

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FIRE AND CRIMINAL JUSTICE

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June 2, 2009
Start: 2:16pm
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HELD AT: Council Chambers
City Hall

B E F O R E:
JAMES VACCA
Chairperson

COUNCIL MEMBERS:
Tony Avella
Elizabeth Crowley
Mathieu Eugene
Eric N. Gioia
Letitia James
Miguel Martinez
Peter F. Vallone, Jr.

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

Caswell Holloway
Chief of Staff, Deputy Mayor for Operations Ed Skyler
Special Advisor, Mayor Bloomberg

Richard Tobin
Assistant Chief of Fire Prevention
Fire Department of New York

James Colgate
Executive Architect
New York City Department of Buildings

Eddie Boles
Treasurer and City Council Chair
Uniformed Fire Officers Association

CHAIRPERSON VACCA: Thank you.

Thank you all for coming. Please stand for the Pledge of Allegiance. [pledge of allegiance] I'd like to welcome everyone. And I do apologize for starting late. I would first like to introduce my colleagues on the Fire and Criminal Justice Committee of the New York City Council who are here today. First I'M James Vacca, I'm Chair of this Committee. And to my left is Tony Avella from Queens, who has joined me. [pause] We are today having public hearings on four bills, which I will summarize momentarily, but I want to first welcome Cas Holloway of the Mayor's Office, and Chief Tobin of the Fire Department, as well as the representatives from DOB and DEP, who are here today to testify and answer questions regarding the bills before us. And thank them for all their hard work on this legislation. I will ask Mr. Holloway to make his opening remarks in a moment, but first I want to give a brief history as to why we're here today. On August 18, 2007, a fire in the former Deutsche Bank Building at 130 Liberty Street in Manhattan led to the deaths of New York City Firefighters Joseph Graffagnino and Robert

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2 Beddia, and resulted in injuries to several
3 others. 130 Liberty Street was a 26 story, high
4 rises office building which was undergoing
5 asbestos abatement and demolition at the time of
6 the fire. As early as August 20, 2007 the Fire
7 Department announced it was investigating the
8 possibility that the fire was caused by a
9 discarded cigarette. And on the 17th Floor, with
10 later investigations concluding the cause of the
11 fire was the careless discard of smoking material
12 on the 17th Floor. Fire Department also concluded
13 shortly thereafter that the standpipe in the
14 building on the day of the fire, which resulted in
15 significant delay in getting water on the fire,
16 may have been part of this problem. These and
17 other findings led Council Members, including
18 myself, to pursue legislative solutions to the
19 problems being uncovered, and prompted the City of
20 New York to take a comprehensive review of the way
21 construction, demolition, and abatement operations
22 are regulated and conducted in this City. The
23 four bills before this Committee are part of a
24 package of twelve bills that resulted from a
25 collaborative process between the administration

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2 and the Council. These bills combine the findings
3 and recommendations of a working group called for
4 by the Mayor on the subject, with legislative
5 proposals put forth by Council Members in the wake
6 of the fire. The first bill is Intro 986,
7 sponsored by Council Member Baez, and it requires
8 all new and altered sprinkler systems in buildings
9 undergoing successful hydrostic [phonetic]
10 pressure testing by a licensed master plumber or
11 licensed fire suppression piping contractors. The
12 second bill is by Council Member James and the
13 Speaker, amends the building code and prohibits
14 smoking at all construction and demolition sites.
15 The third bill is by Council Member Sanders and
16 the Speaker, in conjunction with the Mayor,
17 requires the installation of air pressured alarm
18 systems for dry standpipe systems in vacant
19 buildings undergoing demolition, and new buildings
20 reaching 70 feet, 75 feet high in length, in
21 height. And the fourth and final bill is my own
22 bill, sponsored with the Speaker as well, which
23 requires DEP, FDNY and DOB to establish a
24 procedure to share information regarding
25 violations issued as a result of inspection of

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2 buildings, meeting agreed upon criteria that are
3 relevant to the responsibilities of each
4 Department. All of these bills are sponsored with
5 the Mayor and the Speaker, in support, and it is
6 with that in mind that I'd like to call upon the
7 Mayor's office, Mr. Holloway, and if you could
8 introduce others with you, and we will take your
9 testimony on this legislation at this time.

10 CASWELL HOLLOWAY: Thank you very
11 much, Chairman Vacca. Good afternoon, and thank
12 you for the opportunity to testify today. My name
13 is Cas Holloway, and I'm Chief of Staff to Deputy
14 Mayor for Operations Ed Skyler, and a Special
15 Advisor to Mayor Bloomberg. I want to thank you,
16 Chairman, for convening this hearing, and thank
17 Speaker Quinn and her staff for working with the
18 Administration to develop and advance the
19 legislation before the Committee today. And I'd
20 also like to thank all the individual sponsors who
21 took part in putting this legislative package
22 together. I'd also like to recognize Chief
23 Richard Tobin from FDNY, Assistant Commissioner
24 James Colgate, from DOB, and a number of other
25 people who are here and have spent hundreds, if

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2 not a thousand hours or more on the report and
3 legislation that we're considering today. That
4 includes Charlie Sturcken from DEP, Mona Segal
5 [phonetic] from the Department of Buildings, Bryan
6 Gellar [phonetic] from Ed Skyler's office, and a
7 number of other people who are here, forgive me if
8 I didn't mention you specifically. These
9 agencies, along with the Law Department and the
10 Mayor's Office of Operations have worked together
11 for many months to develop and implement the
12 legislation that we're considering today. The
13 four bills specifically that we're talking about
14 now are part of a larger package of twelve pieces
15 of legislation that together will enable the City
16 to implement an important series of reforms to the
17 way construction, demolition and abatement jobs,
18 what we refer to as CDA operations, are regulated
19 by the City and conducted in the field. Speaker
20 Quinn and Deputy Mayor Skyler announced this
21 legislative package just a couple of weeks ago,
22 and we appreciate the ability of the Council, you
23 Chairman Vacca, and Chairman Gennaro on the
24 Environmental Committee, to move these measures
25 quickly. I testified nearly two weeks ago before

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2 the Environmental Protection Committee, and Chief
3 Tobin and Commissioner Colgate will appear before
4 the Housing and Buildings Committee on June 8th to
5 testify on behalf of the four final bills of the
6 twelve bill package. These dozen bills, as
7 everyone on this Committee knows, stem from the
8 fire at the former Deutsche Bank Building, at 130
9 Liberty Street, that occurred on August 18, 2007,
10 and that tragically took the lives of two of New
11 York City's bravest, firefighters Joseph
12 Graffagnino, Jr., and Robert Beddia. At that
13 time, the Mayor committed that the City would do
14 everything in its power to prevent a similar
15 tragedy from happening again. He ordered a
16 comprehensive review of CDA operations, that was
17 led by Deputy Mayor for Operations Ed Skyler, and
18 the agencies sitting with me here today and
19 collectively spent hundreds of hours developing
20 the 33 recommendations that are in this report, a
21 report on strengthening construction, demolition
22 and abatement operations. The Mayor accepted all
23 33 of those recommendations last July, and the
24 legislative package and a number of other things
25 that we've been doing over the course of the

1 following months, now coming up on a year, we've
2 been doing to implement these. I've been
3 personally overseeing the implementation of the
4 recommendations, and the legislation that we're
5 considering today and the entire package, while it
6 cannot undo the terrible consequences of August
7 18th, is an important step towards fulfilling the
8 City's commitment to preventing a tragedy like 130
9 Liberty Street from happening in the future.

10 Before discussing the specific bills before the
11 Committee today, I do want to say a few words
12 about the steps the City has already taken,
13 particularly to strengthen its internal processes
14 with respect to the oversight of construction,
15 demolition and abatement work. As I recently
16 testified before the Environmental Protection
17 Committee, the 33 recommendations to Mayor
18 Bloomberg last summer focused on four areas: data
19 sharing, inspection practices, general oversight
20 and the conduct of construction, demolition and
21 abatement operations in the field. Some of the
22 important changes that have already been
23 implemented include that DEP and DOB are regularly
24 sharing critical information with the Fire
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2 Department about high risk abatement jobs, and
3 about all construction and demolition jobs. They
4 get that information by getting the permits that
5 are issued. That wasn't happening before. We've
6 also completely overhauled DEP's inspection
7 protocols and have established a baseline of
8 common safety requirements that certain
9 inspectors, whether from DEP, FDNY or DOB, are
10 required to enforce. So we no longer will have a
11 situation where what agency you're from determines
12 what you're able to enforce in terms of safe--
13 these critical life safety requirements. We've
14 already conducted cross-training by all three
15 agencies, so that our inspectors are qualified to
16 enforce the requirements, and the cross-training
17 has already resulted in safer job sites. Earlier
18 this year, for instance, the DEP inspector at an
19 occupied building in Manhattan, found bags of
20 sheetrock and other construction material blocking
21 access to a second floor fire escape. DEP
22 notified FDNY about the blocked egress, and a fire
23 company was dispatched. FDNY served the owner
24 with a violation and the condition was corrected.
25 And one of the bills that we discussed last week,

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2 the permit abatement bill, the abatement bill for
3 permitting, also gives DEP the power to actually
4 enforce provisions of the fire code, so this
5 mechanism's going to get even better the next time
6 that happens once this legislation is passed, the
7 DEP inspector, him or herself, will be able to
8 write the violation. And that's a major step
9 forward. DEP, FDNY and certain DOB inspectors are
10 all using checklists in the field to ensure
11 consistency across inspections and interagency
12 collaboration on these issues, including projects
13 like the Yankee Stadium Demolition. So we're
14 institutionalizing some of these new practices and
15 piloting them before the legislation itself
16 becomes effective. DOB now has rules that
17 requires site safety managers to conduct weekly
18 tracing of standpipes. That is going to be
19 codified in law pursuant to one of the provisions
20 before us today. And FDNY is already working to
21 spend the \$23 million in capital funding that the
22 mayor provided last year, to completely overhaul
23 FDNY's data keeping practices. You may not know
24 this, but the FDNY has eleven separate databases,
25 none of which were linked. They will be linked

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2 and they will be able to help the Department
3 conduct truly risk based inspections, once that
4 investment is fully put in place. These are
5 important steps and the bills under consideration
6 today build on these efforts by heightening
7 requirements for standpipe and sprinkler safety,
8 furthering a zero tolerance approach to smoking on
9 construction sites, which Chairman you mentioned
10 at the outset of the hearing, and improving how
11 City agencies share information about dangerous
12 conditions at construction, demolition and
13 abatement sites. In fact, let me talk about that
14 information sharing bill first. That's Intro
15 1007, legislation addressing an issue of
16 particular concern to you, Chairman, and I believe
17 we've discussed this on a number of occasions.
18 The CDA information sharing bill requires that
19 DEP, FDNY and DOB establish a procedure to share
20 information regarding violations issued as a
21 result of inspections of buildings that meet
22 agreed upon criteria. The development of this
23 violation sharing procedure will build on the
24 considerable progress in sharing information that
25 we've been making over the course of the last

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2 year, and that includes that as I mentioned, DOB
3 and DEP are already sending notifications of
4 certain kinds of jobs to the Fire Department. The
5 City has also overhauled what was termed, for
6 those schooled in the technical parlance, the A8
7 referral process, where fire, firefighters in
8 local companies who conduct inspections, refer
9 dangerous conditions to the Department of
10 Buildings. It turns out that before we conducted
11 this comprehensive review, those referrals were
12 being made by firefighters calling 311. We
13 recognized that that wasn't the most efficient way
14 to get this done, and now they're entered directly
15 into the building information system that DOB has.
16 DOB is also regularly sharing information about
17 high risk abatement jobs with FDNY, based on
18 certain criteria that have been established
19 through an extensive review process. And FDNY is
20 developing the data analysis strategy that I
21 talked about. And one year after the effective
22 date of this bill, the City is required to provide
23 the Council a copy of the, whatever, what this
24 procedure is, and will update the Council on our
25 efforts at that time. The mandate to City

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2 agencies to develop this procedure is just one
3 example of new requirements the City agencies have
4 established, to strengthen our oversight of CDA
5 sites. And just to provide a bit more detail, you
6 are, the agency, Fire in particular, is getting
7 information about the abatement jobs and about
8 demolition and construction permits. Taking this
9 to the next level actually means providing useful
10 information to inspectors in the field, that's
11 more detailed, that provides additional
12 information about inspections. You know, the
13 Mayor's vision here is that a inspector in the
14 field ought to be able to access information to
15 know what kinds of conditions exist at sites.
16 It's more efficient and effective, it's safer.
17 And so part of what you'll see, even though we're
18 doing a lot now, that procedure will I think be
19 significantly advanced in terms of what we're
20 going to be planning to be able to share between
21 inspectors. Let me move on to standpipes. I'll
22 turn to two bills addressing the integrity of
23 standpipes and sprinkler systems during
24 construction and demolition operations. The
25 first, Intro 1002, requires the use of an air

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2 pressurized alarm system for dry standpipe systems
3 during construction or demolition operations. A
4 standpipe system, as the members of this committee
5 know, is the piping installed in a building that
6 serves to transfer water from a water supply to
7 hose connection at one more locations in a
8 building for firefighting purposes. Under current
9 building code requirements, all buildings under
10 construction must have a standpipe system once
11 they exceed 75 feet in height. And buildings
12 undergoing demolition must maintain dry standpipe
13 systems one floor below the demolition floor until
14 the building gets to the ground. The failure of
15 the standpipe system at 130 Liberty Street
16 exacerbated what was already a dangerous emergency
17 situation. And the CDA working group focused on
18 how to better identify and address any breaches in
19 a standpipe system, during the construction and
20 demolition process. Standpipe alarm systems
21 detect these problems and sound an alarm to notify
22 firefighters or designated safety personnel, that
23 the standpipe's integrity has been compromised.
24 Under Intro 1002, a registered design professional
25 must apply to install the alarm system, and the

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2 bill sets out detailed specifications for the
3 system; in fact it is quite a technical bill. It
4 requires that air pressure be maintained in the
5 standpipe at a certain PSI at all times, both at
6 above a minimum and below a maximum. That the
7 alarm be triggered whenever air pressure drops
8 below a certain pressure or rises over those,
9 those limits that I just discussed. The alarm
10 system must have a local, audible alarm on site
11 that can be heard during working and non-working
12 hours. And whenever the alarm is activated, work
13 must cease until the standpipe system is restored,
14 and is restored, and appropriate pressure is
15 restored to the system. After the fire at 130
16 Liberty, the contractor installed a pressurized
17 alarm, and this February when a worker
18 accidentally cut a section of standpipe, the alarm
19 performed as it was designed to. It went off,
20 work ceased, and the, you know, you never want to
21 have part of a standpipe get cut. But when it
22 gets cut, you want to know about it, and you want
23 to fix it, so that it's safe for everybody working
24 inside, and safe for first responders when they
25 arrive. This, you know, standpipes, one thing

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2 we've learned through this comprehensive review,
3 is that in a building standpipes are incredibly
4 complicated. Yes, they mainly go up the
5 stairwells, but they can also branch out into the
6 ceilings on various floors, and by putting,
7 requiring that these systems be put in during
8 construction and demolition operations, you're
9 really adding a measure of safety that gives, I
10 think, a higher, a much higher degree of certainty
11 that you'll know that the system is functioning as
12 it's supposed to. Chief Tobin can speak at
13 greater length and detail about that if you have
14 questions, when I'm finished. The second
15 standpipe bill is a hydrostatic pressure testing
16 of standpipes and sprinklers, that's Intro 986.
17 It expands the requirements for hydrostatic
18 pressure testing and, and sprink--for standpipes
19 and sprinklers. Right now, testing is only
20 required at the end of construction of a new
21 building, but not while the building is going up.
22 But it's during the construction phase that some
23 of the most dangerous activities and conditions
24 arise. So you want to ensure that that standpipe
25 is functioning at that time. Intro 986 therefore

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2 requires hydrostatic pressure testing for new
3 buildings above 75 feet, with regular tests
4 thereafter, every 75 feet. Enlargements, when
5 you're doing an enlargement or addition to an
6 existing standpipe system, and building
7 demolitions and removal of stories if a
8 hydrostatic test, hydrostatic test has not been
9 performed within the past five years, as mandated
10 by the fire code. Additionally, the bill requires
11 all new or altered sprinkler systems in buildings
12 to undergo successful hydrostatic pressure testing
13 by a licensed master plumber, or licensed fire
14 suppression piping contractor. So you have to be
15 credentialed in order to conduct this work. Like
16 the pressurized alarm requirement, more frequent
17 hydrostatic pressure tests provide another layer
18 of insurance that if and when a fire break out in
19 a building under construction or demolition,
20 responders will have the water they need to help
21 put the fire out, and work will only be conducted
22 during safe conditions, knowing that that
23 emergency could be addressed. The final bill
24 under consideration today arose from one of the
25 recommendations to strengthen the citywide ban on

1 smoking at construction, demolition and abatement
2 sites. And the Administration has been working
3 actively since last September to enforce this with
4 a zero tolerance approach. Of course, no smoking,
5 it's not a brand new requirement, but both the
6 Buildings Department and the Fire Department have
7 been moving aggressively to enforce the no smoking
8 requirement and, and Chief Tobin again can provide
9 some very interesting anecdotes about that. Intro
10 1004 amends the building code to prohibit smoking
11 at all construction and demolition sites, and
12 requires signs to be posted in accordance with the
13 specified provisions of the fire code. Beginning
14 last year, as I said, DOB began to vigorously
15 enforce the smoking ban at construction sites
16 that's in the construction codes, and now putting
17 this prohibition in the codes rather than simply
18 referring as a general matter to the fire code,
19 makes it clear that this is the policy, whether
20 you are a construction contractor looking at the
21 building code, whether you are looking at the fire
22 code; and we're also making that change in the
23 testim--the legislation I testified about last,
24 two weeks ago, to the DEP rules. Finally, I want
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2 to close on an issue that has loomed large for
3 this group: the applicability of the New York City
4 Fire and Construction Codes to state, federal and
5 so-called, other so-called non-jurisdictional
6 properties. As the working group found, the
7 informal and voluntary nature compliance with fire
8 and construction codes, creates a risk that there
9 is construction, demolition or other hazardous
10 activity taking place at certain properties that
11 the City either isn't aware of or cannot require
12 building owners to correct, and may not be
13 prepared to address in the event of an emergency.
14 The City therefore has called for state and
15 federal legislation to require fire and building
16 code compliance among such non-jurisdictional
17 entities, and has called upon city agencies to
18 develop agreements with such entities to heighten
19 compliance. In fact, State Senator, Squadron and
20 Assemblyman Gottfried recently introduced
21 legislation requiring that New York City
22 construction codes and fire codes be enforced at
23 State buildings. The Administration's efforts to
24 address this issue and to enact through state and
25 federal laws, demonstrates the Council's

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2 commitment to improving construction and abatement
3 safety through local legislation. I look forward
4 to discussing any ways with you that we can
5 continue to collaborate, particularly on that
6 issue, because we can use your help, and all of
7 the Council Members' help, both pushing that issue
8 at the State level. And then we've also entered
9 into an MOU with the Port Authority on cranes, and
10 we're working on similar types of MOUs with the,
11 the GSA, the federal General Services
12 Administration. So, with that, I will conclude my
13 testimony, and I'll be happy to take any questions
14 you may have.

15 CHAIRPERSON VACCA: Thank you.

16 Thank you very much for your very, very, very
17 inclusive testimony. We, in the City of New York,
18 do not have the power to tell the non-City
19 agencies that they have to comply with our
20 building codes? Don't we have the power of
21 serving a violation to the MTA? To the Port
22 Authority? I think they are agencies you may be
23 referring to. That we, they require legislation
24 to mandate their cooperation with City guidelines,
25 city laws?

CASWELL HOLLOWAY: Well, the answer to that is, it's more complicated than you would think it would be. It turns out that there are any number of permutations in terms of the applicability of City codes to non-City properties. So the State can be a landlord, an Authority can be a landlord, the federal government can be a landlord, and it can be an owner, and the, you know, you can have the international, the embassies. And the applicability of the City's local codes to all of those properties differs pretty widely. In fact, some entities, like for example the Lower Manhattan Development Corporation have the ability to choose whether or not the building code, for example, is going to apply to what they do. Now it turns out that LMDC did vote to have the building code apply, so that's a good example, you know, it's good for the entity to take that course of action. But the Port Authority, you know, the local fire and building codes do not apply. So, a building inspector could come on site, theoretically, and see a condition that would violate the City code, they could theoretically

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2 write a violation, but it wouldn't have any
3 binding effect, and nobody would be required to
4 fix it. Now, the Fire Department and Chief Tobin,
5 I'll ask you to elaborate here, does have some
6 collaborative relationships with entities like the
7 Port Authority and the MTA, so it's not as if
8 people are, as a general matter, are being turned
9 away from properties. But Chief?

10 RICHARD TOBIN: Sure. The Fire
11 Department has agreements with the New York City
12 Transit Authority, the MTA; we have a liaison, he
13 deals with the Captain at headquarters on a
14 fulltime basis. They have voluntarily agreed to
15 comply with our fire codes. There were instances
16 where we had some pushback from them, usually when
17 it involved large expenditures of money. And they
18 would hold up that they're not, they're not held
19 to that. So we would inspect their properties
20 basically as a courtesy, notify them of what
21 deficiencies we cited, and in 99 percent of the
22 time, they would take care of it. Occasionally,
23 we got pushback from the MTA, but not, not to a
24 great extent. Same with the Port Authority, we
25 have an ongoing relationship, we deal, I deal on a

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2 regular basis with Bill Doherty. Bill Doherty
3 represents the Port Authority on all the fire and
4 safety issues at the World Trade Center. Whenever
5 we've brought anything to their attention, they
6 have been very quick to remedy it. We had issues
7 with hydrants down there, they, they addressed it
8 immediately. We had issues with the new museum
9 that's being put in with the standpipe going down
10 below. They sent the plans to us, we had the full
11 plan, we looked at it, we listed our objections,
12 they looked at our objections, and they remedied
13 it according to what we requested. We also have
14 all of their new buildings that were put up, when
15 the Seven World Trade Center was constructed. The
16 Fire Department asked for certain things, we asked
17 them to double the reserve of water that they
18 normally have; we asked them to harden their
19 stairwells; we requested a number of things, and
20 they complied with us. They've been very willing
21 to comply with us. But the reality is, we don't
22 have the ability to enforce, we have to work
23 agreeably with them. We have to, we have to build
24 a consensus that this is what's going to be safe.
25 And they've been working very well with us. Where

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2 we run into difficulty, as Cas said, was when we
3 come with some of the embassies in the building,
4 we had problems with the United Nations, we worked
5 extensively with the United Nations. It took
6 months and months and months of actually playing
7 hardball, and we did get finally get cooperation.
8 But the bottom line is, we don't have that ability
9 like we do with anybody else, to say, "Do this or
10 we're going to fine you." We, that's where we, we
11 stop.

12 CASWELL HOLLOWAY: I would just--

13 CHAIRPERSON VACCA: You would--I'm
14 sorry, Cas.

15 CASWELL HOLLOWAY: Sorry, just to
16 add, I think the main issue here is discretion.
17 You know, you, in most cases, in a lot of cases,
18 you have entities that are willing to work with
19 us, but it's up to them, and you could have a
20 change and that could change. One other thing I
21 should highlight though is, the Port Authority and
22 the City actually recently entered into an MOU
23 for, for crane safety. Commissioner Colgate, do
24 you want to, can you speak briefly to that?

25 JAMES COLGATE: Yes, Council

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2 Members, the Port Authority is a creature of the
3 State of New Jersey and the State of New York
4 legislatures, and they are not legally obligated
5 to follow any of our requirements in New York
6 City--building codes, fire codes. We have a
7 series of memos of understanding, memorandums of
8 understanding, which also govern the construction
9 of buildings. They've, they've told us that
10 they're going to agree to comply with our code.
11 We work very closely with them, for construction
12 codes, and very recently we signed another one
13 regarding crane safety, and that the, that was
14 very important and, and it's actually working out
15 very well. Now, they will follow our regulations,
16 our requirements for crane safety, which are some
17 of the most stringent - - , we work very hard on
18 crane safety, as, as you know. And we've
19 accomplished a great deal in making sure that
20 cranes are safe in New York City. And now our
21 inspectors will go there, they will file the, you
22 know, the same forms that we would require, and it
23 is working out very well. I don't know what else
24 to say. It's, it's a good thing. But they're not
25 legally obligated to, they've just voluntarily

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entered into agreements with us.

CHAIRPERSON VACCA: My colleague,
Council Member Vallone has a follow up question.

COUNCIL MEMBER VALLONE: Thank you.
I wanted to touch on the MTA and the other
entities before you moved onto a different topic.
Plus, I got to apologize, we have delegation
meetings going on now, which is where all the
council members are, fighting for, you know, for
budget priorities. You just said that these
different agencies, or you said the MTA
voluntarily agrees to comply with the fire codes.
I'm going to have to beg to differ, and I need you
to explain this to me, because I have been leading
the fight to get rid of these floor to ceiling
heat gates that the MTA uses. When we are
attacked in a subway, people will die, and people
will die because of that fire code violation. So,
you're not saying here today that these floor to
ceiling heat gates comply with the New York City
fire code, are you?

RICHARD TOBIN: I really, I'd have
to get back to you on that. I can't say offhand,
that's the first I'm hearing about those, those

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gates.

COUNCIL MEMBER VALLONE: Well, I've written the Fire Department letters, they don't, they're a simple, the code is simple. If there's any sort of revolving door within six feet of it, there has to be push open doors. That doesn't exist in the subway system. And these things should not exist in our subway system. They will result in deaths down the road. They are only there to prevent fair beating. It's putting, it's, it puts peoples' lives behind money. But that's not your, that's not anything, that's, I'm just railing against the MTA, not you. But I would like you to actually take a look into that. I will follow up with you because I'm positive they violate the codes, and therefore they're not voluntarily compliant with the fire codes. I think it's ridiculous, that's, as our Chair says, that these different agencies are not forced to comply. They, they can choose to comply with a code that's, that was designed to deal with farm silos on the Canadian border, and not skyscrapers here in, in Manhattan. And that needs to be changed. So, Mr. Chair, I, if there isn't a Reso

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2 in yet, I would suggest you and I cosponsor one to
3 support the bill that was put in by Senator
4 Squadron or something, Gottfried, requiring this
5 to happen. So I would ask that Counsel Calandra
6 please prepare one, if, if there doesn't, one does
7 not exist. And we look forward to working with
8 you to make sure that happens. So, so thank you
9 all.

10 CASWELL HOLLOWAY: Thank you,
11 Council Member. I do want to clarify one thing
12 that Chief Tobin and I said. The, in terms of the
13 compliance with the fire code, I don't think the
14 intention was to say that the MTA has voluntarily
15 agreed to comply with all aspects of the fire
16 code. There is a liaison relationship where there
17 is good communication about activity that's
18 happening. There is access to MTA sites, and
19 there is agreements on certain provisions. But
20 it's certainly not the case that the MTA has
21 agreed to follow every aspect of that, of that
22 code. Chief?

23 RICHARD TOBIN: And I think I said
24 that. I would say close to, more than 90 percent
25 of the time, when we bring something to their

1
2 attention, they will work with us. But that, the
3 problem we have across the board is that when
4 you're talking about something where we're going
5 to hit them, and they realize it's going to cost
6 them money, real money, significant money, that's
7 when they throw up their defense and say, "We are
8 a non-jurisdictional. We, we're doing you a
9 favor, we don't have to comply with any of this."
10 That's why we did go to Albany, we spent a whole
11 day in Albany, lobbying Senator Gottfried,
12 Assemblyman Gottfried, Senator Squadron, and
13 Senator Golden, who's, who agreed to support and
14 advocate for what we're looking for.

15 COUNCIL MEMBER VALLONE: Well, we,
16 we have a new chair and I'm new on this Committee,
17 so anything we can do to help you, let us know.

18 CASWELL HOLLOWAY: Right, and we'll
19 look into that issue.

20 CHAIRPERSON VACCA: I, I couldn't
21 help but note that you singled out the United
22 Nations, and I know it took us years to collect
23 traffic tickets that diplomats owed the City. And
24 I don't want to be in that situation with them
25 again. We went through a long period of time

1
2 where diplomats were not paying traffic tickets
3 and violations they received. Do we have a
4 timetable where the United Nations will be
5 complying? And do we have a strategy to get them
6 to comply? 'Cause I think of, I think of their
7 not complying as a serious breach of faith with
8 our City, the, the host city to the world. And
9 what are we doing be--I ask that question very
10 seriously, because if an incident happens there,
11 the world will be watching. And I want them to be
12 held to basic safety as would anyone else.

13 CASWELL HOLLOWAY: Well, Chairman,
14 let me, there have been extensive back, there's
15 been extensive back and forth with the United
16 Nations on compliance with various aspects of the
17 code. And I'd, I want to get back to you on that,
18 in terms of where that stands, because it is a
19 dialogue that is ongoing, and I, I actually don't
20 know, with respect to that particular building, it
21 actually is governed by its own set of protocols,
22 in terms of what applies where, and so forth. But
23 we'll get back to you on that.

24 CHAIRPERSON VACCA: I appreciate
25 you getting back to me on that, and considering

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2 time being of the essence. Cost, have you gone o-
3 -Oh, oh quickly before cost. I want to make sure
4 when I talk about non-city agencies, I do want to
5 make sure that agencies such as Health And
6 Hospitals Corporation, School Construction
7 Authority, that may not be mayoral, but are
8 authorities unto themselves, that they are in
9 compliance. Do we need agreements with the School
10 Construction Authority when it comes to building
11 new schools? Do we need agreements with Health
12 and Hospitals Corporation for their existing
13 buildings? Where do those gray agencies stand,
14 when it comes to compliance?

15 [pause] [off mic: --all these
16 entities have--] [off mic: --there's - -
17 restriction] [off mic: Okay, do you want to
18 answer.]

19 JAMES COLGATE: Yeah, what you will
20 find is that all of these agencies were created at
21 some time or another in the State legislature to
22 do this, that or the other. And each one of them
23 on their own either may or may not have that
24 qualified state of immunity, that will permit them
25 to not have to come under the jurisdiction of the

1
2 New York City construction codes or fire codes.
3 And some may, some may not. And it depends on how
4 they were created. The SCA has a memorandum of
5 understanding with the Department of Buildings
6 that they will follow all of our building codes,
7 and they actually have their own little set of
8 bureaucrats in their offices there that do all the
9 things that we do, at the Buildings Department, to
10 enforce our building codes. But each one of them
11 has to be looked at individually because of the
12 way the patchwork of regulations have put in. Now
13 the, the bill that's before Squadron and
14 Gottfried, that they put forth, will actually
15 rectify that, because all of the ones that are not
16 subject to New York City's regulations, will
17 become, if they're a State agency. The only one
18 that won't be covered by the Squadron and
19 Gottfried bill will be the, the Port Authority,
20 because to mandate that, that would require an act
21 of the legislatures of both states to, to impose
22 that.

23 CASWELL HOLLOWAY: But we can also,
24 if you have, if you want to submit for any
25 particular list, I mean they're, the list of, it's

1
2 kind of alphabet soup of agencies and authorities,
3 we can get back to you on any particular one.

4 CHAIRPERSON VACCA: Well, the
5 legislative session in Albany, to my
6 understanding, has about three more weeks to go.
7 Now, these bills by Gottfried and Squadron are
8 pending, are pending right now. Do we expect them
9 to pass in the next three weeks? Or is this
10 something that may be decided by the next
11 legislative session?

12 CASWELL HOLLOWAY: Our hope is that
13 they would be, if they, that they would be passed
14 by the end of this legislative session.

15 CHAIRPERSON VACCA: Okay.

16 CASWELL HOLLOWAY: And any help or
17 influence you can exercise in that direction will,
18 we can give you more data about it.

19 CHAIRPERSON VACCA: Well, I, I will
20 work with my colleague, Councilman Vallone on a
21 resolution which would indicate that the will of
22 the Council is that that certainly be done. The
23 hydrostic pressure, hydrostatic pressure systems,
24 what's the cost? Have you done a fiscal analysis?

25 CASWELL HOLLOWAY: We actually, we

1
2 have, we do have some cost information about that.

3 JAMES COLGATE: Yeah, hi, James
4 Colgate, Buildings Department. The hydrostatic
5 pressure tests range for, I mean, if you're
6 talking up to like a 40 story building, about
7 \$1,800 to perform the test. Average can be
8 somewhere between \$1,000, \$1,800. That's the
9 hydrostatic pressure test that will be required by
10 this bill. When you get to the five, your cycles
11 after the building is already up, and every five
12 years thereafter, there is a requirement already
13 in the fire code that's not part of this bill.
14 The cost is a little, is a little bit more because
15 of the way that the fire code requires the test to
16 the be performed there's a pre-test and some other
17 things like that. But about \$1,000 to \$1,800 per
18 hydrostatic pressure test.

19 CHAIRPERSON VACCA: And the--the
20 alarm system?

21 CASWELL HOLLOWAY: Sure. On the
22 alarm system, it's actually a range, it goes from
23 as low as \$7,500 up to \$32,000. It depends.
24 We've got, that's based on some of the data that
25 we have from what it costs at 130 Liberty Street.

2 But the way we're looking at that is, even at the
3 high end, that is a pretty small cost of the
4 percentage of the buildings to which these, you
5 know, a high rise construction building in the
6 City. Chief, any more information on cost?

7 RICHARD TOBIN: We had extensive
8 discussion with Bovis. Bovis was the company that
9 initiated this voluntarily, in light of what
10 happened down at 130 Liberty Street. And their
11 numbers ranged from roughly \$25,000 to \$30,000.
12 They, they based that on the cost for the
13 electrical compressor, or the electrician rather,
14 for the wiring and everything, for the compressor
15 for the tubing, the entire cost, and for the
16 maintenance of the system throughout. When they,
17 they costed it out, for instance, on a \$25 million
18 job, similar to 130 Liberty Street, the cost of
19 installing the system was .0012 percent of the
20 overall building cost. And Bovis said to us that
21 the cost on any building in the City would be
22 basically peanuts.

23 CHAIRPERSON VACCA: What will the
24 fines be for the smoking bill violation?

25 CASWELL HOLLOWAY: Smoking,

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2 actually the, the amounts of the violations differ
3 depending on which agency is writing it. Do you,
4 chief do you want to talk about FDNY?

5 RICHARD TOBIN: I think that--

6 CASWELL HOLLOWAY: Or--

7 RICHARD TOBIN: Right now at this
8 time, Buildings has a more cost refined structure
9 than we do. We're looking to mimic theirs.

10 CHAIRPERSON VACCA: The bill is
11 bill, is putting it in the building code. So what
12 will that penalty be?

13 CASWELL HOLLOWAY: We actually have
14 the, the numbers, hang on for one second.

15 JAMES COLGATE: We have the numbers
16 here, yeah. Okay, yeah, the, the bill will codify
17 a practice that we have of issuing these
18 violations under other code provisions. But we're
19 expecting that they will be in the same range.
20 The actual fines are established through a rule
21 making process, and what we have now are about
22 \$1,200 a pop when you have nonsmoking violation.
23 It's an ECB violation. And it can, it can be
24 higher depending if you're smoking your
25 combustible materials, for instance, than it's a

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2 \$2,400 fine. That's, that's what we're enforcing
3 now, and that's what we see as being the, the
4 infractions, based on the infraction codes we're
5 using now.

6 CHAIRPERSON VACCA: On Intro 1007,
7 I know we're talking about one agency having
8 results of inspections of other agencies, which
9 often now does not happen. I can speak to that in
10 my own district, when I know a building's
11 inspector may be going out to a site, he will not
12 know if the fire department or the Department of
13 Environmental Protection, has posted previous
14 violations. And that is important for them to
15 know, because then they have that whole case in
16 context. My only statement, my only question to
17 you is, I expect and I hope that this passage of
18 this bill is a precursor to having this
19 information from Fire and DEP online. I think the
20 bid system that the Buildings Department has, is
21 probably the most transparent of all agencies.
22 You can see the complaint, you can see the
23 inspection result, you can see the fine, the
24 results of the ECB hearing. But when it comes to
25 the other agencies involved, their violations are

1
2 not on their websites. And I think that now that
3 we're having interagency cooperation among these
4 three agencies, it would only be strengthened if
5 we can have transparency insomuch as the other
6 agencies and, and the violations they issue. Do
7 you expect to include this as part of this bill,
8 part of the intent of this bill? Do you intend to
9 expand into that area?

10 CASWELL HOLLOWAY: Well, we've
11 actually already made some significant progress in
12 that direction. Right now, as you mention, under
13 BIS, you, you can actually see violations that the
14 Building Department issues to certain properties.
15 Once, as part of implement, the implementation of
16 the data sharing recommendations here, we've
17 already created internally on the City's internet.
18 We've put up ECB violations and we're actually
19 doing pilots in the Fire Department and the
20 Buildings Department, to have inspectors look at
21 those violations and see which ones, look at those
22 violations prior to doing inspections, so that
23 they can see which ones are helpful to them.
24 We're also in the midst of an extremely
25 comprehensive assessment of the data exchanges

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2 that are happening between all three agencies, and
3 we're asking a couple of questions. You know,
4 what are you getting, what are you doing with it?
5 If you're not doing anything with it, do you still
6 want to get it? If, should you be doing something
7 with it? And how do we make sure that the
8 information that you're getting, is most
9 efficiently delivered, so that it actually
10 translates into action? Because it, it is the
11 case that there's a lot of information that, for
12 example, a fire inspector may not particularly
13 need. So, we already have the ECB violations now
14 up internally on the City's intranet. And then
15 the next phase of that will be, we do envision
16 some level of, of making that available to the
17 public. I don't want to, like the BIS, the
18 Building Department violations, I don't want to
19 give a timeline yet, but you can continue to
20 follow up with, we'll continue to keep you up to
21 date on that. But it's an important issue and
22 it's definitely part of this.

23 CHAIRPERSON VACCA: I appreciate
24 that. I do concur, it's an important issue. To
25 those of us who monitor the problems within, the

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2 problems that agencies attack in our
3 neighborhoods. I want to introduce my colleagues,
4 Elizabeth Crowley to my left, member of the
5 Committee; and Councilwoman Tish James to my
6 right; and Mathieu Eugene of Brooklyn, also to my
7 right. Alright, any questions from Committee
8 members? No. Okay. [off mic] No, I have, I
9 think we have one person from the public. I want
10 to thank you.

11 CASWELL HOLLOWAY: Thank you,
12 Chairman.

13 CHAIRPERSON VACCA: Thank you. Mr.
14 Edward Boles, Treasurer of the UFOA. [pause]
15 Identify yourself for the record. Please proceed.

16 EDWARD BOLES: Eddie Boles, UFOA,
17 Treasurer and City Council Chair, representing the
18 Fire Officers Union in the City of New York, very
19 proudly. We represent 2,500 officers that include
20 lieutenants, supervisor fire marshals, captains,
21 battalion chiefs, deputy chiefs, and medical
22 officers. I just wanted to speak today 'cause I
23 think it's important that, that the City Council
24 is complimented on their endeavors here. The work
25 that you've done, the work we've done together, in

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2 collaboration, I think needs to be recognized.
3 Under your leadership, Chairman Vacca, and the
4 Speaker, I think it's important that we take a
5 tragedy like 130 Liberty Street, where we lost two
6 firefighter, Bobby Beddia, and Joseph Graffagnino.
7 And of course we'll never forget their deaths, but
8 having said that, from every tragedy, and we've
9 been through a lot of 'em, City Council has called
10 us and say, "What, what can we do to make things
11 better?" And whether it was WTC, whether it was
12 the tragedy in The Bronx where we lost Lieutenant
13 Howard Carpluk, whether it was Lieutenant John
14 Martinson in Brooklyn, the calls come and we
15 appreciate that, and we sit down together, we
16 collaborate, and we come up with positive changes
17 so we can prevent those tragedies from happening
18 in the future, and we can move forward. I want to
19 talk just a couple about the Resolutions, and then
20 I won't hold you too long here. I want to use the
21 example of the, the sprinkler alarm system. Water
22 is our lifeline. The quicker we put water on the
23 fire, the more lives we're going to save, the more
24 property we're going to save, and the safer it is
25 for firefighters to fight the fire. That's,

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2 that's a hard concept to get across to the
3 citizens of New York, because they really don't
4 know what we do. They just see us, they just see
5 us going in the buildings, it looks like mass
6 chaos, but believe it or not it's very organized,
7 we know what we're doing, we're trained, we have
8 tactics that we implement to try to get the
9 citizens out as quickly as possible, force entry,
10 do our searches, ventilate the building, and most
11 importantly, get water on the fire. 130 Liberty
12 Street, we were told when we pulled up, or the
13 members there were told that the sprinkler system,
14 the standpipe system was working. Again, water is
15 our lifeline. That's what we need to save lives
16 and property. We were under the impression, our
17 members were under the impression when they went
18 to the 15th floor, which is our procedures, go two
19 floors below the fire to fight the fire, that we
20 would have water. We were assured that. This
21 Intro of having an alarm system is an incredible
22 indicator, it's a positive indicator to us that,
23 yes, there is water, or not there's not water.
24 And if there's not water, the alarm system will go
25 off, and then as firefighters and fire officers

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2 the way we're trained, we make adjustments, we
3 change our tactics, we change our procedures, and
4 then we fight the fire the way we can fight it in
5 a different way. If we knew that on 130 Liberty
6 Street, I think maybe the results would've been a
7 lot different. So having said that, a Resolution
8 like, like the one requiring alarm on the
9 sprinkler is important. Also, something that I've
10 been advocating since I got elected in 2005, has
11 been the sharing of information with the agencies.
12 It's important, let's be all on the same page.
13 Let's share the information. If DOB finds
14 something out, let us know. DEP finds something
15 out, let us know. If FDNY finds out, let DEP and
16 DOB know, so we could always work together and try
17 to resolve the situation. We've talked about A8s
18 in the past, and A8s are these, these forms that
19 we send out to DOB, and a lot of times they were
20 left on deaf ears. We'd see a violation, we send
21 it to the Department of Buildings, and we never
22 get a response. I can't tell you how many A8s
23 I've sent out with no response. This helps, this
24 addresses that, and it's a positive step. Okay?
25 Additionally, the package of bill allows us all

1
2 again to move forward. This is only the first of
3 many which again our union appreciates. We will
4 continue to work with the City Council, we hope to
5 continue to work with the Fire Department. I'm
6 sick of the, I'm sick of the finger pointing
7 since, since 130 Liberty Street. I want to move
8 on from that, and continue to work to make things
9 better for both us and for the citizens of New
10 York. And again, I want to compliment you, Chair
11 Vacca, and the City Council. I know you all, you
12 know me, I appreciate your support. I also,
13 special compliments to your staff, your legal
14 counsel Rob Calandra. It's a privilege to work
15 with you guys, and if there's anything that we
16 could do to help make things better in the City,
17 you know our door's always open. Thank you for
18 allowing me to testify.

19 CHAIRPERSON VACCA: Thank you, and
20 I certainly want to thank you for all the help
21 that you've been giving relative to the proposal
22 to close fire houses. And we are fighting very
23 hard, I know I am, I'm sure other council members
24 are. We will not stand by and allow firehouses to
25 close. And I think that that is resonating with a

1
2 lot of members, because not only are the four
3 houses that are now having evening closing are on,
4 on the chopping block, but we have twelve houses
5 in undefined areas in our City that are also
6 scheduled to close during the next fiscal year.
7 So, we need your continued help and guidance, and
8 we appreciate your support for the people of New
9 York. That's why I'm wearing all red today, so
10 people will not forget that something's on fire
11 besides my shirt. Okay. [laughter]

12 EDWARD BOLES: It is our pleasure.

13 CHAIRPERSON VACCA: I'll leave it
14 at that, before I get carried away here. Totally-
15 -

16 COUNCIL MEMBER JAMES: And your
17 suspenders.

18 CHAIRPERSON VACCA: And my
19 suspenders, but let's not go further than that.
20 [laughter] Now, any questions from my esteemed
21 colleagues? Now, here we go, sorry I asked that
22 question, too. Alright, thank you, Eddy, thank
23 you.

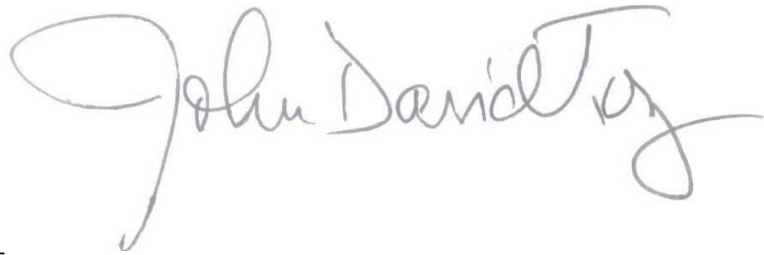
24 EDWARD BOLES: Been a pleasure.

25 CHAIRPERSON VACCA: I do want to

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2 note for the record, we have testimony from the
3 Mechanical Contractors Association of New York,
4 Inc., that we will have here for our Committee and
5 members to review upon request. And we also have
6 testimony from the New York Fire Sprinklers
7 Contractors Association, Melissa Barbour, which we
8 will also keep for the record, and we thank them
9 for submitting their testimony. With there being
10 no--Oh, and I do want to mention for the record
11 that Council Member Martinez was here, he had to
12 leave, but he was present prior in the hearing.
13 With there being no further bus--I did mention, I
14 did mention Council Member Eugene. With there
15 being no further testimony, this hearing is now
16 adjourned. [gavel] [pause] Is it on? Oh, okay.
17 I also wish to acknowledge the presence of Council
18 Member Gioia. [pause] Again, I adjourn again.
19 [pause to end]

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned above a horizontal line.

Signature_____

Date June 18, 2009