
10 whatever the number was, when you got them, when you
11 went out for the first inspection, when you
12 confirmed, and then the amount of time it took to
13 abate. And secondly, I'd like to know whether or not
14 you're also looking at -- since we're talking about
15 children under the age of 6 who've put lead chips..
16 who by definition put things in their mouth, whether
17 or not you also looked at the public hallways and the
18 tenant association rooms where we're meeting with the
19 tenants who bring down their children all the time.
20 Do you know the answer to that?

21 SHOLA OLATOYE: So we are -- that's part
22 of the work that we are doing.. [interpose]

23 COUNCIL MEMBER ROSENTHAL: Going forward.

24 SHOLA OLATOYE: going forward.

25 COUNCIL MEMBER ROSENTHAL: Thank you.

1
2 CHAIRPERSON TORRES: I wanna follow up
3 on... 'cause I was under the impression that... my
4 understanding is that in 2012 HUD exempted public
5 housing authorities from broader unit inspections,
6 right; NYCHA would normally conduct the lead safety
7 inspections as part of those broader inspections, but
8 instead of simply stopping the broader inspections,
9 NYCHA stopped all of the inspections, including lead
10 safety and I thought that was just willful violation
11 of the law, but you used a phrase saying
12 "interpretation of HUD rule..." [interpose]

13 SHOLA OLATOYE: So...

14 CHAIRPERSON TORRES: so did the general
15 counsel's office interpret the 2012 rule to mean that
16 you were exempt from lead safety?

17 SHOLA OLATOYE: Again, I wasn't here; I
18 can't speak to the interpretation [sic]... [crosstalk]

19 CHAIRPERSON TORRES: Well you're saying
20 "interpretation," you... that's your phrase.

21 SHOLA OLATOYE: Well let me clarify.

22 CHAIRPERSON TORRES: Yeah.

23 SHOLA OLATOYE: Let me clarify, and this
24 is a public notice and what it said was that housing
25

1
2 authorities were exempted from the annual obligation
3 of apartment inspections...

4 CHAIRPERSON TORRES: Right.

5 SHOLA OLATOYE: they were allowed to
6 create some form of sampling methodology to still
7 confirm and... essentially to have some kind of
8 approach to confirm the state of their apartments, so
9 it really was supposed to provide flexibility to the
10 authorities to do some kind of sampling method of the
11 totality of their portfolio; that's what I mean by
12 "interpretation," because one arguable could have
13 done a sampling of the portfolio and done the
14 inspections and still been in compliance.

15 CHAIRPERSON TORRES: You're talking about
16 a lead sampling?

17 SHOLA OLATOYE: Correct. No, an
18 apartment sampling, right; this is specific to... We
19 have 176,000 apartments; the law, prior to 2012, is:
20 you get into those apartments every single year, per
21 HUD. That new law said that housing authorities
22 could come up with a methodology that could confirm a
23 broad sampling of decent, safe and sanitary
24 conditions in their apartments and so that's why I
25

1
2 used the term "interpretation" specifically to your
3 question.

4 CHAIRPERSON TORRES: But are you
5 suggesting that the suspension of lead safety
6 inspections resulted from the interpretation of the
7 HUD rule?

8 SHOLA OLATOYE: What I'm saying is the
9 suspension of the annual inspections resulted also in
10 the suspension of annual Local Law 1 inspections.

11 CHAIRPERSON TORRES: Right, but as far as
12 you know, there was no... NYCHA did not interpret the
13 HUD rule to exempt NYCHA from... public housing
14 authorities from lead safety inspections?

15 SHOLA OLATOYE: I can't speak to what
16 then Administration interpreted, but the result was;
17 the inspections didn't happen.

18 CHAIRPERSON TORRES: Yeah. And I just
19 wanna say -- I think you've been using a phrase you
20 acknowledge that you could've communicated more
21 sooner, but it's not only a failure to communicate
22 more sooner, it's... you've made false statements under
23 oath, right; you testified on March 28, 2016 that
24 your agency was in compliance with Local Law 1, you
25 said that under oath. Every time you appear before

1
2 my committee, you take an oath, and within weeks you
3 found out that that statement was false and instead
4 of correcting it, you chose to leave it on the
5 record. So it's more than simply failing to
6 communicate more sooner; it's... you made a willful
7 choice not to correct false statements that you made
8 under oath and on the public record. That is my
9 issue with you.

10 SHOLA OLATOYE: So with respect, the
11 information that I had in front of me and at this
12 hearing was truthful; that was the information I...
13 [crosstalk]

14 CHAIRPERSON TORRES: No, but then you
15 found out subsequently that it was not truthful and
16 you never corrected the record... [crosstalk]

17 SHOLA OLATOYE: and what I said... and one;
18 the information that I had in this room, under oath
19 was the information that I had at the time; there was
20 no intent to deceive, there was no intent
21 **[inaudible]**... [crosstalk]

22 CHAIRPERSON TORRES: So you felt like you
23 had no obligation to immediately correct the record...?
24 [crosstalk]

1
2 SHOLA OLATOYE: My obligation at the
3 time... [interpose]

4 CHAIRPERSON TORRES: Yeah.

5 SHOLA OLATOYE: and the information that...
6 and the...

7 CHAIRPERSON TORRES: Right.

8 SHOLA OLATOYE: what was guiding us was
9 getting into the apartments to ensure that we could
10 identify and eliminate any potential hazard...

11 [crosstalk]

12 CHAIRPERSON TORRES: But one has nothing
13 to do with the other. No one is disputing your right
14 to correct... we all want to see lead abatements and
15 lead inspections, right; the question is: do you
16 believe you have an obligation that when you make a
17 false statement under oath on public record, do you
18 have an obligation to correct it when you find out
19 that that statement is false? I... I would say...

20 [crosstalk]

21 SHOLA OLATOYE: Again...

22 CHAIRPERSON TORRES: I have that
23 obligation.

24 SHOLA OLATOYE: Again, and... and...

25 [crosstalk]

1
2 CHAIRPERSON TORRES: I want to know if
3 you feel you have that obligation.

4 SHOLA OLATOYE: I absolute... and this is
5 why I've said that the disclosures were important,
6 because I believed that we were in compliance, based
7 on the information that was given to me. Should I
8 have come back in front of this committee --
9 unfortunately, hindsight is not **[inaudible]**...

10 [crosstalk]

11 CHAIRPERSON TORRES: But I'm not... I'm
12 asking; do you feel like you have an obligation? I
13 feel like I have a moral... [crosstalk]

14 SHOLA OLATOYE: The obligation that I...

15 CHAIRPERSON TORRES: obligation to
16 correct any false statements that I make on the
17 record; that's a standard to which I hold myself as
18 an individual. I want to know as a public servant...

19 [crosstalk]

20 SHOLA OLATOYE: And that is one that I
21 hold myself too.

22 CHAIRPERSON TORRES: do you hold yourself
23 to that same standard?

24

25

1
2 SHOLA OLATOYE: That is one that I hold
3 myself to as well, and perhaps I should have come
4 back and said in fact... [crosstalk]

5 CHAIRPERSON TORRES: Okay, that... that
6 answers my question; you hold yourself to that
7 standard.

8 SHOLA OLATOYE: That is a standard that I
9 hold myself to; that I hold the people who work for
10 me as well, and that is how we will continue to
11 operate and do our business going forward.

12 CHAIRPERSON TORRES: Council Member
13 Menchaca.

14 COUNCIL MEMBER MENCHACA: Thank you,
15 Chair and thank you to the members of this committee
16 and this council for not only this discussion, but I
17 think resetting standards that I think all of us who
18 are representing not only housing developments and
19 NYCHA residents, but really the essence of trust
20 between government and its people; I think that is
21 what is at stake here and so I'm gonna focus a little
22 bit about how some of the members of my community
23 have engaged, and I wanna thank Public Advocate Tish
24 James for raising a case during her questions. But
25 there's a growing concern about the tests that are

1
2 given to children under 6 where children might return
3 with a positive lead result at a DOHMH facility and
4 then through process go to NYCHA, and so the question
5 is: does NYCHA refute the test of every DOHMH test...?

6 [crosstalk]

7 SHOLA OLATOYE: So just to be clear,
8 Council Member, and thank you for your question,
9 NYCHA does not test children, our testing is specific
10 to the apartment. I'll defer to the Deputy Mayor to
11 talk about that process.

12 COUNCIL MEMBER MENCHACA: Well actually,
13 before the Deputy Mayor speaks, can you talk to us a
14 little bit about that process so we can be clear
15 about how that works, and I'm gonna bring up a
16 particular case in Red Hook, but just inform us about
17 how that process works when a parent comes home with
18 a positive lead test.

19 SHOLA OLATOYE: So again, this is a
20 process that is per City code and one that all
21 landlords are subject to. So if a child with a NYCHA
22 address, we are made aware of it by DOHMH; we go into
23 the apartment, testing is done; DOHMH does that
24 testing, and as was talked about earlier, there are
25 many different factors where a potential lead hazard

1
2 could exist; it's not only the home, and so there's
3 an XRF testing instrument that's utilized; that is
4 sent out to DOHMH's lab for results; those results
5 come back. There are times when there are false
6 positives and there is a process by which landlords
7 can have a verification process that actual lead
8 paint is the source of the elevated lead blood level.
9 That is the process... [crosstalk]

10 COUNCIL MEMBER MENCHACA: So let me just
11 pause you there on that; I wanna go back a couple
12 steps. False positive; how do you know that there's
13 a false positive if NYCHA doesn't test?

14 SHOLA OLATOYE: I will defer to the
15 testing professionals on that piece.

16 COUNCIL MEMBER MENCHACA: Okay.

17 DR. HERMINIA PALACIO: Sure, I'll give a
18 high-level description and then turn it over to the
19 Deputy Commissioner for a more detailed description.

20 COUNCIL MEMBER MENCHACA: Okay.

21 DR. HERMINIA PALACIO: But a child
22 receives an elevated blood lead level, at a certain
23 level; DOHMH goes into the apartment -- be it NYCHA
24 or anywhere else -- as part; not as the only thing
25 they do, but as part of a comprehensive assessment

1
2 for what the possible sources of lead exposure could
3 be. In terms of testing for possible lead paint as a
4 source of exposure, the XRF is checked against
5 multiple surfaces -- walls that may be sheetrock; it
6 may be a painted radiator -- that picks up metal;
7 some of that metal may have lead, so DOHMH, if the
8 XRF gives a result that indicates there may be lead,
9 they will issue a Commissioner's Order. If the
10 landlord feels that that test might be due to the
11 substrate that was painted over, they can ask for
12 DOHMH to send a lead chip itself to a third-party lab
13 that is certified by EP; in those circumstances,
14 DOHMH awaits the results from that lead chip and then
15 makes a determination based on those results.

16 COUNCIL MEMBER MENCHACA: Got it. And is
17 that same vendor, the one that does the testing; the
18 same one that does the inspection or are those two
19 different..

20 SHOLA OLATOYE: Two different.

21 COUNCIL MEMBER MENCHACA: vendors?

22 SHOLA OLATOYE: Two different vendors.

23 In this case we're talking about a vendor -- I'm
24 sorry, in terms of...

1
2 COUNCIL MEMBER MENCHACA: On the testing
3 of the lead paint.

4 SHOLA OLATOYE: So just to step back...
5 [crosstalk]

6 COUNCIL MEMBER MENCHACA: Yeah, step
7 back. Okay.

8 SHOLA OLATOYE: there is... there is an
9 inspection... there are inspections that occur;
10 historically, NYCHA has used its staff to do that; we
11 are currently using vendors now to do that to ensure
12 that we can meet the important calendars and
13 deadlines; that is separate from the testing process.
14 There are two different companies; there are two
15 different bodies of people.

16 COUNCIL MEMBER MENCHACA: Okay. I think...
17 I'm almost done here. There's a parent here that's
18 gonna testify; her name is Sharon, and her case is a
19 particularly [bell] difficult one; it was a mold case
20 that turned into a lead case where exposed pipes due
21 to Sandy kinda conditions created exposure to lead
22 paint; this was a positive test after NYCHA came in,
23 and there are still repairs to be done, since 2016,
24 which is not a 90-day compliance, and so this is a
25 gap that I'm worried about in places like Red Hook

1
2 where we are inundated not just with the wear and
3 tear and the failure of maintenance, but the impact
4 of Sandy. And so this is where I think
5 prioritization... We need to understand how NYCHA and
6 the entire agencies that are working together can
7 help us understand where there's priority so we can
8 begin and build and rebuild the trust with families,
9 especially when we already know that there's a
10 positive lead test that has been confirmed and in the
11 process of mitigation.

12 SHOLA OLATOYE: So safety is absolutely
13 our number one priority; in particular, our Sandy-
14 affected developments are, you know the recipients of
15 the country's largest FEMA grant that you have been a
16 partner in helping us get out and communicate the
17 somewhat belabored process in executing that program.
18 The priority for this agency is to ensure that the
19 in-unit inspections of apartments with children under
20 the age of 6; that is the priority right now; that
21 was the priority in 2016; it remains the priority in
22 2017, both in completing the inspections and then
23 acting on the associated work that's generated from
24 those inspections; that is the priority as we speak,
25 and we are work... [interpose]

1
2 COUNCIL MEMBER MENCHACA: And... And would
3 you consider going up to 10 years old, since we're
4 still at a gap of the 2016 -- so that kids who were 6
5 years old at that one point that required testing, we
6 can kinda catch up and make sure that we get a larger
7 kinda sampling of testing for children... [crosstalk]

8 SHOLA OLATOYE: The full...

9 COUNCIL MEMBER MENCHACA: that should've
10 gotten it.

11 SHOLA OLATOYE: Right. The full nature
12 of the entirety of the remediation plan is literally
13 the subject of our ongoing discussions with the U.S.
14 Attorney's Office, and so we will certainly share
15 that as a recommendation.

16 CHAIRPERSON TORRES: Very quickly, Deputy
17 Mayor, before I proceed to the second round, when DOH
18 conducts an initial test, the owner reserves the
19 right to contest it, but can it choose to accept it;
20 is that... Does NYCHA contest in every case or are
21 there cases in which NYCHA will accept the initial
22 testing results of DOH?

23 DR. HERMINIA PALACIO: I do not have that
24 information, but we can **[inaudible]**... [crosstalk]

1
2 CHAIRPERSON TORRES: Maybe NYCHA can tell
3 us.

4 SHOLA OLATOYE: We can follow up and give
5 you the times over the course of the last year that
6 it has occurred. We always accept the dust finding,
7 particularly in areas where there are construction,
8 etc., and that's something that is easily identified.
9 We do work to identify if the cause of the elevated
10 blood level is paint.

11 CHAIRPERSON TORRES: But do you accept
12 the initial test with XRF; it's an x-ray of the wall;
13 do you... [interpose]

14 CORINNE SCHIFF: Yes.

15 CHAIRPERSON TORRES: do you always
16 contest the results of that initial test...?
17 [crosstalk]

18 SHOLA OLATOYE: I want to stay away from
19 the phrase always here..

20 CHAIRPERSON TORRES: Okay.

21 SHOLA OLATOYE: but there is a
22 verification process and we can come back to you with
23 the percentage of what has looked like over the
24 course of the last... [interpose]

1
2 CHAIRPERSON TORRES: Do you have a
3 general policy on how you normally handle the initial
4 results of the XRF test?

5 SHOLA OLATOYE: The policy is to cure the
6 order from DOHMH, and there are very rigorous
7 timelines associated with that, and built into that
8 is the ability to verify the initial sampling and to
9 do that through a third-party-associated... [crosstalk]

10 CHAIRPERSON TORRES: Okay, so your policy
11 is not merely to accept the result of DOH, but to do
12 your own verification; is that... is that your policy...?
13 [crosstalk]

14 SHOLA OLATOYE: I just wanna ver... I don't
15 believe that is... it's... I mean, obviously we have
16 policies and procedures, but that is the process
17 dictated by DOHMH and by this process.

18 CHAIRPERSON TORRES: No, no, no, but a
19 landlord could say, I will simply accept your
20 results; I will not pursue third-party verification,
21 but as a matter of policy, NYCHA does choose to
22 pursue third-party verification.

23 SHOLA OLATOYE: We do want to know if the
24 true source is the lead paint...

25 CHAIRPERSON TORRES: Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SHOLA OLATOYE: paint in the apartment.

CHAIRPERSON TORRES: So the answer to my question I think is yes. Okay. Council Member Salamanca.

COUNCIL MEMBER SALAMANCA: Thank you, thank you, Mr. Chair. In terms of the actual lead testing, is it true that when NYCHA lead inspections come up negative and DOH inspections turn up lead; NYCHA regularly challenges DOH's findings?

SHOLA OLATOYE: So as we just said, the policy is to cure the order from DOHMH. There is a process by which there is testing that DOHMH does; then there is a verification process that the landlord and/or NYCHA does, and we accept the final determination of the results of that test.

COUNCIL MEMBER SALAMANCA: And who does that final test; is it like a third-party... [interpose]

SHOLA OLATOYE: Correct.

COUNCIL MEMBER SALAMANCA: that you send it? So where do you originally... when you're challenging DOH's findings, where do you send your testing to?

1
2 SHOLA OLATOYE: We send them to a list of
3 EPA-certified vendors that conduct this kind of work.

4 COUNCIL MEMBER SALAMANCA: Okay.
5 Alright. In terms of a third-part monitor, do you
6 believe that a third-party monitor should oversee the
7 testing of lead on the NYCHA portfolio if necessary?

8 SHOLA OLATOYE: So as I've indicated in
9 my testimony and something that we have embraced as
10 part of the ongoing federal investigation; we believe
11 the independent monitor, a third-party federal
12 monitor will support the continued transformation of
13 the Authority.

14 COUNCIL MEMBER SALAMANCA: Alright. So
15 you don't believe that there should be a state third-
16 party monitor on NYCHA?

17 SHOLA OLATOYE: Look, NYCHA's not new to
18 oversight; I do believe as a federally-funded agency,
19 and while the City and this body have stepped up
20 significantly to support the capital needs of the
21 Authority, it is a federal agency; that is where 99%
22 of our funding comes from, and that's the work that
23 we are engaged in with the U.S. Attorney's Office
24 right now.
25

1
2 COUNCIL MEMBER SALAMANCA: Are you
3 concerned that the submitting of this report with,
4 you know, no accurate information, that this could
5 lead to funding being withheld from the Federal
6 government?

7 SHOLA OLATOYE: Funding behind withheld
8 from NYCHA?

9 COUNCIL MEMBER SALAMANCA: Yes.

10 SHOLA OLATOYE: So I am concerned about
11 funding being withheld from NYCHA anyway, given this
12 administration's very public stance towards public
13 housing.

14 COUNCIL MEMBER SALAMANCA: Alright. And
15 then finally, in terms of this compliance officer --
16 you have a new compliance officer; correct?

17 SHOLA OLATOYE: We have an acting
18 compliance officer.

19 COUNCIL MEMBER SALAMANCA: Alright. Will
20 there be a schedule in which the acting compliance
21 officer will publish updates pertaining to the
22 oversight of NYCHA's regulator compliance with the
23 Council, the tenants and the public?

24 SHOLA OLATOYE: Yes.

25 [bell]

1
2 COUNCIL MEMBER SALAMANCA: Alright.
3 Thank you, Mr. Chair.

4 CHAIRPERSON TORRES: We're gonna complete
5 the second round of questioning and then the next
6 panel will consist of the DOI Commissioner, Mark
7 Peters. The next person to ask questions is Council
8 Member Williams.

9 COUNCIL MEMBER WILLIAMS: Thank you very
10 much. And again, this is difficult for me, Madam
11 Chair, because I really like a lot of the work, but
12 I'm really trying to figure out if something was
13 found out and earnest movement was made, or there was
14 intend to deceive and there was cover-up until the
15 media discovered that a problem was there. So
16 assuming that you were gonna continue on the track of
17 not informing the body that had let you know how
18 important it was when you testified under oath, in
19 your plan, when were you going to tell us?

20 SHOLA OLATOYE: So as I've stated from
21 the outset, there was never any intent to deceive or
22 to lie to my... [crosstalk]

23 COUNCIL MEMBER WILLIAMS: Sure.

24 SHOLA OLATOYE: regulator or to this
25 body. As part of the ongoing U.S. Attorney's Office

1
2 discussing the details of the findings of that
3 investigation and whatever might be the conclusions,
4 will need to become part of the agency's work...

5 [interpose]

6 COUNCIL MEMBER WILLIAMS: So...

7 SHOLA OLATOYE: and communication.

8 COUNCIL MEMBER WILLIAMS: I apologize; I
9 don't have a lot of time. So when were you planning
10 to tell us?

11 SHOLA OLATOYE: My point is that as part
12 of the investigation, we were waiting... I was working
13 and am working... [interpose]

14 COUNCIL MEMBER WILLIAMS: I... I got it.
15 'Kay, that's difficult for me, 'cause it sounds like
16 there was no plan to tell us, and as the Chair had
17 made clear -- and I understand there's 51 of us;
18 maybe you didn't trust all 51; there's a smaller
19 committee; maybe you didn't trust the committee, but
20 the Chair or the Speaker should have been informed
21 and it seems that if this did not come out in the
22 media, we would not be having a discussion right now;
23 that very much troubles me.

24 I do wanna just back up a little bit,
25 because I'm trying to pinpoint when you started

1
2 digging for the questions that let you to April and
3 July and August, what made you start asking people;
4 was it the fact that there was an investigation; what
5 month was that?

6 SHOLA OLATOYE: As I've said, there was a
7 CID served to the Authority in November of 2015; it
8 was broad; we were asked lots of questions about the
9 health and safety conditions across the Authority.
10 It is in April of 2016, in both additional
11 information, me becoming aware of it, that there were
12 gaps in our basic compliance -- whether that was
13 inspections -- and that is when I realized that it
14 was inadequate.

15 COUNCIL MEMBER WILLIAMS: So there were
16 broad concerns, you started asking questions on all
17 of those concerns, and the one you found that was
18 substantive was lead and you started going forward.
19 Now where did you get the guidance not to inform us
20 or the public, 'cause I know the Mayor said he
21 understood? Did you and the Mayor come up with that
22 decision; is that a decision you made with discussion
23 of the attorneys of the City? How was that decision
24 made to move forward the way you did once you found
25

1 out in April, and in particular, in July and August,
2 that we would inform anyone?

3 [bell]

4 SHOLA OLATOYE: So one; we definitely, in
5 that summer, May 2016, worked to inform the
6 households where we had not done the inspections,
7 where there were children under the age of 6; the
8 decision to continue to cooperate with the federal
9 investigation was done under... [crosstalk]

10 COUNCIL MEMBER WILLIAMS: I'm sorry, you...
11 my time is up.

12 SHOLA OLATOYE: under the advice of
13 counsel and we were... [crosstalk]

14 COUNCIL MEMBER WILLIAMS: Who advised you
15 not to inform this body or the public of what you had
16 found out until November, when the media came out?

17 SHOLA OLATOYE: Well just to be clear, I
18 talked about this at our July 2017 board meeting; not
19 November, and it was before the release of the
20 report.

21 COUNCIL MEMBER WILLIAMS: That was a
22 NYCHA board meeting?

23 SHOLA OLATOYE: Correct; a public
24 meeting... [crosstalk]

1
2 COUNCIL MEMBER WILLIAMS: I'm talking
3 about the public.

4 SHOLA OLATOYE: Which is a public
5 meeting.

6 COUNCIL MEMBER WILLIAMS: Okay. Okay.
7 So who advised you -- let's use your timeframe -- who
8 advised you not to talk about it until then?

9 SHOLA OLATOYE: I was balancing the need
10 to cooperate with an ongoing federal investigation.

11 COUNCIL MEMBER WILLIAMS: So it wasn't
12 the Mayor, basically, the... [interpose]

13 SHOLA OLATOYE: The Mayor did not advise
14 me.

15 COUNCIL MEMBER WILLIAMS: Okay.
16 Mr. Chair, I have some more questions I'm gonna ask
17 you to ask her, and just one more I wanna ask. It
18 just shocks me that no one stopped and said this is
19 deception, this could be a crime; we should handle it
20 differently, and I did wanna understand your
21 thinking, and because you told HUD that there was a
22 problem, what led you to believe that you can still
23 file a false instrument; did they give you that kind
24 of insinuation; did you have something in writing?
25 What was the thought process?

1
2 SHOLA OLATOYE: As I've said, when I
3 disclosed to HUD the compliance gaps that I had
4 identified, I believed those disclosures were
5 sufficient.

6 COUNCIL MEMBER WILLIAMS: Why?

7 SHOLA OLATOYE: Why? Because neither...
8 first of all, I had just met with them; I was meeting
9 with them monthly on a remedial action plan, and I
10 believed that it was sufficient that they knew, as
11 the then regional administrator has said, she knew,
12 and the necessary headquarters and regional staff
13 knew that NYCHA was not in compliance and was
14 executing on a remedial action plan.

15 COUNCIL MEMBER WILLIAMS: Okay, I need to
16 sum up, but it's just hard to accept all that you're
17 saying because then you signed an instrument that
18 said this has happened, without indicating somehow in
19 writing the previous discussion, so there's nothing
20 that ties your signature of a false instrument to the
21 conversation that you said you had, and so I'm trying
22 to understand the logic of doing so with nothing
23 backing up what is being said. But I wanna just
24 finish up and then you can respond. So that is just
25 difficult for me; it's difficult for me to understand

1
2 that all these things were a coincidence and then the
3 decision not to inform this body after testifying
4 under oath, all those things are very troubling; I'm
5 hoping to hear different answers, because that part
6 of it is still something that's troubling me very
7 much and we have to talk to our constituents and
8 defend policies that they don't always agree; it's
9 hard to do that when the trust is broken and there's
10 no real explanation as to the logic of why you waited
11 so long to start having this discussion. Thank you.

12 CHAIRPERSON TORRES: Thank you, Council
13 Member Williams. Council Member Rosenthal.

14 COUNCIL MEMBER ROSENTHAL: Thank you;
15 just a few follow-up questions. And I guess this is
16 for you, Deputy Mayor. Are pregnant women or the
17 elderly with respiratory health problems at risk from
18 lead paint dust?

19 DR. HERMINIA PALACIO: So pregnant women
20 are part of the overall counseling in terms of making
21 sure that they are aware of lead paint hazards. I
22 will let Deputy Commissioner... [crosstalk]

23 COUNCIL MEMBER ROSENTHAL: I mean I guess
24 I'm sort of yes or no-ish, because I'm wondering, if
25 so, right, which I think the answer is yes; then I'm

1
2 wondering if NYCHA keeps track or does, you know,
3 inspect apartments of seniors who may be on
4 respirators or with respiratory problems..

5 DR. HERMINIA PALACIO: So..

6 COUNCIL MEMBER ROSENTHAL: as well as
7 apartments with ages under 6.

8 DR. HERMINIA PALACIO: Most lead
9 poisoning in adults is really occupational exposure;
10 not routine residential exposure; [background
11 comment] it's really people who are working in lead-
12 based industries or.. [crosstalk]

13 COUNCIL MEMBER ROSENTHAL: No, no; I got
14 you.

15 DR. HERMINIA PALACIO: smelting or not..

16 COUNCIL MEMBER ROSENTHAL: How 'bout
17 pregnant women and older people with respiratory
18 problems?

19 DR. HERMINIA PALACIO: So again, older
20 people with respiratory problems are living in
21 residential settings and the main lead exposure is
22 ingestion, it's like taking paint.. [interpose]

23 COUNCIL MEMBER ROSENTHAL: Okay.

24 DR. HERMINIA PALACIO: particles and
25 putting it in your mouth..

1 COUNCIL MEMBER ROSENTHAL: Okay.

2 DR. HERMINIA PALACIO: there's also not
3 the same... adults absorb lead at much lower rates than
4 children do...

5 COUNCIL MEMBER ROSENTHAL: Yeah. Okay.

6 And have we tested -- that's a sort of -- we've
7 tested seniors; their blood lead levels and feel
8 comfortable about that, seniors who are in NYCHA
9 apartments with lead, you know, peeling lead paint or
10 dust? I get the ingestion; I get... [crosstalk]

11 DR. HERMINIA PALACIO: So the... So I'm
12 just gonna speak broadly in terms of the public
13 health approach to prevention. Lead poisoning is
14 largely focused on children, young children...

15 COUNCIL MEMBER ROSENTHAL: Okay.

16 DR. HERMINIA PALACIO: and then there is
17 some occupational health and safety... [crosstalk]

18 COUNCIL MEMBER ROSENTHAL: Okay; I got
19 you. When lead paint is found in apartments with
20 children 0-6, then automatically does that trigger
21 looking at the hallways, the stairwells, the
22 windowsills, and the tenant association rooms, or is
23 it really just focused on the apartment alone?
24
25

1
2 DR. HERMINIA PALACIO: So I'll begin. If
3 it's a child with an elevated blood lead level...

4 COUNCIL MEMBER ROSENTHAL: Uhm-hm.

5 DR. HERMINIA PALACIO: the investigation
6 is directed based on the history that that child..
7 that, you know we obtain from that child and family.
8 So it may be that it's [bell] only the apartment; it
9 may be that it's grandma's apartment; it may be that
10 it's a friend's apartment; it may be that it's
11 another child care setting; whatever is identified
12 during the course of that sort of detailed interview
13 and investigation derives where... [crosstalk]

14 COUNCIL MEMBER ROSENTHAL: Are there any
15 cases of repainting a stairwell or a hallway or is it
16 only other apartments? Just in the history of the
17 investigation, I'm curious.

18 DR. HERMINIA PALACIO: So we have over..
19 you know, we have in the hundreds of thousands of
20 children who were tested over several years, but I
21 don't have that kind of detailed information about
22 was there a hallway painted as a result of this
23 investigation on any given individual case.

24 COUNCIL MEMBER ROSENTHAL: Okay. Going
25 forward with NYCHA, are you gonna be keeping track of

1
2 the other areas that are addressed -- painted, you
3 know, where the lead paint is abated -- besides just
4 the apartments?

5 DR. HERMINIA PALACIO: Yes.

6 COUNCIL MEMBER ROSENTHAL: Okay. Thank
7 you.

8 CHAIRPERSON TORRES: Thank you, Council
9 Member... [crosstalk]

10 DR. HERMINIA PALACIO: And just.. just to
11 clarify, Council Member. The main reason that we
12 give education to pregnant women is because they're
13 going to have infant children who may be at risk for
14 lead exposure, right, and so that they're prepared in
15 anticipatory guidance way.

16 COUNCIL MEMBER ROSENTHAL: But they're
17 not at risk?

18 DR. HERMINIA PALACIO: Again, adults
19 tend.. you know are, generally speaking, not at risk
20 even from disrupted paint, because they're not
21 ingesting disrupted paint.

22 COUNCIL MEMBER ROSENTHAL: Thank you.

23 CHAIRPERSON TORRES: The Public Advocate.

24 PUBLIC ADVOCATE JAMES: Thank you,
25 Mr. Chair. Madam Chairman, you signed three

1
2 certifications in October 2014, October 2015, and
3 October 2016; the one in October 2015 was revised in
4 December of 2015. I have a copy of the civil demand
5 from Preet Bharara from the Southern District, the
6 document says as follows: It is a false claims
7 investigation concerning false claims submitted to
8 HUD by NYCHA, Homeless Services and/or the City of
9 New York. You just testified that the document and
10 the demand was broad; it is not; in fact, the
11 documents to be produced -- the first question: all
12 property addresses where individuals with elevated
13 blood lead levels. It goes on: the date that each
14 individual with blood levels were identified. It
15 goes on: environmental investigation. It goes on:
16 the dates of the environmental investigation. It
17 then goes on to ask Department of Homeless Services
18 for their information; it then gets back to Housing;
19 it talks about lead paint; it talks about health
20 effects of lead on residents; it talks about blood
21 lead levels of residents. I could go on. Madam
22 Chair, this is not broad. [background comment]

23 SHOLA OLATOYE: Is that the CID to the
24 New York City Housing Authority, Madam Public
25 Advocate...? [crosstalk]

1
2 PUBLIC ADVOCATE JAMES: This.. This is
3 dated November 20th, 2015; it's to Department of
4 Health...

5 SHOLA OLATOYE: Okay.

6 PUBLIC ADVOCATE JAMES: and Mental Health
7 and **[inaudible]**... [crosstalk]

8 SHOLA OLATOYE: So like I said, that is
9 not the NYCHA CID that we were responding to.

10 PUBLIC ADVOCATE JAMES: It is my
11 understanding that you received a similar civil
12 investigative demand. Let me also go on to say that
13 there was an order signed by the Southern District;
14 the order is dated March 16, 2016, and whereas it
15 enters into an order demanding that HUD has provided
16 and continues to provide HUD funding to NYCHA, and
17 whereas federal regulations require NYCHA to maintain
18 public housing. It goes on to basically order that
19 all of the documents that they are requesting be
20 handed over.

21 My point in all of this is that this
22 investigation that was initiated by Preet Bharara in
23 the Southern District, and it is under the False
24 Claims Act, is specifically and dominated by
25 information with respect to lead poisoning.

1
2 So my question to you, Madam Chair is;
3 are you aware that the courts have generally held
4 public housing, in particular, public housing to be
5 liable for at least three times the funding they
6 received from HUD under the False Claims Act? In
7 fact, the Westchester Housing Authority was held
8 three times liable for HUD funding after it was found
9 to have violated the False Claims Act. And so
10 basically it comes down to this question: have you
11 assessed the possible damages and/or remedies that
12 NYCHA and New York City face as a result of the
13 certifications which in fact were false in 2015,
14 amended document filed in December, and definitely
15 the one filed in 2016. How much exposure do we face
16 as a city?

17 SHOLA OLATOYE: So I just want the record
18 to be clear that neither of those two documents are
19 documents directed to the New York City Housing
20 Authority.. [crosstalk]

21 PUBLIC ADVOCATE JAMES: I...

22 SHOLA OLATOYE: and I think that's really
23 important to note. They are not addressed to us or
24 to me, they were addressed to other City agencies and
25 I think that's important to note.

1
2 PUBLIC ADVOCATE JAMES: Is it your
3 testimony that this document is fundamentally
4 different from the document that you received from
5 Preet Bharara in the Southern District; that it is
6 not similar in nature and in kind and the documents
7 requested are both the same?

8 SHOLA OLATOYE: Madam Public Advocate, I
9 have not seen that document, so I cannot say that
10 100%, but I just want it to be clear that those two
11 documents are not the property of the New York City
12 Housing Authority. Look, there are...

13 PUBLIC ADVOCATE JAMES: So are you
14 willing to turn over that document to my office?

15 SHOLA OLATOYE: This is an active and
16 ongoing investigation; I would suggest that if you
17 have questions about the documents of the U.S.
18 Attorney's Office that you contact them. The second
19 thing I would say is, you know, as this is an active
20 and ongoing investigation, it has been made clear to
21 us that the government is most focused on, as we are,
22 on ensuring the health and safety of our residents
23 and that there is an interest in both going after
24 people individually or seeking damages from the New
25 York City Housing Authority. The focus of our work

1
2 is to try and understand how quickly this agency can
3 get in to compliance; this did not happen over the
4 course of the last four years; this is decades of
5 disinvestment and mismanagement and we are trying to
6 fix it and it is going to take time, and when the
7 conclusion of that investigation is done, I'd be
8 happy to sit before this body and walk through what
9 the requirements will be for how we are to operate
10 under that new world order.

11 PUBLIC ADVOCATE JAMES: My last two
12 comments, Mr. Chair, are the following. According to
13 the Department of Investigation report, in your
14 September 2016 meeting with HUD, you said that
15 inspections stopped for two years under the previous
16 administration, the Bloomberg Administration, but you
17 did not mention that the inspections did not resume
18 for another two-and-a-half years under the de Blasio
19 Administration. Why did you not disclose that
20 information? And let me end where I began and that
21 is: Luz, who is a grandmother of 3-year-old
22 grandchildren in Red Hook, her apartment had not once
23 been tested for lead and when NYCHA came in June,
24 they discovered lead and they said that they would
25 come back in 90 days and they have not. My point to

1
2 you is: I'm concerned about children, Luz's apartment
3 and the countless other number of residents whose
4 apartments have not been tested for lead obviously is
5 a major concern. But the secondary concern is; as a
6 result of the false documents that were filed with
7 HUD in October 2015 and in 2016 are blatantly false
8 and they put us as a city obviously in jeopardy
9 financially and otherwise, as well as all of the
10 countless number of children in public housing. I
11 have lost all trust in NYCHA at this point in time
12 and I renew my request for your resignation. Thank
13 you.

14 [cheers, clapping, background comments]

15 COUNCIL MEMBER MENCHACA: Do you have any
16 reply to that?

17 SHOLA OLATOYE: So 1) this will be the
18 work of and the content of our discussions with the
19 U.S. Attorney's Office; 2) we are working to and
20 prioritizing the units of children under the age of
21 6; 3) there was a process, clearly it was inadequate;
22 that is why we'll have a compliance department; 4) as
23 this chair of this committee has indicated, the
24 presence of a federal monitor I believe will continue
25 to support the important agency transformation that

1
2 has begun under this Administration. I think it
3 would be remiss for us to forget what we walked in on
4 in 2014. I am guided, we are guided by public health
5 data that tells us one child is still too many; this
6 agency has a lot of work to do to not only regain the
7 trust of its residents but to ensure that this
8 generation and the next can have a safe and clean
9 place to live. Ultimately I serve at the pleasure of
10 the Mayor and while he has confidence in my ability
11 to continue to act as a problem-solver; that's why I
12 was brought in; that is the work that we are doing
13 and that is the work that we will continue to do.

14 COUNCIL MEMBER MENCHACA: Thank you Chair
15 for that confident response. I think you've heard
16 from multiple perspectives here that this work is not
17 gonna be easy as we move forward. I wanna follow up
18 a little bit on the kinda common areas that Council
19 Member Rosenthal spoke to. There are reports, or not
20 reports, but questions about whether or not water
21 supply, for example, has been tested by NYCHA. Is
22 that something you can confirm right now that has
23 been tested as well, and I know the focus is on blood
24 lead levels and response, but help us -- for folks
25 who are here right now want to know that -- and then

1
2 I have a final question before we bring up the next
3 panel.

4 SHOLA OLATOYE: So New York... and I will
5 defer to the public health professionals to talk
6 about the safety of the New York City water supply,
7 but because we were, out of an abundance of caution,
8 were responding to the national conversation, and I
9 believe in 2015 we did a random sampling of our
10 apartments, over 200 apartments were tested, and
11 after the first and the second draws, there was no
12 presence of lead in the water. We continue to work
13 with the Department of Health, with the Department of
14 Environmental Protection to ensure that the systems
15 and the infrastructure needed to deliver safe and
16 clean drinking water is there, and again, for people
17 listening or watching, if people have concerns about
18 their apartments of lead-based hazard, potential
19 hazard, I would encourage them, implore them to
20 contact the Customer Contact Center, their management
21 office, and we will respond accordingly. This is a
22 generations worth of work that we have uncovered that
23 hasn't been done and have there been mistakes made?
24 Yes. Are we focused on getting it right going
25 forward? The answer is yes, that's what we've done

1 from day one, whether we've been driving down repair
2 times, getting the Sandy program back on the right
3 track, connecting residents to jobs. This is not
4 easy work, it's not gonna be done in four years, but
5 I believe that with this body's support, as well as
6 the presence of a federal monitor, we will continue
7 to move on a path towards transformation.
8

9 COUNCIL MEMBER MENCHACA: And for cases
10 that have come up today, will you commit to taking
11 names, apartment numbers..

12 SHOLA OLATOYE: Absolutely.

13 COUNCIL MEMBER MENCHACA: and respond..

14 [interpose]

15 SHOLA OLATOYE: Absolutely.

16 COUNCIL MEMBER MENCHACA: immediately to
17 cases that have been out of compliance in response
18 and mitigation?

19 SHOLA OLATOYE: Absolutely. We have
20 staff here... [interpose]

21 COUNCIL MEMBER MENCHACA: Will you have
22 staff here throughout the rest of the... [crosstalk]

23 SHOLA OLATOYE: There are staff here --
24 if they could raise their hand -- who would be happy
25 to take names, information... [crosstalk]

1
2 COUNCIL MEMBER MENCHACA: Can you all
3 make yourselves available... [crosstalk]

4 SHOLA OLATOYE: Yes.

5 COUNCIL MEMBER MENCHACA: or... or hands?

6 SHOLA OLATOYE: Cathy, yeah, right there.

7 COUNCIL MEMBER MENCHACA: I see two hands
8 over here and so for residents here who are either
9 gonna have to go back to work...

10 SHOLA OLATOYE: Sure.

11 COUNCIL MEMBER MENCHACA: that they can
12 speak to those two folks directly and have responses
13 that are not only respectful of them and the families
14 that live in these apartments, but back to restoring
15 trust with our... [interpose]

16 SHOLA OLATOYE: Yes.

17 COUNCIL MEMBER MENCHACA: with our
18 residents, they can feel like they're gonna be
19 listened to.

20 Final question. NYCHA is in constant
21 compliance over multiple laws; are there any other
22 issues that you can talk to us -- you're before us
23 right now -- that you can tell us that there are
24 issues or questions about that you can talk to us
25 about -- mold or any other issue...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SHOLA OLATOYE: Yeah.

COUNCIL MEMBER MENCHACA: Section 3...

SHOLA OLATOYE: Right. Right.

COUNCIL MEMBER MENCHACA: that you can tell us right now -- you have an opportunity to talk to us about any other issues [background comment] that might've been flagged that can give you an opportunity to report to this committee and this council?

SHOLA OLATOYE: So one; thank you for that invitation and I'd like to come back to you with a full assessment of the work that we are doing right now to answer that question with certainty, and we know that our work with regard to mold is an ongoing discussion; we're working with a special master every day to both retrain our staff and actually help us solve the root causes. So I'd like to come back to this body and report out on that assessment in the New Year.

COUNCIL MEMBER MENCHACA: And how soon can you be ready to come back to us on those compliance reports?

1
2 SHOLA OLATOYE: I would like at least the
3 first quarter to come back and report back to you; it
4 is an active part of our work as we speak.

5 COUNCIL MEMBER MENCHACA: Thank you.

6 SHOLA OLATOYE: Thank you.

7 [pause]

8 CHAIRPERSON TORRES: I want... just a quick
9 question about the chief compliance officer. What's
10 the distinction between the role of the chief
11 compliance officer and the role of the general
12 counsel? It would seem to me the role of the general
13 counsel is to ensure an agency's compliance with
14 city, state and federal law. So how does the new
15 position differ from the role of the general counsel?

16 SHOLA OLATOYE: So there are three lines
17 of defense in any public or private company; the
18 first is the business units, the on-the-ground, where
19 the work is actually happening; how we respond to
20 residents, the second is a compliance function, and
21 the third is audit. Clearly, we are working and have
22 been working with this body's support to improve on
23 the basics in that first line. The second line,
24 compliance, has been historically a shared and
25 decentralized function; everyone owned it and so what

1
2 we have now done is centralized that function for
3 greater visibility so that that is all that that
4 person and ultimately, the small unit focuses on.
5 The third is audit; audit is about reviewing are we
6 executing on agency initiatives going forward; what
7 is the success rate; they are very distinct
8 functions. The general counsel is responsible for
9 ensuring, protecting both the agency, its employees;
10 it's residents from litigation, etc. They are very
11 different roles and I think it is something that has
12 been missing and that is why it will be an important
13 focus of our way forward.

14 CHAIRPERSON TORRES: 'Kay. So I just
15 wanna conclude with some of the concerns that I will
16 leave with this hearing. I mean first, I'm concerned
17 that the original number of units that were either
18 known or presumed to have lead paint -- 76,000 --
19 that number was brought down to 55,000 or 48,000, but
20 given the fact that your employees had no proper
21 training and certification, I have no confidence that
22 those 21,000 units were properly abated. So it seems
23 to me that we have to look beyond the universe of
24 55,000 units to ensure that NYCHA units are free of
25 lead paint.

1
2 I think, secondly, I just find it odd
3 that even though you have weekly meetings with the
4 Deputy Mayor, you never asked the Deputy Mayor
5 whether you should file a false certification with
6 HUD; that's just something that strikes me as odd.
7 When I asked you: when did you learn of the false
8 certification, you couldn't tell me, even though the
9 DOI report indicates that you falsely certified,
10 knowingly falsely certified a document in 2016. I
11 asked you: when did you learn of the false
12 certification; you said 2017. I said exactly when;
13 you couldn't tell me. And then, you acknowledged
14 that you made statements that were false to the City
15 Council, which you found out were false in a matter
16 of weeks, and you did not feel an obligation to
17 correct false statements that you made under oath to
18 the City Council on the public record.

19 I have made every effort to give NYCHA
20 the benefit of the doubt; I have responded very
21 differently to this controversy than others have, but
22 I am deeply disappointed with today's testimony, and
23 I'm not gonna comment on what should be the future of
24 the leadership of NYCHA, I will leave that for the
25 Mayor to decide, but I will tell you that my

1
2 confidence in the credibility of this agency has been
3 shaken by your testimony today. So with that said,
4 unless you wanna make concluding comments.

5 SHOLA OLATOYE: One, thank you for your
6 comments. An effort like this, which is a turnaround
7 effort, requires a vision, it requires resources, and
8 it requires the ability to be nimble in the face of
9 ongoing challenges; that is the work that we have
10 done for the past four years. Have we made mistakes?
11 Yes. At no point did I ever intend to mislead or lie
12 to either this body or a federal regulator; in fact,
13 quite the opposite. Could communication have been
14 more precise, better; sooner? I think we could all
15 say yes to that. But... You asked me to respond..

16 CHAIRPERSON TORRES: Yeah.

17 SHOLA OLATOYE: So what I am confident in
18 is our ability to continue to find difficult
19 problems. Can I sit here today and tell you that
20 there are not more challenges to come? No. But that
21 is the work of someone who has spent the last four
22 years, every day thinking about how to make the lives
23 of the 1 in 14 New Yorkers better, and that will be
24 our work going forward. I recognize it will require
25 us to repair a relationship, if possible, but the

1
2 work still has to get done and that is what we're
3 focused on. Thank you for the opportunity to
4 testify.

5 CHAIRPERSON TORRES: Thank you. We will
6 take a five-minute recess. And then after the five-
7 minute recess, we will call up the DOI commissioner.

8 [pause]

9 CHAIRPERSON TORRES: Okay. 'Kay.
10 [gavel] [background comment] We're gonna resume the
11 City Council hearing and we're proud to be joined by
12 the Commissioner of the Department of Investigation,
13 Mark Peters. The floor is yours. Actually, can you
14 raise your right hand? Do you affirm to tell the
15 truth, the whole truth and nothing but the truth in
16 your testimony before this committee and to respond
17 honestly to council members' questions?

18 MARK PETERS: I do.

19 CHAIRPERSON TORRES: 'Kay, thank you,
20 Commissioner.

21 MARK PETERS: Good afternoon, Chair
22 Torres and members of the Committee on Public
23 Housing. I am Mark Peters, Commissioner of the
24 Department of Investigation. I am joined here today
25 by Ralph Iannuzzi, the Inspector General for the New

1
2 York City Housing Authority and Tejah Duckworth, the
3 Inspector General for DOI's Integrity Monitoring
4 Program. I appreciate your request that I testify
5 here today regarding DOI's report on NYCHA's failure
6 to conduct mandatory lead paint safety inspections
7 and DOI's recommendation that an independent monitor
8 be put in place.

9 DOI's report on this matter has been made
10 public and so I will only briefly recap its findings.
11 DOI's investigation determined that NYCHA has failed
12 to conduct legally mandated safety inspections for
13 lead paint, since 2013. In addition, NYCHA submitted
14 false documentation to the United States Department
15 of Housing and Urban Development certifying that
16 NYCHA was in compliance with federal rules that
17 require these inspections, when in fact it was not.

18 Despite NYCHA's senior staff being made
19 aware in 2015 that the agency was out of compliance
20 with Local Law 1, and its chair and CEO, Shola
21 Olatoye, being advised of their noncompliance with
22 both federal and local lead safety rules in early
23 2016, certifications were still submitted to the
24 Federal government falsely stating that NYCHA was in
25 compliance.

1
2 DOI can immediately begin conducting field spot-
3 checks to ensure that annual apartment inspections
4 and lead abatement are completed, and that subsequent
5 quality assurance inspections are performed. DOI can
6 also conduct field visits to ensure that essential
7 apartment safety checks of smoke alarms, window
8 guards and carbon monoxide detectors are performed in
9 accordance with NYCHA policy and local law.

10 DOI currently manages 18 monitorships,
11 including a monitor for NYCHA's rebuilding after
12 Hurricane Sandy, and monitors for the City's new 911
13 Call Center. We recently concluded a monitorship for
14 NYCHA's Bond B Program for capital improvements.

15 Indeed, the NYCHA Sandy monitor recently
16 found \$2.5 million dollars in overpayments on that
17 project -- just slightly less than what we estimate a
18 three-year lead monitorship would cost.

19 In sum, we have two challenges: First, we
20 must make sure that lead testing and remediation are
21 properly completed. Second, in light of the
22 misinformation provided by NYCHA previously, we must
23 have an independent monitor to give us assurance
24 about reporting going forward.

1
2 Clearly, the Federal government has
3 severely underfunded NYCHA for many years. That
4 underfunding is unacceptable and certainly has caused
5 many of NYCHA's problems. But the safety issues
6 addressed in our report involve only limited funding
7 requirements, and the provision of accurate
8 information should be a non-negotiable point under
9 any circumstance.

10 And with that, I look forward to
11 answering any questions you may have.

12 CHAIRPERSON TORRES: Commissioner, thank
13 you for your testimony. I made a point of
14 emphasizing in my opening statement that but for the
15 DOI report, you know, we would have all been in the
16 dark about the failures in lead safety, and it seems
17 to me NYCHA would've been content to leave us there.
18 Do you have any reason to believe that NYCHA would
19 have revealed: a. that it was noncompliant with lead
20 safety laws and b. that it was falsely certifying
21 lead safety inspections in the absence of a DOI
22 investigation?

23 MARK PETERS: Well I obviously do not
24 want to speculate on what NYCHA would do in the
25 future, but two facts remain; one is that many of the

1
2 incidents described in our report occurred months if
3 not years prior to our report and were not reported
4 upon until our report, so I think the history does,
5 to the extent that you're willing to use past actions
6 as a model for what future actions would be, I think,
7 if that answers your question, and of course, part of
8 the reason for having an independent inspector
9 general for NYCHA and for every other City agency is
10 expressly as a backstop to make sure these things
11 come to light one way or the other.

12 CHAIRPERSON TORRES: But it seems to me,
13 independently of the investigation, NYCHA had no
14 plans of informing either the City Council or the
15 general public.

16 MARK PETERS: We certainly have found no
17 information to suggest that they did have plans.

18 CHAIRPERSON TORRES: Does NYCHA continue
19 to be under investigation?

20 MARK PETERS: Our investigation is
21 ongoing, yeah.

22 CHAIRPERSON TORRES: It is ongoing?
23 Okay.

24 MARK PETERS: Yes.

25

1
2 CHAIRPERSON TORRES: So it's far from
3 complete?

4 MARK PETERS: It is not complete; it is
5 ongoing, yes.

6 CHAIRPERSON TORRES: And I suspect you're
7 not at liberty to comment on the nature of the
8 investigation.

9 MARK PETERS: No, obviously we do not
10 comment on... [interpose]

11 CHAIRPERSON TORRES: Fair enough.

12 MARK PETERS: where the investigation is
13 going, but I will tell you it is an ongoing
14 investigation.

15 CHAIRPERSON TORRES: I asked the
16 Chairperson when did she learn of the false
17 certifications; she acknowledged that she learned of
18 the noncompliance with Local Law 1 in March or April
19 of 2016 and then learned of the noncompliance with
20 federal law in the summer of 2016, but she couldn't
21 recall exactly when she learned of the false
22 certification, and then when I pressed her further,
23 she said sometime in 2017. Now that strikes me as
24 odd because she knowingly falsely certified a
25 document in the fall of 2016, so am I missing

1
2 something or is there a discrepancy between those two
3 statements?

4 MARK PETERS: Without wanting to get
5 inside of any other person's mind other than my own,
6 I don't see anything that you are missing. I can't
7 offer you an explanation beyond what you said; I do
8 not see anything that you are missing. What DOI does
9 is we present to this Council facts; the facts are
10 that several of the most senior members of the
11 Chair's staff were aware in 2015 that NYCHA was out
12 of compliance with both local law and federal
13 requirements. The facts are that in early 2016 the
14 Chair herself became aware of the lack of compliance,
15 and the facts are that later in 2016 she signed a
16 certification stating that they were in compliance.
17 Those are the facts and those facts are, as far as I
18 know, not in dispute.

19 CHAIRPERSON TORRES: So she acknowledged
20 that she knowingly signed a document that was false..
21 [crosstalk]

22 MARK PETERS: That's...

23 CHAIRPERSON TORRES: in the fall of 2016?

24 MARK PETERS: That's my... yes.
25

1
2 CHAIRPERSON TORRES: And at that point,
3 it's fully reasonable to conclude that she knew that
4 the Housing Authority had a history of false
5 certifications as it pertained to lead safety
6 inspections. Would that be a fair..

7 MARK PETERS: It would be hard to see
8 how, if she thought about it, she came to a different
9 conclusion..

10 CHAIRPERSON TORRES: Right.

11 MARK PETERS: but I'm not prepared.. I
12 can't testify as to what she actually thought about.

13 CHAIRPERSON TORRES: Now she testified in
14 March of 2016 [background comment] to the City
15 Council under oath that the Housing Authority was
16 compliant with Local Law 1, [background comment] lead
17 safety law; she then found out within a matter of
18 weeks that that statement was false and chose not to
19 correct the false statement that she had made under
20 oath and on the public record, and when I asked why
21 did you refuse to correct the false statement, she
22 said she had.. I mean she gave a number of responses,
23 but one response was that she had to balance, I guess
24 the need for truth-telling with the need to cooperate
25 with a federal investigation; to your knowledge, does

1
2 a DOI investigation or a federal investigation
3 prevent you from correcting a false statement that
4 was made under oath...? [crosstalk]

5 MARK PETERS: I... I have never in my 20
6 plus years of law enforcement known of a situation in
7 which either a DOI or a federal, any other
8 investigation required anyone to not correct a
9 falsehood under oath. I am not aware of that
10 situation having happened. And certainly, let me be
11 very, very clear; obviously I do not want to speak
12 for the United States Attorney's Office, but I can
13 say that there is absolutely no circumstance under
14 which, either in this case or in any other case, DOI
15 would direct any City employee, or for that matter,
16 anyone else, to either make a false statement or to
17 not correct such a false... it would preclude somebody
18 from correcting such a false statement.

19 CHAIRPERSON TORRES: Alright. And I
20 noticed during the testimony the Chairperson was
21 loathe to use the word "false certification," is
22 there a reason; did she acknowledge a false certi...
23 [interpose]

24 MARK PETERS: She has acknowledged... in
25 our interviews, she acknowledged that she knew they

1
2 were out of compliance, she knew that the
3 certifications said they were in compliance, and she
4 acknowledged that she signed it.

5 CHAIRPERSON TORRES: I then asked the
6 Chairperson... she acknowledged that she had weekly
7 meetings, she has weekly meetings with the Deputy
8 Mayor, [background comment] and when she learned of
9 NYCHA's lead noncompliance -- obviously lead safety
10 became part of those weekly meetings -- I asked the
11 Chairperson whether she, I guess sought permission
12 from the Deputy Mayor before filing a false
13 certification with HUD; is that a piece of
14 information that you were able to obtain in your
15 investigation; is that a question you ever asked?

16 MARK PETERS: As I said, our
17 investigation is ongoing.. [interpose]

18 CHAIRPERSON TORRES: Fair enough.

19 MARK PETERS: and so I can't comment on
20 the answer to that just now.

21 CHAIRPERSON TORRES: Fair enough. Okay.
22 And I guess I will go off topic a bit; I know that
23 DOI has had... I think DOI has demonstrated the value
24 that it has for the public, [background comment] you
25 know but for DOI, we have no reason to believe that

1
2 NYCHA would've been forthcoming about the failures in
3 lead safety; it would've withheld the truth from the
4 general public, so it seems to me the value of DOI is
5 self-evident and yet you've had your funding requests
6 rejected from NYCHA; is that correct?

7 MARK PETERS: That is correct, we have
8 indeed... NYCHA has a MOU, memorandum of understanding,
9 with the Department of Investigation under which the
10 NYCHA IG is part of DOI; funding comes from NYCHA
11 pursuant to the MOU; they have rejected certain
12 funding requests over the past... [background comments]
13 two years they have rejected certain funding
14 requests, which is, as you know, a concern of DOI's.

15 CHAIRPERSON TORRES: I'm gonna ask a
16 provocative question. Do you see an agency rejecting
17 a funding request from the DOI as an assault on the
18 independence of DOI as an institution; does that
19 interfere with your independent function, your
20 ability to be independent?

21 MARK PETERS: I want to be careful in how
22 I answer this, because DOI... I take extremely
23 seriously the independence of DOI and I believe that
24 over the past four years there's never been an
25 instance in which we haven't in fact both been

1 independent and carrier out our mission. But
2 certainly it is troub... and so no, there has never
3 been in which we have been less independent because
4 of it; having said so, it is obviously always
5 troubling as a structural matter when any independent
6 investigator needs to negotiate with the person they
7 are investigating over funding and so yes, it is --
8 although I do not want to suggest that our
9 independence has been compromised, I believe we've
10 been entirely independent and I believe this report
11 shows that; certainly it is a structural problem that
12 DOI needs to negotiate with the people it
13 investigates for funding and it is particularly so in
14 the case of NYCHA where they have in fact refused the
15 funding.

17 CHAIRPERSON TORRES: It is a problem in
18 theory but in practice it seems to me most agencies
19 are cooperative with your funding requests, right, or
20 no; would that be a mis...

21 MARK PETERS: That is true... for the most
22 part... most of our funding comes directly from the
23 City, some agencies provide funding directly; it's a
24 lengthy, complicated and byzantine process. For the
25 most part, our funding requests have been met, there

1
2 have been some instances where they have not been;
3 this is the only sort of subject matter area. In
4 other words, there have been some instances where we
5 have made funding requests to City Hall generally.. I
6 suspect that there's not an agency in the entire City
7 of New York that has not on occasion had a funding
8 request reject; this is the only... [interpose]

9 CHAIRPERSON TORRES: Can I ask the que...

10 MARK PETERS: subject matter...

11 CHAIRPERSON TORRES: Can I ask the
12 question differently? Do you know of a municipal
13 institution in City government that has been less
14 cooperative with DOI funding requests than the
15 Housing Authority?

16 MARK PETERS: Less cooperative? No.

17 CHAIRPERSON TORRES: No. So NYCHA has
18 been the most uncooperative?

19 MARK PETERS: On funding? Yes.

20 CHAIRPERSON TORRES: Okay.

21 MARK PETERS: Absolutely.

22 CHAIRPERSON TORRES: And now these
23 funding requests were not arbitrary, were not plucked
24 out of thin air; there was a basis for them, right;
25 what was the basis for these funding requests?

1
2 MARK PETERS: The basis for the funding
3 requests -- DOI has about 700 staff in total and they
4 involve investigators, senior investigators,
5 assistant inspectors general, inspectors general, and
6 various other staff. It is important for a variety
7 of reasons that we have some degree of pay parity
8 across the agency. In other words, investigators at
9 NYCHA should be earning roughly what investigators
10 looking at the Police Department or the school system
11 or the Department of Health are getting. There is no
12 pay parity; NYCHA investigators are being paid less
13 than other investigators because NYCHA has refused
14 certain funding requests; there have been other
15 instances where they have outright refused to fund
16 lines, although in every instance where that has
17 happened, we have ultimately, albeit with some
18 struggle, forced the lines of these to be filled, but
19 pay parity issue is still there. And no, there is no
20 other agency where we've had to do that.

21 CHAIRPERSON TORRES: So it seems like the
22 point of the funding request was to rectify pay
23 disparities between NYCHA investigators and
24 investigators elsewhere in City government,
25 uniformity in pay...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MARK PETERS: Exactly.

CHAIRPERSON TORRES: it seems a like a rational basis for a funding request.

MARK PETERS: We thought so.

CHAIRPERSON TORRES: 'Kay. But NYCHA could argue that it has monumental fiscal challenges; that we cannot simply afford to fund the office of NYCHA Inspector General, but then I think of the example of Health and Hospitals -- Health and Hospitals has even greater financial challenges than the Housing Authority. Has Health and Hospitals been cooperative with your funding requests?

MARK PETERS: Yes, they have actually.

CHAIRPERSON TORRES: So if Health and Hospitals can be cooperative with your funding requests, then why can't the Housing Authority be?

MARK PETERS: I...

CHAIRPERSON TORRES: 'Kay.

MARK PETERS: Obviously it is a pinpoint. I'd also like to point out that amount of money we are talking about is a very small amount, not only within the context of NYCHA's budget, but remember that some of the work we do saves NYCHA money. We recently -- as I alluded to in my testimony -- found

1
2 about \$2.5 million that NYCHA was set to pay that it
3 should not have paid for, that was improperly billed
4 to NYCHA, and because of our monitor, we were able to
5 alert NYCHA and NYCHA was able to call back the \$2.5
6 million. That \$2.5 million is considerably more
7 money than any of the money we're talking about in
8 these funding requests.

9 CHAIRPERSON TORRES: So the value that
10 you bring to the agency far outweighs the cost of
11 rectifying pay disparities and..

12 MARK PETERS: Yes. The other point I'd
13 make of course is that I think it's hard to put any
14 value on transparency and accuracy of in... I think
15 this hearing has demonstrated that there is a huge
16 value on transparency and accuracy of information.

17 CHAIRPERSON TORRES: Council Member
18 Salamanca.

19 COUNCIL MEMBER SALAMANCA: Thank you,
20 Mr. Chair. Commissioner, first I wanna thank you for
21 this detailed report. As I mentioned earlier, I
22 represent the third largest metro portfolio in the
23 City of New York, and what this report, in my
24 opinion, pointed out is; we understand that NYCHA has
25 issues in terms of capital dollars -- there's about

1
2 \$17 billion that NYCHA needs to fulfill its capital
3 needs -- but what this report, in my opinion, pointed
4 out was the mismanagement of NYCHA; these issues in
5 terms of testing for lead or for mold is... capital
6 dollars are not needed; this is something that's
7 under the purview of the Chair in which she can send
8 her employees and they could do proper inspections.
9 And so with that said, the State -- in talking to
10 some of my colleagues in the State -- they're pushing
11 for a third-party independent monitor where the State
12 will appoint someone. Do you feel that that's
13 appropriate?

14 MARK PETERS: Well I believe there should
15 be a third-party independent monitor; I believe that
16 the most efficient way to do that is to have that
17 monitor -- as happens in many other cases -- for that
18 monitor to be appointed not by the State, but by the
19 Department of Investigation. We presently are
20 overseeing 18 monitorships, including one of NYCHA on
21 their Sandy rebuilding; we have huge knowledge of
22 City functions, huge knowledge of NYCHA, and so my
23 feeling is -- without casting dispersions on the
24 State or the Federal government -- that the
25 Department of Investigation is probably uniquely

1
2 suited to supervise that monitorship and to do so in
3 an efficient way because we do it all the time, and
4 so I would argue that the best way to do that is to
5 have the monitor appointed by the Department of
6 Investigation overseen by the Department of
7 Investigation.

8 COUNCIL MEMBER SALAMANCA: And do you
9 agree that the Chair of NYCHA should have no
10 oversight over this monitor?

11 MARK PETERS: Yes. The way it would work
12 is; it would be an independent monitor paid for by --
13 the way all of our 18 monitorships -- that Inspector
14 General Duckworth runs -- work is that it would be
15 paid for NYCHA; it would be hired by the Department
16 of Investigation, supervised by the Department of
17 Investigation.

18 COUNCIL MEMBER SALAMANCA: Alright. In
19 my questioning of the NYCHA Chair and also the
20 Department of Health, we come to find that at times
21 DOH may find that there's lead in an apartment and
22 NYCHA will question that and then it will go through
23 another process, a third-party process where you know
24 they would see where the findings come from, and in
25

1
2 my opinion, that's a waste of City resources. Do you
3 have an opinion on that?

4 MARK PETERS: Well I don't want to offer
5 an opinion on the specific City law; the law, as I
6 understand it -- and I would defer to NYCHA or to the
7 City's lawyers or to Council's own lawyers -- the
8 law, as I understand it, is that a landlord,
9 including NYCHA, has the ability when the first test
10 reveals the possibility of lead to insist on a second
11 test. Whether insisting on that second test is an
12 efficient use of resources is something I'm not... I
13 honestly can't answer; we haven't bothered to study
14 that; I do know the law permits for it, and I just
15 sitting here now can't answer the question as to
16 whether or not that's an efficient use of resources.

17 COUNCIL MEMBER SALAMANCA: Alright. I
18 asked the Chair very specific questions, and just
19 very briefly I'll read through them. Is it factual
20 that senior staff were made aware that NYCHA was out
21 of compliance with City lead laws in 2015? And she
22 said yes. Is it true that you as the Chair of the
23 Housing Authority were made aware in 2016 of
24 noncompliance with both city and federal rules as it
25 pertains to lead paint tests? And she said yes. And

1
2 the third one: Is it true that despite knowing of
3 this state of noncompliance you signed off on
4 certifications that were submitted to the Federal
5 government stating that NYCHA was instead in
6 compliance, despite you knowing that they were not?
7 And she said yes. Then my question to her was: Does
8 she feel that she committed perjury? And she said
9 no. Do you feel that this constitutes perjury?

10 MARK PETERS: We have sent our report and
11 findings to the appropriate prosecution authorities,
12 but I'm not gonna offer an opinion... That is a
13 decision for the relevant prosecutorial authorities
14 and I'm not gonna offer an opinion on it until after
15 they have.

16 COUNCIL MEMBER SALAMANCA: Alright. And
17 my final question: Is there any additional... Is there
18 reason to believe that there are additional findings
19 of noncompliance in the near future?

20 MARK PETERS: As I said in answer to a
21 question from Chair Torres, our investigation is
22 ongoing; I don't want to comment now on what we may
23 find; I will assure the Council that if our further
24 investigation determines that there is additional
25 noncompliance that is significant and substantive, we

1
2 will of course supplement our report and of course
3 report back to the Council on that.

4 COUNCIL MEMBER SALAMANCA: Commissioner,
5 the residents of the 17th Council District thank you
6 for this swift and detailed report. Thank you.

7 MARK PETERS: Thank you.

8 CHAIRPERSON TORRES: Commissioner, I have
9 a few questions to clarify; I just wanna make sure
10 that I'm drawing an accurate analogy between Health
11 and Hospitals and NYCHA. Does the City pay for
12 Health and Hospitals DOI investigators or does Health
13 and Hospitals pay?

14 MARK PETERS: No, the situation is
15 largely the same. Most City agencies that are
16 agencies, the budget comes directly from the City;
17 most City authorities -- the Health and Hospitals
18 Corporation, the School Construction Authority,
19 NYCHA; several others -- there is an MOU -- and they
20 are largely similar, although they come from
21 different time periods; they are largely similar --
22 but there is an MOU under which they agree that we
23 will be their inspector general and they agree to
24 fund those functions at a certain level, and so it is
25 essentially the same agreement that we have with the

1
2 School Construction Authority, with the Health and
3 Hospitals Corporation, with NYCHA, and I believe
4 there are one or two others, which I could get you,
5 but they are roughly analogous, yes.

6 CHAIRPERSON TORRES: Right, so you're
7 subjecting NYCHA to the same standard that governs
8 all similarly situated entities, like... [crosstalk]

9 MARK PETERS: Correct.

10 CHAIRPERSON TORRES: SCA and Health and
11 Hospitals; right?

12 MARK PETERS: Yes.

13 CHAIRPERSON TORRES: Okay. And SCA is
14 cooperative with your funding requests?

15 MARK PETERS: Yes, they are.

16 CHAIRPERSON TORRES: And so is Health and
17 Hospitals, despite the fiscal challenges that it
18 faces?

19 MARK PETERS: Yes, they are.

20 CHAIRPERSON TORRES: I have an open-ended
21 question. Did you review the... did you hear the
22 testimony that the Chairperson gave?

23 MARK PETERS: I heard some of it, but I
24 don't want to say that I heard all of it, but I heard
25

1
2 pieces of it and pieces of it were reported to me by
3 my staff.

4 CHAIRPERSON TORRES: Right. And
5 obviously you know the facts of these lead safety
6 breakdowns far better than most of us; was there
7 anything that was particularly striking about the
8 Chairperson's testimony on which this committee
9 should be focusing?

10 MARK PETERS: I think the Committee... I
11 will commend the Committee for asking what I think
12 were all of the correct questions. As I said, I
13 think there are two issues here: there is the need to
14 make sure that the problem is dealt with -- in other
15 words, that we do proper abatements; that they are
16 done by people who are in fact certified to do so --
17 and then there is the issue of transparency and
18 proper information. NYCHA failed in two respects:
19 they failed to do lead testing and proper abatements
20 and then they failed to make appropriate disclosures
21 to the public, to the Council; to federal regulators
22 of what had gone wrong. You know, I will say that
23 before I come to testify at this Council -- and I've
24 testified before various committees many times -- I
25 and my senior staff spend considerable time going

1 through my testimony, going through questions I might
2 be asked, talking with... in preparation for today, for
3 example, I spent considerable time with both
4 Inspector General Iannuzzi and Inspector General
5 Duckworth, as well as my other senior staff, to make
6 sure that all of the information I provide to this
7 Council is accurate; when we may issue reports; when
8 we issue press statements, we go to considerable
9 lengths to make sure that everything we provide [sic]
10 is accurate. What we found was that -- setting aside
11 the specific instance in which the Chair signed a
12 certification she knew to be false -- there were no
13 similar systems in place to make sure that, for
14 example, when the Chair came... you know came... made
15 statements that all the people who might have known
16 the accuracy were appropriately looped in to make
17 sure everything was accurate, and I think that should
18 be a concern... it is a concern to us; it should be a
19 concern to the Council, because at the end of the
20 day, NYCHA serves an incredibly important public
21 function; we do not put anything near the resources
22 into it that we should, but we do put resources into
23 it, and in order to continue to get those resources
24 and to make the argument for getting more resources,

1
2 we need to also give the public confidence that the
3 information we're giving them is accurate, and when
4 that isn't happening, as didn't happen in this case,
5 I think that's harmful to NYCHA in the long-term for
6 its own arguments that it needs better funding.

7 CHAIRPERSON TORRES: Now I want to be
8 careful not to intrude into the scope of an ongoing
9 investigation, but I expressed concern about the
10 abatement of units at the hands of NYCHA employees
11 who have no proper and certification, [background
12 comment] and I'm concerned that the original number
13 of units that were either known or presumed to have
14 lead paint was 76,000 and that number has since been
15 brought down to 55,000; it might be even down to
16 48,000; I'm concerned that the 20,000 plus units that
17 were removed from the list of annual inspections
18 might have been improperly abated and therefore
19 improperly exempt. Do you have any comments on that
20 or is that part of an ongoing investigation; I don't...

21 MARK PETERS: We are... I understand your
22 concern...

23 CHAIRPERSON TORRES: Yeah.

24 MARK PETERS: I do not want to suggest --
25 and I wanna be very careful with this -- I am not

1
2 suggesting in my testimony today that there is a
3 problem; I do not know, sitting here right now, that
4 there is a problem; it is certainly a valid question;
5 it is one that is part of our ongoing investigation...

6 CHAIRPERSON TORRES: Okay.

7 MARK PETERS: if we come to the
8 conclusion -- and I wanna be also careful -- these
9 investigations take time, I mean it takes a long time
10 to do these kinds of investigations and to do them in
11 the kind of thorough way that we're sure we're right,
12 but if we come to the conclusion that this is an
13 issue, it would certainly be included in a follow-up
14 report.

15 CHAIRPERSON TORRES: Well I want you to
16 know -- I know you take guidance from the City
17 Council as well as the Mayor on the manner in which
18 to conduct your investigations or the subjects
19 [background comment] on which to conduct your
20 investigations; for what it's worth, I want you to
21 know it's of interest to the Public Housing Committee
22 potentially the improper abatement and exemption of
23 those 20,000 plus units.

24 MARK PETERS: As it happens, that is
25 something we will look at, but even if it was not,

1
2 your request would make it something we would look
3 at.

4 CHAIRPERSON TORRES: As you know, I have
5 concerns about the transparency of the Housing
6 Authority, and I just wanna provide a list of
7 examples of where I thought the trust and the
8 transparency of the Housing Authority fundamentally
9 broke down, right. I think first, the Chairperson
10 knowingly filed the false certification; the
11 Chairperson made a false statement to the City
12 Council in March of 2016, found out that that
13 statement was false and chose not to correct it, even
14 though the statement was made under oath; the
15 Chairperson or NYCHA did not reveal that NYCHA was
16 noncompliant with lead safety laws until 15 months
17 after finding out, and then the Chairperson went 20
18 months without telling the public and the City
19 Council that NYCHA had been falsely certifying lead
20 inspections, and then NYCHA did not tell the general
21 public or the City Council that it had been
22 conducting inspections without proper training or
23 certification until there was an article about it in
24 the *Wall Street Journal* and the *Daily News*, and NYCHA
25 did not tell the City Council or the general public

1
2 that lead abatements were being conducted without
3 proper certification until there was an article about
4 it. Just in your experience, you've investigated
5 many agencies; does NYCHA have a unique challenge
6 with transparency? Do you know of comparable
7 breakdowns in trust and transparency elsewhere in
8 City government? I know that's a loaded question,
9 but.

10 MARK PETERS: I don't want to say that it
11 is unique, because if I do, when I get back to the
12 office, one of my inspectors general will walk into
13 my office and say hey boss, what about XYZ agency and
14 I won't have a good answer for him or her. So I
15 wanna be careful not to use the word "unique" and I
16 hope I'm not being too pedantic in my language here,
17 but I would certainly say that the transparency
18 issues at NYCHA are troubling; it is part of the
19 reason we issued the report, and certainly NYCHA is
20 more challenged in this regard than most agencies. I
21 don't want to say it's unique, but certainly it is a
22 bigger challenge here than in many of the other
23 agencies we oversee. I would add one more thing to
24 your list of transparency concerns, if I may..

25 CHAIRPERSON TORRES: Yeah.

1
2 MARK PETERS: because I think it goes to
3 the systemic nature. In 2016, when the Chair... March
4 of 2016, when the Chair testified to your committee,
5 we know that a number of her most senior staff
6 already knew they were out of compliance. As I said
7 to you before, when I come to testify, I meet with my
8 senior staff and I make sure that everything that I'm
9 going to say is accurate because honestly, if we
10 relied on only what I personally know -- you know,
11 the extent of what I know versus the extent of what
12 my staff knows is this to this. We know that at the
13 time she testified, while she may not have known they
14 were out of compliance, much of her senior staff did
15 and I think it speaks to a systemic breakdown that
16 there wasn't a system in place for the senior staff
17 to say to her: don't say this in your testimony
18 'cause it won't be right. Does that make any sense?

19 CHAIRPERSON TORRES: That makes...

20 MARK PETERS: And I think that is... that
21 should be... [crosstalk]

22 CHAIRPERSON TORRES: perfect sense.

23 MARK PETERS: that should be a concern.

24 CHAIRPERSON TORRES: 'Kay. What about
25 the... and I know we... I asked the Chairperson about...

1
2 you know we know the breakdown in communication
3 between the Chairperson and the senior staff; what
4 about the general manager, 'cause the general manager
5 is the chief operating officer [background comment]
6 of the agency? I have to imagine he's had meetings
7 -- I mean the two officials who were removed were his
8 direct deputies; I have to imagine that he's had
9 meetings with his deputies and would ask them, what's
10 the state of lead compliance in our agency; what's
11 the state of lead safety? Are you aware of the
12 general manager's involvement at all...? [crosstalk]

13 MARK PETERS: We... So there are several
14 senior staff, several people who are at level;
15 [background comment] the general manager being the
16 most senior, but there are a number of senior staff
17 below the general manager and above the level of the
18 folks who were removed. We have no evidence that the
19 general manager personally knew before 2016; we do
20 know that other senior staff -- not merely the ones
21 who were removed -- knew in 2015, and it should be
22 concerning to you; it was concerning to us, that
23 although a number of senior staff knew in 2015, and
24 although NYCHA Was going out saying things...
25 [crosstalk]

1
2 CHAIRPERSON TORRES: And that senior...
3 those senior staff were his... his deputies; is that
4 the senior staff that's referenced in...

5 MARK PETERS: I don't have an org chart
6 of... [interpose]

7 CHAIRPERSON TORRES: Okay.

8 MARK PETERS: NYCHA in front of me, but
9 if you look at it -- and for various reasons I'm not
10 at liberty to mention names...

11 CHAIRPERSON TORRES: Yeah.

12 MARK PETERS: in this context -- what I
13 will say to you is; there's the chair, there's the
14 general manager, and then there are a number of very
15 senior... [interpose]

16 CHAIRPERSON TORRES: Right.

17 MARK PETERS: people right below them...

18 CHAIRPERSON TORRES: the executive VPs,
19 the VPs. Right.

20 MARK PETERS: several of those people
21 were aware in 2015 that NYCHA was out of compliance
22 and it is troubling to us that they would be aware in
23 2015 that the Chair and the general manager would be
24 making statements to the public and to this Council
25 in early 2016 and there was no system by which those

1
2 very senior people who knew those statements were
3 wrong were telling the Chair, either before or
4 immediately after the statements were made, you know,
5 you got that wrong.

6 CHAIRPERSON TORRES: Now when the
7 Chairperson was asked -- if I remember her testimony
8 correctly -- whether... 'cause I was curious to know
9 whether she held accountable the senior staff who
10 knew of the noncompliance, and if I recall correctly,
11 she said she did not wanna make rash decisions,
12 right? But if there was a senior staffer who is
13 allowing me to make false statements to elected
14 officials, to the Federal government; to the general
15 public, [background comment] it would seem to me I
16 would want to hold that, discipline that staffer,
17 fire that staffer immediately.

18 MARK PETERS: I obviously don't want to
19 go into her personnel decisions; certainly... I've got
20 a whole bunch of staff sitting here and listening
21 very closely to what I say, and two of them sitting
22 here right now, largely -- you know I said to
23 Inspector General Duckworth yesterday, as we were
24 preparing for this: "And feel free to kick me under
25 the table if I say something wrong." I would be

1
2 annoyed with my staff if we walked out of here and
3 they knew I got something wrong and they didn't tell
4 it to me so that we could then follow up with you and
5 say: the Commissioner said X, Y, Z -- I don't blame
6 anybody testifying here for getting a fact wrong,
7 there are lots of facts in the world, but I would be
8 annoyed if my staff didn't say to me: Commissioner,
9 you got this fact wrong and it's sufficiently
10 material that you ought to send a letter to the Chair
11 to say I said X, but oops, sorry.

12 CHAIRPERSON TORRES: Well Commissioner, I
13 just wanna thank you for the public service you
14 perform; I feel like the investigative function of
15 DOI is complimentary with the oversight function of
16 the City Council and I feel like we've had one of the
17 best working relationships in City government, so I
18 appreciate that... [crosstalk]

19 MARK PETERS: And I wanna thank you as
20 well; I think this committee... I really appreciate the
21 attention this committee has been giving this, and I
22 appreciate the attention that you have given to DOI's
23 work in this area for years, so thank you.

24 CHAIRPERSON TORRES: Thank you,
25 Commissioner. And we will call up the next panel of

1
2 members of the public. [background comments] We
3 have Victor Bach, Lucy Newman and Audrey Henry, Judi
4 Kende, [background comments] and Davon Lomax.
5 [background comments]

6 VICTOR BACH: Do you need room?

7 CHAIRPERSON TORRES: 'Kay, we'll start.

8 AUDREY HENRY: Audrey Henry.

9 LUCY NEWMAN: Hi, Lucy Newman, The Legal
10 Aid Society.

11 DAVON LOMAX: Davon Lomax, District
12 Council 9, Painters and Allied Trades.

13 VICTOR BACH: I'm Victor Bach, Community
14 Service Society.

15 JUDI KENDE: Judi Kende, Enterprise
16 Community Partners.

17 [background comments]

18 VICTOR BACH: Good afternoon. I'll
19 start; I'll try to be brief; the testimony is a bit
20 longer.

21 Obviously NYCHA lapses in inspecting for
22 lead paint risks are shocking and serious infractions
23 that cannot be condoned. How the Authority came to
24 disregard the well-being of residents, and disregard
25 it since 2012, is inexplicable, particularly when it

1
2 comes to the health of young children. But the key
3 question is what we do about it now.

4 And the first question is monitoring, and
5 clearly, we think that any monitoring of NYCHA's lead
6 paint responsibilities needs to be independent of
7 NYCHA. Given the breach of trust that's happened
8 with NYCHA, at this point it seems foolish to expect
9 them to self-police compliance with regard to that.

10 But I think the critical issue, and a
11 number of Council questioners have raised it, is that
12 we're in the dark about what NYCHA has been doing
13 with respect to lead paint problems, but we're in the
14 dark with regard to a number of other issues that
15 face NYCHA, and we think the crucial question is
16 overcoming NYCHA's insularity and the insulation it
17 enjoys as an authority from direct control by the
18 City.

19 There are two key examples in which it's
20 important that we think about integrating NYCHA with
21 what else is happening in the City.

22 The first example is that NYCHA, unlike
23 the owners of private multiple dwellings, is exempt
24 from [bell] having its housing code violations listed
25 in the public databases held by HPD and the

1
2 Department of Buildings, so we have no way of looking
3 up NYCHA buildings the way you look up any private
4 multiple dwelling and look at the record of
5 violations and the degree to which the violations
6 have been cured.

7 Secondly... [interpose]

8 CHAIRPERSON TORRES: If you can just
9 conclude.

10 VICTOR BACH: Hm?

11 CHAIRPERSON TORRES: If you can conclude
12 your testimony.

13 VICTOR BACH: Okay. Secondly, we point
14 to the fact that NYCHA residents don't have access to
15 the 311 complaint system that any resident of a
16 private multiple dwelling has; in fact, they're
17 turned away. So they don't have the protections of
18 having their complaints recorded, of signaling an HPD
19 inspector as appropriate and having any
20 accountability on the part of the Authority. So we
21 think that's another example of ways in which NYCHA
22 being in the dark can be remedied.

23 Finally, we think this is a critical time
24 for NYCHA and public housing in New York City.
25 There's been mention of changing NYCHA leadership

1
2 here in the hearing; we think that's a mistake at
3 this point in time. I think the Chair has shown a
4 great deal of leadership in setting the course for
5 NYCHA over the next ten years... [interpose]

6 CHAIRPERSON TORRES: So Vic, just in the
7 interest of time, I have to go on to the next person,
8 but... [crosstalk]

9 VICTOR BACH: Okay. Well I'll leave it
10 to that; we think that this is no time to be playing
11 musical chairs with NYCHA leadership. Thank you.

12 CHAIRPERSON TORRES: Okay, thank you.

13 LUCY NEWMAN: Hi, my name is Lucy Newman;
14 I am from The Legal Aid Society. I wanted to thank
15 you for the opportunity to testify and to Chair
16 Torres for your unwavering support of NYCHA's public
17 housing residents.

18 The gravity of the situation surrounding
19 NYCHA's illegal failure to conduct mandatory
20 inspections for toxic lead paint hazard and its
21 falsification of records in connection therewith
22 cannot be overstated. NYCHA is obligated under law
23 to provide safe, decent and habitable housing and
24 NYCHA has failed. The health and well-being of
25 thousands of young children is being put at risk and

1 NYCHA needs to comprehensively fix the situation.

2 NYCHA has a long history of systemic mismanagement,
3 as demonstrated by recent findings of the Department
4 of Investigation report.
5

6 Obviously there's a huge funding crisis
7 for NYCHA to do with inadequate funding from all
8 levels of government, but a lack of funding along
9 cannot be relied on by NYCHA to excuse all of its
10 troubles. The Authority has suffered from widespread
11 systemic mismanagement for decades and has
12 deliberately shied away from transparency [bell] in
13 its operations.

14 I echo the calls for having access to 311
15 and public database for HPD code enforcement for
16 NYCHA residents so that they're on parity with
17 tenants in private multiple dwelling units. And in
18 addition to that, what we really want to focus on
19 going forward is how NYCHA is gonna fix this
20 situation. NYCHA needs to be much more transparent
21 up front about how it's going to do these
22 inspections; they need to have a public
23 accountability with something on their website
24 regarding a list of the buildings that need to be
25 inspected, the dates of inspections, findings from

1
2 inspections, including results of any tests, and
3 remediation. [bell]

4 I want to pass it over to Miss Henry, my
5 client, who had a recent experience in regards to
6 these lead inspections which shows us that it is
7 actually being done in a very chaotic manner which is
8 wreaking havoc on residents' lives, and this is one
9 of the things we need to fix right away so that this
10 doesn't turn into a nightmare for tenants going
11 forward. Miss Henry.

12 AUDREY HENRY: Hello. I received a note
13 from Housing on November 3rd stating that -- around
14 about 6:00 that they would be coming in Monday. I
15 made an attempt to speak to Naomi, the supervisor,
16 caretaker for Housing on that Monday; she guaranteed
17 me that they wouldn't come into my apartment -- my
18 inspection was from 8:30 to 4:00; 8:00 in the morning
19 they drilled out my locks. My daughter came back
20 home at 8:30 to get ready to go for an interview
21 after dropping her kids off for school and could not
22 get access to the apartment. It took them till 11:15
23 to allow us to get back in the apartment; I'm still
24 having problems with both of my locks. They drilled
25 out the top lock which wasn't locked, so that's the

1
2 only reason why they replaced the top lock, because
3 it wasn't locked in the first place so that they
4 drilled it out.

5 How do you give somebody a notice on
6 Friday to have an inspection on Monday and they
7 cannot contact Housing on the weekend, so how could
8 you change the appointment? Miss Shola stated that
9 they gave you two weeks notice. No; that was put on
10 the door Friday at 3:30; [bell] I didn't get in till
11 6:00.

12 Last week I left out the door, I made
13 sure I locked both doors and went downstairs in the
14 elevator, came right back upstairs and turned the
15 knob because I forgot that I did lock the door, and
16 both locks popped open, so then I had to call Housing
17 back to re-fix the locks.

18 Then on part of them trying to come into
19 my apartment to do the inspection, there was no
20 Housing Authority representative on duty with the
21 Housing maintenance worker and the lead people to do
22 the inspection.

23 I went inside my apartment; I checked all
24 windowsills, took pictures of all windowsills, inside
25 and out; there was no inspection done, so that means

1
2 you broke in my house, didn't do an inspection and
3 then you left.

4 LUCY NEWMAN: And a couple of things --
5 so Legal Aid is calling on NYCHA to stop drilling
6 locks out at this time; they shouldn't be enforcing
7 it that strictly. The letter that they're sending to
8 residents says that they care deeply about their
9 health and the conditions in the apartment, but they
10 managed to go four years without caring about the
11 conditions in their apartment. Residents need to get
12 adequate notice of scheduled inspections, with an
13 ample opportunity to reschedule them as necessary.
14 And again, they shouldn't be drilling locks out of
15 people who -- you know they could just call them and
16 see if they're available to come by and let them in.
17 They were very aggressive, the vendor was very
18 aggressive in trying to get into people's apartments
19 and it feels like this inspection process is not
20 being managed properly within NYCHA.

21 CHAIRPERSON TORRES: Dav.

22 DAVON LOMAX: Thank you, Chair. I'm
23 gonna try to give the perspective from District
24 Council 9; we represent the Painters Union, from what
25

1
2 we think where this problem started and how we think
3 we could help alleviate some of the issues.

4 In 2006, under the Bloomberg
5 Administration, NYCHA abandoned a program that
6 required NYCHA apartments to be repainted every
7 three-and-a-half years -- every two years?

8 AUDREY HENRY: Three, every three years,
9 nine months.

10 DAVON LOMAX: Three... right; they
11 abandoned that program in 2006.

12 For at least 50 years they abided by this
13 program and they didn't have nearly as much issues
14 they're having with lead paint now. And in 2008,
15 again under the Bloomberg Administration, NYCHA laid
16 off 70 supervisor painters who performed these
17 inspections and performed the work. It decimated the
18 NYCHA's paint program and now we have the problems
19 you see today.

20 Since the previous administration laid
21 off the paint supervisors and inspectors, NYCHA
22 allowed contractors to self-supervise, including
23 [bell] supervision on the dust control procedures
24 that are required by the Lead Repair and Renovation
25 Program and NYCHA paint contracts.

1
2 We believe that -- you know, District
3 Council 9, we have a robust training center; we
4 provide the EPA training certification for workers
5 that could be performing the work at NYCHA, and any
6 task force that NYCHA is putting forth, we feel that
7 we should be at the table to give our perspective and
8 how we think we could save the City money and also
9 perform the work that much of the NYCHA residents
10 need in New York City.

11 CHAIRPERSON TORRES: Judi.

12 JUDI KENDE: Thank you very much. On
13 behalf of Enterprise, I'd like to thank the Chair and
14 the City Council Committee on Public Housing for
15 convening today's hearing to discuss the New York
16 City Housing Authority, who is that we're talking
17 about today, and I don't wanna repeat things that
18 have been said already and so I think that Vic Bach
19 raised, and others here have raised many, many
20 important points and as I hear those, I think that
21 there are very big structural issues that go beyond
22 what we're talking about today and that really, these
23 are symptoms of a very deep problem of systemic
24 disinvestment and so I really want, and what
25 Enterprise is trying to do, is to look for more

1
2 funding and resources for NYCHA so that it can
3 address these, and I hope everyone will support that
4 effort, 'cause it's very important.

5 And I think we also agree with Vic Bach
6 that the Chair has done many important things for
7 NYCHA over this time and set a vision [bell] and that
8 it would be a mistake to switch the leadership at
9 this point. So Enterprise commends the Council for
10 its commitment to connecting all residents to
11 opportunity and affordable housing, for understanding
12 that NYCHA is our city's greatest affordable housing
13 resource, and we thank you for all you're doing to
14 make the city a better place.

15 AUDREY HENRY: Hello. How could you
16 assure that Housing's gonna do the paint jobs that's
17 needed, because I've been living there for 32 years;
18 I had two paint jobs -- April in '94 and September of
19 this year. 'Cause every time they come and give me a
20 date to paint, they lose a contract, they lose a
21 contract, they lose a contract, so in 32 years I had
22 two paint jobs from Housing. I paint it myself, but
23 I had two paint jobs from Housing.

24 CHAIRPERSON TORRES: Great. We don't do
25 Q&A, but I heard your testimony, so. Okay, thank you

1
2 everyone. I am actually gonna have to conclude the
3 hearing because I have an emergency in the Bronx, so
4 I do have to... [background comments] yes, I'm sorry; I
5 know, but I have to conclude the hearing, so I will
6 say... [background comment] no; it's my private
7 business, so I apologize. [background comments]
8 Let's see... and I will submit for the record testimony
9 from the New School Parsons School of Design, Green
10 City Force, Dr. Bloom, Sheila Smalls from O'Dwyer
11 Gardens, and Rafael Cestero, the CEO of the Community
12 Preservation Corporation. Okay. [background
13 comments] Okay. Hold on, hold on, hold on, hold...
14 [background comments] I'll let you talk. Come over
15 here. [background comments] Do you wanna...
16 [background comments] Okay, please. [background
17 comments] Okay. You can... [background comments]

18 SHERRON PAIGE: My name is Sherron Paige;
19 I live in Red Hook [background comments]...

20 CHAIRPERSON TORRES: Charlene; why don't
21 you join the... why don't you join the... [background
22 comment] Yeah, but I do have to conclude this
23 hearing, so.

24 SHERRON PAIGE: I live in Red Hook East
25 Houses; my child, my 4-year-old son Kayan [sp?]

1
2 Dickerson -- this is my 4-year-old son affected by
3 lead, elevated lead levels of 12 in his body because
4 of Housing's neglect of coming to fix a pipe that was
5 broken in my wall for two years, two years.

6 CHAIRPERSON TORRES: How old is your son?

7 SHERRON PAIGE: He's 4; he's been in that
8 apartment since the day that he was born and other
9 the repairs that they were supposed to come and do,
10 they never do, never. So this is the outcome; now my
11 son has speech delays, he can't concentrate in
12 school; they're ready to put my son in special ed
13 because of their neglect.

14 CHAIRPERSON TORRES: Has NYCHA inspected
15 your apartment at all?

16 SHERRON PAIGE: I haven't had an
17 inspection till this year, till everything hit the
18 fans; that's when they came and inspected my
19 apartment. The four years I've been in there, no
20 inspections. I mean the four years my son's been in
21 there, under 6, no inspection; no lead inspection; no
22 nothin'.

23 CHAIRPERSON TORRES: When did your...

24

25

1
2 SHERRON PAIGE: I've been in that
3 apartment for six years; no type of inspection,
4 nothin'. [bell]

5 CHAIRPERSON TORRES: When did your son
6 test... when did he test positive for lead?

7 SHERRON PAIGE: In September of this
8 year.

9 CHAIRPERSON TORRES: Okay. And he was 4
10 years old at the...

11 SHERRON PAIGE: Yes. [background
12 comment] Sherron Paige.

13 CHAIRPERSON TORRES: And is there... has
14 there been detection of lead in your apartment; has
15 there been a test discovering lead in your apartment?

16 SHERRON PAIGE: They came and they...
17 **[inaudible]** fix it, but how do I know that it's safe
18 still?

19 CHAIRPERSON TORRES: Okay. So there was
20 a test detecting lead in your apartment?

21 SHERRON PAIGE: When they sent the tech
22 services there, the tech services was gonna just
23 knock the wall down without puttin' up the plastic,
24 all of that. Me and my son's father had to really
25 argue with this man for them to do the job correctly.

1
2 They was gonna raise... they had the whole... all that
3 dust just all over the place.

4 CHAIRPERSON TORRES: So NYCHA has abated
5 the lead or no?

6 SHERRON PAIGE: The hole is fixed.

7 CHAIRPERSON TORRES: Okay. Has there
8 been a test after the abatement to ensure that the
9 lead is fully gone or no?

10 SHERRON PAIGE: To look. That's what
11 they did; they came and did a visual inspection,
12 asked is there any peeling paint; that was it.

13 CHAIRPERSON TORRES: But you don't know
14 of an x-ray that's been done or a deeper test that's
15 been done...? [crosstalk]

16 SHERRON PAIGE: No, noth... noth... none of
17 that. None of that. So how do I know that my son is
18 still safe livin' in this apartment? They never
19 offered me to move me, no nothin' to another
20 apartment.

21 CHAIRPERSON TORRES: Charlene.

22 CHARLENE NIMMONS: Charlene Nimmons,
23 Wyckoff Gardens. You know I... clearly there are
24 issues within public housing; we come before you all
25 gracefully, asking that it goes further than this

1 room, because one of the things that's occurring is
2 these conversions under RAD; you have NextGen, all of
3 these different types of refurbishing homes and
4 renovating homes; we are at risk; no one comes in to
5 clean even the brickwork. I asked for environmental
6 studies to be done. When they do brickwork, I
7 personally can attest to it -- they drill the walls;
8 there's only a certain amount of area that they have
9 to cover; that means that that dust comes into the
10 apartment, and when it comes in, you, the resident,
11 has to clean it, so you're being impacted by [bell]
12 different types of environmental issues, whether it
13 be lead, asbestos, mold. First off, when you talk
14 about remedying mold, if you look at it, you have to
15 go and cut out walls, cut out frames to rid it; you
16 can't go in and just remove corking and then put
17 corking back or you can't just change tiled walls and
18 think that the mold is gone because the mold is
19 behind the ball and it's on the framing. So there
20 needs to be serious work done.

22 Now... I'm sorry; I know you've gotta go,
23 so I'm gonna be... [background comment]

24 KAREN BLONDEL: I'm Karen Blondel; I work
25 with... I live in Red Hook and I'm an organizer in Red

1
2 Hook. One of the biggest issues is that the wrong
3 people are assessing the issues. I have a plumbing
4 issue, I've seen about eight people; none of them are
5 plumbers. When is the plumber coming is our point.
6 We need assessments by the people who are qualified
7 to do the assessment; not the same maintenance person
8 over and over again checking for lead, checking for
9 mold, checking for plaster work. A lot of those
10 tickets are hidden under plaster repair, because
11 people didn't properly say that it was peeling paint;
12 they said they need plaster; that's what we say in
13 the projects, we need plaster, and we don't get it.

14 The other thing is; in Red Hook we were
15 without electric for over three weeks during Sandy;
16 we had to use our stoves to create steam to stay warm
17 during those three weeks; that also compromised the
18 paint on the wall and it started peeling even more.

19 As far as management, each manager that
20 we get [bell] has like 200 vacation days and only two
21 years till retirement. Stop sending people to our
22 development who are waiting to retire and don't give
23 a damn about us. And here's my testimony right here.

24 [background comments]

25

1
2 CHAIRPERSON TORRES: Do you have any
3 final comments or?

4 CHARLENE NIMMONS: I just need there to
5 be real true transparency and hear the residents'
6 cries. When we come before you, I understand the
7 experts come up here, they speak and they say what
8 they say, and for years we came in here and we sat in
9 rooms and we said they're not telling you the truth,
10 but you guys... I'm not... I'm not sayin' it a personal...
11 you're not hearing us; we keep saying that there are
12 hidden agendas...

13 KAREN BLONDEL: Yes.

14 CHARLENE NIMMONS: and we need people to
15 come in and understand public housing is in serious
16 need of repair, because their mission says it's about
17 our health, right; they are supposed to make sure
18 that we are healthy. We should not be talking about
19 this today, because we should've taken care of it
20 yesterday.

21 CHAIRPERSON TORRES: Okay. Thank you for
22 your testimony. [background comments]

23 KAREN BLONDEL: And the residents are the
24 experts that you're missing out on; they're on the
25 ground; they know what's happening in those

1
2 developments. And can I suggest that you put some
3 cameras on the workers instead of on the residents?
4 That'll help too.

5 JESSIE SMITH: This is my granddaughter,
6 Riley; this... I live at Red Hook East, 467 Columbia
7 Street; this was in the newspaper 16, 17... 2016, 17...
8 [crosstalk]

9 CHAIRPERSON TORRES: Can you tell us your
10 name?

11 JESSIE SMITH: Jessie Smith.

12 CHAIRPERSON TORRES: Okay.

13 JESSIE SMITH: And there was one worker
14 who came out from the borough in 2016 but I missed
15 her; after that, nobody else came out; my place is
16 terrible; all my walls are like this, all... all of
17 them. So I wanna be brief; that's all I'm gonna say.

18 CHAIRPERSON TORRES: Okay. Alright.

19 JESSIE SMITH: You wanna look at one of
20 these pictures?

21 CHAIRPERSON TORRES: Yeah, you can
22 provide us with the pictures. Okay.

23 JESSIE SMITH: Okay. I'll leave this
24 one... [crosstalk]

1
2 CHAIRPERSON TORRES: Thank you everyone
3 for your testimony.

4 JESSIE SMITH: and the **[inaudible]**.

5 KAREN BLONDEL: And she used to babysit
6 my daughter who's 31, so I hope that didn't affect my
7 31-year-old 25 years ago... [crosstalk]

8 CHAIRPERSON TORRES: 'Kay, thank... thank...
9 thank you for your testimony. [background comments]
10 Okay. So with that said, thank you everyone..
11 [background comment] I really have to close the
12 hearing, I'm sorry, just uhm... [background comments]
13 Sure; why don't you speak for... very quickly.
14 [background comments] Sure. [background comments]
15 I think... sir... yeah.

16 JOEL KUPTERMAN: Joel Ku... Joel Kupterman,
17 New York... is it on; am I on? [background comment]
18 Joel Kupterman, New York Environmental Law and
19 Justice Project. I'm the attorney for the Tenants
20 Association at Smith. [background comment] I sat
21 here 15 years ago, after the World Trade Center
22 disaster, with the facts that the air was not good;
23 we actually grabbed samples in front of that World
24 Trade Center, FOIL'd the City and the State and the
25 Feds to gather information, and the City, for months

1
2 and months said that there was no problem until
3 finally that view changed. I'm sitting here today,
4 after hearing all this testimony and representing
5 those tenants at Smith and I think we have a major
6 problem with the City; not just NYCHA. Smith is
7 undergoing a \$56 million rehab, sponsored by FEMA,
8 due to Hurricane Sandy damage; City contractors,
9 under the so-called supervision of NYCHA, while
10 they're repairing the roof, caused the ceiling to
11 come open, concrete falling upon tenants; we called
12 311 to do testing; 311 said it's the City's
13 jurisdiction. We went to the Health Department; said
14 you have to check, we believe that there is lead,
15 asbestos and contaminated water that's coming through
16 the pigeon droppings. The Health Department said no,
17 you have to go back to NYCHA. I think the major
18 problem is that this is ongoing, we believe that
19 there was lead that was there, but we also believe
20 that the Health Department and DEP have the duty to
21 check up on these things. It's also very scary that
22 the residents of all the NYCHA apartments are not
23 available to [bell]...

24 CHAIRPERSON TORRES: If you could just
25 conclude and then...

1
2 JOEL KUPTERMAN: Sure. I think part of
3 the problem is that the lead problem also affects
4 adults and also that the procedures that they're
5 offering in terms of independent inspectors is false
6 in terms of assurance, of quality; those are people
7 that have a few hours worth of training and those are
8 the ones that get hired to find nothing. So I think
9 it's really important that the City offer the
10 services of Health and DEP and also reach out to the
11 Federal departments, including EPA, to ask for
12 programs, to ask for inspections. They did that up
13 in Syracuse where EPA came in and did a whole
14 **[inaudible]**... [crosstalk]

15 CHAIRPERSON TORRES: Alright.
16 Understood. Understood.

17 JOEL KUPTERMAN: Okay.

18 CHAIRPERSON TORRES: Ma'am.

19 MICHELE HOLMES: Thank you for listening
20 to me today. As a 49-year resident -- and I know you
21 were a resident as well -- you know some of the games
22 that NYCHA plays, and that's all it is to them. I
23 have a 14-year-old grandson who was born in my
24 development, which is Polo Grounds, and as a toddler
25 he used to go in the bathroom and eat the paint off

1 of my walls; the paint was molded as well. Now we
2 hadn't had a paint job for 15 years, so that was not
3 true about every two years as well. Now we're on the
4 other side, he's 14; he has an IEP; he didn't speak
5 until he was almost 4 years old and those were brief
6 words; he didn't speak sentences until after he was
7 5. What needs to happen is all of NYCHA needs to be
8 [bell] looked at; not just where 6 year olds are,
9 because younger people do come to all of the
10 apartments and visit as well. NYCHA needs to be
11 overhauled as much as possible and if you are
12 appointing some committee or even an agency over it
13 and you haven't created that agency yet, I will apply
14 for the job; I'll make sure things get done..

15
16 CHAIRPERSON TORRES: Okay.

17 MICHELE HOLMES: because I've had it.
18 [background comment] My name is Michele Holmes, by
19 the way.

20 CHAIRPERSON TORRES: Thank you, Miss
21 Holmes. [background comment] I wanna thank you both
22 for your testimony, and this panel concludes our
23 hearing.

24 [gavel]

C E R T I F I C A T E

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



Date December 16, 2017