

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

----- X

October 24, 2018  
Start: 10:13 a.m.  
Recess: 11:12 a.m.

HELD AT: 250 Broadway - Committee Rm.  
14<sup>th</sup> Fl.

B E F O R E: ANTONIO REYNOSO  
Chairperson

COUNCIL MEMBERS: Fernando Cabrera  
Chaim M. Deutsch  
Rafael L. Espinal, Jr.  
Paul A. Vallone

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

Kathryn Garcia, Commissioner  
NYC Department of Sanitation

Steven Costas, First Deputy Commissioner of  
Operations, NYC Department of Sanitation

Loris Mandelker, New York Metropolitan Retail  
Association, NYMRA

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

3

[sound check] [gavel]

CHAIRPERSON REYNOSO: Good morning. I am Council Member Antonio Reynoso, and I am the Chair of the Committee on Sanitation and Solid Waste Management. Welcome to this oversight hearing about the Department of Sanitation 2018-2019 Draft Snow Plans, and we've been joined by Council Member Vallone. Local Law 28 of 2011 require DSNY to submit to the Council a snow plowing and removal plan for each borough and to make those plans available to the public on the city's website. This hearing will examine the Draft Snow Plans that the Council received from DSNY pursuant to Local Law 28 and the city's readiness for the 2018 to 2019 snow season. I now how hard the Commissioner and the whole department worked during the snow season. So, I want to thank you in advance. DSNY is not solely responsible for the snow removal, though. Businesses in New York City are also responsible for keeping sidewalks clear. We are hearing legislation today that will address the issue of businesses that don't properly remove the snow that builds up near their storefronts potentially resulting in unsafe conditions. Intro No. 619 sponsored by Council

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

4

1  
2 Member Justin Brannan raises the fines for chain  
3 business who receive violations for failing to  
4 properly remove snow, ice and dirt from sidewalks  
5 following snow fall. I'm looking forward to DSNY—to  
6 hearing DSNY's thought on the—thoughts on these  
7 bills, and also to learn if there are any other way  
8 that the department thinks that we can encourage  
9 store owners to keep their storefronts and sidewalks  
10 safe for New York. I look forward to hearing from  
11 DSNY and other interested groups and individuals  
12 about the Draft Snow Plans today. Thank you, and  
13 we're going to swear you in, Commissioner.

14 LEGAL COUNSEL: Please raise your right  
15 hand. Do you affirm to tell the truth, the whole  
16 truth and nothing but the truth in your testimony  
17 today and to answer Council Members questions  
18 honestly?

19 COMMISSIONER GARCIA: I do.

20 LEGAL COUNSEL: Thank you.

21 CHAIRPERSON REYNOSO: So, Steven Costas,  
22 First Deputy Commissioner for Operations and still  
23 the Commissioner of Sanitation Kathryn Garcia.

24 [laughter] [background comments]

25

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

5

1

2

CHAIRPERSON REYNOSO: Oh, and I

3

apologize. We've also been joined by Council Member

4

Cabrera.

5

COMMISSIONER GARCIA: You ready to go?

6

CHAIRPERSON REYNOSO: [off mic]

7

Absolutely.

8

COMMISSIONER GARCIA: Good morning, Chair

9

Reynoso and members of the Committee on Sanitation

10

and Solid Waste. I am Kathryn Garcia, Commissioner

11

for the New York City Department of Sanitation. With

12

me here today is First Deputy Commissioner Steven

13

Costas. I would like to thank Chair Reynoso and the

14

members of the committee for holding this hearing to

15

discuss with you the department's Draft Snow Plans,

16

and our preparedness going into the upcoming 2018-

17

2019 snow season. In accordance with Local Law 28 of

18

2011, our Draft Snow Plans detail the department's

19

snow fighting procedures from planning and

20

preparedness to implementation. The plans identify

21

how we will allocate personnel and equipment

22

resources in each borough and district, the

23

coordination of services among agencies and customer

24

service protocols. We will consider all comments and

25

recommendations received by elected officials in our

1  
2 draft plans, and then we will publish the final  
3 borough snow plans on the department website by  
4 November 15<sup>th</sup>, and just as an aside, I'd like to  
5 thank the Council for all the support we receive in  
6 making sure we're ready for the snow season. As  
7 this is the first snow hearing of this Council  
8 session, I'd like to walk through a basic refresher  
9 of our snow fighting planning and procedures. While  
10 the department's workforce and its vehicles and  
11 equipment appears most visible in the public eye in  
12 the winter time, the department is preparing and  
13 planning for each year's snow season is actually  
14 continuous throughout the year. Yes, we talk about  
15 it in August. Following each winter season—snow  
16 season, the Operations Office performs a review and  
17 assessment of its response to all storms during the  
18 previous season. The department makes operational  
19 changes and adjustments such as improving training  
20 and improving communications protocol as we deem  
21 necessary. In the spring and summer agency staff  
22 review over 1,400 snow routes in all five boroughs,  
23 and revised the most necessary based on the prior  
24 year's experiences. We also make adjustments for any  
25 changes that have occurred in the physical city scape

1  
2 along a particular route such as the construction of  
3 a new school or changes to traffic patterns, which  
4 seems to happen constantly. DSNY also performs  
5 preventative maintenance on all snow related  
6 equipment and upgrades equipment as necessary. Also,  
7 in the months before the snow season begins, the  
8 department ensures it has adequate equipment, parts  
9 and supplied to carry out our snow plans. We  
10 established contracts with multiple vendors to  
11 replenish our stockpiles of salt and salt and calcium  
12 chloride are delivered to the department stores  
13 locations located in each borough. Additionally, the  
14 department ensures that it has sufficient snow chains  
15 on hand to have an adequate supply for the snow  
16 season. The department also holds winter operations  
17 training for Sanitation workers from September  
18 through December each year. Training includes better  
19 operation, attachment of plows and chains, use of  
20 two-way radio and the use of Magellan turn two-route  
21 navigation. In total, this fall our employees will  
22 receive a total of more than 50,000 hours of snow  
23 training. We also conduct a full-scale snow drill in  
24 late November once the night plow season begins to  
25 get everyone in snow mode. This important exercise

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

8

1  
2 involves all department divisions including  
3 operational and administrative functions. During  
4 night plow operations the department increases  
5 staffing on night shifts to ensure sufficient  
6 coverage through snow or winter weather. This year  
7 the night plow season will begin November 13<sup>th</sup>. In  
8 order to formulate an effective snow removal plan the  
9 department has designed its snow plowing routes into  
10 three classifications. Critical routes are comprised  
11 of highways, major roadways, bus routes and areas  
12 around schools, hospitals, police stations and  
13 firehouses. Sector routes encompass other streets and  
14 are laid out in a compact efficient manner to  
15 eliminate redundant travel miles. Hauls to route  
16 service dead ends in streets that cannot be serviced  
17 with a standard collection truck or salt spreader.  
18 The department maintains a fleet of small Holster  
19 plows to provide specialized service to these narrow  
20 areas. During a heavy snowstorm where significant  
21 accumulation is expected, the department begins  
22 plowing the critical sector and Holster routes all at  
23 the same time. Thus providing timely service for all  
24 residents. The department began phasing in this  
25 sector approach in 2014, and we have used sector

1 routes citywide for the last two seasons. Throughout  
2 the winter season, the Operations Office monitors  
3 weather forecasts through its contracted weather  
4 reporting services around the clock. When forecasts  
5 call for a potential snow event, the department  
6 issues a snow alert to inform our staff, other city  
7 agencies and the public. Ahead of significant  
8 snowfall, the department splits personnel into two  
9 12-hour shifts, one from 7:00 a.m. to 7:00 and the  
10 other from 7:00 p.m. to 7:00 a.m. At the onset of  
11 the snow event the department deploys salt spreaders  
12 to reduce the accumulation of snow and prevent the  
13 formation of icy conditions on more than 19,000  
14 roadway lane miles across the five boroughs. [coughs]  
15 Throughout the duration of a storm, department field  
16 managers constantly monitor roadway conditions,  
17 equipment needs and variations in weather patterns.  
18 Our field officers report this information on an  
19 hourly basis back to their respective borough  
20 commands, which is then relayed to our operations  
21 headquarters. Salt spreading operations continue for  
22 the--during of the snow fall. Once the snow  
23 accumulation becomes greater than two inches, the  
24 department deploys its snow plows. Plowing  
25

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

10

1  
2 operations continue until all the city's traffic  
3 lanes are passable. Following the completion of all  
4 roadways, begin clearing bike lanes, bus stops,  
5 crosswalks and other pedestrian infrastructure. In  
6 recent years the department has acquired additional  
7 snow equipment to more effectively remove snow from  
8 narrow streets especially during storms with  
9 accumulations over 12 inches. Thanks to these  
10 investments, the department now has a total of 695  
11 large and small salt spreaders in our snow fighting  
12 fleet as well as 41 snow melters. This fleet not  
13 only makes us better prepared to respond more  
14 effectively to large snowstorms, but it also improves  
15 our ability to respond to ice storms and other types  
16 of frozen precipitation where plows alone are  
17 ineffective. In addition, the department and DOITT  
18 made PlowNYC available in near real time to the  
19 public and software developers through city's Open  
20 Data Portal. For the 2018-2019 season, the data will  
21 again be made available during snow events with plows  
22 status being updated several times per hour. The  
23 department snow budget for Fiscal Year 2019 is \$97.8  
24 million. The department has adequate staffing with  
25 more than 6,400 Sanitation workers available to

1  
2 manage this winter's snow and ice storms including  
3 441 new Sanitation workers inducted at a ceremony  
4 last week. We also have available approximately  
5 300,000 tons of road salt stored at over 42 locations  
6 citywide with contracts in place to deliver an  
7 additional 600,000 tons as necessary. The department  
8 makes every effort to clear snow and ice from the  
9 city's highway, streets and bike lanes as  
10 expeditiously as possible, but this can be an  
11 extended process when persistent or heavy snowfall  
12 occurs combined with falling temperatures and high  
13 winds. Because every storm bring different  
14 challenges, which impact the speed with which streets  
15 are cleared including storm intensity, temperature,  
16 time of day and accumulation, we ask the public to be  
17 patient and allow department workers who are  
18 performing under tough and often brutal conditions to  
19 safely complete their tasks timely and effectively.  
20 I will turn my focus now to Intro 619. As proposed,  
21 this bill would impose higher civil penalties against  
22 chain businesses that fail to remove and ice from the  
23 sidewalks. As currently required under Section 16-  
24 123 of the New York City Administrative Code, the  
25 legislation defines a chain business as any

1 establishment that is part of a group of  
2 establishments that share a common owner or principal  
3 who owns at least 30% of each establishment where  
4 such establishments engage in the same business or  
5 operate pursuant to franchise agreements with the  
6 same franchiser as defined under the New York State  
7 General Business Law. The bill would increase civil  
8 penalties for any chain business meeting the proposed  
9 definition to \$500—to \$1,000 for a first-time  
10 violation and from \$1,000 to \$3,000 for a second  
11 violation over a 12-month period and \$3,000 to \$5,000  
12 for a third or subsequent violation within a 12-month  
13 period. Clearing sidewalks after a snow storm is the  
14 law. Property owners and businesses large and small  
15 have an obligation to make our sidewalks safe for  
16 pedestrians after a snow fall. Doing so is not only  
17 a legal requirement, but is also an obligation as a  
18 neighbor and community partner. We expect the same  
19 partnership and level of compliance from chain  
20 establishments as we do from mom and pop stores. I  
21 have heard from a number of residents, community  
22 groups and elected officials about concerns that  
23 certain establishments whether banks, office supply  
24 stores, pharmacies or restaurants routine fail to  
25

1  
2 clear their sidewalks, and many of these businesses  
3 are delinquent at keeping them clean in the winter  
4 months as well. We strongly support efforts to hold  
5 violators accountable especially those that  
6 repeatedly fail to clear their sidewalks as they  
7 impeded mobility, and create dangerous conditions for  
8 New Yorkers. I look forward to continue discussions  
9 with this Council on steps we can take to hold these  
10 violators accountable and keep our sidewalks safe  
11 this winter season. In closing, I want everyone to  
12 be assured that snow fighting is a core component of  
13 the department's mission, and our workforce  
14 understands that their performance is critical to  
15 keeping the city functioning 24 by 7. As we approach  
16 the official start of the 2018/19 snow season, I'm  
17 confident the department's workforce can and will  
18 respond quickly and effectively to any major snow  
19 event. I look forward to your input, and suggested  
20 comments on our draft snow plans. My staff and I are  
21 now happy to answer your questions.

22 CHAIRPERSON REYNOSO: I want to thank you  
23 for that thorough testimony. It answers a lot of  
24 questions that we would have related to the snow plan  
25 and the snow removal here in the city of New York,

1

2

but I wanted to ask some questions related to Intro

3

619

4

COMMISSIONER GARCIA: Uh-hm.

5

CHAIRPERSON REYNOSO: How many violations

6

are given to chain businesses for failing to

7

properly remove snow, ice and dirt from sidewalks

8

following snowfall each year?

9

COMMISSIONER GARCIA: I'm going to ask

10

the First Deputy Commission to answer this.

11

CHAIRPERSON REYNOSO: Okay.

12

DEPUTY COMMISSIONER COSTAS: So--okay,

13

thank you. Last year we issued just under 6,000

14

violations. It is--goes under the code. So we don't

15

have the breakdown to what portion of that were to

16

business as opposed to our residential homes.

17

CHAIRPERSON REYNOSO: So, it's not

18

separated because it's not mandatory in the city's

19

law to separate between residential and businesses?

20

DEPUTY COMMISSIONER COSTAS: Correct.

21

CHAIRPERSON REYNOSO: Okay, so I'm--

22

DEPUTY COMMISSIONER COSTAS:

23

[interposing] They are responsible to clear out the--

24

CHAIRPERSON REYNOSO: [interposing]

25

Regardless of--?

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

15

1

2

DEPUTY COMMISSIONER COSTAS: --regardless  
of whether they are a resident or a business owner.

4

CHAIRPERSON REYNOSO: I see, but do most  
of those violations go to the property owner or to  
the--to the business?

7

DEPUTY COMMISSIONER COSTAS: It would be  
written to the address. In some cases, it is the  
business. In some cases it's the residential property  
owner.

11

CHAIRPERSON REYNOSO: Do many businesses  
get multiple violations? Is there a breakdown on  
whether or not one business is receiving several  
through a snow--a snow day and a couple of snow days?

15

DEPUTY COMMISSIONER COSTAS: If the  
business did not come out and rectify the situation,  
they would be liable for another violation.

18

CHAIRPERSON REYNOSO: And how about  
complaints? How many complaints did the city--I guess  
that's a 311 questions, but how many complaints about  
the sidewalks covered with snow and ice each year do--  
do you tend to get?

23

DEPUTY COMMISSIONER COSTAS: I don't have  
that number at this time.

25

COMMISSIONER GARCIA: Yep.

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

16

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

DEPUTY COMMISSIONER COSTAS: Right. I'm  
sorry.

CHAIRPERSON REYNOSO: Okay, there you go.

COMMISSIONER GARCIA: Um, so, last year  
we received a thousand requests due to snow or ice  
for street conditions, and 3,500 for sidewalks.

CHAIRPERSON REYNOSO: So there were more  
for sidewalks than there were for the streets?

DEPUTY COMMISSIONER COSTAS: Correct.

COMMISSIONER GARCIA: Yes.

CHAIRPERSON REYNOSO: Okay, is that  
reflection of your work?

COMMISSIONER GARCIA: I'm—I'm going to  
take credit for that.

CHAIRPERSON REYNOSO: Okay, and I'm—I'll  
ask a couple more questions. So, for, of course,  
Intro 619 the Council Member Justin Brannan who is  
introducing it has a district where it's a rampant  
ice and snow on sidewalks and just neglectful  
business owners. So this is an attempt to try to  
rectify that. The violations are \$500 for the first  
offense, and it really is like the cost of doing  
business more so than it is something that de-  
incentivizes folks from not doing the job that

1  
2 they're supposed to when it comes to clearing the  
3 snow. So, I just wanted to make sure that I noted  
4 that, and now electric vehicles, my favorite. How  
5 far along are we with this pilot or this idea of  
6 this--this electric truck, and what are the plans for  
7 it, and in relation to snow removal, can it hold the  
8 plow and so forth? I just want to generally talk  
9 about the potential electric truck here by DSNY.

10 COMMISSIONER GARCIA: We don't have it  
11 yet. It is coming, and so, I don't know yet whether  
12 or not it will be put to any use during this snow  
13 season, but that's part of the reason we would test  
14 it is to make sure that it can both pick up and  
15 compact garbage as well as plow snow.

16 CHAIRPERSON REYNOSO: When are we getting  
17 it, though? Do you have a timeline?

18 COMMISSIONER GARCIA: [interposing] No,  
19 it's approved. It takes--it takes a long time to build  
20 a collection truck. So, we--it's been--it's a few  
21 months away still.

22 CHAIRPERSON REYNOSO: Okay. Well, before  
23 the end of the year hopefully.

1  
2                   COMMISSIONER GARCIA: Hopefully, before  
3 the end of the year. MAC has not guaranteed that,  
4 though.

5                   CHAIRPERSON REYNOSO: Okay, we might have  
6 a hearing just on the electric truck by the way.  
7 That might happen.

8                   COMMISSIONER GARCIA: That--that's fine.

9                   CHAIRPERSON REYNOSO: According to the  
10 MMR, the 2018 MMR, it seems like we've decreased the  
11 cost of--of snow removal per inch. It--it--it shows  
12 that you had \$3.2 million in Fiscal Year 2017 and  
13 \$2.5 million this year. Are we just being more  
14 efficient, just cost-effective? Why is it that it's  
15 cheaper now or more affordable now to handle snow  
16 than it was let's say in 2017? [background comments]

17                   COMMISSIONER GARCIA: It's--that is--I  
18 would say that's not a terribly good metric because  
19 the amount that it costs us per inch is very  
20 dependent on the storm. So, if I have a whole lot of  
21 little storms where there's not a lot of  
22 accumulation, I'm still going to put people on  
23 overtime. I'm still going to salt all the streets,  
24 and if we have one big storm that's 20 inches, you're  
25 not going to--you're not necessarily going to be doing

1  
2 it for longer than if you have to do it for 10 small  
3 storms. So, those 10 small storms are probably going  
4 to cost me more than one big.

5 CHAIRPERSON REYNOSO: So, it's just—it's  
6 just the metric doesn't necessarily add up I guess.

7 COMMISSIONER GARCIA: Yeah, I don't  
8 actually think that it's terribly useful.

9 CHAIRPERSON REYNOSO: Yeah, thank you.  
10 It better be the last time we ask that question.  
11 [laughs] I want to allow for the—our Council Members  
12 to ask questions to make sure that the—they can get  
13 to where they need to get to. I want to ask Council  
14 Member Vallone first followed by Council Member  
15 Cabrera.

16 COUNCIL MEMBER VALLONE: Thank you,  
17 Chair. Good morning Commissioner, and staff. Just a  
18 couple of quick things prior to the—to the bill. In  
19 your testimony, I always take a lot on the things  
20 that you bring to us. The department makes  
21 operational changes, and adjustments based on the  
22 previous season, and you get together. So, are there  
23 any upcoming changes based on last year's snow season  
24 that you foresee for the boroughs of the city in  
25 general?

1  
2                   DEPUTY COMMISSIONER COSTAS: No, for the  
3 most part the changes that the Commissioner—the  
4 Commissioner mentioned relate to our route revisions  
5 to make them more efficient just based on traffic  
6 flow, construction, new construction that might  
7 affect our ability to navigate the streets. So, if  
8 the local district comes back and has a  
9 recommendation, our Operations Unit will put it  
10 through the test to see if it does make sense, and  
11 then we will implement that, and that's an ongoing  
12 thing. That always happens every year.

13                   COUNCIL MEMBER VALLONE: And your  
14 department is great getting out to us when we call.  
15 We appreciate that. I think probably one of the  
16 consistent themes for a driving district like ours is  
17 that the treacherous time between prior to two inches  
18 may never reach the two inches. It then rains and  
19 sleets because the city is famous for that--that  
20 change over time and it's just a very difficult time.  
21 Maybe it's not plowing time because of the dangerous  
22 conditions on the roads, and that--that tends to hit  
23 Northeast Queens more often than not because that's  
24 just where we--where we reside next to the water or  
25 further out east, but many times the east is

1 targeted. I always put the warning bells out for  
2 Northeast Queens because Nassau and Suffolk is going  
3 to get hit, which means to me that wasn't base on  
4 Whitestone. (sic) So, is-is there any changes on  
5 that operational standard of prior to plowing what we  
6 can do for salting and sanding, and maybe getting to  
7 those roads that are not going to be plowed, but  
8 maybe need an additional help, and that's not just my  
9 district. That's throughout the city.

11 DEPUTY COMMISSIONER COSTAS: So, any time  
12 we see the forecast heading in that direction where  
13 the temperatures are going to stay on the lower side,  
14 and the potentially create icier conditions, we're  
15 going to try and make sure that we are salting all  
16 our sectors right from the onset of the snow coming  
17 down as well as continuing with that. As always,  
18 our—the biggest help is for the public to actually  
19 stay off the roads and give us an opportunity to do  
20 what we have to so that once we do make complete  
21 passes, the—the roads are safer and open for both  
22 pedestrian and vehicle traffic.

23 COUNCIL MEMBER VALLONE: So, it's—it's a  
24 salting and a grinding, and I know commissioners came  
25 out to us and explained that that's—it's—it's—the

1  
2 procedure of salting and then we'd salt again. So,  
3 here is another question we get all the time. So,  
4 with the portal that you've opened, what's the best  
5 way for someone who is experiencing that condition  
6 whether it's on a local street or a main street, it's  
7 happening, and it's usually 10:00, 11:00 or 12:00 at  
8 night where the shift is not--what's--what's your  
9 advice then for someone who has that issue in front  
10 of their house?

11 DEPUTY COMMISSIONER COSTAS: We're  
12 coming. We will continue to re-ride the--continue to--  
13 ride the routes and make sure that they are down to  
14 blacktop as close as possible, and they can call 311  
15 and they can also obviously put in a complaint there,  
16 but while we monitor--

17 COUNCIL MEMBER VALLONE: [interposing]  
18 With such a complaint, I think it's just noting. Hey  
19 I have a condition, a stricken house.

20 DEPUTY COMMISSIONER COSTAS: Right.

21 COUNCIL MEMBER VALLONE: We need to get  
22 schools. You know, it's always a priority for in the  
23 morning on a night like that to make sure that our  
24 crossing guards and our parents can get across.

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DEPUTY COMMISSIONER COSTAS: Part of our typical net operation in our second 12-hour shift will be also if we know schools are open the next day to make sure that we've driven through them to make sure. A lot might need attention so that when their children get to the school, they have safe passage to the curb. So, we do take that into account.

COUNCIL MEMBER VALLONE: Okay, and I appreciate, it and I think that's always going to be our, the tough gray areas in between a large storm. It's kind of easier almost to-to prepare for that as it is the smaller ones that tend to cause-

DEPUTY COMMISSIONER COSTAS: [interposing]  
Also temperature--

COUNCIL MEMBER VALLONE: --chaos for our tenants.

DEPUTY COMMISSIONER COSTAS: --plays a key role in that.

COUNCIL MEMBER VALLONE: You know, on-on the bill I'm always one of those that hesitate to raise fines unless we have an issue. This is raising first time offenses also, and I'm always someone that thinks so much to give a grace period on the first time, but if someone is a-is a bad neighbor or a

1  
2 repeat offender, I'm all in. Throw the book at them,  
3 but I just wanted to get your thoughts on first-time  
4 offenders and what you guys are seeing as that's more  
5 of the problem, but I'm—I'm not a big fan of first  
6 time offenses.

7 DEPUTY COMMISSIONER COSTAS: I think that  
8 it's been a longstanding practice that we—both  
9 residents and businesses have that responsibility to  
10 the public because of the potential hazard that it  
11 creates by not doing their responsibility. The  
12 interesting part of that, though---

13 COUNCIL MEMBER VALLONE: [interposing] Is  
14 there a warning procedure? Can that be used as a  
15 discretion at all? Is it—it's if they're willing to  
16 getting the fine?

17 DEPUTY COMMISSIONER COSTAS: More times  
18 than not, we are giving them ample time. At the end  
19 of a snowstorm we will start putting out the word  
20 that we will be coming around to issue summonses if  
21 they have not done their job in terms of clearing the  
22 sidewalk so--

23 COUNCIL MEMBER VALLONE: [interposing] Do  
24 landlords get notice of any changes? Is there notice  
25 requirement now to small businesses and larger

1  
2 businesses to say this is the city rules and regs  
3 what they are today, and they actually will be  
4 changed?

5 DEPUTY COMMISSIONER COSTAS: No.

6 COUNCIL MEMBER VALLONE: I think I try  
7 not to hand these (sic) because when I do on my small  
8 business that's--that's--I'm always curious as to what--  
9 what's happening and in what respect it is coming. I  
10 might not be, but if we do pass this law, or just  
11 maybe get an update on--on current landlord  
12 responsibilities in New York, that might not be a bad  
13 idea.

14 DEPUTY COMMISSIONER COSTAS: Well, we  
15 currently have the coded digest, which does also  
16 identify responsibility for businesses in terms of  
17 snow and ice removal.

18 COUNCIL MEMBER VALLONE: Does that get  
19 into it?

20 COMMISSIONER GARCIA: Well, we hand it  
21 out at events or when we're out in neighborhoods, but  
22 we can certainly provide it to your community. So,  
23 we have I would say eight prettier sort of high level  
24 flyer and then we have the more indepth code of all

1  
2 of your responsibilities as a business owner, but I'm  
3 going to be a little-

4 COUNCIL MEMBER VALLONE: That's a good  
5 point you made a notice requirement. If we change  
6 this or anything it's probably not the end of the  
7 world whether it's online or through the mail of some  
8 sort.

9 COMMISSIONER GARCIA: So, the bid--so I  
10 would just put it out there that I think snow and ice  
11 is different because snow and ice the one thing that  
12 happens when you end up with snow and ice is that  
13 people actually get really hurt. They fall pretty  
14 easily on ice. I mean I ended up with--one of my  
15 senior staff was walking to a meeting and someone  
16 hadn't done the sidewalk. She fell. She broke her  
17 hip. So, I feel like this is not an area where we  
18 want to have oh, you need a warning. You really, you  
19 get four hours after the last--like, you know, in the  
20 morning or in the afternoon, before you have--we are  
21 going to come and find you, but it is really  
22 something we think is important that gets done. This  
23 is a heavy pedestrian city, and it's an older city.

24 COUNCIL MEMBER VALLONE: [interposing]  
25 There's--there's always examples. There's always

1 scenarios, and I get them all the time where maybe  
2 it's you own a business, I own a business, she  
3 shoveled, I shoveled, she did it the other way.  
4 Clearly you're going to do better than I am because  
5 that's way it's going to happen. The snow plow came  
6 and covered the part—the sidewalk in front after I  
7 just shoveled this. There are exceptions, and I—I  
8 don't think this allows for that, and—and I think  
9 it's just the nature of being a small business owner  
10 in the city where we're constantly—I know this has  
11 changed, but it's the plight of maybe the inspector  
12 goes out to differentiate between a chain and a small  
13 business. Maybe someone has got six stores. Maybe  
14 you've got seven now. They give them the fine anyway.  
15 I just—I just want there to be a notice, some caution  
16 and obviously if there is a repeat offender, then  
17 that's not the person we're talking about here, and  
18 never—but sometimes it's the repeat offenders that  
19 punishes all the other folks that get stuck with hey  
20 how did I get this fine? I do everything. I get up  
21 at 6:00 in the morning. I have a—I think we just  
22 have to be conscious of the balance. That's all.

23  
24 COMMISSIONER GARCIA: Okay.  
25

1

2

COUNCIL MEMBER VALLONE: Thank you, Chair  
for that.

3

4

CHAIRPERSON REYNOSO: Thank you and I'll  
bring those concerns to Council Member Brannan and  
maybe we maintain the first offense at the same  
level, and the just subsequent ones increase  
significantly to—to help address that, and it gives  
them that information, but you maintain it at \$500  
and not go up to \$1,000, and then just make the other  
ones slightly higher. I'll definitely bring that to—  
to—to the Council Member. As all of our bills they  
never—they are never written in stone until they're  
actually written in stone. So I'm looking forward to  
seeing what his thoughts on that are. We've also  
been joined by Council Member Deutsch from Brooklyn,  
but I'm going to have Council Member Cabrera ask some  
questions.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

COUNCIL MEMBER CABRERA: Thank you so  
much to the Chair and—and to—let me just echo our  
support also for the first offense to be kept at  
\$500. Commissioner, first I want to thank you. I  
want to thank you because last year you guys did a  
phenomenal job in my district and also whenever we  
call upon there's a quick response. If there's a

1  
2 particular street, then it's got our attention. So,  
3 thank you for the great job. I have several  
4 questions. I know—I've been hearing the weather  
5 forecast recently, are expecting less than wintry  
6 snow season. Does that affect your decision making  
7 in terms of how much salt do you buy? Can—I know you  
8 have some storage. I see that sometimes when I'm  
9 driving. Do you—do you put on them on reserve  
10 knowing that you could buy some more quickly. How—  
11 how does that work?

12 DEPUTY COMMISSIONER COSTAS: So,  
13 currently, we have about 300,000 tons of salt and--

14 COUNCIL MEMBER CABRERA: [interposing]  
15 Can I see it? I'm just kidding. [laughs]

16 COMMISSIONER GARCIA: But we have  
17 requirement contracts that enable us to purchase an  
18 additional—up to 600,000 if necessary. So, we like  
19 going into the season fully stocked at all of our  
20 locations, and then after every event, we then have  
21 deliveries being made to try and always keep that  
22 stockpile going.

23 COUNCIL MEMBER CABRERA: And now much  
24 snow do you need—do you need per average snowstorm.

1  
2 DEPUTY COMMISSIONER COSTAS: [background  
3 comments]

4 COMMISSIONER GARCIA: So, so the—so just  
5 to put in perspective, on average the city receives  
6 in the high 20-inch range of snowfall. We had 40  
7 last year. So, and it didn't end until April, but  
8 just to also put it in context, believe nothing that  
9 you read from meteorologists until it actually  
10 happens.

11 COUNCIL MEMBER CABRERA: I got you.

12 COMMISSIONER GARCIA: And so our—the way  
13 that we think about going into a snow season is that  
14 we will assume that the worst will happen.

15 COUNCIL MEMBER CABRERA: That's good. I  
16 like to hear that. How many of the tickets get—do  
17 the—the tickets go to OATH, right?

18 COMMISSIONER GARCIA: To ECB.

19 COUNCIL MEMBER CABRERA: Okay, so how  
20 many of those tickets get dismissed?

21 COMMISSIONER GARCIA: I don't have that  
22 number on the top of my head, but on average about in  
23 the high 80s of ours are—are upheld.

24  
25

1

2

COUNCIL MEMBER CABRERA: Okay. When somebody gets a ticket are there pictures that are taken?

4

5

COMMISSIONER GARCIA: No.

6

COUNCIL MEMBER CABRERA: So, it's one where I mean somebody says hey and how do—how do we know that the business owner didn't take a picture after this snow run and they go to court and say, hey, you know, I had cleaned it, and maybe they went to the wrong business.

11

12

COMMISSIONER GARCIA: I—I don't know how they—what their—what their defense is of their ticket, but you know, we go through the same procedures we go with any other enforcement action. There's the enforcement agent will write the ticket and it is based on their visual representation of what they see.

13

14

15

16

17

18

19

COUNCIL MEMBER CABRERA: Okay, what's the average time to respond to a complaint during a snowstorm? They say enough street that you would plow, and they call 311?

20

21

22

23

DEPUTY COMMISSIONER COSTAS: We're trying to get to every street and run through the routes in a 2-hour segment. The completion time is not always

24

25

1

2

based on what the conditions, but we certainly do try

3

to address everything and continue to readdress them

4

as—once we've completed the routes

5

COUNCIL MEMBER CABRERA: How many of your

6

tickets are first timer versus second time or the

7

third time? Do you have that data?

8

DEPUTY COMMISSIONER COSTAS: We do have

9

it.

10

COMMISSIONER GARCIA: I do have that

11

data.

12

COUNCIL MEMBER CABRERA: Can you get us

13

that data?

14

COMMISSIONER GARCIA: [interposing] Yeah,

15

sure we can follow up.

16

COUNCIL MEMBER CABRERA: Because I find

17

it kind of interesting that--

18

COMMISSIONER GARCIA: [interposing] I'll

19

see whether or not we can pull it. I don't—I'm

20

assuming that that is something we can pull out of

21

the databases, but we are happy to provide anything

22

we have.

23

COUNCIL MEMBER CABRERA: I'm sure also

24

OATH could help with that because--

25

1

2

COMMISSIONER GARCIA: [interposing] Yeah,  
E-C-it all goes into the ECB computer system.

3

4

COUNCIL MEMBER CABRERA: How would a-I'm  
asking you because I really don't know the answer to  
that. How would an inspector know if it's a chain  
business?

5

6

7

8

COMMISSIONER GARCIA: So, I mean just in  
terms of that, we wouldn't know today. So, if this  
bill moved forward we would have to do some back-end  
data collection so that that information would be  
available on their handheld. COUNCIL MEMBER CABRERA:

10

11

12

13

COUNCIL MEMBER CABRERA: I got you. How  
do you--how do you determine--and this is my last  
question--the distribution of trucks how many you put  
in the Bronx versus Staten Island, Manhattan. In  
every borough there's things that they don't enough,  
right? I would say Manhattan gets the most.

14

15

16

17

18

19

COMMISSIONER GARCIA: No, we do an  
equitable--equitable breakdown based on mileage per  
route. So, each location receives fairly an equal  
number of trucks to the mileage for that area.

20

21

22

23

COUNCIL MEMBER CABRERA: I got you. Well  
thank you so much, and thank you for all your hard  
work that you do. I'm looking forward to another

24

25

1 sequel to last year's borough cleanup, snow removal.  
2 Thank you so much. Mr. Chair, thank you.

3  
4 CHAIRPERSON REYNOSO: Thank you Council  
5 Member Cabrera. Just a heads up, there is a bill  
6 that has been introduced related to having proof by  
7 inspectors or supervisors of whether or not there is  
8 trash or snow removed from—from a person's property.  
9 I'm hoping that with supervisors and handhelds that  
10 might be something we could operationally do in the  
11 future.

12 COMMISSIONER GARCIA: There are no  
13 cameras on the handhelds.

14 CHAIRPERSON REYNOSO: Well, we'll—we'll  
15 get you some cameras, and I'm not saying--

16 COMMISSIONER GARCIA: [interposing] Use--  
17 use your--your own phone. (sic) It would be easier.

18 CHAIRPERSON REYNOSO: --there. I'm just  
19 saying this is--this is, by the way, that conversation  
20 has been something that runs through the City Council  
21 constantly. It's not something that's, you know,  
22 left, right, Bronx, Brooklyn. It's across the board.

23 COMMISSIONER GARCIA: Uh-hm.

24 CHAIRPERSON REYNOSO: Folks rally feel  
25 that it's hard. My word against yours, and it's

1  
2 almost like the inspectors will always win, and just  
3 some type of proof that there is debris and so forth,  
4 would do a long way to making people feel like it's  
5 justified, and we'll see if we hear that bill in the  
6 future, but we want to talk to you about it before we  
7 do that to make sure that you feel that there's  
8 operation there possibly. What—we're onto to Council  
9 Member Cabrera. We have Council Member Deutsch, and  
10 we have been joined by Council Member Espinal from  
11 Brooklyn as well.

12 COUNCIL MEMBER DEUTSCH: Thank you,  
13 Chair, and congratulations, Commissioner, another  
14 role. So, we all know you can multi-task. So,  
15 congratulations on that.

16 COMMISSIONER GARCIA: Thank you.

17 COUNCIL MEMBER DEUTSCH: That's very  
18 good. That's very nice to know. So, I wanted to ask  
19 you firstly on pedestrian island. So, if pedestrian  
20 islands are implemented by the Department of  
21 Transportation to make it safer for people to cross  
22 over the—the streets. So, firstly, do you know how  
23 many pedestrian islands there are in New York City?  
24 Number one, number two, is what are your plans during  
25 the snow season on—for pedestrian islands, and number

1  
2 three is that once you tell me where you find that  
3 you think that is effective.

4 DEPUTY COMMISSIONER COSTAS: So, I do not  
5 know the total number of pedestrians islands that  
6 are--currently have been installed. We have a  
7 regular communication back and forth with DOT. We  
8 are meeting with them actually next week to go over  
9 the most recent ones that have been installed to  
10 ensure that they've given us enough lane width for us  
11 to be able to pass through with the plow, and that's  
12 an ongoing conversation that we have with them to  
13 make sure that we're able to, you know, easily  
14 navigate the road.

15 COMMISSIONER GARCIA: And then in terms  
16 of clearing those--those would be [coughs] after we  
17 have we have completed, the streets would be in the  
18 same tier of bike lanes, pedestrian overpasses, step  
19 streets and so we use a combination of our skid  
20 steers as well as shovels depending on what--what we  
21 have available.

22 COUNCIL MEMBER DEUTSCH: So, like how  
23 fast do you think that is like after a snow when the  
24 snow--is it when the--after the snow fall? Like how  
25

1  
2 soon after that do you clean those areas, and what is  
3 your manpower on that?

4                   COMMISSIONER GARCIA: It's going to--it's  
5 going to--

6                   COUNCIL MEMBER DEUTSCH: [interposing]  
7 Because I see that the bus stops, you know, to all  
8 the new SBS buses and everything there, you could  
9 stay with for--until the summer until it gets warm and  
10 everything melts. So, it's not that effective, but is  
11 it--is it a question of manpower or like what are your  
12 plans on maybe increasing that manpower throughout  
13 the city because you don't always get enough people  
14 through manual labor over the winter months because I  
15 know we all get complaints throughout the year  
16 especially for the bus stops.

17                   COMMISSIONER GARCIA: Well, we--we usually  
18 do not do the bus stops. That is done by a DOT  
19 contract, but in terms of any of the quality of life  
20 it's what we determine it, it's going to very much  
21 depend on where the temperatures are, and what the  
22 amount of snow is on how fast we are. If it turns to  
23 ice, we are significantly slower than when it is  
24 white and powdery but we will stay on it until it is  
25 complete, and we will hire some laborers should we

1  
2 need them. That registration has already started at  
3 all of our garages and online as well as at DOT  
4 garages

5 COUNCIL MEMBER DEUTSCH: So, what is the  
6 difference between the pedestrian islands and the MTA  
7 stops that one is a contactor for DOT, and pedestrian  
8 islands are not?

9 COMMISSIONER GARCIA: Because that was  
10 part of their contract with the bus stop for  
11 shelters.

12 COUNCIL MEMBER DEUTSCH: Uh-hm. Okay, on  
13 another note--

14 COMMISSIONER GARCIA: [interposing] We  
15 still do the bus stops that are not shelters, and we--  
16 and we will attack all the crosswalks as well. So,  
17 crosswalks sort of are the same as pedestrian  
18 islands.

19 COUNCIL MEMBER DEUTSCH: So, what--what  
20 was the response time for, if you call 311?

21 COMMISSIONER GARCIA: On a--well, we  
22 would--probably that would not be prioritized over a  
23 street condition. So, it's going to be very  
24 dependent on where are within a storm.

1  
2                   COUNCIL MEMBER DEUTSCH: Okay, that's—I  
3 think that we definitely need to figure that out  
4 because it should—it should all be the same. Ice is  
5 ice. You don't discriminate. Secondly, you did  
6 mention that you have conversations with the  
7 Department of Transportation. So, my question is do  
8 they give you any unresolved ponding conditions that  
9 affect handicapped ramps of the areas that they—it  
10 usually takes them quite a while to fix any ponding  
11 conditions, and I'll give you an example. In my  
12 district on East 18<sup>th</sup> Street, Bay Avenue and Avenue M  
13 there's been major, major ponding conditions there  
14 and it still has not been resolved over the last four  
15 years, and every time—every time there's ponding  
16 there and turns to ice, it's extremely dangerous and  
17 people slip and fall.

18                   DEPUTY COMMISSIONER COSTAS: It's  
19 possible that the local district if it is a on-  
20 ongoing problem is aware of it, and knows to already  
21 address it, but we'll certainly document that and  
22 make sure that the garage is aware.

23                   COUNCIL MEMBER DEUTSCH: Great, if you  
24 could do that, yeah, and East Bay Avenue and Avenue  
25 M. Finally, I just have one more thing. We just

1  
2 raised the fines on illegal dumping not too long ago,  
3 which is great. If someone throws trash out the  
4 window, someone dumps illegal-illegally on the  
5 streets. So, the fines are raised, but without the  
6 manpower, the-the fact that we're raising the fines  
7 are meaningless because we don't have enough  
8 enforcement to tackle and to tackle those issues.  
9 So, we're talking about now the bill that-Intro 619  
10 of raising the fines to-to change those to-to-to the  
11 commercial stores. But, do you have-do you feel we  
12 have a sufficient amount of agents that can go out  
13 there and tackle all the complaints that you receive,  
14 and be proactive to-to check out these stores?

15 COMMISSIONER GARCIA: I think-we have a  
16 larger force of enforcement agents than we do for the  
17 illegal dumping complaints, and so we do think that  
18 we have the capacity after a storm to be able to  
19 write summonses against folks who do not shovel their  
20 sidewalk.

21 COUNCIL MEMBER DEUTSCH: How many people  
22 do you have for that?

23 DEPUTY COMMISSIONER COSTAS: [background  
24 comment]

25 COMMISSIONER GARCIA: About 250 people.

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

COUNCIL MEMBER DEUTSCH: So, 250 who write summonses.

COMMISSIONER GARCIA: Who would write summonses. It's different than people who write the illegal dumping.

COUNCIL MEMBER DEUTSCH: Oh, so it's--it's a different--?

COMMISSIONER GARCIA: [interposing] It's a separate--it's a separate union.

COUNCIL MEMBER DEUTSCH: Okay, I think that it is. If you can just follow up on those questions, and I thank you very much.

CHAIRPERSON REYNOSO: Thank you, Council Member Deutsch, and I just have a couple more questions, and we actually do have someone who wants to speak shortly after this. Just in--in regard--in regards to the training that happens right before the snow, I think some people already saw some charts of plows. So, can you just speak to what's happening so that people don't freak out. We--I don't think we even got--

COMMISSIONER GARCIA: [interposing]  
Victory is coming.

1  
2 CHAIRPERSON REYNOSO: --fall it was like  
3 summer straight to winter, and when they see the  
4 plows they get nervous. Can we just talk about what  
5 training is? What's happening there? Yes.

6 DEPUTY COMMISSIONER COSTAS: Yeah, okay.  
7 So basically what we started is on Sundays. We've  
8 been doing two different shifts with an average of  
9 800 people per shift getting training, and part of  
10 that training as the Commissioner mentioned is  
11 actually going over the basic operation of the salt  
12 spreading equipment, making sure they understand how  
13 to put on plow, put on chains. Then we actually give  
14 them instruction on the new Magellan units that are  
15 in the spreaders, which will help them with turn-by-  
16 turn direction on their routes, and then we actually  
17 send them out to the street so that could ride the  
18 routes and get familiar with them with the district  
19 that they were assigned, and then at the end of the  
20 day when they come back in, we go over with them in  
21 terms of progress, how they were able to navigate,  
22 and if there were any questions, then go over them at  
23 that point. And we do that for all Sanitation  
24 workers that are assigned to the field. They will  
25 attend it.

1  
2 CHAIRPERSON REYNOSO: And the Magellan  
3 units are new this year?

4 DEPUTY COMMISSIONER COSTAS: The Magellan  
5 units are now outfitted with turn-by-turn direction.  
6 So, which is nice to have for the individuals who  
7 potentially might go out of town and not be familiar  
8 with an area that they're working on. So, rather  
9 than having a pickup or route.

10 COMMISSIONER GARCIA: It's for those of  
11 us who are like from Brooklyn where there are grades  
12 who get sent out to Eastern Queens where there are  
13 not.

14 CHAIRPERSON REYNOSO: We can say this  
15 all--this is all about Queens, and I know it because  
16 with the 60<sup>th</sup> Lane, 60<sup>th</sup> Street, 60<sup>th</sup> Avenue and 60<sup>th</sup>  
17 Place we got it.

18 COMMISSIONER GARCIA: Yeah.

19 CHAIRPERSON REYNOSO: It's very difficult  
20 for low--

21 COMMISSIONER TOOLE: [interposing] It's  
22 very challenging for those of us who were not born  
23 and raised in Queens.

24 CHAIRPERSON REYNOSO: Yes, it is. I  
25 don't know how anyone gets around Queens.

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

COMMISSIONER GARCIA: But-but the Magellans that we--so we had them in our spreader fleet. Last year we expanded it to all of the plow fleet.

CHAIRPERSON REYNOSO: That's--how--how has it been so far with the first round of trainees I guess and the turn-by-turn? Is it--does it look like it's something that's been helpful?

DEPUTY COMMISSIONER COSTAS: It's been positive feedback. The--the--the workers are happy to have it as--if they're not familiar with the area obviously it's, you know, it would be a new job (sic)for them.

CHAIRPERSON REYNOSO: Well, I have--the rest of my questions were answered during your testimony. So I really appreciate that. So, I think we're--we're good to go, and are there are any more questions with--from the Council Members? It doesn't seem like there is. So, thank you, Commissioner. Thank you Deputy Commissioner. I appreciate your time. We have one speaker related to Intro No. 619, Loris Mandel--Mandelker (sp?), if you could come up. [pause] [background comments] Okay, whenever you're ready, you can begin your testimony. [background

1  
2 comments] Is the red light on? Is there a red  
3 light. Now go. Yeah. Now, just put it towards you  
4 a little closer towards your mouth. There you go.  
5 [pause]

6 LORIS MANDELKER: Okay, Chairperson  
7 Reynoso and members of the committee. I represent  
8 NYMRA the New York Metropolitan Retail Association,  
9 an organization of national chain retailers with  
10 stores in the city. Thank you for providing us with  
11 an opportunity to discuss this bill with you.  
12 Administrative Code 16-123 requires a business having  
13 charge of any building abutting the street where the  
14 sidewalk is paved to remove snow, ice, dirt or other  
15 material from the sidewalk or gutter within four  
16 hours excluding the period from 9:00 p.m. to 7:00  
17 a.m. If the snow ice is frozen too hard to remove  
18 without damaging the pavement, the business is  
19 required to strew ashes, sand, sawdust or the like on  
20 the sidewalk. Violations are punishable by fines up  
21 to a maximum of \$350, imprisonment for up to 10 days  
22 or both. The City can also remove the snow, ice or  
23 dirt and charge the business for the cost of the  
24 material. Apparently, the sponsors believe that the  
25 current level of fines is insufficient to deter

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

46

1  
2 violations of Section 16-123. However, and this is  
3 very significant. No data has been presented to this  
4 committee. No data has been issued, no data appears  
5 even to be available that would demonstrate that  
6 chain businesses such as NYMRA's members are the  
7 source of the problem as opposed to schools,  
8 universities, hospitals, government or even other  
9 large non-chain businesses such as operators,  
10 managers of large office or multi-family buildings,  
11 hedge funds, investment banks, large cap public  
12 corporations, and the like. NYMRA's members are  
13 retailers. Retail is the fourth largest source of  
14 jobs in the city following financial services,  
15 healthcare and professional technical services, but  
16 unlike those sectors, our jobs are open to all who  
17 have years of training and certification, and no  
18 educational barriers to prevent a stock clerk from  
19 rising to the highest level of management. We make  
20 money when our customers, your constituents have  
21 access—safe access to our stores. It is to our—it is  
22 in our interest to keep our sidewalks clean. All of  
23 your constituents are our customers. We are forced  
24 to operate on small profit margins that are sensitive  
25 to every cost and expense that government and the

1 market impose on us. Either we pass the cost onto  
2 our customers or we lay employees off in our brick  
3 and mortar stores and increase online operations.  
4 We've been warning about this for years, and it has  
5 now come to pass. The cost of this bill will fall on  
6 our customers, your constituents, the city's  
7 taxpayers and our employees also your constituents.  
8 Intro 619 will unduly burden Members—NYMRA's members  
9 without having correspondingly a negative effect on  
10 the problem the bill purports to address.

12 Accordingly, NYMRA opposes adoption of the bill.

13 CHAIRPERSON REYNOSO: So, thank you for  
14 your testimony. I just want to ask one question.  
15 So, if we don't raise the initial fine ore we  
16 maintain it the same, and increase every subsequent  
17 fine, then we're really going after the—what we would  
18 consider that--the bad players or the people just not  
19 doing the job or the work. And this is also accost  
20 that is—that is preventable, right. Should they do  
21 their job there should never be a problem or a worry  
22 for any business if you plow the—the snow or if you  
23 remove the snow from the sidewalk. But it has a  
24 significant—significant affect to pedestrians when  
25 they're moving about the block. So, I just want to

1  
2 know it's preventable. It's very dangerous if it  
3 stays the same. If we maintain the original fine at  
4 \$500 and increase every subsequent fine, we're only  
5 really going after the bad, bad players. What your  
6 take on that is.

7           LORIS MANDELKER: My take is that you're  
8 conflating chain retailers the bad players, and that  
9 hasn't been demonstrated. If you want to go after  
10 bad players, go after bad players, but identify who  
11 the bad players are, and exclude people who are not  
12 bad players. That's the only problem that we have  
13 here. If there was data that showed that retail  
14 chains are the ones that are causing this problem,  
15 and you had detail. The Commissioner, she's a great  
16 commissioner. They don't have any statistics. The  
17 tickets go to an address. They don't know if it's  
18 business, if it's a resident, if a first offense, if  
19 it's a second. Nobody know. It's all anecdotal and  
20 I have great respect for Commissioner Garcia, but  
21 when she says in her testimony I've heard from a  
22 number of people that there are chains that don't  
23 clean their sidewalks. If I were every to tell that  
24 you—testify something like that, you would skin my  
25

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

hide for, you know, using an anecdotal data if I could call it that. So, that's my problem.

CHAIRPERSON REYNOSO: [interposing] Okay.

LORIS MANDELKER: It's a good—think this bill is well intentioned, but it's too broad, and under-inclusive also because you're not going to solve the problem because it doesn't really address the problem.

CHAIRPERSON REYNOSO: Okay, well, I don't think anyone else has any more testimony. Yeah.

COUNCIL MEMBER DEUTSCH: Yes so--

CHAIRPERSON REYNOSO: Council Member Deutsch.

COUNCIL MEMBER DEUTSCH: Yeah, thank you. So, I just wanted to explain to you—I have a number of chain stores in my district and the mom and pop stores if I walk into a store I could either find a manager that cares or I could find the business owner because they're small—they're small mom and pop stores. When I walk into a CVS or a Rite Aid, they don't care. They're not paying the fine, and it's very hard to actually contact someone who's responsible for that chain store for me to explain to

1  
2 them that the sidewalk needs to be clear. So, you  
3 know, if I had an easy time getting a hold of someone  
4 in a chain store and say listen, your sidewalk hasn't  
5 been shoveled for two days, and it's all icy and then  
6 they would come out and do something about it, that's  
7 one thing. I cannot get a hold of anyone who runs a  
8 chain store who's—who's going to take responsibility.  
9 It's just like when have a shoplifter in a—in a chain  
10 store, they usually let the shoplifter go because  
11 they don't want to do anything in order to stop or  
12 risk their lives or try to stop someone because it's  
13 a chain store. You know, it happens. The cost of  
14 doing business. The \$500 fine is a cost of doing  
15 business. The \$5,000 is—it—it hurts your pocket a  
16 little bit, and then someone might care then. So,  
17 the difference is that a mom and pop store unable to  
18 contact someone to find someone to come out there  
19 because they don't want to get hurt with the fine,  
20 and the chain stores you can never get a hold of  
21 anyone. You try. Pick up your phone now. Try  
22 getting a hold of someone in the chain store that  
23 really is going to give you answers.

24                   LORIS MANDELKER: I suspect that I would  
25 be able to do it, but that's because it's me.

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

COUNCIL MEMBER DEUTSCH: Exactly. Well, I just wanted you to say that for the record. Thank you. [laughter]

LORIS MANDELKER: But I can't comment on your individual experience, and I don't doubt your individual experience at all, but our people whom I talk with because I don't represent a single chain. I represent a bunch of them. This is not how a store should be run. There should be a manager here who would want to keep sidewalks clear and safe.

COUNCIL MEMBER DEUTSCH: Exactly, and if that—and if that happens--

LORIS MANDELKER: [interposing] Because that's how we make money.

COUNCIL MEMBER DEUTSCH: And if that happens like the Chair mentioned, then you won't get a fine.

LORIS MANDELKER: And so therefore, the issue isn't a bill. The issue is for me to go back and talk to the CVS- CVS people and say, you know, we are getting this complaint from a distinguished council member that people complain about snow and nobody—nobody cares, nobody responds. That should be the--

1

2

COUNCIL MEMBER DEUTSCH: [interposing]

3

Well, is this the first time you're hearing our

4

position?

5

LORIS MANDELKER: Yeah, well, me, yes, of

6

course.

7

COUNCIL MEMBER DEUTSCH: Well, that

8

communication then because I've been complaining and

9

if you haven't heard anything from my district that's

10

coming back to you, then there's a bad communication

11

between you and the people responsible.

12

LORIS MANDELKER: Again, keep in mind

13

that I represent--

14

COUNCIL MEMBER DEUTSCH: [interposing]

15

Well, why does it have to come through--

16

LORIS MANDELKER: --I represent an

17

association.

18

COUNCIL MEMBER DEUTSCH: Yeah, but why

19

does it have to come to a bill for you to come in

20

here and to--and to defend them? This should have

21

been done a long time ago or this bill wouldn't have

22

been drafted.

23

LORIS MANDELKER: But now that we're

24

here, and we have--we have the communication we

25

1  
2 understand what the issue is, there is an easier way  
3 to solve the issue than this bill.

4 COUNCIL MEMBER DEUTSCH: Thank you.

5 CHAIRPERSON REYNOSO: Thank you, Council  
6 Member Deutsch. Council Member Cabrera.

7 COUNCIL MEMBER CABRERA: Thank you so  
8 much to the chair. I-I am actually sympathetic to  
9 what you're saying. Number one, there is no data.  
10 We heard that there's no way to distinguish. I think  
11 possibly I think the thought behind this bill is to  
12 chain stores can possibly ignore it because \$500 is  
13 not a lot for them, and so I think perhaps that's  
14 what I've heard, you know, in-in discussions. So,  
15 think that might be the impetus, but I tend to think  
16 that chain stores have a bigger incentive to clean  
17 the sidewalk. You mentioned one, which is you want  
18 business. So, the bottom line to make money for  
19 those businesses, but I think even a big-perhaps a  
20 bigger one is lawsuits. Somebody doesn't clean the  
21 sidewalks, somebody trips. You know, you sue. I  
22 would imagine chain stores-well, first of all,  
23 they're a big target for lawsuits. So, I would  
24 imagine that would be an incentive. I-what I'm  
25 really looking for-the chair mentioned earlier and I

1 do hope Mr. Chair—and thank you for your leadership  
2 in this—that we do have a hearing with pictures on  
3 the camera. So it keeps it honest because right now  
4 there is no way other than if you have cameras in  
5 the front to—to verify whether they were clean or  
6 not. There's now way to verify whether they cleaned  
7 it, did not clean that. And so I'd like to keep it  
8 on just like we have, police cameras now and keeps it  
9 honest both ways. I think this might be a good way to  
10 go about it. I, you know, I do agree that first fine  
11 should be kept the same, but there is no data. I  
12 concur with you to show how many. We really don't  
13 know. I—I would imagine somebody who wants to take  
14 the time could know, but they could contact OATH, and  
15 gather all the addresses of all their fences, and be  
16 able to determine, you know, were—who are the  
17 biggest, you know, who's guilty here. Maybe somebody  
18 wants to take the time to do that, and I think it  
19 might be worthwhile.

21           LORIS MANDELKER: So, one of the things  
22 that I talked about, you know, I used the word under-  
23 inclusive when I testified, and the reason that I  
24 used that is what would happen? Here's a  
25 hypothetical. The bill passes. It applies to chain

1  
2 stores, and then it doesn't solve the problem because  
3 there are lots of other large business and large  
4 residential violators, and that's what I'm saying.  
5 If you're going to put the burden on the chain  
6 stores, at least do it because you're going to be  
7 accomplishing some worthy goal. To put the burden  
8 without accomplishing the goal, that's—that's really  
9 the message that we're saying to you. Don't do that.  
10 Accomplish the goal, figure out how to accomplish  
11 the—how to accomplish the goal.

12 COUNCIL MEMBER CABRERA: Yeah, and—and  
13 there's no equity. All of these apartment buildings  
14 here are used to cover, you know, half a block and  
15 perhaps even a block, and they, you know, they cover  
16 perhaps a longer space that, you know, small chains  
17 of businesses. So, I hear you. I think that we need  
18 too look into this bill and see how we could have a  
19 more equitable way of going about it. Thank you so  
20 much.

21 CHAIRPERSON REYNOSO: Thank you, Cabrera.  
22 I just heard you endorse the bill if everyone gets  
23 the fine. That's what you want. That's what I'm  
24 hearing. So, we want to be inclusive of all. We  
25

1

2

don't want to have no equity. So, I'll take that

3

back to Justin Brannan

4

5

LORIS MANDELKER: [interposing] If you're

asking me as—as a matter of policy whether you can

6

raise funds so that it's a deterrent to large scale

7

violators, that's—that's not a concept that's unknown

8

to mankind. What I'm saying is what you're doing is

9

unfair because it's ineffective.

10

11

CHAIRPERSON REYNOSO: Well, I really

appreciate your time. I'm happy you came here, and

12

engaged with us. We'll definitely take all your

13

testimony and all your—and your testimony to Justin

14

Brannan, and we'll look this over again and see if

15

that is an opportunity for modification.

16

17

LORIS MANDELKER: And we're happy to meet

with him.

18

19

CHAIRPERSON REYNOSO: Yeah, and I'll be

sure to have your contact information here, and be

20

sure to let him know, but I really appreciate your

21

time also.

22

LORIS MANDELKER: Thank you.

23

24

CHAIRPERSON REYNOSO: It's a pleasure to

meet you.

25

COMMITTEE ON SANITATION AND SOLID WASTE  
MANAGEMENT

57

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

LORIS MANDELKER: Thank you very much for  
your courtesy.

CHAIRPERSON REYNOSO: Okay. Well, thank  
you all, and at this moment the Committee on  
Sanitation is now adjourned. [gavel]

C E R T I F I C A T E

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



Date November 12, 2018