

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL
PROTECTION

Jointly with

COMMITTEE ON HEALTH

and the

COMMITTEE ON HOUSING AND
BUILDINGS

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HELD AT: Council Chambers - City Hall

B E F O R E: Costa G. Constantinides
Chairperson

Robert E. Cornegy, Jr.
Chairperson

Mark Levine
Chairperson

COUNCIL MEMBERS: Rafael L. Espinal, Jr.
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Keith Powers

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

Speaker Corey Johnson

Oxiris Barbot
New York City DOHMH Commissioner

Corinne Schiff
NYC DOHMH Deputy Commissioner for Environmental
Health

Maria Torres-Springer
HPD Commissioner

Anne-Marie Santiago
HPD Deputy Commissioner

Steven Schindler
Department of Environmental Protection

Vincent Sapienza
DEP Commissioner

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

Vito Mustaciuolo
NYCHA General Manager

Shireen Riazi Kermani
NYCHA

Liam Kavanagh
Deputy Commissioner at Department of Parks and
Recreation

Patrick Wehle
Assistant Commissioner for External Affairs at
Department of Buildings

William Estelle
Executive Director of School Facilities at DOE

Brandon Kielbasa
Cooper Square Committee

Christine Rucci
Cooper Square Committee

James Markowich
Tenants Taking Control

Nikki Leger
Cooper Square Committee

Edward Ruddock
Lead Dust Free NYC

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

Jackson Fisher-Ward
Harvey Epstein's office

Daniel Huber
Independent Budget Office

Adriana Espinoza
New York League of Conservation Voters

Matthew Chacere
NYC Coalition to End Lead Poisoning

Corey Stern
Attorney

Jen Mun [sp?]
Legacy Lead Coalition

David Carpenter
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Julissa Gilmore
NYC Environmental Justice Alliance

Igor Bronz
Urban Soils Institute

George Lozefski
Urban Soils Institute

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Columbia University

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

Sara Perl Egendorf
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Fran Agnone
National Wildlife Federation

Arthur Klock
Plumbers Local One

Jill Samuels
Children's Hospital at Montefiore

Christine Appah
New York Lawyers for Public Interest

Ben Anderson
Children's Defense Fund

Joel Kupferman
New York Environmental Law and Justice Project

2

3 SPEAKER JOHNSON: Good morning, everyone.

4 I am Council Member Corey Johnson, Speaker of the New
5 York City Council. I'd like to start off by thanking
6 my colleagues, Council Members Levine, the Chair of
7 our Health Committee, Council Member Cornegy who is
8 on his way here, and Council Member-- and he's Chair
9 of our Housing and Buildings Committee-- Council
10 Member Constantinides, the Chair of our Environmental
11 Protection Committee, for agreeing to hold this very
12 important joint hearing. Today we'll hear from key
13 City agencies and advocates about the enforcement of
14 the City's existing lead laws. We'll also be
15 considering a package of 25 bills aimed at updating
16 existing laws and protecting children from exposure
17 to various sources of lead. Although New York City
18 banned the use of lead-based paint in residential
19 buildings almost 60 years ago, last year 4,261 New
20 York City children under the age of six years old,
21 the vast majority of them lived in privately owned
22 housing, tested positive for elevated blood lead
23 levels, and since 2012, 11,060 children in NYCHA
24 apartments, New York City Housing Authority
25 apartments, children whose families trusted the City

2 to provide safe public housing have tested positive
3 for lead poisoning. That is a lot of children. It's
4 a lot of families impacted, and to me these numbers
5 are deeply, deeply disturbing. The science on the
6 dangers of lead exposure is clear, even small amounts
7 of lead can cause serious health problems and can
8 severely impact mental and physical development.
9 Children under six years old are especially
10 vulnerable to lead poisoning, because they are
11 growing rapidly and explore the world with hand-to-
12 mouth activity. Any lead in a child's developing
13 brain and nervous system may result in devastating
14 learning and behavioral struggles that could last a
15 lifetime. What's important to understand here is
16 we're talking about a lifetime of struggling that is
17 entirely preventable. This isn't like other
18 childhood diseases that we have no control over, lead
19 poisoning doesn't have to happen, and yet it is by
20 the thousands in our city. New York City has been a
21 leader in the fight against childhood lead exposure,
22 specifically, the childhood lead poisoning prevention
23 act enacted in 2004 sought to reduce the likelihood
24 of childhood lead exposure with a particular focus on
25 identifying and remediating lead-based paint hazards

2 in apartment and daycare facilities. This law set a
3 goal of eliminating childhood lead poisoning by the
4 year 2010. Obviously, that goal has not been met.
5 But the City did reduce the number of children under
6 six years old who tested positive for dangerous blood
7 lead levels by 89 percent. That is great, but we
8 cannot stop there. Over 4,000 kids have elevated
9 levels of lead in their blood in 2017, seven years
10 after we're supposed to be at zero. The vast
11 majority of those children were children of color,
12 and how have we let them down? Here's what we know,
13 agencies charged with ensuring the elimination of
14 lead's hazards didn't finish the job. To our
15 understanding, HPD didn't keep track of violations.
16 NYCHA provided hazardous living conditions to
17 residents in need, and the Health Department was not
18 able to investigate thousands of children with
19 dangerous blood lead levels in both public and
20 private housing. I'm guessing today that we'll hear a
21 lot about the 89 percent reduction in the number of
22 children under six years old with dangerous blood
23 lead levels. That is good, very good, but we haven't
24 finished the job. Even one child whose potential is
25 ruined is a tragedy. Even worse, this is a

2 preventable tragedy, and all of us here today are the
3 ones who can prevent it. This is a big package of
4 bills, but it basically boils down to two things.
5 One, we must ensure that our existing lead laws are
6 adequately and forcefully enforcement. That is why
7 we'll hear testimony today from city agencies charged
8 with enforcing the City's lead laws as well as
9 members of the real estate industry, health and
10 tenant advocates, and other interested members of the
11 public regarding the City's enforcement of the
12 current lead laws and regulations. Two, we must
13 identify areas where additional legislation is
14 necessary to ensure children are protected from
15 exposure to lead. There are gaps in the existing
16 laws, and we must fill them. Our goal is to ensure
17 that the City follows standards and practices in line
18 with the most recent research on preventing,
19 identifying, and treating childhood lead exposure.
20 For example, Introduction 865, which I'm proud to
21 sponsor, would reduce the City's blood lead reference
22 level to match the Center for Disease Control's
23 reference level of five micrograms per deciliter.
24 The City will intervene at what the CDC has
25 determined to be the lowest level of lead in the body

2 that can be harmful to a child. Moreover, should CDC
3 research and recommendations result in a lower
4 reference level in the future, this legislation would
5 ensure that the City's reference level matches the
6 CDC reference level. Another bill I'm sponsoring,
7 Introduction 864 would require the Department of
8 Health and Mental Hygiene to conduct a building-wide
9 inspection for lead hazards when children under six
10 years old with elevated blood lead levels resides in
11 an apartment supplied with drinking or cooking water
12 found to have elevated lead levels or where a lead-
13 based paint hazard exists. We've all been alarmed by
14 recent reports of elevated lead levels in certain
15 school drinking water taps or reports of elevated
16 lead levels in soil in certain areas of the City.
17 Because of this, and to meet our goal of eradicating
18 lead poisoning that we set forth nearly 15 years ago,
19 the package of bills we're hearing today addressed
20 the elimination of all sources of lead. I want to
21 thank many in the advocate community for being here
22 today and for working with us in preparation for this
23 hearing. Your work has been instrumental in the
24 passage of our current lead laws, and your insight
25 into the need to more aggressively enforce our

2 existing lead laws has been invaluable. This problem
3 did not happen overnight. It predates this
4 Administration, but I hope that every one of us will
5 take responsibility to work together to ensure that
6 all children in New York City grow up in an
7 environment free from the hazards of lead exposure so
8 that our young people can maximize their potential in
9 life. Before I hand it over, I want to just
10 reiterate a few things. Number one, I think maybe
11 all of the folks here were not serving in their
12 current positions in 2004, even in 2010, and I
13 actually think all the folks here are deeply
14 committed dedicated public servants for our city. So
15 I want to say that up front. I just have to say, I
16 feel-- I mean, I was elected to the City Council in
17 2013. I feel like this is a failure of government.
18 This is a tragedy, 4,200 tragedies last year, and I
19 don't know what the potential cost would be to do all
20 the things that we're proposing today. We will work
21 on that over the coming months and renegotiate this
22 package of bills, but the cost to these families, the
23 cost to these children, the cost for the rest of
24 their lives, we have to do a better job as a city.
25 We need to be relentless in our enforcement. We need

2 to ensure that any child that is potentially exposed
3 to lead-based hazards, that it gets remediated
4 immediately, and that if a landlord or the City of
5 New York through NYCHA is not doing its job, that we
6 have a plan to fix it, come down swiftly,
7 aggressively and vigorously to ensure that no child
8 is exposed. The more I learned about this in
9 preparation for this hearing, the more that I dug
10 into the specifics, even while seeing an 89 percent
11 reduction over the years, I am heartbroken in many
12 ways to understand the number of lives that have
13 potentially been gravely effected before they're six
14 years old. So I look forward to hearing from you
15 today. I look forward to asking you a lot of
16 questions about what we must be doing so that we're
17 not sitting here 14 years from now asking the same
18 questions. So, thank you very much, and I want to
19 turn it over first to Council Member Levine, Chair
20 Levine, the Chair of our Health Committee.

21 CHAIRPERSON LEVINE: Thank you, Speaker
22 Johnson, for your leadership on this issue and making
23 sure the Council is focused on this crisis. I want
24 to read language which the Speaker referenced, one
25 line out of the legislation this body passed in 2004.

2 This was a bill passed and signed into law by the
3 Mayor at the time. It said, "The Council finds that
4 these blood levels among New York City children
5 constitute a severe health crisis and has established
6 as its goal the elimination, elimination, of
7 childhood lead poisoning by 2010, by 2010." That is
8 a goal enshrined in law. That is a goal we have
9 failed to meet. That failure does not affect all
10 children equally in the City. I predominantly
11 affects low income children, children of color,
12 living in sub-standard housing, and this failure has
13 serious and life-lasting health implications. There
14 is no safe level of blood-- of lead in the blood.
15 There's no safe level of lead in the blood. Lead
16 poisoning affects childhood development. It affects
17 the brain. It can have impacts on academic
18 performance, on job prospects, on emotional well-
19 being, and these could be life-lasting and life-
20 altering. And this failure is the result of a
21 breakdown on systems on many fronts. We have failed
22 to keep up with evolving national standards. We have
23 failed to get every child in this city tested for
24 blood poisoning. We have failed to adequately
25 enforce existing laws with landlords rarely facing

2 penalties for not performing legally mandated
3 inspections. We have failed to adequately focus on
4 pregnant women. We have failed to consistently
5 investigate sources of lead poisoning outside the
6 home of affected children in parks, in playgrounds,
7 in daycare centers where children spend time. So now
8 eight years after the date by which we had promised
9 to solve this, we have to take dramatic action, and
10 that is what we're doing today by proposing this
11 sweeping package of legislation that will once again
12 put New York City at the forefront nationally at
13 combatting the scourge. We'll be considering bills
14 today that establish more rigorous standards for
15 testing that expand the scope of investigation when a
16 child is determined to have poisoning that require
17 third party testing beyond that done by landlords
18 that put more focus on the risk faced to pregnant
19 women, bills that seek to get more young children
20 checked for lead so no child falls through the cracks
21 and more. We'll be hearing today from a wide array
22 of voices, the Administration, health experts,
23 building owners, tenant advocates and others all with
24 the goal of finally eliminating once and for all the
25 hazard of lead exposure for children in this city,

2 the goal of finally living up to a promise we have
3 made and broken. Thank you again, Mr. Speaker. I'll
4 pass it back to you.

5 SPEAKER JOHNSON: Thank you, Chair
6 Levine. I want to hand it over to Chair Cornegy of
7 our Housing and Buildings Committee.

8 CHAIRPERSON CORNEGY: Thank you, Speaker
9 Johnson. Good morning. As mentioned, I'm Council
10 Member Robert Cornegy, Chair of the Committee on
11 Housing and Buildings, and this is a very important
12 hearing, obviously. I want to thank the Speaker for
13 joining us today as well, and for his support and
14 attention to this critical issue. I want to thank
15 Council Member Costa Constantinides, Chair of the
16 Committee on Environmental Protection, and Council
17 Member Mark Levine, Chair of the Committee on Health
18 for agreeing to hold this joint hearing. Today,
19 we'll hear testimony from the various city agencies
20 charged with enforcing the City's laws, and members
21 of the real estate industry, tenant advocates and
22 other interested members of the public regarding the
23 City's enforcement of current lead laws and
24 regulations. We'll also hear testimony regarding 25
25 bills which seek to, among other things, align the

2 City's lead laws with best practices for testing,
3 identify additional children and other vulnerable
4 populations with elevated blood lead levels for
5 treatment and reduce circumstances under which
6 children are exposed to lead in the City. For
7 example, Intro. 877, in relation to agency referrals
8 for blood lead screenings, which I sponsored, will
9 require city agencies to provide services for or
10 related to a child under seven years old to make
11 reasonable efforts to obtain evidence from a parent
12 or legal guardian that the child has received the
13 blood level screening. If the agency is unable to
14 obtain any evidence of a screening, it would be
15 required to request additional information from the
16 parent or legal guardian to help the Department of
17 Health and Mental Hygiene determine why the child
18 hasn't received a blood lead screening. Two, it will
19 provide information to the parent or legal guardian
20 explaining the importance of blood lead level
21 screening for children, and three, refer them to a
22 physician or healthcare provider for blood level
23 screening. While I appreciate the progress we've
24 made as a city in reducing the threat of lead to our
25 children, I cannot help but think of those families

2 whose children are afflicted with lead poisoning. As
3 the father of six children, it's not enough for me
4 and for us to rest on our laurels, and be happy
5 having minimized the threat of lead poisoning. We as
6 a city, both the Council and the Administration must
7 commit to a goal of ensuring that not even one New
8 Yorkers has to find out that their child has lead
9 poisoning, because one or more child suffering as a
10 result of exposure to lead, be it in paint, in water,
11 or in soil, is too many. Thank you.

12 SPEAKER JOHNSON: Thank you, Chair
13 Cornegy, and I want to lastly hand it over to Chair
14 Costa Constantinides of our Environmental Protection
15 Committee.

16 CHAIRPERSON CONSTANTINIDES: Thank you,
17 Speaker Johnson, and thank you for your strong
18 leadership on this so important public health issue
19 for all New Yorkers, but particularly our most
20 vulnerable children, and to my colleagues, Chair
21 Cornegy and Levine, for helping to convene this very
22 important meeting. You know, lead, as we know, is
23 ubiquitous in our environment, particularly in air
24 more than 45 years ago when lead was used as an
25 additive in gasoline. The EPA commends the phase out

2 of all lead in gasoline in 1973, but it remained in
3 the soil, it didn't biodegrade. And in homes you had
4 lead paint on their outdoors. That paint would be
5 scattered off and chip off into our soil. Today,
6 lead can still be found in soil, although lead levels
7 in soils have generally declined over time as lead
8 was phased out in gasolines. Based on 84 soil lead
9 studies across 62 U.S. cities, evidence suggests that
10 soil lead quantities in city centers were highest and
11 tend to decline towards suburbs in excerpts of the
12 City. We are sponsoring two bills today-- 25 bills
13 today, ones I have sponsored, Intro. 420 which would
14 require the Department of Parks and Recreation in
15 conjunction with the Health Department and Mental
16 Hygiene to test for lead in the soil of public parks,
17 community gardens, and privately owned spaces
18 accessible to children and post testing results on
19 its website. Such soil with elevated lead levels
20 would need to be replaced or otherwise remediated.
21 And Intro. 422A would require property owners of non-
22 owner-occupied private dwelling to test lead levels
23 in soil in certain areas where such stoppings [sic]
24 once a year and provide a copy of test results to any
25 lawful occupants. This-- children play in the soil.

2 They make mud pies. They dig in it. It's what
3 children do. We just want to make sure that our
4 parks are safe. Lead can be found in drinking water
5 as a result of the use of plumbing materials that
6 were brass or bronze based, although lead pipe was
7 banned for the use in drinking water supply lines in
8 most countries in 1980's, it remains an additive in
9 many plumbing materials due to its malleability.
10 Unfortunately, brass and bronze based plumbing
11 materials still release dangerous levels of lead.
12 Lead may also be present in privately owned water
13 mains that service private property. Under those
14 circumstances, individuals with concerns about lead
15 in their drinking water can receive results for free
16 water testing at the tap from DEP. Where lead is
17 found present in water samples taken at the tap,
18 reverse osmosis filters are available to remove lead
19 from drinking water at the tap. As been said, it
20 bears saying again this morning, that there's no safe
21 level for lead exposure, particularly in children and
22 pregnant women. Addressing lead in our soil and
23 water is a step forward for fighting to make sure
24 that our city is safe and the residents are safe. I
25 will also say that we do have a safe water supply. I

2 don't want anyone to, at home, to look at this
3 hearing and think that I should not drink the water
4 in New York City. We can always look to do things
5 better, but our drinking water is mostly-- is the
6 best in the world, and we need to make sure as we're
7 striving to do things better that we are not throwing
8 out our drinking water with that. So, thank you,
9 Speaker Johnson.

10 SPEAKER JOHNSON: Thank you, Chair
11 Constantinides. So, I'm going to read the names of
12 the folks that are going to be testifying here today
13 or taking questions from the Council Members, and we
14 have of course, four folks who are sitting, but we
15 also have other people who are in the audience who
16 might be coming up at certain points to answer
17 certain questions. So I'm going to read the names
18 and then I'm going to have the Counsel to the
19 Committee have you all take the oath to be sworn in
20 before you provide testimony and before you answer
21 our questions. So we have, of course, Doctor Oxiris
22 Barbot, the Acting Health Commissioner for the
23 Department of Health and Mental Hygiene, Corinne
24 Schiff, the Deputy Commissioner for Environmental
25 Health at DOHMH, Maria Torres-Springer, the

2 Commissioner from HPD, Ann-Marie Santiago, Deputy
3 Commissioner at HPD, Steven Schindler from DEP,
4 Vinnie Sapienza, the Commissioner at DEP, Vito
5 Mustaciuolo, the General Manager from NYCHA, Shireen
6 Riazi Kermani from NYCHA. I apologize if I didn't
7 pronounce it correctly. So, if the Counsel could
8 please swear these individuals in.

9 COMMITTEE COUNSEL: Can you raise your
10 right hand, please? Do you swear to tell the truth,
11 the whole truth, and nothing but the truth and
12 respond honestly to Council Member questions? Thank
13 you.

14 SPEAKER JOHNSON: So, either Doctor
15 Barbot or Commissioner Torres-Springer, whoever wants
16 to begin, you may begin.

17 COMMISSIONER BARBOT: Thank you, Council
18 Member, Mr. Speaker. Good morning Speaker Johnson,
19 Chairs Levine, Cornegy, and Constantinides, and
20 members of the Committee on Health, Housing and
21 Buildings, and Environmental Protection. I am Doctor
22 Oxiris Barbot, Acting Commissioner for the New York
23 City Department of Health and Mental Hygiene. I'm
24 joined today by Corinne Schiff, Deputy Commissioner
25 for Environmental Health and Housing Preservation and

2 Development Commissioner Maria Torres-Springer, and
3 Deputy Commissioner Ann-Marie Santiago, as well as
4 colleagues from the New York City Housing Authority,
5 Departments of Buildings, Parks and Recreation,
6 Environmental Protection, Education, Design and
7 Construction, and the Administration for Children
8 Services. I want to thank the Council and
9 specifically you, Speaker Johnson, who as the former
10 Health Committee Chair understands the importance of
11 this topic. I appreciate the opportunity to testify
12 today on the package of legislation intended to
13 prevent and reduce elevated blood lead levels in
14 children. This Administration is deeply committed to
15 the safety and well-being of our children. I'm a
16 pediatrician by training and as Acting Health
17 Commissioner, I also have the honor of being the
18 City's doctor. At this, my first hearing before you
19 in this role, I want to reiterate my commitment to
20 the health of all New Yorkers and advancing health
21 equity in our communities. We have long been at the
22 vanguard of efforts nationally to reduce elevated
23 blood lead levels, EBLs, in children, beginning in
24 1960 when the New York City Board of Health made us
25 the first jurisdiction in the country to prohibit the

2 use of lead paint in residential settings, 18 years

3 before it was banned by the federal government in

4 1978. The City Council has also been a leader in its

5 local laws, especially the Childhood Lead Poisoning

6 Prevention Act, known as Local Law One of 2004.

7 Because of the City's multifaceted approach to

8 preventing EBLs in children, there has been a nearly

9 90 percent decline since 2005 in the number of

10 children under age six with a blood lead level at

11 five or above micrograms per deciliter. In 2017,

12 there were 33,000 fewer children with EBLs than in

13 2005. This decrease is a testament to the Council's

14 passage of a strong local law that helps prevent

15 childhood exposure to lead based paint and the

16 dedicated work of the city agencies represented here

17 today. Despite this progress, we recognize that it

18 is deeply concerning for any parent to receive news

19 that their child has an EBL. When I was a

20 practicing pediatrician in Washington, DC, many of my

21 patients had elevated lead levels. So I know, as a

22 doctor, that there is no safe level of lead and that

23 we must continue to work relentlessly to further

24 reduce the number of children with EBLs. Now is the

25 time to finish the mission, and reduce the cases of

1 kids with EBLs to zero. The City took an important
2 step on July 1st of this year, when the Mayor
3 announced that the Health Department would conduct
4 home investigations for all children under 18 years
5 of age with blood lead levels of five micrograms per
6 deciliter and above. The Speaker's bill would codify
7 this change, and the Health Department plans to bring
8 this update before the Board of Health. The new
9 policy sets a single threshold for Health Department
10 home investigations, and expands by thousands the
11 number of annual home investigations for children
12 with EBLs. To go the last mile we will need new
13 strategies. Let me start with our approach to
14 testing children for blood lead levels, which is
15 critical to early intervention in cases of lead
16 exposure. Currently, 80 percent of children citywide
17 are tested at least once before age three. That's a
18 rate any other city or state would envy, but it is
19 not good enough. Our goal is a Vision Zero approach,
20 and so we are implementing new tools to drive the
21 testing rate up. I can announce today that we're
22 launching a \$1.5-million citywide public awareness
23 campaign to encourage parents and caregivers to get
24 their children tested before age three, especially in
25

2 neighborhoods where we see lower rates of testing and
3 higher rates of EBLs. We are grateful for Council
4 Member Dromm's leadership on this issue and support
5 his related legislation. We look forward to
6 continuing to discuss opportunities to collaborate on
7 this work with the Council. We can also announce a
8 new three-year, \$1-million initiative to reach the 20
9 percent of kids who haven't been tested by their
10 third birthday. On an ongoing monthly basis, the
11 Health Department will match birth records to its
12 blood lead database to determine which children, up
13 to age 3, have not yet gotten their blood tested for
14 lead, as required by law. We'll reach out to these
15 families individually to remind them of the need to
16 get tested and connect them to care. We estimate
17 that this effort could boost New York City's testing
18 rate to over 90 percent over the next few years.
19 Before discussing the bills under consideration
20 today, I want to put the legislation into context by
21 providing some background about how EBLs occur, and
22 by describing the City's current multipronged
23 approach to preventing and responding to EBLs. Lead
24 paint remains the most common source of lead exposure
25 for New York City children. The mechanism for lead

1 exposure is typically ingestion, so it is very young
2 children, especially those under the age of three,
3 who are most at risk. These children explore the
4 world by putting just about anything into their
5 mouths. Peeling or chipped lead paint and lead dust
6 can easily end up on a crawling toddler's hands and
7 on their toys and then into their mouths. And
8 because young children are at a critical stage of
9 physical development and absorb lead at higher rates
10 than older children and adults, nutritional deficits
11 and developmentally appropriate hand-to-mouth
12 activity can put them at risk. It is also important
13 to understand how EBLs are treated in children.
14 Except at very high levels rarely seen in New York
15 City today, the body naturally excretes lead over
16 time on its own. Typically, the only "treatment" is
17 to remove the ongoing source of lead exposure so that
18 the body can do its work. The City's robust approach
19 to protecting children from EBLs is two-fold: first,
20 prevent lead exposure and second, when a child has an
21 EBL, respond quickly and comprehensively.
22 Prevention is the focus of Local Law One and what
23 sets the City apart from other jurisdictions. Because
24 paint is a primary source of exposure for children in
25

2 New York City, Local Law One requires owners of
3 buildings built before 1960 to survey their tenants
4 in order to identify apartments with children under
5 six years of age, and requires owners to then perform
6 annual paint inspections in these apartments to
7 identify and remediate peeling, chipped or cracked
8 paint. This approach protects all children by
9 removing environmental risks, without reference to
10 any particular child's blood lead level. And because
11 conditions can change over the year, Local Law One
12 allows tenants with a child under age six to alert
13 landlords or call 311 if the apartment's paint is not
14 intact, and the paint must be restored to an intact
15 condition. Commissioner Torres-Springer will provide
16 you with more information on these preventative
17 measures in her testimony. Second, when a child does
18 present with an EBLL, the City responds quickly with
19 a detailed and thoughtful intervention to ensure the
20 safety of that child. The response begins when the
21 Health Department receives notification of a child
22 with an EBLL via a daily electronic download from New
23 York State. Our team immediately contacts the family
24 to set up a home investigation, which includes a
25 detailed interview and inspection. The inspectors,

2 who are highly trained and EPA-certified, are often
3 the first contact the family makes after they learn
4 about their child's EBLL, and they work closely with
5 the family during that first meeting. The
6 investigation begins with a comprehensive interview
7 with the family and the child, in order to better
8 understand the child's risk factors for lead
9 exposure. They then inspect the apartment for lead
10 paint hazards, using a piece of equipment called an
11 X-ray Fluorescence, or XRF, device. If the device
12 detects lead in the paint, the Health Department
13 issues the property owner a Commissioner's Order to
14 Abate, and we will follow up to ensure compliance.
15 The inspectors also take additional environmental
16 samples based on the interview with the family and
17 visit supplemental addresses where the child spends
18 five or more hours per week. Our focus, regardless
19 of whether the child lives in public or private
20 housing, is always on that child and we work with the
21 family and the provider to monitor the child's blood
22 lead level to ensure it declines. Currently, the
23 Health Department is legally required to conduct a
24 home investigation when the child has a blood lead
25 level of 15 microgram per deciliter or higher. The

2 Department has historically gone beyond this mandate
3 and has conducted these investigations for children
4 under age six with a blood lead level at or above 10,
5 and for those under 16 months of age at a blood lead
6 level of eight micrograms per deciliter or above.

7 Again, with the City's July 1 announcement, all
8 children under the age of 18, with a blood lead level
9 of five will now receive a home investigation. We've
10 made great progress, and we are ready and eager to
11 continue to drive down the number of children with
12 EBLs. The bills under review today propose important
13 updates to Local Law One and to the City's overall
14 strategy to protect these children. As we move
15 forward, it is important to use evidence-based
16 strategies that maximize the health benefits to
17 children. Intro. 865, the centerpiece of the
18 legislative package, would change the blood lead
19 level at which the Health Department is mandated to
20 conduct a home investigation, lowering that threshold
21 from the current 15 to five micrograms per deciliter.
22 As I noted earlier, the Administration supports this
23 proposal and as of July 1, this significant change is
24 already underway. The Administration also supports
25 the proposed action levels for soil and water in

2 Intro. 865, and we want to talk to the Council
3 further about the proposed thresholds for lead-based
4 paint and lead-contaminated dust. The Administration
5 supports Intro. 881, which addresses outreach and
6 education. The Health Department already conducts
7 the activities required under this bill and we are
8 happy to have this work codified, while ensuring
9 flexibility to maintain the most evidence-based best
10 practices. The Administration supports the reporting
11 requirements set out in Intro. 918 and other bills,
12 though we do request that these mandates be
13 consolidated into a single report due annually on
14 September 30th, which is the Health Department's
15 current reporting deadline for Local Law One. And
16 the Administration supports Introduction 709, which
17 requires the creation of an online lead service line
18 map. Introduction 877 requires all agencies that
19 provide services for or relating to children to make
20 reasonable efforts to determine whether a child has
21 had a blood lead test, and, if the child has not been
22 tested, to determine the reason and provide a
23 referral for testing. The Administration supports
24 the intent of this bill and would like to work with
25 Council to identify the best approach for increasing

2 the number of children tested each year. The City
3 uses a variety of strategies to promote blood lead
4 testing, including a requirement that parents show
5 proof of a blood lead test for entry into child care
6 and school. The Department also sends guidance to
7 over 30,000 health care providers annually reminding
8 them of the testing requirements, conducts outreach
9 and education for families, and collaborates with
10 Medicaid Managed Care programs to identify children
11 due for testing and alert their health care providers
12 about the need for testing. We are eager to work
13 with Council on additional mechanisms to reach
14 providers, parents, and caregivers to further
15 increase blood lead testing. The Administration also
16 supports the intention of Introduction 874 to
17 strengthen tools to enforce safe work requirements.
18 Construction and renovation work done improperly can
19 create a risk of lead exposure for children, and we
20 look forward to discussing this bill further with the
21 Council. We recognize unsafe work practices as a
22 source of possible lead exposure in the home, and
23 have ongoing media campaigns in neighborhoods where
24 we believe unsafe practices are going underreported,
25 most recently on Staten Island. Introductions 464A,

1 864, and 904 address the Health Department's
2 investigations in response to reports of EBLs both
3 in children under age 18 and in pregnant women. The
4 proposals include requirements to inspect all units
5 with a child under age six in buildings where the
6 Health Department has identified a lead paint hazard,
7 to conduct water samples, and to inspect specific
8 locations where the child is likely to spend time.
9 In addition, the proposals would require the testing
10 of bare soil from all areas accessible to children or
11 adults. The Health Department agrees that a
12 comprehensive investigation is critical to
13 identifying and reducing lead exposure for children
14 and pregnant women with EBLs. We currently conduct
15 a robust interview and investigation to identify and
16 eliminate all potential sources of lead exposure.
17 There is no one-size-fits-all approach; instead, our
18 investigators take a nuanced approach tailored to the
19 specific family and its circumstances. The Health
20 Department looks forward to working with the Council
21 to set out evidence-based requirements most likely to
22 identify and eliminate lead exposure for children and
23 pregnant women. Introductions 873, 891 and 919
24 address abatement of lead paint on turnover of
25

2 apartments both in multiple dwellings and in private
3 dwellings that are not owner-occupied. The
4 Administration would like to work with the Council to
5 craft requirements that reduce lead exposure risks
6 while not also creating unintended consequences such
7 as contributing to the housing unaffordability
8 crisis. Introduction 920 concerns lead paint in
9 child care facilities and in schools. The
10 Administrative Code and the Health Code already
11 prohibit child care centers from having lead hazards.
12 Because it is young children who are most at risk of
13 EBLs, it is appropriate to focus on these settings.
14 Lead paint does not pose the same risk to older
15 children, because they are less likely to ingest
16 lead-based paint. We would like to work with Council
17 to ensure that the scope of this bill covers the
18 right settings to protect children's health. This
19 package of legislation also addresses the Council's
20 concerns about lead in soil. Introductions 420A,
21 422A, 907 and 916 address testing and remediation of
22 soil that is wholly or partially bare and accessible.
23 The requirements would apply in parks, in multiple
24 dwellings, private dwellings, public and non-public
25 schools and in child care programs. The Health

2 Department's home investigation includes an
3 assessment of soil exposure, as well as environmental
4 sampling and remediation where indicated. However,
5 soil is not-- I repeat-- not a significant source of
6 lead exposure for children in New York City. In an
7 analysis of 219 children who had a blood lead level
8 at or above 15 micrograms per deciliter in 2017,
9 there was only one child identified after our
10 extensive interview and home investigation with an
11 exposure to lead from soil. And it is important to
12 note that this one child also had exposure to a lead
13 based paint hazard as well. We are concerned that
14 the bills encompass activity that is disproportionate
15 to the risk for children, and may detract resources
16 and capacity from evidence-based efforts. We also
17 worry that these proposed mandates may have
18 unintended consequences, such as reducing New
19 Yorkers' access to green spaces. There are important
20 public health and mental health benefits to having
21 access to outdoor space, including backyards with
22 patches of greenery. We look forward to working
23 together to address the low risk posed by lead-
24 contaminated soil. Next, several bills,
25 Introductions 3A, 91A, 868, 871, 892 and 902, address

2 testing and remediation of drinking water in parks,
3 multiple and private dwellings, public and non-public
4 schools and child care programs. New York City's
5 water is of the highest quality, and is the best
6 beverage for our health. The Department of
7 Environmental Protection's water quality monitoring
8 program is far more extensive than required by
9 federal law and demonstrates that New York City's
10 drinking water is of the highest quality and meets
11 all state and federal drinking water standards. The
12 City's water already arrives virtually lead-free from
13 upstate reservoirs and is tested more than 600,000
14 times a year at different places across the City for
15 various contaminants, including lead. It is also
16 treated with corrosion control measures, decreasing
17 the chance of lead leaching from aging building
18 plumbing systems into the water. Because of these
19 protections in our water system and existing State
20 law and Health Code provisions related to testing of
21 water in schools and child care settings, lead in
22 water does not present a meaningful risk to New
23 Yorkers, and we do not consider water a significant
24 source of exposure for children. In the same
25 analysis of 219 children I just mentioned, only one

2 child lived in a home where a water sample with
3 detectable lead 15 parts per billion or higher was
4 found. And again, that child also had an exposure to
5 lead-based paint. There are some circumstances where
6 that risk can be higher; for example, in a particular
7 building, the faucets or other fixtures could have
8 lead content or a building may have a lead service
9 line. A simple solution is to run the water for 30
10 seconds in the morning to flush out stagnant water.
11 If New Yorkers are concerned about their water, they
12 can request a free testing kit from DEP via 311. The
13 Administration looks forward to working with the
14 Council to address any lead-in-water concerns
15 appropriately so that New Yorkers can continue to
16 have confidence in our water and make it their drink
17 of choice. I cannot stress enough - water remains the
18 best beverage for good health. The Administration is
19 reviewing the recently included legislation, Intros
20 1063 and Intro 1117. Intro. 1063 requires notice
21 when contaminants are found in soil during a city
22 development project. The Administration supports
23 transparency for New Yorkers and wants to make sure
24 that notification of the public is used appropriately
25 to ensure appropriate response. Intro 1117 would

2 require City agencies to provide information to
3 parents about DEP's free home water testing kits. The
4 City supports increasing awareness about the home
5 test kits, and we look forward to working with
6 Council on this bill. Finally, I have spent my
7 entire career, as a pediatrician and public health
8 leader, promoting the health and wellbeing of
9 children. I can assure you that the safety of our
10 children is my top priority. Our strong laws and
11 policies designed to prevent and respond to elevated
12 blood lead levels have made the City a national
13 leader on this issue. I look forward to working with
14 City Council and my colleagues to ensure that we
15 remain at the forefront of efforts to protect our
16 youngest New Yorkers. Thank you for the opportunity
17 to testify on this package of legislation. I would
18 be happy to address your questions after Commissioner
19 Torres-Springer's testimony.

20 SPEAKER JOHNSON: Thank you, Doctor
21 Barbot. Before we hear from Commissioner Torres-
22 Springer I want to let folks know we've been joined
23 by Majority Leader Cumbo, Council Member Espinal,
24 Council Member Espinal, Council Member Yeger, Council
25 Member Richards, Council Member Dromm, Council Member

2 Chin, Council Member Powers, Chair Constantinides,
3 Chair Cornegy, Chair Levine, Council Member Perkins
4 who has been a leader on this issue for a very long
5 time, Council Member Ampry-Samuel, the Chair of our
6 Public Housing Committee, and Council Member
7 Grodenchik. Thank you, Commissioner Torres-Springer.

8 COMMISSIONER TORRES-SPRINGER: Good
9 morning, Speaker Johnson, Chairs Levine, Cornegy, and
10 Constantinides, and members of the Committees on
11 Health, Housing and Buildings, and Environmental
12 Protection. My name is Maria Torres-Springer. I'm
13 the Commissioner of the New York City Department of
14 Housing Preservation and Development. I'm joined
15 today by Ann-Marie Santiago, the Deputy Commissioner
16 of Enforcement at the Neighborhood Services for HPD.
17 With more than 20 years of experience and code
18 enforcement at HPD, Deputy Commissioner Santiago
19 leads our agency's work to protect New York City
20 residents and was intimately involved with the
21 implementation of the Childhood Lead Poisoning
22 Prevention Act for Local Law One of 2004. Now, in
23 2004, this City Council, City agencies and advocates
24 did something profoundly important. Local Law One
25 represented a watershed moment in public health and

2 in public safety. Since the law's implementation in
3 2005, our aggressive enforcement, coupled with the
4 Health Department's investigations and concerted
5 interventions, have dramatically reduced the number
6 of children with elevated blood lead levels by nearly
7 90 percent, which means that in 2017 there were
8 33,000 fewer children with elevated blood lead levels
9 than in 2005. HPD's Lead Paint Prevention Regime is
10 the Gold Standard of addressing lead-based paint
11 hazards in the nation, and we take our work very,
12 very seriously. We are on the front lines every day
13 identifying and resolving lead paint risks in
14 housing. Every time an HPD inspector enters an
15 apartment with a young child, it doesn't matter
16 whether the reason is lack of hot water, mold, or
17 pests, we inspect for lead paint risks. Since 2005,
18 our agency issued approximately 314,000 violations
19 for lead-based paint conditions, and we are working
20 to ensure that landlords are addressing lead-based
21 paint hazards to keep tenants and their children
22 safe. We've made over 40 million dollars in lead-
23 based repairs ourselves, stepping in when landlords
24 fail to fulfill their responsibilities. When we
25 encounter cases, serious cases of noncompliance, we

2 take landlords to court. We've initiated more than
3 2,300 cases involving lead paint since 2014,
4 including comprehensive cases, because usually the
5 truly negligent owners aren't just failing to address
6 lead paint conditions, they are systematically
7 failing to maintain their buildings. At HPD it is
8 mission critical to ensure the quality and safety of
9 our City's housing stock and protect tenants. That
10 is why we are dedicated to a comprehensive
11 multiagency approach to prevent elevated blood lead
12 levels in New York City's residents. Now, as the
13 Commissioner responsible for enforcing the City's
14 housing regulations, I want to reiterate my personal
15 commitment to ensuring New York City's residents
16 living in safe and well-maintained housing, but I
17 also want to assure you that we across HPD and across
18 the city agencies, we do not rest in our laurels. We
19 are looking at issues of lead exposure with fresh
20 eyes, and we recognize that this is the time to
21 finish the mission. This July, following Mayor de
22 Blasio's announcement of a new Vision Zero approach
23 to lead exposure, I ordered a top to bottom review of
24 every HPD program to make sure we were compliant with
25 local, state, and federal rules regarding lead paint,

2 and where we found areas for improvement, we've been
3 transparent with elected officials and residents. We
4 fix what needs fixing, and are constantly assessing
5 our process. I look forward to working with the City
6 Council, our City's health experts, and our sister
7 agencies to advance health-based, targeted strategies
8 to educate tenants, hold owners accountable, keep
9 workers safe, and continually strive to drive lead
10 exposure in our city even lower. We must all indeed
11 work together to get to zero. Now, the standards
12 outlined in Local Law One comprise a strong and
13 aggressive prevention regime to address lead-based
14 paint. They are proven to work. They have played a
15 large part in of course reducing the cases of
16 elevated blood lead levels among children year after
17 year. Local Law One requires landlords to identify
18 and remediate lead-based paint hazards in apartments
19 of children under the six years of age using trained
20 workers and safe work practices. Because New York
21 City led the nation in banning the sale of lead-based
22 paint in 1960, that paint is presumed to exist in
23 non-owner-occupied multiple dwelling units and in the
24 common areas of a building if one, the building was
25 built before 1960 or between 1960 and 1978 if the

2 owner knows that there is lead-based paint, and two,
3 a child under the age of six lives in the apartment.

4 If these two standards are met, property owners must
5 investigate units where young children reside as well
6 as common areas to find peeling paint, chewable
7 surfaces, deteriorated subsurface, and friction and
8 impact surfaces. This must be done on an annual
9 basis, upon turnover of the apartment, or more
10 frequently if the condition is known that-- if a
11 condition is known that may cause a lead hazard or
12 the occupant complains about such a condition.

13 Owners must give new tenants a form inquiring if a
14 child under six will reside in the unit and send an
15 annual notice asking the same. Owners are also
16 required to provide all new occupants with
17 information about owner and tenant responsibilities
18 under the law in a pamphlet from the Health
19 Department informing occupants about lead hazards and
20 owner responsibilities. Any work done in apartment
21 to eliminate exposure must adhere to safe work
22 practices that significantly reduce dust dispersion.
23 Work that disturbs lead-based paint or paint of
24 unknown lead content must be done in a way that
25 minimizes penetration or dispersal of lead

2 contaminants or lead contaminated materials from the
3 work area to other areas of the dwelling unit and
4 building. People performing work must have received
5 specific training to ensure that they know how to
6 undertake the work in a safe manner. The property
7 owner must maintain records about work performed and
8 provide notification to tenants about the risks of
9 lead exposure. Now, our goal is always to keep homes
10 safe by addressing lead paint hazards through the
11 enforcement of Local Law One, and by supporting,
12 requiring or doing the work ourselves to remediate
13 lead-based paint hazards. We do far more than just
14 react to complaints. We are proactive across the
15 various agencies. We are out in apartments, at HPD
16 alone, every day and actively look to identify
17 problems, ensure conditions are fixed, and keep
18 children safe. We go above and beyond Local Law One
19 to not only ask all tenants who call 311 about
20 maintenance conditions whether or not they have a
21 child over six in the apartment and conduct visual
22 inspections, but also send a housing inspector with
23 an XRF machine to those apartments proactively. We
24 go out to the worst buildings through our special
25 enforcement programs to check for maintenance

2 conditions, including lead-based paint hazards, and
3 we engage in education and outreach efforts to inform
4 both tenants and owners about the perspective rights
5 and responsibilities, including bringing HPD staff to
6 different council district office through our new HPD
7 in Your District program, and meeting New Yorkers
8 where they live with our new mobile units. As a
9 result of this aggressive prevention regime, HPD has
10 issued approximately 314,000 violations for lead-
11 based paint conditions, including nearly 60,000
12 violations issued within the past five years. These
13 efforts to address the current conditions in
14 apartments have gone a long way towards keeping New
15 York City's children safe, though we are always
16 looking for new and better tools to do even more.
17 Since 2004 we have responded to millions of
18 complaints and also issued millions of violations for
19 the entire Housing Maintenance Code, and we always
20 encourage New Yorkers to call 311 with any concerns
21 that they might have. Anytime a housing inspector is
22 in an apartment, the inspector asks if a child under
23 six lives in that apartment, and if one does or if
24 they see evidence of a child under six, they conduct
25 a room by room, surface by surface inspection. All

2 housing inspectors have received HPD's lead training
3 and spent some portion of their time conducting lead-
4 based paint inspections. Code Enforcement has
5 approximately 107 staff members dedicated to working
6 on Local Law One issues. That includes about 57
7 housing inspectors and 35 additional staff members
8 dedicated to the Lead-based Paint Unit, among others.
9 In Fiscal Year 2018, HPD completed over 28,000
10 inspections related to potential lead-based paint
11 hazards. We take aggressive actions to address
12 hazards that have been identified by the Health
13 Department during its investigation of a child with
14 an elevated blood lead level. We work closely with
15 our colleagues at the Health Department when their
16 investigation reveal lead-based paint hazards in the
17 unit where the child with an elevated blood lead
18 level resides. At that time, they issue a
19 Commissioner's Order to Abate, or a COTA, and monitor
20 owner compliance or refer the orders to HPD conduct
21 the abatement work if the owner is unable or
22 unwilling to do so. If an owner fails to address
23 lead-based paint conditions and responds to the
24 Health Department Commissioner's Order to Abate or to
25 own violations, HPD steps in to protect children.

2 Since Local Law One was implemented, we have spent
3 more than 40 million dollars conducting repairs in
4 privately owned buildings. In Fiscal Year 18 we
5 conducted 658 lead-based paint emergency repairs at a
6 cost of approximately \$1.1 million to keep families
7 safe in their homes. And as we preserve units, more
8 than 75,000 since launching-- the launch of the
9 Housing New York Plan, we ensure owners address lead-
10 based paint hazards and follow the required safe work
11 practices during construction. As required by Local
12 Law One we have presumed lead and are working to
13 address lead-based paint hazards in 1,282 apartments
14 where we provided financing for rehabilitation in
15 Fiscal Year 18. Although we focus strongly on
16 landlord compliance to keep renters safe, we also
17 work to educate tenants about the hazards of
18 deteriorative lead paint, the rights that they have,
19 their own responsibilities, including letting owners
20 have access to units for lead inspections. Now, if a
21 tenant has any concerns with peeling paint or
22 potential lead-based paint hazards, they should
23 always call 311, HPD, or the Health Department.
24 Making sure New Yorkers have access to safe, healthy
25 homes is our highest priority. We are here today to

2 work with all of you to finish the mission and
3 eliminate lead exposure in New York City for good.
4 We have the strongest prevention and response lead
5 regime in the country to build on, and HPD is
6 committed to rigorously enforcing those laws and
7 regulations to ensure that residents have the
8 protections that they need and deserve. We'll
9 continue to examine all of our programs in
10 conjunction with the City Council and take swift
11 action to improve where needed our efforts to drive
12 lead exposure in our city even lower. Thank you for
13 the opportunity to testify. I think at this point
14 we'd be more than happy to take any questions.

15 SPEAKER JOHNSON: Thank you,
16 Commissioner. We've also been joined by Council
17 Member Rivera and Council Member Menchaca. I
18 appreciate your testimony, Doctor Barbot and
19 Commissioner Torres-Springer, and of course I say
20 this with deep respect to both of you, but I am
21 slightly confused and incredulous because what I
22 didn't really hear, and I believe in either one of
23 the testimonies, was a real level of self-appraisal
24 and self-criticism on where we have failed and what
25 that impact is on tens of thousands of children over

2 the last many years, since 2004, 14 years, and
3 understanding those tragedies. So, is there a
4 recognition that we could be doing a much better job?
5 Is there a recognition that this is a tragedy? Is
6 there a recognition that it's not all rosy, but there
7 is a real problem in gaps when you still have 4,200
8 children under the age of six years old who are now
9 testing at the five deciliter level? I didn't really
10 hear that in the testimony, and I wanted to start off
11 today by understanding if there is an acknowledgement
12 of failures and tragedies that have occurred, not
13 because of either one of you, but because of the
14 system in place that for far too long has allowed
15 this to continue to happen.

16 COMMISSIONER BARBOT: Mr. Speaker, let me
17 start by saying that as a pediatrician, as the City's
18 doctor, I feel confident that New York City has the
19 most aggressive approach to ensuring that we reduce
20 the number of children that are exposed to lead.
21 That being said, we recognize that we still have a
22 way to go, and we're at that last mile, and so we are
23 open and excited to be here to talk about how we
24 collaboratively work to ensure that we drive that
25 Vision Zero approach in the City so that we don't

2 have any more children exposed. Because, you know,
3 as you and I both said earlier, we don't want any
4 children to be exposed to lead. Certainly, you know,
5 as a pediatrician in D.C., working on lead in
6 Baltimore and now here in New York City and across
7 the country, all pediatricians and elected leaders,
8 we know that there are wide concerns and
9 misperceptions about the true risks of lead, how we
10 best approach it, but I think New York having been a
11 leader and with the changes that are being made
12 currently, continuing to be a leader, I think we have
13 an opportunity to not only drive that number down
14 here, but across the country. Because what we do
15 here in New York is often times replicated elsewhere.

16 SPEAKER JOHNSON: So, is it failure and a
17 tragedy that 4,200 children under the age of six
18 years old potentially have devastating lifelong
19 impacts of elevated blood lead levels on things that
20 have been entirely preventable for years? Is that a
21 tragedy and a failure?

22 COMMISSIONER BARBOT: Mr. Speaker, again,
23 as a pediatrician, and I'm speaking from the heart
24 here, we never want to see a child exposed to lead,
25 but I will say that our efforts in moving forward and

2 reducing the threshold for action, continuing to
3 strengthen the collaboration between our sister
4 agencies who all have as our central mission the
5 health and welfare of all New Yorkers, but especially
6 our children. We are leaning forward into this, and
7 looking forward to working with Council in order to
8 continue to drive that number down.

9 SPEAKER JOHNSON: So, I will say that I
10 believe it's a failure and a tragedy that 4,200
11 children under the age of six years old--

12 [applause]

13 SPEAKER JOHNSON: [interposing] No, no,
14 no, no, no. We're not doing that here today. We're
15 not doing that here today. I believe that is a
16 failure and a tragedy that that number of children
17 are still affected in a devastating way, potentially,
18 for the rest of their lives. And I would also say
19 that by the time it reaches you, Doctor Barbot, that
20 failure has already occurred. That when it's getting
21 to the Health Department, when it ends up on your
22 desk, we have already gone too far down the line. We
23 haven't remediated it correctly. We haven't
24 prevented it in the way we need to prevent it, and so
25 when we start talking about the investigations that

2 the Health Department does, the follow-up that you do
3 with the family, all of that, that is important work,
4 and of course we want to ensure that those families
5 and children who have been affected, that we're
6 getting the information that we need, that we're
7 connecting them with care, and we're understanding
8 the source of exposure. But when that has happened,
9 we have already failed.

10 COMMISSIONER BARBOT: Mr. Speaker, I
11 couldn't agree with you more, that prevention is
12 critical, and it takes all of us from city agencies
13 to families to healthcare providers to ensure that we
14 maximize the number of kids that get tested to ensure
15 that we use all of the levers available to us
16 currently, especially Local Law One, to continue
17 driving that number down.

18 SPEAKER JOHNSON: So, in the preparation
19 for this hearing, we have been preparing for this
20 hearing all year, and we started to ask detailed
21 questions to all the city agencies involved in May,
22 and we wanted to have this hearing before the summer,
23 but in consultation with many of the advocates who
24 are here today who had further questions on the
25 pieces of legislation that we were putting forth, we

2 decided to give more time to advocates and to the
3 Administration before we had this hearing, and we
4 didn't want to have the hearing in the middle of the
5 summer, because we thought it was important that this
6 happen when New York City's paying attention and not
7 away. We had a meeting yesterday which was a good
8 meeting, a productive meeting, and I appreciated your
9 willingness to have frank conversations in that
10 meeting about concerns that you all have. We asked
11 for a lot of data, a significant amount of data. Our
12 job as a municipal legislature, our job as a City
13 Council, one of the core functions of this body is to
14 do meaningful and real oversight and ask difficult
15 questions to city agencies without fear or favor of
16 who the Commissioner is or who the Mayor is, that is
17 our job as a body. We had many, many questions. We
18 were not getting answers to those questions in
19 preparation for this hearing. The attorneys that are
20 sitting up here today was working with staff for
21 weeks or months on end and not getting answers to the
22 questions that we needed. Not until I intervened
23 with the other side of City Hall, 72 hours before
24 this hearing, did we begin to get a semblance of data
25 necessary for us to be able to conduct our oversight

2 responsibilities in preparation for this hearing, and
3 by the time that happened, Chairs Levine,
4 Constantinides, and Cornegy had already been briefed
5 by their staff on their committees without the
6 adequate data necessary they needed in advance of
7 this hearing. That is an unacceptable way to deal
8 with an issue of this gravity. It will not happen in
9 the future. We will not wait. The Council has the
10 potential authority to issue subpoenas. We've not
11 done that, but we will do that in the future. If HPD
12 and DOHMH and other agencies do not give us the data
13 we need to do our job. And so I appreciate that
14 there were concerns around HIPPA laws. I appreciate
15 there were concerns around anonymity related to
16 families and children who needed to be protected, but
17 that is not an appropriate reason since May to not
18 provide us with the information that we need. And I
19 want to say that at the outset of the hearing that it
20 made it more difficult for us to prepare for this
21 hearing today because of that, and I would love to
22 hear a response on how we're going to ensure that
23 that does not happen in the future on issues of this
24 importance to New Yorkers and to the New York City
25 Council.

2 COMMISSIONER TORRES-SPRINGER: So, Mr.

3 Speaker, I appreciate the importance of data and
4 making smart decisions using data, and as you noted,
5 there were-- there are privacy concerns, but I think
6 beyond that, let me just first begin by saying that
7 the Health Department has and will continue to be
8 committed to transparency. And so while there are
9 concerns about protective medical information, there
10 are also what this process illuminated was the
11 complexity of the children and family and their
12 histories of how we go about teasing apart what are
13 potential real risk factors and what are not. And
14 so, we took a very deliberative approach to providing
15 information, and we will continue to remain open and
16 transparent about the data that we have. On an
17 annual basis we have been posting results of all of
18 the lead tests that have been done as a result of the
19 Local Law One requirements. This recently, because
20 of all of the attention, we have actually gone from
21 posting it annually to posting it quarterly, and a
22 number of other different enhancements, but Mr.
23 Speaker, I want to assure you that we will continue
24 to be committed to transparency.

2 SPEAKER JOHNSON: There hasn't been
3 transparency in lead up to this hearing. So I hope
4 that that changes, and we will ensure that it does
5 change moving forward so that we have the information
6 and data necessary to draw our own conclusions to
7 analyze that data in an appropriate way as we prepare
8 for an oversight hearing of this nature, and as we
9 prepare to consider 25 pieces of legislation that we
10 think will protect the wellbeing of children in New
11 York City. I want to move on and talk about some of
12 the testimony that was prevented-- that was presented
13 today. Doctor Barbot, you said on page three of your
14 testimony, "The City's robust approach to protecting
15 children from elevated blood lead levels is two-fold.
16 First, prevent lead exposure." And then Commissioner
17 Torres-Springer, you went in and talked about the
18 prevention techniques that the City is using moving
19 for-- that they have been using in the past. You
20 cite that, "As a result--" this is what you said,
21 Commissioner Torres-Springer, "As a result of this
22 aggressive prevention regime, HPD has issued
23 approximately 314,000 violations for lead-based paint
24 conditions, including nearly 60,000 violations issued
25 within the past five years." And then you go on to

2 talk about-- "Conducted 658 lead-based paint
3 emergency repairs citywide at a repair cost of \$1.1
4 million dollars to keep families safe in their
5 homes." So, I'm a little confused. I want to really
6 dig into this data, because I think the enforcement
7 is the most important, the enforcement and the
8 remediation is the most important part of this.
9 314,000 violations, 60,000 violations within the last
10 five years, but only 658 emergency repairs that the
11 City conducted. What happened with the rest?

12 COMMISSIONER TORRES-SPRINGER: Speaker,
13 I'd be more than happy to clarify how it works. The
14 Local Law One implementation regime that we have is
15 one that is designed to ensure coordination,
16 protection of children and accountability. There are
17 many steps that we take to make sure that we are
18 aggressively enforcing the provisions of the law to
19 hold landlords to account. The 300,000 violations
20 since the inception of Local Law One represents the
21 main tool that we have in order to ensure that
22 landlords are remediating lead-based paint hazards as
23 they are being identified. We issue the violation.
24 There follows a very prescribed set of steps in order
25 to ensure that they fix the problem, but because we

2 are so focused on making sure that we correct the
3 condition for the family, if a landlord does not
4 follow the-- does not correct the violation, does not
5 make the repair, we step in. And so the numbers that
6 you mentioned, 600 or so emergency repairs and \$1.1
7 million, that's when HPD comes in through our
8 emergency repair program to fix that repair to
9 remediate the unit for the family. And to be very
10 clear, we charge that back, to the landlords, plus a
11 50 percent fee-- plus a fee that's approximate to 50
12 percent of the repair cost. If they don't pay that,
13 we put a lien.

14 SPEAKER JOHNSON: So, in all other cases,
15 landlords made all the repairs necessary.

16 COMMISSIONER TORRES-SPRINGER: So, of the
17 300 violations, 300,000 violations since the
18 inception of Local Law One, approximately 96 percent
19 have been closed because they made the repairs, or we
20 have inspected to make sure that those repairs were
21 done.

22 SPEAKER JOHNSON: How many current
23 violations for lead are open and not corrected?

24 COMMISSIONER TORRES-SPRINGER: So, we
25 have-- for which fiscal year?

2 SPEAKER JOHNSON: In aggregate, over
3 multiple years.

4 COMMISSIONER TORRES-SPRINGER: So, we--
5 the-- so 96 percent of the total violations,
6 approximately, have either been closed or the lead
7 hazard has been addressed.

8 SPEAKER JOHNSON: I mean, I have like
9 cognitive dissidence sitting here. It's hard for me
10 to hear that and then hear what the advocates say and
11 to see the numbers of children who are still testing
12 positive for elevated blood lead levels. It's hard
13 for me to reconcile. It's hard for me to reconcile
14 that. It's hard for me to understand how we are
15 having a 96 percent rate of correction and this is
16 still happening. I mean, the number of children who
17 have thee elevated blood lead levels-- let's put
18 NYCHA aside for a moment. We will talk about NYCHA
19 today, but let's put NYCHA aside for a moment. What
20 number of them are happening of that 4,200-- either
21 Commissioner Barbot or Commissioner Torres-Springer--
22 are happening in non-NYCHA?

23 COMMISSIONER BARBOT: So, Mr. Speaker,
24 let me begin by saying, when the Health Department
25 gets notified of children with elevated blood lead

2 levels, we initiate our investigations the same way
3 irrespective of whether a family lives in public
4 housing or in private housing.

5 SPEAKER JOHNSON: I know, but I want to
6 understand the breakdown.

7 COMMISSIONER BARBOT: And generally the
8 vast majority of children with lead levels above the
9 five micrograms per deciliter, about 97 percent of
10 them live in private housing.

11 SPEAKER JOHNSON: So, what's that number
12 end up being out of that 4,200? Do we have that?

13 COMMISSIONER BARBOT: It is roughly I
14 would say-- I do have it, if you would bear with me
15 one moment. We can look behind us. Sorry, the
16 number of-- this chart here looks up the number of
17 children under age six and it breaks it down by
18 whether they're in public housing or not, and the
19 number in public-- excuse me, private housing as
20 compared for the last year for which we have complete
21 data, so 2017, is roughly 4,100.

22 SPEAKER JOHNSON: So, 4,100, so
23 Commissioner Torres-Springer, that means that 4,100
24 kids not in NYCHA-- NYCHA's supposed to take care of
25 its own. HPD is doing non-NYCHA-- 4,100 kids in

2 building's that HPD is supposed to be remediating,
3 issuing violations and then remediated-- 4,100
4 children.

5 COMMISSIONER BARBOT: So, let me--

6 SPEAKER JOHNSON: [interposing] Is that a
7 failure?

8 COMMISSIONER BARBOT: We know that we
9 have to finish the mission. While we have said in
10 our testimony, and it is I think certainly something
11 for all of the dedicated public servants who have
12 been working on the implementation of Local Law One,
13 that there's been a 90 percent decline in elevated
14 blood lead levels. Those numbers are obviously
15 disturbing, and we know that our work is not done
16 which is why we come here to this hearing and we are
17 reviewing the proposed legislation with the spirit of
18 trying to identify what it is going to take using the
19 best data, using what we know to have worked in the
20 implementation of Local Law One over the course of
21 the last 15 years to then make the right
22 interventions to drive that to zero. So, that has
23 been our approach. It is our commitment moving
24 forward, and I think two things can be true at the
25 same time, that there's a lot that this city can be

2 proud of in the implementation of Local Law One,
3 while at the same time acknowledging that our work is
4 not over, Mr. Speaker, and that's the part that we
5 certainly all here look forward to working with the
6 Council on.

7 SPEAKER JOHNSON: I respectfully say that
8 I would use stronger language than that. I would say
9 that we can be proud of what we, as you just said,
10 achieved in Local Law One with an 89 percent
11 reduction going from 33,000 which was an enormous
12 number, down to the number we're at today while
13 acknowledging that there are still tragedies that are
14 occurring. That's what I would say to accurately
15 depict what I think is going on. So, are these
16 violations just complaint-driven?

17 COMMISSIONER BARBOT: No, so--

18 SPEAKER JOHNSON: [interposing] How many
19 are issued proactively?

20 COMMISSIONER BARBOT: Deputy Commissioner
21 Santiago can provide more details, but that's one of
22 the strengths of our-- of the Local Law One
23 implementation system that we have. Certainly, if
24 someone calls 311 and says there is peeling paint and
25 I have a child under six, that we follow all of the

2 right steps, but it's proactive in that if someone
3 calls 311, does not-- and talks about a building
4 condition, we, the 311 operator asks proactively if
5 there's a child under six. If we are inspecting for
6 other building conditions in the unit, we also look
7 to see and ask if there's a child under six. And so
8 all of the violations that are then issued are based
9 not just on complaints, but because we have gone
10 above and beyond Local Law One to ensure that we are
11 catching wherever we can units with children under
12 six. If we have that number, we'll share it. If
13 not, we will certainly follow up.

14 DEPUTY COMMISSIONER SANTIAGO: Mr.

15 Speaker, excuse me, we don't have the number of
16 violations, but I can speak in terms of inspections.
17 So, we completed about 19,000 proactive inspections,
18 looking for-- that's inspections that did not involve
19 a complaint specifically with a child under six and a
20 peeling paint condition. So we are doing quite a
21 number of proactive inspections once we find the
22 child, and that includes the proactive inspections
23 across the spectrum that Commissioner Torres-Springer
24 referenced. So, when we have proactive programs that
25 are in buildings where no tenants filed a complaint

2 and the agency is there, a specific complaint, and
3 the agency is there for our underlying conditions
4 program, for example, our Alternative Enforcement
5 program, our Proactive Preservation program. And in
6 cases where the tenant has filed a complaint for some
7 other condition not specifically related to peeling
8 paint, we can look at our violations and get back to
9 the Council with information on the split in terms of
10 the issuance of violations.

11 SPEAKER JOHNSON: What is the oldest open
12 violation on the books?

13 DEPUTY COMMISSIONER SANTIAGO: We could
14 probably--

15 SPEAKER JOHNSON: [interposing] How far
16 does it stretch back?

17 COMMISSIONER TORRES-SPRINGER: We will--
18 we'll follow up with you on that, but I think what's
19 important--

20 SPEAKER JOHNSON: [interposing] See, this
21 is the data that we were seeking leading up to this
22 hearing, asking for data like this and other data
23 which we did not receive, so that-- what I didn't
24 want to happen was to have a hearing where you would
25 say we'll get back to you with that data, that we

2 could looking at the data before the hearing and we
3 could have this conversation in a meaningful way, and
4 that it's not helpful entirely to give us the data
5 after the fact. It's important to give us the data
6 before the hearing so we could have a robust hearing
7 based off the data, not "we'll get back to you with
8 the data."

9 COMMISSIONER TORRES-SPRINGER: I

10 understand, Mr. Speaker, and I'm sorry that the data
11 wasn't available, but if I may, I think what's
12 important to note about closing violations is that
13 the Local Law One set out very specific steps, and
14 it's important because we don't want to close a
15 violation until we are sure that the issue has been
16 fixed and that the proper documentation has come back
17 to HPD. And what we have found is that-- as I
18 mentioned, the vast majority of that certainly gets
19 closed. But what we have found is that once the
20 repair has been made, there are times when it's
21 difficult or the tenant does not provide access so
22 that we can-- the follow-up steps need to happen, or
23 documentation. It just, it takes certain landlords a
24 long time to do that paperwork. And so part of this
25 part, part of this hearing, but also part of her

2 overall education efforts is to make sure that both
3 landlords and tenants are fully aware, not just of
4 their rights but their responsibilities to make sure
5 that we can implement Local Law One in a way that is
6 most effective.

7 SPEAKER JOHNSON: So, I'm going to finish
8 now because there are a lot of members here who have
9 a lot of questions, and I will come back for another
10 round when members have the opportunity to ask their
11 questions. But I just want to just ask this,
12 children under the age of three are considered the
13 most vulnerable, correct?

14 COMMISSIONER BARBOT: Yes, I mean, from a
15 developmental perspective, whenever a child starts
16 crawling and has hand-to-mouth behavior, that's when
17 the risk could be introduced. So, it could be as
18 early as six to nine months, but generally, the next
19 threshold would be three years of age.

20 SPEAKER JOHNSON: So, state law requires
21 testing at age one and two. What percentage of
22 children in New York City are tested for lead by the
23 age of two?

24 COMMISSIONER BARBOT: So, Council Member-
25 - Mr. Speaker, I'm going to let Corinne answer that

2 specific question, but let me just say that the
3 Health Department makes extensive efforts to work
4 with providers to ensure because the responsibility
5 is on the provider to do that testing, and we work
6 with the Vantage Care organizations, community
7 organizations to drive that number up, and you know,
8 we just announced an additional measure that we're
9 going to take to ensure that we increase beyond 80
10 percent the number of children who have the required
11 test before the age of three.

12 SPEAKER JOHNSON: Is 4,200, do you think,
13 undercounting the number of children who actually are
14 tested? Do you think that's an undercount? Do you
15 think that's an accurate number? Do we think the
16 number is significantly higher than that?

17 COMMISSIONER BARBOT: So, Mr. Speaker, I
18 think the challenge is that it's difficult to predict
19 what number of children move out of the city, what
20 number of children may come in but not born here.
21 So, it is a data collection issue that we are
22 continuing to tease out, but I think really the
23 important point here is that we don't take anything
24 for granted.

25 SPEAKER JOHNSON: So you're not sure.

2 COMMISSIONER BARBOT: Our efforts--

3 SPEAKER JOHNSON: [interposing] You're not
4 sure if it's an undercount?

5 COMMISSIONER BARBOT: We feel confident
6 because of all of the blood lead levels that we get
7 from the state, we look at every single one of them,
8 and that number reflects the number of children above
9 the age-- excuse me-- below the age of six in the
10 year 2017 who had a blood lead level of five or
11 higher. So that's not the-- that's the number less
12 than six. That's not a three-year-old's.

13 SPEAKER JOHNSON: What percentage were
14 tested? I ask that question, and then I'll move on,
15 but what percent of children two and under were
16 tested? Deputy Commissioner Schiff?

17 DEPUTY COMMISSIONER SCHIFF: So, as
18 Doctor Barbot mentioned, New York State Law requires
19 testing at age one and age two. Excuse me. In New
20 York State-- New York City, we have a high testing
21 rate when compared nationally and to the rest of the
22 state 80 percent of children are tested before the
23 age of three, and as Doctor Barbot mentioned, we have
24 a number of outreach activities.

2 SPEAKER JOHNSON: No, but I asked about
3 two, one and two, not three.

4 DEPUTY COMMISSIONER SCHIFF: Well,--

5 SPEAKER JOHNSON: [interposing] This--

6 DEPUTY COMMISSIONER SCHIFF: When I say
7 up to age three, we mean at age one and age two.

8 SPEAKER JOHNSON: Okay.

9 DEPUTY COMMISSIONER SCHIFF: So, up to
10 age three.

11 SPEAKER JOHNSON: So, 80 percent.

12 DEPUTY COMMISSIONER SCHIFF: Under age
13 three.

14 SPEAKER JOHNSON: So, 80 percent.

15 DEPUTY COMMISSIONER SCHIFF: Eighty
16 percent.

17 SPEAKER JOHNSON: So one in five children
18 under that age have not been tested?

19 DEPUTY COMMISSIONER SCHIFF: So there are
20 20 percent of children based on the data that we
21 have, and that's why we have a number of methods that
22 we use to encourage testing. I'll say that the
23 activities that we do to do outreach to encourage
24 testing are targeted at higher risk of communities.
25 So, for example, we work-- we have a longstanding

2 relationship with Medicaid Managed Care

3 organizations. They do a match against their records,

4 and there's an automated notice that goes out to

5 providers when that test doesn't occur. The test is

6 required as part of entry to childcare. We do

7 outreach with WIC centers, Head Start. We send a

8 notice to 30,000 providers every spring reminding

9 them of this, and as Doctor Barbot announced in the

10 testimony, we're going to try a new technique where

11 we're going to match our birth records. As you know,

12 we issue birth certificates. So we're going to match

13 that data against our blood lead testing and send a

14 letter to parents where their child hasn't had that

15 test to remind that parent. We would-- we want to

16 get the word out. We want all children tested. We

17 would be--

18 SPEAKER JOHNSON: [interposing] I--

19 DEPUTY COMMISSIONER SCHIFF: [interposing]

20 We would appreciate your help. I know many of you

21 have newsletters you send to your constituents. We'd

22 be happy--

23 SPEAKER JOHNSON: [interposing] We'd be

24 happy to work with you on that.

25

2 DEPUTY COMMISSIONER SCHIFF: That would
3 be--

4 SPEAKER JOHNSON: I mean, I think I-- I'm
5 going to hand it over to Chair Levine, but I want to
6 say that I-- you know, this is unrelated to this
7 topic, but you know, I'm sober nine years from drugs
8 and alcohol. Before I could get sober I had to admit
9 I had a problem. I had to admit I had a problem
10 before I could try to fix that problem, and I think
11 today we have to admit that we still have a very
12 serious problem with this number of children. There
13 needs to be acknowledgement of that in a very
14 significant way, because until we have an
15 acknowledgement I think it's hard. In some of the
16 testimony I've heard today, again, I think you all
17 are very fine, dedicated, public servants, and I
18 appreciate the work that you do, but I feel like
19 there was a lot of rosiness today on the testimony
20 and what's been done, which is fine to talk about
21 what we've achieved, but we still have to talk about
22 how far we have to go so that no child ends up being
23 exposed in this way and have their life altered for
24 the rest of their lives. I want to turn it over to
25 Chair Levine.

2 CHAIRPERSON LEVINE: Thank you very much,
3 Mr. Speaker. I want to follow up on your important
4 questions about enforcement, Commissioner. Speaker
5 and you have spoken about how we handle reports of
6 peeling paint and other problems when there's
7 proactive complaint by a tenant, but you know, one of
8 the most, maybe the most powerful provisions of Local
9 Law One is a legal requirement that the landlord
10 proactively perform an inspection, certainly upon
11 turnover of the apartment, but actually I think
12 yearly, if there's a small child present. And that's
13 actually-- if the landlord doesn't do that, that's
14 actually a misdemeanor, so it's a criminal act if the
15 landlord does not proactively inspect under the
16 conditions mandated by Local Law One. It's very
17 serious matter. How many cases of prosecution or
18 other sanction has there been against landlords for
19 failing to provide that proactive inspection?

20 COMMISSIONER BARBOT: Thank you, Council
21 Member. First, I'll say that we share what is
22 clearly also the City Council's goal of making sure
23 that we're aggressively enforcing the provisions of
24 Local Law One. I think what's helpful to understand
25 where inspections lie in all of this is one, we

2 fully, of course, expect landlords to abide by those
3 sections in that provision of the law. we have,
4 since the implementation, the start of
5 implementation, have focused our resources, time and
6 attention, in making sure that we are identifying
7 where there are hazards in the home, making sure
8 those a repaired, or coming in ourselves. So that's
9 been, just by way of background, for how thus far we
10 have devoted our efforts. And so the-- what that has
11 resulted in, and not just the 90 percent decline, but
12 the 300,000 or so violations. We do know, and we
13 throw the book at landlords all the time if they are
14 not living up to their expectations as it relates
15 generally to lead. As I mentioned in my testimony,
16 since 2014 we have brought approximately 2,300 cases
17 that involved lead against landlords in Housing
18 Court. And so--

19 CHAIRPERSON LEVINE: [interposing] Right,
20 but those were cases where you had report of peeling
21 paint. Perhaps it wasn't repaired, right?

22 COMMISSIONER BARBOT: That's right.

23 CHAIRPERSON LEVINE: But how-- but what
24 about cases where a landlord just doesn't inspect,
25

2 and maybe the tenant doesn't see the paint or maybe
3 doesn't see it until it's too late?

4 COMMISSIONER BARBOT: And I understand
5 that that number is not going to make up a large
6 portion of the 23, but because--

7 CHAIRPERSON LEVINE: [interposing] Do you
8 know what that number is?

9 COMMISSIONER BARBOT: I don't have that
10 number, but it's-- but it's precisely because--

11 CHAIRPERSON LEVINE: [interposing] There
12 was a press report this week that there had been zero
13 cases of landlords sued for this.

14 COMMISSIONER BARBOT: I-- the more
15 meaningful metric in my opinion is to look at the
16 2,300 number that represents the type of litigation
17 that we have initiated to hold landlords to account.
18 This is not to say that we don't think that there is
19 more work to be done, and in the implementation of
20 Local Law One, because to get that group of children,
21 that last mile, we have to identify where there are
22 gaps, but the question and the work that I think we
23 need to do is ensure whether it's which cases we
24 bring on or which piece of paper we asked for that
25 that work, that that intervention will actually drive

2 the number as low as we all want. So it has to be
3 commensurate with the--

4 CHAIRPERSON LEVINE: [interposing] Right.

5 COMMISSIONER BARBOT: health.

6 CHAIRPERSON LEVINE: We all agree
7 prevention is the goal here, right? We want to act
8 before paint peels, and certainly before a child
9 ingests the paint, right? And the intent of Local
10 Law One is that landlords inspect automatically if
11 there's a small child in the home, and if there's a
12 turnover of the apartment. Do we even track when
13 those inspections are done? Do landlords file a
14 report with you? Do you know apartment by apartment
15 if those inspections have been completed?

16 COMMISSIONER TORRES-SPRINGER: I'll let
17 Deputy Commissioner Santiago talk generally about
18 record keeping. But that too, I think, falls in the
19 same category of we fully expect landlords to abide
20 by all of these rules. We have focused our time,
21 attention and resources on protecting children and
22 making sure--

23 CHAIRPERSON LEVINE: [interposing] I know,
24 but--

2 COMMISSIONER TORRES-SPRINGER: that those
3 repairs are made.

4 CHAIRPERSON LEVINE: An expectation not
5 backed up by enforcement is not enough. There are
6 going to be landlords who flout it, and they are
7 flouting it.

8 COMMISSIONER TORRES-SPRINGER: And we are
9 open to identifying where those areas are, if it is
10 this one or others to make sure that we're driving it
11 to zero.

12 CHAIRPERSON LEVINE: Well, one provision
13 in the bills we're pushing forward today is to
14 require a third party to do that inspections so that
15 someone will report and will know it's done, and I'm
16 not sure if it was yourself, Commissioner, or
17 Commissioner Barbot, but there was a brief line in
18 one of your remarks that could indicate you don't
19 support that approach of a third party coming in so
20 that we know the inspections is done. If I move into
21 a new apartment or any family, I don't know whether
22 the inspection was done. There's no way for the
23 tenant to report on that, right? So, the idea is
24 third party, an EPA-certified and trained inspector
25 could do that, and then we have the certainty that

2 the inspection was completed. So, do you have a
3 position on that as a response to this?

4 COMMISSIONER TORRES-SPRINGER: Well, I
5 will start and if Doctor Barbot wants to-- can also
6 weigh in. For all of the bills, we come with the
7 spirit of working towards closing the gap. For that
8 one in particular, while we share the desire to make
9 sure that all of the requirements of Local Law One
10 are being followed, we have to and are open to
11 discussing with the City Council. We have to make
12 sure that our efforts to, in some instances, I'm not
13 saying this one, but the efforts that might appear to
14 be chasing paperwork don't divert from the resources
15 and attention to identify where there are hazards,
16 fix them, ensure landlords fix them, or come in where
17 we--

18 CHAIRPERSON LEVINE: [interposing] Okay, I
19 want to move on, but I think we have identified a
20 major gap in the enforcement regime and one I think
21 we need to work on. I do want to focus on water a
22 little bit. We have a regime in place to check the
23 water fountains and the taps used in cooking and
24 schools. Now, we want to strengthen that regime.
25 That's partly what we're seeking to legislate, but

2 there is something in place in the schools. Now, if
3 a child leaves their school building and walks across
4 the street to a playground and drinks out of a water
5 fountain there, that water fountain may never have
6 been checked, and park infrastructure was largely put
7 in place long before we banned lead pipes and lead
8 paint, etcetera. So, how can you explain this
9 discrepancy between the regime in place in school for
10 kids and the lack of any checking to my knowledge,
11 any consistent plan to check water sources in parks
12 and playgrounds?

13 COMMISSIONER BARBOT: So, Council Member
14 Levine, let me first start off by sort of reminding
15 us that we have the best water in the country, and
16 that water comes to us virtually lead-free, and you
17 know, we recognize, and especially you know, as a
18 pediatrician, I recognize that there have been scary
19 headlines recently about what's happened in other
20 jurisdictions that makes people naturally question
21 the quality of our water, and I want to make sure
22 that we reassure New Yorkers that our water is tested
23 consistently, thoroughly, and again, comes to us
24 virtually lead-free. Beyond that, when there have
25 been, especially in the schools, testing regimes, the

1 issue is not the water. This issue is in many cases,
2 and I'll have my DOE colleagues come up in case I
3 miss anything, but generally it's the fixtures, the
4 solder that may have lead can reach into the water.
5 We take many measures to protect the water, but the
6 most important thing here to note is that by running
7 the water, then that generally takes care of the
8 issue. So what we're talking about is lead that has
9 potentially sat overnight in a school building, or
10 DOE posts information about water fixtures in slop
11 sinks, right? And so I think it's a perfect example
12 of matching the intervention to the risk. And so we,
13 when we do our investigations for children who have
14 been noted to have elevated levels of lead, we do a
15 very thorough investigation that includes testing the
16 water in their homes by having them call 311 and
17 getting the testing kits. If we get significant
18 information about them spending a significant amount
19 of time in other settings such as schools, we will
20 also do that follow-up. But you know, in the years
21 that we have through Local Law One been able to bend
22 the curve by 90 percent. We have not identified
23 water as a significant source.
24

2 CHAIRPERSON LEVINE: Look, I again-- we
3 do want everyone to drink water. It's healthy. It's
4 good for the environment. The water coming from the
5 Catskills is probably the cleanest in the world. To
6 give people confidence in the water supply, it is
7 helpful for them to know, for the public to know that
8 we're doing everything we can to keep the water
9 clean, not just in the names, but right up to the
10 point where children drink. And I have to tell you
11 honestly, Commissioner, no kid is going to go to a
12 park water fountain or any water fountain and run it
13 for 60 seconds. Just that's just not a reasonable
14 expectation if that is our solution. The EPA has a
15 standard for water in bottles of five parts per
16 billion, and Canada and the European Union, that
17 standard is applied to all drinkable water, all
18 potable water including water coming out of the tap.
19 Here-- what is the standard here at which we
20 determine that water is safe to drink.

21 COMMISSIONER BARBOT: So, I will begin and
22 I'll turn it over to my fellow Commissioner, and I've
23 been working on this issue long enough to know more
24 than I thought I ever would about this subject. And
25 I think the important thing here to note is that the

2 15 is a reference level that helps us understand the
3 degree to which our protective measures are
4 effective, because first and foremost, it's always
5 the health of New Yorkers that we are focused on, and
6 I'm going to turn it over to Deputy Commissioner.

7 COMMISSIONER SAPIENZA: Good morning.

8 Commissioner Vinnie Sapienza with New York City DEP.

9 So, again, to reiterate, the water that's coming from
10 both our Catskill and Delaware and Croton system is
11 virtually lead-free as it gets into homes and
12 buildings, there are, and I think you know Council
13 Member Constantinides mentioned and Doctor Barbot,
14 there can be lead fixtures, lead piping that if water
15 sits inside a lead pipe for overnight, a long period
16 of time, some level of lead can potentially be
17 absorbed. So what EPA did was set a standard, it's
18 called an Action Level actually, of 15 parts per
19 billion saying that take a test after water has sit
20 stagnant in a pipe for six to eight hours, mimicking
21 overnight, and take a first draw of that sample and
22 see what the level is. And they use 15 as an actual-
23 - other, Canada, other places don't use that same
24 sampling technique of letting water sit in the pipe
25 for a long period of time and doing a first draw.

2 What they'll do is they'll set the standard, and it's
3 five in some cases, for typical use of water during
4 the day after the water has been running for several
5 hours. In fact, Canada says the water should be
6 stagnant for no more than 30 minutes to get to that
7 five. Letting-- again, as been said several times
8 here, letting the water just run until it's cold
9 where you're now drawing your water from the City's
10 water main in the street significantly reduces those
11 levels.

12 CHAIRPERSON LEVINE: Okay, I appreciate
13 that. I just want to move on to one final topic
14 before we pass it off. Commissioner, I just want to
15 clarify our plan for testing kids when they're young.
16 My understanding is you're seeking to have them
17 tested once, to have every child tested once before
18 they're six, is that correct?

19 COMMISSIONER BARBOT: New York State
20 requires that children be tested at one year of age,
21 two years of age, and be screened for potential risk
22 factors for elevated blood lead levels until the age
23 of six.

24

25

2 CHAIRPERSON LEVINE: Okay. You have-- I
3 think you clarified that we are at 50 percent now by
4 age two, is that right?

5 COMMISSIONER BARBOT: No, we're actually
6 at 80 percent.

7 CHAIRPERSON LEVINE: By age three you're
8 at 80 percent?

9 COMMISSIONER BARBOT: Below-- so, I'll--
10 two years and 11 months is still two, so that's why
11 we say less than three, just to kind of, you know,
12 give that--

13 CHAIRPERSON LEVINE: And the state law
14 extends up until two years and 11 months?

15 COMMISSIONER BARBOT: Typically, when
16 pediatricians see families in their office they've
17 got some leeway, right? They may test at nine
18 months. They may test at 15 months. It's the
19 generally recommended timeframe.

20 CHAIRPERSON LEVINE: Okay.

21 COMMISSIONER BARBOT: So, within that
22 time period.

23 CHAIRPERSON LEVINE: And your goal with
24 the measures you've announced today is that by age
25 two what percent of children will be tested?

2 COMMISSIONER BARBOT: So, with the
3 measures that we are announcing, the match against
4 the birth cohort, we project currently that roughly
5 just above 90 percent of children below the age of
6 three will be tested.

7 CHAIRPERSON LEVINE: Okay, we'll we're
8 going for 100 percent. One child untested is a risk
9 we can't take. We're at 99 percent vaccination rates.
10 There's no reason we can't be at 99 percent blood
11 testing rates, lead testing rates, particularly since
12 generally this is part of the test that's already
13 being done in doctor's offices. It's not an
14 additional draw of blood. So, we're going to push
15 for getting every child in the city tested during
16 their vulnerable years.

17 COMMISSIONER BARBOT: We would welcome a
18 partnership with Council because we have no
19 regulatory authority on individual pediatricians to,
20 you know, levy sanctions to say you are not meeting
21 that threshold, and as a pediatrician who practiced I
22 took it very seriously, and I tested all of my
23 patients, but unfortunately, you know, we still have
24 pediatricians in this city that think, you know, this
25 child that I'm seeing lives on Park Avenue and

2 they're not at risk, but the reality is whether you
3 live anywhere in this city, you need to be tested at
4 one and two years of age and be screened up until the
5 age of six.

6 CHAIRPERSON LEVINE: Okay. Thank you.
7 I'm going to pass it on to my colleague and Co-Chair
8 Council Member Cornegy.

9 CHAIRPERSON CORNEGY: Thank you, Chair
10 Levine. Thank you for your testimony here. This
11 morning I had intended to keep my questions in the
12 enforcement section, but I may deviate just a tiny
13 bit because there's I think some important
14 information that we need. One of the goals of Local
15 Law One was to eliminate lead paint on certain high-
16 risk areas in apartments by requiring the work -- by
17 requiring this work once apartments became vacant.
18 What type of enforcement audits has the City done to
19 confirm that property owners are removing these
20 hazards when an apartment becomes vacant? I know that
21 Chair Levine asked this question, but I think he
22 asked it in another way, and I didn't hear the answer
23 to this question. So, if we know that, could you
24 please provide that?
25

2 COMMISSIONER TORRES-SPRINGER:

3 Absolutely. So, Council Member the turnover
4 requirements for under Local Law One are pretty
5 extensive, and that of course was met to add to the
6 preventative spirit of Local Law One. What we have
7 and we fully expect landlords to comply with those
8 provisions. What is similar to the annual
9 inspections, we have devoted-- and when we go into
10 and identify peeling paint or lead paint conditions
11 and issue violations, those include for-- those
12 include violations that for paint that-- conditions
13 that should have been repaired as part of turnover.
14 What we have, as I mentioned, however, the time, the
15 resources and our energies in the implementation thus
16 far of Local Law One. We've concentrated on those
17 efforts to make sure we're identifying where there's
18 a lead hazard, making sure the landlord repairs it,
19 and then-- and if they don't, we step in. And so what
20 we are completely open to doing is identifying where
21 there might be other parts of enforcement that have
22 to be improved, but whether it is with turnover or
23 other issues, but it has to be commensurate, we
24 believe, with the positive health impact that it can
25 provide so that what we're doing at HPD or across

2 different agencies is it diverting resource to
3 chasing paperwork, but really making sure the
4 resources that we're providing and the time that
5 we're spending are about ensuring those units get
6 repaired and children's lives are not in danger.

7 CHAIRPERSON CORNEGY: So, while I
8 appreciate that, I think what I was trying to get to
9 in my question is, is there a way that on HPD's
10 roles, you know an apartment now has become vacant,
11 and before it's reoccupied there's a-- you know, are
12 you doing an audit to say, okay, these apartments
13 were vacant. We did an audit to make sure that, you
14 know, there's no lead paint and then somebody, you
15 know, reoccupies the apartment?

16 COMMISSIONER TORRES-SPRINGER: As you can
17 imagine, tracking the turnover of apartments in our
18 housing stock is-- would be a gargantuan undertaking
19 as people come in that move in and out of apartments.
20 We do-- while the audit function or the audit
21 provision in Local Law One, it is there at the
22 discretion of the agency versus our requirement. We
23 have used audits in a number of instances, including
24 where CODAs [sic] have been ordered by the Department
25 of Health. In certain certifications of corrected

2 work, sample exemptions for instance, and so we use
3 it, but we use it in a very concentrated way, in a
4 very targeted way. I think the overall point that I
5 want to make sure is clear is that the time and the
6 energy and the resources that we have dedicated to
7 the implementation of Local Law One has been, and we
8 believe it's the right thing, concentrated on fixing
9 the condition for the children in the units. And so
10 as we move forward, if that is an area, whether it's
11 audits or some of the others that have been mentioned
12 where we think there's an opportunity for better
13 enforcement, we'd be more than happy to work with the
14 Council on that.

15 CHAIRPERSON CORNEGY: Do we know how many
16 audits have taken place?

17 COMMISSIONER TORRES-SPRINGER: I don't
18 have the specific count, but we'd be more than happy
19 to follow up.

20 CHAIRPERSON CORNEGY: Okay. And so my
21 next question is in relate-- it relates to the term
22 "high-risk areas." So, anecdotally I think that all
23 of the Council Members present would say that there's
24 a disproportionate impact on minority communities of
25 high-risk lead paint. Do we have the statistics to

2 either substantiate that anecdotal idea or to
3 dissuade that idea? Do we have the stats to--

4 COMMISSIONER TORRES-SPRINGER:

5 [interposing] I'll defer to our top health
6 professional in the City.

7 COMMISSIONER BARBOT: So, Council Member,
8 I think what we can say is that typically the housing
9 that is most at risk is older housing with poor
10 maintenance, because older housing is more likely to
11 have had lead paint, and then lead paint in and of
12 itself doesn't present a risk as long as that surface
13 is intact, and that's where maintenance comes into
14 effect. Because whenever there is a disruption of
15 that surface, that's what creates the potential risk.

16 CHAIRPERSON CORNEGY: So, I would just
17 flag that according to the testimony in writing that
18 79 percent of the cases are in black and Latino
19 children. According to the annual report from DOHMH.

20 COMMISSIONER BARBOT: So, I don't have
21 that data with me, and I'm not disputing. We take
22 great care in the accuracy of our data, and if that's
23 Health Department data, I stand by it.

24 CHAIRPERSON CORNEGY: But that's--

25 COMMISSIONER BARBOT: [interposing] But--

2 CHAIRPERSON CORNEGY: [interposing] I
3 don't mean to be rude, but that's actually your
4 report. It's your annual-- the DOHMH annual report
5 designates the 79 percent.

6 COMMISSIONER BARBOT: So, the point I'm
7 trying to make is the housing stock that's at risk
8 and the conditions under which the risk can be
9 increased. So, yes, we are confirming that right now
10 in this report.

11 CHAIRPERSON CORNEGY: So, we already know
12 that if that's the case, then there's a targeted
13 enforcement that has to take place. Is that where
14 we're gen-- is that where we're concentrating the
15 resources that are necessary? Is it there?

16 COMMISSIONER BARBOT: So, our role at the
17 Health Department is to follow the child, and when we
18 conduct our investigations, if there is peeling paint
19 that is demonstrated to have elevated lead as based
20 on our XRF testing, then we will issue a
21 Commissioner's Order to Abate. And so we will also
22 then continue to follow that child and do ongoing
23 tracking to ensure that it doesn't stop there, that
24 regular routine follow-up testing is done to ensure
25 that that blood lead level continues to decline,

2 because if it doesn't decline then we will go back,
3 re-interview the family, which is a very in-depth
4 process that can take several hours to do
5 comprehensively, and then determine if there may be
6 additional sources of potential lead exposure.

7 CHAIRPERSON CORNEGY: It seems like we
8 could be best served if DOHMH would share that
9 information with HPD and then create a targeted
10 enforcement; we could probably get to 100 if we were
11 willing to do that. Is that something you'd be
12 willing to do?

13 COMMISSIONER BARBOT: So, I'm going to
14 turn over to Deputy Commissioner Schiff, because we
15 notify the landlords of when there is Commissioner's
16 Order to Abate. Otherwise, if for example a child
17 has an elevated blood lead level but we don't find
18 non-intact paint that has lead, it's protected
19 medical information and we generally-- not generally.
20 We can't share that information.

21 CHAIRPERSON CORNEGY: How many orders
22 have there been to abate?

23 DEPUTY COMMISSIONER SCHIFF: Excuse me.
24 In 2017 we issued 415 Orders to Abate, but I do want
25 to add that when we issue an Order to Abate, we have

2 regular communication with HPD. We are sharing that
3 information so that HPD can use that for its
4 additional enforcement. It's an important part of
5 the coordination set out in the Local Law and that
6 the agencies have implemented.

7 CHAIRPERSON CORNEGY: So, I'm going to
8 ask my last question, which is how many of them have
9 been corrected, but to kind of piggy-back off what
10 the Speaker said, like trying to navigate these
11 numbers here at the hearing is taking up an
12 incredible amount of time, and we could have done
13 this prior to the hearing and be having a dialogue
14 about how to remedy it instead of having to present
15 it here. So it's very difficult for me as the Chair
16 of Housing and Buildings to try to do this here in a
17 hearing in front of everybody when I should have had
18 these numbers before, and what we would be talking
19 about now is a remedy for it. So, but if you could
20 just answer question, how many of those abatements
21 have been corrected?

22 DEPUTY COMMISSIONER SCHIFF: So, when we
23 issue a Commissioner's Order to Abate, which is after
24 we are conducting our investigation for a child with
25 an elevated blood lead level, we conduct that home

2 visit. We do environmental sampling. If we find a
3 lead paint hazard and we issue that order to the
4 landlord, we're tracking the compliance with our
5 order very carefully, regularly. If the work isn't
6 done in a timely and safe way, then we will refer
7 that work to HPD. And I wanted to take a moment to
8 talk about that, because it's actually one of the
9 very important pieces of Local Law One that other
10 jurisdictions don't all have in other places. If the
11 landlord is not complying, then the government has to
12 take that landlord to court. It could be a lengthy
13 process, and meanwhile, that child is sitting in
14 that, is living in that apartment with the hazardous
15 conditions. Local Law One doesn't allow for that,
16 and so we-- either that landlord completes the work
17 under our supervision, or we send it to HPD to do
18 that work, and as the Commissioner described, that
19 work gets done and then the landlord is billed. So,
20 I just gave you the number for 2017. I think given
21 the timelines, unless there's some very unusual
22 circumstance that I'm not aware of, all of those
23 should be complied with. So, we'll just confirm that
24 there's nothing open in our record for 2017, but in
25 general, you know, that's our process. We are

2 monitoring that compliance. There are tight
3 timelines, and if it's not done, we refer it over.

4 CHAIRPERSON CORNEGY: So, I'm not sure if
5 I understood you correctly, that all 400 have been
6 corrected?

7 DEPUTY COMMISSIONER SCHIFF: So, I would
8 want to just be 100 percent sure, but for our
9 process, for the orders that we issue, we are
10 monitoring for a timely and safe compliance, and when
11 we're not getting that, we refer it to HPD, and they
12 do-- they do the remedy, and they do it on time. So,
13 unlikely that for 2017 orders we have any open, but I
14 want to just make sure that I'm getting you the right
15 information, so we're going to just confirm and get
16 back to you.

17 CHAIRPERSON CORNEGY: Thank you. In the
18 interest of time I'm going to pass it to Chair
19 Constantinides.

20 SPEAKER JOHNSON: Mr. Chair, before you
21 go, I just have one question. Does the Health
22 Department-- has the leadership of the Health
23 Department, has the leadership of HPD met with
24 advocates on a regular basis to the folks that are
25 doing this work who see gaps in the system to

2 understand what HPD and DOHMH could be doing better?

3 Have you met with any advocates during your tenure in
4 your current positions in let's just say in the last
5 two to three years? Have you all met with advocates?

6 COMMISSIONER BARBOT: So, I'm going to
7 defer to Deputy Commissioner Schiff, because this is
8 my week three as ac--

9 SPEAKER JOHNSON: [interposing] Well, no,
10 but you've been First Deputy Commissioner, the number
11 two person at the Health Department under Doctor
12 Bassett.

13 COMMISSIONER BARBOT: Yes, and so Doctor--
14 - Deputy Commissioner Schiff as overseeing our
15 Healthy Homes project has been-- you know, part of
16 the work that we do is whether it's with advocates
17 around lead or whether it's around HIV or infant
18 mortality, we pride ourselves in being a department
19 that is very open to collaboration with advocates,
20 and because I think that makes us all stronger, and
21 it makes our city healthier.

22 SPEAKER JOHNSON: So, has that happened?

23 DEPUTY COMMISSIONER SCHIFF: So, the
24 leaders of our Healthy Homes program which is where
25 this work sits are very much engaged with the lead

2 poisoning prevention community in New York City.

3 They sit on advisory boards. They meet with people.

4 There are regular meetings and they-- it's a

5 community that knows each other. I did have a

6 meeting yesterday with advocates that I think was

7 very useful and productive, and we discussed areas of

8 agreement and places where we think that more work

9 could be done.

10 SPEAKER JOHNSON: Who did you meet with
11 yesterday from the advocate community?

12 DEPUTY COMMISSIONER SCHIFF: You know, I
13 don't remember everybody's name off the top of my
14 head. I wouldn't want to leave off names, but we can
15 get that meeting list to you.

16 SPEAKER JOHNSON: And HPD?

17 COMMISSIONER TORRES-SPRINGER: Speaker
18 Johnson, we have in all of our work generally work
19 with community-based organizations, tenant advocates,
20 because a lot of the issues that we see as it relates
21 to building conditions it can include lead, but it's
22 often about building-wide conditions and making sure
23 that landlords are held to account. I personally
24 look forward to meeting more with advocates
25 specifically on lead. The teams at HPD are constantly

2 working with different-- and listening to and getting
3 feedback from different organizations to the extent,
4 of course, that that is something that should be done
5 more, especially as we negotiate and think through
6 the best implementation and different aspects of the
7 24 bills. We'd be happy to do that, and I personally
8 would be happy to do that.

9 SPEAKER JOHNSON: NYCHA? Have you met
10 with advocates? Vito Mustaciuolo, General Manager of
11 NYCHA.

12 VITO MUSTACIUOLO: Thank you, sir. So, I
13 have not personally met with advocates, but I do meet
14 with resident leaders and residents on an ongoing
15 basis.

16 SPEAKER JOHNSON: So, is there a
17 commitment from the leadership at this table which is
18 considered the most senior leadership of these
19 respective agencies and authorities that we're
20 looking at to meet with advocates and leaders who see
21 gaps in the system and see where things could be done
22 better? Is there an acknowledgement and a commitment
23 to do that?

24 COMMISSIONER BARBOT: Yes.
25

2 COMMISSIONER TORRES-SPRINGER: Yes, on my
3 part.

4 SPEAKER JOHNSON: Okay, great. Chair
5 Constantinides?

6 CHAIRPERSON CONSTANTINIDES: Thank you,
7 Speaker Johnson and Chair Levine and Cornegy. I'm
8 going to ask a number of questions relating to soil
9 and water as the purview of the Environmental
10 Protection Committee. I do have one question on your
11 testimony, Commissioner Barbot. You talked about how
12 you're going to compare the data that you have to
13 birth records in the City of New York. What are we
14 going to do for those that are born outside of the
15 City or outside the State of New York, especially in
16 our immigrant communities? How are we going to make
17 sure that they're getting tested in the same way that
18 we-- as someone who was born in New York City is?

19 COMMISSIONER BARBOT: So, Council Member,
20 I appreciate that question because we have been
21 trying to ensure that all of our efforts are also
22 encompassing members of the immigrant community, and
23 so, you know, as we detailed earlier in terms of all
24 of the outreach that we're doing and the new things
25 that we're going to be doing, we would be happy with

2 any other ideas of how we could continue to reach
3 members of our community, especially the immigrant
4 community, because we don't want anybody to fall
5 through the cracks. We take this very seriously, and
6 you know, we talked about earlier we're trying to
7 touch all of our basis in terms of really completing
8 the mission that was started in 2005 under Local Law
9 One.

10 CHAIRPERSON CONSTANTINIDES: So what are
11 we doing in relation to language-appropriate
12 materials, speaking at various houses of worship,
13 places where people will bring their young children
14 and they can get that information readily available
15 to them in a language they speak? We're a city of
16 immigrants; how do we make sure that we are doing
17 these communications in a very thoughtful and
18 meaningful way?

19 COMMISSIONER BARBOT: Absolutely. So we
20 do a lot and I'm going to let Deputy Commissioner
21 Schiff give you more details about the ways in which
22 we try to blanket English-limited proficiency
23 communities, and then also work with other
24 communities that may have higher levels due to other
25 practices. So, I'll let her talk about that.

2 DEPUTY COMMISSIONER SCHIFF: Thank you.

3 So we do have public education unit in our program.

4 We do a lot of outreach and education. I know in

5 conversations with some Council Members we've talked

6 about when you have events that we are happy to

7 provide materials or even to be there. We do-- we're

8 out at health fairs, and you're absolutely right that

9 our materials that it's critically important that

10 they be in the language that people know, are

11 comfortable in, and so we do have language access

12 programs, make sure that our materials are in

13 appropriate languages. We also have very targeted

14 outreach for certain communities where we see

15 additional risk. I think that's what Doctor Barbot

16 was alluding to. So, for example, we know that in

17 south Asian communities we see disproportionately

18 high rates, and that's due to-- I think in addition

19 to lead paint hazards, that's because of product use

20 and traditional remedies and cosmetics, and so we

21 designed-- we also designed a target campaign for

22 particularly communities, and we work with community-

23 based organizations who are trusted leaders in those

24 communities. We train them, buy them materials,

25 because they can be the best messengers. So those

2 are some of the things that we do to reach people
3 with-- for whom English is not their first language.

4 CHAIRPERSON CONSTANTINIDES: How big is
5 the budget to do this sort of outreach? I mean, we
6 have 190 languages, I think, spoken in Queens alone,
7 if not more. So how are we allocating resources to
8 get this done effectively?

9 DEPUTY COMMISSIONER SCHIFF: I don't
10 think I have budget numbers specifically on language
11 access for our materials, but we can provide that.

12 CHAIRPERSON CONSTANTINIDES: Alright, so
13 moving on to soil and water. How-- have we done soil
14 sampling in parks, playgrounds, public spaces,
15 community gardens that are adjacent to highways or
16 heavily trafficked roads?

17 COMMISSIONER BARBOT: So, Council Member,
18 let me just begin by saying and going back to the
19 process that we have. Whenever we identify a child
20 with an elevated blood lead level, as in Clinical
21 Medicine, whenever a patient comes into my office, I
22 take a history and that drives what the intervention
23 I will prescribe for that patient. Similarly, in
24 this situation related to public health efforts, we
25 do extensive and in-depth interviews with every child

2 that we identify with an elevated blood lead level,
3 and then depending on what that history tells us,
4 that then drives what additional testing we do. We
5 know from that, from years of those examinations that
6 lead and paint is the usual source, but if there are
7 situations where a child because of their age or
8 because of their developmental status has a behavior
9 in which they eat soil, then we will go to where that
10 location is to test that soil. The other thing I
11 want to just note is that this is a perfect
12 opportunity to sort of remind us about matching the
13 intervention to the level of risk, and--

14 CHAIRPERSON CONSTANTINIDES: [interposing]

15 Yeah, Commissioner, I've heard this already, so I do
16 appreciate this answer, but I think we've heard this
17 morning, I can't think of how many times I've lost
18 count, no level of lead is safe. Right? So I'm not
19 talking about only elevated levels. We're talking
20 about levels of lead and you know, looking at soil,
21 so that's my question, and I'm trying to get answer
22 to that question. That's the question I asked. I'd
23 like an answer to it.

24

25

2 COMMISSIONER BARBOT: I understand,
3 Council Member, and what I would want to sort of
4 frame is I can understand--

5 CHAIRPERSON CONSTANTINIDES: [interposing]
6 I would like the answer to the question that I asked,
7 please.

8 COMMISSIONER BARBOT: [interposing] I--

9 CHAIRPERSON CONSTANTINIDES: [interposing]
10 You keep framing the question. I'm an attorney as
11 well, we can frame all day. Let's get the answer,
12 please.

13 COMMISSIONER BARBOT: So, understand the
14 inclination to want to test every single possible
15 source, but this is an opportunity for us--

16 CHAIRPERSON CONSTANTINIDES: [interposing]
17 Commissioner, please, please, please just answer the
18 question. Please?

19 COMMISSIONER BARBOT: Would you restate
20 the question, please?

21 CHAIRPERSON CONSTANTINIDES: The question
22 was: Are we-- have we done soil testing in public
23 places, parks and areas around highways and other
24 highly trafficked areas? Yes? No?

2 COMMISSIONER BARBOT: We have done soil
3 testing when indicated by a patient history.

4 CHAIRPERSON CONSTANTINIDES: Okay. Have
5 we done that-- have we consulted with other cities
6 for testing if they've done such as the Urban Soils
7 Institute, the New Orleans Soil study? Have we done--
8 - followed up with any other cities in relation to
9 what they're doing around soil?

10 COMMISSIONER BARBOT: I am not familiar
11 with consulting with other cities, because it's
12 pretty standard practice to follow what the history
13 tells you in terms of how to match your resources and
14 match the intervention to the risk. So we test soil
15 when and if indicated by a patient's history.

16 CHAIRPERSON CONSTANTINIDES: So, I
17 appreciate that. I-- we can all talk a lot this
18 morning. I'm just trying to get the answers to the
19 questions that have.

20 COMMISSIONER BARBOT: Sure.

21 CHAIRPERSON CONSTANTINIDES: You know,
22 have you taken a look at the CUNY Soil Study from
23 2015?

2 COMMISSIONER BARBOT: I have not, but I'm
3 going to defer it to any of my agency colleagues who
4 may have.

5 SPEAKER JOHNSON: Does DEP want to
6 comment on that? Commissioner Sapienza?

7 COMMISSIONER SAPIENZA: Yeah, Mr.
8 Speaker, soil contaminants is under the jurisdiction
9 of the New York State Department of Environmental
10 Conservation, not New York City DEP.

11 SPEAKER JOHNSON: No, the question is the
12 Chair, who I know you work with on a regular basis
13 given the jurisdiction of his committee is asking
14 about different studies that were done looking at
15 risks related to soil and lead and asking if the
16 appropriate city agencies have taken a look at those
17 studies to understand the risk factors involved. Is
18 that correct?

19 CHAIRPERSON CONSTANTINIDES: That's
20 correct.

21 COMMISSIONER SAPIENZA: So, yeah, so New
22 York City DEP has not taken a look at soil lead
23 testing, given that it's not in our jurisdiction.
24 It's a New York State jurisdiction.
25

2 CHAIRPERSON CONSTANTINIDES: Okay,
3 alright. SO, I will continue to follow up with you
4 in relation to that. And so I guess they're asking
5 about phyto [sic] remediation is probably not a--
6 something that we're doing or looking at since we're
7 not testing, correct?

8 COMMISSIONER BARBOT: I'm sorry, I missed
9 the first part.

10 CHAIRPERSON CONSTANTINIDES: Phyto
11 remediation for soil, planting things like sunflowers
12 and other plants in order to soak up lead, and you
13 know, removing those plants in order to get it down
14 to a more reasonable level.

15 COMMISSIONER BARBOT: So, I would defer
16 to my colleagues from Parks and Recreation if they
17 want to talk about their new--

18 SPEAKER JOHNSON: If the Counsel could
19 please swear Commissioner Kavanagh in. You were
20 sworn in?

21 DEPUTY COMMISSIONER KAVANAGH: No, I was
22 not.

23 SPEAKER JOHNSON: He was not sworn in.
24
25

2 COMMITTEE COUNSEL: Do you swear to tell
3 the truth, the whole truth and nothing but the truth,
4 and respond honestly to Council Member questions?

5 DEPUTY COMMISSIONER KAVANAGH: Yes.

6 COMMITTEE COUNSEL: Thank you.

7 SPEAKER JOHNSON: Commissioner Kavanagh?

8 DEPUTY COMMISSIONER KAVANAGH: Good
9 afternoon. I'm Liam Kavanagh, Deputy Commissioner
10 with Parks and Recreation. I first want to--

11 CHAIRPERSON CONSTANTINIDES: Hi Deputy
12 Commissioner. How are you?

13 DEPUTY COMMISSIONER KAVANAGH: Good,
14 thank you. How are you?

15 CHAIRPERSON CONSTANTINIDES: Good.

16 DEPUTY COMMISSIONER KAVANAGH: I first
17 want to say that public safety is at the heart of
18 everything that we do in the Parks Department.

19 CHAIRPERSON CONSTANTINIDES: Absolutely.

20 DEPUTY COMMISSIONER KAVANAGH: Whether
21 it's designing, building, planning parks, operating,
22 maintaining, or inspecting parks, really at the heart
23 of what we do.

24 CHAIRPERSON CONSTANTINIDES: Absolutely.
25 I don't dispute that.

2 DEPUTY COMMISSIONER KAVANAGH: I'm not
3 familiar with the CUNY study that you referenced.
4 There was a Cornell study done a few years ago that
5 did test soil in community gardens throughout the
6 City. They did find elevated of levels of lead in
7 some of those samples that they took. We have a
8 longstanding practicing of working with our community
9 gardeners to make them aware of potential for lead
10 and other contaminants in urban soils. We have a
11 number of best practices that we share and enforce,
12 in some cases with our community gardeners, so that
13 they don't plant in soil itself. They plant in
14 raised beds that have a barrier between the soil and
15 the planting medium in which the plants are growing,
16 that they wear gloves, they wash their hands. They
17 take other precautions just to be safe for themselves
18 and their families when they are working in their
19 gardens. And if there is exposed soil in the
20 gardens, they cover with woodchips or other plant
21 material that prevents the direct contact with the
22 soil.

23 CHAIRPERSON CONSTANTINIDES: I
24 definitely-- I appreciate that, Commissioner, and I
25 will continue to ask some additional questions about

2 the needs to continue to look at soil. I just want
3 to ask about water very quickly, if Commissioner
4 Sapienza can quickly-- I don't want to monopolize the
5 hearing-- and but Commissioner, I'm in no way trying
6 to disparage the work that you're doing, and as the
7 Speaker said, I believe that you're all great public
8 servants. I'm just trying to get answers to the
9 questions that I ask, and that's really, you know,
10 trying to be concise as possible. So, when it comes
11 to water, I know there was a 15 parts per billion
12 that was talked about. That's a 1991 standard.
13 Other jurisdictions have gone down as five, and
14 that's not really working out very well. So, how do
15 you-- what is your sort of response to what are-- how
16 we're measuring how we're doing when it comes to
17 water and the City of New York?

18 COMMISSIONER SAPIENZA: So, Mr. Chair,
19 you know, as mentioned previously, the water that's
20 delivered from our upstate reservoirs through the
21 water mains in the City is virtually lead-free. EPA
22 had established it's action level at 15 parts per
23 billion of lead, but the sample to determine that
24 level is based upon stagnant water first draw,
25 meaning water sitting in a lead pipe overnight, six

2 to eight hours, and then a sample is taken of that
3 water immediately. In many other locals around the
4 world that have lower standards, Canada we mentioned
5 earlier for example, the water is taken not at a
6 first draw after stagnant water has been sitting in a
7 lead pipe overnight, but during the day when it's
8 more typical of water that's being generally used.
9 So, it's kind of apples and oranges the way the
10 limits are--

11 CHAIRPERSON CONSTANTINIDES: So what are
12 we doing on that last mile, right? We're talking
13 about, you know, it's very often it's the-- this is
14 still for DEP, don't take his microphone away.

15 COMMISSIONER BARBOT: Actually, I just
16 want to interject. I think this is an example of
17 where going the last mile, in my opinion as the
18 City's doctor and as a pediatrician, is focusing
19 where the highest risk is. And that, we know is in
20 lead paint. And so I think focusing on the
21 preventive efforts related around Local Law One and
22 how it is that we can continue to bend the curve and
23 focusing on lead paint as the most likely primary
24 source of lead exposure I think is probably the best
25 way to target resources at that last mile.

2 CHAIRPERSON CONSTANTINIDES: Okay, so

3 I'll ask again, so how do we-- on that last mile when
4 it comes to water, I know with many often it's that
5 little-- it's from the main to the home that may have
6 lead contamination. It's the faucet in school.

7 It's-- as my colleague Mark, Council Member Levine
8 talked about, it's the playground, faucet. What are
9 we doing to deal with those last challenges? I know
10 the water is clean. Like, I'm not here to dispute
11 that we don't have the best water in the world, and
12 by no way is anyone here saying that we should not be
13 drinking New York City tap water. We should be
14 drinking New York City tap water, but how do we get
15 rid of those last bits of contaminants that are in
16 those various places?

17 COMMISSIONER SAPIENZA: So, Mr. Chair, we
18 all talked about lead that can be in plumbing whether
19 it's in fixtures and pipes, and before lead was
20 prohibited through the plumbing code, that was a
21 practice. There was a recent report by the IBL about
22 private homes, one and two-family homes primarily
23 built in the 1920's and 30's that had these lead
24 pipes that connect their home to the City's water
25 main. That's called lead service lines. Those are,

1
2 you know, again, grandfathered in. They're private
3 infrastructure. It's not something that the City on
4 its own with city capital funding, can just say, you
5 know, we're going to want them replaced. Again, it's
6 owned by the homeowner, and the homeowner really at
7 this point knowing that just by simply running the
8 water until it's cold is really reducing any
9 likelihood of getting lead exposure. That's their
10 option.

11 CHAIRPERSON CONSTANTINIDES: So, the IBO
12 report that talked about it's on the two percent of
13 homes found in elevated level of lead, do these
14 homeowners even know that they own that steel [sic]
15 service line? Do they know they have to deal with
16 it? I mean, I wouldn't know unless someone told me.
17 So how would I know that it's something that I have
18 to deal with and I have to solve?

19 COMMISSIONER SAPIENZA: So, a couple of
20 things. First is that whenever there is a test
21 that's done, the result is given to the property
22 owner, so they have that. Just related to if you may
23 have a lead service line, by the end of this calendar
24 year DEP will be publishing an online map of all
25 900,000 properties in the City and list the-- as

1 based upon our records-- what type of service line
2 they have. The other thing is, too, there's a box
3 there on the table in front of Chair Cornegy-- I
4 guess that is, I can't see exactly who it's in front
5 of-- which is a free lead testing kit, and by calling
6 311 DEP will provide you with a kit. You can take a
7 sample. There's a mail response in there that goes
8 directly to our laboratory in Kingston [sic], it's a
9 New York State certified lab, and get your water
10 tested to just know for sure if you may have any lead
11 in it.
12

13 CHAIRPERSON CONSTANTINIDES: Alright.
14 Thank you, Commissioner, and thank you all for your
15 testimony.

16 SPEAKER JOHNSON: So, we're going to
17 provide a five to ten minute break so folks can use
18 the restroom, and we will come back, and when we're
19 back we're going to have Council Member Ampry-Samuel
20 ask questions followed by Council Member Chin, and
21 then we'll come back for a second round as needed.

22 [break]

23 SPEAKER JOHNSON: We're going to restart
24 the hearing. Thank you. Okay, we're going to resume
25 the hearing. Just quickly before I turn it over to

2 Chair Ampry-Samuel of the Public Housing Committee,
3 have any of you seen this report called "Lead
4 Loopholes?" Have you read it?

5 UNIDENTIFIED: I have. I have, yes.

6 SPEAKER JOHNSON: I mean, they make some
7 very significant points of failures and gaps in
8 enforcement, and I'd love to-- I would love to hear a
9 response at some point to what's identified in here
10 and if you agree with what advocates have pointed out
11 as serious gaps. So, that's a conversation I would
12 like to have. I'm going to turn it over to Chair
13 Ampry-Samuel.

14 COUNCIL MEMBER AMPRY-SAMUEL: Good
15 afternoon, everyone, and thank you for this important
16 hearing to all of the Chairs. I, just for the
17 record, I do have a bill that's part of the package,
18 and it's bill 868 that's related to the remediation
19 of lead in water within the multi-dwelling. And so,
20 but I'm actually-- I have a few questions related to
21 NYCHA. But I first want to point out that to
22 Commissioner Barbot, I had a little bit of concern
23 with your testimony and just the language of it. I
24 just have to state that right now. On page seven you
25 state, "If New Yorkers are concerned about their

1 water, then they can request a free testing kit via
2 311.” And I just want to point out that in that
3 statement you’re saying if New Yorkers are concerned,
4 then this is what they can do, and we as a body, we
5 as members of the New York City Council and just
6 public servants, and I would think in your position
7 as well is not whether New Yorkers are concerned, I’m
8 concerned, and we should all be concerned. And we
9 should start to get away from being reactionary all
10 the time, and figure out ways to prevent a child from
11 becoming sick, and figure out ways to really protect
12 our children, and so I just wanted to highlight that
13 we should all be concerned, and our focus should be
14 on how do we prevent this so that we don’t have to
15 hold five and six-hour hearings to figure out a way
16 to cure it, right? And so I just wanted to highlight
17 that because it disturbed me a bit when you were
18 going through your testimony.

20 COMMISSIONER BARBOT: Councilwoman, I
21 think your points are very well taken, and I want to
22 assure you that we take this seriously, and we take
23 every measure to protect the water, and perhaps a
24 better choice of words, that they want to be
25 reassured. Might be a different way, but certainly

2 in no way intending to minimize the anxiety that
3 there is around these issues and the fact that we are
4 and will remain committed to ensuring that we are
5 transparent and that we address issues, and that we
6 look for ways to push ourselves. So I appreciate
7 those comments. I thank you.

8 COUNCIL MEMBER AMPRY-SAMUEL: Okay, and
9 in your comments, again, you talk about transparency.
10 You talk about ensuring New Yorkers, right, about
11 safety of our children, and so that brings me to my
12 questions for NYCHA. Because of the ongoing concerns
13 related to transparency, related to tracking,
14 relating to accountability, NYCHA residents are just-
15 - and New Yorkers and the Council body, we're just
16 not comfortable in what has been reported in the
17 past, and so just to put on the record today, I would
18 like to know what is-- can you provide us with an
19 update related to your lead abatement and testing and
20 what's happening since we've last had conversations
21 related to lead. So, the first question, your
22 inspectors are required to have certain
23 certifications to remove lead. Where are you in that
24 process to make sure that all of NYCHA inspectors are
25

2 certified and if the work is being done in a timely
3 manner?

4 COMMISSIONER BARBOT: So, Councilwoman,
5 actually before Vito begins, let me just sort of
6 reiterate that from the Health Department's
7 perspective in the vein of transparency we have been
8 posting data on our website. Previously we had not
9 been posting data based on whether these were results
10 from public housing or private housing because we
11 treat all landlords the same. Recognizing that there
12 are concerns, we've now started issue-- reporting
13 that data broken down. So, I want to just sort of
14 assure the committee, the Chairs, all of us that
15 irrespective of the landlord, we're treating all
16 children the same.

17 COUNCIL MEMBER AMPRY-SAMUEL: And I'm
18 aware of the 97 percent number. I'm aware of that,
19 but again, those are numbers that have been reported
20 and there's been some questions about the reporting.

21 VITO MUSTACIUOLO: Okay, so and again, my
22 name is Vito Mustaciuolo, General Manager for the
23 Housing Authority, and I agree with you. there is
24 absolutely no question that our residents are
25 confused, and they're afraid, and that we need to be

2 much more transparent, not just when dealing with
3 issues regarding lead-based paint hazards, but about
4 everything that we do, about what the future plans
5 are for their buildings about repairs that were
6 being-- that will be undertaken. So we are looking
7 at wholesale at how we should be more transparent as
8 an agency. There was a major announcement as part of
9 the Mayor's Vision Zero regarding lead-based paint
10 hazards, and this is where the Authority is going,
11 right? We feel strongly that we need to be lead-
12 free. The Mayor announced that we will be
13 proactively XRF testing of approximately 135,000
14 units in the upcoming years starting hopefully within
15 the next six months.

16 COUNCIL MEMBER AMPRY-SAMUEL: I'll have
17 questions about the number of units.

18 VITO MUSTACIUOLO: But it's about
19 transparency, though. We plan on making that
20 information publicly available. It's important that
21 people know what the results of those tests are,
22 right? You asked about, I believe, about our--

23 COUNCIL MEMBER AMPRY-SAMUEL:
24 [interposing] The certifications.

2 VITO MUSTACIUOLO: the qualifications for
3 staff, certifications. Any staff that work for the
4 Authority that perform abatement work or oversee
5 abatement work, they have the proper EPA
6 certifications. We ensure that they do. That is a
7 requirement. For the Vision One inspections which I
8 think is a little bit different, and I'm not sure if
9 you're asking about the visual inspections as well.
10 So, for visual inspections, primarily, we use outside
11 vendors, outside contractors that they are required
12 to provide us with the HUD certification, the
13 training certification for all of the staff that
14 perform the visual inspections. We've also
15 undertaken a major campaign to get a lot of our staff
16 provided with the same training. So we also have in-
17 house staff who are HUD trained to perform the visual
18 inspections as well.

19 COUNCIL MEMBER AMPRY-SAMUEL: DO you have
20 the number of how many of your staffers who are doing
21 this work are-- the number of them that are actually
22 certified? Like, just give me a number--

23 VITO MUSTACIUOLO: [interposing] For
24 visual? For visual inspections?

2 COUNCIL MEMBER AMPRY-SAMUEL: of employees
3 who are going out and doing inspections, and the
4 number of outside contractors that are doing it as
5 well.

6 SPEAKER JOHNSON: Vito, who's joining
7 you?

8 VITO MUSTACIUOLO: I'm sorry, this is
9 Shireen.

10 SPEAKER JOHNSON: What's her position?

11 VITO MUSTACIUOLO: Shireen is the
12 Director for our Lead Program.

13 SPEAKER JOHNSON: Of what program?

14 VITO MUSTACIUOLO: Lead.

15 SPEAKER JOHNSON: Lead, thank you.

16 COUNCIL MEMBER AMPRY-SAMUEL: Would it be
17 helpful for you to speak directly, the answers?

18 SHIREEN RIAZI KERMANI: Sure, I--

19 SPEAKER JOHNSON: [interposing] Were you
20 sworn in?

21 VITO MUSTACIUOLO: Yes, she was.

22 SHIREEN RIAZI KERMANI: I was sworn in.
23 I was sworn in. Is the microphone picking me up
24 enough?

2 COUNCIL MEMBER AMPRY-SAMUEL: No, you
3 can-- Vito, if you can move back.

4 SHIREEN RIAZI KERMANI: Thank you. So, we
5 do use a vendor to do the visual assessments, the
6 annual visual assessments that are required. That is
7 being done by a vendor, and I believe the GM was
8 speaking to additional staff that we are looking to
9 and we are having them trained to receive the HUD
10 certification as well for just ongoing activities to
11 make sure that they're aware of what deteriorated
12 paint should look like as well.

13 COUNCIL MEMBER AMPRY-SAMUEL: Okay, so
14 how many people were hired through this outside
15 contractor, and how many of them are looking to be
16 certified or do the HUD certifications, or whatever's
17 required? I'm just trying to get some numbers here.

18 VITO MUSTACIUOLO: So, we can provide you
19 with the number of staff that our vendor is using to
20 perform the visual inspections.

21 COUNCIL MEMBER AMPRY-SAMUEL: Okay.

22 VITO MUSTACIUOLO: It varies based on how
23 many inspections we've asked them to conduct. So
24 they may bring on additional staff--

2 COUNCIL MEMBER AMPRY-SAMUEL: Okay, so
3 let's--

4 VITO MUSTACIUOLO: [interposing] depending
5 on what they need.

6 COUNCIL MEMBER AMPRY-SAMUEL: step back
7 then. So, let's-- can you describe to me the actual
8 process? So how many units are you looking-- I know
9 the number that you are looking to inspect. So,
10 let's-- so explain to us how many units have already
11 been inspected, and where are you within that
12 process?

13 VITO MUSTACIUOLO: Sure.

14 COUNCIL MEMBER AMPRY-SAMUEL: And what's
15 your timeline?

16 VITO MUSTACIUOLO: So for this year's
17 cycle of visual inspections we are estimating that
18 approximately 48,000 apartments required visual
19 inspection. Presently, about 8,000 of those have
20 been inspected.

21 COUNCIL MEMBER AMPRY-SAMUEL: Okay, so
22 for this year you have 40,000 more--

23 VITO MUSTACIUOLO: [interposing] About--

24 COUNCIL MEMBER AMPRY-SAMUEL: to go?
25

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2 VITO MUSTACIUOLO: We have about 40,000 to
3 go, correct.

4 COUNCIL MEMBER AMPRY-SAMUEL: Okay, and
5 so how many people will be conducting these
6 inspections?

7 SHIREEN RIAZI KERMANI: So, currently,
8 the vendor, I believe, is using about 30 staff
9 members--

10 COUNCIL MEMBER AMPRY-SAMUEL:
11 [interposing] Okay.

12 SHIREEN RIAZI KERMANI: to conduct those.

13 COUNCIL MEMBER AMPRY-SAMUEL: And that's
14 30 NYCHA staffers?

15 VITO MUSTACIUOLO: No, that would be 30
16 contracted staff.

17 COUNCIL MEMBER AMPRY-SAMUEL: Okay, and
18 so how many NYCHA workers will be involved in doing
19 the inspections? Do-- is there a number of NYCHA
20 workers that will be at all partaking in--

21 VITO MUSTACIUOLO: [interposing] So, we
22 have development staff that are available to assist
23 the contractor, the vendor with the inspections. So,
24 again, depending on how many inspections they plan on
25 performing in a given day, we will allocate an

2 appropriate number of NYCHA staff to assist the
3 vendor.

4 COUNCIL MEMBER AMPRY-SAMUEL: Okay, and
5 when did you -- so the goal for the year is 48,000
6 and you've done 8,000, and when did you start?

7 SHIREEN RIAZI KERMANI: August 31st.

8 VITO MUSTACIUOLO: Yes, thanks. August
9 31st.

10 COUNCIL MEMBER AMPRY-SAMUEL: So, the
11 goal is 40,000 for the year?

12 VITO MUSTACIUOLO: For the calendar year.

13 COUNCIL MEMBER AMPRY-SAMUEL: For the--
14 okay. And are you tracking? Are you on track with
15 this, with the inspections?

16 VITO MUSTACIUOLO: Yes, we are.

17 COUNCIL MEMBER AMPRY-SAMUEL: Okay.
18 Okay. And the next question is for the relationship
19 between DOHMH and NYCHA. DOHMH issues the
20 Commissioner Order to Abate. How do you follow up to
21 make sure that NYCHA is doing what they're supposed
22 to be doing?

23 DEPUTY COMMISSIONER SCHIFF: It's part of
24 our investigation after we look every day to identify
25 children with elevated blood lead levels. We contact

1 the family and go to their-- make an appointment with
2 the family to go to their home and do an
3 investigation. The first part of that investigation
4 is a risk assessment, and the second part is
5 environmental sampling. In that environmental
6 sampling we use our XRF machine, x-ray fluorescent,
7 the handheld x-ray machine. If we identify lead
8 paint, then we issue a Commissioner's Order to Abate.
9 That's our process for any landlord. So we issue that
10 order to the landlord whether it's NYCHA or in the
11 private housing sector, and then we do follow-up to
12 make sure that that Commissioner's Order is followed.
13 We always have compliance with our order in NYCHA,
14 and as I noted before, in the private setting, if we
15 don't get compliance, then we refer that to HPD which
16 does the work and bills the owner.

18 COUNCIL MEMBER AMPRY-SAMUEL: And the
19 relationship with HPD and NYCHA, are you working
20 together as an agency at all? Like, because there
21 are so many-- it's just-- well, there's 97 percent
22 that are outside of NYCHA, and so there's a level of
23 expertise it seems, or should be, within your agency.
24 So are you working at all with NYCHA on like best
25

1
2 practices or reporting back to the City because of
3 our ongoing issues with reporting and tracking?

4 COMMISSIONER TORRES-SPRINGER: It's been
5 important to us at HPD, of course, to be in
6 partnership with NYCHA as much as possible. That
7 happens across many, many different programs.
8 Probably, however, not to embarrass the new General
9 Manager, but having Vito as a new General Manager as
10 part of the new leadership at NYCHA, the three
11 decades' worth of experience in the implementation of
12 Local Law One, and all that has worked in identifying
13 maybe things it may not have. That is the type of
14 expertise and commitment that he is bringing as a
15 leader at HPD now to NYCHA, but in addition to that
16 happening on the highest levels, I know that our
17 teams hit [sic] all the time. In fact, it was more
18 recently there was a meeting of our respective
19 technology teams about ways of sharing information
20 and certainly sharing best practices. So, that his
21 happening and is something that we'll continue to do
22 to make sure that we are working in partnership as
23 much as is feasible.

24 COUNCIL MEMBER AMPRY-SAMUEL: Okay. And
25 whenever I am in a meeting with NYCHA my constant

2 concern is making sure that we have residents at the
3 table that can serve as like a checks and balances.
4 I said this over and over again, ad nauseam, because
5 it seems as though when we get to a point where
6 there's follow-up or, again, accountability, we only
7 know what's really happening when a NYCHA resident is
8 telling us what's happening or what's not happening.
9 And so, what is the direct conversation or
10 communication with the residents as it relates to all
11 of the work that's happening?

12 VITO MUSTACIUOLO: Certainly, and look,
13 this is another area where we need to improve on.
14 Our communication with our residents, and they are
15 our most valuable resource, and I feel deeply about
16 that, and they're still confused, right? And we need
17 to be clear about the steps that we're taking. We
18 have implemented, and earlier when the speaker asked
19 about collaboration or meetings with advocacy groups,
20 what I failed to mention is that what we started a
21 few months ago was a roundtable committee of experts,
22 specifically focused on lead-based paint hazards.
23 The Health Department has a member on the committee,
24 as well as we have a resident leader. We need to

2 expand that, there's no question. We need to be
3 involved with our residents and be more informative.

4 COUNCIL MEMBER AMPRY-SAMUEL: Okay, and
5 one last question, and it's related to the 30
6 staffers that were hired with the outside
7 contractors. How many of them are NYCHA residents?

8 VITO MUSTACIUOLO: That I don't know, but
9 we can certainly get that information back to you,
10 and again, that number varies. It may be 30 today,
11 but if our need changes tomorrow, they may either
12 bring on additional resources or scale back.

13 COUNCIL MEMBER AMPRY-SAMUEL: Okay. I
14 would like that number, because that goes back to
15 making sure that we have residents that are involved
16 in the process--

17 VITO MUSTACIUOLO: [interposing] Agreed.

18 COUNCIL MEMBER AMPRY-SAMUEL: at the table
19 as well as employment opportunities. Thank you.

20 SPEAKER JOHNSON: Thank you, Council
21 Member Ampry-Samuel. I just want to clarify before I
22 throw it to Council Member Chin, who-- so, HPD has a
23 level of enforcement oversight on NYCHA or not?

24 COMMISSIONER TORRES-SPRINGER: As it
25 relates to Local Law One, and it's the same for the

2 Housing Maintenance Code, because our-- historically,
3 our mission is with privately owned housing, so we do
4 not enforce Local Law One or the Housing Maintenance
5 Code at NYCHA.

6 SPEAKER JOHNSON: So, Vito, so who
7 polices NYCHA? NYCHA polices itself? I'm asking not
8 in an aggressive-- I'm trying to figure out--

9 VITO MUSTACIUOLO: [interposing] Sure.

10 SPEAKER JOHNSON: who has oversight over
11 NYCHA when it comes to this? HPD doesn't do it.
12 DOHMH gets involved and does an investigation of
13 there's a child who tests positive in a certain way
14 and conducts that investigation, but HPD talked about
15 earlier in the hearing issuing violations, doing
16 remediation, doing all of that work, which I think
17 there are significant gaps to fill that work, but
18 they talked about that. Who does that for NYCHA?
19 NYCHA does it for itself?

20 VITO MUSTACIUOLO: We do our inspections.
21 We do perform our repair work, whether it be
22 remediation or abatement internally, but we do have
23 to answer to and inform both local as well as state
24 and federal oversight authorities which would include

2 EPA, HUD, the State Department of Health, City
3 Department of Health, and HPD.

4 SPEAKER JOHNSON: Do you think that given
5 your experience in your previous role before you, God
6 bless you, went over to take the role that you're in
7 now, do you-- and your time doing the work you had
8 done for decades at HPD-- do you think it would be
9 appropriate separate and apart from a federal
10 monitor, which is a separate conversation, do you
11 think it would be appropriate to actually have some
12 other entity besides HUD and the EPA which are, you
13 know, federal agencies of a huge scale who are
14 dealing with lots of different issues, do you think
15 it would be appropriate to have some other agency
16 have a level of oversight over NYCHA just for good
17 practices? Long after you're gone, long after I'm
18 gone, good government oversight, do you think it
19 would be appropriate for there to be another entity
20 having oversight on NYCHA when it comes to this?

21 VITO MUSTACIUOLO: So, specifically with
22 respect of lead-based paint issues, there is
23 oversight from the Department of Health. They
24 respond to cases of elevated blood lead levels.

2 SPEAKER JOHNSON: No, but that's after we
3 failed. That's what I said earlier. That's when
4 things have already gone, you know, wrong. I'm
5 talking about in the lead up to that.

6 VITO MUSTACIUOLO: So, what I would say
7 is that our plan moving forward is an aggressive
8 plan, okay, and I think it does address any concerns
9 that anyone should have with respect to independent
10 or outside oversight. Again, the vision that we have
11 is to be lead-free. We are moving aggressively
12 towards that. We are implementing new policies in
13 addition to what I mentioned earlier about the XRF
14 testing of approximately 135,000 units, which goes
15 above and beyond any city, state, or federal
16 requirement. We are being much more transparent
17 about what we're doing. We have just recently
18 embarked a new training program for our staff.

19 SPEAKER JOHNSON: You're not answering
20 the question. Do you think that there should be an
21 outside entity that has oversight in this way that
22 HPD has oversight on private residences? Should
23 there be an entity that has similar oversight over
24 NYCHA when it comes to these issues?

2 VITO MUSTACIUOLO: I think that exists
3 today.

4 SPEAKER JOHNSON: By whom?

5 VITO MUSTACIUOLO: Well, we do get
6 violations from agencies. We are not exempt from
7 receiving violations. Agencies do inspect our
8 buildings. So, it's not as if we are exempt under
9 any statute. So there is oversight, and more
10 importantly, our residents police us. Our residents
11 are the best check and balance for us, and they're
12 strong, and trust me, they are vocal when we are not
13 in compliance.

14 SPEAKER JOHNSON: so, I know that you and
15 Stan yesterday spent time listening to NYCHA
16 residents who came to speak to Judge Pauly [sic]
17 about conditions in their apartments. I know that
18 you went and spent time at a town hall in
19 Queensbridge Houses on New York One the other night.
20 You and Stan listened to different resident leaders
21 about some of the concerns that they had, and the
22 thing that I would say is I do think that NYCHA
23 residents have done a great job at pointing out where
24 there have been major deficiencies in the past. I'll
25 tell you that, you know, when I've gone out-- I have

2 two NYCHA developments, the Robert Fulton Houses and
3 the Elliot Chelsea Houses, in my district, and when I
4 visited with Chair Ampry-Samuel to Van Dyke Two
5 Houses, and I visited with Council Member Treyger to
6 Gravesend Houses, when we walked through there was in
7 many, many apartments, I mean just visually, it was
8 children in the apartments, small children. There
9 was visually lots of paint that was flaking,
10 cracking, falling off of walls and ceilings, and so
11 that is why I say in an institutional way moving
12 forward, even if residents are reporting these
13 things, even if residents are complaining, given the
14 enormity of the challenges that NYCHA faces when it
15 comes to funding, when it comes to mold remediation,
16 when it comes to lead paint, when it comes to all the
17 things that you guys are simultaneously trying to
18 fix, institutionally would it be helpful if there was
19 an entity that was overseeing this in some way so
20 we're not relying upon residents and you all are
21 dealing with an enormous set of challenges, and I
22 guess what you're saying is, you know, you don't feel
23 comfortable saying that at this time and you think
24 that there is an appropriate level of outside

2 oversight currently on NYCHA when it comes to lead
3 paint.

4 VITO MUSTACIUOLO: I do feel that way,
5 sir, and I think we also need to kind of see what
6 happens with respect to the Consent Decree and with
7 the appointment of the Federal Monitor.

8 SPEAKER JOHNSON: Okay. Two very quick
9 questions. How many XRF machines do we have, does
10 the City own and use?

11 DEPUTY COMMISSIONER SANTIAGO: HPD has
12 100 XRF machines at this time.

13 SPEAKER JOHNSON: Has 100.

14 DEPUTY COMMISSIONER SANTIAGO: Yes.

15 SPEAKER JOHNSON: Okay, and DOHMH?

16 COMMISSIONER BARBOT: I'm checking.

17 VITO MUSTACIUOLO: Sir, without checking,
18 we have two.

19 SPEAKER JOHNSON: You have two.

20 VITO MUSTACIUOLO: Yes.

21 DEPUTY COMMISSIONER SCHIFF: We have
22 about 25.

23 SPEAKER JOHNSON: You have 25. So, it
24 sounds like you probably need more than two, and--
25 right?

2 VITO MUSTACIUOLO: With that two is
3 sufficient for what we need them for. We are
4 contracting a lot of these functions out.

5 SPEAKER JOHNSON: So, can agencies share
6 XRF machines with each other if there's a need, if
7 HPD is not using all 100 of them, and DOHMH and NYCHA
8 need those XRF machines; is there a willingness to
9 collaborate in that way if it's legally possible? Or
10 you don't think it's necessary. You have what you
11 need.

12 DEPUTY COMMISSIONER SCHIFF: Well, we're
13 using our XRF machines, and I'll say that we're also
14 acquiring more as we ramp up in our new program, and
15 we're hiring 35 additional inspectors to do our new
16 intervention work, we'll be buying new XRF machines.
17 So I don't think I'll be able to help because we need
18 them.

19 SPEAKER JOHNSON: Deputy Commissioner,
20 how many investigators do you have right now during
21 investigations when a child does have elevated blood
22 levels?

23 DEPUTY COMMISSIONER SCHIFF: So, right
24 now we have 10 staff who are doing the investigations
25 for children with an elevated blood lead levels.

2 Three are finishing up their training and we have,
3 following the July 1st announcement where we're
4 expanding our program, we have hired 35 more and
5 we're going to begin training our first class of
6 those new inspectors the week after next.

7 SPEAKER JOHNSON: So, I think that's a
8 big deal that you're hiring 35 additional people to
9 do this work. I think that's important, and I'm happy
10 to hear that today. How many HPD inspectors are
11 specifically doing this type of work on inspections
12 on lead paint?

13 DEPUTY COMMISSIONER SANTIAGO: So, we
14 have 57 inspectors dedicated in our Lead-Based Paint
15 Inspection Unit. We also have probably four or five
16 in our Alternative Enforcement Program, and we also
17 have within our Emergency Repair Program staff who
18 are qualified to use the XRF machine, and I can get
19 you the exact number from that.

20 SPEAKER JOHNSON: Does the staff that's
21 conducting those lead paint inspections do any other
22 type of tasks, or are they only focused on lead?

23 DEPUTY COMMISSIONER SANTIAGO: They
24 conduct lead inspections, but they can write any
25 other violation of the Housing Maintenance Code. So,

2 they are specifically responding to lead complaints
3 or lead referrals after we've seen peeling paint and
4 a child under six, but that is not the enormity of
5 their task--

6 SPEAKER JOHNSON: [interposing] Do you
7 believe--

8 DEPUTY COMMISSIONER SANTIAGO: to check
9 for--

10 SPEAKER JOHNSON: Do you believe you
11 require additional staff to do the work that you need
12 to do, or you're fine with the staff level you have?

13 DEPUTY COMMISSIONER SANTIAGO: As with
14 the Health Department, we are hiring new staff
15 related to the change in the elevated blood lead
16 level. In addition, we have quite a number of
17 vacancies at this time.

18 SPEAKER JOHNSON: How many new staff are
19 you hiring?

20 DEPUTY COMMISSIONER SANTIAGO: We are
21 currently bringing on a class of 30 inspectors who
22 are in our training program right now, and we have I
23 believe an additional 30 to 40 vacancies.

24 SPEAKER JOHNSON: I feel like you all
25 buried one of the leads today, which is 35 new

2 investigators from DOHMH, 30 more people at HPD doing
3 this work. I think that's a big deal in combatting
4 some of the issues we've been talking about today.

5 DEPUTY COMMISSIONER SANTIAGO: And let me
6 clarify that those new inspectors, some will be
7 assigned to the lead unit, but some will be assigned
8 to just our regular either proactive enforcement or
9 borough office inspections.

10 SPEAKER JOHNSON: Okay. Council Member
11 Chin?

12 COUNCIL MEMBER CHIN: Thank you, Speaker,
13 and thank you to Chair Levine, Cornegy, and
14 Constantinides for holding this important oversight
15 hearing on an issue that's so many of the residents
16 in my district and across the city are forced to
17 endure every day. I want to start with one number,
18 2,750. That number is the number of times of levels
19 of lead dust exceeded the safe limit in a building in
20 my district, and that was due to negligence of an
21 unscrupulous landlord, and that was back in 2014. I
22 still have buildings in my district that has over 100
23 times the limit of lead, and this is the construction
24 dust that spreads lead throughout the building,
25 apartment, and I've been working with, you know,

2 groups like Cooper Square Committee to really
3 advocate for this tenant and make sure they're
4 protected. So, there's two bills that I have
5 introduced, 873 and 874, particularly with Intro 874.
6 It talks about interagency coordination. When
7 construction work is happening and lead dust is being
8 blown into residential units in common area, and it
9 also allows the City to issue a Stop Work Order. In
10 the building that I talk about with the 2,750, the
11 landlord racked up a lot of violations, and it was
12 very hard to get an inspection. We had to get NYPD
13 involved. But this cannot happen. But in my
14 district and maybe in the other district, we have a
15 lot of old buildings that are being renovated because
16 of gentrification, and according to Local Law One
17 that was passed, that landlord is supposed to give
18 pre-notification to the Department of Health if
19 they're doing any kind of construction work that's
20 more than so-called [sic] 100 square feet or the
21 removal of two more window in a pre-1960 building.
22 So they must file some notice with the Department of
23 Health, and this rule applied to any and all
24 construction work that disturbed the paint. So, do
25 you have any statistics of how many landlord have

2 filed the pre-notification with Department of Health
3 every year?

4 COMMISSIONER BARBOT: So, Councilwoman,
5 thank you for bringing up this issue. In addition to
6 all of the work that we do and that we've talked
7 about in terms of protecting children in their homes,
8 we're also concerned about safe work practices, and
9 we want New Yorkers to know that if they have
10 concerns about work practices that may not be safe,
11 they can always call 311. I'm going to let Deputy
12 Commissioner Schiff talk about the details of how we
13 go about that work and the degree to which we
14 collaborate with our sister agencies, but I want to
15 assure you that in each and every one of these
16 situations we take it very seriously.

17 DEPUTY COMMISSIONER SCHIFF: In addition
18 to the work that we've had an opportunity to talk
19 about where we investigate children with an elevated
20 blood lead level, we also have a program to
21 investigate unsafe work practices, and as you know,
22 Council Member, it can be-- can create a risk of
23 exposure for children when there is work being done
24 in an apartment when it's not-- it could be
25 construction or renovation when it's not being done

2 safely in accordance with safe work practices which
3 is essentially to contain dust, put up barriers, and
4 to clean up. And so we do a lot of work responding
5 to complaints. When we receive a complaint, we go
6 out and we do an investigation. If we see that the
7 work is not being done safely and in accordance with
8 those requirements, we direct them that work be
9 stopped, that it be cleaned up, and that it can
10 resume only if it's done safely, and in the meantime
11 we take, during that inspection, we take a sample of
12 the dust and send that to a lab so that we can
13 determine whether there is lead, and if we find that
14 it is leaded, then we will issue a Stop Work Order
15 and require that the work be done in accordance with
16 safe work practices and that dust wipe samples be
17 submitted to us. We monitor that work. We post
18 notices in the building so that tenants, the
19 complainant and other tenants serve as our eyes and
20 ears. In between inspections they will call us and
21 we'll go back and we will issue violations. We are--
22 we have recently launched-- we're interested in
23 drumming up work, so we would appreciate in your
24 district if there is construction and people don't
25 know where to turn, we want to get the word out that

2 we take 311 complaints and we will act on those.

3 We've recently launched a media campaign-- I'd be
4 happy to get you some of our materials-- targeting
5 areas of the City where we know that there is
6 construction and renovation work happening and we're
7 not getting as many complaints as we think we should
8 be. So this is an important part of our work, and we
9 have-- we are supporting the intent of your bill to
10 make sure that the agencies are coordinating and
11 using all of the City's resources.

12 COUNCIL MEMBER CHIN: Well, how are you
13 coordinating, let's say, with the Department of
14 Buildings? And when work is-- renovation work is
15 being done, usually the landlord have to get a
16 permit. And it goes back to my first question, part
17 of Local Law One is this pre-notification that the
18 landlord have to do to Department of Health when
19 they're doing renovation that would disturb the
20 paint. Well, how many of these notifications, pre-
21 notification have Department of Health ever gotten
22 every year?

23 COMMISSIONER BARBOT: So, I don't have
24 those numbers with me, but we know that those are
25 under-reported, and it's a tool that Local Law One

2 designed, but I think we could work together to
3 figure out how to strengthen it. It's difficult for
4 us to take a mailing from someone doing development
5 and use that to target where our enforcement should
6 be. I think there's probably some strategies that we
7 can update since 2004, and in the meantime we are
8 really urging New Yorkers to use 311, and we want to
9 hear those complaints, and we will go out.

10 COUNCIL MEMBER CHIN: But I want a more
11 proactive way of doing it, because Department of
12 Buildings has to get the permit. So, if they are
13 getting these permit requests, isn't there a way to--
14 if DO-- if Department of Health is not getting what
15 you're supposed to be getting, these pre-
16 notifications that landlords are doing renovations
17 especially in these old buildings, that would kind of
18 disturb the lead. At the same time, Department of
19 Buildings is supposedly getting permit requests, so
20 that's why we're talking about interagency
21 coordination. That could be a proactive approach that
22 Department of Buildings could inform Department of
23 Health if Department of Health is not getting direct
24 information from landlords who are doing renovations.

2 ASSISTANT COMMISSIONER WEHLE: Good
3 afternoon, Councilwoman. Let me just start by saying
4 I have not yet been sworn in.

5 SPEAKER JOHNSON: The Counsel will swear
6 you in.

7 COMMITTEE COUNSEL: Can you raise your
8 right hand? Do you swear to tell the truth, the
9 whole truth and nothing but the truth and respond
10 honestly to Council Member questions?

11 ASSISTANT COMMISSIONER WEHLE: I do.

12 COMMITTEE COUNSEL: Thank you.

13 ASSISTANT COMMISSIONER WEHLE: Good
14 afternoon. My name is Patrick Wehle. I'm the
15 Assistant Commissioner for External Affairs at the
16 New York City Department of Buildings. At the
17 outset, I just want to stress that the regulation of
18 construction work in an effort to protect the safety
19 of the public is of paramount importance to the
20 Department of Buildings, and along with that is our
21 serving as a resource to our partner agencies as it
22 relates to public health. Now, specific to your
23 question, Council Member, the bill that you sponsored
24 along with some of the proposals that have been
25 outlined in the report that the Speaker just recently

2 referenced, many of those things speak to greater
3 collaboration across the agencies. As a general
4 matter of the Department and the Administration
5 recognizes that there's room for growth in that
6 regard, and we support the idea of working together
7 to find greater means to improve the collaboration
8 across agencies. One of the recommendations outlined
9 in the report would require these pre-fines [sic]
10 with Department of Health to be shared with the
11 Buildings Department upon the seeking of a building
12 permit. That's not a bad idea, and we're now in the
13 process of reviewing that along with legislation that
14 you sponsored, and again, we think they're well
15 intentioned. They're certainly worth further
16 consideration. The Buildings Department has been
17 discussing that bill along with our partner agencies.
18 We'll be doing the same with these other proposals.
19 We look forward to doing the same with the Council,
20 all in an effort to identify a path forward that, you
21 know, improves collaboration and recognizes that
22 there's a means in which we can do a better job
23 recognizing these issues.

24 COUNCIL MEMBER CHIN: But we know and you
25 know that this is really rampant. I mean, landlords

2 are using construction as harassment trying to get
3 rid of tenants, and you know, we've been working with
4 advocates and community-based organizations and
5 organizing tenants, but the frustration, a lot of
6 times it just takes so long. Finally, when the
7 coordination happened, it's good. But it takes a
8 while.

9 ASSISTANT COMMISSIONER WEHLE:

10 Understood.

11 COUNCIL MEMBER CHIN: And we want to speed
12 up that process.

13 ASSISTANT COMMISSIONER WEHLE: There is--

14 SPEAKER JOHNSON: [interposing] I want to
15 hear-- what-- how many landlords have faced
16 consequences for doing what Council Member Chin just
17 said? I want to understand how many building owners
18 and landlords have faced consequences for what
19 Council Member Chin just said? Can I get a number?

20 DEPUTY COMMISSIONER SCHIFF: I can tell
21 you that our unsafe work investigations, we in 2017
22 received-- annually receive about 775, and in 2017 we
23 issued 389 violations and 24 Stop Work Orders. So,
24 as I said, we are anxious to do more of this work.
25 We appreciate the ideas in your bill to be able to

2 address these issues, and we are looking for your
3 help in launching this media campaign to let New
4 Yorkers know that we are a resource for them and we
5 want to be following up where there is work that's
6 being done in people's apartments that's not being
7 done in compliance with safe work rules.

8 ASSISTANT COMMISSIONER WEHLE: As it
9 relates to the Buildings Department, broadly
10 speaking, we perform inspections on close to 100,000
11 complaints and close to 200,000 inspections as it
12 relates to development. The Buildings Department does
13 not issue violations specifically related to lead.
14 When we-- as part of our work, when we uncover or
15 realize that there might be lead-related issues we
16 make referrals to the Department of Health and HPD to
17 perform their investigations and inspections.

18 COUNCIL MEMBER CHIN: How can we get
19 Department of Health to issue the Stop Work? If you
20 have that authority to issue a Stop Work Order, how
21 do we get you to do that as quickly as possible?
22 Because by the time-- usually when the tenant notify
23 us or notify Department of Health, it's been
24 happening for a while. And if Department of Health
25 comes in there, can you do an immediately examination

2 to kind of like stop the work? Because what happens
3 is the work continues until you get your report back,
4 and then all of a sudden, wow, it's a 100 times more,
5 2,000 times more, and people already kept breathing
6 in the same toxic air for days and weeks.

7 SPEAKER JOHNSON: Do we have an answer to
8 that question for Council Member Chin?

9 DEPUTY COMMISSIONER SCHIFF: So, when we
10 go out and we do an investigation where there's been
11 a complaint of unsafe work practices, we do direct
12 that the work be stopped immediately, that it be
13 cleaned up and then it can resume only if the safe
14 work practices are resumed. And so we take immediate
15 action while we wait for the results of the dust wipe
16 sample.

17 COUNCIL MEMBER CHIN: Now, what happen if
18 the landlord did not follow? I mean, the tenant
19 calls you or calls us and we let you know, hey, the
20 work continues again.

21 DEPUTY COMMISSIONER SCHIFF: So, once we
22 have the result of the dust wipe sample, then we'll
23 know really what is in that dust, and then we will
24 issue the order, and then if it's not complied with
25 we will issue violations and we will continue to

2 monitor that. I think what's in your bill is to
3 strengthen the coordination so that we can harness
4 all of the resources that the City has, and we're
5 anxious to work together and to work with you,
6 because we agree that there's more work, more that we
7 can do here.

8 COUNCIL MEMBER CHIN: Yeah, we want to be
9 proactive, and that's what I'm saying with Department
10 of Buildings, right? When you get a request for
11 permit and it happens, do you in the request for the
12 permit, do you know if a building is an older
13 building?

14 ASSISTANT COMMISSIONER WEHLE: So, with
15 the request for a permit, there's information
16 obviously received. Age of the building is part of
17 the information we have, but regarding the pre-filing
18 that may occur with the Department of Health, that is
19 not disclosed on the permit application that's filed
20 with the Buildings Department. So, again, that's in
21 keeping with one of the suggestions that was made in
22 the report in effort to improve the collaboration
23 across agencies, and it's something certainly that
24 we're considering.

2 COUNCIL MEMBER CHIN: Well, that is
3 something that is really important. If it's required
4 by law and Local Law for landlord to really do this
5 pre-notification to Department of Health in these
6 older buildings and they don't do it, that we really
7 need to find a way to get that information and make
8 sure that tenants are protected. And we passed law
9 about having tenant, you know, landlord provide
10 Tenant Protection Plan, and oftentimes they don't
11 follow the rules to do that. So, we just got to make
12 sure that these protections are out there, and we
13 have to really be proactive about it. So, I guess
14 we'll continue to talk and make sure that we get
15 these bills passed and we move forward with stronger,
16 you know, effort to protect tenants.

17 SPEAKER JOHNSON: I mean, it's my belief
18 that if a landlord is a-- and I don't want to
19 generalize about all landlords, there are some very
20 bad actors. You saw in the case of a gentleman by
21 the name of Steve Croman [sp?] who was systematically
22 harassing his tenants and doing all sorts of horrible
23 things that he-- there were criminal charges brought
24 against him. He's one of the few really bad actors
25 that have faced criminal penalties, and if you are

2 exposing families and children to toxic dust and not
3 complying with government regulations, there should
4 be criminal referrals involved to District Attorneys
5 and to other folks for continuing to put people at
6 risk. So, I would hope in the future there is a
7 conversation not just about writing violations and
8 interagency coordination, that's all well and fine,
9 but if you have someone that continues to put people
10 at significant risk in a systematic way with
11 disregard to the health and wellbeing of New Yorkers
12 and especially children, I would hope that there's
13 more than just the bureaucratic processes that we
14 follow, but more let's have serious consequences for
15 these individuals that are doing this.

16 COUNCIL MEMBER CHIN: Yeah, and also I
17 think that part of Department of Buildings is that
18 you have the authority to issue permits, and so I
19 think you need to also-- we need to really make sure
20 that landlords and whoever is applying for these
21 permits, if they have lead violations, that you
22 scrutinize them, and also after-hour permits that
23 don't just, you know, just approve it, approve it,
24 approve it, but really scrutinize these applicants,

1 whether they have violations, and especially lead
2 violations.
3

4 ASSISTANT COMMISSIONER WEHLE: So, as
5 part of our process, I imagine you're aware, to the
6 extent that there's paint removal work that includes
7 other scopes of work that require a buildings permit,
8 before the Department issues that permit, the owner
9 needs to have their design professional, licensed
10 architect or engineer, submit what's called a Tenant
11 Protection Plan. That plan needs to provide the
12 means and methods, as the name implies, for
13 protecting tenants from that construction.

14 SPEAKER JOHNSON: Is there self-
15 certification on that plan or not?

16 ASSISTANT COMMISSIONER WEHLE: Depending
17 on the scope of work, yes, there can be.

18 SPEAKER JOHNSON: Well, there should not
19 be self-certification. People lie.

20 [applause]

21 ASSISTANT COMMISSIONER WEHLE:
22 Understood. I understand, and it's-- I want to also
23 note that, you know, a percentage of those self-
24 certificated plans are audited by the Department to
25 ensure compliance. Furthermore, for bad actors, folks

2 who have work without a permit, folks who have been
3 convicted by harassment through the courts, folks
4 like that are not entitled to use self-certification.

5 SPEAKER JOHNSON: The New York Times just
6 did an in-depth series four months ago showing how
7 landlords lie constantly and how they get away with
8 it, and how all levels of government, municipal and
9 state government have failed in holding them
10 accountable as they exploit tenants and push people
11 out of buildings by doing things like filing false
12 documents. So, I'm not going to rely upon random
13 audits to figure out if people are being put at risk
14 or not. This needs to be totally strengthened.

15 COUNCIL MEMBER CHIN: Yes, I agree. I
16 mean, we've passed laws through and that was a
17 compromise to do a certain percentage of audit, but I
18 think that we really have to get rid of self-
19 certification.

20 SPEAKER JOHNSON: You done, Council
21 Member Chin?

22 COUNCIL MEMBER CHIN: Yes, thank you.

23 SPEAKER JOHNSON: Okay, great. I just
24 want-- before I throw it to Council Member Cumbo,
25 Commissioner Torres-Springer, this report that I

2 pointed out, Lead Loopholes, states in it that HPD
3 enforcement data shows that New York City has never
4 taken any enforcement action. I think Council Member
5 Levine brought this up earlier. Never taken any
6 enforcement action against a single landlord for
7 failing to conduct annual inspections in the 14 years
8 since the law went into effect. As reported, last
9 November by Reuters, a review of the past 12 years of
10 HPD violation records found the agency hasn't cited a
11 single landlord for failure to conduct the annual
12 inspections. We know landlords aren't regularly
13 inspecting for lead paint hazards, because tenants
14 continue to complain about peeling paint, and HPD
15 continues to find and use violations for lead paint
16 hazards that landlords haven't identified or
17 remediate. HPD has the power to ask for records of
18 past inspections when it find lead paint hazards, and
19 landlords are obligated to maintain records of
20 inspections for 10 years. Yet, the lack of
21 violations indicate that HPD is not asking to see
22 records of inspections. Without enforcement,
23 negligent landlords will continue to violate the
24 central primary prevention obligation with complete
25 impunity resulting in eh continued exposure of

2 vulnerable children t to lead-based paint hazards.

3 Do you disagree with anything that I just read that's
4 in this report?

5 COMMISSIONER TORRES-SPRINGER: First,
6 Speaker, I'd like to thank the advocacy organizations
7 who, not just written on the repot, but really have
8 been part of ensuring that as have implemented Local
9 Law One, that we're doing that with an eye towards
10 continuing to better. And so we, at HPD, and I think
11 I can speak of colleagues across different agencies
12 share the goals of the organizations who drafted the
13 report to drive lead blood level exposure down even
14 more. That while there are areas in what you rad and
15 in the report that are areas that we would like to
16 work together with advocacy organizations and with
17 the City Council to identify where there are specific
18 opportunities to better our enforcement regime. I do
19 want to be very clear that the work that we have done
20 thus far in implementation, I don't want us to forget
21 the statistics that show how seriously we take
22 enforcement. So, for instance--

23 SPEAKER JOHNSON: [interposing] Not a
24 single landlord, not one.

2 COMMISSIONER TORRES-SPRINGER: But we
3 have--

4 SPEAKER JOHNSON: not one landlord.

5 COMMISSIONER TORRES-SPRINGER: But let
6 me-- as I mentioned earlier, 300,000 violations over
7 the use of Local Law One, and I think what is
8 important to note, Speaker, is that--

9 SPEAKER JOHNSON: [interposing] If someone
10 gets caught drunk driving 10 times in a row, at some
11 point you realize they're a hazard to the road and
12 you do something criminally against them for exposing
13 people to danger. If you're writing 300,000
14 violations, I assume that not every oen of those
15 violations is cleared up in an appropriate way, there
16 needs to be more punitive measures as a deterrent
17 against landlords that are bad actors and exposing
18 children to toxic dust, and in a preventable way that
19 is poisoning them for the rest of their lives. I
20 think it is shocking, and I don't know how it's
21 defensible that not a single landlord in 14 years,
22 not one. I don't understand it.

23 COMMISSIONER TORRES-SPRINGER: Well, let
24 me-- 300,000 violations, but the other--

2 SPEAKER JOHNSON: [interposing] It's not
3 just about violations.

4 COMMISSIONER TORRES-SPRINGER: But there
5 are also--

6 SPEAKER JOHNSON: [interposing] You can't-
7 -

8 COMMISSIONER TORRES-SPRINGER: Speaker,
9 if I may, 2,200 cases that we have initiated in
10 Housing Court since 2014 against landlords related to
11 lead issues. So, we are more than willing when it is
12 necessary to throw the book at landlords who are not
13 holding--

14 SPEAKER JOHNSON: [interposing] Have you
15 made any--

16 COMMISSIONER TORRES-SPRINGER:
17 [interposing] up their end of the bargain.

18 SPEAKER JOHNSON: criminal referral?
19 Have you made any referrals to District Attorneys?

20 COMMISSIONER TORRES-SPRINGER: We have--
21 as it relates-- I will check specifically to lead,
22 but as you mentioned earlier, there were-- we are
23 part of a number of very aggressive taskforces
24 together with city agencies and with state agencies
25 so that if there is a track record of the types of

2 behaviors that none of us want to see with our
3 landlords, that we're not just pursuing civil
4 penalties, but we are pursuing criminal ones, and
5 that work that we've done with taskforce has led to
6 certain landlords going to jail.

7 SPEAKER JOHNSON: It doesn't feel like
8 this is what I would characterize as throwing the
9 book at landlords. I want to turn it to Majority
10 Leader Cumbo.

11 COUNCIL MEMBER CUMBO: Thank you, Speaker
12 Johnson, and as I'm hearing the testimony, as a new
13 parent I feel like angry at what I'm hearing. This
14 is really-- so my son went for his one-year-old
15 appointment, and at the one-year-old appointment,
16 from what I understand, it is the law that they would
17 have to get tested for lead. Is that correct?

18 COMMISSIONER BARBOT: Yes, New York State
19 law requires that any child, irrespective of where
20 they live, must be tested for lead at one and two
21 years of age, and then beyond that that they should
22 be screened for any potential risk factors that might
23 expose them to lead, and if that screen is positive,
24 then be tested again.

2 COMMISSIONER BARBOT: So, there was a
3 number that came up earlier in terms of the fact that
4 a certain percentage of New York City's children are
5 not tested for lead. I believe that number was about
6 20 percent are not tested. How would that happen?
7 Because that would seem like a very vulnerable
8 population that's not being tested. Why does that
9 occur?

10 COMMISSIONER BARBOT: So, as I mentioned
11 earlier, the Health Department takes a number of
12 different measures to try and drive down the number
13 of children that don't get tested. We work
14 collaboratively with community-based organizations
15 that are serving families with young children. We
16 work with provider, medical provider organizations,
17 and we work with the managed care organizations. But
18 the reality is that in spite of that, we still have
19 children that are not tested.

20 COUNCIL MEMBER CUMBO: Why are they not
21 tested? What happens? Are they not going to the
22 doctor? I mean, from what I'm seeing which is an
23 alarming number to me, the number of immunizations
24 that a child needs just to enter daycare is so
25 pervasive, that I can't imagine that a parent could

1 go all the way up to kindergarten without ever having
2 seen a doctor.
3

4 COMMISSIONER BARBOT: Yeah, no, you're
5 point is well taken, and there are-- and I don't have
6 the exact number, but a subset of those children
7 would be children who are not connected to care, and
8 so through our outreach efforts, we do work to
9 connect them to medical services, because really
10 these tests should be done within a medical setting.
11 Then there are those situations-- and your point
12 about immunizations is well taken, because we have as
13 a City fairly high rates of immunizations for these
14 young children. So it stands to reason that they
15 would also be lead tested, and I think--

16 COUNCIL MEMBER CUMBO: [interposing] So
17 are these children also not receiving their
18 immunization shots? Would you say 20 percent are
19 also not receiving their immunization shots, so that
20 we have--

21 COMMISSIONER BARBOT: [interposing] No,
22 I'm not saying that at all. I'm saying that--

23 COUNCIL MEMBER CUMBO: [interposing] So
24 some are getting immunizations and not lead.

25 COMMISSIONER BARBOT: Exactly.

2 COUNCIL MEMBER CUMBO: That's doesn't
3 make sense.

4 COMMISSIONER BARBOT: And so that then--
5 well, it speaks to the--

6 COUNCIL MEMBER CUMBO: [interposing]
7 Because if you allow the immunizations, you're of the
8 school that you're going to let your child get a lead
9 test.

10 COMMISSIONER BARBOT: It speaks to work
11 still needing to be done to remind medical providers
12 that irrespective of where someone lives and what
13 perceived risk factors the provider thinks, that
14 child may or may not-- there's no decision algorithm
15 here, one-year-old, you just do it. And so I think
16 it's important for us. We're very interested in
17 working with Council to find even additional ways to
18 get these kids tested.

19 COUNCIL MEMBER CUMBO: I'm not going to
20 get clarity quite on that answer, and so I'm going to
21 move on to other questions, because I have many and I
22 hope to get more on those. So, if a child tests
23 positive for lead, does a five alarm go off in terms
24 of notifying-- let's say in my district, they live in
25 Ingersoll Houses, and they go to XYZ daycare center.

2 So, that child tests positive for lead. Is there
3 then any notification for that child in that daycare
4 center that either that daycare center needs to be
5 tested or the children at that daycare needs to be
6 tested, or the children in that particular
7 development need to be tested because a child that
8 lives there has tested positive, does that happen?

9 COMMISSIONER BARBOT: So, on a daily
10 basis we get an electronic download from New York
11 State of all of the lead tests that are done on any
12 child living in New York City. That automatically
13 excludes children who live in New York City, but may
14 have gotten their blood tested in New Jersey, for
15 example. So that's a subset that we may not get, but
16 still have had their test. We then go through that,
17 and any child with a lead level of five micrograms
18 per deciliter or higher, we then take action. For
19 the five and higher, we issue guidance letters that
20 go home to the family to educate them about the risks
21 of lead, to have a risk assessment done, and we urge
22 them to go to their doctor to have ongoing follow-up.
23 That letter also goes to the provider.

24 COUNCIL MEMBER CUMBO: Who's the provider
25 in this instance?

2 COMMISSIONER BARBOT: The medical
3 provider, sorry. Any other of those situations-- I'm
4 going to hand over to Deputy Commissioner Schiff to
5 take you through an even more detailed explanation of
6 what that process then entails.

7 COUNCIL MEMBER CUMBO: Okay, this is very
8 important to me.

9 COMMISSIONER BARBOT: Sure, and for us
10 too.

11 DEPUTY COMMISSIONER SCHIFF: This is the
12 heart of what we do. So, and Doctor Barbot said--

13 COUNCIL MEMBER CUMBO: [interposing] Can
14 you speak more into the microphone, I'm sorry.

15 DEPUTY COMMISSIONER SCHIFF: Sure, yes.
16 As Doctor Barbot said, every day we get reports of
17 blood lead test results for children in New York
18 City. We look at those every day. When there's a
19 child with an elevated blood lead level, we very
20 quickly are in touch with that family to make an
21 appointment for--

22 COUNCIL MEMBER CUMBO: [interposing] So,
23 my question was beyond the family because--

24 DEPUTY COMMISSIONER SCHIFF: [interposing]
25 Yes.

2 COUNCIL MEMBER CUMBO: you answered that
3 question. The family is notified.

4 DEPUTY COMMISSIONER SCHIFF: Yes.

5 COUNCIL MEMBER CUMBO: Is NYCHA then
6 informed in Ingersoll Houses you have a child that
7 has tested for lead. We need you to do-- we're
8 coming out. Everyone's coming out. This is a five
9 alarm fire. We're going to address this issue. What
10 daycare are they at? This is an emergency, or is it
11 just focused on the family and it's up to the family
12 to remedy this issue?

13 DEPUTY COMMISSIONER SCHIFF: So--

14 COUNCIL MEMBER CUMBO: [interposing] And I
15 just need you to be succinct because I have more
16 questions to ask.

17 DEPUTY COMMISSIONER SCHIFF: I will do it
18 succinctly. Doctor Barbot described one piece of our
19 intervention. There's more that I want to make sure
20 that we have a chance to tell you about. So we do
21 that home inspection. It starts with a risk
22 assessment. It's a very detailed interview and with
23 the environmental sampling, which I think you know,
24 we go around the apartment with XRF to determine
25 whether there's lead paint on the wall. You're asking

2 about other settings. So, as part of that home
3 investigation we ask where else does that child spend
4 time. If the child spends five hours a week or more,
5 we do an inspection in that other setting. So, if
6 that child is in childcare, we will go to that
7 daycare to do an inspection there as well. If we
8 have found lead paint hazards in that apartment,
9 you're asking what about the other apartments in that
10 building.

11 COUNCIL MEMBER CUMBO: Correct.

12 DEPUTY COMMISSIONER SCHIFF: There are
13 two things that I want you to know. One, is that at
14 the Health Department we then do a match against our
15 birth records to see if there's any babies in the
16 building, because we want to do preventive work.
17 We'll do inspections in apartments to see whether
18 there's peeling paint. That's regardless. That's
19 without information about an elevated blood lead
20 level. We're doing that as preventive work. If
21 we're in a private setting, we're alerting HPD that
22 we-- if we have found lead paint hazards, so we've
23 issued an order. We're alerting HPD so that they can
24 take action with respect to the rest of the building.
25 If it's in NYCHA, we're providing information to

2 NYCHA. And I wanted to be really careful about what
3 I'm saying.

4 COUNCIL MEMBER CUMBO: Yes.

5 DEPUTY COMMISSIONER SCHIFF: We're
6 providing information. You know, as you know, this
7 is personal medical information about a child, and we
8 take our responsibilities, our legal and ethical
9 responsibilities, to protect that medical information
10 very seriously, and so it's challenging to figure out
11 how to transmit that information. So we're
12 transmitting information when there's an opportunity
13 for there to be public health action. We're
14 transmitting information in a very confidential way.
15 But exactly the sorts of things that you're
16 describing, those are a part of our routine practice.

17 COUNCIL MEMBER CUMBO: So, I'm hoping,
18 because what often happens on panels is what's being
19 reported on panel when you ask your constituents or
20 residents, they're unaware of it. So, what's very
21 important to me in the remedy of this situation is
22 that we inform NYCHA, and NYCHA does a complete
23 testing anytime in any of their buildings a child
24 tests positive. Identity of the child does not have
25 to be known. Daycare, the same thing. Identity of

2 the child does not have to be known, but a thorough
3 investigation of that particular facility is
4 important.

5 COMMISSIONER BARBOT: So, I just want to
6 add two things. We share information with NYCHA
7 about elevated lead levels in children, only when
8 lead has been found through the XRF.

9 COUNCIL MEMBER CUMBO: Yeah.

10 COMMISSIONER BARBOT: Only in those
11 situations. The other thing I want to assure you
12 about is in daycare settings. In order to be
13 licensed, daycare providers need to show
14 certification that they are lead-free, and on every
15 inspection that we do, we check for intact paint.

16 COUNCIL MEMBER CUMBO: So, let me ask you
17 this question, what are the symptoms, particularly
18 for people that are watching, because this was new to
19 me as well? What we understand is that the symptoms
20 of lead poisoning are irreversible. So what are the
21 symptoms that actually occur when a child has been
22 diagnosed with elevated lead paint levels? Because--
23 lead levels. Because I going to the doctor-- and no
24 parent in New York City should even have to deal with
25 this. I don't know if Steve or others dealt with

1 this, but it's one of those things where you go
2 there, you're terrified of what the results are going
3 to be. And you shouldn't be terrified, but I run the
4 water in my house, it's mustard colored for the first
5 30 seconds. So when you're going for the test,
6 you're kind of like, "Did I let the water run long
7 enough for a whole entire year so that I'm positively
8 sure that my child's not going to have elevated
9 whatever?" I don't know. I have no idea until that
10 test happens. So that's like scary on top of all
11 these immunizations, on top of all these other things
12 you have to worry about. What I want to know in this
13 instance is what are the symptoms of lead paint or
14 lead testing in blood levels? What happens to a
15 child's brain and their development?
16

17 COMMISSIONER BARBOT: So, Councilwoman,
18 as a pediatrician who has treated hundreds if not
19 thousands of kids and dozens if not hundreds of kids
20 who have elevated blood lead levels, I want to assure
21 you-- and you know, being in those intimate settings
22 in the clinical exam room, our job as clinicians is
23 to make that encounter as least stressful as
24 possible. So, I know where you're coming from, and
25 we've tried to work on that. But the important thing

2 here is-- we talk about transparency and data, but I
3 think your point is very important in terms of
4 transparency about what the implications are, right?

5 And so--

6 COUNCIL MEMBER CUMBO: [interposing]

7 Right, are we talking about intellectual
8 disabilities?

9 COMMISSIONER BARBOT: Yeah, and--

10 COUNCIL MEMBER CUMBO: Mild? Moderate?
11 Severe? Mental retardation? Physical disabilities?

12 COMMISSIONER BARBOT: So, what we see--

13 COUNCIL MEMBER CUMBO: [interposing] What
14 happens?

15 COMMISSIONER BARBOT: What we've seen in
16 the--

17 COUNCIL MEMBER CUMBO: [interposing]

18 Succinctly.

19 COMMISSIONER BARBOT: reduction since
20 Introduction of Local Law One is not only a 90
21 percent reduction in the number of children, but we
22 have seen a significant decline in the actual levels.
23 And so for example, previously we used to see levels,
24 you know, 45 and higher, and thankfully that's really
25 a rarity now, and in those very, very, very high

2 levels is when you would see the kinds of things that
3 you talk about now. Now what we're talking about at
4 the lower levels, the five's and the ten's, are
5 primarily related to behavioral issues, related to
6 developmental issues--

7 COUNCIL MEMBER CUMBO: [interposing]

8 Describe what a developmental issue would be.

9 COMMISSIONER BARBOT: You know, it's hard
10 to predict.

11 COUNCIL MEMBER CUMBO: I don't know.

12 COMMISSIONER BARBOT: No, no, I'm saying
13 it's hard to predict, and every child is different.
14 So, it may be, you know, mild delays in language
15 development. It may be--

16 COUNCIL MEMBER CUMBO: [interposing] That
17 they ever recover from or no? Because delays is a
18 tricky word, and I've learned a lot about this.
19 Delays is tricky. Delays can make you feel like
20 eventually you'll catch up, but delays can also be
21 permanent.

22 COMMISSIONER BARBOT: And so again, it's
23 challenging to make broad statements when we're
24 talking about how individuals might be affected.

2 COUNCIL MEMBER CUMBO: Because I'm going
3 to pretend that I'm a parent in a waiting room, and
4 you said my child has tested positive, and you're
5 explaining to me what could be the ramifications.

6 COMMISSIONER BARBOT: Absolutely, and
7 that's why it's so critical for us to ensure that the
8 especially young children are connected to medical
9 care, because every parent should have the
10 opportunity to talk one-on-one with their medical
11 provider about what then in their particular
12 situation are the potential referral sources. And
13 there are programs through the Health Department such
14 as the Early Intervention Program that families can
15 be referred to in terms of supports for developmental
16 supports. So, it's challenging again, but again, I
17 want to go back to, you know, being a pediatrician
18 and working with families. This is a scary thing,
19 and at the Health Department we see our
20 responsibility to make it as less scary as possible
21 to share information, make ourselves available to any
22 group who wants us to go out and do more outreach.

23 COUNCIL MEMBER CUMBO: So, let me just
24 ask you, because I've been told I got to wrap up,
25 what is the year that we're planning to get to zero,

2 our Vision Zero of this in terms of elevated lead
3 levels? When are we-- when are we scheduled to get
4 to zero?

5 COMMISSIONER BARBOT: You know, that's a
6 really question, and I think that ultimately--

7 COUNCIL MEMBER CUMBO: [interposing] It's
8 just a year.

9 COMMISSIONER BARBOT: I think it'll
10 depend to the degree to which we're best able to
11 leverage the tools that we have.

12 COUNCIL MEMBER CUMBO: I think the answer
13 is actually, we will get to zero when we actually
14 believe that this is a critical priority, and that
15 when children of color, in particular, are seen as a
16 priority, and it's not just some sort of it's okay
17 for some children to walk around with developmental
18 delays and disabilities and other children not. So
19 let me ask you, this is my final question.

20 COMMISSIONER BARBOT: So, Councilwoman--

21 COUNCIL MEMBER CUMBO: [interposing] This
22 is my final question on this.

23 COMMISSIONER BARBOT: If I may, as
24 someone--

2 COUNCIL MEMBER CUMBO: If we threw the
3 kitchen sink at this issue, is this an issue of
4 money? If we threw everything we had at this
5 particular issue, if we made this a critical
6 priority, what would stand in the way of us reaching
7 that zero level? Is it money? Is it resources?
8 What is it? Because for me, I want to see this
9 number come down to zero, and we have to strategize.
10 What would it take? What are the resources? Is
11 money the issue? Is this a financial issue?
12 Basically, that's my question. Is this a financial
13 issue that we have said it's not a priority to us,
14 and that's why this issue will languish throughout
15 our communities? Is it a budget issue?

16 COMMISSIONER BARBOT: So, Councilwoman,
17 as a pediatrician and as someone who has spent her
18 entire clinical professional career advocating for
19 children, in no way, shape or form do I want you to
20 leave here that we think it's okay for black and
21 brown children to be disproportionately affected. I
22 want to just make that clear. And I want to further
23 emphasize that as city agencies we're working
24 collaboratively, and we know that there's still work
25 to be done, right? And we're not going to stop and

2 that's why we're here and we're open, and we want to
3 figure out what are the ways in which we can get more
4 momentum around this.

5 COUNCIL MEMBER CUMBO: This sounds good,
6 but is this a budget issue?

7 COMMISSIONER BARBOT: Councilwoman, I
8 would say that this is an issue that is complex.
9 It's not just about resources. You know, we haven't
10 yet talked about different ways in which lead can get
11 introduced through foreign products. This is, you
12 know, not-- we haven't talked yet about children who
13 may come in from other countries that have less
14 stringent requirements that-- protective laws than we
15 do. So I think it's a much more complex issue.

16 COUNCIL MEMBER CUMBO: Okay, I'm going to
17 close there and turn it over to my colleagues. Thank
18 you.

19 COMMISSIONER BARBOT: Thank you.

20 SPEAKER JOHNSON: Council Member Levin
21 followed by Council Member Torres.

22 COUNCIL MEMBER LEVIN: Thank you,
23 Speaker. So, I have five areas that I would like to
24 cover--

2 SPEAKER JOHNSON: [interposing] And we're
3 putting Council Members on a clock for five minutes.

4 COUNCIL MEMBER LEVIN: Okay.

5 SPEAKER JOHNSON: Because we have a five
6 o'clock hard stop here.

7 COUNCIL MEMBER LEVIN: Okay.

8 SPEAKER JOHNSON: And we want to let
9 every member of the public who is here testify.

10 COUNCIL MEMBER LEVIN: Okay. So, with
11 five minutes, I'd like to move through this quickly,
12 please. First question to you, Commissioner Torres-
13 Springer, regarding HPD. So, the NYLPI report says
14 that not a single violation has been issued since the
15 enactment of Local Law One in 2004 for the failure of
16 a landlord to conduct an annual inspection. I just
17 want to make sure. Is that report correct? Has HPD
18 not issued a single violation for failure to conduct
19 an annual inspection? And it's a yes or no question
20 because I got to through five topics here. So, in
21 five minutes. I'm already 30 seconds in.

22 COMMISSIONER TORRES-SPRINGER: The number
23 of violations we've done is likely very small, but I
24 think it's important, with all due respect, Council
25 Member, that--

2 COUNCIL MEMBER LEVIN: [interposing] I
3 heard the first part, I got that, when you talked--

4 COMMISSIONER TORRES-SPRINGER:
5 [interposing] but that the number of violations--

6 COUNCIL MEMBER LEVIN: [interposing] The
7 question is about specifically violations of annual
8 inspections.

9 COMMISSIONER TORRES-SPRINGER: So, that
10 number will be small if--

11 COUNCIL MEMBER LEVIN: [interposing] Zero?

12 COMMISSIONER TORRES-SPRINGER: Is it
13 [inaudible] [off mic] It's--

14 COUNCIL MEMBER LEVIN: [interposing] Zero?
15 Is it--

16 COMMISSIONER TORRES-SPRINGER:
17 [interposing] We'll clarify, but the--

18 COUNCIL MEMBER LEVIN: [interposing]
19 Annual inspections, zero.

20 COMMISSIONER TORRES-SPRINGER: I
21 understand. I understand.

22 COUNCIL MEMBER LEVIN: Right? It's just
23 a report, I said, because I got to get to five
24 topics.

2 COMMISSIONER TORRES-SPRINGER: Right.

3 So, I will-- we will confirm exactly what that number
4 is, but it's low because we have focused our
5 violation, our enforcement efforts, and therefore
6 violations on making sure we are correcting--

7 COUNCIL MEMBER LEVIN: [interposing] But
8 it is--

9 COMMISSIONER TORRES-SPRINGER: the repairs
10 in the units to protect children.

11 COUNCIL MEMBER LEVIN: Okay, but if a
12 landlord didn't conduct an annual inspection, that is
13 indeed a violation of Local Law One, is that right?

14 COMMISSIONER TORRES-SPRINGER: It's
15 within the parameters of Local Law One.

16 COUNCIL MEMBER LEVIN: Okay, okay. With
17 lead test, okay, so you're saying that 20 percent of
18 kids, children, are not getting lead tests, is that
19 right? On when they're mandated to get lead tests by
20 New York State Law, is that right?

21 COMMISSIONER BARBOT: That's our best
22 approximation.

23 COUNCIL MEMBER LEVIN: Okay. Is that
24 because pediatricians are not-- I mean, I can't
25 imagine that 20 percent of children in New York City

2 are not connected to a pediatrician, right? That
3 can't be true.

4 COMMISSIONER BARBOT: It's not
5 exclusively, but it's-- we think a large component--

6 COUNCIL MEMBER LEVIN: [interposing] One
7 in five children in New York City is not connected to
8 care?

9 COMMISSIONER BARBOT: No, I'm not saying
10 that at all.

11 COUNCIL MEMBER LEVIN: One in five
12 children is not going to a pediatrician on their
13 first birthday?

14 COMMISSIONER BARBOT: I'm not saying that
15 at all.

16 COUNCIL MEMBER LEVIN: Okay, so then--
17 okay. But then, but one in five children is not
18 receiving a lead test--

19 COMMISSIONER BARBOT: [interposing]
20 They're not getting tested--

21 COUNCIL MEMBER LEVIN: [interposing] at
22 their first birthday.

23 COMMISSIONER BARBOT: They're not
24 getting-- well, that number is--

2 COUNCIL MEMBER LEVIN: [interposing]

3 Because the pediatrician is not giving--

4 [cross-talk]

5 COUNCIL MEMBER LEVIN: Because the
6 pediatrician is not getting--

7 COMMISSIONER BARBOT: [interposing] That
8 number is up--

9 COUNCIL MEMBER LEVIN: because the
10 pediatrician complying with New York State Laws.

11 [cross-talk]

12 COMMISSIONER BARBOT: less than three
13 years of age.

14 COUNCIL MEMBER LEVIN: Is that right?

15 COMMISSIONER BARBOT: I'm sorry?

16 COUNCIL MEMBER LEVIN: Because the
17 pediatrician is not complying with New York State
18 Law?

19 COMMISSIONER BARBOT: What I'm saying is
20 that, and what we've been saying is that children
21 under the age of three, roughly 20 percent of them
22 have not been tested.

23 COUNCIL MEMBER LEVIN: Okay, and that's
24 against the law. So, somebody's not-- so either the
25 children are not connected to care. I could think of

1 two reasons: children are not connected to care,
2 therefore they're not visiting a pediatrician, or
3 they're visiting a pediatrician and the pediatrician
4 is not complying with the law.
5

6 COMMISSIONER BARBOT: I would also add
7 that maybe they're getting their care in New Jersey,
8 Connecticut, elsewhere.

9 COUNCIL MEMBER LEVIN: Okay, okay.

10 COMMISSIONER BARBOT: And I would also
11 add that perhaps they're coming to the City from
12 other countries, having gotten their care there.

13 COUNCIL MEMBER LEVIN: Okay.

14 COMMISSIONER BARBOT: So there could be
15 more than two reasons.

16 COUNCIL MEMBER LEVIN: If-- okay. I think
17 New York City Department of Health needs to redouble
18 their efforts on ensuring that every pediatrician in
19 New York City knows they need to issue or conduct a
20 lead test for every child when they're mandated to by
21 New York State Law.

22 COMMISSIONER BARBOT: We do extensive
23 outreach to a number of different constituencies--

24 COUNCIL MEMBER LEVIN: [interposing] Okay.
25

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2 COMMISSIONER BARBOT: and we would-- we
3 would be happy to partner with you--

4 COUNCIL MEMBER LEVIN: [interposing] Okay.

5 COMMISSIONER BARBOT: on the
6 pediatricians in your community.

7 COUNCIL MEMBER LEVIN: Okay. Does-- is
8 New York City conducting full inspections in private
9 apartments and NYCHA, NYCHA and private apartments,
10 for children that show up with an elevated lead level
11 of six to ten-- six to nine, under 10?

12 COMMISSIONER BARBOT: So, since 2009 New
13 York City has been actually ahead of CDC
14 recommendations.

15 COUNCIL MEMBER LEVIN: See, I'm sorry,
16 it's a yes or no question, because I have to get to
17 another two topics here. So,--

18 COMMISSIONER BARBOT: [interposing] I
19 under--

20 COUNCIL MEMBER LEVIN: Are they current
21 today, conducting lead insp-- in full-on inspections
22 in apartments, actual inspections with an XRF
23 conducting the-- you know, doing the paint test,
24 paint inspection for children that show up with
25 elevated lead levels between six and 10? Because 14

2 years ago I went to a lead conference at SUNY
3 Purchase [sic] and sat in a panel where they
4 presented evidence that children have a lower IQ when
5 they have exposure that results in a blood lead level
6 of six to 10. I remember that very clearly, and that
7 was in 2005 or 2006. So?

8 COMMISSIONER BARBOT: So, we have--

9 COUNCIL MEMBER LEVIN: [interposing]
10 Evidence was there.

11 COMMISSIONER BARBOT: I am not disputing
12 that. So, what I want to share with you is the
13 scheme that we have used for the last several years
14 in terms of testing children based on risk, and all
15 the way down to 16 months we had been doing
16 inspections for children with levels of eight and
17 nine.

18 COUNCIL MEMBER LEVIN: Okay, how many--

19 SPEAKER JOHNSON: [interposing] I'm going
20 to--

21 COUNCIL MEMBER LEVIN: [interposing] How
22 many more inspectors--

23 SPEAKER JOHNSON: [interposing] I want to
24 give Council Member Levin two additional minutes.

2 COUNCIL MEMBER LEVIN: Thank you. Thank
3 you, Speaker. How many inspectors would it take hired
4 by the Department of Health to conduct full
5 inspections on every child that has an elevated level
6 of five and above, and how many children annually are
7 coming in with five or above, between five and 10?

8 DEPUTY COMMISSIONER SCHIFF: So, as was
9 announced on July 1st, we are actually going to begin
10 doing home investigations for children with a blood
11 lead level of five and above all the way up to
12 children under age 18. To do that we have hired,
13 since July 1st, we have hired 35 new inspectors.

14 COUNCIL MEMBER LEVIN: Thirty-five.

15 DEPUTY COMMISSIONER SCHIFF: Our first
16 group of inspectors, we did a really active outreach
17 recruitment. We hired them within three weeks, and
18 we are starting our training program for our first
19 group the week after next.

20 COUNCIL MEMBER LEVIN: Okay. Next topic,
21 so I started working on this issue in 2004 when I ran
22 a Lead Safe House program in Bushwick. I see Matt
23 Chacere here. Matt ran the program in Northern
24 Manhattan. Are there still existing safe houses in
25

1
2 New York City for children in families who have been
3 lead poisoned?

4 COMMISSIONER BARBOT: You know, I'm not
5 aware of any. I'm going to defer to Deputy
6 Commissioner Schiff to see if she's--

7 COUNCIL MEMBER LEVIN: [interposing] And
8 if not, where are families going during the
9 remediation process? Because I was operating under a
10 state contract. That contract has since closed. I
11 think there was a city contract at one point that
12 other organizations had.

13 DEPUTY COMMISSIONER SCHIFF: So, there is
14 one facility in New York City operated by Montefiore.

15 COUNCIL MEMBER LEVIN: Okay. And that's
16 a city-- Montefiore had a-- they were funded, I
17 think, privately, right? They're funded by-- by
18 Montefiore.

19 DEPUTY COMMISSIONER SCHIFF: You've
20 exceeded my knowledge.

21 COUNCIL MEMBER LEVIN: Okay.

22 DEPUTY COMMISSIONER SCHIFF: I can try to
23 find that out for you.

24

25

2 COUNCIL MEMBER LEVIN: Okay, but the City
3 is not funding it, and as far I remember, they-- that
4 was a privately funded one.

5 COMMISSIONER BARBOT: Not sure.

6 DEPUTY COMMISSIONER SCHIFF: Not as far
7 as we know.

8 COMMISSIONER BARBOT: But you bring up a
9 really important point, that--

10 COUNCIL MEMBER LEVIN: [interposing] Where
11 are they going?

12 COMMISSIONER BARBOT: children, you know,
13 we don't, from a clinical point of view, we don't
14 discharge kids to a site that we know is going to be
15 ongoing exposure, and you know, our team works to
16 identify perhaps if there are other family members
17 that can provide, you know, a place for them to stay
18 while it's done. There are different ways in which
19 we work with families.

20 COUNCIL MEMBER LEVIN: Okay. By the way,
21 I just want to give a shot out, she's just retired,
22 but Debra Nagin [sp?] was-- that's where I got my--

23 COMMISSIONER BARBOT: [interposing]
24 Phenomenal.

2 COUNCIL MEMBER LEVIN: referrals when I
3 did my program back in 2005 and 06.

4 COMMISSIONER BARBOT: Thank you for
5 mentioning that, yes.

6 COUNCIL MEMBER LEVIN: She's retired, so
7 yes, I want to--

8 SPEAKER JOHNSON: [interposing] Thank you,
9 Council Member Levin.

10 COUNCIL MEMBER LEVIN: Thanks.

11 COMMISSIONER BARBOT: And thank you for
12 your work.

13 SPEAKER JOHNSON: Council Member Torres.

14 COUNCIL MEMBER TORRES: Thank you. I just
15 want to build on some of the line of questioning
16 that's been pursued. What are the number of children
17 who are among the 20 percent that have been tested at
18 ages one or two, that have not been tested, never
19 been tested at ages one or two? Do we know the exact
20 number of children?

21 COMMISSIONER BARBOT: Council Member, if
22 I understand your question, you're asking how many
23 one and two year olds have not been tested?]

24 COUNCIL MEMBER TORRES: Exactly right.
25

2 COMMISSIONER BARBOT: That's a number
3 that we truthfully struggle to get at--

4 COUNCIL MEMBER TORRES: [interposing] So,
5 we know the percentage but we don't know the actual
6 number?

7 COMMISSIONER BARBOT: It's our-- it's our
8 best approximation, because it's--

9 COUNCIL MEMBER TORRES: [interposing] Do
10 we have a numerical approximation? Do we know if
11 it's tens of thousands of children, hundreds of
12 thousands of children?

13 COMMISSIONER BARBOT: It's about 20,000
14 children.

15 COUNCIL MEMBER TORRES: Twenty-thousand
16 children, okay. Do we know the identities of those
17 children?

18 COMMISSIONER BARBOT: We don't, but what
19 we will be doing is doing a match against our birth
20 registry for those children where they have gotten
21 their test, and so we'll then know who hasn't. We're
22 going to do a mailing to them. It's one of the new
23 initiatives that--

24 COUNCIL MEMBER TORRES: [interposing] But
25 historically you've been unaware of the identities of

2 the children who have gone untested, which means that
3 you're no position to conduct individualized outreach
4 to those families, in order to have--

5 COMMISSIONER BARBOT: [interposing] Not
6 individualized.

7 COUNCIL MEMBER TORRES: those children
8 tested.

9 COMMISSIONER BARBOT: Right. Not
10 individualized, but we do work with various
11 communities to try and leverage community-based
12 organizations that have a deeper reach in those
13 communities.

14 COUNCIL MEMBER TORRES: So, once you--
15 once you establish that a child has lead poisoning
16 and that the lead poisoning is connected to lead
17 paint in an apartment, you pointed out earlier that
18 you test all the babies in the building, is that--
19 did I hear you correctly?

20 DEPUTY COMMISSIONER SCHIFF: So, we don't
21 test the babies, but we go to their homes. We match
22 against our birth records, and as part of a
23 preventive work, we go into that building and we do
24 an inspection in that apartment to look for lead
25 paint hazard as a way to prevent exposure for those

2 young children. So we're using our birth record data
3 to do some preventive work in that building, but
4 we're not do-- we do not do lead testing.

5 COUNCIL MEMBER TORRES: But you don't see
6 to it that the babies are tested?

7 DEPUTY COMMISSIONER SCHIFF: So, there is
8 information. Part of our work in making sure that
9 providers and families know about blood lead testing
10 and when it's appropriate for that to happen.
11 Information goes out with the birth certificate to
12 parents. So, for those babies, we have, you know, we
13 have provided information along with the birth
14 certificate which the Health Department issues about
15 that blood lead testing.

16 COMMISSIONER BARBOT: So, from a
17 developmental perspective, it's only until the
18 toddlers, the children, start crawling or start
19 having hand/mouth behaviors that put them at risk,
20 and so we're trying to take as protective approach as
21 possible to minimize any unnecessary exposures for
22 any--

23 COUNCIL MEMBER TORRES: [interposing] I
24 guess I-- and I worry that the approach that the
25 Department of Health takes feels reactive, because

1
2 you wait for a child to be poisoned by lead, and then
3 you expect-- why not proactively inspect buildings
4 that have a risk lead poisoning, right? If we know
5 that a building is built before 1978 and it's run by
6 a known slumlord and has a ratio of violations per
7 unit, like there are risk factors that we can
8 identify to proactively inspect buildings that have a
9 high-- why do we wait for a child to be lead poisoned
10 before intervening?

11 COMMISSIONER BARBOT: So, Councilman, I
12 would review the fact that the City's approach to
13 lead poisoning prevention is a two-fold approach.
14 One is very much as what you're saying, prevention,
15 and the best tool that we have is Local Law One, but
16 recognizing that there are situations when we have to
17 respond. We take a very vigorous approach in terms
18 of the way in which we follow children, and then we
19 try to identify opportunities where we can go even
20 beyond to those measures to try and redouble our
21 efforts at prevention, because you're absolutely
22 right, the best way for us to finish the mission that
23 was started under Local Law One back in 2005 is to
24 really push as much as possible on the prevention.

2 COUNCIL MEMBER TORRES: I see my time is
3 about to expire, but--

4 COMMISSIONER TORRES-SPRINGER:
5 [interposing] Council Member, if I could--

6 COUNCIL MEMBER TORRES: [interposing] I
7 just want to--

8 SPEAKER JOHNSON: Council Member, we'll
9 put an additional-- when the clock expires we'll put
10 an additional two minutes on the clock for you.

11 COUNCIL MEMBER TORRES: But--

12 COMMISSIONER TORRES-SPRINGER:
13 [interposing] But just to respond, if I may, to your
14 specific question. Yes, we do take proactive
15 measures for all of the special enforcement programs
16 that we worked with the Council on, whether it's AEP
17 or underlying conditions to for--

18 COUNCIL MEMBER TORRES: [interposing] But
19 none of those are specific to lead, alright. I think
20 when it comes to lead, DOH waits for a child to be
21 poisoned by lead, and only then will you inspect the
22 building. What I'm suggesting is we should
23 proactively inspect before a child is--

24 COMMISSIONER TORRES-SPRINGER:
25 [interposing] And that's what we're doing--

2 COUNCIL MEMBER TORRES: [interposing]
3 poisoned by lead.

4 COMMISSIONER TORRES-SPRINGER: before many
5 of these programs. And even before we get a lead
6 complaint through 311, we are-- if we are in a unit
7 looking for the potential presence of lead.

8 COUNCIL MEMBER TORRES: And I just want
9 to-- If you're a child and you have a blood lead
10 level of five micrograms per deciliter, you have more
11 lead in your blood than what percentage of the
12 population, citywide and nationally?

13 COMMISSIONER BARBOT: I'm sorry, is that
14 a question?

15 COUNCIL MEMBER TORRES: That is a
16 question, yes.

17 COMMISSIONER BARBOT: So, CDC has
18 established five as a reference point, and--

19 COUNCIL MEMBER TORRES: [interposing] I'm
20 asking about the percentage. So, if I have a blood
21 lead level of five micrograms per deciliter, if I'm a
22 child and I have that level of lead in my blood, I
23 have more lead in my blood than what percentage of
24 the population citywide and nationally?
25

2 COMMISSIONER BARBOT: I think the
3 percentage is actually 2.5, but I'm not certain.

4 COUNCIL MEMBER TORRES: Okay. So, I
5 actually know--

6 COMMISSIONER BARBOT: [interposing] Yeah,
7 2.5.

8 COUNCIL MEMBER TORRES: So, I actually
9 think it's 1.5 citywide, and 2.5 nationally, and I
10 guess my frustration with the Health Department is
11 that if you knew there were thousands of children who
12 had more lead in their blood than 98.5 percent of the
13 population nationwide and 98.5 percent of the
14 population citywide, why did it take the
15 Administration five years to lower the threshold for
16 public health intervention?

17 COMMISSIONER BARBOT: So, Council Member,
18 since 2009 we have been conducting risk assessments
19 at the level of five.

20 COUNCIL MEMBER TORRES: There were no
21 home investigations at level five. So, I could be a
22 child and I could have more lead in my blood than
23 nearly every single child in this country, and there
24 were no home investigations from your Health
25 Department.

2 COMMISSIONER BARBOT: So, we were
3 conducting risk assessment since 2009.

4 COUNCIL MEMBER TORRES: I'm not talking
5 about-- I'm talking about home investigations where
6 you're actually going into these apartments, you're
7 interviewing the families, you're inspecting the
8 conditions. Were there home investigations or not at
9 level five?

10 DEPUTY COMMISSIONER SCHIFF: So, at a
11 blood lead level of five micrograms per deciliter, we
12 are launching those home investigations as of July
13 1st.

14 COUNCIL MEMBER TORRES: I'm just asking
15 why did it take so long.

16 COMMISSIONER BARBOT: It didn't--

17 COUNCIL MEMBER TORRES: It seems like a
18 no-brainer to me, that if I'm a child and I have more
19 lead in my blood than 98.5 percent of the population,
20 why were those children not a priority for home
21 investigations?

22 DEPUTY COMMISSIONER SCHIFF: So, we've
23 been-- as Doctor Barbot said, we have been ahead of
24 the CDC in all of our public health interventions,
25 including when we conducted home investigations. The

2 City now with this new intervention is well ahead of
3 CDC and a head of really almost any jurisdiction in
4 the country.

5 COUNCIL MEMBER TORRES: I just feel like
6 there's no apology even though the Department was
7 clearly in the wrong. Can I ask one more question,
8 HPD?

9 SPEAKER JOHNSON: Yes.

10 COUNCIL MEMBER TORRES: HPD grants
11 exemptions under Local Law One. Is that correct?

12 COMMISSIONER TORRES-SPRINGER: That's
13 right. That's right.

14 COUNCIL MEMBER TORRES: Before, we know
15 that NYCHA had employees conduct lead abatement
16 without property training and certification. Before
17 granting an exemption under Local Law One, did HPD
18 inquire if there was proper certification and
19 training among those who conducted the abatement?
20 Because if HPD had done so, the Housing Authority
21 would not have gone as long as it did in conducting
22 abatements without proper training and certification.

23 COMMISSIONER TORRES-SPRINGER: What I do
24 know, and if the Deputy Commissioner would like to go
25 into more detail that I think could be helpful to the

1
2 conversations, but the process that NYCHA follows as
3 it relates to exemptions, is the same process that
4 any landlord who is seeking an exemption follows, and
5 it's quite rigorous, and we have--

6 COUNCIL MEMBER TORRES: [interposing] Is
7 it so rigorous that you ask whether it was done by a
8 professional who was properly trained and certified?
9 Do you ask--

10 DEPUTY COMMISSIONER SANTIAGO:
11 [interposing] Absolutely.

12 COUNCIL MEMBER TORRES: that question?

13 DEPUTY COMMISSIONER SANTIAGO: The
14 documentation is required to be provided with the
15 exemption for them.

16 COUNCIL MEMBER TORRES: So you inquire
17 about the certification and training?

18 DEPUTY COMMISSIONER SANTIAGO: As part of
19 the application, XRF testing has to be provided as
20 well as--

21 COUNCIL MEMBER TORRES: [interposing] I'm
22 not talking about the testing. I'm talking about the
23 training and certification--

24 DEPUTY COMMISSIONER SANTIAGO:
25 documentation--

2 COUNCIL MEMBER TORRES: of the
3 professionals who are conducting the abatement.

4 DEPUTY COMMISSIONER SANTIAGO: As well as
5 documentation regarding the XRF who took that test,
6 as well as if an abatement was performed,
7 documentation about that abatement, including the
8 certification and an affidavit from the person who
9 did that abatement.

10 COUNCIL MEMBER TORRES: But if that's the
11 case, then--

12 DEPUTY COMMISSIONER SANTIAGO:
13 [interposing] That is always required.

14 COUNCIL MEMBER TORRES: If that's the
15 case, if you were inquiring about the certification
16 and training of the people conducting the abatement,
17 how could it be that NYCHA went years without
18 conducting abatements without proper certification
19 and training? Something-- someone-- either was NYCHA
20 submitting false certifications to HPD as well, or
21 did HPD not ask the question?

22 DEPUTY COMMISSIONER SANTIAGO: I can't
23 speak to any--

24 COUNCIL MEMBER TORRES: [interposing] You
25 can't speak to that. So there has--

2 DEPUTY COMMISSIONER SANTIAGO:

3 [interposing] specifics, sir. But all of the
4 documents are required as part of the exemption
5 application.

6 COUNCIL MEMBER TORRES: Cleary, something
7 went wrong. That's the extent of my questions.

8 SPEAKER JOHNSON: Vito, if you want to
9 respond to Council Member Torres, you can.

10 VITO MUSTACIUOLO: Sure. I just want to
11 respond to that. Sir, I think what we're confusing
12 are the issues in the past had to do with the proper
13 training for visual assessments and for RXF training.

14 COUNCIL MEMBER TORRES: Not only-- I'm
15 sorry, it was not only-- it was visual assessments,
16 remediation, and abatement. There was a period of
17 time when employees at NYCHA were conducting visual
18 assessments, remediation, and abatement without
19 proper certification and training. It was not only
20 visual assessments, it was all of them.

21 VITO MUSTACIUOLO: So, I think we need to
22 do some further research and get back to you on that.

23 SPEAKER JOHNSON: Thank you. Council
24 Member Barron.

2 COUNCIL MEMBER BARRON: Thank you. Thank
3 you, Mr. Speaker. And thank you to the panel for
4 being here. My questions are for Commissioner
5 Barbot. In your testimony you indicated that because
6 of the protections in our water system and existing
7 state law and health code provisions related to
8 testing of water in schools and childcare settings,
9 lead in the water does not present a meaningful risk
10 to New Yorkers and we do not consider water a
11 significant source of exposure for children. So, if
12 we have water system that in testing showed that 83
13 percent of the 1,544 buildings and indicating 33,000
14 faucets were a source of lead, do you think that
15 that's something that we should be concerned about?

16 COMMISSIONER BARBOT: So, Councilwoman,
17 our water comes to us virtually lead-free, and there
18 are situations--

19 COUNCIL MEMBER BARRON: [interposing] I'm
20 just talking about the specifics, the particulars
21 that 83 percent of the pipes in the building, the
22 1,544 buildings representing 33 faucets that were
23 identified as exceeding the level of 15 parts per
24 billion to have lead, that's why I'm-- I'm not-- I

1 know the system is great and the water. I'm talking
2 about those faucets that have lead.

3
4 COMMISSIONER BARBOT: So, in-- I believe
5 you're referring to the school system, correct?

6 COUNCIL MEMBER BARRON: Correct.

7 COMMISSIONER BARBOT: Yeah. So, in those
8 situations, and I would ask my DOE colleague to join
9 me--

10 COUNCIL MEMBER BARRON: [interposing] Yes.

11 COMMISSIONER BARBOT: They're-- the
12 Department of Education has taken an extraordinarily
13 protective approach, and the important thing to note
14 here is that in many of these faucets, they are
15 faucets that are in parts of the building that may
16 not even be in contact where children are, and when
17 they are found in let's say bubblers or in kitchen
18 faucets, they're taken offline until they're
19 remediated. We want to--

20 COUNCIL MEMBER BARRON: [interposing]
21 Okay. My time is short.

22 COMMISSIONER BARBOT: ensure that our
23 children know that water is the most preferred
24 beverage.

2 COUNCIL MEMBER BARRON: Okay, so they're
3 taken offline. That's not a solution. Okay. That's
4 just closing it down. So--

5 COMMISSIONER BARBOT: [interposing] It's
6 protective until they can be replaced.

7 COUNCIL MEMBER BARRON: what are we going
8 to do? What are we going to do? What's the plan?
9 DOE, what's the plan for the water that has lead?

10 WILLIAM ESTELLE: Good afternoon,
11 Councilwoman.

12 COUNCIL MEMBER BARRON: Yes.

13 SPEAKER JOHNSON: Were you sworn in?

14 WILLIAM ESTELLE: No, I wasn't.

15 SPEAKER JOHNSON: Okay, the Counsel will
16 swear you in.

17 COMMITTEE COUNSEL: Raise your right
18 hand. Do you swear to tell the truth, the whole
19 truth, and nothing but the truth and respond honestly
20 to Council Member questions?

21 WILLIAM ESTELLE: I do.

22 COMMITTEE COUNSEL: Thank you.

23 WILLIAM ESTELLE: So, first I want--

24 COUNCIL MEMBER BARRON: [interposing] And
25 your name, please?

2 WILLIAM ESTELLE: Bill Estelle, I'm
3 sorry. I'm the Executive Director of School--

4 COUNCIL MEMBER BARRON: [interposing]
5 Thank you.

6 WILLIAM ESTELLE: facilities. So, I want
7 to start off saying that the health and the safety of
8 our children in New York City public schools is the
9 utmost importance. Now, if you'd like, I can go over
10 the process of how we do our testing. So--

11 COUNCIL MEMBER BARRON: [interposing] No,
12 we heard about the flushing and then we knew you had
13 to go back and it was a much different result without
14 the flushing. My question is what's the plan?

15 WILLIAM ESTELLE: So, I'll start with our
16 testing because what I'm going to describe is our
17 plan. So we have a very aggressive and comprehensive
18 testing program. We test all the fixtures in all of
19 our buildings, excluding the hot water fixtures. We
20 have a very aggressive, what do you call, remediation
21 program that involves removing the fixture. The
22 remediation program involves fixtures that have been
23 found to have an exceedance, over 15 parts per
24 billion. So, our remediation process includes the
25 removal of the fixture and the piping to the wall.

2 Any fixture that is found to have an exceedance is
3 immediately taken offline. We have 142,000 fixtures
4 throughout our school. Ninety-nine percent of those
5 fixtures currently have readings below the action
6 level of 15 parts per billion.

7 COUNCIL MEMBER BARRON: Okay. My time is
8 running quickly. How many have you removed and
9 replaced that were indicating that they had levels
10 above lead contamination above the level.

11 WILLIAM ESTELLE: So we had approximately
12 a little over 12,000 fixtures that had exceedance
13 that--

14 COUNCIL MEMBER BARRON: [interposing]
15 Okay, now we're getting particulars. And how many
16 have you replaced?

17 WILLIAM ESTELLE: We changed the fixture
18 and the piping. So we changed them all.

19 COUNCIL MEMBER BARRON: All of them? So
20 all of those fountains are now open and being used,
21 and you're saying that all of those fountains that
22 had excessive levels no long have excessive levels?

23 WILLIAM ESTELLE: So, 99 percent of these
24 fixtures have found to be below the action level,
25 which means there's' one percent out there currently

2 that still have exceedances. That equates to
3 approximately 1,100 fixtures, 434 of those being
4 bubblers and fixtures that are used for cooking
5 purposes. Those fixtures are shut off, and they're
6 not shut off with a hand valve, they're shut off with
7 a key and a yellow tag.

8 COUNCIL MEMBER BARRON: Okay. The bill--

9 SPEAKER JOHNSON: [interposing] Two
10 additional minutes, Council Member Barron.

11 COUNCIL MEMBER BARRON: Thank you. The
12 bill that I'm introducing says that we should
13 establish the lead levels that are consistent with
14 the EPA, that there should be annual testing, parents
15 should be given the results, and where there is an
16 indication that system has still been contaminated,
17 there should be an installation of a water filtration
18 system or other measures to address that. What is
19 your position?

20 WILLIAM ESTELLE: So, I just want to
21 touch-- you mention that the parents aren't being
22 notified. We are totally transparent in the
23 Department of Education. All of our results are
24 posted online on the DOE website and also the school
25 website. We send backpack letters home to the

2 parents for every school, whether it is all clear or
3 whether it has an exceedance with very detailed
4 information. Matter of fact, the exact--

5 COUNCIL MEMBER BARRON: [interposing] So,
6 have the letters been sent to the parents to tell
7 them that your child's school's pipes have been
8 corrected? Have they received that letter?

9 WILLIAM ESTELLE: Yes. If a school is
10 all clear, we absolutely send that letter.

11 COUNCIL MEMBER BARRON: No, no, no, not
12 if it's all clear, the ones that you said you
13 replaced, where the parents notified via a letter?

14 WILLIAM ESTELLE: Yes. When I say "all
15 clear" that means all the remediation work is done,
16 and we explain that.

17 COUNCIL MEMBER BARRON: Okay, and so what
18 is your position on the bill that I just described?

19 WILLIAM ESTELLE: Is this on annual
20 testing?

21 COMMISSIONER BARBOT: So, Councilwoman,
22 specifically regarding the issue of the filtration, I
23 think that we need to be mindful of potential
24 unintended consequences. These filters--

2 COUNCIL MEMBER BARRON: [interposing] What
3 might they be?

4 COMMISSIONER BARBOT: These filters would
5 require maintenance and they may actually introduce--

6 COUNCIL MEMBER BARRON: [interposing] So,
7 it's a matter of money to maintain them?

8 COMMISSIONER BARBOT: No, it's not
9 necessarily that. I think it's a matter of matching
10 the intervention to the risk, and I think that--

11 COUNCIL MEMBER BARRON: [interposing]
12 Well, you know, one percent risk is a little bit, but
13 it's too much, because that means one child, perhaps,
14 and that's too much. When we have the capacity and
15 the ability to put systems in place that prevent it.
16 Thank you, Mr. Chair.

17 SPEAKER JOHNSON: Thank you, Council
18 Member Barron. Council Member Levine, did you have
19 anything else you wanted to ask?

20 CHAIRPERSON LEVINE: Yes.

21 SPEAKER JOHNSON: Okay. Yeah.

22 CHAIRPERSON LEVINE: Thank you very much,
23 Mr. Chair. You know, other cities are starting to
24 use data science to predict high risk locations based
25 in part on the history of lead poisonings reported

2 and the age of buildings and other risk factors.

3 Chicago's doing this, Minneapolis, now Flint. And

4 some are communicating that information to OBGYN

5 practitioners so that they can communicate to

6 expectant mothers and parents with newborns. We also

7 know that lead poisoning can be transmitted from a

8 pregnant mother to a child, and one of the bills

9 that's sponsored by Council Member Rivera actually

10 seeks to codify a practice which we think is

11 extremely important, that when a mother, a pregnant

12 person, tests at elevated blood levels that an

13 intervention is triggered as if it were a child, that

14 we go to the home and other places where the pregnant

15 person frequents. Can you comment on the current

16 practice about whether we are or could alert the

17 OBGYN practitioner based on knowledge that the mother

18 lives in a high risk zip code, and whether you

19 support the bill that seeks to address this?

20 COMMISSIONER BARBOT: [off mic] Thank

21 you, Council Member. I'll begin and then I'll turn

22 it over to Deputy Commissioner Schiff. We are in

23 support of this bill, and it gives us an opportunity

24 as we did talking about the focus being on children,

25 our focus being on safe work practices. I think this

2 gives us an opportunity to also talk about the
3 importance of focusing on women who are pregnant.
4 The risk factors in this population are different
5 than they would be for children, and primarily can
6 be-- sometimes during pregnancy, women can develop
7 something called pica where they eat food that's not--
8 - or they eat materials that is not food, typically
9 things like clay and whatnot. Additionally, there
10 may be imported products that may put them at risk.
11 And so, we are very much in support of doing more for
12 these women, and I'm going to turn it over to Deputy
13 Commissioner Schiff.

14 DEPUTY COMMISSIONER SCHIFF: We haven't
15 had much of a chance to talk about the work that we
16 do for pregnant women to reduce their exposure to
17 lead and reduce their elevated blood lead levels. As
18 we've described that we get blood lead test results
19 for children, we also get those for adults, and
20 prenatal screening for lead is part of that visit,
21 and so we get those test results. When we identify--
22 we don't know from the blood lead test that it is a
23 pregnant woman, so we do-- we reach out to all-- to
24 adults, and when we learn that the woman is pregnant,
25 we do follow-up with her and her provider, her

2 doctor, to reduce those sources of exposure. We've
3 been using a threshold of 10 micrograms per
4 deciliter, but as part of our program expansion we'll
5 be reducing that as well to a blood lead level of
6 five micrograms per deciliter. The-- as Doctor
7 Barbot has said, the exposures for women, for
8 pregnant women, are different from the exposures for
9 children. So, we would like-- we are in support of
10 the bill to the extent that it would codify and have
11 us do work for pregnant women. The home inspection
12 that we do for children is not one that we would need
13 to do for pregnant women. We're not really concerned
14 with peeling paint. What we do, we have nurses in
15 our program who are the ones who work with pregnant
16 women and the providers. As Doctor Barbot said, we
17 typically see things. It can be these pica behaviors
18 or it can be products. There are-- in some cultures
19 there are traditional remedies that are specifically
20 for pregnancy that actually contain lead. So we do a
21 lot of education around that. We help women eliminate
22 those sources of exposure. We continue to track her
23 follow-up blood lead testing. We will track that
24 newborn as well. It's a really important part of our
25 program, and we're happy to have our work codified.

2 We want to make sure that the codification matches
3 the science of how we should be doing these
4 inspections.

5 CHAIRPERSON LEVINE: Thank you. And are
6 we able to alert these medical practitioners when the
7 child appears to be born into a high risk
8 environment?

9 DEPUTY COMMISSIONER SCHIFF: This your--
10 the data matching, is that your-- that's very
11 interesting. I'd like to-- we're going to take that
12 back and think about how we might be able to do some
13 of those analytics. It's an interesting point.

14 CHAIRPERSON LEVINE: Okay, thank you.
15 Thank you, Mr. Chair, Mr. Speaker.

16 SPEAKER JOHNSON: I had a question on the
17 bills we're discussing today. Do we have a cost
18 estimate that the agencies have put together on what
19 you believe the cost would be if we passed these
20 bills?

21 DEPUTY COMMISSIONER SCHIFF: We're still
22 putting those together.

23 SPEAKER JOHNSON: Do you have an estimate?

24 DEPUTY COMMISSIONER SCHIFF: I don't. I
25 don't think we have that yet.

2 SPEAKER JOHNSON: How quickly do you
3 think you'd be able to put that together?

4 DEPUTY COMMISSIONER SCHIFF: All the
5 agencies are working on estimates and working with
6 OMB. I'm not sure how long we'll have-- we can get
7 back to you even with a timeline.

8 SPEAKER JOHNSON: I want to thank you for
9 testifying today. Did you want to say something,
10 Vito?

11 VITO MUSTACIUOLO: Yes, I'm sorry, Mr.
12 Speaker. It was brought to my attention that I
13 misspoke earlier. We have five XRF machines, not
14 two. I just wanted to be clear on record. Thank
15 you.

16 SPEAKER JOHNSON: Vito. I want to thank
17 you all for testifying today. I want to say again,
18 Doctor Barbot, I know you have committed your life to
19 public health work. You were Health Commissioner in
20 Baltimore. You did work, as you mentioned, in
21 Washington, D.C. You were the First Deputy
22 Commissioner under Doctor Bassett for her four years
23 as our Health Commissioner and you're now Acting
24 Commissioner. As you said, you're a pediatrician and
25 someone that has dedicated your life to helping

2 improve public health outcomes for children, and
3 that's extraordinarily meaningful, but I want to just
4 say that I still believe what is happening in New
5 York City today, and what this hearing I think really
6 illuminated, is that there's still a lot of
7 unacceptable things and outcomes occurring in our
8 city, and we need to acknowledge that. We need to
9 talk about that. I think one of the things that--
10 there were many good things that I think Doctor
11 Bassett did, but I think one of the good things that
12 Doctor Bassett talked about so openly was
13 environmental racism and environmental justice and
14 racism as it related to public health and ensuring
15 that we made sure that vulnerable marginalized
16 populations with greater disparities got what they
17 needed from our city, and we talked about that in an
18 open and honest way. And that is why I think it's
19 incumbent upon us at all levels of government,
20 whether it be elected officials or people that are
21 working in extraordinarily important city agencies,
22 that we recognize that 4,200 children is totally
23 unacceptable, completely and totally unacceptable.
24 We can talk about 89 percent. We can talk about a
25 reduction. We can talk, that's great. When you

1 still have 4,200 brains that are permanently damaged
2 potentially for the rest of their lives, that is
3 unacceptable. It is a failure. It is a tragedy, and
4 we need to get to zero. We were supposed to get to
5 zero by 2010. We are eight years past 2010, and
6 we're at 4,200. I mean, I would love to kind of know
7 what you would say to a mother or a father of a child
8 who walked up to you and said, "My child is
9 permanently damaged because of a failure of New York
10 City government." What would the response be? My
11 response would be, "We screwed up. I'm sorry. I want
12 to do better." And I would love to understand what
13 your response would be as someone who has dedicated
14 your life to public health. What would your response
15 be to that parent?
16

17 COMMISSIONER BARBOT: So, Council Member,
18 I appreciate your leadership in this, and I am
19 hopeful that going to the threshold of five will help
20 us finish the mission. And by no means are we
21 resting on our laurels of that 89 percent reduction,
22 and we know that there's more to be done, and we are
23 committed to working with Council to finish the
24 mission.
25

2 SPEAKER JOHNSON: What would your
3 response be to a parent who walked up to you and said
4 that my child's permanently damaged?

5 COMMISSIONER BARBOT: You know, every
6 situation is different, and I would treat every
7 situation differently, and I would just leave it at
8 that.

9 SPEAKER JOHNSON: I don't feel like
10 there's a level of contrition today related to the
11 gravity and seriousness of the number of children who
12 have been permanently damaged.

13 COMMISSIONER BARBOT: I think we can all
14 acknowledge that we don't want any more New York City
15 children exposed to lead.

16 SPEAKER JOHNSON: And I think that we can
17 acknowledge that there have been mistakes in the past
18 by multiple layers of government that have allowed
19 this to happen. I thank you all for testifying
20 today, and we're going to call up the advocates next.
21 Thank you very much. Okay, our first panel is
22 Brandon Kielbasa-- I apologize if I get your name
23 incorrectly-- from the Cooper Square Committee. The
24 second panelist is going to be Nikki Ledger [sp?].
25 Third panelist is Edward Ruddick [sp?] from Lead Dust

2 Free NYC. Christine Rucci from the Cooper Square
3 Committee, James Markowich, from Tenants Taking
4 Control, and Anne Daly [sp?], that is the first
5 panel. Okay, do we still have the other folks here
6 who were slated to testify? Okay, great, great.
7 Thank you very much. I apologize. Thank you for your
8 patience, each and every one of you. We know it was
9 a very long questioning period of the Administration,
10 but there was a lot we wanted to get on the record
11 that was important for us in negotiating these bills
12 and getting as much information as possible. Are
13 there still folks here from the Health Department?
14 Are there still folks here from HPD? And what other
15 city agencies are still represented here today?
16 NYCHA? City Hall? Is Department of Education still
17 here? Okay. Sit down. Yes, we can-- sorry, we have
18 two more folks, and we'll get in-- we'll get one
19 chair on this side and another chair on that side.
20 So, if-- and if we could remove the pasteboards
21 behind these folks. Okay, you may begin in whatever
22 order you'd like, and we're going to put three
23 minutes on the lock for each one of you, and there
24 may be questions as well. Let's start in whatever

1
2 order you'd like. Make sure the mic is on. The red
3 light has to be on.

4 BRANDON KIELBASA: Okay, I'll start.

5 Thank you. I'm very glad to be here to talk about
6 this topic today. My name is Brandon Kielbasa, and
7 I'm the Director of Organizing at the Cooper Square
8 Committee. Also, one of the co-coordinators for the
9 Lead, Dust-Free NYC Coalition. Cooper Square
10 Committee is a longstanding tenants' rights
11 organization on the Lower East Side. We specialize
12 in tenant organizing. The Lead Dust-Free NYC
13 Coalition is a coalition of tenants that have come
14 together to combat this Lead Dust issue that we've
15 been talking about today. It's an issue that's been
16 plaguing the Lower Eastside. When reckless
17 construction is done and landlords don't follow the
18 safe work practices, buildings have been flooded with
19 up to thousands of times the legal limits of dust.
20 Council Member Chin referenced one of the buildings
21 we were working with back in 2014 in her testimony.
22 That building had a pregnant woman and a child under
23 the age of six living in it. That same landlord was
24 found to have included three other buildings around
25 the same time. It's not uncommon for us to have these

2 issues. It's really reached a chronic-- to the point
3 where it's chronic contamination in the Lower
4 Eastside due to this construction, and virtually
5 every landlord that's doing renovations and luxury
6 rehab work, taking out rent-stabilized tenants and
7 replacing them with market-rate tenants are not
8 following the safe work practices. So, I'm here to
9 testify in favor of all the legislation that's being
10 put forward. I think it's all wonderful and going to
11 strengthen the lead laws that are in place for New
12 Yorkers. I'm in particular favor of Intros. 864,
13 873, and 874 because they deal more with dust,
14 construction, and safe work practices. While I'm in
15 favor of the legislation, I'd like to say that I
16 think the City does need to do a lot more to improve
17 enforcement and to utilize Local Law One. Some stuff
18 that came up today was fantastic. We're glad to hear
19 people calling out the issue of no pre-notification
20 for large jobs, that as far as we can tell, that
21 virtually never happens. And checking between
22 vacancies and when there are children under the age
23 of six during tenancies could really eliminate this
24 problem. Those violations are really the prevention
25 I think the City needs to carry out, and really glad

2 to hear the Council Members asking those questions
3 today. So, in the end, the lead dust issue that
4 we're dealing with is really a kind of an extension
5 of the construction is harassment issue that the
6 City's been taking on in the alts two or three years.
7 The stand for tenant safety package of legislation
8 was a huge step in that direction. So, we're really
9 hopeful that this suite of 23 bills, especially the
10 three that I mentioned, will really doggedly go into,
11 you know, the lead contamination issue and the lead
12 dust contamination issue. And as advocates and
13 organizers we're here to really collaborate with the
14 Council and do the good on the ground that's
15 necessary. Thank you so much for your time today, and
16 thank you for calling the hearing.

17 SPEAKER JOHNSON: Thank you very much.

18 NIKKI LEGER: Hi, my name is Nikki Leger.
19 I'm a member of Cooper Square Committee and Lead Dust
20 Free New York. I have a background in mathematics
21 and statistics. I opted not to have repairs done to
22 my bedroom because I was afraid of lead dust
23 contamination, so there are cracks and peeling paint
24 which remain. The building was built in the 20s.
25 Steve Keen [sp?], the Australian Economist recently

1
2 observed that a federal regulatory agency, if not
3 permitted to enforce the law, becomes a handmaiden of
4 industry. Similarly, when the City's lead laws are
5 violated right and left, especially safe work
6 practices, this makes the City the handmaiden of the
7 lead polluting, life-threatening landlords. Lead Law
8 One of 2004 might have sufficed, but due to lagging
9 enforcement and lack of oversight, many new much-
10 needed pieces of legislation have been introduced by
11 our City Council Members. This is much appreciated.
12 We applaud the Introduction of 864, 873, 874 which
13 addressed lead dust contamination by interagency
14 cooperation, Stop Work Orders, and the owner's
15 responsibility to completely remediate lead upon
16 vacancy. The real estate bullies of New York will
17 work to weaken the proposed legislation. Don't let
18 this happen. The City's decisions and actions must be
19 based on a complete consideration of all the data
20 with the interest of citizens and its children in the
21 four [sic] and squarely targeting the causes of lead
22 poisoning. Don't be intimidated by the real estate
23 lobby, as I suspect some of our agency has happened.
24 Thank you.

2 SPEAKER JOHNSON: No one here is making
3 any decisions based off that, but I appreciate you
4 saying it.

5 EDWARD RUDDOCK: Hi, my name is Ed
6 Ruddock [sp?], and I a member of Lead Dust Free NYC.
7 I'm here in support of the new proposed lead laws,
8 and I'm also concerned that many components of New
9 York City's Local Law One of 2004 have not been
10 enforced. And since lead is the most studied
11 neurotoxin, and any exposure to lead particles can
12 alter a child's development or trajectory throughout
13 their life. These are the practices that landlords
14 must follow, an adherence to 2004 law. higher firms
15 certified by U.S. EPA, when disturbing more than 100
16 square feet of lead paint, replacing windows or
17 fixing violations issued by the New York City HPD.
18 Use lead-safe work practices and trained workers when
19 fixing lead paint hazards, and when doing general
20 repair work that disturbs lead paint. Seal floors,
21 doors, and other openings with plastic waterproof
22 tape in the work areas. Clean the work areas with
23 wet mops and HEPA [sic] vacuums every day and after
24 work is done. Post warning signs around the work
25 area. Have a professional check lead dust levels

2 after clean-up is complete. In too many cases, the
3 aforementioned is not being done. Is it because of
4 dysfunction of city agencies and failure to ensure
5 that the 2004 law is adhered to, or the failure of
6 previous and present Administration to ensure that
7 our children are protected by this law, or both? A
8 mother in Flint, Michigan was voicing concern about
9 her child's elevated blood level, and a nurse
10 employed by state agency told her, "It's not the end
11 of the world, your child will only lose a few IQ
12 points." There injuries suffered by our children is
13 the end of the world that they are entitled to live
14 in. We are morally obligated to protect all
15 children. Thank you very much for the hearing, and I
16 hope these laws-- landlords adhere to them.

17 SPEAKER JOHNSON: Thank you, Mr. Ruddock.

18 EDWARD RUDDOCK: Thank you.

19 CHRISTINE RUCCI: Hello, my name is
20 Christine Rucci. I'm part of-- excuse me, I'm a
21 little nervous-- Lead Dust--

22 SPEAKER JOHNSON: [interposing] Don't be
23 nervous, take your time.

24 CHRISTINE RUCCI: Lead Dust Free New
25 York. I'm also a resident of the East Village. In

1
2 spring 2017, without my knowledge, lead dust was
3 seeping into my apartment. Construction was taking
4 place in a neighboring apartment, but with the
5 approval of the building's management had been taken
6 place without proper permits or proper protection
7 plan in place. They did not cover walls or safeguard
8 my apartment as according to the standard practices
9 required by the Tenant's Protection Plan and Local
10 Law One. All that separated my apartment from the
11 neighboring apartment was a quarter-inch of wood
12 paneling. Lead dust became trapped in the walls and
13 floors, and seeped into all of the cloth furnishings.
14 My son and I have spent a year consistently sick with
15 unexplained symptoms, and a spot showed up on my
16 biannual breast cancer test. I am a survivor, and I
17 safeguard my health every day. It became so bad that
18 my son, who has asthma, could no longer live in the
19 home for an extended period, and I suspect that the
20 exposure to lead from construction dust caused these
21 symptoms. The Department of Health and HPD inspectors
22 visited the apartment for over a five-month period
23 and declared it tested for high levels, almost double
24 the legal limit inside a residential apartment. Both
25 my son and I suffered with rashes, and even our pets

1 became ill. Sadly, one died, and the veterinarians
2 believed that exposure from toxins released during
3 construction was a contributing factor. The only way
4 to rectify this crisis was to take my landlord to
5 Housing Court. It took court orders, fines, major
6 clean-ups, and repairs to seal up the toxic walls and
7 floors so my son and I could return home to a normal
8 life. They did not follow court orders. I had to
9 seek the help of a State Senator. By telling my
10 story I hope others will be able to know their
11 rights, know how to report these issues, and to
12 highlight issues with the enforcement of Local Law
13 One. I support all of the laws in the package, and
14 it is my hope that the Department of Health, HPD and
15 Department of Buildings streamline communication and
16 actually hold these contractors, landlords and
17 management companies legally accountable so this
18 never happens to anyone. Thank you.

20 SPEAKER JOHNSON: Thank you, Ms. Rucci.
21 I'm very sorry to hear what's happened to you and
22 your son and your pets, and I can tell how emotional
23 and painful it is to--

24 CHRISTINE RUCCI: And just so you know,
25 at one point they told us not to even walk on our

2 floors or sit on our floors, and people that are
3 cancer survivors fight every day not to have toxicity
4 in their life, and your home is your dojo, and it
5 should be safe. Thank you.

6 SPEAKER JOHNSON: I agree with you.

7 CHRISTINE RUCCI: Thank you.

8 SPEAKER JOHNSON: I want to thank you for
9 being here and for being patient and spending all day
10 here to testify in front of us. We really, really
11 appreciate--

12 CHRISTINE RUCCI: [interposing] It's
13 important. If-- I-- if one other person gets helped
14 from this, that's all that matters. I don't-- that's
15 why I came.

16 SPEAKER JOHNSON: Thank you.

17 JAMES MARKOWICH: Hello. My name is
18 James Markowich. I'm a rent-stabilized tenant in
19 Manhattan. I'm associated with the TTC, which now
20 stands for Tenants Taking Control. We used to be the
21 Toledano Tenants Coalition. I'm also associated with
22 Cooper Square Committee. As a tenant I have
23 experienced lead dust-related problems. I'm also an
24 active participant in the LDFNYC, working toward a
25 lead dust free New York City. In that regard, I'd

1
2 like to address an existing practice in New York City
3 that actually actively promotes the release of lead
4 dust. It's something known as predatory equity.
5 Banks and developers have created a speculative
6 environment in which buildings that include rent-
7 regulated tenants are targeted and overvalued based
8 on the assumption that those tenants can be induced
9 into leaving. Madison Realty Capital, my corporate
10 landlord, values the 15 buildings in their portfolio
11 at almost four times the value placed on those
12 buildings by the New York City Department of Finance.
13 This disparity creates tremendous pressure on
14 affected tenants. One of the methods by which
15 unethical landlords try to remove such tenants is
16 known as Construction as Harassment. Emptied
17 apartments are taken down to the leaving and slipshod
18 haphazard manner, and that endangers the welfare of
19 the people who live in those buildings and the
20 workers how are doing that. When this happened in my
21 building in March of 2016, it resulted in lead dust
22 levels 16 times the EPA safe level limit. Two
23 toddlers lived in our building then. Their family
24 has since fled. I should mention this is a 10-unit
25 building. Eight of those units have now been emptied

1 of tenants. When I go home at night it's dark. The
2 City is currently lacking an oversight of demolition
3 practices like this, which in this current climate of
4 hyper-gentrification, is making this place difficult,
5 if not impossible, for middle and lower class, lower
6 income people to live. We need immediate increased
7 awareness on the part of a city wherever these
8 predatory equity practitioners are renovating
9 existing housing stock and immediate enforcement of
10 Local Law One in every case. With regard to the
11 upcoming bills, I'm generally in support of all of
12 them. I really liked Intro. Number 874 which talks
13 about the Department of Buildings and the Department
14 of Health working together. That would be especially
15 helpful. These landlords have to apply for building
16 permits with Department of Buildings. They get them.
17 That should be an indication that the Department of
18 Health should be notified. I want to thank the City
19 Council for thinking along these lines. Tenants need
20 legal protection to counter balance the money and the
21 undue influence of organizations such as the Real
22 Estate Board of New York. Thank you very much.

23
24 SPEAKER JOHNSON: Thank you, Mr.
25 Markowich. Ms. Daly?

2 ANNE DALY: I'm a member of the Lead Dust
3 Free New York group, the campaign, and happy to be
4 here to testify. I focus my comments on how the City
5 currently conducts enforcement around lead dust
6 contamination and on the pending legislation
7 regarding lead safety. To begin with, I'll briefly
8 describe the situation that my neighbors and myself
9 are currently dealing with. I'm a rent stabilized
10 tenant, and our very old East Village building has
11 eight tiny apartments. Because it was built before
12 1960-- I mean, a hundred years before that-- there's
13 a presumed presence of lead paint. Much of it is
14 visible peeling inside and out. Since the building
15 was sold three years ago to an LLC whose name I
16 still don't know, the new owners have sent those who
17 reside in this building, the annual [sic], have not
18 sent us the annual notice to tenant or occupant of
19 building with over three or more apartments, protect
20 your child from window falls and lead poisoning.
21 They haven't sent us that form. Since they took
22 over, a great deal of demolition, gut renovation,
23 extreme harassment through dust has occurred, and not
24 one construction permit has been posted. Although
25 neighbors have called 311, no Stop Work Orders have

2 been issued, and safe work practices and local lead
3 laws have not been enforced. Each renovation has
4 caused huge amounts of dust actually wafting through
5 the air. No floors, doors, windows, hallways, or
6 openings have been sealed with plastic, as work areas
7 are supposed to be. Because of the age of the
8 building, I believe the dust we are being exposed to
9 is full of lead. These hazardous conditions are left
10 for days. My neighbors believe workers employed are
11 unlicensed and not certified in lead abatement or
12 remediation. No work areas have been cleaned with
13 met mops or HEPA vacuums after work is completed. No
14 dust wipe samples have been taken. No warning signs
15 to tenants have been posted on any of the work areas
16 throughout the building. I'm excited to see all of
17 the pending legislation enacted, especially Intros
18 864, 873, and 874, but Local Law One of 2004 has
19 taught us this legislation is empty without
20 enforcement, and that's why I'm here. It's crucial
21 that legislation is enforced so that no one, not one
22 more New York tenant is lead poisoned or exposed to
23 lead dust, and I believe I have been. The effects
24 are well-studied, devastating and seemingly long-
25 lasting. In a city as bold and progressive as New

2 York, we cannot afford to have one more lead poisoned
3 child or adult. So, please act quickly to reform the
4 enforcement of existing lead laws and enact this
5 much-needed package of new legislation to further
6 strengthen the laws that protect New Yorkers from
7 lead. Thank you.

8 SPEAKER JOHNSON: Thank you, Ms. Daly.
9 So, HPD is here. So, I assume that you're going to
10 get the addresses of the folks who are testifying
11 here today and saying that there has not been a level
12 of responsiveness or enforcement in their buildings
13 where they continue to be exposed to this. I hope
14 that happens as quickly as possible, because we'll be
15 following up as well. Council Member Levine?

16 CHAIRPERSON LEVINE: Thank you, Mr.
17 Speaker. Just a very brief comment. This was such
18 an important panel, because for most of the four
19 hours we were speaking to the Administration we were
20 focused on the ingestion of lead through eating paint
21 chips or drinking water or through the soil, and
22 that's a real threat, but science has now established
23 that you can have the same negative impact from
24 breathing in lead, and the cutting edge of science
25 has also shown that adults who breathe in lead dust

2 are also vulnerable. There can be cardiovascular
3 damage. And we really didn't elicit that in the
4 discussion with the administration. So, it's
5 incredibly important that you're here to speak on the
6 record, and the crisis that you have identified is
7 what has motivated some of the bills in this package,
8 and we're happy now that you have given human stories
9 to express the profound impact that our failure to
10 reign in negligent landlords is having on New
11 Yorkers. Thank you for speaking up.

12 SPEAKER JOHNSON: Thank you all very
13 much. Our next panel is Jackson Fisher-Ward from
14 Assembly Member Harvey Epstein's office, Daniel Huber
15 from the IBO, Matthew Chacere, Adriana Espinoza, New
16 York League of Conservation Voters, Corey Stern
17 [sp?], and Jan Munn [sp?]. Is everyone here that I
18 called? Are we missing anyone?

19 MATTHEW CHACERE: I'm Matthew Chacere.

20 SPEAKER JOHNSON: Yes. One, two, three,
21 four, five, six people-- Adriana Espinoza? Yes. Jen
22 Munn? Yes. Daniel Huber? Yes. Corey Stern?
23 Jackson Fisher-Ward? Okay. We'll do these five
24 panelists. You may begin in whatever-- Mathew, you
25 want to start?

2 MATTHEW CHACERE: Sure, thank you. My
3 name's Matthew Chacere. I've been working in this
4 field for over 25 years, both representing individual
5 tenants in real life who have been poisoned by the
6 failures of the City, and as Counsel to the New York
7 City Coalition to End Lead Poisoning, which is class-
8 action against the City for failure to enforce the
9 law, and I was one of the people closely involved in
10 drafting Local Law One. So, I want to give a little
11 bit of a history lesson here, because I have a lot of
12 comments about the bills, but I've already given them
13 to your staff and we have specific recommendations in
14 my testimony and also in this report. Basically, in
15 the 1990s, the courts established three main points.
16 Number one, that the old lead paint law required full
17 abatement of every molecule of lead paint in every
18 single dwelling of New York City. That's what the
19 old Local Law One of 1982 required. Number two, the
20 courts declared that landlords are under an
21 obligation to inspect their own dwellings and make
22 sure they're safe. Number three, the court imposed a
23 requirement that there be safe work practices. We
24 didn't get that until we had the City held in
25 contempt of court. The City eventually did write

2 those regulations. So, in drafting Local Law One of
3 2004, which by the way, Mr. Speaker, was not signed
4 into law by the Mayor. It was vetoed by the Mayor.
5 It was passed by the City Council. The current Mayor
6 was one of the sponsors of the bill. It was enacted
7 over his veto. There was a much stronger proposal
8 called Intro 101, which I'll give you a copy of and
9 an explanation of it, but it had a lot of other
10 provision that were bargained away to avoid a veto,
11 which we got anyway, including targeting in certain
12 neighborhoods, data that would have answered all the
13 questions you've raised here. But we baked into
14 Local Law One these three principles that I just
15 discussed. Number one, that landlords have to
16 inspect their own dwellings if we're not going to
17 take all the lead paint out. That was the bargain.
18 Okay, you don't have to take it all out, because my
19 friends from real estate were here-- coming here all
20 the time and saying don't make us take it all out; we
21 can manage it. So we said, fine, built it into law.
22 You have to inspect at least annually. Do it in
23 writing, and it was made the most serious part of
24 this law. It said it's a misdemeanor if you don't.
25 Okay? And it also required that landlords give a

2 pamphlet to tenants so that they understand what
3 their rights are. Landlords don't do that. So when
4 the City comes in here and says, "Well, the tenants
5 call about dust problems,"-- if landlords don't-- if
6 tenants don't know that, then they're never going to
7 do so, okay? In our research and our analysis has
8 disclosed, as you pointed out, that not once has the
9 City ever, every placed a violation against a
10 landlord for doing this, and this is crucial. You
11 heard the City testify today. They have 57
12 inspectors. There are over 300,000 units of pre-60
13 rental housing with kids under the age of six.
14 Clearly, the City can't inspect them, so therefore,
15 landlords have to do so. If we don't do that, we're
16 still in a reactive mode, and we're never going to
17 deal with the problem. Number two, that you have to
18 abate the lead painted vacancy. And actually, the
19 original proposal in Local Law One was we were going
20 to abate all the lead paint on the high risk friction
21 surface by July 1, 2007. The Administration pushed
22 back and said, "No, but we'll do it at vacancy." The
23 only violation I know the City has ever placed out of
24 the 320--14,000 violations involved a client of mine
25 in Council Member Levine's district where the City

2 took a homeless family from a shelter, placed him
3 into a private rental dwelling, and by chance the
4 tenant called up HPD because there were lots of other
5 problems, and we discovered that the place was full
6 of lead paint. Homeless Services had certified this
7 an appropriate home for the family to move into, and
8 when we discovered this problem, she tried to go back
9 to the shelter because she said I can't live here,
10 and in fact, the Agency for Children's Services
11 threatened to remove her children from her because
12 they said she was being neglectful for living in a
13 home that the City had just placed her in. That was
14 the only time we ever had a violation written in the
15 last 14 years for failure to do the vacancy
16 abatement. So that part's not being done either.
17 The third piece, and this is all covered in this
18 report and in my testimony, was the use of safe work
19 practices. And you know, it's been discussed,
20 there's basically no compliance with vast aspects of
21 it. You asked earlier with the Health Department how
22 many of these pre-filings. We actually asked that a
23 meeting a couple of years ago at then Senator
24 Perkins' office, now Council Member Perkins' office,
25 with DOB, and they blurted out, "It's under 100 a

2 year." So, clearly, something's not working here.

3 And when the City comes here and tells you, "Oh,

4 we're really interested in these ideas in this

5 report," we've been talking to the City about this

6 for years, years. They know all about these issues,

7 it's no surprise. Vito Mustaciuolo has been part of

8 these meetings. We've told him, "You guys are not

9 doing any enforcement of the self-inspection against

10 landlords," and they've admitted it, so then they

11 moved him over to NYCHA to make sure that NYCHA self-

12 inspected. But they're not doing it. We've talked

13 about remedies for the Department of Buildings.

14 Like, for example, the PW1 form, which is a

15 construction permit form, you could have a box to

16 check off did you notify the Health Department so

17 that they know about it. They could send those to

18 the Health Department. It doesn't happen. In my

19 testimony I talk about some of the families we've

20 represented over the years in here, in Housing Court,

21 where there's been all of these violations, and even

22 when we've taken HPD to court with the landlord to

23 get them to enforce the law, HPD refused to place

24 violations for the failure to inspect and the failure

25 to do the turnover. And I've said to people like,

1 Vito Mustaciuolo, "How hard can it be?" If you found
2 lead paint on a door frame or a window frame, which
3 should have been abated at vacancy, all you have to
4 ask the tenant is, "When did you move in?" If you
5 moved in after August 2nd of 2004 when that law went
6 into effect, bingo, we've got a violation. You know,
7 ask the landlord, "We just found all this peeling
8 paint in February in your apartment. We've just
9 cited it." So then you ask the landlord, "Where's
10 your annual inspection report? Don't have it?" They
11 will not do it. I've taken them to court, Housing
12 Court, they've only agreed to sign on to stipulations
13 where we've asked for the fines to be imposed on the
14 landlord, because HPD absolutely 100 percent
15 unconditionally refuses to place the violation for
16 either 2056.4, which is annual inspection, or 2056.8,
17 which is the turnover requirements.

18
19 SPEAKER JOHNSON: Matt, we're going to
20 have some questions for you.

21 MATTHEW CHACERE: Sure.

22 SPEAKER JOHNSON: So I'm going to move on
23 to the next panelist, but we'll come back and you'll
24 have the opportunity to take some questions from us,
25 and continue--

2 MATTHEW CHACERE: Thank you.

3 SPEAKER JOHNSON: to expand upon your
4 comments. Yes?

5 ADRIANA ESPINOZA: Good afternoon. My
6 name is Adriana Espinoza. I'm the Director of the
7 New York City Program at the New York League of
8 Conservation Voters. I'd like to thank the Chairs of
9 the Committee, Chair Cornegy, Levine, and
10 Constantinides, and you, Speaker Johnson, for the
11 opportunity to testify today. While the number of
12 children with very high blood lead levels has dropped
13 significantly since 2004, we have been unable to
14 eliminate childhood lead poisoning. Earlier this
15 week, NYLCV along with advocates from NYLPI, Matt
16 Chacere from NMIC, and Cooper Square released this
17 report about how lax enforcement of Local Law One has
18 prevented the most ambitious lead poisoning
19 prevention law in the country from eliminating this
20 public health issue by the City's then stated goal of
21 2010. Local Law One was designed to hold landlords
22 accountable for proactively finding and abating lead
23 hazards before children became poisoned and to
24 eventually remove all hazards from rental apartments
25 throughout the City. Yet, data from DHMH and HPD

2 show that the City is not enforcing the primary
3 prevention measures of Local Law One. Specifically,
4 as Matt and others have covered today, landlords are
5 not being held accountable for failing to regularly
6 inspect apartment where children reside, abate lead
7 paint hazards before a new tenant moves into an
8 apartment, and use safe work practices. In fact, HPD
9 enforcement data indicates that New York City has
10 never taken any enforcement action against a landlord
11 for failing to conduct a mandated annual inspection
12 since the law went into effect, and as a result,
13 rather than a proactive regime envisioned by Local
14 Law One, the city's response remains complaint-
15 driven, which is too late for many families. Our
16 report includes recommendations, which I won't go
17 into here, but although some of the bills being heard
18 today can move the needle to protect children from
19 lead exposure and components of 864 and 865 I think
20 are good examples of that. Far better to make sure
21 that the existing law on the book is being maximized.
22 If landlords are not penalized for failing to inspect
23 and abate lead, simply put, we will continue to have
24 lead poisoned children in the City. So, regarding
25 some of the bills, the proposed bills regarding soil,

2 lead paint and dust on the interior surfaces of
3 children's homes and other buildings where they spend
4 time remains the primary cause of childhood lead
5 poisoning. This is entirely preventable, and in
6 order to tackle it, we should be focusing our energy
7 and resources on this primary exposure pathway.

8 While we recognize the need to ensure healthy soil
9 quality, especially in places like community gardens,
10 for example, broad requirements on the city agencies
11 to test all bare soil areas in parks, private
12 dwellings, and other places brings up questions of
13 feasibility and prioritization of city resources and
14 more analysis is needed on this issue. NYLCB
15 supports Intro 91A, requirement for childcare
16 facilities to annually test water used for drinking,
17 cooking, and provides those results to parents and
18 guardians of each child. However, leaving it to
19 DOHMH to set the action level standards instead of
20 making them into a law should be looked at. In
21 addition, just to close here, we cannot keep
22 functioning on a complaint-driven system, and must
23 instead be proactive. What's clear to everyone here
24 is that action is needed on lead. The bills being
25 heard today represent some ambitious strategies, and

2 we look forward to working with you continuously to
3 make these better. Thanks.

4 SPEAKER JOHNSON: Thank you very much for
5 being here, Adriana. Yes? Mic.

6 COREY STERN: Good afternoon. My name is
7 Corey Stern. I'm an attorney as well, like Mr.
8 Chacere. I represent 2,500 children in Flint,
9 Michigan individually who were lead poisoned by
10 consuming water. Here in New York City I represent
11 close to 200 individuals children who had lead levels
12 in New York City in NYCHA housing. In Flint, Michigan
13 I was appointed to be lead counsel for all of the
14 litigation on behalf of plaintiffs in that
15 litigation, and I think everything that everyone has
16 said so far on this panel and the questions that were
17 targeted at the heads of the Departments were strong.
18 I'm going to try not to rehash anything that
19 anybody's said. I just want to say to y'all, you
20 know, sort of off the cuff. You have my testimony,
21 and I'm not going to read it because it's long and I
22 hope it goes in the record. Everything that you're
23 doing in this legislation is awesome. The proposals
24 are great. Every single one of them is fantastic, but
25 the biggest issue that you have is you are, in order

2 to effectuate the purpose of each of these pieces of
3 legislation, required to have partners that are
4 enforcing it in a meaningful way. And you presently
5 have from what I heard, you know, from the folks who
6 testified today, and it's not an indictment on any of
7 them individually, but systematically as agencies,
8 there's literally no contrition on the part of anyone
9 that sat up here, not that they had to be contrite
10 about their personal roles, but on behalf of the
11 Departments that they represent. And so, for
12 instance, you had-- somebody asked, I think it was
13 Council Member Torres, asked about how does NYCHA get
14 a waiver through HPD for a unit that it's previously
15 inspected, when in fact NYCHA's already admitted that
16 the inspections that were done in order to procure
17 the waiver were done by folks who weren't licensed or
18 qualified. There was no answer for that. That's fine
19 that there's no answer for it, but the reality is
20 you're depending on that same agency, HPD, to help
21 effectuate each of some of these 25 bills that you're
22 proposing today. So, where I come in and where Mr.
23 Chacere comes in in some instances is what happens
24 once a kid is lead poisoned. And here's another
25 issue that y'all have not addressed or really

1 probably even know exists. If a kid, God forbid,
2 gets hit by a bus, a city bus, on Atlantic Avenue,
3 his parents are required to provide a notice of claim
4 to the City of New York based on the injury within 90
5 days of being hurt. If somebody falls through the
6 floor in a NYCHA building and breaks their back,
7 they're required within 90 days pursuant to statute
8 to provide notice to NYCHA that they've been injured.
9 When a kid is lead-poisoned, when a child is lead-
10 poisoned and injured through lead poisoning, his
11 parents are required if it's a NYCHA house to provide
12 notice to the City and to NYCHA within 90 days. It's
13 impossible for a child to provide notice that he's
14 been injured within 90 days of being injured when he
15 has no idea that he's been injured, in no small part,
16 because the inspections that were required to take
17 place in order to inform his family whether there's
18 lead present were even being conducted. And so what
19 happens in those situations, and I'll conclude with
20 this, is folks like me and folks like Mr. Chacere, we
21 file a motion to provide a late notice of claim to
22 NYCHA and to New York City on behalf of a child, a
23 minor child. Most instances, if not all instances,
24 the courts grant those motions because A, it's a
25

2 child, and B, you know, you don't want to waive the
3 rights of somebody who was a minor at the time it
4 occurred. The interesting and compelling part of
5 this that you should think about because these are
6 your partners in this going forward, in each and
7 every instance where we file a motion for late notice
8 for a child that was poisoned in NYCHA housing, NYCHA
9 and the City come in and contest the late notice, and
10 blame the parents for not providing notice sooner to
11 the court, to their entities, because the statute
12 says 90 days. And so the very folks who by way of
13 their actions are poisoning in some small part these
14 children are saying that the parents aren't letting
15 them know fast enough that their kids have been
16 harmed. So you've asked all these questions about
17 well what happens to the 4,200. Unfortunately, the
18 4,200 come to us, and so we try and file lawsuits on
19 their behalf to help compensate them. But it becomes
20 this unnecessary hurdle for lawyers and more
21 importantly for the kids and their parents to have
22 bring a lawsuit by getting permission from a court to
23 provide notice to an entity that they're suing, and
24 the entity turns around and says, "Sorry, you're out
25 of luck. You weren't in time." So, it's just an

2 issue for y'all to put in sort of your wheelhouse
3 when it comes to folks post-poisoning. This is all
4 about prevention, but what about the folks who are
5 already poisoned.

6 SPEAKER JOHNSON: Thank you, Mr. Stern.

7 DANIEL HUBER: Good afternoon Chairman
8 Constantinides, Cornegy, and Levine, as well as
9 Speaker Johnson and members of the committee. Thank
10 you for the op to appear before you today. I am
11 Daniel Huber, IBOs Environmental Analyst. Recent
12 news reports about the City's public housing
13 developments about lead, specifically the hazards of
14 lead paint, to the attention of New Yorkers. While
15 the lead paint is the predominant source of lead in
16 city residences, tap water can also be a Source. It
17 is notable that among the intros being discussed in
18 today's hearing, several concerned lead in City
19 water. Earlier this week, IBO published a report on
20 the prevalence of lead in drinking water. New York
21 City water is virtually lead -free when it flows out
22 the City's distribution systems. However, at
23 numerous privately-owned older, smaller, residential
24 buildings in New York have plumbing that contains a
25 much higher level of lead as currently allowed in new

1 construction. This lead can leech into water flowing
2 out of city taps. Among the findings from our study:
3 overall, IBO found that the City is in compliance
4 with federal and state regulations for at-the-tap
5 monitoring in residence and has been since 2010.
6 While the EPA has determined there is no safe level
7 of exposure to lead, it is set its action level at a
8 threshold of 15PPB due to other considerations such
9 as cost, public health benefit, and the ability of a
10 public water system to reduce contaminant levels
11 through corrosion control. Since 1993, residential
12 tap water samples have had on average lower levels of
13 lead and fewer tests have exceeded the EPA threshold
14 for lead. Smaller, older buildings that may have
15 lead service lines, especially those built in the
16 1920s and 1930s, generally have higher rates of lead
17 water tests above the federal threshold. And based
18 on test data from 2006 through 2016, the highest
19 rates of tap water levels exceeding the federal
20 threshold were in places like Ridgewood and Maspeth
21 in Queens, a bid for Stuyvesant in Brooklyn,
22 Riverdale in the Bronx, and South Beach in Staten
23 Island. While the City meets federal and state
24 regulations regarding lead in water, it is important
25

2 to note that federal rules permit 10 percent of
3 residential buildings to exceed 15 part per billion
4 threshold. There is no water lead standard for
5 individual private residential buildings, meaning
6 that no regulatory action is triggered for an
7 individual building, no matter how far above the
8 standard. In a city the size of New York, this means
9 that a substantial number of homes and families may
10 be exposed to lead from their faucets, but the scale
11 of the problem is unclear. The City currently has no
12 means to compel landlords or homeowners to remove
13 lead leeching service lines or fixtures. Landlords
14 are not required to provide lead-free water, and if
15 running from the tap for several minutes before
16 drinking is insufficient to lower lead levels,
17 tenants could face a choice between buying water,
18 using lead filters, or ignoring the problem.
19 Landlords are also not currently required to notify
20 tenants or perspective tenants if the building has
21 been found to have elevated levels of lead in the
22 water, or if renovation work may cause lead levels to
23 temporarily rise. The only notification or
24 requirement for the existence of lead pipes applies
25 only to homebuyers and is required under state law.

2 New York City has spent substantial sums of money on
3 drinking water filtration and on preserving the
4 quality of the water at the source upstate. However,
5 not every city resident has equal access to this
6 water as lead continues to leech into the water in a
7 small share of buildings before it gets to the tap.
8 Thank you.

9 CHAIRPERSON LEVINE: Thank you very much,
10 Mr. Huber. Please?

11 JEN MUN: Hello, my name is Jen Mun
12 [sp?]. I am a member of the Legacy Lead Coalition
13 which is a group of concerned residents, city
14 employees, scientists, advocates.

15 CHAIRPERSON LEVINE: Could you try and
16 speak a little closer to the mic? We just want to
17 make sure we can hear you.

18 JEN MUN: Did you hear-- should I start
19 from the beginning?

20 CHAIRPERSON LEVINE: Just a little closer
21 to the microphone, please.

22 JEN MUN: Hi. So we're collaborating to
23 reduce the potential harm we face from lead in soils.
24 I'm reading some comments from Cornell University
25 prepared by Murt McBride [sp?], Hannah Schlater

2 [sp?], Yolanda Gonzales [sp?], and Sam Anderson.

3 I'll leave the full text with you, but I just wanted
4 to touch on a little bit, comments regarding Proposal
5 Introduction Number 420A regarding soil lead
6 contamination in public areas. I want to sort of
7 just stop here and say if we're trying to get to zero
8 for us to ignore the hazards and risks that we face
9 with lead in paints as well as in water and soil,
10 then we're not going to get to zero unless we look at
11 entire, sort of. So, Healthy Soils and Healthy
12 Communities Partnership, led by Cornell University,
13 the New York State Department of Health, Brooklyn
14 College, and other partners bring together diverse
15 urban gardening, community engagement, and public
16 health interests, including scientists, bio-
17 geochemical soil, environmental health and behavioral
18 extension educators, community partners, gardeners,
19 and advisory committee incorporating insight from the
20 government's agencies, and community engagement in
21 public health, urban gardening and agriculture,
22 environmental, and educational perspectives. Healthy
23 Soil aims to better understand and address health
24 risks related to soil contamination and to develop
25 and promote scientifically sound, healthy gardening

2 practices throughout New York State and beyond. The
3 Healthy Soils team now works closely with the Legacy
4 Lead Coalition to proactively and equitably address
5 the history of lead contamination in New York City.
6 As members of the Healthy Soil Partnership, the
7 Cornell Cooperative extension, Harvest New York, and
8 Legacy Lead, we want to thank the City Council
9 members for attending to the legacy of lead in the
10 City and for holding this meeting. We strongly
11 support Proposed Intro 420A which addresses testing
12 for and remediating lead in soil for public parks,
13 community gardens and privately-owned public spaces
14 accessible to children. However, as outlined in this
15 testimony, we ask that the Committee consider the
16 need for additional discussion regarding funding for
17 testing and remediation, testing protocols with
18 frequency, record-keeping, and remediation best
19 practices. We are glad that the Council recognizes
20 the profound risks associated with exposure to lead
21 in soil. We have provided a summary of research-
22 based findings and have attached this to the
23 testimony for additional information and references.
24 Thank you.

2 CHAIRPERSON LEVINE: Thank you, Professor
3 Mun. Thank you for the panel. Mr. Stern, can you
4 clarify, have there been any awards for lead
5 poisoning for damages by the City of New York to
6 date? Has the City even compelled to make any awards
7 in lawsuits due to harm from lead poisoning to date?

8 COREY STERN: Absolutely.

9 CHAIRPERSON LEVINE: Can you estimate the
10 scale of the pay-outs either cumulatively or an
11 annual basis?

12 COREY STERN: Sure. Sorry, to interrupt
13 you, Council Member.

14 CHAIRPERSON LEVINE: Yeah.

15 COREY STERN: In an individual lead-
16 poisoning case, the range when successful for either
17 a settlement or a trial, we've had verdicts up to
18 eight million dollars and we've had settlements up to
19 2.7--

20 CHAIRPERSON LEVINE: [interposing] In New
21 York?

22 COREY STERN: In New York City.
23 Settlements up to 2.7 million dollars for a child,
24 and generally a settlement for a child who has been
25 harmed through lead, even the smallest settlement is

2 usually in six figures and usually over 500,000
3 dollars.

4 CHAIRPERSON LEVINE: Do you know how much
5 the payouts annually are?

6 COREY STERN: There's a report actually
7 in the New York Post that was done at some point in
8 time that indicated how much the Comptroller's Office
9 had allocated to settlements, but it didn't allocate
10 specifically to lead poisoning. It just was for all
11 of the-- I think they were doing a story for how much
12 money in lawsuits the City had paid.

13 CHAIRPERSON LEVINE: And what is the
14 potential liability then of the outstanding suits?
15 Can you estimate?

16 COREY STERN: I mean, so there's-- the
17 individual suits, I think, are too plentiful to
18 really know, because I personally from my experience
19 professionally don't necessarily believe the numbers
20 that have been put out there today, that 97 percent
21 of the individuals who are under the age of six who
22 were lead poisoned in the City of New York come from
23 private housing. There's 400,000 individuals that
24 live in NYCHA housing. Of that, there's about 30,000
25 at any point in time that are under the age of seven,

2 you know, six years old, and to say that, you know,
3 only 1,172 were poisoned last year with a lead level
4 over five just seems a little bit low to me, based on
5 what I know about the buildings. With regard to the
6 class action lawsuit that was filed, you know, we
7 filed a class action lawsuit against the Housing
8 Authority, against the Mayor, against the City,
9 against many individuals, some of whom testified
10 today. That's a lawsuit that involves the Fair
11 Housing Act, and you know, for purposes of your
12 question, more importantly, the lead paint disclosure
13 rules. And so anytime anybody moves into an
14 apartment or moves into a home or buys as home
15 they're required to be provided with a disclosure
16 that says there is lead paint, there was lead paint,
17 we don't know if there's lead paint, and so for each
18 of the 175,000 units in NYCHA housing, NYCHA has been
19 required to provide lead paint disclosures each and
20 every year. So even upon a renewal of a lease, NYCHA
21 is required to provide that disclosure. In the U.S.
22 Attorney's complainant in the Consent Decree, there
23 is some contrition that NYCHA did not provide those
24 disclosures, but more importantly for our purposes,
25 even if NYCHA was providing lead-based paint

2 disclosures, how can anybody afy [sic] that the
3 voracity of those disclosures are accurate in light
4 of the fact that NYCHA concedes that for at least
5 since 2012 they haven't been conducting the proper
6 tests. So, to your question, each one of those
7 disclosure violations carries with it a statutory
8 10,000-dollar penalty. In addition to the 10,000-
9 dollar penalty, each individual that was harmed as a
10 result of not being provided with a disclosure, gets
11 their actual damages, which could be for, you know,
12 for one of the individuals who sat on this panel
13 before, if it was a NYCHA home and they paid 1,200
14 dollars a month for rent, if the value of their home
15 was actually 500 dollars a month, as an expert might
16 testify, because had they had a lead disclosure they
17 wouldn't have paid as much or they wouldn't have
18 moved in at all. You can take the 175,000 apartments
19 and in addition to the 10,000 dollars per unit which
20 weren't provided, also get the actual damages. So,
21 I'd say at least seven billion dollars.

22 CHAIRPERSON LEVINE: Okay. Well, we
23 should be taking this action and pushing this
24 legislation because of the human impact of lead
25 poisoning, period. But the financial explosion [sic]

2 for the city only adds for the motivation to get this
3 right. So we appreciate you bringing that
4 perspective. And quickly, Mr. Hubert, because we do
5 have four more panels waiting, I just want to clarify
6 the very important point in your testimony which is
7 that there is no legal penalty to an individual
8 landlord for elevated lead levels in their water
9 supply. There are EPA standards that apply to us as
10 a municipality, but not laws that would sanction an
11 individual landlord for elevated lead in the water.
12 Is that correct?

13 DANIEL HUBERT: Yes, there's the-- the
14 EPA requirement is that there's a sample that DEP
15 takes of homes that are known to have lead in them,
16 and no more than 10 percent of those samples can be
17 above EPA's action level, but there is no individual
18 standard for housing. So, you know, the particular
19 house had a very high lead level in their water,
20 there is no regulation on that, and there is no
21 requirement that clean water is provided.

22 CHAIRPERSON LEVINE: That-- you have
23 something to add to that? Quickly. Okay, thank you.
24 Matt, sorry, go ahead.

2 MATTHEW CHACERE: Yeah, I just wanted to
3 add on to Mr.-- to Corey's response. First of all,
4 just to clarify, I'm not a personal injury attorney,
5 so I don't sue for personal injuries. I'm a legal
6 services attorney, but I have some familiarity with
7 what's happened in the field over the years, and
8 generally speaking, the City is going to be held
9 liable financially in two ways. One, we're dealing
10 with the cost of treating and managing the special
11 needs of kids who were poisoned. The City's liability
12 for failure to enforce the laws in private housing,
13 which is, by the way, where 97 percent of the
14 poisoning is happening, is not going to happen. That
15 was established by the Court of Appeals in the Palays
16 [sic] versus Say [sic] case for-- poor enforcement
17 doesn't make the city liable. Where the City gets
18 nailed, of course, is where it's in housing that they
19 had some role in actually owning, like for example,
20 there was a case maybe a dozen years ago where the
21 City placed a bunch of kids in a homeless shelter
22 that was full of lead paint, and that judgement was
23 something like 20 million dollars, which was entirely
24 the size of the entire state lead poisoning
25 prevention program budget, just one family. And so,

2 you know, my focus here is on prevention, and I think
3 that's what we need to be looking at, and
4 unfortunately, the tort system doesn't fully deal
5 with preventative aspects, because a lot of the
6 smaller landlords or not so small ones don't have
7 insurance to cover this. You know, 25 years ago they
8 changed the insurance laws to allow most of the
9 insurance companies to put in a lead exclusion. So
10 even if these kids are poisoned and they sue the
11 landlord, they're not going to be able to recover any
12 money, and therefore, nobody takes the cases. So
13 that's why we have to focus on stopping it.

14 CHAIRPERSON LEVINE: Got it. We do have
15 to wrap up. Do you have something very, very quick,
16 Corey? Yeah.

17 COREY STERN: The last thing I'll say is
18 this. Y'all sat and listened to the exact same
19 testimony that I did. When my kids go away with
20 their grandparents and we're not with them, my kids
21 will ask for candy and the grandparents say yes.
22 Then they ask for more candy. They just keep asking
23 until the grandparents say no. if you feel at all
24 like I did and like some of the people in the crowd
25 did today, that the enforcement part of this is never

1 going to catch up to the progressive nature of the
2 legislation, I suggest to you to be bold. Ask for
3 more candy. Instead of making it a five micrograms
4 per deciliters, say any micrograms per deciliter,
5 because if you have no confidence or if you have
6 little confidence that they're going to do it anyway,
7 why not as bold progressive as all of you are, and
8 this legislation is that, why not just make it
9 anything higher than zero? Because if they ain't
10 [sic] going to do it anyway, you may as well just ask
11 for more candy.
12

13 CHAIRPERSON LEVINE: We appreciate that.
14 I've got to hang out with your grandparents at some
15 point. And thank you for this very important panel,
16 and we're going to call up our next panel which is--
17 looks like Ms. Charles from Mariner's Harbor Houses,
18 Joel Kupferman, from Smith Houses, Hannah Senelli
19 [sp?] from Concerned Parents and 11222 [sic], Gwen
20 Armstrong from Park West Village, Carmen Quinones
21 [sp?], from Douglas Houses. I realize some folks may
22 have had to leave because the hour is late. Are any-
23 - okay, we are going to move to the next panel, which
24 I do believe includes David Carpenter [sp?]. Mr.
25 Carpenter can join the panel. Julissa Gilmore from

2 New York City Environmental Justice Alliance. Igor
3 Bronz from the Urban Sales Institute. Joe Lozefski
4 from New York City Urban Soils Institute. Franziska
5 Landes from Columbia University Soil Testing. Sara
6 Perl Egendorf from Brooklyn College. Okay, so-- do
7 we have seats for everybody? Great. And we'll start
8 with you, is it Mr. Carpenter?

9 DAVID CARPENTER: Thank you, and I'm
10 sorry that I have a train I have to catch. I'm David
11 Carpenter. I'm a public health physician at the
12 University at Albany. I'm the former Director of the
13 State Health Department Laboratories. I'm the former
14 Dean at the School of Public Health at the University
15 of Albany. I support this legislation, and I really
16 like the comment that five micrograms per deciliter
17 is not protective. There's lots of evidence that
18 lower levels still reduce IQ in children, and that in
19 fact the decrement, the slope of the loss of IQ is
20 steeper, below five micrograms per deciliter than it
21 is at higher levels. But what I really wanted to
22 present today is some of my own research that focuses
23 on this issue of dust and soil. I was a little
24 distressed that the Health Department minimized that
25 as an important route of exposure. Unfortunately, I

2 think it is an important route of exposure. It--
3 perhaps it's not as important as lead in buildings,
4 but let me tell you my study I wasn't involved in.
5 This was with colleagues in China in a village that
6 was close to a lead mine. There was no lead paint
7 involved, but the children in that village had
8 average blood lead levels of 8.6 micrograms per
9 deciliter, well above the five micrograms per
10 deciliter, and the soil tested 760 parts per million
11 of lead. And the study that we did used an EPA model
12 that allows you to rate the different sources of
13 exposure. So we analyzed food. We analyzed drinking
14 water. We analyzed the soil outside the house and in
15 the community and the dust in the house. We found
16 that 86 percent of the exposure of those children
17 came from the combination of the soil outside and the
18 dust that blew inside and was tracked inside. Now,
19 you've heard about the construction dust, an
20 enormously important issue, but little kids-- the
21 other point I should make is the children that were
22 younger had higher levels than those that are older.
23 Children track dust into their house. Winds blow dust
24 in their house. Construction dust is important. And
25 these-- in this family, these families, the exposure

1 was primarily from the contaminated soil and how that
2 soil got into the house. So, I certainly don't mean
3 to minimize lead-based paint. It's an important sort
4 of exposure inside. The old lead on the outside of
5 the houses that was scraped off stays there in that
6 dirt and that's also an important source of exposure.
7 So, I think we need a comprehensive approach to this
8 issue that deals not just with indoor paint and
9 water, but also attempts to directly attack the issue
10 of soil and dust from the soil. And I'm sorry, but
11 I'm just going to have to leave.

12 CHAIRPERSON LEVINE: No offense taken.

13 We're glad you were able to stay. Thank you for that
14 important testimony.

15 DAVID CARPENTER: Thank you so much.

16 JULISSA GILMORE: Good afternoon. My
17 name is Julissa Gilmore, and I'm here to testify on
18 the behalf of the New York City Environmental Justice
19 Alliance. Founded in 1991, the New York City
20 Environmental Justice Alliance or NYEJA is a
21 nonprofit citywide membership network linking
22 grassroots organizations from low income
23 neighborhoods and communities of color and their
24 struggle for environmental justice. NYEJA empowers
25

2 its member organization to advocate for improved
3 environmental conditions and against inequitable
4 environmental burdens. Through our efforts member
5 organizations coalesce around specific common issues
6 that threaten the ability of low income and
7 communities of color to thrive and coordinate
8 campaigns designed to affect city and state policies,
9 including toxic exposures. New York City has failed
10 to adequately enforce lead laws to ensure the health
11 and wellbeing of all New Yorkers. Lead has long been
12 an important public health issue in the environmental
13 justice communities. This is more recently
14 demonstrated by the exposure of hundreds of
15 children's that involves the high levels of lead in
16 their drinking water in Flint, Michigan, a low income
17 community of color. Children from low income
18 neighborhoods and communities of color bear the
19 highest burden of lead poisoning in New York City. In
20 children, lead can have serious consequences on brain
21 development resulting in decreased intelligence,
22 behavioral difficulties and learning problems. At
23 higher levels, lead can attack the brain and central
24 nervous system and even result in death. Given the
25 serious health effects of lead exposure in children,

1
2 it's troubling how many New York City public schools
3 are found to have high levels of lead from faucets,
4 and the initial attempt of New York City DOE to skew
5 the results by performing pre-stagnation flushing.
6 Even more disconcerting is the failure of NYCHA to
7 perform lead inspections at their properties and
8 falsely reporting that the inspections were
9 completed. We would also like to highlight the
10 importance of the New York City Department of Parks
11 and Recreation, the New York Department of Health and
12 Mental Hygiene to conduct soil testing in parks and
13 community gardens, given that studies have found lead
14 in soil from community gardens. Furthermore, we
15 recommend the City prioritize the remediation of lead
16 contaminated soil in parks and community gardens.
17 New York City has failed to adequately uphold
18 existing lead protections. NYEJA supports the City
19 Council's introduction of these new proposed lead
20 laws. We demand that the City ensure that these laws
21 are adequately enforced and hold those who are
22 required to complete inspections accountable so that
23 the most vulnerable populations in New York City are
24 protected from dangerous levels of lead exposure and
25 the accompanying adverse health effects. NYEJA would

2 like to thank the New York City Council for holding
3 this oversight hearing on the City's enforcement of
4 existing lead laws, these proposed rule changes, and
5 for the opportunity to testify.

6 CHAIRPERSON LEVINE: Thank you so much,
7 Ms. Gilmore. You, I don't know if you timed that,
8 but you could be in politics. Well done. Thank you.
9 Please?

10 IGOR BRONZ: Good afternoon.

11 CHAIRPERSON LEVINE: Your microphone?

12 IGOR BRONZ: Good afternoon. My name is
13 Igor Bronz. I am the Laboratory Operations
14 Consultant at the Urban Soils Institute. I hold a
15 Master's of Science and Applied Geosciences from the
16 University of Pennsylvania. My testimony consists of
17 two key points I wish to make about a mandate
18 specified in Intro 422. My first point is with
19 regard to the testing requirements for soil lead.
20 Intro 422 mandates that a property owner send in a
21 single sample for lead testing. A single sample
22 cannot be characteristic of the soil as test-- that
23 it's looking at. Soil is very spatially variable.
24 The Natural Resources Conservation Service, the
25 branch of the Department of Agriculture, they're the

2 guys who-- that does soil survey for New York City.

3 They typically test/screen soil for heavy metals in a

4 grid. The resolution of this grid depends on how big

5 the area is and the time constraints they have. So,

6 an area about as big as this room would have a soil

7 screen done every 10 feet. If you have a house

8 coated in lead paint, the lead reading at the base of

9 your house is going to be a lot higher than at the

10 edge of your yard. So, and the difference between

11 those two other readings can, you know, give you the

12 figure that's within the threshold or beyond it. So,

13 simply sending in one sample is never going to be

14 characteristic. In fact, five samples is rarely

15 characteristic. My second point relates to the

16 enforceability of 422. Intro 422 requires that a

17 property owner submit a soil lead test to the New

18 York City Department of Health and Mental Hygiene.

19 As with all environmental regulations there are

20 liabilities. My concern is that as 422 is currently

21 written, certain points of the law would present

22 difficulties with regard to enforcement. As someone

23 who has tested soil for or screen soil for four

24 years, there is now way for me to truly know where

25 the customer's soil is coming from, besides the

2 customer's own admission. So, a property owner that
3 knows that they have high lead in their soil can just
4 obtain a clean soil sample from elsewhere and send it
5 in on as their own. I have no way of knowing, you
6 know, if they did that or not. I believe that
7 testing methodology and requirements need to be given
8 a second look. Thank you.

9 CHAIRPERSON LEVINE: Thank you very much.

10 GEORGE LOZEFSKI: Good afternoon. My
11 name is George Lozefski. I am the Land Manager and
12 Field and Education Outreach coordinator for the New
13 York City Urban Soils Institute. He was my
14 colleague. Before that, I was an environmental
15 consultant for several years, and before that I
16 worked as Research Staff at Columbia University's
17 Lamont-Doherty Earth Observatory for over 12 years.
18 So, I'll be speaking also to Intros 420 and 422.
19 First, I'd like to say we appreciate the Committee's
20 hard work in bringing attention to lead in urban
21 soils. And although I checked off the box that says
22 "Opposed," I want to make it clear that we're not
23 opposed to laws and regulations that are put in place
24 and force mandatory testing or remediation. But we
25 believe that some things need to be considered first

1 before these bills are passed into law. To start
2 with, we-- because we're a soils institute we care
3 about soils, soil's quality, soil chemistry. So, if
4 you consider behavior and function of soils with
5 respect to-- I'll mention just a few things here.
6 Igor already mentioned one thing. The extremely
7 variability of lead concentration and other
8 contaminants and soils, that makes mandatory sampling
9 of one sample really insignificant. It's just not
10 going to give you any kind of information that's
11 going to be useful. Also, you want to consider the
12 bioavailability, the bio-accessibility of
13 contaminants. In other words, how-- what's the real
14 risk exposure? What's the actual exposure to risk
15 from working with soils, from using soils or from
16 kids playing in or around soils? And to-- the last
17 thing to also consider is, if you're going to
18 determine threshold values, how do you determine what
19 threshold values should be that can successfully be
20 enforced by these laws? What's a good threshold
21 value? I mean, the DEC here is 400 PPN. Other
22 states have lower threshold values. For instance,
23 [inaudible] just told me earlier today, 80 PPN in
24 California. Europe has lower threshold values. I
25

2 mean, what's the right threshold value. It's compli-
3 - soils are complex and so looking at doing more
4 research and collecting data on some of these
5 questions is one of the missions that USI has been
6 involved with for the past few years, and we believe
7 that collecting that data and using that information
8 and disseminating that information to the public
9 through education and outreach and, of course,
10 sharing that information with legislation would be
11 used as a tool to inform how to best develop these
12 bills. I think that would be-- if you're going to
13 try to approach the-- get a fair and equitable
14 approach to mandatory remediation and testing, I
15 think we need to educate ourselves with respect to
16 all these different properties. I have too many
17 things to talk about, but I'll just say lastly, so
18 the US-- that's one of the things that USI would hope
19 to convince the committee is that we are going to
20 facilitate the research, the collection of data, the
21 test. We test thousands of soils a year, so we know
22 our stuff, and we want to work with the City and the
23 Council on getting this information to make the laws
24 fair, and so I'd like to thank the Committee--

2 CHAIRPERSON LEVINE: [interposing] Thank
3 you, Mr. Lozefski. If you have not already, please
4 submit your full written testimony.

5 GEORGE LOZEFSKI: Oh, I'm sorry, I forgot
6 to hand it out, yeah.

7 CHAIRPERSON LEVINE: And we can-- only
8 for your benefit, because we want to have it in the
9 record, if you weren't able to cover all your points.

10 GEORGE LOZEFSKI: I've got like 500
11 copies. No, 20 copies.

12 CHAIRPERSON LEVINE: That should be
13 sufficient. Thank you. Please?

14 FRANZISKA LANDES: Hi, good afternoon.
15 Thank you for taking the time today to talk about
16 lead hazards in our community. My name is Franziska
17 Landes, and I'm an Environmental Geochemist and a PHD
18 candidate at Columbia University. Over the past year
19 and a half I have tested a lot of soils throughout
20 our city, specifically in Northern Brooklyn, and as
21 we've heard here today that lead damages child
22 development and that soil contamination, soil
23 contaminated with lead, can contribute to that
24 exposure whether it's carried indoors or the child is
25 playing outside, it gets stuck on their hand, they're

1 ingesting it. My research advisors and I have three
2 main points to make today, and the first is testing
3 is important of soils and distributing that
4 information. Two, to also include private residences
5 in the areas that we're testing, and finally, to look
6 at solutions in terms of supporting bringing in clean
7 soil to cover those areas. So, as was just
8 mentioned, soils can be highly variable in lead
9 levels. It can be really difficult to tell where
10 there's been old soil that maybe has accumulated, all
11 that history of pollution where lead has been built
12 up and it-- the lead stays in that soil, right? It
13 doesn't go away. Where-- or-- and to tell the
14 difference between that old soil and where new soil
15 has been brought in, it's clean. So, we really need
16 to test to find out, to highlight that from our
17 testing over the last year. We tested over 60 homes
18 in northern Brooklyn and found that 80 percent of
19 those samples were above the restricted residential
20 limits for lead and soil, and almost 50 percent
21 exceeded that commercial limit of 1,000 PPM of lead
22 in soils. And comparing that to public soils, only
23 16 percent exceeded that 400-- the restricted
24 residential and only two percent exceeded the
25

1 commercial limit. So that brings me to my point,
2 too, which is looking at these residential back yards
3 as well. A lot of, you know, brownstones, if we're
4 thinking about it, they're hard to access, so maybe
5 there's been no new soil brought in, but when we're
6 seeing that over 75 percent of those samples-- homes
7 have at least one sample over the commercial limit of
8 1,000, then that's cause for concern for health and
9 cause to test. We know New York City can do this,
10 because they offer free water testing already for
11 residents through 311. So, I would propose that a
12 free soil testing kit, similar to the water testing
13 kit, be made available to residents, anyone who lives
14 there. Testing for soil is actually cheaper than
15 testing for water. So, in terms of resources, this
16 really could be done with an XRF instrument, as has
17 been mentioned. And finally, to wrap things up, you
18 know, there are great initiatives such as through the
19 Mayor's Office of Environmental Remediation that look
20 at the Pure Soil program that look at bringing in
21 clean soils excavated from construction areas,
22 bringing it in to parks and residences and to support
23 these programs so that we can apply it to protect our
24 children. Thank you.
25

2 CHAIRPERSON LEVINE: Thank you, and I
3 want to acknowledge that Council Member Costa
4 Constantinides who Chairs the Environmental
5 Committee, has actually been an advocate of the
6 provision of home soil testing kits, analogous to
7 what we offer for water testing. Do you or do any of
8 the panelists know the cost of oen those kits?

9 FRANZISKA LANDES: Of the water-- of the
10 soil test?

11 CHAIRPERSON LEVINE: Soil testing, yes.

12 FRANZISKA LANDES: Well, I mean, I know
13 USI charges ten dollars for a kit, but once the-- the
14 large cost is the XRF unit, and once you have that
15 unit measuring an individual sample can take up to 30
16 seconds or a minute.

17 CHAIRPERSON LEVINE: But is it
18 logistically and economically feasible to send a kit
19 to a private homeowner in New York City for them to
20 administer themselves?

21 FRANZISKA LANDES: Well, they would
22 collect the sample and submit-- send the soil sample
23 back--

24 CHAIRPERSON LEVINE: [interposing]
25 Understood.

2 FRANZISKA LANDES: which is exactly what
3 they do--

4 CHAIRPERSON LEVINE: [interposing] Okay.

5 FRANZISKA LANDES: with the water test.

6 CHAIRPERSON LEVINE: So, the collection
7 kit is fairly inexpensive and easy to use?

8 FRANZISKA LANDES: It could be as simple
9 as collecting soil in a plastic Ziploc bag and
10 sending it to the City.

11 CHAIRPERSON LEVINE: And we hear you loud
12 and clear that a single sample is not sufficient.

13 FRANZISKA LANDES: Right.

14 CHAIRPERSON LEVINE: But at any rate, it
15 could be done by a homeowner if the city were to
16 facilitate provision of the kids.

17 UNIDENTIFIED: Yes.

18 CHAIRPERSON LEVINE: Okay, important
19 point, thank you.

20 SARA PERL EGENDORF: Good afternoon.
21 Thank you for providing us with this opportunity to
22 comment on Intro 420 and 422. My name is Sara Perl
23 Egendorf and I'm a PHD student at the City University
24 of New York's Graduate Center, Advance Science
25 Research Center, and Brooklyn College. Today, I'm

2 speaking on behalf of the Urban Soils Lab at Brooklyn
3 College led by Doctor Joshua Chang [sp?], Professor
4 of Environmental Geochemistry and Urban Soils. Our
5 lab has conducted extensive research on soil lead for
6 over 10 years and has published one dozen peer-
7 reviewed research articles, mainly on the topic of
8 soil lead contamination in New York City. First of
9 all, we would like to applaud the initiative by the
10 Council Members to introduce legislation on soil
11 lead. Certainly, paint and water are important
12 exposure mechanisms, but we firmly contend that soil
13 is also an important exposure pathway. This is a
14 historic and positive first step in addressing many
15 serious health hazards associated with lead in soils.
16 This is a nationwide and global issue and collective,
17 concerted efforts are urgently needed to address the
18 dangers of soil lead that put all urban residents,
19 particularly children, and particularly people from
20 low income communities of color at risk. Based on
21 findings from our research as well as the research of
22 many others, soil lead contamination in New York City
23 is pervasive. Remediating other contaminated space
24 will be a daunting task, but it is therefore critical
25 to define priorities for remediation and set

2 appropriate thresholds for different land uses.

3 There are also programs that have already been
4 mentioned like the pure soil and clean soil program
5 lead by the New York City Mayor's Office of
6 Environmental Remediation that can provide materials
7 to cover contaminated soils. Regardless of what
8 remediation methods are selected, clear standards for
9 these testing and remediation protocols should be
10 developed very clearly and carefully in order to set
11 regulations. It is also imperative to fund the
12 Department of Parks and Recreation and the Department
13 of Health and Mental Hygiene for testing and
14 publishing of results. Publication of testing
15 results should be done in ways that are accessible
16 beyond the internet and this can be done in many ways
17 such as reporting to community gardeners, community
18 boards, council members, etcetera. Of utmost concern
19 is the potential for closing public parks or
20 community gardens if contaminants are found and
21 resources are not available to remediate them. These
22 spaces provide invaluable health, social, culture,
23 community, and environmental benefits, even in the
24 midst of legacy contaminants. We implore the City to
25 allocate resources for soil testing or screening with

2 XRF, publishing results and remediation. We want to
3 bring your attention to another important complexity,
4 which was mentioned previously about the
5 heterogeneity soils, so I'm going to skip that, and
6 I'll submit the full testimony, and I want to-- by
7 saying that we are holding-- we've been convening a
8 coalition that we call the Legacy Lead Coalition for
9 over two years, meeting monthly, and we're holding a
10 town hall meeting at Brooklyn College on October
11 19th. So we welcome you all to join us and spread
12 the word. We'll be honoring and learning from the
13 work of Doctor Howard Mielke from Tulane University
14 in New York who is one of the first researches to
15 identify lead in soil as a risk to human health. So,
16 thank you so much, and we look forward to being in
17 touch about this proposed legislation with you.

18 CHAIRPERSON LEVINE: Thank you very much.
19 We have a question from Council Member Kalman Yeger
20 from Brooklyn.

21 COUNCIL MEMBER YEGER: Thank you, Mr.
22 Chairman. This is for our geochemist. Right-- one
23 of the left-- oh, you're all geochemists? Okay. The
24 one right before the last one. Right there, okay.

2 You said you tested in northern Brooklyn, exclusively
3 in northern Brooklyn?

4 FRANZISKA LANDES: Yes, we've started
5 working in the backyards in northern Brooklyn.

6 COUNCIL MEMBER YEGER: how many homes did
7 you test in northern Brooklyn?

8 FRANZISKA LANDES: Sixty-three.

9 COUNCIL MEMBER YEGER: Sixty-three, and
10 of the 63 homes in northern Brooklyn that you tested,
11 80 percent of those tested positive?

12 FRANZISKA LANDES: So, 80 percent of the
13 samples. We collected five samples per home.

14 COUNCIL MEMBER YEGER: Is it fair to say
15 based on an 80 percent positive report of 63 homes in
16 one neighborhood in New York City that we should
17 create a policy that covers the entirety of New York
18 City?

19 FRANZISKA LANDES: I think that's why
20 we're proposing to expand the testing, because we can
21 only from our data currently speak toward that
22 neighborhood, but we've identified enough of a cause
23 for concern that we think we should be looking more
24 broadly.

2 COUNCIL MEMBER YEGER: What used to be--
3 what predominant field of enterprise used to be in
4 northern Brooklyn to your knowledge?

5 FRANZISKA LANDES: A lot. We know-- it
6 was a very highly industrial area.

7 COUNCIL MEMBER YEGER: They had a Navy
8 yard there where they build ships and had a lot of
9 factories. So it was probably different than my
10 neighborhood, Midwood, which up until about a 100
11 years ago was farm land. Councilman Levine's
12 neighborhood, Uptown Manhattan--

13 FRANZISKA LANDES: [interposing] But--

14 COUNCIL MEMBER YEGER: which was also
15 farm land until about 100-150 years ago. And
16 Councilman Cornegy's neighborhood which was also farm
17 land until about 150 years ago.

18 SARA PERL EGENDORF: My previously farm
19 land back yard in Crown Heights has 2000 parts per
20 million of lead.

21 COUNCIL MEMBER YEGER: Okay, and how many
22 homes did you test in Crown Heights.

23 SARA PERL EGENDORF: So, there have been
24 numerous samples, I think around 1,500, sent to the
25 lab at Brooklyn College, and there is a paper

2 published on this, so I'd be happy to share those
3 results with you.

4 COUNCIL MEMBER YEGER: Do you have the
5 percentage of those 1,500 that we tested, that tested
6 positive?

7 SARA PERL EGENDORF: Yeah, did you get
8 the--

9 FRANZISKA LANDES: [interposing] So,
10 from the Chang [sic] 2015 soil science paper, 68
11 percent of back yard soil samples that were submitted
12 were above the 400 residential, and that was across
13 the City, and they have a nice map showing different
14 regions, and--

15 COUNCIL MEMBER YEGER: [interposing] So,
16 68 percent citywide?

17 FRANZISKA LANDES: Yes, of those samples--
18 -

19 SARA PERL EGENDORF: [interposing] Of
20 samples sent in.

21 FRANZISKA LANDES: homeowners submitted.

22 COUNCIL MEMBER YEGER: So, that's not
23 necessarily representative either, because that's a
24 self-selected sample, that correct?

25 FRANZISKA LANDES: Correct.

2 COUNCIL MEMBER YEGER: Okay, alright. I
3 just want to make sure that we understand what we're
4 talking about, that when we're trying to create a
5 policy that may involve the City of New York deciding
6 that they're going to send home testing kits that may
7 cost 10 dollars, and then there's obviously an
8 additional cost involved in testing the result of
9 those kids, and who knows how much that can cost, you
10 know, before we shoot that net far and wide, we'd be
11 sure that we know exactly what we're talking about,
12 right?

13 FRANZISKA LANDES: Well, and that's why
14 we advocate testing to find out--

15 COUNCIL MEMBER YEGER: [interposing]
16 That's why we advocate what?

17 FRANZISKA LANDES: So we can find out.

18 COUNCIL MEMBER YEGER: Well, don't you
19 advocate a bigger study? You don't advocate
20 necessarily sending out testing kits to every single
21 home in the City of New York, right?

22 GEORGE LOZEFSKI: More research, more
23 data. We have to do more testing. Their pop-- the
24 population study that they're talking about also is
25 proportionately skewed towards Brooklyn because a lot

2 of the folks who are sending it to Brooklyn college,
3 that ended up being most--

4 COUNCIL MEMBER YEGER: [interposing]
5 Right.

6 GEORGE LOZEFSKI: of the folks.

7 COUNCIL MEMBER YEGER: I mean, in one
8 case proportionately skewed to northern Brooklyn,
9 which I don't even know what-- my definition of
10 northern Brooklyn may be different than northern
11 Brooklyn. I'm assuming it's near where you live and
12 thereabout, so it's 63 homes, right? In northern
13 Brooklyn.

14 FRANZISKA LANDES: Which is why we need
15 more testing.

16 COUNCIL MEMBER YEGER: Okay.

17 SARA PERL EGENDORF: Well, and agree that
18 these are important considerations.

19 COUNCIL MEMBER YEGER: I don't want to
20 belabor the-- I don't want to belabor the point. I
21 think I got you. I think you got me on this. Okay,
22 thank you very much, Mr. Chairman.

23 CHAIRPERSON LEVINE: Thank you very much,
24 Councilman Yeger, and we thank this panel for a very
25 important contribution. We have our final panel

2 which will consist of Fran Agnone from the National
3 Wildlife Federation, Mary Anne Rothman [sp?] from the
4 Council of New York Cooperatives and Condominiums,
5 Arthur Klock from Local One Plumber's Union,
6 Christine Appah, New York Lawyers for the Public
7 Interest, AKA NYLPI, Benjamin Anderson from the
8 Children's Defense Fund, Jill Samuels from Montefiore
9 Medical Center, Doctor Lenora Filani [sp?] from
10 Allstars Project, Jackson Fisher-Ward, from Assembly
11 Member Harvey Epstein's office. Okay, sure. Okay,
12 so do we have enough seats for everybody? Excellent.
13 Please, kick it off.

14 FRAN AGNONE: Hello there. I first want
15 to thank the Council for hearing my testimony. I'm
16 very grateful to live in a city where our local
17 representatives are examining and setting forward
18 really impressive groundwork for such expansive
19 legislation to protect our children, contact with
20 lead in all areas, but today I'll be focusing on
21 supporting the bill 420A regarding testing lead in
22 soil. My name is Fran Agnone, and I'm a
23 representative of and employee of the National
24 Wildlife Federation, a national education and
25 outreach organization with 501C3 status that

2 encourages outdoor play and environmental search
3 [sic] of activities. This means we ask our children
4 to be in soil, to get dirty. So, you can understand
5 how complicated this is working as an environmental
6 education advocator in north Brooklyn in the
7 community of Green Point where levels have been
8 coming back at numbers that have been scary to
9 families who don't know what these numbers mean. So
10 we've been working very closely with the Legacy of
11 Lead group and the researchers to figure out how to
12 shed light on this to people who want their kids to
13 play outside, and as an employee of the National
14 Wildlife Federation we believe that outdoor play is
15 essential for healthy development of our children,
16 especially in the city that's starved for green
17 space. So last year I worked with a coalition of
18 parents from the elementary school I work in, in
19 PS110K, to determine what kind of messaging and best
20 practice parents need to hear to know about lead
21 being in soil in the first place and how to take some
22 necessary caution. I've included samples of these
23 postcards and the language in my testimony, but I
24 also have those in Polish and Spanish if anyone is
25 interested, the languages our communities speak. And

2 so I also want to add in that we collected samples
3 just as you're asking to from community members and
4 we provide-- all we asked was that they brought it in
5 an Ziploc bag. We mailed it brought it directly to
6 the Urban Soils Institute, and each test costs 10
7 dollars, and it gave them at least an understating of
8 what was in their backyard or in their park if they
9 wanted to collect from a park. We had over 100
10 people participate. So, after reviewing the bill's
11 language, I just wanted to reiterate that most people
12 know about lead in the water and in paint, but lead
13 in soil is not as communicated or understood, and so
14 we're advocating that there be a public outreach and
15 education campaign with this bill so caregivers of
16 young children know what to do when it comes, things
17 like washing their hands and changing their clothes
18 if they got really dirty outside. Really simpler
19 precautions, but we also want more research to know
20 what's going on. So, thank you for your time, and
21 I'm happy to help in any way from working directly
22 with those communities, if I can shed any light to
23 share those insights with you all.

24 CHAIRPERSON LEVINE: Thank you very much
25 for your testimony.

2 ARTHUR KLOCK: Hi, my name is Arthur
3 Klock, I'm the Director of Training for Plumbers
4 Local One in New York City. I want to thank everybody
5 here from the Council for holding these hearings on
6 lead awareness, very important. Lead is a common
7 metal found in living areas as we've been hearing,
8 and it's a solid, right? But what I'm here to talk
9 about is water, and you know, this lead if ingested,
10 obviously this is the problem. Solids might be
11 ingested, but when lead in drinking water, that's a
12 different thing. It is definitely going to be
13 ingested, okay? So, the difference there is when
14 we're talking about water, if there's lead
15 contamination in that water, where did it come from?
16 So, it comes primarily from materials inside the
17 building. Many older buildings have lead service
18 lines or have pipe throughout with lead-bearing
19 solder. These are the most likely sources. The DEP
20 water is not the issue. I was shocked to hear it
21 said five times how wonderful the water it is when it
22 leaves upstate. We know that. The issue is what
23 happens once we get between the DEP and the baby
24 formula, that's when the lead is a problem inside the
25 building, right? When there's lead in your drinking

1 water it's well-hidden. It's an ever-present danger.
2
3 Lead contaminated drinking water does not smell,
4 taste, or look contaminated. It looks fine. The
5 ingestion is an everyday occurrence, and the lead
6 builds up in the body quietly over time. SO you
7 could be drinking lead-contaminated water for 20
8 years or 30 years and you don't know. Buildings that
9 were constructed prior to 1986 are most likely to
10 contain lead-bearing solders and piping. We saw how
11 widespread this problem is when they were forced by
12 the state to do testing in schools. They found 1,165
13 drinking water outlets in public schools that were
14 discharging water that was contaminated with lead.
15 Advising people to run the faucet for a minute, this
16 is something I heard here today. Run the faucet for
17 a minute, it'll be fine. That's not scientific. How
18 far away am I from the source? Am I on the 14th
19 floor? Am I on the first floor? Run the water for
20 a minute. Another gentleman, a city government
21 official, said stick your hand under the faucet. If
22 it feels cool, it's safe to drink. This is not
23 science. This is nonsense. We're in favor of all
24 these bills. I'm going to jump ahead. Filtration
25 systems, these are temporary fixes. These are not

2 permanent fixtures. They even raise other problems
3 that can cause-- that can be harboring for
4 legionella. So, filtration is not the answer. The
5 only permanent solution is get the lead out and
6 install lead-free products in their place. A couple
7 of ideas: Sampling and testing are different things.
8 We recommend that all water sampling be done by a
9 licensed master plumber following prescribed invalid
10 sampling procedures. This will guarantee the
11 sampling is conducted by a professional with the
12 expertise and training required to follow-up
13 prescribed valid procedure, and to act responsibly in
14 pursuing that critical safety work. Where does the
15 water go? Someone has to take it there, right?
16 Second recommended that mandating testing should
17 cover a lot more buildings than just one type of
18 building. Third, we highly recommend that annual
19 building water testing and reporting using detailed
20 sampling procedures that would be followed to the
21 determine the problems according to a management plan
22 that the building would have. Thank you very much.

23 CHAIRPERSON LEVINE: Thank you very much
24 for that important testimony. Thank you.

2 JILL SAMUELS: Hi, my name is Jill
3 Samuels. I'm the Program Administrator for the Lead
4 Poisoning Prevention and Treatment Program at the
5 Children's Hospital in Montefiore Medical Center.
6 I'm very happy to be here. I'm happy that the
7 Council is trying to make the laws more effective so
8 that children are not poisoned. We average at least
9 three children a week newly poisoned with lead.
10 Okay, that's an unacceptable number.

11 CHAIRPERSON LEVINE: [interposing] In your
12 facility alone, in your network?

13 JILL SAMUELS: In our facility alone.

14 CHAIRPERSON LEVINE: Right.

15 JILL SAMUELS: We also get consultation
16 calls from other physicians in the City and in other
17 areas about lead poisoning where they monitor the
18 children. So there are a lot more children that
19 we're looking at. This is totally unacceptable,
20 especially because this is our future generation that
21 we're talking about, that's going to be in control,
22 and they are being poisoned and their lives are being
23 changed. So, I'm in support of the Council trying to
24 do what you're doing, but we need to make sure that
25 enforcement happens, because we can put all the laws

2 on the books that we can. If they're not being
3 enforced and they kids are continuing to be poisoned,
4 then it's not effective.

5 CHAIRPERSON LEVINE: Thank you. It's
6 really helpful to hear from the perspective of a
7 practitioner. And is it fair to say that your
8 pediatricians when they do perform physicals--

9 JILL SAMUELS: [interposing] We're not--
10 I'm not a pediatrician. I'm the administrator. We
11 do have a licensed pediatrician that's the director
12 of our program, and we are not a testing program. We
13 are a referral program for treatment, but we also try
14 to do prevention by education. We're also trying to
15 get the testing levels of children up by talking to
16 the healthcare providers to try to let them know that
17 they're supposed to be testing at the ages of one and
18 two.

19 CHAIRPERSON LEVINE: Thank you.

20 JILL SAMUELS: Oh, the other thing, we
21 have a safe house with six apartments for families to
22 come to if they don't have anywhere to go while the
23 abatement is being done.

24 CHAIRPERSON LEVINE: I appreciate that.
25 I did want to go back to Mr. Klock just for one

2 moment, please. We are looking at the water
3 fountains and parks, which were mainly installed
4 decades ago and sometimes in the Robert Moses era and
5 before. Can you comment on your sense of the
6 prevalence of lead either in the piping or the solder
7 in the park system?

8 ARTHUR KLOCK: Well, you know, there are
9 people who are working in these areas and certainly
10 could comment on it who work in the Parks Department,
11 but I will tell you that the reason for using lead
12 and why so many service pipes are made of lead is
13 because of the flexibility. So, if there was a
14 concern of rigidity being a problem, lead would be
15 used because it could bend without breaking. So, in
16 the parks you would have areas where there would be
17 concerns like that. So, it would be worth looking
18 into. The other thing I would say is that the idea
19 of putting filters on water drinking fountains in
20 parks is a terrible idea, because of what I briefly
21 mentioned before, and this could be corroborated by
22 others, you put a filter, it collects sediments, the
23 sediments create a biofilm, legionella comes to live
24 in the biofilm. When you drink from a water
25 fountain, there's an aspirating aspect to this, you

2 draw-- you draw it in. If legionella gets into your
3 lungs, that's how it happens. Also, the temperature.
4 You put a water filter outdoors in the sun in a
5 drinking fountain, the temperature is going to really
6 climb. That's when legionella happens. They love
7 that.

8 CHAIRPERSON LEVINE: Thank you. Very
9 important clarification. Please?

10 FRAN AGNONE: Can I just add one more
11 thing?

12 CHAIRPERSON LEVINE: Yes.

13 FRAN AGNONE: We do not see children
14 poisoned by soil. So, we have not had a case where a
15 child has been poisoned by soil. I just wanted to
16 add that.

17 CHAIRPERSON LEVINE: Have you had cases
18 where the child's been poisoned by water?

19 FRAN AGNONE: No, it's been mainly paint
20 and also other products that aren't regulated.

21 CHAIRPERSON LEVINE: But is it possible
22 that in some cases we can't identify the source
23 definitively?

24 FRAN AGNONE: Yes.

2 CHAIRPERSON LEVINE: It's also possible
3 there could be multiple sources.

4 FRAN AGNONE: Yes.

5 CHAIRPERSON LEVINE: Thank you.

6 CHRISTINE APPAH: Hi, greetings. Thank
7 you to the members of the City Council and your staff
8 gathered here. My name is Christine Appah, and I'm a
9 Senior Staff Attorney at New York Lawyers for the
10 Public Interest. I work in the Environmental Justice
11 Program at NYLPI, and New York Lawyers for the Public
12 Interest is a civil rights and social justice
13 organization that was founded 40 years ago. We work
14 around three core areas of environmental justice,
15 health justice, and disability justice, and this
16 issue that we're discussing here today actually
17 touches all of our program area. It's a public
18 health crisis as well as a civil rights issue, and as
19 such, we work in coalition to research and lobby for
20 stronger laws and greater accountability for the
21 current laws on the book. Thank you for your
22 continued attention to this matter, and we really
23 appreciate all of the legislative proposals that have
24 been put forward. We all understand that lead is a
25 neurotoxin and that no level is safe and that lead

2 poisoning is a totally preventable disease affecting
3 children, particularly children of color and children
4 from homes with lower income. NYLPI is committed to
5 eliminating the environmental health hazard of lead
6 exposure. As we reviewed the laws, the new laws that
7 are proposed today, we want to stress the importance
8 of enforcing the laws that are already on the books.
9 As the speaker stated and as many of my colleagues
10 and members of the public have stated that
11 enforcement and remediation is the main and key
12 effort. Lead paint is the primary source of lead
13 exposure; however, lead in the body is cumulative.
14 So even small amounts of lead from soil or water,
15 garden soil, and consumer products can have a lasting
16 effect. Part of the environmental justice movement,
17 a lot of the research is focused on cumulative
18 effects. We want to take it as a situation where we
19 sometimes may not be able to pinpoint the exact
20 source, but it's important that a lot of these issues
21 have been raised that we can look into and continue
22 researching. I would like to express some support,
23 particularly for the area that I work on in NYLPI
24 which is children's environmental health for the
25 daycare proposals. We support increasing testing from

1 testing of the water and daycares, not for every five
2 years but to every year, annually, and to test
3 according to the Public Health Law 1110 from the
4 State, which has given us parameters for testing for
5 lead in school water. We want to broaden the scope of
6 covered facilities particularly to include all
7 daycares because we don't want children who are being
8 take care of in smaller facilities to be left out.
9 Ultimately, we want to protect all family members and
10 pregnant women as well. We want to refocus on
11 proactivity. We don't want the flag to be the
12 child's lead testing. We don't want to look into the
13 eyes of another family member and say, "Well, we
14 could have helped your child. Now we're going to see
15 what possibly was the cause." We can get proactive
16 and not use lead results, positive lead results in
17 the child as the marker for action. We can possibly
18 get a lot more and save a lot more children. Thank
19 you for your time.

21 CHAIRPERSON LEVINE: Thank you, and we
22 appreciate NYLPI's contribution to this critical
23 report on the enforcement issue on housing and lead
24 paint housing. Can you just clarify those childcare
25 centers which you feel we're not covering?

2 CHRISTINE APPAH: Sure.

3 CHAIRPERSON LEVINE: I didn't catch that.

4 CHRISTINE APPAH: Well, the City and the
5 State all have regulatory powers over daycares, and
6 they segment them depending on the number of children
7 that are enrolled, and they separate them based on
8 whether or not it's like a commercial facility or
9 someone's home. Now, many of the proposals put forth
10 would provide protections for children who are
11 enrolled in daycares with more than seven children.
12 And then children who-- children enrolled in daycares
13 with less than seven children tend to be at sites
14 that are-- would be home-based daycares. Now, there
15 are separate issues related to that and there was
16 some concern about possibly pre-emption issues, but
17 under the State's-- under the State law, the state is
18 allowed to regulate for environmental hazards, and
19 the City also and the Health Code Article 47 has the
20 power to create and regulate and check for
21 environmental hazards--

22 CHAIRPERSON LEVINE: [interposing] I
23 appreciate that clarification. We could also
24 simultaneously work with our partners at the state
25

2 level maybe on getting state legislation to parallel
3 this. Very important point. Thank you.

4 CHRISTINE APPAH: You're welcome.

5 BEN ANDERSON: Good afternoon. My name
6 is Ben Anderson. I am the poverty and health policy
7 director at the Children's Defense Fund New York.
8 I'm relatively new in that role. So, it's my first
9 time testifying before you. It's a pleasure to be
10 here. I've submitted written testimony that covers
11 all of the issues that we would like you to consider
12 as you're evaluating the introduced legislation. So,
13 I'd like to focus my comments now on responding to
14 some of the testimony from the Department of Health.
15 We were pleased to hear that the Department of Health
16 will take additional steps to match birth records
17 with blood testing records to get more children
18 tested. However, we think that this approach still
19 doesn't quite get at what is the key to ending lead
20 poisoning in New York City, and that is prevention.
21 In order to get to Vision Zero, we need to improve
22 our prevention efforts, and that's why as we
23 recommend in our written testimony using the birth
24 records to trigger an inspection rather than
25 determining whether or not children have had their

2 blood test yet. We think that more parents need to
3 be aware of the testing options available as soon as
4 possible, and therefore, by using the birth records
5 to initiate an inspection request. Hopefully, you
6 can get to those children before they're doing the
7 hand-to-mouth activities and crawling around on the
8 floor. A second issue I would like to address is the
9 landlord-initiated investigation under Local Law One.
10 The problem with this process, again, is in certain
11 cases it can start too late, as it requires the
12 family to file a notice by February 15th. As we all
13 know just from common sense, there are a number of
14 children who are born after February 15th, and when
15 it comes to those children, the hand-to-mouth
16 activity starts weeks after birth, and many of those
17 children will begin crawling within six months. So,
18 if you wait until the following calendar year to have
19 the landlord send out the notices, then request the
20 inspections, again, you'll be missing some of those
21 children, and it may already be too late. So, what
22 we would suggest is allowing parents to request those
23 inspections year-round, particularly if they are
24 pregnant or thinking of becoming pregnant. And
25 finally, I'd like to address some of the responses

2 regarding predictive modeling, if I may, briefly. We
3 think that the point of notifying OBGYNs regarding
4 high-risk areas throughout the City is not to
5 determine whether pregnant women may be at risk, but
6 it is to identify whether or not the newborn children
7 who will be born and perhaps residing at those
8 locations may be moving into a dwelling that's at
9 risk. I'll leave it there. Thank you.

10 CHAIRPERSON LEVINE: Yes, and I
11 completely agree with you on that, and thank you for
12 raising that. Thank you.

13 JOEL KUPFERMAN: Thank you. Good
14 afternoon. Joel--

15 CHAIRPERSON LEVINE: [interposing] And
16 your time is up. Just kidding.

17 JOEL KUPFERMAN: Joel Kupferman, New York
18 Environmental Law and Justice Project, Environmental
19 Justice Committee of the National Lawyers Guild and
20 Counsel to Smith Houses, which is probably the
21 closest NYCHA houses, basically spitting distance
22 from here. We testified about the conditions of
23 Smith Houses in 2001 after 9/11. Similar set-up. We
24 basically did some testing, and there was a big fight
25 to show how bad the World Trade Center dust was here.

2 It was, I would say, a learning curve and a lot of
3 denial. I wish the aspiration, the optimism that a
4 lot of people here have about the bills that are
5 presented. I think in some ways it's a gift to the
6 people that are controlling the lead and having the
7 lead. I have litigated cases. The first thing that a
8 bad landlord or the owner of a property does is show
9 that there's minimal testing that was done, and all
10 these agencies, DOH, DEC, DEP basically approved that
11 testing and didn't challenge it. Do not lay [sic]
12 enough prescriptions in terms of what to be tested.
13 There's EPA standards and there's DEC standards in
14 terms of soil testing that should be incorporated and
15 listed. At Smith Houses, we had a problem with a 56-
16 million dollar rebuild from Hurricane Sandy. It was
17 federal money that went from to the state, to the
18 city. Working on the roofs, which is happening all
19 around the City, they actually opened up the roofs to
20 the ceilings. Lead and asbestos came down. We
21 called 311. We tried to bring in the Health
22 Department. The Health Department told us they don't
23 have jurisdiction over NYCHA housing, which is
24 totally wrong. We made the complaint, and then we
25 made-- decided to do testing on the outside because

2 there's trenching going on to put the utility lines
3 in post-Sandy. This is federal money that's being
4 spent. That soil is coming up and going out into the
5 neighborhood, into the past [sic], into the people's
6 homes. I think it's important to point out that soil
7 dust doesn't just remain in the dust, it gets carried
8 into the houses, and we have proof, a lot of articles
9 on that. We decided to test the soil; came up with
10 lead, and then we sent my geologist intern in. We
11 tested in the tree well in the daycare center and
12 came up with 85 parts per million of arsenic. That's
13 at least eight times higher than the one state level.
14 It's 85 times the lower level. We went back to the
15 Health Department. The Health Department said they
16 won't test because it's not their jurisdiction. It's
17 ironic that arsenic probably comes from rat poisoning
18 that the Health Department puts out. Okay? We've
19 had to push the daycare to not let the kids put their
20 hands into the tree well where that arsenic is, and
21 they said, "Don't worry, we'll cover it up, and we'll
22 send them to the daycare-- the playground that's next
23 door." Just give me one more minute. That
24 playground had a big sign that says they're putting
25 down Round-up that playground. So we took the kids

1 from facing arsenic and lead and put them into a
2 Round-up infested playground. There's no need to put
3 that arsenic down. Two-hundred-eighty-million-dollar
4 lawsuit was won in California two or three weeks ago.
5 There's hundreds of lawyers lining up to take those
6 cases, those toxic tort [sic] cases and they're going
7 to be definitely suing the City, because the City
8 Parks Department refuses to stop using glyphosate.
9 How that comes back to lead: the New York City
10 Health Department survey of all the pesticides that
11 we use in 2016 states that when Round-up hits soils
12 with heavy metals, including lead, it's even worse.
13 It's more toxic. So part of the problem we have is
14 that we have this 311-- City Health Department does
15 not answer 311 things from whatever-- from NYCHA
16 residents, and the second thing is we should
17 definitely institute, in terms of enforcement-- the
18 fines aren't working. In 2014 there was 531,000 ECB
19 violations, 200 million dollars has been uncollected
20 by DEP and 200 million dollars collected from the
21 Health Department.
22

23 CHAIRPERSON LEVINE: [interposing] And--

24 JOEL KUPFERMAN: [interposing] Part of the
25 problem--

2 CHAIRPERSON LEVINE: We do need to wrap
3 up only because we're about to lose the room.

4 JOEL KUPFERMAN: Okay.

5 CHAIRPERSON LEVINE: But can you quickly
6 wrap up?

7 JOEL KUPFERMAN: Okay. What I want to
8 say is that we have to look at this, the new Round-up
9 problem, okay? We definitely need more soil testing,
10 but moreover, at NYCHA when we found this, we could
11 not get one department to come and do testing. And
12 I'm also claiming that we shouldn't just test for
13 lead. When we go out, when they test for soils, it's
14 a few dollars more from the Soil Institute to test
15 for other metals. We have arsenic and, you know,
16 other materials there. And also, the City, in terms
17 of enforcement, has the bad actor policy. We--

18 CHAIRPERSON LEVINE: [interposing] Okay,
19 we--

20 JOEL KUPFERMAN: [interposing] find these
21 people--

22 CHAIRPERSON LEVINE: apprec-- we--

23 JOEL KUPFERMAN: [interposing] The City
24 is still giving--

2 CHAIRPERSON LEVINE: [interposing] Thank
3 you.

4 JOEL KUPFERMAN: a lot of leases to those
5 bad landlords.

6 CHAIRPERSON LEVINE: We understand.
7 We've done-- and we'll do other hearings on other
8 soil issues. I've done oen in the Parks Committee on
9 Round-up. It's a very serious matter which we care a
10 lot about. There's an evening event here they have
11 to start setting up for shortly. I do want to thank
12 this panel for an outstanding contribution and for
13 everybody who took part in this historic hearing of
14 great importance to the City. I especially want to
15 thank my Co-Chair Robert Cornegy and Costa
16 Constantinides. Actually, if either of my Co-Chairs
17 would like to make a final statement? Okay. And a
18 special shout-out to Kalman Yeger, Council Member
19 from Brooklyn who joined us for this important public
20 testimony. Thank you very much.

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COMMITTEE ON ENVIRONMENTAL PROTECTION WITH COMMITTEE
ON HEALTH AND COMMITTEE ON HOUSING AND BUILDINGS 303

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COMMITTEE ON ENVIRONMENTAL PROTECTION WITH COMMITTEE
ON HEALTH AND COMMITTEE ON HOUSING AND BUILDINGS 304

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 October 23, 2018