

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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March 6, 2018
Start: 12:45 p.m.
Recess: 1:08 p.m.

HELD AT: 250 Broadway
Committee Room, 14th Floor

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

COUNCIL MEMBERS:
Fernando Cabrera
Margaret S. Chin
Rafael Espinal
Mark Gjonaj
Barry Grodenchik
Bill Perkins
Carlina Rivera
Helen Rosenthal
Ritchie Torres
Jumaane Williams

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

Lou Coletti
Building Trades
Employee's Association

2 CHERISE TORRES: Mike check, mike check.

3 This is a hearing for Committee on Housing and
4 Buildings. Today is March 6, 2018 being recorded by
5 Cherise Torres.

6 CHAIRPERSON CORNEGY: Test, test, so
7 we're getting ready to begin the public hearing on
8 Housing and Buildings. Good afternoon everyone. I'm
9 Council Member Robert Cornegy, chair of the Committee
10 on Housing and Buildings, and I'm joined today by
11 Council Member Williams, Carlina Rivera, Barry
12 Grodenchik, Bill Perkins, Helen Rosenthal, Margaret
13 Chin, Fernando Cabrera. We're here to hold the
14 hearing and a vote on a preconsidered Intro which is
15 a bill to clarify and reiterate the provisions of
16 local law 196 of 2017, to guard against the issues
17 posed by DOB's recently proposed rule and to ensure
18 that the goals of local law 196 are served. We're
19 gonna have openings by my predecessor and also Carlos
20 Menchaca, my predecessor, Jumaane Williams. I'd like
21 to remind everyone who would like to testify today,
22 besides Lou Coletti, please fill out a card with the
23 sergeant and we'll be asking you to stick to a two
24 minute clock for all testimony, Lou.

25 [Laughter]

2 CHAIRPERSON CORNEGY: Council Member
3 Williams.

4 COUNCIL MEMBER WILLIAMS: Thank you very
5 much, Mr. Chair, for holding this hearing and
6 hopefully form affirmable on this bill. This bill,
7 when Carlos and I shepherded the bill that passed
8 last year, we told everyone we would definitely be on
9 top of it to make sure things went smoothly and we've
10 been working with the administration to do just that.
11 This bill is primarily a clean up to clarify language
12 around who can and have access to be able to provide
13 safety site training. We just want to make sure some
14 of the onerous things, so I should say we had several
15 things that we want to make sure happen with that
16 bill. One, of course, was to make sure construction
17 site safety was paramount as people were being
18 injured and dying. We also want to make sure, we
19 know often times when there is moneys available,
20 which we want to make sure was available so it wasn't
21 a unfund mandate. We thank the administration for
22 providing that funding but often times the smaller
23 organizations generally, the black and brown
24 organizations do not have access to that funding and
25 we were clear that we wanted them to have access to

2 that funding. There were some barriers to that and
3 we want to make sure those barriers were lifted while
4 making sure we kept it, the standards very high and
5 so this bill just allows DOB to allow some of those
6 groups who are equipped and well prepared and who do
7 have types of certifications and approvals already to
8 be able to provide a good safety site training so
9 that we are aware of some of the concerns about
10 "trying to water down who can do it", definitely not
11 that. We know DOB will not allow that to happen and
12 we know DOB will only allow those who have the
13 qualifications and the ability to do this training.
14 We look forward to continuing to working with the
15 administration and all others to make sure this bill
16 does what we said we were gonna do and I just want to
17 thank everybody for hopefully supporting this bill.
18 Thank you.

19 CHAIRPERSON CORNEGY: Thank you Council
20 Member. We'll call the testimonies now. Lou
21 Coletti, Building Trades, Employee's Association, if
22 you could just raise your right hand to have your
23 testimony affirmed. We've also been joined by
24 Council Members Torres and Espinal.

2 CHERISE TORRES[?]: Do you affirm to tell
3 the truth, the whole truth and nothing but the truth
4 in your testimony before this Committee and to
5 respond honestly to Council Member questions?

6 LOU COLETTI: I do [Inaudible]

7 [Laughter]

8 CHAIRPERSON CORNEGY: Thank you.

9 [Pause]

10 LOU COLETTI: Now it's working, okay.

11 [Laughter] Thank you for the opportunity this
12 afternoon to come here and make some very brief
13 comments. I'm going to sort of paraphrase my
14 testimony. We think that the Council has done an
15 outstanding job in passing this bill to protect all,
16 the safety of all workers. What we are proposing and
17 I don't know if it's procedurally possible. If it
18 isn't, I would ask that you would consider an
19 amendment. We completely understand about the issue
20 of access to the training and support the concept of
21 what you're doing. What we are very concerned about
22 is going back and having the kind of scandal that we
23 had when OSHA10 cards were issued, fake OSHA10 cards.
24 Originally, back in February of last year, the
25 Manhattan District Attorney addressed a letter to you

2 with some suggestions and with respect, what happened
3 was they were interviewing workers on, it's called
4 the Moncao[phonetic] case where three workers were
5 killed, and when they began to talk to the other
6 workers, few of the workers had actually taken the
7 course, the ten hour course and the contractor at
8 that time, just handed out fake cards and so the
9 worker's never received the training. It was one of
10 the greatest frauds but there was no ability of the
11 District Attorney to implement any, any criminal
12 activity or any, any other kind of action because the
13 state statute doesn't allow it to do so what we're
14 proposing to you is that temporary cards be issued to
15 these OSHA instructors to, to, to continue the access
16 for some period of time, 90 to 120 days and then
17 require the Buildings Department which I know they
18 probably don't like, don't want to do, is to have
19 them register with the Department of Buildings and so
20 that those trainers have to, in fact, certify that
21 they, in fact, trained individuals so that if we're
22 found out that that does not happen, that those
23 individuals could be subject to at least regulatory
24 and fines. I'm just, I'm really afraid because
25 honestly, I don't trust the non-union contractors. I

2 really don't and that's essentially what we're
3 suggesting. We get it on access, support it but
4 there has to be some regulatory enforcement or it
5 will come back and embarrass the Council, it will
6 embarrass the industry if we end up with the kind of
7 investigations that have already taken place.

8 CHAIRPERSON CORNEGY: Thank you
9 Mr. Coletti so I'm going to allow my predecessor to
10 respond because I know that both him and Carlos
11 Manchaca spent a great deal of time, effort and
12 energy into this bill. I will certainly follow up
13 and sit down with my predecessor and the sponsors of
14 the bill to see what we can do on the face that
15 sounds reasonable Council Member Williams if you'd
16 like to respond.

17 COUNCIL MEMBER WILLIAMS: Thank you.
18 Thank you, Lou cause you've been very important
19 through this whole process as well. We always
20 welcome your advice and suggestions and, of course,
21 that makes sense. One, thank you for supporting what
22 we're trying to do along access. I just want it to
23 be clear by, I guess, information, it sounds like
24 you're saying this unchecked could allow more fraud.
25 I just want to make sure

2 LOU COLETTI: Yes.

3 COUNCIL MEMBER WILLIAMS: Where that
4 would occur because the fraud happened before this so
5 what

6 LOU COLETTI: Yes, I'm concerned about
7 getting out ahead of it.

8 COUNCIL MEMBER WILLIAMS: I see.

9 LOU COLETTI: That, that, that there
10 could be potential more fraud if those instructors
11 who say they have OSHA training cards and can provide
12 the training, whether they try to cut corners with
13 the actual training of the people. There's no
14 requirement that DOB has a certification that says
15 yes and then the card gets issued, that worker goes
16 to work on the site and God forbid gets hurt and we
17 find out that they never received any of the
18 training.

19 COUNCIL MEMBER WILLIAMS: So what is
20 there, what protection is there now to stop the fraud
21 that we need to make sure moves to DOB, I guess I'm
22 trying to say?

23 LOU COLETTI: There is, that's my point.
24 There are no protections.

2 COUNCIL MEMBER WILLIAMS: Oh, so with or
3 without this bill, we have some issues?

4 LOU COLETTI: Yes.

5 COUNCIL MEMBER WILLIAMS: Okay, all
6 right, that's what I wanted to clarify.

7 LOU COLETTI: Yes.

8 COUNCIL MEMBER WILLIAMS: Okay, but I
9 agree with the Chair those are very reasonable things
10 that I think we should be talking about with or
11 without the bill and I think it's important that you
12 put it on the record and I would love to support
13 whatever efforts we're gonna do to make sure we
14 [Inaudible] on that for. Thank you.

15 LOU COLETTI: Thank you.

16 CHAIRPERSON CORNEGY: Before we move
17 forward, they are questions from some of my
18 colleagues beginning with Council Member Rosenthal.

19 COUNCIL MEMBER ROSENTHAL: So, I'm new to
20 the issue.

21 LOU COLETTI: Okay.

22 COUNCIL MEMBER ROSENTHAL: And new to
23 what you're raising in your testimony so forgive me
24 if you already have all of this covered. Is it

2 possible that some of the things that are not
3 captured in 196 are already captured in 1447?

4 UNIDENTIFIED WOMEN: No, they're the same
5 [Inaudible] on 196 [Inaudible]

6 COUNCIL MEMBER ROSENTHAL: Oh right,
7 sorry. Thank you. Here's what I'm wondering. Why
8 isn't, the exchange you just had with Council Member
9 Williams, aren't there periodic in the new law,
10 aren't there spot checks that are required.

11 LOU COLETTI: There are, yeah.

12 COUNCIL MEMBER ROSENTHAL: I mean I just
13 want to know, is it all, is it that the law's doing
14 nothing or is it that the law's doing a little
15 something, not enough?

16 LOU COLETTI: The law requires, I think,
17 periodic audits.

18 COUNCIL MEMBER ROSENTHAL: Yes.

19 LOU COLETTI: But personally, that's
20 after the fact and it's too late. You could save
21 somebody's life by knowing that and holding somebody
22 accountable by having that trainer certify to the
23 Buildings Department, these 25 or 30 people I trained
24 them the way that the bill requires them to be
25 trained.

2 COUNCIL MEMBER ROSENTHAL: But don't they
3 require that they, doesn't the bill require that the
4 list of who they trained be

5 LOU COLETTI: No, it does not.

6 COUNCIL MEMBER ROSENTHAL: Submitted to
7 DOB?

8 LOU COLETTI: Currently, no it doesn't.
9 That's the point but, but, according to the letter
10 that was written by the District Attorney, why, the
11 reason why you want them to register in some form or
12 way is because when, if and when you catch somebody
13 with fraud, now you can penalize them or criminalize
14 them. Without that, without making them take some
15 formal action with the Buildings Department, because
16 that becomes they are filing fraudulent reports.

17 COUNCIL MEMBER ROSENTHAL: So I would
18 just, one thing I would ask our team to do is go back
19 and confirm that because I'm not confident that we
20 don't. It's not that we don't hear correct, we don't
21 require, the bill does not require the individuals to
22 but I think it's as I'm hearing it very quickly, the
23 bill does require the trainers to submit a list of
24 who they've trained.

2 LOU COLETTI: A list or a certified list?
3 Big difference. If they just submit a list and you
4 then uncover in an audit that they have really not
5 provided that training, you have no enforcement
6 mechanism. When that trainer

7 COUNCIL MEMBER ROSENTHAL: Why couldn't
8 we aggressively go after the trainer who fraudulently
9 listed a name?

10 LOU COLETTI: Because you don't have any
11 statutory authority. That's my point.

12 COUNCIL MEMBER ROSENTHAL: And you want
13 us to add the authority?

14 LOU COLETTI: If that list has to be
15 certified by that trainer, now you have trainer on a
16 certified list, you can discipline that person
17 because it's, they've certified that they, in fact,
18 provided that training and you have found out that
19 they did not.

20 COUNCIL MEMBER ROSENTHAL: Okay.

21 LOU COLETTI: What I'm suggesting is a
22 process where you get ahead of it, not just in the
23 audit so we do it twice only because this kind of
24 training has just been so exposed to, to, to uh,
25 what's the word I'm looking for, to fake and phony

2 OSHA cards that I don't want to see, I don't want the
3 Council or the administration to be embarrassed by an
4 audit. You know, audits are, it's already done. You
5 can't do anything and I don't want the industry to be
6 because I, quite frankly, don't trust the non-union
7 contractors. I really don't.

8 COUNCIL MEMBER WILLIAMS: Can you do me a
9 favor?

10 LOU COLETTI: Yes.

11 COUNCIL MEMBER WILLIAMS: For my
12 colleagues who weren't on Housing and Buildings last
13 term, can you just cite the precedent that was set by
14 the fraudulent behavior before just kinda what
15 transpired and then Council Member Perkins.

16 LOU COLETTI: What has happened is there
17 was a case. It was called the Moncaio case.
18 District Attorney went in to investigate. There were
19 three workers that were killed on that site and they
20 started to check as is required by Department of
21 Buildings rules and regulations that everybody on
22 that site have a ten hour OSHA class. They started
23 asking the rest of the workers, can I see your ten
24 hour OSHA card just as building inspectors do on
25 sites every day and what they found out that few

2 workers had actually taken the course and that too
3 many people had skirted that requirement with some
4 companies purchasing large amounts of fake cards and
5 giving them to the workers, just so they would not be
6 penalized by the Buildings Department and this is all
7 included in the letter from Cy Vance to the Council
8 last year. I'm reading from it.

9 COUNCIL MEMBER WILLIAMS: Well, Lou,
10 thank you. I just wanted the, for you to encapsulate
11 it.

12 LOU COLETTI: Yeah.

13 COUNCIL MEMBER WILLIAMS: In the interest
14 of time and members having to be at other hearings,
15 we have two more questions and I'll just ask my
16 colleagues to be succinct so that we can vote and
17 that people can make it to their next hearing. All
18 so, Council Member Perkins?

19 COUNCIL MEMBER PERKINS: Thank you
20 Mr. Chairman. So, the companies gave fake cards to
21 workers.

22 LOU COLETTI: Yes.

23 COUNCIL MEMBER PERKINS: Technically, is
24 that like illegal?

25 LOU COLETTI: No.

2 COUNCIL MEMBER PERKINS: What is it?
3 When you give our fake identification is it, okay

4 [Laughter]

5 LOU COLETTI: I shouldn't say that. If
6 I, yes it's illegal. There's no enforcement
7 mechanism to penalize them for doing that.

8 COUNCIL MEMBER PERKINS: Okay, let's
9 imagine that there is one. What would that look
10 like?

11 LOU COLETTI: I think that would be up to
12 the Department of Buildings either to rescind that
13 training provider and say, you know what, you cannot
14 provide any more training, 60 days, 90 days, you're
15 off the list, you lied, and I'm not an attorney. I
16 think but if you certify that you've done something
17 to the Buildings Department that may invoke a fraud
18 charge against them.

19 COUNCIL MEMBER PERKINS: Sounds
20 felonious.

21 LOU COLETTI: Well, it should be. I
22 mean, you're alleging to the Buildings Department
23 that every individual on this site has got the
24 training in order to protect themselves from a safety
25 perspective and, in fact, they haven't.

2 COUNCIL MEMBER PERKINS: So in the
3 absence of that, who is liable when there is a
4 problem?

5 LOU COLETTI: No one. That's exactly the
6 point, council man. No one is.

7 CHAIRPERSON CORNEGY: So, I want to thank
8 you so much Lou for your testimony. I think it gives
9 us a good perspective and I think what you've
10 mentioned and cited and recommended is reasonable.
11 I'm gonna like I said, confer with my predecessor and
12 the sponsor of the bill to see if there's any way but
13 I'd like for you to respond.

14 COUNCIL MEMBER WILLIAMS: No, thank you,
15 Mr. Chair, I just wanted to reconfirm that this issue
16 exists whether or not this bill is passed.

17 LOU COLETTI: As it's written now, yes.

18 COUNCIL MEMBER WILLIAMS: Yeah, so that's
19 what I want to make sure my colleagues

20 LOU COLETTI: I just don't know the
21 process, whether you can amend the bill and vote on
22 it next week or whether you need a different

23 COUNCIL MEMBER WILLIAMS: But I just want
24 to, so but the issue of false cause exists even

2 before this bill is passed? That's what I'm trying
3 to.

4 LOU COLETTI: Yeah.

5 COUNCIL MEMBER WILLIAMS: Yes, that's
6 what I just want to clarify for my colleagues.

7 CHAIRPERSON CORNEGY: So that's something
8 else that we should obviously look at as a Committee

9 COUNCIL MEMBER WILLIAMS: Yeah, yeah.

10 CHAIRPERSON CORNEGY: Is the issue of,
11 you know, is the issue around fake credentialing on
12 particular trainings, right, because that's also a
13 very serious safety issue.

14 COUNCIL MEMBER WILLIAMS: I just want to
15 separate that for my colleagues that this bill is not
16 causing the issue.

17 LOU COLETTI: On no, not at all.

18 COUNCIL MEMBER WILLIAMS: So that's,
19 yeah, okay, yeah.

20 CHAIRPERSON CORNEGY: Thank you.

21 LOU COLETTI: Okay, thank you.

22 CHAIRPERSON CORNEGY: Unfortunately, I'll
23 have to ask my colleagues to wait. We lost Billy
24 Martin.

2 UNIDENTIFIED WOMAN: Unless they have to
3 go upstairs to vote and then they can go upstairs.

4 CHAIRPERSON CORNEGY: This is incredibly
5 confusing so if you'd like to follow Billy Martin so
6 that you can vote upstairs.

7 [Crosstalk]

8 CHAIRPERSON CORNEGY: Rosenthal, where
9 you going?

10 COUNCIL MEMBER ROSENTHAL: I'm right
11 here. Not going anywhere baby, right here. I'm
12 walking. I'm pacing. Got my eyes on the prize.

13 [Laughter] and [Crosstalk]

14 [Pause]

15 CHAIRPERSON CORNEGY: Committee Clerk,
16 Billy Martin, will you please call the roll?

17 COMMITTEE CLERK: William Martin,
18 Committee Clerk, roll call vote, Committee on Housing
19 and Buildings, preconsidered introduction, Chair
20 Cornegy?

21 CHAIRPERSON CORNEGY: I vote aye.

22 COMMITTEE CLERK: Cabrera?

23 COUNCIL MEMBER CABRERA: Aye.

24 COMMITTEE CLERK: Chin?

25 COUNCIL MEMBER CHIN: Aye.

2 COMMITTEE CLERK: Espinal?

3 COUNCIL MEMBER ESPINAL: Aye.

4 COMMITTEE CLERK: Rosenthal?

5 COUNCIL MEMBER ROSENTHAL: Aye.

6 COMMITTEE CLERK: Torres?

7 COUNCIL MEMBER TORRES: Aye.

8 COMMITTEE CLERK: Williams?

9 COUNCIL MEMBER WILLIAMS: I just want to
10 make sure I shout out to Council Member Carlos
11 Menchaca again for his work on this bill and the
12 previous bill. Thank you everyone. I vote aye.

13 COMMITTEE CLERK: Grodenchik?

14 COUNCIL MEMBER GRODENCHIK: Aye.

15 COMMITTEE CLERK: Perkins?

16 COUNCIL MEMBER PERKINS: Aye.

17 COMMITTEE CLERK: Gjonaj?

18 COUNCIL MEMBER GJONAJ: Aye.

19 COMMITTEE CLERK: Rivera?

20 COUNCIL MEMBER RIVERA: Aye.

21 COMMITTEE CLERK: By a vote of 11 in the
22 affirmative, 0 in the negative and no abstentions,
23 item has been adopted by the Committee.

24 CHAIRPERSON CORNEGY: The hearing is
25 officially adjourned. [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 March 12, 2018