

CITY COUNCIL  
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON CONSUMER AFFAIRS AND IMMIGRATION

-----X

November 14, 2008  
Start: 10:19 am  
Recess: 02:58 pm

HELD AT: Council Chambers  
City Hall

B E F O R E:  
LEROY G. COMRIE JR.  
Chairperson

KENDALL STEWART  
Chairperson

COUNCIL MEMBERS:  
Charles Barron  
G. Oliver Koppell  
John C. Liu  
Alan J. Gerson  
Gale A. Brewer  
David I. Weprin  
Annabel Palma  
Melissa Mark-Viverito  
Mathieu Eugene

## A P P E A R A N C E S

Shari Hyman  
Deputy Criminal Justice Coordinator  
NYPD

Dan Albano  
Lieutenant  
NYPD

Chris Manning  
Assistant Commissioner  
DOHMH

Andrew Eiler  
Director of Legislative Affairs  
Department of Consumer Affairs

Susan Petito  
Assistant Commissioner for Intergovernmental Affairs  
NYPD

Ian Alterman  
Vice President  
20th Precinct Community Council

Tom Cusick  
President  
Fifth Avenue BID

Thomas Ferrugia  
Director of Governmental Relations  
The Broadway League

Robert Lederman  
President  
ARTIST

Jill Stasium  
Artist

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

Laurel Cudden  
Director of Food Safety  
B. R. Guest Restaurants

Renee Giordano  
Executive Director  
Sunset Park BID

Eudoxia Alarcon  
Member  
Sunset Park BID

Eduardo D. Artica  
Member  
Sunset Park BID

James Williams  
Board Member  
Street Vendor Project

Lei Bai  
Board Member  
Street Vendor Project

Tappan Sen  
Board Member  
Street Vendor Project

Mohammed Ali  
Board Member  
Street Vendor Project

William B. Jordan  
Board Member  
Esperanza del Barrio

Hilda James  
Board Member  
Esperanza del Barrio

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

Barbara Randall  
Chair  
NYC BID Association

Sung Soo Kim  
President  
Small Business Congress

Michael Kettering  
Testifying for:  
Liz Berger  
President  
Downtown Alliance

Paul Schubert  
Community Activist

Ralph DiToro  
Disabled Veterans Vendor

Dan Rossi  
Veteran Vendor

Lo Vander Valk  
President  
Carnegie Hill Neighbors

Joe Ithier  
Red Apple Group

Marc Murphy  
Member  
New York Restaurant Association

Richard Lipsky  
Member  
Neighborhood Retail Alliance

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

Blue Bayer  
Artist

Mitchell Balmuth  
Artist

Ned Otter  
Artist Vendor

Berta Camacho  
Member  
VAMOS Unidos

Victoriana Navarro  
Member  
VAMOS Unidos

Rafael Samanet  
Member  
VAMOS Unidos

Derek Johnson  
Photographer

Alfred Lavery  
Art Vendor

Kurt Brokaw  
Teacher  
New School University

Sam Cuevas  
Photographer

Jay Kim  
Staff Attorney  
Common Law, Inc.

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

Jack Nesbitt  
Member  
ARTIST

Pat Christiano  
Artist

Xu Zi  
Multilingual calligrapher

John Wetherhold  
Resident  
New York

Bernard Zalon  
Print Maker

Bill Leonardi  
Artist

Alexander Alhowsky  
Street Artist

CHAIRPERSON COMRIE: Good morning.

I am Leroy Comrie. I'm Chair of the Committee on Consumer Affairs. I want to welcome everyone to today's joint hearing with the Immigration Committee dealing street vending in New York City. Today we will be discussing eight bills and only those eight bills, each of which proposes a new way to address the ongoing difficulty of enforcing the current complicated array of vending laws. I'd like to recognize my fellow Council members that are sitting here with me today, including Council Member Alan Gerson from Manhattan, Council Member John Liu from Queens, Council Member Melissa Mark-Viverito from Manhattan and Council Member Eugene from Brooklyn. We're joined by my co-chair today, Council Member Dr. Kendall Stewart. I'd like to thank the staff of both committees for organizing today's hearing. Street vending in New York City is governed by a myriad of overlapping and judicial decisions on the federal, state and local levels. It's enforced by no fewer than seven city agencies. It is no wonder that vendors, merchants, city officials and community residents are often confused by the laws

1  
2 and frustrated about their seemingly sporadic  
3 enforcement. We are holding this hearing today to  
4 address these complaints and discuss workable  
5 solutions in an effort to create a vending scheme  
6 that is enforced equitably for the benefit of all  
7 stakeholders. The Committee on Consumer Affairs  
8 has held numerous hearings over the years on  
9 vending and has heard from people from all sides  
10 of the issue. Additionally, we spent the past  
11 several months meeting with council members  
12 offering each member of the City Council to  
13 discuss the individual vending issues they have  
14 within their districts around the city. We feel  
15 we have an understanding of the general concerns  
16 of vendors, the business community, community  
17 advocates and also the city. Therefore, we ask  
18 today that you focus your comments on the specific  
19 bills at hand, each of which was chosen to address  
20 many of the concerns we have heard throughout the  
21 years about vending. Two of the bills would  
22 increase the number of available vendor permits,  
23 which may alleviate issues surrounding unlicensed  
24 vendors. Several of the bills address many  
25 community members' complaints about overly crowded

1  
2 sidewalks by redefining and clarifying where  
3 vendors and their goods are permitted in  
4 particularly congested areas of the city. Another  
5 bill seeks to redesign general vending permits to  
6 make them more readily identifiable to potentially  
7 ease enforcement. Finally, the committee  
8 recognizes that different neighborhoods have  
9 extremely different relationships with vending and  
10 what works in Jackson Heights may not work in  
11 Manhattan. Therefore, the final bill proposes a  
12 community-based plan for vending in the Sunset  
13 Park District of Brooklyn. Both committees are  
14 eager to hear testimony on these bills, which we  
15 feel address a range of concerns to all parties  
16 affected by street vending, keeping in mind that  
17 it's not the committee's intention to curtail any  
18 one group's rights, but rather to find a workable  
19 common ground. Vending is a hugely complex issue  
20 that cannot be easily and immediately fixed by one  
21 choice piece of legislation. Rather, we must  
22 understand that any solution will involve  
23 compromises from all parties. We can neither  
24 close every street and event in the city to  
25 vendors, nor can we permit unregulated vending

2 throughout all areas of the city. Hopefully a  
3 discussion of the bills before us today can  
4 eventually lead to a satisfactory middle ground.  
5 Before I open the floor to any of my colleagues  
6 who would like to say a few words, and actually  
7 before I turn it over to Dr. Stewart, I need to  
8 take a minute to express my condolences to the  
9 friends and family of my former colleague and the  
10 former chair of the Committee on Consumer Affairs,  
11 Council Member Phil Reed, who passed away last  
12 week. Council Member Reed was the epitome of a  
13 sincere and dedicated legislator who fought for  
14 important issues and leaves behind an important  
15 body of work that will benefit generations of New  
16 York City residents. As current chair of the  
17 committee, I am fortunate to have learned so much  
18 from him. I am honored to be continuing his work  
19 advocating on behalf of consumer rights in our  
20 city. Phil will be sorely missed. I'd now like  
21 to invite my colleague and the chair of the  
22 Immigration Committee, Council Member Kendall  
23 Stewart to say a few words.

24 CHAIRPERSON STEWART: Thank you,  
25 Mr. Chair. Good morning. I am Kendall Stewart

2 and I am the chair of the Committee on  
3 Immigration. I would like to thank Council Member  
4 Comrie for inviting the Immigration Committee to  
5 participate in today's hearing. This morning we  
6 will focus on several proposed amendments to the  
7 city's vending laws that seek to address the  
8 ongoing concerns relating to the ability of city  
9 officers to enforce the law and the ability of  
10 vendors to conduct their business lawfully without  
11 any disruption. New York is an ever-changing  
12 city. People from all over the world come here  
13 for new opportunities and to better their lives.  
14 Street vending has historically been a way for  
15 immigrants to enter the city's business world. As  
16 a result, the population of vendors reflects the  
17 ever-changing immigrant population. In fact, it  
18 has been reported that over 80% of downtown street  
19 vendors are foreign born. This number does not  
20 include those who vend in other areas of Manhattan  
21 or the other boroughs where vendors cater directly  
22 to the ethnic and cultural needs of the committees  
23 they serve. Some may argue that the constant  
24 growth of immigrants in the city has contributed  
25 to the resurgence of many neighborhoods.

2 Therefore, it is important for us to recognize the  
3 significant impact that vending laws have on the  
4 city's immigrant population, as will every change  
5 that we make to these laws. We hope that this  
6 will be a productive hearing that will allow us to  
7 come to some resolution on this important local  
8 issue. I want to thank you.

9 CHAIRPERSON COMRIE: Thank you,  
10 Council Member Stewart. I just want to emphasize  
11 we're only talking about the eight bills that are  
12 before us today. I think I need to just read  
13 those Intros. Intro. 324-A, by Council Member  
14 Barron, a Local Law to amend the Administrative  
15 Code in relation to general vendors license and  
16 food court permits. Intro. 419, by Council Member  
17 Vallone and other members, a Local Law to amend  
18 the Administrative Code in relation to prohibiting  
19 vending vehicles or push carts from being placed  
20 over any ventilation grill, solid door manhole,  
21 transformer vault or subway access grating.  
22 Intro. 828, by Council Member Brewer, a Local Law  
23 to amend the Administrative Code in relation to  
24 prohibiting general vendors from leaving push cart  
25 stands or goods unattended. Intro. 830, by

2 Council Member Gerson, a Local Law to amend the  
3 Administrative Code in relation to limitation on a  
4 number of vendors of written matter in congested  
5 areas. Intro. 832, by Council Member Gerson, a  
6 Local Law to amend the Administrative Code in  
7 relation to the definition of obstruction. Intro.  
8 834, by Council Member Gerson, a Local Law to  
9 amend the Administrative Code in relation to  
10 increasing the number of licenses for general  
11 vending. Intro. 843, by myself, a Local Law to  
12 amend the Administrative Code in relation to easy,  
13 identifiable licenses for vendors. Intro. 846, by  
14 Council Member Gonzalez, a Local Law to amend the  
15 Administrative Code in relation to vending in  
16 Sunset Park, Brooklyn. We've been joined by  
17 Council Member Charles Barron. Council Member  
18 Barron would like to speak on his Introduction  
19 324-A.

20 COUNCIL MEMBER BARRON: Thank you  
21 very much to both of the Chairpersons. We thank  
22 you for this timely hearing on all of these bills  
23 relating to vending. I just wanted to say that  
24 New York City is a city of immigrants. People  
25 come from all over. Immigrants have paid a

1  
2 tremendous contribution to New York City in terms  
3 of the capital contributions, the intellectual and  
4 cultural contribution to the diversity of this  
5 town. Since New York is not into providing jobs  
6 for everybody, some people have to create their  
7 own jobs. When this happens I think people should  
8 be commended and supported. When you have to go  
9 out there and create a job for yourself to make  
10 sure that you have health care for your family and  
11 to make sure that you have education opportunities  
12 and that you have food on your table and clothing  
13 on your back. When you do that through vending,  
14 you should be commended and supported and not  
15 harassed by the police.

16 CHAIRPERSON COMRIE: All right,  
17 we're not going to be clapping for every  
18 statement. Council Member Barron, please limit  
19 your statements to only one level. I know it's  
20 difficult but we have a long hearing today and we  
21 want to get through it.

22 COUNCIL MEMBER BARRON: Sir, I  
23 didn't clap. They clapped.

24 CHAIRPERSON COMRIE: I know. You  
25 elicited the clap.

2 COUNCIL MEMBER BARRON: I just  
3 speak.

4 CHAIRPERSON COMRIE: You paused.  
5 You hesitated.

6 COUNCIL MEMBER BARRON: I can't  
7 help it if I got it like that. I'm just saying  
8 that the cap on vendors is wrong. Businesses are  
9 not capped. Any kind of business can be opened  
10 anywhere in the city on any block and in any  
11 neighborhood and sell any products or services.  
12 Vending licenses is capped at 853. There are  
13 about 10,000 vendors who are unlicensed and out  
14 there getting harassed and getting their products  
15 taken and fines and paying thousands of dollars.  
16 It makes more sense, I think, to remove the cap  
17 totally. But if not, at least raise it from 853  
18 to 25,000. So if we do 25,000 that will include  
19 the 10,000 that are out there unlicensed and then  
20 we've got to assume there's going to be some  
21 growth and other interest over the next five or  
22 ten years, so you put another 15,000 to cover  
23 that. To me it is reasonable to raise the cap to  
24 at least 25,000 and open up more streets. Because  
25 if you open up more streets to vending and then

1  
2 they raise the cap, that's more money for the  
3 economy of New York City. That gives families an  
4 opportunity to survive in this city that's  
5 becoming difficult to survive in. And then we  
6 will work on spacing and making sure that there's  
7 no vending in front of businesses that do the same  
8 kind of service or products. We could work with  
9 the city. We could work with the community and  
10 business community so that everybody can have a  
11 happy holiday. Then everybody can enjoy the life  
12 in New York City and not just limit it to those  
13 who are rich and those who have money. Those who  
14 have influence over elected officials cannot be  
15 the only ones that survive in this city. So I  
16 urge my colleagues to support this bill to just  
17 raise the cap to 25,000. We can work out all the  
18 rest. Thank you very much, Mr. Chair.

19 CHAIRPERSON COMRIE: Thank you.  
20 Council Member Liu, followed by Council Member  
21 Gerson.

22 COUNCIL MEMBER LIU: Thank you, Mr.  
23 Chairman, for holding this hearing. It is a topic  
24 that is of critical importance. I do also want to  
25 acknowledge the years of work that our beloved

1  
2 colleague Council Member Phil Reed did on this  
3 issue. It is an important issue. It is an issue  
4 that in many way has gone out of control. In this  
5 city, vending is out of control. There are a  
6 hodgepodge of regulations that are so little  
7 understood by vendors, by neighboring businesses,  
8 by residents of these neighborhoods and sometimes  
9 by the officials that are charged with enforcing  
10 these rules in the first place. Over the years,  
11 the patchwork of regulations and laws that have  
12 been passed and put into place have made vending  
13 in New York City an almost impossible monstrosity  
14 to understand. So it is time that we have this  
15 hearing and work through these various bills.  
16 There are eight of them today and there are more  
17 to come undoubtedly to bring order to vending so  
18 that we can be fair to vendors and at the same  
19 time strike a balance with the businesses that in  
20 some cases these vendors do interfere with and  
21 also strike a balance for residents of various  
22 neighborhoods who often do complain about the  
23 business that takes place on crowded sidewalks.  
24 There is a great deal of balance that is  
25 necessary. We have to simply and at the same time

1  
2 make more fair the regulations. It is something  
3 that is almost a gargantuan task, but something  
4 that I know Chairperson Comrie and Chairperson  
5 Kendall Stewart and all of our committee members  
6 are up to. It's going to be a difficult hearing I  
7 think because there's going to be a great  
8 diversity of opinion. Sometimes the opinion is  
9 not pitting one group against another, but in fact  
10 the issues are somewhat different or tangential.  
11 Even among vendors we have all different types of  
12 vendors, from First Amendment vendors, to  
13 veterans, to purveyors of fresh fruit and  
14 vegetables, to sellers of prepared food.  
15 Different regulations apply to these different  
16 kinds of vendors. Different issues are important  
17 to these kinds of vendors. So I think it's  
18 important that we take the time and we be patient  
19 with each other. Let's listen to our regulatory  
20 agencies who are up first to testify so we can  
21 finally get our arms around this problem that has  
22 been growing over the years and restore some kind  
23 of order to our streets, some order of fairness to  
24 our vendors and not forgetting the stores and  
25 bodegas that often have to serve our neighborhoods

2 as well. Thank you, Mr. Chairman.

3 CHAIRPERSON COMRIE: Council Member  
4 Gerson?

5 COUNCIL MEMBER GERSON: Thank you,  
6 Mr. Chair. I, too, want to preface my remarks  
7 with tribute to our late colleague who was a dear  
8 friend of mine for years before I assumed my  
9 current position, Phil Reed. He devoted a  
10 considerable amount of energy and time to this  
11 issue. I can just hear him from above looking  
12 down and saying in his inimitable way, Gerson, are  
13 you crazy for getting involved in this issue. But  
14 the point is, we need to get involved in this  
15 issue because for all the reasons you, Mr. Chairs,  
16 and my colleagues have stated. The current set of  
17 regulations as applied are not working. They're  
18 not working for anybody. The complexity, the  
19 overlapping jurisdictions of different agencies,  
20 the different set of rules and regulations for a  
21 myriad of vendors, the cumbersomeness and the  
22 difficulty of enforcement practices and perquisite  
23 enforcement measures imposed on our police  
24 officers, all combine to result in a lose/lose  
25 situation. Our vendors are subject to

1  
2 inconsistent conflicting applications of the  
3 current law and as a result unfair harassment and  
4 loss of their goods. Communities are subject to  
5 unacceptable excessive congestion on sidewalks  
6 where people live. Just the other day a young  
7 woman who cares for her sister in a wheelchair,  
8 who could not be here today due to medical  
9 reasons, told me that she avoids sidewalks in her  
10 own neighborhood because there is no way for her  
11 to push her sister in the wheelchair down those  
12 sidewalks because of the excessive congestion.  
13 This is a repeated phenomenon throughout many of  
14 the streets I represent. Anyone who denies that a  
15 problem exists denies reality. Anyone who claims  
16 that the answer is simple enforcement of the  
17 current law ignores the realities of the  
18 difficulty of the current law. There's a reason  
19 why for ten years and longer, the laws have not  
20 been enforced. This is an important hearing and  
21 an important discussion in order to come up with a  
22 win/win situation. I welcome constructive input  
23 from all sectors, as we always have, but anyone  
24 who simply denies the problem is only going to  
25 perpetuate the lose/lose situation for art

2 vendors, for non-art vendors, for communities, and  
3 for people who need to use the sidewalks in all  
4 ways. Mr. Chair?

5 CHAIRPERSON COMRIE: Yes, sir?

6 COUNCIL MEMBER GERSON: As a result  
7 I have introduced a package of 14 separate bills.  
8 It's actually 14 separate bills because the  
9 complexity of the current vending code required  
10 that number. There's been a lot of misinformation  
11 that has been disseminated and people are  
12 victimized by intentional or unintentional  
13 misinformation. We have introduced clear measures  
14 in the package to preserve the special protections  
15 to our veteran vendors and our disabled veteran  
16 vendors, most of which are required by state law  
17 in any event. But our package preserves and  
18 enhances those protections. Secondly, we have  
19 affirmed and sustained and in fact even enhanced  
20 opportunities for those who are vending goods  
21 protected by the First Amendment, including art  
22 vendors. My record in the arts and in First  
23 Amendment is second to none, despite any  
24 misinformation that has been spread. The facts  
25 speak for themselves. The facts of the bills are

1  
2 that we will enhance and preserve protections to  
3 First Amendment vendors who are currently subject  
4 to unfair harassment because of the complexity and  
5 the contrary interpretations of the law. Finally,  
6 Mr. Chair and Council Member Barron, I share with  
7 you the sentiment over the outdated cap on the  
8 number of vendors. That is what also led me to  
9 introduce a bill that would also increase the  
10 number. We can work with your approach. I  
11 believe we can work with your approach if we come  
12 up with the right balance for open space and  
13 possible safe sidewalks, including one of the  
14 provisions I have introduced that would require  
15 basic signage on streets so the information and  
16 the regulations are clear to all. The other point  
17 of clarification I need to make with respect to  
18 830, because of the complexity, the description is  
19 slightly off where it says the bill is in relation  
20 to limitations in congested areas. We are talking  
21 about the narrowest of sidewalks, for instance  
22 Spring Street and Prince Street. This has nothing  
23 to do with art vendors. It has nothing to do with  
24 any kind of vendor. It has to do with the fact  
25 that due to obstructions, combined with vending,

1 those sidewalks are dangerous and not passable.  
2  
3 In fact, the proposals we have put in place would  
4 preserve the veterans' rights and for the first  
5 time, codify First Amendment vendor rights,  
6 including art vendor rights on those sidewalks so  
7 that they're not dependent on a veteran presence.  
8 So that would expand art vending opportunities  
9 beyond what you currently have, but within the  
10 context of reasonable open space and safe passable  
11 sidewalks. I look forward the discussion.

12 CHAIRPERSON COMRIE: Council  
13 Member?

14 COUNCIL MEMBER GERSON: I have  
15 concluded my remarks other than to say that due to  
16 a conflict of a hearing and a negotiation on the  
17 sanitation garage in the Lower East Side rezoning,  
18 I will need to go in and out of this and the other  
19 hearings and meetings. But I will be represented  
20 throughout by our staff. I will follow up. I  
21 look forward to, at long last, getting the job  
22 done. Thank you very much.

23 CHAIRPERSON COMRIE: Council  
24 Member, I hope you can stay here as long as  
25 possible. I'm on that committee also regarding

1  
2 the sanitation garage and I hope that you can stay  
3 here. I just want to note for the record that you  
4 talked about bills that were not being heard  
5 today, but they're not going to be discussed by  
6 the audience. That was a cheap shot, but I'll let  
7 you get away with it. I just want to note that  
8 the former committee counsel for the Consumer  
9 Affairs Committee is here, Thomas Ferrugia. Good  
10 to see you. I want to thank my staff and also the  
11 Committee on Immigration, Julene Beckford, Lacey  
12 Clarke and Damien for everything that they did to  
13 put this hearing together. We're going to move  
14 right to the panel. As I mentioned, we have seven  
15 different agencies that are in charge of  
16 enforcement. Today we have five persons here:  
17 Shari Hyman, the Deputy Criminal Justice  
18 Coordinator; Dan Albano from NYPD; Assistant  
19 Commissioner for Intergovernmental Affairs to the  
20 NPYD, Susan Petito; Andrew Eiler from the  
21 Department of Consumer Affairs; and Chris Manning  
22 from the Department of Mental Health. I think I  
23 got everybody on the panel. Good morning. Thank  
24 you for being here this morning. I'm not sure  
25 which one of you is designated to start, but

2 whoever would like to start. I just want to note  
3 for the record that when Council Member Phil Reed  
4 hear I was taking this committee, he told me that  
5 vendors were his passion and his plague. So with  
6 that as a note, we'll continue the meeting. Good  
7 morning and thank you for being here.

8 SHARI HYMAN: Good morning,  
9 Chairman Comrie, Chairman Stewart and members of  
10 the Committee on Consumer Affairs and Immigration.  
11 My name is Shari Hyman and I am Deputy Criminal  
12 Justice Coordinator. I am joined today by Susan  
13 Petito, Assistant Commissioner for  
14 Intergovernmental Affairs and Lieutenant Dan  
15 Albano from the NYPD, Andrew Eiler, Director of  
16 Legislative Affairs at the Department of Consumer  
17 Affairs, and Chris Manning, Assistant Commissioner  
18 in the Bureau of Intergovernmental Affairs at the  
19 Department of Health and Mental Hygiene. Thank  
20 you, again, for the opportunity to be heard today  
21 on the issue of vending. Unlawful vendors pose  
22 serious problems for communities and for law  
23 enforcement agencies seeking to protect those  
24 communities. Those street vendors who are  
25 properly licensed face unfair competition from

1  
2 those who are not. Communities suffer from a  
3 decreasing quality of life for residents and  
4 visitors due to overcrowded conditions on their  
5 sidewalks. Pedestrians are placed in danger when  
6 they are forced into busy streets to avoid vendors  
7 clogging sidewalks. There is no doubt that  
8 something needs to be done to address the problem  
9 and the myriad bills up for discussion today  
10 reflect a valiant effort on your part to do so.  
11 But, while the administration supports the notion  
12 that something needs to be done, we believe that  
13 these bills do not address the heart of the  
14 problem which is the lack of meaningful penalties  
15 for those who violate the law. Under the current  
16 regulatory scheme, individuals arrested for  
17 unlawful vending cycle through the criminal  
18 justice system, often in a matter of hours,  
19 without ever being fingerprinted for the offense,  
20 unless they fail to provide proper identification.  
21 Even if they are fingerprinted for that reason,  
22 the misdemeanors they commit are not contained  
23 within the Penal Law. So the arrest, and any  
24 subsequent disposition of the charge, will not be  
25 reflected in their criminal history, or rap sheet.

1 This lack of what is called mandatory  
2 fingerprinting means that it is impossible to  
3 track repeat offenders. Because there is no way  
4 to identify a recidivist, repeat offenders do not  
5 face stiffer penalties when they return to the  
6 system again and again. As a result, an arrest  
7 for unlicensed vending amounts to little more than  
8 a nuisance to many of these unlawful vendors and  
9 is absorbed as a cost of doing business. Any  
10 meaningful attempt to address this problem will  
11 necessarily involve changing the state law to  
12 require that individuals arrested for vending-  
13 related offenses are fingerprinted as part of the  
14 booking process. By fingerprinting these  
15 offenders, we gain the ability to track  
16 recidivists and identify those high-frequency  
17 repeat offenders who pose the biggest challenge to  
18 the criminal justice system. In doing so, we can  
19 focus law enforcement resources on these offenders  
20 and ensure that the harshest criminal penalties  
21 are reserved for and imposed on these recidivists.  
22 Without this change to state law, any attempt to  
23 address the problems caused by unlawful vending,  
24 or by the persistent violation of vending  
25

2 restrictions by licensed vendors, will have very  
3 little real effect. Some of the bills on the  
4 agenda today do offer potential assistance in  
5 addressing discrete problems within the current  
6 regulatory scheme. However, these bills address  
7 only the conduct of lawful vendors and do nothing  
8 to deter unlicensed vendors or more harshly punish  
9 those who violate the laws. Although it is  
10 important to monitor the conduct of licensed  
11 vendors and enforce the existing code with respect  
12 to these vendors, any proposal intended to  
13 significantly affect the real problems posed by  
14 vending must take a broader approach. This is  
15 what our proposal to amend the state law to  
16 require fingerprinting of offenders is intended to  
17 do. The administration is committed to working  
18 with the council to address the significant  
19 problems caused by the current vending regulatory  
20 scheme. We hope that together we can lobby Albany  
21 with a strong, unified voice for meaningful  
22 change. We commend the council for its continuing  
23 dedication to this issue and for the efforts to  
24 introduce legislation aimed at addressing some of  
25 the problems caused by vending. We look forward

2 to working with the council on this issue. We  
3 would be happy now to take your questions,  
4 including any questions about the bills on the  
5 agenda. Thank you, again.

6 CHAIRPERSON COMRIE: Are you  
7 speaking for the entire panel? No one else is  
8 doing a presentation?

9 SHARI HYMAN: That's correct. I'm  
10 the only one giving testimony, although all of us  
11 are available to answer questions.

12 CHAIRPERSON COMRIE: In other  
13 words, you're saying that you don't like any of  
14 the bills in any shape or form and you just want  
15 to talk about your bill that you've never  
16 introduced? Is that what I'm hearing from you  
17 today? Have you introduced a bill on the state  
18 level to require fingerprinting?

19 SUSAN PETITO: Mr. Chairman, we  
20 actually tried to get a bill like that done in  
21 Albany for several years back in the 90s. I think  
22 the last time it was formally introduced in Albany  
23 was in 2000. But we have included it in the  
24 police department's legislative package for 2009.  
25 We as an administration are going to seek it's

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

reintroduction.

CHAIRPERSON COMRIE: First, I want to apologize to Council Member Gerson, because I didn't mean cheap shot when I said cheap shot. I just meant that I'm going to be here all day and you're trying to sneak back and forth. I have that hearing so I just needed you to stay. I know that that's important and it's in your district too. So I didn't mean that. I'm going to plan my questions and responses. Council Member Barron is itching to go right now.

COUNCIL MEMBER BARRON: Thank you, Mr. Chair. This is incredible. I cannot believe that you're going to come before this committee with a testimony just talking about fingerprinting. When we have these complex, myriad of issues, you're just talking to us about fingerprinting and you don't have a bill on fingerprinting. You're not addressing any of the issues regarding vending, whether it's overcrowded streets or police harassment or any of this stuff. You're going to sit here and just speak of fingerprinting. Well, if you had enough licenses for everybody, you wouldn't have to fingerprint

2 anybody because they would have a license.

3 CHAIRPERSON COMRIE: No clapping.  
4 We will put people out and you won't hear the  
5 hearing. Please, we need to stay focused. It's  
6 going to be a long day.

7 COUNCIL MEMBER BARRON: Chairman,  
8 I'm really not doing this to elicit applause. I  
9 just feel insulted that all of these bills we're  
10 presenting all of these bills and then I'm reading  
11 and listening to your testimony and it's focusing  
12 on fingerprinting. As though that will solve all  
13 of the vending issues if we could just get the  
14 state to pass a law to stop this recidivism of  
15 people being arrested or fined or whatever for  
16 violating the vending procedures. And this is all  
17 you have to present is this to us. This is what  
18 you're presenting to us and not really getting  
19 into the heart of the issue, which is how do we  
20 protect those who have businesses already. How do  
21 we respect and protect those who are creating  
22 incomes for themselves? This is your contribution  
23 to the discussion. It's an insult. I feel very  
24 insulted that you would come here with a page and  
25 a half that's talking about fingerprinting.

CHAIRPERSON COMRIE: Did you have a response to that?

SHARI HYMAN: We're here to answer questions about the individual bills. Our point is that we believe that in order to orchestrate meaningful change at the local level we first have to focus on change at the state level. One should follow the other. We do have modifications and support for several of the bills on the agenda today.

COUNCIL MEMBER BARRON: Well then speak to it. Sorry, Mr. Chair. Speak to it because you should speak to the meat of this hearing which is the bills on the city level. Don't come here talking about before you can deal with any of our issues on the city level, you want to start and lead this whole discussion with a state discussion on fingerprinting. That's absurd.

SHARI HYMAN: Mr. Chairman, may I respond to that?

CHAIRPERSON COMRIE: I'm trying to do this in the spirit of Bill Reed who would tear up each individual item with specifics and facts

1  
2 and not be emotional. But I am a bit insulted  
3 that you're trying to spin this to something that  
4 you haven't even introduced since 1990. As the  
5 commissioner said is part of a projected plan to  
6 be introduced. What are your positions on the  
7 specific bills that are on today's agenda? Can  
8 you take us through them one by one? And whoever  
9 on your panel would want to discuss each bill.  
10 We'll start with 324-A.

11 DAN ALBANO: Mr. Chairman, 324-A  
12 simply raises the cap to 25,000 on the various  
13 licensing categories. The cap that we have today  
14 was really a general tool for managing congestion  
15 on sidewalks. Simply raising the cap, without  
16 addressing any of the enforcement issues raised by  
17 site restrictions that govern where vendors can  
18 operate would substantially increase the  
19 enforcement burden on the police. Adding to that  
20 burden without addressing the underlying issues  
21 raised by street vending is not a viable approach  
22 for crafting a workable street management vendor  
23 policy for the city. That's simply opening that  
24 up without addressing all of the other enforcement  
25 issues that the committee members themselves have

2 raised as creating congestion problems and so  
3 forth and so on. It's just pushing the problem  
4 from one point to another point. The overall  
5 issue that we tried to address is the enforcement  
6 question. If we're going to have enforcement it  
7 needs to be effective.

8 CHAIRPERSON COMRIE: Has there been  
9 an overall count done by the city of the actual  
10 amount of vendors that are out there?

11 DAN ALBANO: We don't have an  
12 overall count because there's two kinds of vendors  
13 that we don't have any--

14 CHAIRPERSON COMRIE: [interposing]  
15 No, I didn't ask you to separate types of vendors.  
16 I said overall the amount of people that are doing  
17 vending?

18 DAN ALBANO: I am not aware of any  
19 overall count.

20 CHAIRPERSON COMRIE: So the seven  
21 agencies have never got together and we have X  
22 amount of First Amendment and X amount of veterans  
23 and X amount of food, and X amount of the  
24 illegals?

25 DAN ALBANO: We know how many

1  
2 authorized and outstanding licenses are for food.  
3 We know how many authorized licenses are and how  
4 many outstanding licenses are for general vending.

5 CHAIRPERSON COMRIE: So you've  
6 never hired a bunch of kids to go out like they do  
7 for the homeless survey to do a survey?

8 DAN ALBANO: We have not.

9 CHAIRPERSON COMRIE: I would  
10 strongly make that suggestion that the city  
11 combines their resources to do a count. You can't  
12 separate theory from reality. You can't separate  
13 practicality from the impact of people in  
14 communities. One of the things that we don't have  
15 here is a city count. I think that would make it  
16 easier to deal with either bill. If we can do a  
17 homeless survey with volunteers, we could do a  
18 vending survey. I would suspect we could do the  
19 vending survey a lot quicker because it's done  
20 during the daytime.

21 DAN ALBANO: That would be part of  
22 a study, an overall in terms of crafting an  
23 approach of what would effectively work and  
24 addressing a broad issue of street vendor policy  
25 of reviewing the whole thing. As part of a broad

2 approach, that would certainly be viable. But as  
3 of right now, because First Amendment vendors  
4 don't have to be licensed and unlicensed operators  
5 obviously don't come to us for permission,  
6 basically there's two categories of licensees.

7 CHAIRPERSON COMRIE: We're talking  
8 about possibly licensing them to come up with a  
9 possible solution. I know Councilman Barron wants  
10 to speak to his bill, but the other bills talk to  
11 other issues. I don't want to get focused on  
12 going from 800 to 25,000. That's not my focus.  
13 My focus is coming up with overall regulation.  
14 There's a head in the sand approach to getting any  
15 facts to us that could help us with making  
16 decisions. Telling us that you want to do a bill  
17 that hasn't been proposed in our time here,  
18 because I didn't start until 2001. I'd like to  
19 stay until this is done. But the commissioner  
20 said 1990s that the last bill was introduced on  
21 fingerprinting. I don't know of a bill that has  
22 been introduced in the state within our term. To  
23 keep going back to an issue, I think that a major  
24 thing that everyone could agree on is to get a  
25 real count of what's actually out here.

2 DAN ALBANO: Like I say, I think  
3 that's part of a broader approach and it certainly  
4 would be something that we could consider to see  
5 how we could craft or what surveys would help us  
6 identify what the issues are. That's certainly  
7 something we could consider. That's not something  
8 that we would object to.

9 CHAIRPERSON COMRIE: I just wanted  
10 to relate to the part of the bill that I'm  
11 introducing about raising the cap. We had a bill  
12 when Phil Reed, and may he rest in peace, was here  
13 where we put it all together. It was all in one  
14 bill and it was a mess. We had everything in one  
15 bill, including the amount of streets that we  
16 would add on to vending, the limitations of  
17 vending on each street, and the space. All of  
18 that was in one bill and it was said then that  
19 there's too many pieces of bill, so let's break it  
20 down so that we could focus on different aspects  
21 of this large bill. I don't think the artists to  
22 be forced to get licensed. I think it's a First  
23 Amendment right they have. Let me finish. I  
24 think it's a First Amendment right that they have  
25 and they should continue to have that First

1  
2 Amendment right. I also think that the cap should  
3 be raised. Now, if we look at the amount of  
4 artists that want to vendor and then the 10,000  
5 that we're saying that's out there unlicensed, and  
6 it could be more, if we get that together that  
7 these are the people we're going to be servicing,  
8 then we could look at the spacing on the streets.  
9 There are more streets that need to be opened up  
10 to vending. The reason why there is so much  
11 congestion on streets is because there's such a  
12 limited amount of streets that are opened up to  
13 vending. So I think we can look at raising the  
14 cap. Leave the artists alone. Protect their  
15 First Amendment rights and then let's come up with  
16 a comprehensive approach to dealing with this  
17 vending issue that addresses the issues. I'll end  
18 here. We're looking at the collapse of Wall  
19 Street. We're looking at an economy that is in  
20 danger. Every sign that we hear from the  
21 president down to the mayor says that we're in a  
22 serious economic crisis. This is not the time to  
23 limit those who are at the bottom. They are not  
24 going to get a piece of the \$700 billion bailout,  
25 the largest welfare check in the history of the

1  
2 nation. They're not getting that. So I think we  
3 need to really look at what we can do on this  
4 level comprehensively. Don't look at the bill as  
5 separate from looking at all of those other  
6 issues. Council Member Gerson had a question. Go  
7 ahead, ask your question. We've been joined by  
8 Council Member Annabel Palma from the Bronx.

9 COUNCIL MEMBER GERSON: Mr. Chair,  
10 I appreciate your comment. I always try to stay  
11 with you as much as possible because I benefit  
12 from your leadership and enjoy your company.

13 CHAIRPERSON COMRIE: I apologize  
14 again. I'm sorry.

15 COUNCIL MEMBER GERSON: To my good  
16 friend, Andy Eiler, who is really an outstanding  
17 public servant and our finest from New York's  
18 finest present, two questions. On streets that  
19 are narrower than 12 feet in width, such as Prince  
20 Street and Spring Street in my district, but there  
21 are many throughout the city, why currently on  
22 streets narrower than 12 feet in width, and  
23 considerably narrower if you factor in irregular  
24 sidewalks, such as metal plating and bubble glass,  
25 why do we frequently see and experience conditions

1  
2 of back-to-back vending, corner to corner without  
3 any break? It effectively narrows the sidewalk  
4 even more considerably. And in spite of the fact  
5 that the community and the community board and  
6 every elected official from that area has called  
7 for enforcement that would alleviate that degree  
8 of congestion. Why do we still on a regular basis  
9 experience that type of congestion on the narrower  
10 sidewalks?

11 SUSAN PETITO: Councilman Gerson,  
12 we are as frustrated as you are with the  
13 congestion on the sidewalks, but it is an  
14 enforcement issue. Contrary to any intention of  
15 ours to be insulting, we believe that our  
16 testimony goes to the heart of the issue. Any  
17 regulatory scheme is only as strong as the  
18 penalties that are in place for its violation. We  
19 could all do a very comprehensive and beautiful  
20 enforcement scheme, but unless the people who  
21 violate that regulatory scheme are appropriately  
22 addressed, there is no incentive to follow the  
23 regulations. Add to that, a stressed number of  
24 police officers who are going to decrease with  
25 current fiscal crisis, and we have a true need to

2 a different approach. That's why putting our  
3 heads together we believe that the fingerprinting  
4 issue goes to the very heart of the issue. It is  
5 not tangential. It is the core of the issue.  
6 Because no matter how good your regulatory scheme  
7 is, it will not have any effect unless the  
8 enforcement is meaningful.

9 COUNCIL MEMBER GERSON: I'm trying  
10 to understand what you're saying. Is it your  
11 testimony that all we need to do is apply  
12 fingerprinting? Fingerprinting will solve every  
13 problem that all of us have outlined, or do we, in  
14 fact, need to clarify, simply, and reform the  
15 current regime of laws in order to make it  
16 reasonable and enforceable?

17 SUSAN PETITO: Our core suggestion  
18 for overall improvement of the situation is  
19 fingerprinting. But we do have positions and  
20 suggestions on several of the bills before you  
21 today to attack specific issues that the bills  
22 raise and to perhaps bring some clarity and  
23 consistency to the regulatory scheme as it exists  
24 now. So it's both, but we believe that the core  
25 of the problem is the lack of meaningful penalty.

2 COUNCIL MEMBER GERSON: I think  
3 we've heard your position, but I also want to make  
4 sure we hear your entire position. I wonder if  
5 the Consumer Affairs would agree. I want to make  
6 sure we'll all be on the same page. That there is a  
7 need for clarity and reform of the current  
8 regulations. I've got to tell you, more than one  
9 police officer has told me off the records  
10 perhaps, that they are put in a ridiculous  
11 situation where either they don't understand or  
12 can't apply the current set of rules and  
13 regulations, or the time they would take to do for the  
14 currently required measurements on the ground  
15 would just take too long to implement, given what  
16 you pointed out correctly as the increased  
17 demands. We're going to fight to make sure we  
18 don't shrink the police force, but that's a  
19 different issue. But they just can't and won't do  
20 it. So I just want to see if as a starting point  
21 we at least concur on the need for a clarification  
22 and simplification on a regime which a former  
23 Consumer Affairs commissioner described as like an  
24 onion. You keep peeling it. You remember that  
25 don't you? You keep peeling it and one layer

1  
2 leads to another layer and leads to another layer.  
3 So she threw up her hands and looked at the  
4 council and told the council to come up with a  
5 better approach. That's why I think we're all  
6 frustrated because we've tried to come up with a  
7 better approach and all we hear is fingerprinting,  
8 which may or may not be needed, but clearly we  
9 need to do a lot more.

10           ANDREW EILER: I think basically  
11 it needs a comprehensive approach that addresses  
12 all the issues rather than just one thing.

13           COUNCIL MEMBER GERSON: Terrific.  
14 Then we've just made a lot of progress right  
15 there. You can quit while you're ahead. No.

16           ANDREW EILER: That's fine. If  
17 that satisfies you.

18           CHAIRPERSON COMRIE: No, no,  
19 they're not quitting.

20           COUNCIL MEMBER GERSON: I never  
21 interfere.

22           CHAIRPERSON COMRIE: They love to  
23 get up and run. Don't let them go.

24           ANDREW EILER: The single most  
25 important issue for addressing things in vending

2 is the fingerprinting issue, which would put a  
3 sound floor on enforcement. Never do we thereby  
4 mean that having done that we can just pat  
5 ourselves on the back, go home and think we've  
6 solved the problem. What we suggest is looking at  
7 it in a more comprehensive way than the individual  
8 approaches that each of these bills encompasses.  
9 Where does the package get put together?

10 COUNCIL MEMBER GERSON: Mr. Eiler,  
11 just two quick follow-ups. The current  
12 measurements required by the code to determine  
13 sidewalk width, does that take into account the  
14 irregular sidewalk issue, the overlay, the metal  
15 plates, and the bubble glass, which many people  
16 with wheelchairs or people with walkers cannot  
17 navigate? Does the current rules take that into  
18 account and exclude that from the sidewalk width  
19 measurement?

20 ANDREW EILER: Well I believe the  
21 sidewalk--

22 COUNCIL MEMBER GERSON:  
23 [interposing] It's a yes or no.

24 ANDREW EILER: No, I don't think  
25 that the current requirement for measuring the

1  
2 width of the sidewalk takes those kind of issues  
3 into account for the purpose of measuring free  
4 path.

5 COUNCIL MEMBER GERSON: I will  
6 repeat what I said. Nothing in anything I propose  
7 would in any way diminish opportunities for  
8 veteran vendors. Could you explain how that  
9 requirement somehow interplays with other  
10 regulations or other court rulings to in effect  
11 open up those narrower streets to an amount of  
12 vending beyond what the state law sets aside for  
13 veteran vendors? Do you know what I'm talking  
14 about?

15 ANDREW EILER: Absolutely. You're  
16 quite correct that the state law sets 10 feet as  
17 the minimum requirement for disabled veterans  
18 being authorized to vend on a sidewalk. That  
19 being the case, once the disabled veteran is on  
20 the sidewalk on a 10-foot sidewalk, then also  
21 First Amendment vendors can be there.

22 COUNCIL MEMBER GERSON: With or  
23 without limitation?

24 ANDREW EILER: That's correct.  
25 They can be in the same 10-foot width sidewalk as

2 the disabled veteran vendor. So that does trigger  
3 that issue.

4 COUNCIL MEMBER GERSON: So clearly  
5 we need to follow up on the comprehensive  
6 approach. I just want to deal with those two  
7 problematic loopholes. I just want to clarify, I  
8 would oppose any licensing requirement for First  
9 Amendments vendors, which includes art vendors,  
10 includes vendors of written material and includes  
11 vendors of religious objects. We don't need to do  
12 that if we have proper time and place limitations,  
13 which can accommodate everybody. Thank you very  
14 much.

15 CHAIRPERSON COMRIE: Why don't we  
16 go through specific responses to Council Member  
17 Gerson's three Intros, 830, 832 and 834. Can  
18 anyone on the panel speak to those three specific  
19 ones first before he has to go next door?

20 COUNCIL MEMBER GERSON: And I will  
21 return, by the way.

22 SHARI HYMAN: With respect to  
23 Intro. 830, which has to do with restrictions of  
24 the number of First Amendment vendors on a given  
25 street, our position on it is it's an

1 unenforceable bill. There is no way to identify.  
2 If there's a disabled veteran and there's two per  
3 block face that you're permitting and a police  
4 officer shows up and there are four, there is no  
5 way to identify who was there first. So without  
6 some means of identifying citywide who these First  
7 Amendment vendors are and where they should be,  
8 there is no way for this particular bill to be  
9 enforced.  
10

11 CHAIRPERSON COMRIE: That's the  
12 problem with taking one of these bills in  
13 isolation of the entire package. Let me make it  
14 clear, this at the same time limits to prevent the  
15 back-to-back congestion which is unacceptable for  
16 any kind of vending, whether it's First Amendment,  
17 non-First Amendment, food or merchandise. On  
18 those narrow sidewalks we cannot safely tolerate  
19 that. Most of those sidewalks, by the way,  
20 currently do not have art or First Amendment  
21 vendors anyway. So this is really an incorrect  
22 statement of the issue. What we do in order to  
23 enhance and protect First Amendment rights is we  
24 say you have two veterans as currently allowed and  
25 then you have two First Amendment, which are not

1  
2 necessarily currently the case. With proper  
3 signage and identification of locations we have  
4 set forth a means of accomplishing what you've  
5 suggested. That's not on the table for today, so  
6 we can't discuss that. But rather than throw up  
7 our hands and say that there's a technical  
8 problem, let put our heads together and figure out  
9 a way to solve an issue which your colleagues just  
10 testified is an issue. Could we have a follow-up  
11 conversation is my question?

12 SHARI HYMAN: Absolutely. I was  
13 just going to add that in my testimony which was  
14 on behalf of everybody sitting at this table, I  
15 want to reiterate that what we are trying to  
16 communicate is that we believe a comprehensive  
17 approach is necessary but that step one, in order  
18 to make it workable and make it possible to  
19 enforce and work with everybody who is affected by  
20 this, both the vendors and the community, we need  
21 to have a valid enforcement mechanism which is  
22 currently not in place.

23 CHAIRPERSON COMRIE: Let's go to  
24 number 832 and I'll get back to the issue of  
25 enforcement. Let's focus on Intro. 832 because

1  
2 we're bouncing all over the place here. This one  
3 is the definition of obstruction. What's your  
4 response to that?

5 SUSAN PETITO: We would like to  
6 work with the council on the language of that  
7 bill. We would need a lot guidance for police  
8 officers to understand what is actually an  
9 obstruction. For example, would there be some  
10 height requirement for the metal place and things  
11 like that. But we would certainly welcome a  
12 discussion of being specific and counting in the  
13 types of obstructions that go to dangerous  
14 pedestrian walkways on the sidewalks.

15 COUNCIL MEMBER GERSON: Mr. Chair,  
16 I welcome that testimony. And when Susan Petito  
17 and I have had these type of discussions we have a  
18 very good track record of coming up with very good  
19 results. So I look forward to having that  
20 discussion and working out those technical issues.

21 SUSAN PETITO: Thank you.

22 CHAIRPERSON COMRIE: I look forward  
23 to that discussion also. Working with DOT should  
24 be helpful to facilitating that finality and  
25 getting that done. Intro. 834, that's clear that

2 the cap is something that I think we need to go  
3 back to. If we can get an agreement, at least  
4 today, from the panel and from the mayor's office  
5 that there's a real headcount to be done and get  
6 back to the panel, I think we could get back to  
7 the number of licenses for general vending.

8 COUNCIL MEMBER GERSON: That's a  
9 very good idea, Mr. Chair. I heartedly endorse it.  
10 That's another example of your leadership.

11 CHAIRPERSON COMRIE: Thank you.

12 SHARI HYMAN: We will take that  
13 suggestion back and discuss it.

14 CHAIRPERSON COMRIE: I don't think  
15 it's a suggestion. I think it's a demand. I mean  
16 I don't see how we can move forward as a city  
17 until we get a real count. I don't see why we  
18 can't get that done. I don't understand the  
19 reluctance to embrace that as part of your overall  
20 solution. I respectfully say it's a demand and  
21 not a request. I hope that we get back on some  
22 specific answer on when we can get that done  
23 before we go into another legislative session in  
24 Albany. Because if you're looking for us to help  
25 you with a fingerprint which you're insinuating

1  
2 you are looking for some help with introducing a  
3 bill, because it hasn't been introduced yet, we  
4 need some ammunition to give to Albany. They're  
5 going to want to know a number. The reality is we  
6 all need to know a number of what's out there. We  
7 can't just depend on one group. I know I could  
8 ask the Street Vendors Project to do a number  
9 tomorrow. They could be a number but that number  
10 would be skewed to their benefit. In fact, your  
11 number will probably be. But we need to get an  
12 official number for what's out there, including  
13 First Amendment, including every type of vendor  
14 that's out there on the street. I think that  
15 that's a working template. We have other cities  
16 that have been able to do this, including creating  
17 real regulation on every vendor that's out there.  
18 I don't think that New York should settle for any  
19 less.

20 SHARI HYMAN: We agree with you  
21 that there is still more work to be done and there  
22 should be ongoing discussions about this.

23 CHAIRPERSON COMRIE: Well, we'll  
24 have those discussions. So we did Council Member  
25 Gerson's three bills. Let's go back to Council

1  
2 Member Vallone's bill, which is Intro. 814,  
3 dealing with the placement of the push carts over  
4 access points such as the ventilation grills,  
5 cellar doors, manholes, transformer vaults or  
6 subway access grating. Do you have a response to  
7 that bill?

8 CHRIS MANNING: With regard to  
9 Intro. 419, the administration would support that  
10 piece of legislation. It would be not only a way  
11 to bring some consistency between food vending and  
12 general vending, but we think there also might be  
13 some related public health benefit from reducing  
14 the amount of food and waste that may fall down  
15 into the grates and become food for vermin as well  
16 as to reduce the possibility that contaminants  
17 that may come up from the grates would in some way  
18 contaminate the food. But the administration  
19 would support Intro. 419.

20 CHAIRPERSON COMRIE: So could we  
21 combine 419 with the issues of 832, obstructions,  
22 because wouldn't most of those items be considered  
23 obstructions or access points? A sidewalk  
24 obstruction should be something we could delineate  
25 pretty quickly.

2 CHRIS MANNING: Sure. Certainly if  
3 you cut back on the available square footage of  
4 sidewalks where vendors could be, it would lead  
5 naturally into a conversation about other types of  
6 obstructions. So I think a larger, more  
7 comprehensive conversation would be warranted.

8 CHAIRPERSON COMRIE: All right,  
9 great, so 419 is a positive one. On Intro. 828,  
10 Council Member Brewer's bill about general vendors  
11 leaving push cart stands or good unattended. As  
12 you know, we have for the record testimony from  
13 the 20th Precinct Community Council, which is part  
14 of her district on West 82nd Street where they're  
15 showing people with permanent encampments, a book  
16 seller encampment over Broadway in the west 70s  
17 where the people are permanent, where people are  
18 sleeping next to their goods. You can see another  
19 picture of a permanent encampment where they even  
20 put stones on top of it to make sure that the wind  
21 doesn't blow it away at night. Where are we with  
22 the response to Council Member Brewer's bill?

23 SUSAN PETITO: We actually also  
24 support that bill with some amendments that we  
25 would suggest. We would actually think that a 30-

1  
2 minute timeframe is too long. We would recommend  
3 a 10-minute timeframe because we acknowledge that  
4 there are some instances where a vendor might have  
5 to leave for personal reasons. We also suggest  
6 that when the display is unattended that there be  
7 a requirement that it be covered with a tap  
8 because we want to make sure that nobody else,  
9 except for the vendor, is actually selling from  
10 the table. We would also like to suggest that the  
11 bill specifically allow for seizure of the goods  
12 if they are left unattended for more than ten  
13 minutes.

14 CHAIRPERSON COMRIE: Just on a side  
15 question, the issue of vendors such as this one  
16 here where the gentleman is sleeping overnight  
17 with his permanent bookseller encampment. Clearly  
18 this person is sleeping and it's a permanent  
19 location that he's selling books from. Is there  
20 any present regulation to deal with that now?

21 ANDREW EILER: There are some  
22 regulations outside of the vending issue in the  
23 Sanitation Code. But that particular problem that  
24 you're speaking of, we have used the current  
25 vending regulations. We have taken a large amount

1  
2 of enforcement action at that location. But to go  
3 back to the point about fingerprinting, that  
4 enforcement action hasn't helped us. Because the  
5 courts are unaware that this person is a  
6 recidivist and has been a recidivist for a number  
7 of years.

8 CHAIRPERSON COMRIE: I don't  
9 understand the recidivism issue, with all due  
10 respect to the panel. If you're getting summonses  
11 and you're going before court, don't they have  
12 computers?

13 ANDREW EILER: They can't keep a  
14 record of a conviction of a violation.

15 CHAIRPERSON COMRIE: Why not?

16 ANDREW EILER: It would violate  
17 current New York State law.

18 CHAIRPERSON COMRIE: So each  
19 violation is tapered as a separate and individual  
20 item?

21 ANDREW EILER: As a separate  
22 individual action, whether it's your first one or  
23 your 550th one, the court doesn't know.

24 CHAIRPERSON COMRIE: Well can't we  
25 change that law in the state as opposed to doing

1  
2 the fingerprinting?

3 ANDREW EILER: The fingerprint  
4 creates a criminal record.

5 CHAIRPERSON COMRIE: Right, but  
6 couldn't we change that from being an individual  
7 misdemeanor to if you have more than five it could  
8 be combined? Could that be part of your  
9 legislative package also?

10 SUSAN PETITO: The issue of the  
11 sealing of the violation level offenses is a  
12 different issue because all violation level  
13 offenses are sealed by operation of law under the  
14 criminal procedure law. What we're talking about  
15 is misdemeanors that are defined outside the Penal  
16 Law. What we are saying is that even if you  
17 commit a misdemeanor, that misdemeanor will not  
18 appear on your criminal record. That's a step up  
19 from the violation level offense. I think it  
20 would be a much heavier lift in Albany to change  
21 the criminal procedure law to change the sealing  
22 statute entirely. We're looking much more at a  
23 more serious level of crime, which is misdemeanor,  
24 and seeking to have that become part of someone's  
25 criminal record.

2 CHAIRPERSON COMRIE: I'm not a  
3 lawyer, but we've been joined by a lawyer.  
4 Council Member Koppell is here. To me, as a  
5 layperson, if you have a person with numerous  
6 violations, there should be some opportunity to  
7 bring that up as a matter of fact in the courtroom  
8 to help justify putting this person off the street  
9 or prohibiting them from continuing that negative  
10 practice.

11 SUSAN PETITO: And you've hit  
12 exactly on what we were saying earlier in our  
13 testimony, which is that there is currently no way  
14 to track the recidivist, which is what we would  
15 like to do. As Lieutenant Albano has spoken  
16 about, on the current level, enforcement is very  
17 difficult and doesn't have any kind of deterrent  
18 effect. So our plan in asking you to help us talk  
19 to Albany and seek their passage of this kind of  
20 legislation is to help those who are also  
21 currently licensed, willing to play by the rules  
22 and are subject to infringement of their own  
23 business opportunities based on the unlicensed  
24 vendors and the vendors who are not following  
25 regulations.

2 CHAIRPERSON COMRIE: I would think  
3 that there's some kind of way that if you have a  
4 recidivist that's coming there more than one that  
5 the agencies can at least flag that through the  
6 agency and work to deal with it. These vendors  
7 that are recidivists, are they mostly the First  
8 Amendment people, or are they all over the  
9 spectrum of vendor?

10 DAN ALBANO: First Amendment would  
11 fall into that, but it's predominantly the  
12 unlicensed general vendors.

13 CHAIRPERSON COMRIE: And even with  
14 that you're not able to build up a sufficient  
15 level of violations that would justify combining  
16 them at any time?

17 DAN ALBANO: Right. If we created  
18 even internally our own list, that would be a  
19 violation of state law. We can't do that.

20 CHAIRPERSON COMRIE: I would hope  
21 that there is some way we could look at that state  
22 law to free that up also. Again, that's something  
23 I think we really need to look into. Council  
24 Member Palma has a question. Council Member  
25 Stewart is next. Council Member Palma?

1  
2 COUNCIL MEMBER PALMA: I'm just  
3 curious. What would happen to those vendors, such  
4 as the ones that sell Christmas trees? Would they  
5 be affected by this?

6 DAN ALBANO: Christmas tree vendors  
7 are not required to get a DCA license under  
8 current law.

9 COUNCIL MEMBER PALMA: Thank you.

10 CHAIRPERSON COMRIE: We need to  
11 look at that also. Council Member Stewart?

12 CHAIRPERSON STEWART: Thank you. I  
13 wanted to go back to enforcement. Seven different  
14 agencies and you can't come up with a task force?  
15 In the other areas we come up with a task force  
16 and we go out there and take care of business.  
17 Seven different agencies are dealing with this.  
18 Why can't you come up with a task force that will  
19 go and really do the job?

20 DAN ALBANO: We have put together a  
21 task force on occasion. Not on a permanent basis  
22 though.

23 CHAIRPERSON STEWART: How can you  
24 say that there is--

25 SUSAN PETITO: [interposing] Mr.

1  
2 Chairman, would I add though that we do have  
3 focused enforcement by the police department. The  
4 police department is the main agency enforcing the  
5 street conditions. We have in Manhattan South,  
6 which is really a focal point, a very large  
7 concentration of vending issues, there is a task  
8 force called the peddler task force and it's their  
9 exclusive job to do vending enforcement. But in  
10 other precincts where there are street conditions  
11 that demand the kind of attention on a sustained  
12 basis, it's the conditions units or other special  
13 operations within precincts on a local basis that  
14 devote their resources to it on a regular basis.

15 CHAIRPERSON STEWART: How can you  
16 say that there is no incentive to follow the  
17 regulation? When I check on the fines that are  
18 being issued, they are very high. And then also  
19 you have seizure. That is something I want to  
20 talk about after. But how could you say that when  
21 we have such high fines and then you do have a  
22 process of seizure? There has got to be some sort  
23 of incentive for people to follow if they know  
24 that they're going to have to pay \$1,000 if they  
25 violate the law. And also that you have the

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

option to seize their goods.

SUSAN PETITO: Seizure is certainly an effective tool, but we're limited by the resources that we can devote to seizing property. It takes a lot of police department resources to seize property. What happens much more often is the issuance of a summons or an arrest. I don't believe that the penalties such as the fines or the jail time or the sentences that the criminal courts would provide in these cases will ever be a deterrent effect. I don't think that people get jail time or \$1,000 fines for this behavior in most cases. We don't track that. The police department doesn't track that information. But our sense of it is that it's very rare that somebody who's arrested for unlicensed vending will actually pay \$1,000 fine.

CHAIRPERSON STEWART: The issue of seizure, I have had several complaints whereby merchandise was seized and they have to go to someplace to get a voucher thereafter. Why couldn't there be a system whereby the voucher is being issued at the same time listing the things that are being seized?

2 DAN ALBANO: There's an internal  
3 control mechanism and an integrity issue that we  
4 have with that. All of our vouchers are pre-  
5 numbered and they are prepared by at the station  
6 house. So the officer out in the street would not  
7 have a pre-numbered voucher. If we were to  
8 implement the system where he did, that would  
9 attack the integrity of the system.

10 CHAIRPERSON STEWART: The point is  
11 most of these folks complain that they never got  
12 back their stuff or the stuff that was taken is  
13 never listed, so they got back less than half or  
14 even minimal as to what has been seized. So you  
15 can't talk about integrity when folks say that  
16 monies are taken and items are taken and they  
17 didn't get it back.

18 DAN ALBANO: They could go back to  
19 the station house and get a copy of that. It's  
20 their right to get a copy of that voucher.

21 CHAIRPERSON STEWART: Sir, I  
22 understand that. It's their right to go and get a  
23 voucher. But 90% of the time they don't get a  
24 voucher listing the things that was taken. So why  
25 isn't there a system whereby whatever you take is

1  
2 listed right there and then? Because they are  
3 being told to come down to the station tomorrow or  
4 come down two days later to get a voucher. The  
5 voucher will just say items. Then when they try  
6 to recoup their stuff, most of the stuff is gone.  
7 So where is it that we're going to try to correct  
8 his?

9 DAN ALBANO: In front of the vendor  
10 on the street when we seize the property, it's put  
11 into a plastic bag and sealed. That's how we  
12 account for the property is one sealed bag of  
13 vendor property. If we were to count each  
14 individual item and a vendor has 100 pocketbooks  
15 or 100 pairs of sunglasses, you can multiply that  
16 over an officer's day for each person. He would  
17 have to count and describe the items that he's  
18 seizing. That would be very burdensome.

19 CHAIRPERSON STEWART: Even then, I  
20 have never seen where there's a bag or something  
21 that has been sealed that it cannot be opened. If  
22 that is the case, why couldn't you get a system  
23 whereby there is a lock that the vendor has the  
24 key? Why couldn't you do that? There has got to  
25 be a way in which you protect the vendor. Because

1  
2 until he's given an opportunity in the courts to  
3 whether he's right or wrong and if the case is  
4 wrong, 90% of the time he doesn't get back his  
5 stuff.

6 DAN ALBANO: Again, sir, his  
7 protection as far as what property was taken is he  
8 can go to the station house so he gets a copy of  
9 that numbered voucher.

10 CHAIRPERSON STEWART: In two day's  
11 time?

12 DAN ALBANO: He should be able to  
13 get it that day, sir.

14 CHAIRPERSON STEWART: I'm not  
15 putting any disparity on the police or the person  
16 who is making that charge. The fact is how can he  
17 know that half of the stuff is not missing by the  
18 time he gets to the station?

19 DAN ALBANO: That's why we bag it  
20 in front of the vendor. There's a numbered seal  
21 that goes on the neck of the bag. That's the  
22 purpose behind that.

23 SUSAN PETITO: And if I can add, if  
24 there is a conflict or an issue where the vendor  
25 feels that property was not accounted for, that

1  
2 it's gone missing, that in some way his property  
3 has been taken without being documented, he is  
4 absolutely free to file a complaint against the  
5 police department alleging what is in essence a  
6 claim of corruption that it's been stolen or at  
7 least misconduct that it has not been  
8 appropriately vouchered. But I would add that in  
9 come instances the property will never be returned  
10 if for example it's trademark counterfeit  
11 property. It will not go back to the vendor if  
12 it's a trademark counterfeit item. It will be  
13 destroyed. Even if the charge is dismissed, that  
14 item will be destroyed. It's required to be  
15 destroyed by the Penal Law if it's trademark  
16 counterfeit or an unauthorized recording. So  
17 there may be some instances where vendors are  
18 actually not going to get their property back for  
19 a different reason other than an allegation of  
20 corruption.

21 CHAIRPERSON STEWART: So couldn't  
22 the information that you've just given be on the  
23 back of the summons that he's being issued?

24 SUSAN PETITO: If it is trademarked  
25 counterfeit property, he will either be arrested

2 or issued a summons for trademark counterfeiting  
3 and so that would be the notice that that property  
4 is considered trademark counterfeit and will not  
5 be returned.

6 CHAIRPERSON STEWART: In that  
7 instance I can understand that case. But what  
8 about other incidents when there's not a  
9 trademark?

10 SUSAN PETITO: On the back of the  
11 property clerk voucher that he can obtain at the  
12 station house is the instructions for retrieving  
13 the property and the applicable laws about how the  
14 property is handled during the pending of the  
15 criminal action.

16 CHAIRPERSON STEWART: I just feel  
17 it's not a good system. I feel that they should  
18 be told at the time when that merchandise is taken  
19 from the vendor. The information should be given  
20 to them as to the process and what should be done.  
21 I just feel that something must be done about  
22 that. In terms of monies that have been taken,  
23 shouldn't there be a count in front of the vendor  
24 and a witness before that is taken?

25 DAN ALBANO: If someone is

2 arrested, we don't put them through the system,  
3 into our jail system with large amounts of cash on  
4 them for obvious reasons. It's for their  
5 protection so that other prisoners don't attempt  
6 to steal their money. That money is counted in  
7 front of them when they're arrested in the  
8 precinct in front of the supervisor at the desk.  
9 If that money is not the proceeds of some illegal  
10 activity, if it's their own personal funds, then  
11 that money is returned to them. When they're  
12 released from the system they can go and get that  
13 money back. Go down to the property clerk at One  
14 Police Plaza and we give them a check.

15 CHAIRPERSON STEWART: I'm not  
16 talking about when they get to the precinct. I'm  
17 talking about at the site. When they are being  
18 arrested or when merchandise is being seized, if  
19 they take money at that time, I think there should  
20 be a check and balance at that time. If you take  
21 \$1,000, give them a receipt for \$1,000 or whatever  
22 they take and not wait until you get to the  
23 precinct.

24 DAN ALBANO: I think you  
25 misunderstood, sir. The money is not seized until

1  
2 they get actually to the precinct, if the person  
3 is arrested.

4 CHAIRPERSON STEWART: No, sir. I  
5 don't think that's the case. I have had several  
6 complaints where monies and other items are taken  
7 at the site, but monies never came back.

8 DAN ALBANO: If that's the case,  
9 sir, I'd hold myself out to be available to  
10 discuss that with whoever these folks are and we'd  
11 investigate it.

12 CHAIRPERSON STEWART: Thank you.

13 DAN ALBANO: But as a general rule  
14 the policy is that the funds are counted at the  
15 station house in the presence of a supervisor and  
16 they get a receipt. And that those funds are  
17 available later on. When they are released, they  
18 can get it back from the property clerk.

19 CHAIRPERSON COMRIE: Thank you,  
20 Council Member Stewart. I hope that there is some  
21 follow up on the issue of the seizures and the  
22 returning of the money. It just leads me back to  
23 the issue of increasing the amount of licenses.  
24 If you had more licenses then you wouldn't have  
25 the issue of the unlicensed vendors. If you

1  
2 increase the number of licenses in general it  
3 would be much easier to track because you wouldn't  
4 have as many unlicensed people out there.

5 SHARI HYMAN: I see your point.  
6 Once of our concerns is you're presupposing that  
7 those who are currently unlicensed will then  
8 become licensed. We don't know anything about  
9 what will happen. Our main concern is that we're  
10 going to open the floodgates without a  
11 corresponding mechanism to control and enforce and  
12 cause additional problems. That's our major  
13 concern with lifting the cap at this point without  
14 understanding what the ramifications are, what the  
15 universe is and what will happen to those who are  
16 currently unlicensed. Will they become licensed?  
17 Will they choose to enter the system? Will they  
18 continue because enforcement is weak in this area  
19 because it doesn't have the deterrent effect to  
20 continue not to pay the taxes and not to pay the  
21 licensing fees and to continue as unlicensed  
22 vendors?

23 CHAIRPERSON COMRIE: I think we  
24 need to open it up though because I think more  
25 people will want to get the license. Then you

2 would have a smaller pool of unlicensed people  
3 that you could do the enforcement on. Leading to  
4 the enforcement issue then, we have two other  
5 Intros that are on the table to be discussed.  
6 That's my Intro which would amend the code to make  
7 licenses more readily identifiable for enforcement  
8 purposes, both the personal license and the cart  
9 license.

10 COUNCIL MEMBER BARRON: Mr.  
11 Chairman, would you indulge me to just ask one  
12 clarifying question on a subject that's already  
13 been discussed?

14 CHAIRPERSON COMRIE: Sure.

15 COUNCIL MEMBER BARRON: Thank you,  
16 Mr. Chairman. I've been very interested and  
17 concerned about the issue of police corruption. I  
18 was disturbed at the dialogue with my colleague,  
19 Councilman Stewart. You are saying that money  
20 should not be seized when anyone is seized on the  
21 street, is that correct? It's not appropriate to  
22 take the money away from that person. Is that  
23 what you're saying?

24 DAN ALBANO: Our policy is if  
25 someone's arrested and every arrest they end up

2 back at the station house, of course. At that  
3 point, when a person is searched, if they have a  
4 large amount of money on them that would cause  
5 them problems once they got into the system. We  
6 would remove that money from them. They would be  
7 given a receipt and they could claim those funds  
8 later on.

9 COUNCIL MEMBER BARRON: Would that  
10 money be removed on the street or only in the  
11 station house?

12 DAN ALBANO: It should be removed  
13 and counted at the station house. Yes, sir.

14 COUNCIL MEMBER BARRON: So if a  
15 vendor is arrested and the vendor has a large roll  
16 of cash in the pocket, then that should not be  
17 taken from him or her at the street, only at the  
18 precinct?

19 DAN ALBANO: Every circumstance  
20 would be different. How large would be large? If  
21 somebody had something in their pocket that was  
22 that large that it drew my attention to it, I'd  
23 want to know what it was.

24 COUNCIL MEMBER BARRON: I'm not  
25 saying you shouldn't look at it, but you're saying

1  
2 you shouldn't take it. Is that what you're  
3 saying?

4 DAN ALBANO: It should be removed  
5 back at the station house, yes.

6 COUNCIL MEMBER BARRON: Not on the  
7 street.

8 DAN ALBANO: Yes.

9 COUNCIL MEMBER BARRON: So if  
10 people here know of instances where money is taken  
11 on the street, they should call that to the  
12 attention of you or perhaps to the attention of  
13 Mr. Stewart or me because that would be an  
14 instance of potentially corrupt behavior.

15 DAN ALBANO: Potentially. Myself,  
16 one of the council people, our internal affairs  
17 people or when they get to the station house to  
18 the supervisor at the station house.

19 COUNCIL MEMBER BARRON: All right.  
20 I just want it to be clear, Mr. Chairman, that  
21 this is improper police behavior and if it's  
22 happening we should know about it. Because I'm  
23 very concerned about the issue of police  
24 corruption and have been for many years. That's  
25 not to say that all police are corrupt, they're

1  
2 not. But some are and this kind of activity is  
3 the kind of activity that's got to be responded  
4 to. So I think for those in the audience who are  
5 involved in this, it should be clear. Cash should  
6 not be taken from offenders on the street.

7 CHAIRPERSON COMRIE: I would agree  
8 with you 100% Council Member, and I would  
9 encourage everyone in the audience that if there  
10 has been an incident that has not been documented  
11 or if you felt that your rights were trampled and  
12 money or items were taken from you that should  
13 have been returned, please contact this committee.  
14 Actually if it happens at the scene, you should  
15 contact the Community Affairs officer at the  
16 police department right away. I think that if  
17 there is a specific issue or issues that have not  
18 been brought to fore before, please let us know  
19 that so that we can follow through. I think the  
20 issue of seizure and the point of seizure is  
21 clear. Probably what's happening is that some of  
22 these people are so intimidated they're just  
23 walking away and not even coming back. But we  
24 need to get that message out as much as possible  
25 that the point of seizure should be at the police

1  
2 department for anyone that has money that is being  
3 arrested at that particular point. Did you want  
4 to add anything else, Mr. Albano.

5 DAN ALBANO: No, sir.

6 CHAIRPERSON COMRIE: Andy, then  
7 we'll go back to Intro. 843.

8 ANDREW EILER: Mr. Chairman, this  
9 is one of the bills that we could support because  
10 affixing the vendor's license to a table would  
11 help identify who is authorized to operate the  
12 table. That could help the police enforce. But  
13 we do have a couple of recommendations. One is  
14 that the sign be made smaller, 8 1/2 by 11, rather  
15 than the proposed 11 by 17. It would make it  
16 easier to produce for DCA with an embedded  
17 security device that would prevent counterfeiting.  
18 And I would also suggest that the bill be amended  
19 to allow the department to recoup the cost of  
20 producing this license, which with the security  
21 devices and whatever would not necessarily be very  
22 inexpensive. It would have the license number.  
23 The bill would allow us to do that. But what we  
24 would propose is that this sign actually reproduce  
25 the license.

1  
2 CHAIRPERSON COMRIE: I understand.  
3 Then, Intro. 846, Council Member Gonzalez's bill,  
4 which would be in relation to the vending in  
5 Sunset Park. As you know, the Sunset Park BID has  
6 been working diligently with the vendors in that  
7 area to try to come up with an alternative  
8 amenable scheme to deal with vending. Have you  
9 looked at that bill and are you willing to work  
10 with that to make that a pilot program?

11 ANDREW EILER: Let me note that  
12 first this is a thoughtful and creative approach  
13 that acknowledges the often widely and varying  
14 desires that individual communities have with  
15 respect to vending. But setting aside the issue  
16 of ceding government authority over public lands  
17 to a private organization, an issue that  
18 presumably could be addressed at the drafting  
19 stage, the fundament concern with the proposal is  
20 that the exception created by state law for  
21 disabled veteran vendors would swallow the rule,  
22 both by leaving open the door for those veterans  
23 and giving a constitutional interpretations the  
24 First Amendment vendors that would follow. Let me  
25 just add the note to this that as I recall, the

1  
2 state law provides that the disabled veteran  
3 vendors are subject only to the restrictions in  
4 that law with respect to where they could vend.  
5 That being the case, any other restrictions that  
6 would be imposed on them would not be valid. So  
7 they could operate irrespective of any such  
8 restrictions. The kind of restrictions that this  
9 proposal would create for those vendors would  
10 likely run afoul of those requirements. So that's  
11 one of the fundamental issues that this proposal  
12 raises.

13 CHAIRPERSON COMRIE: But part of  
14 her proposal is to work with all of the vendors,  
15 including the veteran vendors. So you're saying  
16 your fear is once all of the spots are assigned,  
17 you'll get a whole new group of vendors that will  
18 come in to try to violate this?

19 ANDREW EILER: The idea is that the  
20 proposal imposes restrictions on who could operate  
21 on specific sites. That restriction would be  
22 something that would be in addition to what the  
23 state law sets for disabled veteran vendors as to  
24 where they could vend. That being the case, I  
25 mean that exception would create an unworkable

2 situation with respect to disabled veteran vendors  
3 and following that First Amendment vendor. So  
4 there's a lot of other technical issues involved  
5 here.

6 CHAIRPERSON COMRIE: When was the  
7 last time the state law regarding disabled vendors  
8 was addressed?

9 ANDREW EILER: I think it was 2004.

10 CHAIRPERSON COMRIE: 2004?

11 ANDREW EILER: Right.

12 CHAIRPERSON COMRIE: So you're  
13 saying in general that you're not against the idea  
14 of creating assigned vending spots. You're just  
15 concerned about whether or not you would have the  
16 final say and authority because of the existing  
17 state law, correct?

18 ANDREW EILER: That's another issue  
19 in terms of assigned spots. We're talking about  
20 whether or not the assigned spots would affect or  
21 impact upon what the state law provides for  
22 disabled veteran vendors. Based on this pilot  
23 project and how this would work, that's just one  
24 of the fundamental concerns that this whole  
25 proposal raises. It's a creative attempt, but it

1  
2 does have this and a number of other issues that  
3 would be too technical to go into this kind of  
4 situation.

5 CHAIRPERSON COMRIE: So what do you  
6 think is the most workable part of the bill, since  
7 you said there were parts of it that you did like?

8 ANDREW EILER: That it's an attempt  
9 to craft a proposal that deals with a particular  
10 community. You'd have to really revise and do a  
11 lot of re-crafting. Then it becomes a question of  
12 where you would select the sites. There's a whole  
13 lot of issues that rises in terms of how it could  
14 be implemented and used.

15 CHAIRPERSON COMRIE: In general, do  
16 you think that the state law automatically always  
17 supersedes the city laws?

18 ANDREW EILER: In this particular  
19 case, with respect to the location of disabled  
20 veteran vendors, that does supersede what the city  
21 can do with respect to siting restrictions.  
22 That's an issue that effects what the city can do  
23 with respect to siting them.

24 CHAIRPERSON COMRIE: Has the city  
25 done anything like they've done in other states

1  
2 where they've included veterans so that the  
3 municipalities can have the say over what vending  
4 is done like in San Francisco, in Dallas and I  
5 believe even in Cleveland, Chicago and  
6 Pennsylvania. I read that they had done things on  
7 a state level to allow the municipalities to have  
8 first say. Have we looked at doing that?

9           ANDREW EILER: I haven't recently  
10 done so. I know that those issues were discussed.  
11 There was a study that the department did a number  
12 of years ago of alternatives and so forth and so  
13 on. What I recall from the study on San Francisco  
14 is their vendor regulation is restricted to a  
15 particular area that they have set aside for  
16 vending, which people come in, in the morning, and  
17 pick up a site and pick up a number. But it's  
18 only in one area. So you don't have a lot of  
19 vending. I also talked to people in Washington  
20 where they were setting up a vending program for  
21 the city of Washington. But they were talking  
22 about very small area. I mean comparing what they  
23 were doing and what we have in New York, it's like  
24 comparing the earth to the moon or something.  
25 It's completely different. New York has a unique

2 vending situation.

3 CHAIRPERSON COMRIE: I understand  
4 that the size is different. But the relevance of  
5 incorporating state law so that the municipality  
6 can have first shot at making sure that all  
7 vendoring is done so that you don't constantly  
8 have this ripping apart element where you're  
9 trying as a city to create something that makes  
10 sense and you can't do it because the state law is  
11 restricting your ability to create enforceable  
12 zones.

13 ANDREW EILER: This has a long  
14 history in terms of how that law came into being  
15 and what it is so that maybe we could leave that  
16 to another day.

17 CHAIRPERSON COMRIE: I just wanted  
18 to dance on it a little bit. So you don't feel  
19 that there's an opportunity for them to reach out  
20 to the First Amendment vendors and the disabled  
21 vendors and incorporate them in that zone since  
22 they kind of know who's out there already and  
23 limit it to the existing people that are already  
24 there?

25 ANDREW EILER: The structure within

2 which this would have to fit into, I mean there  
3 are tremendous obstacles.

4 CHAIRPERSON COMRIE: Let's just say  
5 there are 400 vendors there now once you do the  
6 headcount next week and get back to us on the  
7 headcount and you limit it to those 400. Once  
8 those people are given the signs and the plaques,  
9 if they don't have that plaque they automatically  
10 can be seized.

11  
12 SHARI HYMAN: But again we go back  
13 to the same issue that I brought up with Intro.  
14 830. There's no mechanism currently to identify  
15 and we don't want to restrict the First Amendment  
16 vendors unconstitutionally. So since there is no  
17 citywide mechanism to identify them and tell them  
18 who is supposed to be there and who is not, you're  
19 asking for them to conform to a system that they  
20 don't actually have to conform to.

21 CHAIRPERSON COMRIE: But they're  
22 making a voluntary agreement to do that. They put  
23 up a yellow sign on their cart that I'm a  
24 registered approved Sunset Park BID vendor and  
25 they have the 8 by 11 licenses from DCA.

2 SHARI HYMAN: But because we can't  
3 and we don't have a system to say these are the  
4 registered vendors, it would be unlawful to  
5 preclude another First Amendment vendor who hadn't  
6 previously heard about the Sunset Park vending  
7 area to come and set up shop. Then what do you do  
8 for the people that have, again, conformed and  
9 entered into an agreement with the Sunset Park  
10 District to say we're here first. But the police  
11 department law enforcement has no way of  
12 identifying who is right, and no way of saying to  
13 the new person that they shouldn't be there. You  
14 can't unfairly restrict them based on this.

15 CHAIRPERSON COMRIE: Again, I think  
16 you passed over what I was saying. Are you  
17 willing to work with them to create a pilot  
18 program? Is that something that we could get as a  
19 possible focus?

20 ANDREW EILER: Basically with the  
21 fatal impediments that are incorporated in the  
22 bill, this is very difficult to see how we could  
23 make this--

24 CHAIRPERSON COMRIE: [interposing]  
25 We're not talking about the bill. We're talking

1  
2 about sitting down with the Sunset Park people,  
3 with the city to put together a pilot program.  
4 It's beyond the scope of the bill. With the  
5 council, the Sunset Park BID to work on a pilot  
6 program, or working with the council separately to  
7 do a pilot program somewhere else.

8 SUSAN PETITO: Again, we come back  
9 to our initial testimony. Even if we do a pilot  
10 program, without sufficient enforcement power to  
11 make sure that people in the program are in the  
12 program and people who are not in the program do  
13 not go to that area, it would be rather fruitless  
14 to devise, again, the most elegant scheme possible  
15 without the kind of penalties that would make the  
16 scheme truly enforceable. So at this point I  
17 don't think we at this table can commit to a joint  
18 development of a pilot project. We'll certainly  
19 take back that request and suggestion. But I  
20 think that, again, we go back to the  
21 enforceability issue. Because the best solution  
22 possible would be a clear, comprehensive solution  
23 regulatory system backed up by predictable and  
24 clear penalties for violation of that regulatory  
25 system.

2 CHAIRPERSON COMRIE: My only  
3 problem with that is that you only have one  
4 solution that really has nothing to do with the  
5 enforcement and that's fingerprinting. So are you  
6 committing to then today sitting down with us and  
7 the council to come up with a set of regulations  
8 and enforceable items that we could present as a  
9 package to Albany or as a package in general to  
10 start cleaning up the issues of enforcement. Even  
11 if you got the fingerprinting, it happens  
12 tomorrow, you still have seven different types of  
13 vending and seven different agencies. The police  
14 officers that are frankly frustrated and the  
15 Department of Consumer Affairs that's frankly  
16 frustrated on it. Fingerprinting alone is not the  
17 panacea or the cure-all.

18 SHARI HYMAN: Again, what we're  
19 saying is that we think that it's the cornerstone  
20 to then having a comprehensive plan going forward  
21 and incorporating all of the issues and concerns  
22 that have been raised here today by the council.  
23 We are committed to sit down with you.

24 CHAIRPERSON COMRIE: All right, I'm  
25 giving you the cornerstone argument, but what I'm

1  
2 also arguing is that before we go to Albany with  
3 your cornerstone, I think we need to go to Albany  
4 with a full enforcement package. I think that one  
5 enlists the other. So that if we go to Albany, we  
6 can tell Albany that now we have a full  
7 enforcement package that people are not frustrated  
8 with doing enforcement that the city, the police  
9 department, the Department of Consumer Affairs,  
10 the Department of Health and all of the agencies  
11 that are doing the regulation can now give it to  
12 any rookie police officer to do the enforcement, I  
13 think it would even help with dealing with the  
14 single issue of fingerprinting. I think that we  
15 need to commit today to work together on some  
16 pilot program to sit down or some ongoing  
17 negotiations to sit down before the legislative  
18 session starts in January so that we could have  
19 that package.

20 SUSAN PETITO: Again, we're happy  
21 to sit down and discuss how the cornerstone that  
22 we're talking about can then be built upon and  
23 again to have ongoing discussions with you about  
24 the other more local concerns that are raised by  
25 the bills here today and by other bills that you

2 may have. But in terms of going to Albany, we  
3 believe that the point to do that is to get the  
4 enforcement mechanism to further the other  
5 discussions about how best to handle the local  
6 concerns once we have the enforcement tools  
7 necessary to protect those who want to enter into  
8 this system lawfully.

9 CHAIRPERSON COMRIE: I think we're  
10 saying the same thing in two different directions.  
11 I think you want the cart before the horse. But I  
12 want the whole cart to go there as a package so  
13 that we don't leave it to Albany to have to make  
14 the decisions based on a vacuum. I think that  
15 it's important that we sit down and do that. I  
16 hear you're close to agreement so I'm going to  
17 take that as a yes and make it a yes by continuing  
18 to push to get this done. Because I think that  
19 it's too important with the reality that's out  
20 there. We've been joined by Council Member David  
21 Weprin from Queens and Council Member Barron has a  
22 question.

23 COUNCIL MEMBER BARRON: It's really  
24 incredible to me the resistance to go beyond your  
25 enforcement and fingerprinting and going to the

1  
2 state and how you always find the language. I'm  
3 glad the chair feels comfortable that you moved a  
4 little bit. To resolve this issue we have to  
5 think outside the box. We have to become leaders  
6 and not just police. Every time I look at the  
7 table and the chair asks a simple question about  
8 you meeting, I see your heads shaking like no,  
9 enforcement. You should have just brought a  
10 fingerprinting machine and just fingerprinted  
11 everybody so we can get comfortable and think  
12 about something more creative. Giuliani when he  
13 came in, he was very brutal and oppressive to  
14 vendors, particularly on 125th Street. I think he  
15 wiped them off 125th Street and relocated them I  
16 think to 116th Street. This is similar to Sunset  
17 Park. Did you all evaluate that and study that on  
18 how did that respond to First Amendment and  
19 veterans and disabled vendors along with those  
20 relocated to 116th Street? Did you study that and  
21 learn anything from that?

22 SUSAN PETITO: I'm sorry,  
23 Councilman, I'm not familiar with any particular  
24 study of the 125th Street.

25 COUNCIL MEMBER BARRON: No, I'm

2 saying, did you study it?

3 SUSAN PETITO: Myself? No.

4 COUNCIL MEMBER BARRON: You don't  
5 think that would be a good thing to look into?  
6 Because that was a serious vending issue and it  
7 had similar issues that we are going through now.  
8 One who is so much involved that you want to  
9 fingerprint that you would put your fingerprints  
10 on studying that and seeing if in fact there are  
11 some thing in that that were beneficial or not  
12 beneficial because that's what they did. They're  
13 trying to clear vendors off of Fulton Street.  
14 They cleared the vendors off of 125th Street. I  
15 think this Sunset plan I think is clearing vendors  
16 off of Fifth Avenue, which is a very, very  
17 prominent commercial area in Sunset Park. So if  
18 the idea of this particular bill is to find a  
19 place for vendors and you have a legitimate  
20 concern in that that would not restrict First  
21 Amendment vendors nor would it restrict veterans  
22 and disabled and others who are not restricted by  
23 this, why wouldn't we examine that to see how  
24 125th Street worked? If in fact this plan causes  
25 a problem or some concerns of mine as well as that

1  
2 you will be restricting them from Fifth Avenue I  
3 believe and constricting them or limiting them to  
4 another area, what does that do to vending and  
5 does that get us to a better place.

6 SUSAN PETITO: My understanding was  
7 that the move from 125th Street to 116th Street,  
8 there were some problems with people not being  
9 attracted to 116th Street. That's the limit of my  
10 knowledge on it, but we can certainly look at it.

11 COUNCIL MEMBER BARRON: I suggest  
12 you study more. That is too limited. I think we  
13 need to study more on that. And maybe if you  
14 wouldn't think about fingerprints for a second,  
15 that you could get into 125th Street and Fulton  
16 Street and study some of these plans, because let  
17 me just be straight up with you and you'll find  
18 out in the long run, police containment and  
19 enforcement never solves problems. Never. And  
20 even if you look at crime, the more police you put  
21 in the more jails you fill, the more stricter laws  
22 you have, crime doesn't go down. It usually comes  
23 down through economic development, job creation  
24 and opportunities for people to make a living. I  
25 don't think it's going to happen today because you

1  
2 seem very fixated on enforcement and fingerprints,  
3 but I think we've got to think beyond enforcement.  
4 Because the best of laws, and even if you got  
5 everything you wanted today around enforcement  
6 from the state, we're going to have major  
7 conflicts anyway because people are going to vend.  
8 If you limit the licenses it'll just be either  
9 filling up more jails or having more conflict with  
10 police in communities. So I'm trying to say you  
11 don't have to do it today, but maybe tomorrow if  
12 you can go beyond enforcement and help us think  
13 more creatively and not think that until we settle  
14 that we can't even deal and that's the cornerstone  
15 of dealing with all of the issues. That requires  
16 far more of your cerebral capability than  
17 enforcement because that's the easy one. Anyway,  
18 I don't know what I said all that stuff for, but I  
19 just think we need to get beyond enforcement and  
20 look at these bills more creatively. Thank you.

21 CHAIRPERSON COMRIE: No clapping  
22 please. Council Member Stewart has some  
23 questions.

24 CHAIRPERSON STEWART: I just want  
25 to close out with a few questions. Would assigned

2 locations for vendors ease enforcement? Do you  
3 think so?

4 SUSAN PETITO: That is something  
5 that we have looked at in the past. I believe it  
6 was part of Councilman Reed's bill. I don't think  
7 it's practical to have painted boxes on the  
8 sidewalk necessarily. But assigned locations  
9 could potentially ease enforcement issues because  
10 then you would know exactly who the vendor was  
11 that was supposed to be in that particular  
12 location.

13 CHAIRPERSON STEWART: What are you  
14 doing about ensuring that food vendors are not  
15 subleasing their permits to others in violation of  
16 the law?

17 CHRIS MANNING: My understanding is  
18 that the law does not actually prohibit the  
19 leasing of food vending permits as it stands.

20 CHAIRPERSON STEWART: But I'm  
21 asking what are you doing about it? Do you check  
22 on these?

23 CHRIS MANNING: There's two  
24 different parts to the food vending system.  
25 There's the license that goes to the individual

1  
2 and then there's the permit that goes to the cart.  
3 The permits are the ones that are capped. So when  
4 someone applies for a mobile food vending permit,  
5 they're required to submit certain information  
6 that we can then run against our system to make  
7 sure that there isn't someone else using that  
8 information that holds another permit. So we use  
9 that particular check at the time of application  
10 to make sure there isn't someone else holding that  
11 permit. However, the permit holder is not  
12 required to be the one that's operating at that  
13 particular cart. There could be other licensed  
14 vendors who operate at someone else's permitted  
15 cart.

16 CHAIRPERSON STEWART: Clarify that  
17 again for me. You may have a licensed permit for  
18 the cart.

19 CHRIS MANNING: That's correct.  
20 The analogy that I use to remember is it's sort of  
21 like the driver's license that you would hold that  
22 allows you to operate a car versus the motor  
23 vehicle registration that you would have for your  
24 actual car. So in this case the permit is  
25 specific to the vending cart. Then the licensed

2 vendors have a separate license that allows them  
3 to actually engage in the sale of food on the  
4 streets. But it's the permit that is specific to  
5 the cart and is capped by law and then the  
6 licenses are issued beyond that.

7 CHAIRPERSON STEWART: So how do you  
8 really look at those folks who are leasing the  
9 cart? I may have a food license but I don't have  
10 a cart and I then have to lease the cart from  
11 somebody.

12 CHRIS MANNING: That's not an issue  
13 that the department actually does.

14 CHAIRPERSON STEWART: So it's not  
15 an issue right now.

16 CHRIS MANNING: That's correct.

17 CHAIRPERSON STEWART: Are people  
18 allowed to sell this license to others?

19 CHRIS MANNING: They are not.

20 CHAIRPERSON STEWART: How are the  
21 police instructed on vending laws and enforcement?  
22 Who is responsible for that? Because I don't  
23 think they learn that in the academy. Somebody  
24 from Consumer Affairs has to really go down the  
25 line and explain to them. If you don't have a

1  
2 task force and if the police are carrying out this  
3 duty, then someone from the Consumer Affairs  
4 should be really instructing them about what to do  
5 and how to do and what not to do. So how do you  
6 do that?

7                   ANDREW EILER: Well, with respect  
8 to specific precincts, if we're requested we send  
9 out trained people to work with the precincts to  
10 explain the requirements, the vending laws and so  
11 forth and so on. So that's an ongoing effort with  
12 the specific precincts that we have. I mean the  
13 police department may have its own training  
14 program in addition to that, but we do participate  
15 with the police department to that extent.

16                   CHAIRPERSON STEWART: Have any  
17 efforts been made to improve or establish a  
18 working relationship with vendors, merchants and  
19 neighborhood associations? Do we try to work with  
20 these different entities so that at least we can  
21 get the best of both worlds?

22                   SUSAN PETITO: As in most things of  
23 local concern, the community affairs officer is a  
24 pivotal person in that regard and also the special  
25 operations lieutenant who oversees special

1  
2 operations, which would include vending  
3 enforcement. The precinct community council is  
4 also an excellent mechanism for people to get  
5 involved. Every time we get a chance, we urge  
6 business owners, vendors or anybody who has an  
7 issue with the police department to please come to  
8 their local precinct community council meeting and  
9 join the council. That's the best way on a local  
10 level for people to become involved and get to  
11 know the leadership of their local precinct.

12 CHAIRPERSON STEWART: Has there  
13 been any outreach done to educate the vendors on  
14 the laws directly? Let me put it this way, if I  
15 asked you to maybe do a forum to the vendors that  
16 might be in my district or in the surrounding  
17 areas, are you willing to come out and really tell  
18 them what they can and cannot do?

19 SUSAN PETITO: I think I speak for  
20 all of us to say all of the affected agencies,  
21 absolutely. More information is better.  
22 Absolutely.

23 CHAIRPERSON COMRIE: Has there been  
24 any specific yearly hearings or public comment  
25 period or open house for vendors that have been

1  
2 done by any of your agencies so that the licensed  
3 vendors or prospective vendors can come in and  
4 hear about rules and regulations? Has anything  
5 been done?

6 ANDREW EILER: We have met with  
7 various vendor groups.

8 CHAIRPERSON COMRIE: That's not my  
9 question though.

10 ANDREW EILER: Well one of the  
11 things that we do every year is all of the vendors  
12 are given copies of the rules and regulations that  
13 the department enforces when their licenses are  
14 renewed each year. So annually they're contacted,  
15 told about any changes in the rules and so forth  
16 and so on. So we do update them regularly on  
17 these things through the licensing process. And  
18 of course we have the website that has the  
19 information. So there's that kind of information  
20 and we have met with vendor groups who have  
21 contacted us who wanted information. About six  
22 months ago I went to a conference on 125th Street  
23 with the vendor organizations that was done by the  
24 police community affairs unit. So we do these  
25 things to inform people about what the vending

2 requirements are.

3 CHRIS MANNING: From the Health  
4 Department's perspective as part of the  
5 requirements to get the food vending license for  
6 the individual there's a course that they're  
7 required to take at our health academy which does  
8 include portions of the training with respect to  
9 applicable laws, regulations, et cetera. And we  
10 also, as Andy pointed out, any group that's  
11 interested in having someone from the Health  
12 Department come out and speak to them about food  
13 vending in New York City, we have and will  
14 continue to honor those requests.

15 CHAIRPERSON COMRIE: Were you  
16 don't, Council Member?

17 CHAIRPERSON STEWART: I just have  
18 one more question. In terms of what you just  
19 said, is all of that in terms of writing a ticket,  
20 is in that booklet that you give every year? Is  
21 there anything about how you write a ticket and  
22 how you get back your stuff if is it was  
23 confiscated? Is there any of that in the booklet?

24 DAN ALBANO: I believe it's just  
25 the rules. The police department doesn't

2 distribute that material. The respective agencies  
3 do. But as far as getting their property back,  
4 that's on the back of the property clerk's voucher  
5 that we discussed before.

6 CHRIS MANNING: As part of the  
7 vending license for food handlers, I'm not sure  
8 that that specific information is included as part  
9 of the curriculum. But certainly when it comes to  
10 food there's a slightly different consideration  
11 that other types of consumer goods. Food may not  
12 necessarily last more than a certain amount of  
13 time outside. And certain types of food certainly  
14 can't last outside of a refrigerated or a  
15 controlled environment. So slightly different  
16 considerations for food versus some of the other  
17 goods that might be confiscated.

18 CHAIRPERSON STEWART: I just want  
19 to understand that when there is an inspection and  
20 all of that. The procedure when you write a  
21 ticket I want to understand that. I just want to  
22 know that the vendor knows what the laws are and  
23 if you're going to write a ticket they should know  
24 when and how you're write a ticket and what is  
25 their procedure to go adjudicate this. I just

2 wanted to know if they get that every year.

3 SUSAN PETITO: The procedure to  
4 address the ticket is right on the summons,  
5 whether it's a notice of violation to the Health  
6 Department or to the Consumer Affairs Department  
7 or a criminal summons. The way that you address  
8 the ticket and where you have to go in order to  
9 address it is always on the summons itself. If  
10 we're talking about property seizure, that  
11 information is on the back of the property clerk  
12 voucher.

13 CHAIRPERSON STEWART: How many  
14 languages do you have this in?

15 SUSAN PETITO: I think it's  
16 English.

17 CHAIRPERSON STEWART: Just English?

18 SUSAN PETITO: I think it's  
19 English. The criminal court summons format is  
20 determined by the Office of Court Administration.  
21 So we use the forms that they designate. I  
22 believe it's all in English.

23 CHAIRPERSON STEWART: You know that  
24 we have a very high concentration of immigrants  
25 for whom the English is a challenge. Don't you

2 think that in terms of the summonses and all of  
3 that when you're writing and when you're talking  
4 to somebody the language should be translated or  
5 something like that?

6 SUSAN PETITO: We have tremendous  
7 language capability in the police department and  
8 if there's a language barrier, the police officer  
9 has the availability of language line, of  
10 department interpreters. So if there's an  
11 understanding problem, hopefully that can be  
12 resolved right then and there with the translation  
13 available immediately. But not for the summons  
14 itself. The written summons is a format  
15 determined by the Office of Court Administration  
16 and I believe it's only in English.

17 CHAIRPERSON STEWART: That's the  
18 reason why I think that we need some sort of a  
19 task force.

20 SUSAN PETITO: But the of Court  
21 Administration would not be part of that task  
22 force. That certainly is a valid suggestion that  
23 this body could make to them. But we use the  
24 format that the court has decided we need to use  
25 in order to issue a summons.

2 CHAIRPERSON STEWART: All right,  
3 thank you.

4 CHAIRPERSON COMRIE: I don't know  
5 if you heard the level of unrest go up in the room  
6 when Council Member Stewart talking about and you  
7 gave the answers to the issue of subleasing and  
8 permits. But it's been established to this  
9 committee in a couple of hearings that there's a  
10 major black market and a major level of  
11 exploitation going on in this industry where  
12 people are being used and abused frankly by cart  
13 license holders and also illegal subleasing. I'm  
14 not going to dwell on it today but there is a  
15 major problem out there. It's been established.  
16 It's been determined. For the city to ignore it  
17 by not increasing the amount of licenses and by  
18 not increasing the amount of aggressive  
19 enforcement, especially with these people that are  
20 establishing sites that are up 24 hours. There's  
21 no way that the same individual that holds the  
22 cart license at a 24-hour site, especially some of  
23 these larger food vending sites that have multiple  
24 people working at them are not exploiting people.  
25 One of the reasons why we want to increase the

1 amount of license is just to eliminate that  
2 problem. There are a lot of people that are in  
3 this industry that are trying to earn a living  
4 that are being exploited. There are a lot of  
5 illegal immigrants that are working in this  
6 industry and are being exploited because of the  
7 amount of illegal people out here and because of  
8 the limited amount of licensing that's available.  
9 So to infer that there's no black market problem  
10 is really an insult to this audience. That's why  
11 the level of conversation and murmuring has gone  
12 up. A lot of people in this room have been  
13 exploited. It's a real problem that the city has  
14 to address. There's no way that we cannot sit  
15 here and not do a real headcount. Not say that a  
16 headcount of what's out there is not necessary.  
17 Because people are being exploited. People are  
18 being taken advantage of. Because they are from  
19 immigrant countries and don't have command of the  
20 English language and are probably afraid of  
21 authorities, they're not speaking up. But to sit  
22 here today and act like there's not a problem is  
23 really an injustice to everyone that's trying to  
24 get a leg up in this city.  
25

2 CHRIS MANNING: I certainly didn't  
3 intend to imply that there aren't problems in this  
4 particular area of the vending system. All I was  
5 trying to do was clarify that the law as it exists  
6 right now doesn't preclude someone from working at  
7 a cart for which they're not the permit holder.  
8 So it's like many other small businesses.

9 CHAIRPERSON COMRIE: The problem  
10 with that, Chris, is that there are a lot of  
11 people that have obtained permits and have  
12 licensed them out two and three times illegally to  
13 people that are also exploiting workers. That's a  
14 major problem that has to be dealt with. I think  
15 part of the solution is to issue more licenses so  
16 that there's not that issue out there. I'm not  
17 saying that in some of your areas that you're not  
18 allowed to legally have a secondary or a secondary  
19 worker. But the amount of illegal stuff that's  
20 going on out here precludes any other than some  
21 full opportunities to address and be aware of that  
22 problem. To gloss it over by saying that a person  
23 has a right to sublease doesn't really deal with  
24 the depth of the problem out here.

25 CHRIS MANNING: If there's a

2 situation where permits are being sold on the  
3 black market, as you referred, we would certainly  
4 want to know about those so we can refer them to  
5 the inspector general.

6 CHAIRPERSON COMRIE: We have a list  
7 coming to you. You should have that list  
8 hopefully before tomorrow of many different  
9 locations that people feel that the people are  
10 being exploited. One of the reasons why we want  
11 to get to some resolution here working with your  
12 agency by doing a headcount and by coming up with  
13 a comprehensive package for Albany is to help the  
14 people that are being exploited so that they can  
15 move to a situation where they can feel empowered  
16 to speak up. Right now they're not empowered to  
17 even speak up because they feel that there's no  
18 one that's out there willing to help them with  
19 their situation. That's one of the main reasons  
20 why I've been pushing for this hearing because  
21 we've been told quietly by people that people are  
22 being taken advantage of and that because there's  
23 no direct enforcement people feel that there's  
24 nothing they can do to get relief. And until we  
25 deal with a real set of enforcement issues, a real

1  
2 opportunity to come up with a headcount, a real  
3 package to go to Albany so that Albany doesn't  
4 turn around and have to do two years of hearings  
5 on this issue, this is something that we can do as  
6 a city and it's something we need to do because  
7 people are being exploited. I want to thank you  
8 for being here and thank the panel for being here.  
9 We have a lot of other people to hear from. I  
10 think that this is an issue that we cannot rest on  
11 because people are being exploited out there.  
12 Thank you. I'd like to take a five-minute break  
13 because I need to stretch my legs. We'll hear  
14 from a panel. Each person will have three  
15 minutes. You're only going to talk about the  
16 specific bills that are being heard today. We  
17 will do our best to hear from everybody. We have  
18 over 60 people that have signed up to testify. So  
19 please be brief and be on point. We're going to  
20 take a five-minute break. Thank you. I want to  
21 remind everybody that we're only talking about the  
22 eight bills that we introduced today. I know  
23 people have longstanding issues and gripes that  
24 they would like to add, but we're only talking  
25 about specific bills. I'm going to ask you to

1  
2 identify yourself, identify the bill that you'd  
3 like to talk about and keep your comments to three  
4 minutes. The first panel will be Ian Alterman,  
5 20th Precinct Community Council; Henry Buhl, SoHo  
6 Partnership; Tom Cusick, Fifth Avenue BID; and Tom  
7 Ferrugia, the Broadway League. You can come up.  
8 If you have any testimony, please hand it to the  
9 good looking young man in the front with the blue  
10 blazer, the sergeant-at-arms. Just for the  
11 record, we do have testimony from Community Board  
12 1 that was submitted and the 20th Precinct  
13 Council. You'll be speaking to the specific bill  
14 or bills only that were introduced today. Please  
15 identify your name, the bill that you'd like to  
16 speak to and then present your testimony. Whoever  
17 would like to start. Who am I missing from the  
18 panel?

19 IAN ALTERMAN: Thank you, Chairman  
20 Comrie and Chairman Stewart. My name is Ian  
21 Alterman and I am the Vice President of the 20th  
22 Precinct Community Council, the NYPD-mandated  
23 liaison between the 20th Precinct and its  
24 constituents. I am here to speak primarily to  
25 Intro. 828, with respect to prohibiting general

1 vendors from leaving pushcarts, stands or goods  
2 unattended. Please note that it was the 20th  
3 Precinct Council that first suggested this  
4 legislation to Councilmember Brewer, and met with  
5 her to discuss it back in the summer of 2007 as a  
6 result of certain vendors in our area having  
7 established 24/7 encampments. Thus, we have a  
8 significant vested interest in this legislation.  
9 Although we agree with the intent of the  
10 legislation as proposed, we believe the language  
11 is flawed and requires modification. I have  
12 provided to you a revised version of Intro. 828  
13 with our additions in italics. The most  
14 significant problem is in the use of the word  
15 unattended. As the NYPD points out, some homeless  
16 booksellers sleep under their tables. Thus, if a  
17 person were to walk by at, say, 3 o'clock in the  
18 morning, and wanted to buy a book, the table would  
19 not technically be unattended. This clearly  
20 defeats the purpose of legislation, which is to  
21 prevent vendors from setting up shop on a 24/7  
22 basis, and leaving their tables and goods on the  
23 sidewalk overnight. The intent of the legislation  
24 is to get vendors to remove all of their things  
25

1  
2 from the sidewalk from a given time in the evening  
3 until a given time in the morning. That is,  
4 establishing specific hours during which vendors  
5 may vend in primarily commercial or primarily  
6 residential areas. For residential areas, our  
7 revised language suggests vendor hours from six  
8 o'clock a.m. to eight o'clock p.m., Sunday through  
9 Thursday, and six o'clock a.m. to nine o'clock  
10 p.m., on Fridays and Saturdays. We also suggest  
11 that fines for violating this provision be high  
12 and progressive. This is the only way to stop  
13 what amounts to illegal commercial storage on  
14 public property. There is a separate but related  
15 issue that we hope the Consumer Affairs Committee  
16 will take up. This is the issue of getting judges  
17 to stop dismissing vendor summonses, which is done  
18 far too frequently. Not only does this make the  
19 Department of Consumer Affairs look toothless with  
20 regard to enforcement, as well as wasting the time  
21 of NYPD personnel who write the summonses, and the  
22 City Council for passing new legislation of the  
23 type proposed here, but it robs the city of much  
24 needed revenue. Given the budget shortfalls, this  
25 would seem self-defeating in the extreme.

2 Finally, we want to make clear that we are not  
3 attempting to prevent legitimate vendors from  
4 making an honest living. In fact, vendors already  
5 get away with an enormous amount. The former head  
6 of enforcement for the DCA estimates that 75% of  
7 vendors are consistently out of compliance in at  
8 least one regard and 50% are out of compliance in  
9 two or more regards. Yet enforcement is meager,  
10 and, as noted, even when it is done the courts  
11 tend to ignore vendor-related summonses. Rather,  
12 we are hoping to create a level playing field, one  
13 in which legitimate vendors can earn their living,  
14 but without needlessly and often illegally,  
15 infringing on the rights of others, including  
16 individuals, businesses, and the city itself. As  
17 an aside, we also fully support Intro. 830 and  
18 Intro. 843. Thank you for your time and for  
19 allowing me to speak. I am happy to answer any  
20 questions you might have.

21 CHAIRPERSON COMRIE: Next person?

22 THOMAS FERRUGIA: Good afternoon.

23 CHAIRPERSON COMRIE: Good

24 afternoon, Tom. It's interesting to see you on  
25 that side of the table.

2 THOMAS FERRUGIA: Yeah, it's an odd  
3 perspective. I think I can get in, in three  
4 minutes. Good afternoon, I am Thomas Ferrugia,  
5 the Director of Government Relations for The  
6 Broadway League, which has been the principal  
7 trade association for the commercial Broadway  
8 theatre industry for nearly 80 years. My  
9 testimony will briefly touch on all eight bills.  
10 We now represent over 600 members nationwide,  
11 including theater owners, producers and road  
12 presenters. I want to thank Chairmen Comrie and  
13 Stewart, as well as the other distinguished  
14 members of the Consumer Affairs and Immigration  
15 Committees, for this opportunity to discuss some  
16 of our thoughts on the vending legislation under  
17 consideration today. For the last thirty years,  
18 the League and its members have been heavily  
19 involved in revitalizing Times Square, working  
20 closely with civic associations like the Mayor's  
21 Midtown Citizens Committee and community  
22 organizations such as the Times Square Alliance.  
23 As anyone who remembers the theater district of  
24 the 1970s and 1980s can attest, our success has  
25 been hard-fought and tangible. We have helped

1  
2 transform Times Square from a place of seediness  
3 into an entertainment and business mecca for New  
4 Yorkers and a preferred travel destination for  
5 tourists. The city and state governments enjoy  
6 vast revenues from the multi-billion dollar  
7 economic impact of the legitimate, tax paying  
8 merchants of the Broadway and the Times Square  
9 area. As you are aware, the various requirements  
10 of the city's Administrative Code and the State's  
11 General Business Law create a patchwork of rules  
12 that are nearly impossible to decipher, let alone  
13 enforce. Ultimately, we believe the council and  
14 administration must take a broad approach to this  
15 issue. We believe studies on vehicle and  
16 pedestrian traffic flow, interagency cooperation  
17 and some difficult choices will be essential to  
18 formulating a citywide policy that can be readily  
19 administered. However, we certainly support any  
20 interim legislation designed to manage the  
21 countless unlicensed and unregulated vendors  
22 clogging the streets of Times Square. While lack  
23 of adequate manpower to enforce street vending  
24 laws has always been the city's achilles heel, and  
25 we recognize the complex enforcement issues

2 inherent in Intro. 830, we certainly support the  
3 bill's intent of limiting the number of First  
4 Amendment vendors in the midtown core. As you  
5 know, Times Square is severely congested and the  
6 city DOT is now studying ways to reduce vehicular  
7 traffic and create more space for pedestrians and  
8 bicycles. First Amendment vendors set up in fixed  
9 locations on heavily trafficked blocks and in  
10 unrestricted numbers, forcing pedestrians to walk  
11 in the streets and otherwise create a clogged and  
12 dangerous environment. We feel Intro. 830 is an  
13 excellent step towards tackling this problem. We  
14 also support any bills that make the comfort,  
15 health and safety of New York City's residents and  
16 tourists a higher priority than locating spots on  
17 the sidewalk for street vendors to sell their  
18 merchandise, as well as improve the overall  
19 quality of life in the district by decreasing  
20 congestion. Therefore, we support Intro. 419,  
21 Intro. 828 and Intro. 832. We also support any  
22 legislation that will help the city's Police  
23 Department, Health Department and Department of  
24 Consumer Affairs implement the complicated  
25 legislation they've been charged with enforcing.

2 Therefore, we back Intro. 843, which will require  
3 general vendors to display a placard on his or her  
4 cart or stand. This proposal will make it easier  
5 for enforcement officers to readily identify,  
6 summons or remove unlicensed street vendors. I  
7 apologize. I'll jump right to the end. We oppose  
8 Intro. 324. However, we do not oppose Intro. 834.  
9 We also take no position on 846. Times Square has  
10 reached its saturation point with regard to  
11 population density. Tourists, theater goers, area  
12 service providers and local office workers are  
13 already competing for limited pedestrian space  
14 with legal vendors, illegal vendor stands, and, or  
15 course, vehicular traffic. We hope that the New  
16 York City Council continues to recognize the  
17 importance of the theater district to the economy  
18 of New York City and always favors legislation  
19 that will help keep it thriving. I thank you for  
20 this opportunity and I am happy to answer any  
21 questions. Thank you.

22 CHAIRPERSON COMRIE: Thank you.

23 Next?

24 TOM CUSICK: Good morning, Chairman  
25 Comrie and Chairman Stewart. My name is Tom

1  
2 Cusick. I am president of the Fifth Avenue  
3 Business Improvement District. Just to make that  
4 clear, that's in Manhattan. It's not with regard  
5 to the proposed legislation. I've been listening  
6 to a lot of the back and forth and as someone who  
7 believes that nothing can happen unless there will  
8 be compromise, I'd like to make some comments on  
9 bills based on that conversation earlier today.  
10 For instance, Intro. 419, I don't think there is a  
11 lot of problems that major people across the board  
12 would have with prohibiting vendors from vending  
13 on top of ventilation grills. Intro. 830, it was  
14 said that this type of legislation would be  
15 unenforceable. I respectfully disagree with that.  
16 We, in fact, have a printed matter of law that is  
17 already being enforced. They're called  
18 newsstands. So the Supreme Court has said that  
19 you can limit time, place and manner as long as  
20 you don't have those rules as more burdensome when  
21 like minded vendors are out on the street. With  
22 regard to Intro. 834, again, I think we would not  
23 be overly concerned about a 20% limit. A total  
24 lift to a number like 25,00 would be, we believe,  
25 unmanageable. Intro. 843, license to ensure that

1  
2 there be some identification from a distance, I  
3 think that's an excellent proposal. With regard  
4 to persons who get licenses and the concern about  
5 whether or not those licenses are being abused, I  
6 would like to see a law that says the person who  
7 gets the license has to use the license. It was  
8 my privilege and honor to spend three years in  
9 this chamber as the chief or staff to Council  
10 President Andrew Stein and I saw over those three  
11 years that legislation did not get adopted unless  
12 there was some compromise. I believe we could sit  
13 down and talk about a number of these things and  
14 make progress. I do have more to say. I'll give  
15 you an example in my neighborhood. The existing  
16 law, because it allows a disabled vet to open up a  
17 street and then printed vendors to come in without  
18 number, there is a street on Fifth Avenue, 58th  
19 Street, where a disabled opens and then ten  
20 printed matter vendors come in. Ten blocks south  
21 there is a prohibited side street where no vendors  
22 are permitted. We ought to be able to make that a  
23 rational system to spread out in a ration way.  
24 You go 20 blocks south of the are that I just  
25 talked about and you'll go for blocks without

2 being able to find a food vendor. And yet there  
3 are some other streets where there are six and  
4 seven food vendors. We can address this in a more  
5 rational way.

6 CHAIRPERSON COMRIE: Thank you. I  
7 want to thank the three of you for your testimony.  
8 Thomas, I wish you were still sitting here but you  
9 left and moved to the other side. So just for  
10 your information for the audience, Thomas used to  
11 be the counsel for the Consumer Affairs Committee  
12 and now he's with the Broadway League. But thank  
13 you for your testimony and thank you for coming  
14 down this afternoon. For the record, we have  
15 testimony from Local 338, RDWSU, UFCW. The next  
16 panel will consist of Robert Lederman, president  
17 of ARTIST; Jill Stasium, for Street Artists and  
18 Uta Brauser from Uta Brauser Design. We're  
19 missing a panelist. I guess people dropped off.  
20 I'll call one more person, Laurel Cudden. Who  
21 would like to go first? Remember, it's three  
22 minutes. Speak to the specific bills.

23 ROBERT LEDERMAN: My name is  
24 Robert Lederman. I'm the president of ARTIST,  
25 that's Artists Response to Illegal State Tactics.

1  
2 That's the street artist groups. I'm going to  
3 specifically address Intros 828, 830, 832, and  
4 846. Let me first say though that there's been  
5 some extraordinary statements made at this  
6 hearing. One of them is that the vending laws are  
7 confusing. Council Member Liu called them a  
8 monstrosity, a hodgepodge. They've been referred  
9 to as impossible to understand or enforce. I've  
10 been vending for 42 years. I understand the  
11 vending laws. I'm not a lawyer. I'm not a  
12 legislator. These laws weren't written by random,  
13 by throwing up ink and paper in the air. They  
14 were written by your predecessors over more than  
15 100 years sitting right in this very room.  
16 There's a rational and defensible reason why there  
17 are different categories of vendors. Just like  
18 handicapped people have certain rules that they  
19 can park in certain places that someone who is not  
20 handicapped can park in. Just like children have  
21 different laws that apply to them than apply to  
22 adults. That's why there's different laws for  
23 vets, artists, food vendors and general vendors.  
24 There's nothing confusing about these laws as far  
25 as we're concerned. But apparently the BIDs and

1  
2 the people who actually wrote the laws are  
3 claiming that they're too confusing to understand.  
4 Now as far as the specifics of those four; Intro.  
5 832 is making a new definition of obstruction that  
6 basically covers everything including a crack in  
7 the sidewalk. Well, if you go into those  
8 supposedly very narrow streets that Council Member  
9 Gerson and the BIDs are talking about, if you look  
10 at this document that I gave out earlier today,  
11 you'll see photographs of literally tens of  
12 thousands of concrete planters that they have  
13 illegally put all over the city. And according to  
14 Lieutenant Robert D'Onofrio who testified in a  
15 federal lawsuit by disabled vets, he testified  
16 under oath the vast majority of those tens of  
17 thousands of planters were put there solely for  
18 the reason of obstructing legal vendors in legal  
19 spots. So before we get into some nonsense about  
20 limiting artists to two per block, how about  
21 limiting these planters to two per block. How  
22 about eliminating the Business Improvement  
23 Districts? Intro. 846 is the most shocking of all  
24 these intros. The United States Constitution is a  
25 complex document too. Maybe you'd like to simply

2 that down to one paragraph so it'll be easier for  
3 everybody to understand. But Intro. 846 puts  
4 First Amendment rights into the hands of Business  
5 Improvement Districts. So basically what you're  
6 saying, to put it in a language everybody can get,  
7 you want to let McDonald's and real estate  
8 investors decide what First Amendment rights are,  
9 who can exercise them and where they can be  
10 exercised.

11 CHAIRPERSON COMRIE: I need you to  
12 sum up.

13 ROBERT LEDERMAN: Excuse me? You  
14 need me to sum up? Here's what I'll sum up. You  
15 legislators need to actually study the vending  
16 laws that you're pretending to reform. What I  
17 call fake vending reform is what this hearing is  
18 about. The one exception is Council Member  
19 Barron's, who is obviously a decent person that  
20 wants to help vendors and has feelings for people,  
21 but every one of these other vendors is a scam  
22 written by the Business Improvement Districts.

23 CHAIRPERSON COMRIE: No clapping  
24 please. Thank you. I appreciate you coming down.  
25 No clapping please. We have a long enough day and

1  
2 I'm committed to staying here until the last  
3 person, but I'm committed to following the rules.  
4 Your time is up.

5 ROBERT LEDERMAN: Every one of  
6 these intros--

7 CHAIRPERSON COMRIE: [interposing]  
8 You made your point. I think you're clear. You  
9 don't like any of the intros. Next speaker?

10 ROBERT LEDERMAN: It's not that I  
11 don't like them. They're illegal. They're  
12 unconstitutional.

13 CHAIRPERSON COMRIE: I'm being  
14 brief. Next speaker? Thank you.

15 ROBERT LEDERMAN: They won't let  
16 you.

17 JILL STASIUM: My name is Jill  
18 Stasium and I'm here to put a face on who your  
19 Intros would effect if these actually were passed.  
20 I'm an artist and I live in SoHo. I grew up in  
21 New Jersey and I got my BFA in Massachusetts. My  
22 parents were always supportive of me. They even  
23 put me through college. When I graduated my dad  
24 asked me what I was going to do now. I told him I  
25 was going to be an artist. Selling on the streets

1  
2 in New York enabled me to realize my dreams and  
3 visions. For the last 11 years I've sold my  
4 paintings on West Broadway. It's really a  
5 challenging and difficult way of making a living  
6 but I couldn't think of anything more satisfying.  
7 As an artist I have an audience of people from all  
8 over the world and have sold over 4,000 original  
9 pieces of art which are now hanging in many  
10 countries. I can tell that in all of my years on  
11 the streets, people from all over the world have  
12 told me that they are thrilled that there was so  
13 many independent artists displaying so freely.  
14 They tell me they come to SoHo because they have  
15 heard that is where you can see so many different  
16 people selling so many different kinds of  
17 affordable art. The people that work in the  
18 stores I sell in front of tell me that when the  
19 artists are out on the street, business is better  
20 for them. New York City in general and SoHo in  
21 particular is an area with a dense cultural  
22 history. I moved to New York particularly for the  
23 artistic community. The wonderful thing about the  
24 First Amendment protecting artists is that anyone  
25 can bring their personal mode of expression to a

1 public forum, no matter their level of  
2 advancement. Not everyone can make it in the  
3 gallery system, either due to the content of their  
4 work, politics of the gallery or personal  
5 temperament. On the streets you are able to  
6 present your own work on your own terms and on  
7 your own initiative. Since taking my work to the  
8 sidewalks of the city I have been able to evolve  
9 as an artist. I'm not here asking for a handout  
10 or welfare, I'm just asking for the freedom of  
11 self-reliance. The Intros on the table today,  
12 particularly 830, which could limit two artists  
13 per block, would not only make it impossible for  
14 me to make a living, but it would take away rights  
15 that I hold most dear and so do most of the people  
16 in this room. Taking to the streets has made me  
17 acutely aware of how citizens have to be vigilant  
18 on protecting our rights. To not speak out is to  
19 lose them. I ask you to reject these bills,  
20 particularly 828, 830, 832, and 846. Their only  
21 purpose is to eliminate artists from the streets.  
22 Please don't take our freedom as artists away.  
23  
24 The American open free market system of  
25 unregulated capitalism rewards hard work,

2 initiative, and self-reliance. It's truly an  
3 American freedom and we all benefit from it.

4 CHAIRPERSON COMRIE: Thank you.

5 Next speaker?

6 LAUREL CUDDEN: Good afternoon. My  
7 name is Laurel Cudden and I'm here representing B.  
8 R. Guest Restaurants. B. R. Guest is an active  
9 member of the New York State Restaurant  
10 Association. Our company operates 14 restaurants  
11 in New York City as well as restaurants in Chicago  
12 and Las Vegas. We appreciate the opportunity to  
13 speak before the Consumer Affairs Committee and  
14 the Committee on Immigration in opposition of  
15 Intro. 834 to legislation you are considering that  
16 would eliminate the restriction on the number of  
17 street vendors. As a taxpaying employer providing  
18 over 2,000 jobs in New York City, we are currently  
19 faced with economic challenges that have not been  
20 seen in our city in the last three decades. What  
21 we really need is not more street vendors, but  
22 rather more stringent enforcement and eliminate  
23 the hundreds of illegal vendors that pop up on our  
24 streets but do not pay rent, taxes and other  
25 increasingly regulatory expenses that are imposed

1  
2 on the restaurant industry. A proliferation of  
3 street vendors operating at no real benefit to the  
4 community at large and free of tax obligation to  
5 the city and state would negatively impact small  
6 businesses, many of which are owned by minorities  
7 that this proposed legislation purports to  
8 benefit. Additional vendors would create unsafe  
9 conditions on our already crowded streets and  
10 sidewalks. An increase in litter and debris left  
11 behind by the vendors and their customers would  
12 further burden the city sanitation workers and the  
13 merchants held responsible for the sidewalks  
14 outside their businesses. Restaurants with  
15 sidewalk cafes pay rent to the city that is almost  
16 equivalent to that paid for indoor space. Vendors  
17 are not subjected to sidewalk rent. When the  
18 landlord's real estate taxes go up, leases of  
19 businesses share the increase and vendors do not.  
20 Storefront operators must pay a commercial hauler  
21 to pick up their trash and refuse. Vendors do  
22 not. Food service operators are required to have  
23 hot and cold running water and sanitary restroom  
24 facilities. Vendors are not. We are required to  
25 comply with all federal and state laws in respect

2 to how we pay our employees and collect and  
3 contribute to appropriate payroll taxes. We must  
4 provide workers compensation and disability  
5 insurance. We pay FICA and FUDA taxes that  
6 benefit our employees. We are also required to  
7 retain various business and tax records. Simply  
8 stated, vendors do not have the same overhead or  
9 compliance responsibilities as do licensed,  
10 legitimate businesses. We have lived with the  
11 existing number of vendors and within the existing  
12 laws and regulations. However, we feel rather  
13 than increase the number of vendors plying their  
14 wares new our businesses, what is needed is a  
15 greater and more effective enforcement of the  
16 existing rules regarding current vending activity.  
17 Thank you.

18 CHAIRPERSON COMRIE: Thank you. I  
19 want to thank the panel for coming.

20 ROBERT LEDERMAN: No questions?

21 CHAIRPERSON COMRIE: Mr. Lederman,  
22 you were very clear. I don't have to ask you any  
23 questions. You send 100 emails a day. I think  
24 everyone in this room knows you. Quiet please.  
25 The next panel is Rene Giordano; Eudoxia Alarcon

1  
2 from the Sunset Park BID; Eduardo Artica from the  
3 Sunset Park BID; and Lo Vander Valk from the  
4 Carnegie Hill Neighbors. Excuse me for mangling  
5 any names. Can you guys just say your names  
6 really quickly so I can call one more panelist?  
7 Your name?

8 RENEЕ GIORDANO: Renee Giordano.

9 EUDOXIA ALARCON: My name is  
10 Eudoxia Alarcon.

11 EDUARDO ARTICA: My name is Eduardo  
12 Artica and I'll be the translator for Eudoxia.

13 CHAIRPERSON COMRIE: We'll just do  
14 this panel since it's all Sunset Park. Whoever  
15 would like to start first.

16 RENEЕ GIORDANO: I'm Renee  
17 Giordano. I'm the executive director of the  
18 Sunset Park Business Improvement District. On  
19 behalf of the Business Improvement District I'd  
20 like to thank Councilman Comrie, Stewart and  
21 Speaker Quinn and the rest of the Consumer Affairs  
22 and Immigrant Affairs Committee members for this  
23 opportunity to speak. I especially want to thank  
24 Councilwoman Sara Gonzalez, who understood the  
25 importance of this project for her neighborhood

1  
2 and brought it to this place in time. I'd also  
3 like to thank the other council members who  
4 supported her and helped her with the Intro and  
5 the council staff who helped us put it together.  
6 I have here with me, besides Eudoxia, nine other  
7 people in my community who have been working  
8 already with the Sunset Park BID over the past  
9 year to try to put our plan unofficially into  
10 place. Intro 846 is the result of a grassroots  
11 effort to utilize the resources of Sunset Park and  
12 enhance the equality of life while revitalizing  
13 and stabilizing its economy. Its passage would be  
14 a giant step forward for our community. Excuse  
15 me?

16 CHAIRPERSON COMRIE: They were  
17 asking people to turn off the cell phones please.  
18 Go ahead and continue.

19 RENEE GIORDANO: We will be given  
20 the chance to define ourselves and find a positive  
21 solution to our own issue, rather than relying on  
22 someone outside forcing a solution. The idea was  
23 developed and has been supported by Borough  
24 President Markowitz, District Attorney Hynes,  
25 Congresswoman Nydia Velazquez, State Senator Eric

1  
2 Adams, Velmanette Montgomery, and Diane Savino,  
3 State Assemblyman Felix Ortiz, numerous city  
4 agencies, who I've already spoken with and our  
5 Community Board 7. The bill is not just the bill  
6 as it's seen, it's the hope to create a special  
7 district in Sunset Park that's going to be called  
8 La Plaza del Mercado Unido. This is the uniting  
9 of the two business interests, the store based  
10 merchants of Fifth Avenue and the sidewalk-based  
11 vendors of Fifth Avenue in Sunset Park, Brooklyn.  
12 It has been found that the community wants them  
13 both and they compliment each other. There is the  
14 desire to create a revitalized economy in order to  
15 better serve the Sunset Park customers and Intro.  
16 846 will help us create that larger plan. We're  
17 not asking to eliminate vendors or to move them  
18 far away, nine or ten blocks, we're asking them to  
19 continue working within our business district.  
20 Many of our business owners and street vendors are  
21 new immigrants to this country. Therefore, our  
22 plan includes linking them with social and support  
23 services through existing sources, such as the  
24 Brooklyn Public Library and local CBO's, at no  
25 added cost to the taxpayer. It's anticipated that

2 we will be creating at least 50 new jobs, thereby  
3 adding to the tax rolls, as these newly employed  
4 begin to pay city, state and federal taxes.

5 Further, it would allow for the retention of a  
6 minimum of 100 jobs within our stores that would  
7 now be able to survive and not have to layoff  
8 employees or close. Everyone in this pilot  
9 project would be encouraged to follow the city  
10 laws and regulations. Our commercial strips  
11 depends on local shoppers. It is anticipated  
12 through the cooperative efforts of the Sunset Park  
13 BID and La Plaza del Mercado Unido, there will be  
14 increased foot traffic, which would increase  
15 business to our local shops. The program is all  
16 inclusive. It seeks to work with all parties  
17 involved in our Fifth Avenue shopping corridor,  
18 whether store-based merchant, street vendor,  
19 disabled veteran or First Amendment vendor. Our  
20 goal is to create a shopping environment, which is  
21 unique to our community. We don't want to be  
22 combative. We want to all work together because  
23 we're neighbors and have a desire to see the  
24 community thrive.

25 CHAIRPERSON COMRIE: Thank you.

2 Next speaker?

3 EUDOXIA ALARCON: [Foreign  
4 language].

5 EDUARDO D. ARTICA: Translating  
6 what Eudoxia said. We are vendors from the  
7 neighborhood. We all work collaboratively  
8 together and we have decided to do something about  
9 it. It's been over 20 years that we haven't  
10 gotten any permits for our carts. So it's just  
11 not only for us but for the entire vendor  
12 community to that we can have these permits. We  
13 are working together collaboratively. To finalize  
14 what she said, this plan has been written and  
15 worked together within the vendors themselves.

16 CHAIRPERSON COMRIE: I want to  
17 thank you for coming down today. Ms. Giordano,  
18 you did allude that you've been working with city  
19 agencies. I noticed you've listed pretty much  
20 every elected official that touches that district  
21 but you didn't list any city agencies that you  
22 worked with. Do you have any that you can say  
23 that you've had any positive interaction with?

24 RENEE GIORDANO: Yes. Actually I  
25 met with our local precinct and with NYPD South

1  
2 and they were very appreciative of our looking  
3 into a new way of handling situation and they said  
4 they would work with us.

5 CHAIRPERSON COMRIE: Have they  
6 given you any specific ideas or suggestions?

7 RENEE GIORDANO: In the plan there  
8 are a few suggestions that actually came from  
9 them.

10 CHAIRPERSON COMRIE: I want to  
11 thank you. It's a 40 plus page document of  
12 someone that's trying to take a positive approach  
13 to dealing with the vendor issue. I look forward  
14 to sitting down with you after going over it.  
15 Thank you for coming.

16 RENEE GIORDANO: Thank you.

17 CHAIRPERSON COMRIE: The next panel  
18 is James Williams from the Street Vendor Project.  
19 You're the translator for Lei Bai and Tappas Sen.

20 JAMES WILLIAMS: Good afternoon to  
21 our panel. Thank you for having us. I would like  
22 to say hello to all the vendors out here today;  
23 glad for your support. My names is James  
24 Williams. I am a veteran of the United States Air  
25 Force. I am a board member of the Street Vendor

1  
2 Project. The Street Vendor Project is an  
3 organization of more than 750 active members who  
4 sell food, merchandise, books and art on the  
5 sidewalks of our city. I sell general merchandise  
6 every day on Chamber Street. With me today are  
7 Lei Bai, Tappan Sen and Mohammed Ali. The eight  
8 bills introduced today do little or nothing to  
9 address the real needs of hard-working street  
10 vendors throughout this city. Everyone admits  
11 that the vending regulations are too complex for  
12 vendors or police officers to understand. But  
13 several of these bills make things even more  
14 complex. For example, Intro. 830 only applies to  
15 First Amendment vendors who sell on the sidewalks  
16 that are more than 10 feet but less than 12 feet  
17 wide, where there is already a disabled veteran  
18 there. It says there may only be two First  
19 Amendment vendors there, without establishing any  
20 preference for who gets to stay and who has to go.  
21 That creates more confusion. Intro. 846 admits  
22 that the laws are too confusing, but that opens  
23 the door for separate vending regulations in each  
24 neighborhood throughout the city. It just doesn't  
25 make any sense. It also doesn't make any sense to

1  
2 give power to determine vending spots to the  
3 Business Improvement Districts, who have always  
4 tried to take away our rights. Several other  
5 bills simply make it more difficult for vendors,  
6 who are already more highly regulated than any  
7 other small businesses in the city. Street  
8 vendors are the smallest of small business and we  
9 deserve respect. Intro. 828 says you cannot leave  
10 your cart or stand for 30 minutes, even if you  
11 have another vendor watch over your things. Who  
12 here has not had a family or child care emergency  
13 that has made them leave their work for more than  
14 30 minutes? The police seize our property even  
15 when we are with it. Now they will be able to do  
16 so if we have to step away. I mean, don't we all  
17 have to go to the bathroom? Intro. 419 says that  
18 food vendors shall not vend over subway grates.  
19 Has there been any evidence from the MTA that this  
20 is a problem? If there is an emergency, vendors  
21 can simply push their carts out of the way. This  
22 is just another way to limit where vendors can  
23 work. Intro. 843 is especially ridiculous. It  
24 requires a 3 foot poster to be placed on our  
25 stand, which cannot be covered up. Do you know

2 that there is already a requirement that we  
3 visibly display our licenses while vending? That  
4 vendors received \$1,000 tickets because they have  
5 their licenses in their pockets instead of around  
6 their necks? Why do you want to impose additional  
7 regulation on our community? I'm sorry I went  
8 over my time. But I must say, we do agree with  
9 the bill that would add to the number of licenses  
10 in this city. Thank you for your time.

11 CHAIRPERSON COMRIE: Thank you.

12 You're speaking for the entire panel?

13 JAMES WILLIAMS: Yeah. Unless they  
14 have something to say. Do you want to speak?

15 MOHAMMED ALI: My name is Mohammed  
16 Ali. I am a Street Vendor Project board member.  
17 Somebody said a lot of vendors don't pay taxes. I  
18 say 100% of people do pay tax. You can check. A  
19 lot of people are working hard jobs are just  
20 working just to pay tax. This \$1,000 fine, how  
21 much does this vendor have to work to make this  
22 money? The \$1,000 ticket is too much. This is no  
23 good for vendors, this ticket. But a lot of  
24 vendors working but no apartment [phonetic]. A  
25 lot of people working but somebody said this black

1  
2 market disbarment [phonetic]. But a lot of people  
3 know by this disbarment this \$10,000 or \$5,000,  
4 somebody working yellow cab, why. There's a lot  
5 of small working people, there's no apartment.  
6 This is no good. Please, I need this. You find  
7 it, somebody need apartment [phonetic]. The  
8 \$1,000 is no good. How is a vendor to make money?  
9 \$1,000 ticket is no good.

10 CHAIRPERSON COMRIE: Anyone else  
11 on the panel like to say anything? Mr. Ali, what  
12 do you vend?

13 MOHAMMED ALI: I'm working as food  
14 vendor.

15 CHAIRPERSON COMRIE: A food vendor?

16 MOHAMMED ALI: Yeah.

17 CHAIRPERSON COMRIE: And what  
18 product do you vend?

19 MOHAMMED ALI: I'm working this  
20 district.

21 JAMES WILLIAMS: He asked what you  
22 sold.

23 CHAIRPERSON COMRIE: What do you  
24 sell?

25 MOHAMMED ALI: I sell hot dogs and

2 sodas.

3 CHAIRPERSON COMRIE: And how long  
4 have you been doing this?

5 MOHAMMED ALI: I am already seven  
6 years. But before I work in this area, my  
7 restaurant [phonetic] closed. But I take care of  
8 my family. I don't need anything from the city,  
9 nothing. Odd job, I take it. My son health  
10 sometimes is good. But I buy this part with  
11 somebody, but for my family.

12 CHAIRPERSON COMRIE: Thank you. I  
13 want to thank the panel.

14 JAMES WILLIAMS: If you don't mind,  
15 could I say one more thing. I just want to  
16 address as far as the Street Vendor Project. We  
17 actually train our vendors. None of us are  
18 illegal vendors, as it was mentioned before that  
19 we take up the streets. We actually have a  
20 training program for all of our members. We  
21 assist in any kind of way for all of our board.  
22 All of these people here are the board members for  
23 the Street Vendor Project. This is our director,  
24 Sean Basinksi, sitting on the side there. We  
25 really go out of our way to make sure we do

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

everything legally.

CHAIRPERSON COMRIE: Thank you.

JAMES WILLIAMS: Thank you.

CHAIRPERSON COMRIE: Thank you for coming down today. The next panel will be William B. Jordan from Esperanza del Barrio and Hilda James from the same organization.

HILDA JAMES: [Foreign language].

CHAIRPERSON COMRIE: Thank you.

Next speaker?

WILLIAM B. JORDAN: My name is William Jordan. I'm also a board member on Esperanza. Thank you for inviting us today. I'm going to use my time mainly to offer an English translation of my fellow board member, but with your permission I'd make a couple of off the cuff remarks on the proceeding so far to start. I'm a doctor that has lived and worked in Harlem for years. I think that vending is very important as an engine of economic development that's important to our community's health. I also wanted to point out work that's been done in Toronto that has shown that vending leads to safer streets and reduction of crime by providing eyes on the

2 street. It also increases foot traffic.

3 CHAIRPERSON COMRIE: Can you give  
4 us a copy of that?

5 WILLIAM B. JORDAN: Yeah, I can  
6 forward it to you. So I'm not sure that any of  
7 the brick and mortar businesses actually suffer  
8 from vendors. They may actually get additional  
9 business from having vendors in the neighborhood.  
10 Regarding counting that was suggested earlier, the  
11 Department of Health has already begun counting  
12 around the Green Cart issue. So there's already a  
13 methodology existing around that. So that could  
14 be expanded for this purpose. Regarding whether  
15 the city officials are unsure that unlicensed will  
16 pursue getting licenses, it's clear from the Green  
17 Cart permits that were just released that they had  
18 far more applications than they had actual permits  
19 to give out. So I don't think that will be an  
20 issue. I'm going to try and run through as much  
21 of my fellow member's testimony.

22 CHAIRPERSON COMRIE: So you support  
23 doing the headcount?

24 WILLIAM B. JORDAN: I think it's a  
25 good idea to know where we stand. I'm going to go

1 through as much of the translation as I can.

2 Honorable City Council Members and present  
3 authorities, I'm speaking on behalf of my fellow  
4 board member as an active member of Esperanza del  
5 Barrio, which is the largest street food vendor  
6 organization in this city. This organization was  
7 founded in 2003 to fight police harassment and  
8 promote the empowerment of Latino immigrants.  
9

10 This is how our fight began and thanks to  
11 personalities such as Mayor Bloomberg and Council  
12 Member Charles Barron we have since won the right  
13 to obtain a vending license. I represent hundreds  
14 of members of Esperanza del Barrio to speak in  
15 favor of introductions 324 and 834. It is  
16 important that we can increase the number of  
17 general vending licenses and obtain vending cart  
18 permits so that the police and the Health  
19 Department no longer drown us in unjust and  
20 exorbitant fines. To make our case, I would like  
21 to tell you today the story of one of our members.  
22 She is a woman who is sitting in the audience.  
23 Maria Yascaribay is a woman street vendor who  
24 migrated to New York from Ecuador in the 90s.  
25 Maria is an extraordinary woman, courageous,

1  
2 innovative, hardworking, and honest. In many  
3 ways, her life story is that of hundreds of other  
4 female street vendors in New York City. Maria  
5 came to the United States to provide a better life  
6 for her young son who came with her, and to  
7 support her mother and sister in Ecuador. Her  
8 first job after arriving was to clean houses. But  
9 living in East Harlem, she soon discovered that  
10 there was a great public demand in the  
11 neighborhood streets for inexpensive healthy food  
12 to go. Therefore, in 2006 she took the courageous  
13 step to become an independent entrepreneur and has  
14 since offered tamales and corn cobs on a busy  
15 strip on East 116th Street, working seven days a  
16 week, and sells her products from the earliest  
17 morning hours. Street vending gives her the great  
18 opportunity to contribute to her community and her  
19 new country. For Maria, street vending is so much  
20 more than a simple job. The work is hard, honest,  
21 and difficult, but she loves doing it because it  
22 allows her to pay for her son's studies at Queens  
23 College and to send a few dollars per month to her  
24 mother and sister in Ecuador. Thank you.

25 CHAIRPERSON COMRIE: Thank you. I

1  
2 want to thank you for keeping it to three minutes  
3 even though I interrupted you twice. Thank you.  
4 The next panel is Kaziem Woodbury from the  
5 Downtown Alliance; Robert Felshman from URTO  
6 Towery Associates; Bruce Caulfield from 2 Tudor  
7 City Place; and Art Krimlen [phonetic] from 148  
8 Green Street, SoHo. Any of those people here? Is  
9 Barbara Randall here? Sung Soo Kim is here. Mr.  
10 Kim, do you want to come up to the table now? Is  
11 there another Sung Soo Kim here? Sir, from the  
12 alliance, you can speak first.

13 MICHAEL KETTERING: My name is  
14 Michael Kettering [phonetic]. I'm with the  
15 Downtown Alliance. I'd like to read a statement  
16 on behalf of our president, Liz Berger. Good  
17 morning Chairman Comrie and Chairman Stewart. I  
18 am Liz Berger, President of the Alliance for  
19 Downtown New York. I am here this morning to let  
20 you know how important it is to enforce existing  
21 vending laws and regulations as you consider  
22 legislative action. While modifying the citywide  
23 licensing and regulatory structure, as our own  
24 Council Member Alan Gerson and also the BID  
25 Managers Association, of which I am a member, has

1  
2 proposed, is important. Existing conditions in  
3 Lower Manhattan are such that we cannot wait for a  
4 legislative solution. Lawful vendors deserve the  
5 opportunity to operate safely and successfully.  
6 Pedestrians deserve navigable and welcoming  
7 streets and sidewalks. Both are hard to achieve  
8 in post-9/11 Lower Manhattan, but I believe that  
9 clear and simple explication of existing vending  
10 laws, coupled with consistent and coordinated  
11 enforcement, will make a big difference in the  
12 safety, attractiveness and economic  
13 competitiveness of our community. As Borough  
14 President Stringer has suggested, let's start with  
15 the perimeter of the World Trade Center site. In  
16 2004, the State Legislature, led by our own  
17 Assemblyman Sheldon Silver, passed legislation  
18 prohibiting street vending of any kind around the  
19 World Trade Center site. Under city, state and  
20 federal case law, street vending is permitted on  
21 many downtown sidewalks, but not around this  
22 hallowed ground, and intensely busy construction  
23 site, period. My great-grandfather was an  
24 immigrant peddler, and I strongly believe that  
25 street vending is a time honored New York City

1 tradition. Lower Manhattan wouldn't be part of  
2 Gotham without it. Lawful vending provides our  
3 workers, residents and visitors with inexpensive  
4 dining and shopping alternatives, and entry-level  
5 entrepreneurs with a way to earn a living. Since  
6 9/11, our one square mile of 400 year-old narrow  
7 and winding streets have been closed for security  
8 reasons or obstructed by construction. Sidewalk  
9 and street congestion is at a breakpoint and  
10 projected to get worse. Add to that the 318,000  
11 workers, 57,000 residents and nearly 6 million  
12 annual visitors to Lower Manhattan. In this  
13 context, we can no longer afford unlawful street  
14 vending to block streets, sidewalks and building  
15 entrances and exits. We cannot permit unlawful  
16 vending at prohibited times, in prohibited spaces  
17 and prohibited ways. While imperfect, existing  
18 laws and regulations are designed to safeguard  
19 pedestrians while allowing street vendors to sell  
20 their wares. Seven City agencies, and, in some  
21 parts of Lower Manhattan, the Port Authority, have  
22 jurisdiction over licensure as well as where, when  
23 and how street vendors may operate. This much is  
24 clear; state and city statute and federal case law  
25

2 spell out in specific detail what constitutes  
3 lawful and unlawful vending. It's time to respect  
4 and enforce these rules in Lower Manhattan and, of  
5 course, throughout New York City. Thank you.

6 CHAIRPERSON COMRIE: The next  
7 person please.

8 BARBARA RANDALL: Good morning,  
9 Chairman Comrie and Chairman Stewart and members  
10 of both committees. My name is Barbara Randall.  
11 I'm the chair of the New York City BID  
12 Association. Thank you for your invitation to  
13 testify today on a group of bills addressing  
14 various street vendor issues. Because some of  
15 these bills overlap, we're presenting to you today  
16 a broad statement of the consensus of the members  
17 of the New York City BID Association on central  
18 issues relating to vending. From Fordham Road in  
19 the Bronx to Forest Avenue in Staten Island to Bay  
20 Ridge Avenue in Brooklyn to Broadway in Manhattan  
21 to Jamaica Avenue in Queens, there are 60 Business  
22 Improvement Districts throughout the City  
23 representing more than 70,000 businesses. First,  
24 we strongly oppose any effort to dramatically  
25 increase the number of street vending licenses

1  
2 issued by the city. We believe that such an  
3 approach would have a destabilizing effect on  
4 thousands of existing small businesses within our  
5 districts and throughout the city. We also  
6 believe that any action along these lines would  
7 not be revenue neutral but would result in a  
8 substantial decrease in city tax revenues.

9 Second, we believe that enforcement of existing  
10 laws and/or any future laws has to be an integral  
11 part of any citywide vendor plan. Manhattan  
12 Borough President Scott Stringer, for example,  
13 recently surveyed vending conditions near ground  
14 zero and found numerous illegal vendors operating  
15 with impunity. Third, we believe that any law  
16 advanced by this legislative body should be a  
17 citywide solution. Any proposed law that attempts  
18 to benefit a single neighborhood at the cost of  
19 nearby districts is ill advised. It is for this  
20 reason that the New York City BID Association has  
21 previously proposed legislation, known in the past  
22 as Intro. 110-A, which covers the entire city.  
23 Fourth, it was the intent of the State Legislature  
24 to provide disabled veterans with one or two  
25 permits per block face in otherwise restricted

1  
2 areas. And although the state law remains in its  
3 original form, a city interpretation of the First  
4 Amendment vendors has created a situation where  
5 the First Amendment vendors have no limits on  
6 these otherwise restricted streets. We believe  
7 that this body has the authority to limit First  
8 Amendment vendors in the same manner and in the  
9 same number as prescribed by state law. Fifth, a  
10 simple method of identifying food vendors and  
11 carts is essential for effective enforcement.  
12 Legislation that can help enforcement agents work  
13 more effectively and put an end to the abuse of  
14 renting licenses and permits is a step in the  
15 right direction. Each of these principles is  
16 included in our previously mentioned draft  
17 legislation, formerly known as Intro. 110-A. It  
18 is our hope that we can work together in the weeks  
19 and months ahead to craft a comprehensive bill  
20 that would not threaten the stability of many of  
21 our businesses. Thank you.

22 CHAIRPERSON COMRIE: Thank you.

23 The next speaker?

24 SUNG SOO KIM: Thank you, Chairman  
25 Comrie. My name is Sung Soo Kim. I'm the

1  
2 president of the Small Business Congress of New  
3 York City, a federation of 70 trade organizations.  
4 The Small Business Congress is opposed to Intro.  
5 324-A. I have been over 30 more than that. I'm  
6 sick and tired of coming here and testifying every  
7 year on this issue from the City Council floor. I  
8 would say that if you really need a cap removed, I  
9 would say go ahead. I'm representing the  
10 interests of the Small Business Congress still. I  
11 would say go ahead, but with three mandatory  
12 inputs. We should not be falling into the fallacy  
13 of putting the cart in front of the horse. There  
14 are three mandatory steps to be taken before  
15 increasing the number. First of all is that the  
16 property owner should give consent to the vendor  
17 with the requirement of obtaining consent from the  
18 adjacent property owner. Why? It is practiced in  
19 the case of application for the stands for the  
20 fruit stores. We have got to get the owner's  
21 consent. The owner has all the obligations to  
22 take care of the sidewalk defects. They are  
23 dunned by DCA to pay a heck of a lot of money to  
24 repair the sidewalk. If somebody has fallen on  
25 the sidewalk, he is liable, along with the city

1  
2 and the tenant. He has to have a right to take  
3 care of the real estate value caused by the effect  
4 of the peddling in front and adjacent to  
5 sidewalks. So the number one requirement is to  
6 get the consent from the property owner. Number  
7 two, the existing enforcement structure is very  
8 messy. Tossing the ball one agency to the other  
9 one is no solution. My suggestion is to unify the  
10 enforcement structure. Either it is the Health  
11 Department or the Department of Consumer Affairs.  
12 I strong recommend the installation of a vendor  
13 review board, operated to the community boards or  
14 the precinct community council. Community people  
15 know the community best. So let this council make  
16 a complaint, do the survey of the peddler's  
17 operation. This is an effective way. The city,  
18 with the limited budget, how can they spend a huge  
19 amount of the city budget to inspect this increase  
20 in peddlers. This structure should be two-fold.  
21 We are strongly suggesting to go over and review  
22 all of the existing regulatory devices. For  
23 example, to allow presently they are putting the  
24 two licenses together and they're making 30 feet  
25 wide. That should be restricted. No two licenses

2 should be put together to operate. All the fruit  
3 stands vendors should be upgraded to the Green  
4 Cart. This is the solution. Three phases should  
5 be a prerequisite before discussing on increasing  
6 the number. This is my point. Thank you very  
7 much.

8 CHAIRPERSON COMRIE: Thank you. I  
9 thank the panel for coming down. Do you have a  
10 copy of Intro. 110? I don't have that anymore.  
11 The next panel is Paul Schubert of the Veterans  
12 Disabled Peddlers; Ralph DiToro, Vietnam Veterans;  
13 and Dan Rossi, Vietnam Vets. Are the three  
14 gentleman still here? Is Lo Vander Valk still  
15 here? You'll be next. We called you, but you  
16 must have stepped out. Remember, please speak to  
17 the Intros at hand. Paul Schubert left? Come on  
18 up. You guys go first. Carnegie Hall can go  
19 last, if you don't mind.

20 RALPH DITORO: My name is Ralph  
21 DiToro and I'm a disabled veteran vendor and I'm  
22 also a veteran advocate. Let's put upfront why  
23 we're really here. We're really here because of  
24 greed. This is something I just read today in a  
25 magazine. I want to quickly state this here.

1  
2 Does the free market corrode moral character?

3 Someone wrote back. It is clear that the  
4 ferocious competition of interests, and passions,  
5 the mad rule of money and materialism as the  
6 measure of all that in short, the free market,  
7 released from all rules, is governed only by the  
8 greed of the most powerful. That is what brings  
9 us here today with these rule changes. Being a  
10 veteran vendor, we have enough rules in place that  
11 are on the rule book right now that we are  
12 controlled. We as disabled veterans are the  
13 smallest minority of vendors on the street. There  
14 is enough rules to control if the police  
15 department knew what the rules were. They don't.  
16 They simply don't. I guess maybe they don't want  
17 to because they never want to get together to talk  
18 to us. I just tried to talk to one outside and he  
19 didn't want to talk to me. Secondly, as a  
20 veteran, when I went over and served my country, I  
21 was told I was doing so to protect the First  
22 Amendment right of freedom of speech. Now we have  
23 a group of vendors here, artists, who won a  
24 federal court case upholding their right to vend,  
25 not with one vendor on the street or two vendors.

1  
2 I should be the one complaining about it because  
3 we're only allowed two. I don't care if there's  
4 100, they won their right. Trampling on their  
5 rights tramples on veterans' rights. It tramples  
6 on the rights on those that are in Iraq and  
7 Afghanistan now trying to uphold the freedom of  
8 this country. So limiting them or telling them  
9 they need licenses is totally absurd. It  
10 shouldn't even be written. It's an insult to  
11 veterans. It really is. I'm going to go down the  
12 line on the other ones. I'm in favor of 342,  
13 increasing the number of licenses, providing it's  
14 done when everything else is cleared up, when the  
15 rules are really cleared and they're not going to  
16 harass. I've been told by the police department  
17 that you can't vend because you're in a no-  
18 standing zone. I say, well I'm not a truck. Oh,  
19 you're a wise guy. No, I'm not. That's just the  
20 way it is. They don't want to understand. This  
21 administration doesn't want to understand. The  
22 BIDs have too much control of these councils.  
23 They're too embedded there. The business  
24 community, the ones that are up there forgot where  
25 they came from. Look behind them, they got to

1  
2 feed some people behind you. One more please.

3 CHAIRPERSON COMRIE: Please wrap it  
4 up.

5 RALPH DITORO: I take umbrage with  
6 that because you had the first committee up here  
7 and they spoke for two hours and we patiently  
8 listened.

9 CHAIRPERSON COMRIE: They didn't  
10 speak for two hours. They gave presentations.

11 RALPH DITORO: They were here for  
12 two hours and they came up here unprepared.

13 CHAIRPERSON COMRIE: They came up  
14 with questions. She made a statement and we  
15 attacked her after the statement.

16 RALPH DITORO: I understand that.  
17 But they were here for two hours. They were  
18 unprepared now. As soon as our buzzers goes off  
19 you stop it. I want to say one more thing.

20 CHAIRPERSON COMRIE: Listen, you  
21 knew it was three minutes when we contacted you  
22 about the meeting. The next person?

23 DAN ROSSI: Good afternoon. My  
24 name is Dan Rossi. I'm a disabled vet. I'm a  
25 veteran advocate. As far as 324-A and 834, one

1  
2 goes too high and one is too low. If you remove  
3 the caps completely, all of these exaggerated  
4 numbers of 10,000 and 20,000, these are fantasy  
5 numbers. There aren't that many people who want  
6 to get in vending. I've been in the business  
7 before there were caps. For every vendor that  
8 comes in, one leaves. It's very exaggerated. As  
9 far as counting the amount on the street, I'm the  
10 only person that was ever asked by the City of New  
11 York to count vendors on the street. It was  
12 pertaining to the Midtown Corp of Veterans. There  
13 were only 460 veterans and artists and merchandise  
14 vendors and food vendors working in the Midtown  
15 Corp right now. That's 825 blocks. The numbers  
16 that you're coming up with are fantasies of 30,000  
17 vendors and all that stuff.

18 CHAIRPERSON COMRIE: Not my  
19 numbers.

20 DAN ROSSI: The real numbers aren't  
21 there. What you should do is go out there and get  
22 the count. On 830, there is not an unlimited  
23 amount of First Amendment vendors that can vend on  
24 any block. There are doorways, there are  
25 hydrants, there's everything else in the world.

1  
2 Go ahead and enforce that law before you start  
3 thinking about this. 846 is covered by Local Law  
4 14. If a street is congested, you put in a  
5 petition with the Small Business Department and  
6 you have a hearing. That's why the city spent  
7 millions of dollars on Local Law 14. On 419, this  
8 affects only food vendors, but it actually affects  
9 the veteran. When the food vendor is pushed off  
10 the grating for no reason, he's going to push the  
11 veteran off his spot. 832 is just another way of  
12 reinventing the planter. 828 is the one about 30  
13 minutes to leave your cart. Some of us might need  
14 a little longer than that. The older a guy gets,  
15 it's a little tougher. And 843, a bigger license,  
16 Councilman, a license that's 3 foot by a foot and  
17 a half is way out of line. I do agree with you.  
18 Here's my license. I do agree with you. But this  
19 picture is ten years old. So maybe we should just  
20 get new pictures every two years and that might  
21 help. Or a little plate card on the cart would  
22 help. But three foot by a foot and a half is way  
23 out of line. Thank you.

24 CHAIRPERSON COMRIE: Thank you.

25 The next person?

2 LO VANDER VALK: Chairman Comrie,  
3 thank you so much for this opportunity to speak.  
4 My name is Lo Vander Valk. I'm president of  
5 Carnegie Hill Neighbors, a neighborhood  
6 preservation and quality of life organization  
7 founded in 1970, encompassing roughly the areas  
8 from 86th to 98th Street and from Fifth to Third  
9 Avenue in the Upper East Side of Manhattan. About  
10 10,000 families live in our highly residential  
11 area, where residents have a strong sense of  
12 community and are very supportive of any effort to  
13 address and improve the quality of life. Our  
14 organization has about 1,700 members. We also  
15 sponsor the year-round planting and care of the  
16 Park Avenue Malls between 86th and 96th Streets,  
17 as well as a security program at night. These two  
18 programs receive contributions and support from  
19 about 5,000 families. We are very concerned with  
20 Intro. 324, the expansion of vendor permits. We  
21 offer three reasons for our concern. We note with  
22 regret that vendor enforcement is very weak and  
23 that the resources for this have not been adequate  
24 at the police precinct level and also by the DCA  
25 and the Health Department. Nor do we see any

1 plans to increase enforcement. We have  
2 experienced this lack of enforcement in our area  
3 and the result is that we have been experiencing  
4 increased congestion and real deterioration in the  
5 quality of life. The second point is that we note  
6 that in so many other areas enforcement is far  
7 stricter and the overall framework of permit  
8 issuance is far more embracing of community input.  
9 For example, in issuing permits for sidewalk  
10 tables for restaurants, DCA considers the inputs  
11 from community boards. We think community board  
12 input would be an appropriate mechanism to  
13 introduce for vendors operating in highly  
14 residential areas such as our community in  
15 Carnegie Hill. We have noted that vendors  
16 congregate in very specific locations for months  
17 and often years at a time. We think it entirely  
18 appropriate for residential and community inputs  
19 to be weighed before such licenses are granted.  
20 Finally, we further note that without any caps  
21 vendors will potentially proliferate in very large  
22 numbers. This is because the city would in effect  
23 be treating the use of sidewalks as an unlimited  
24 and free good, whereas grocery stores and delis  
25

2 must pay hefty fees for rent, taxes, real estate  
3 taxes, refrigeration and installation. This  
4 creates unfair competition and we note that  
5 vendors often locate very near existing fresh food  
6 stores. We think it appropriate that vendors not  
7 be allowed to locate so near existing food stores,  
8 with at least two or three blocks being a  
9 reasonable limiting boundary. Thank you so much.

10 CHAIRPERSON COMRIE: Quiet please.

11 Mr. Rossi, you said 460. Are you sure? When was  
12 that number?

13 DAN ROSSI: I did that when  
14 Commissioner Dikester [phonetic] was commissioner.  
15 We went out there and did it. After we did it, I  
16 sat down with the coordinator for criminal  
17 justice. They were here. We went over everything  
18 and it died. I want to add that when Councilman  
19 Reed was going through this, he had three hearings  
20 on vending. After the third hearing he asked to  
21 speak to me. After I spoke to him, he dropped  
22 vending. This industry, Councilman Stewart, is  
23 controlled by the black market. I think we all  
24 understand that. How do you get rid of it?

25 CHAIRPERSON COMRIE: That's beyond-

2 DAN ROSSI: [interposing] You get  
3 rid of it by giving permits to people and they  
4 don't have to go through the black market.

5 CHAIRPERSON COMRIE: I think you  
6 heard what I said to the administration just  
7 before they left. Their whole head in the sand  
8 issue as far as the black market is concerned  
9 needs to be spoken.

10 CHAIRPERSON COMRIE: Can I just say  
11 one thing to Councilman Stewart? You asked why  
12 there isn't a peddler task force. They're in  
13 jail. The cops were rippling off the peddlers and  
14 they arrested them. Since that time they haven't  
15 had a peddler task force. So is there police  
16 corruption? Come on. I mean we can't control  
17 ourselves.

18 CHAIRPERSON COMRIE: Thank you.  
19 Sir?

20 PAUL SCHUBERT: I have testified.  
21 My name is Paul Schubert. I am a card carrying  
22 community activist. I have had to prosecute Mr.  
23 Kendall Stewart. I've had to prosecute so far ten  
24 policemen, three sergeants, Captain Hagen  
25 [phonetic] lost command of his precinct. I have

1 right now on tap four separate IAB cases  
2 concerning peddlers. But because of the  
3 confidentiality of the investigation, I cannot  
4 reveal it to the public. Why are we the only city  
5 in the entire world and the United States where  
6 we're on tables. Everyone else is on wheels for  
7 public safety--Newark, Chicago, Philadelphia,  
8 Baltimore, Atlanta, Caracas, Venezuela, Mexico  
9 City, Venice, Nigeria. India has a peddlers union  
10 of 800,000 peddlers. I'm not a vendor. I don't  
11 sell food. I'm not a soda machine. My idea is  
12 basically by having 10 feet between carts, we can  
13 put an average of six per block. As far as  
14 congestion, the city can have back the side  
15 streets. I've been at this since 1986. As far as  
16 who shows up first, we have a website. You log in  
17 and using the GPS on your phone, you'll say I was  
18 here first. Thank you. Now, by having carts you  
19 have 10 feet between them. This will allow  
20 approximately six to eight per block. The average  
21 avenue is 18 to 30 feet wide. Fifth Avenue can be  
22 as wide as 40 feet. 42nd Street between Seventh  
23 Avenue and Eighth Avenue is 24 feet. I had a  
24 court concerning such. It's a matter of public  
25

1  
2 record. Karen Pasco Zimmerman [phonetic] defended  
3 me. Judge Eileen Koretz was the judge. After a  
4 good defense, she read the cop the law and said I  
5 was not committing disorderly conduct. As I said,  
6 I'm a peddler. I'm not a soda machine, I'm a  
7 person. We will give the stores the space in  
8 front of the doorway. The store owner has to have  
9 deliveries. He has to have a place to put his  
10 trash out. I don't have a problem with that. The  
11 first space will be a disabled veteran, followed  
12 by a healthy one, followed by other people. And  
13 yes, artists will be on carts.

14 CHAIRPERSON COMRIE: You want to  
15 sum up please?

16 PAUL SCHUBERT: I have measured  
17 this. You can put three Chinese sketch artists or  
18 Russian into an eight to ten foot space and have  
19 room for customers. As far as Intro. 846, the  
20 BIDs are responsible to repair the sidewalks of  
21 New York by City Charter. They have not done so.  
22 I have hundreds of photographs to prove this. The  
23 BIDs are responsible for the maintenance of street  
24 lights. They made the streets dark. I have  
25 testified for this in a transportation hearing

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

with Councilman Liu. Thank you.

CHAIRPERSON COMRIE: That's off topic. Thank you, Mr. Schubert. I want to thank the panel for coming down. I look forward to further discussions with all of you. The next panel is Joe Ithier from the Red Apple Group; Marc Murphy, the New York Restaurant. Are you here? Joe, are you here? Marc, are you here? Richard Lipsky, are you still here? Guys, you can come on down. There are plenty of seats down here now. You don't have to sit up there anymore. And Hy Yamuaer, from Gristedes, are you here?

RICHARD LIPSKY: Thank you, Mr. Chairman.

CHAIRPERSON COMRIE: Are you speaking for everybody?

RICHARD LIPSKY: I'm speaking for myself and the Neighborhood Retail Alliance. Mr. Ithier will speak for Gristedes after I'm done.

CHAIRPERSON COMRIE: All right. What's your name, for the record?

RICHARD LIPSKY: My name is Richard Lipsky. I'm speaking on behalf of the Neighborhood Retail Alliance. We're here today in

1  
2 opposition to Intro. 324, which would raise the  
3 cap on peddling licenses to 25,000. We have  
4 testified frequently before your committee,  
5 Chairman Comrie. You are aware of our opposition  
6 to flooding the streets with more peddlers. I'll  
7 get you some more of my testimony when I'm done.  
8 What is missing the current configuration, and I  
9 think the administration outlined it fairly well  
10 is there are so many different agencies. One of  
11 the people who testified from the administration  
12 this morning said that they had focused  
13 enforcement I thought that was the funniest line I  
14 heard all day. There is nothing focused about any  
15 of the enforcement. In fact, for those of you who  
16 go back a long enough way, there's a phrase that  
17 used to be called [foreign language], which is,  
18 after you, my dear Alfonse. No, after you, my  
19 dear Gaston. And of course, nobody ever got  
20 through that door because they kept on saying,  
21 after you. I think that's the case with  
22 enforcement in the City of New York. It is an  
23 after you, Mr. Gaston, situation. What needs to  
24 be done, before you change any of the peddling  
25 laws, is to ensure that there is a possibility

1  
2 that some of these laws will be enforced. I  
3 represent the Neighborhood Retail Alliance. And  
4 Mr. Kim testified before I did and Mr. Vander Valk  
5 from Carnegie Neighbors, and we also have Michelle  
6 Birnbaum from the 86th Residents and Merchants  
7 Association. We have the Bodega Association. We  
8 have the National Supermarket Association. All of  
9 the communities, business and labor people are  
10 concerned about the inability of the city to  
11 enforce the laws at the expense of existing  
12 neighborhood retailers. As Mr. Kim has testified,  
13 bankruptcies and foreclosures are at an all time  
14 rate. We're losing our small businesses. We're  
15 losing our employment base. Supermarkets are  
16 going out of business. And yet, we have people  
17 introducing legislation to put more business on  
18 the street and to erode the tax base even further.  
19 One of your colleagues said something about the  
20 thought that we can't have more vendors on the  
21 street was absurd. I would say to the esteemed  
22 Council Member Barron that it is absurd to put  
23 more vendors on the street when the city can't  
24 enforce the existing complement that is out there.  
25 We need relief. We have a plastic bag tax on the

1  
2 way. We have a commercial rent and binding  
3 arbitration bill. We have commercial real estate  
4 tax that has gone through the roof. We need your  
5 help to enforce the laws to protect and nurture  
6 the existing retail base of the City of New York.  
7 That's something that none of these Intros before  
8 you do today. We are going to work with the  
9 committee. We've talked to Councilman Koppell and  
10 Council Liu as well, to come up with an  
11 enforcement mechanism that makes sense and allows  
12 existing vendors to maintain their businesses but  
13 also gives relief to the stores. Thank you very  
14 much.

15 CHAIRPERSON COMRIE: Thank you.

16 The next speaker?

17 JOE ITHIER: I'm Joe Ithier. Some  
18 of you know me from when I was working with the  
19 community network offices under Empire State and  
20 as president of BODC up in the Bronx for both  
21 Borough President Adolfo Carrion and Fernando  
22 Ferrer. I've been on this issue for a long time.  
23 I just want to say that the grocery stores,  
24 bodegas, delis and supermarkets are regulated and  
25 inspected by numerous city and state agencies.

1  
2 Our produce aisles are subject to inspection and  
3 must meet rigorous standards, only some of which  
4 we can list. Our employees who belong to labor  
5 unions must wear plastic gloves, aprons and hair  
6 restraints when handling fresh produce. Our  
7 scales are subject to inspection from Weights and  
8 Measures. Our produce that is not yet on the  
9 shelves is required to be kept in an area of 38  
10 degrees to ensure freshness. Our stores must act  
11 as receptacles for used plastic bags given out by  
12 retailers, which included the street vendors.  
13 Waste generated by the produce department must be  
14 kept in a separate area of our stores to ensure  
15 the safety and well-being of our employees and our  
16 customers from cross contamination. We are only  
17 allowed so much space on the sidewalk outside our  
18 stores and are fined if we go over the line by an  
19 inch, something that was alluded to by Council  
20 Member Liu. Our fruit cups and mixed sold in  
21 containers must be labeled with a sell by date,  
22 ingredients and origin. By the way, under the new  
23 mandate of the federal government after several  
24 fruits and vegetables were contaminated, you now  
25 have to give origin of where they come from.

1  
2 That's required now in our stores. All of this is  
3 done in the interest of keeping our consumers safe  
4 and healthy. Our company has a responsibility to  
5 its 2,000 unionized employees to try to stay in  
6 business. Unfortunately, we have closed a number  
7 of stores recently, which we feel is caused by  
8 outside influence, mainly the high cost of doing  
9 business in the City of New York. Rent, taxes,  
10 utilities, carding, and other things too long to  
11 list and street vendors are subject to none. So  
12 we're not against having street vendors. We are  
13 just saying that regulation is necessary in the  
14 City of New York. And you've heard it over and  
15 over that street vendors are selling fruits and  
16 vegetables in front of bodegas, delis and  
17 supermarkets. That's an issue that we have to  
18 contend with. By the way, both Chairs, you should  
19 note that there will be coming out soon under the  
20 state and the governor's office and the City of  
21 New York a supermarket commission which just ended  
22 its hearings. It will be presented. I think that  
23 that should be looked at in conversation of what  
24 we do next. Thank you very much.

25 CHAIRPERSON COMRIE: Thank you.

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

The next speaker?

MARC MURPHY: My name is Marc  
Murphy. I'm with the New York Restaurant  
Association. Thank you for the opportunity to  
testify before you today on behalf on the New York  
Restaurant Association and its thousands of member  
establishments here in the city. Our New York  
City chapters include Manhattan, Brooklyn, Queens  
and Nightlife Chapter. We speak in one voice  
today in opposition to any proposed legislation  
that will remove the current cap on vending  
licenses. Such a proposal is a direct threat to  
the thousands of neighborhood retailers who are  
struggling in the areas of rising rents, higher  
taxes, and already overcrowded public sidewalks.  
I just want to make a note that it was mentioned  
that all the street vendors are immigrants to this  
country. I have to say that the New York  
Restaurant Association employs and is also owned  
by a lot of immigrants in this state and in this  
city. We're not here to try to hurt the vendors,  
we just feel that there shouldn't be any more than  
there already is. We do feel the same way as  
these gentleman. Regulating them and actually

2 getting some control over this would be a real  
3 great boon to this city. Thank you very much for  
4 having us today.

5 CHAIRPERSON COMRIE: Thank you.

6 You're not speaking, Mr. Yamuaer? The next panel  
7 is Blue Bayer from Carroll Street in Brooklyn;  
8 Mitchell Bamuth, an artist; Gerard Lem, Film  
9 Artist, 459 Columbus Avenue. No? Is Ned Otter  
10 still here? You can come up, Mr. Otter. Thank  
11 you for being neat. Whoever would like to go  
12 first.

13 MITCHELL BALMUTH: My name is  
14 Mitchell Balmuth. I have testified in front of  
15 this committee for Intro. 621 back in 2005. I  
16 testified at the Parks Committee about Intro. 160  
17 back in 2002. I want to repeat the same thing  
18 I've said to them. There should be no new laws  
19 that restrict vending until the city decides to  
20 properly enforce the existing laws. The existing  
21 laws are ample enough. What we need to do is make  
22 sure that the police department gives is a  
23 priority. I have spoken to the police department  
24 about why they don't enforce laws and they say  
25 it's not a priority. They don't care. They don't

1 care to train the police officers how to do this.  
2 So until that happens there should be no new laws.  
3 As far as increasing the vending permits, I think  
4 that that's a good idea. However, if Alan  
5 Gerson's bill takes place, there will be no spaces  
6 that you can make a living. He wants to destroy  
7 the places where you can work. I'm going to talk  
8 briefly about the obstruction and Sunset Park  
9 bill. Anything that you could walk on is not an  
10 obstruction. An obstruction is something that you  
11 cannot walk on. If you can walk on these things  
12 then you not have bubble glass or metal plating as  
13 an obstruction. The Sunset Park bill is the first  
14 time where I could see where privatization is  
15 coming. You're giving the Sunset Park BID the  
16 right to do whatever they want as far as vendor.  
17 The main thing I want to talk about is the one or  
18 two artists per block face. Let me read what I  
19 have and I appreciate if you give me the full  
20 time. It's not that long. Intro. 830 which was  
21 introduced by Council Member Gerson is very  
22 deceptive. In reading the legislative findings  
23 you would think that this bill is only concerned  
24 with restricting streets that are less than 12-

1 feet wide. However, if you look at that actual  
2 changes in the laws, the new law could be used on  
3 streets that are over 12-feet wide. It could also  
4 possibly be used against streets that are open to  
5 First Amendment vendors, such as Madison Avenue  
6 from 60th to 65th Street, but are not open to any  
7 disabled vets. After all the reading of Section  
8 20-471.3, it says the number of disabled vets and  
9 First Amendment vendors must be equal. Since the  
10 number of disabled veterans are zero, so would the  
11 number of First Amendment vendors be zero. There  
12 is nothing in the text of 20-473.1 that clarifies  
13 that this is only sidewalks less than 12-feet  
14 wide. If this bill is used as written, hundreds  
15 of First Amendment spaces will be lost throughout  
16 the city. First Amendment vendors tend to set up  
17 in areas where many pedestrians walk by. To put a  
18 First Amendment vendor on streets with little or  
19 no pedestrian traffic will keep their message from  
20 getting out. They will be unable to live off  
21 their meager profits, forcing them to give up  
22 their First Amendment rights. The federal courts,  
23 including the Supreme Court have ruled that you do  
24 not lose your First Amendment rights because you  
25

1  
2 are making money, whether you are selling an item,  
3 or giving it away for free does not affect your  
4 rights. The real problem with this law really  
5 goes back to the way the city restricts streets  
6 for the First Amendment vendors. Streets are  
7 determined to be restricted based on pedestrian  
8 and vehicular traffic.

9 CHAIRPERSON COMRIE: Mr. Balmuth,  
10 you did write it out for us.

11 MITCHELL BALMUTH: Yes, I wrote it  
12 out for you but I would like to read it on record.

13 CHAIRPERSON COMRIE: We're kind of  
14 running late already.

15 MITCHELL BALMUTH. Yeah, but we're  
16 almost done. My friend Patrick is willing to give  
17 up his time for me.

18 CHAIRPERSON COMRIE: What?

19 MITCHELL BALMUTH: My friend  
20 Patrick over there who is going to be speaking is  
21 willing to give his three minutes to me.

22 CHAIRPERSON COMRIE: We have it on  
23 the record. So I hate to cut you off. But I  
24 appreciate your intent.

25 MITCHELL BALMUTH: I just want to

2 let you know in summarizing that anything that's  
3 done as far as this bill goes, it will force the  
4 artists to sue. You know what happens every time  
5 we sue. Our numbers increase.

6 CHAIRPERSON COMRIE: Thank you.

7 Next person?

8 BLUE BAYER: Good afternoon. Thank  
9 you for giving me the opportunity to address the  
10 panel. My name is Blue Bayer. I'm a working  
11 artist in New York. I moved here from Appalachia  
12 three years ago because there was no economic  
13 opportunity there. One of the most intelligent  
14 things I've heard said today came from Mr. Comrie.  
15 The idea that we need to do a real study on the  
16 real numbers of how many people are vending on the  
17 street. To that end, sir, I would also recommend  
18 that we do some kind of impact study of the  
19 economics of our presence on the street. I,  
20 myself, and my fellows spend thousands and  
21 thousands of dollars and aggregately it could be  
22 tens of thousands of dollars a week in supplies  
23 and in supporting small businesses that support  
24 artists. All the industries that cast jewelry,  
25 all the places that do framing and all the people

1  
2 that are involved in our industry would be  
3 negatively impacted if we're pushed off the  
4 street. So it's not just a one facet story. In  
5 addition to which I'm surprised that Gristedes and  
6 the other restaurants and markets in the city  
7 don't understand that we spend our money here in  
8 New York. We don't take our profits and dump it  
9 in some bank in Hong Kong. That money stays here  
10 locally. To speak to 830, the congestion, Gerson  
11 says that there are no First Amendment artists on  
12 Prince and Spring Streets. That's ridiculous,  
13 sir. I own art from people.

14 CHAIRPERSON COMRIE: I don't think  
15 that's what he was saying.

16 BLUE BAYER: That's what he said  
17 here in this hearing. There are some really world  
18 class artists down in SoHo that are effectively  
19 going to be pushed off and thrown into the gutter  
20 because it serves somebody else's economic ideals  
21 and their means. As far as 840, it seems to me  
22 that Sunset Park, with all good intention, wants  
23 to have local control and I applaud that ideal,  
24 but my concern is that their precedent will hijack  
25 the ability of the city to decide and control and

1  
2 protect our First Amendment rights to sell on the  
3 street. My concern is that it will create a  
4 precedent whereby a particular district could set  
5 its own rules and those rules would supersede the  
6 First Amendment protections that we as artists are  
7 supposed to be guaranteed. As an overview, I  
8 can't sit here and say that there aren't things  
9 that need to be worked on. I really appreciated  
10 the suggestion that there be a 25,000 person  
11 license issuance. I know that's a lot and I know  
12 that's pie in the sky, but I appreciated the guts  
13 to actually lay that kind of a number out there.  
14 In closing, I really feel that we need to be  
15 protected and fostered as a culture. We have a  
16 community too. We're part of the larger New York  
17 community. We're not just people that are just  
18 trying to skim off some money. We're part of this  
19 community too.

20 CHAIRPERSON COMRIE: Thank you.

21 Mr. Otter?

22 NED OTTER: My name is Ned Otter.

23 I'm just going to respond to Intros. 828, 830, 832  
24 and 846. Robert Otter was my father, and during  
25 the 1960s he was a professional photographer. In

1  
2 between his commercial photography assignments, he  
3 documented our great city during that most dynamic  
4 of decades. His work was never published or  
5 exhibited, although his images have been compared  
6 by many to Helen Levitt and Berenice Abbot. He  
7 died in 1986, in artistic obscurity. I live in  
8 SoHo, which has been the focal point of debates  
9 about First Amendment vending. Not long after  
10 moving there, it occurred to me that through First  
11 Amendment protection of visual artwork, my  
12 father's photography might finally see the light  
13 of day. It seemed like a chance for his work to  
14 be appreciated by those whom he could not reach  
15 during his lifetime. For the past three years, I  
16 have enjoyed the hard-won right to sell his  
17 photography on the streets of New York City. I  
18 have met thousands of people who were moved by his  
19 undiscovered and rare archive of New York City  
20 imagery, shot professionally, and by a local  
21 resident. Vending my father's art accounts for  
22 100% of my income. However, my motivation is not  
23 financial, it is simply to honor him, as he  
24 abandoned his artistic pursuits so that our family  
25 might have more financial stability. Given the

1  
2 lack of available space with the planters, the  
3 narrow sidewalks, and the doorways to buildings  
4 being so close together, it is extremely difficult  
5 to find legal vending spots today. I am barely  
6 able to make a living under the current 60 plus  
7 pages of vending law. If the proposed Intros  
8 become law, it will be impossible to continue to  
9 offer my father's work to the public. On a daily  
10 basis, tourists and local residents who stop at my  
11 mobile gallery comment on how street vendors are a  
12 big part of an authentic New York experience. We  
13 are a part of, and contribute to, the rich street  
14 culture of New York City. If the proposals put  
15 forth by Council Member Gerson and others become  
16 law, thereby stripping us of our rights, the  
17 distinctive character of street artists shall  
18 vanish from the New York City landscape. I  
19 strongly urge you to reject all of the proposed  
20 changes to the vending law. Thank you.

21 CHAIRPERSON COMRIE: Thank you.

22 The next panel is Berta Comacho from Vamos Unidos,  
23 Victoriana Novarro from Vamos Unidos and Rafael  
24 Samanet from Vamos Unidos. Anybody need a  
25 translator? We've been rejoined by Council

1  
2 Members Viverito and Gerson. Council Member  
3 Brewer was here. I forgot to mention it.

4           RAFAEL SAMANET: Today, members of  
5 VAMOS Unidos come to testify on the urgent need to  
6 for City Council to pass a sufficient number of  
7 food cart and general merchandise permits. VAMOS  
8 Unidos is an organization of street vendors  
9 throughout New York City that organizes and  
10 advocates for their rights to fair working  
11 conditions for street vendors. There exists a  
12 waiting list of approximately 2,500 people for the  
13 food cart permits. The waiting list is currently  
14 closed. In 2007, over 10,000 people had applied  
15 for their personal food vending license that were  
16 not part of this 2,500 people in the waiting list.  
17 We expect that number has increased substantially.  
18 For almost 30 years, the city has not increased  
19 the cap and has maintained the number of permits  
20 to 3,100 full time permits and 853 for general  
21 merchandise licenses for the entire tri-borough  
22 area. These caps where set in 1979 and 1981 and  
23 have not been increased. Yet the demand for and  
24 number of street vendors has significantly  
25 increased. It is estimated that street vending

1 provides between 15,000 and 20,000 jobs throughout  
2 New York City area. Street vendors are in full  
3 support of Intro. 324-A as it would increase the  
4 licenses sufficiently. The lack of licenses  
5 translates into the following: millions of  
6 dollars spent by the city to enforce the  
7 increasing number of street vendors, exorbitant  
8 fines on working low-income families, arrests of  
9 our working community members, the confiscation of  
10 their merchandise and the possible ill treatment  
11 of street vendors. Ruth, a vendor sitting here  
12 today, has to sell everyday in order to support  
13 for her family. She was arrested while seven  
14 months pregnant. Rogelio and Rosa, set out  
15 everyday without a food cart license, although  
16 they pay their federal taxes and their quarterly  
17 New York State sales taxes. They hope that they  
18 will not be treated as the day when a police  
19 officer without reason pinned his son of 16 years  
20 of age as he accompanied his father while he  
21 vended. Florencia and her daughter, is another  
22 example of two women who where severely beaten by  
23 NYPD officers for vending without a food cart  
24 permit. Street vendors play an important role in  
25

2 the local economy and the city has yet to meet the  
3 full needs of thousands of low income workers by  
4 not providing sufficient permits. Amidst the  
5 worst economic crisis in decades, the city has a  
6 chance to create thousands of new jobs by  
7 increasing the number of food cart permits and  
8 general license permits. To not increase the cap  
9 goes against working families which are the  
10 hardest hit by the economic crisis. We ask that  
11 the City Council pass 324-A as it is long overdue.

12 CHAIRPERSON COMRIE: No clapping  
13 please.

14 RAFAEL SAMANET: The communities  
15 are saying we need more jobs, we need respect, we  
16 need more licenses. We expect our elected  
17 officials to hear the voices of the community and  
18 support this increase of food cart permits and  
19 general licenses. Thank you.

20 CHAIRPERSON COMRIE: Thank you.

21 Next?

22 VICTORIANA NAVARRO: [Foreign  
23 language].

24 RAFAEL SAMANET: [translating] My  
25 name is Victoriana Navarro. I come here as a

2 member of VAMOS Unidos representing the  
3 organization. I come here to ask that the  
4 licenses be increased. I'm a street vendor. I  
5 was arrested for three days for street vending. I  
6 have kids. I'm a survivor and still fighting  
7 cancer. I am the mother of two kids and I have to  
8 every day hit the streets to have an income. No  
9 job allows me to leave for two days a week to get  
10 radiation treatment and cancer treatment. So I  
11 have to force myself to work as a street vendor  
12 and that's the only way I can work. Like very  
13 other vendor here today, we pay sales taxes every  
14 three months. We pay federal taxes at the end of  
15 the year. But we are still facing these problems.  
16 I'm here speaking for all of my fellow coworkers  
17 and women that struggle every day to keep our  
18 families up and running. Thank you.

19 BERTA CAMACHO: [Foreign language].

20 RAFAEL SAMANET: [Translating]

21 Welcome. Thank you for listening to us today. My  
22 name is Berta Camacho. I'm a vendor. We're  
23 asking from the bottom of our hearts that you  
24 actually hear what we're saying. I'm a street  
25 vendor. I have both licenses. And even though I

2 have both licenses, I confront a lot of police  
3 repression. They don't let me sell in places  
4 where I'm allowed to sell according to the law.  
5 Even though I have both licenses and I can vend  
6 now without worries, I'm here because of my  
7 coworkers and my colleagues. They suffer day to  
8 day. So I'm here to ask that more licenses be  
9 given. We have families, sometimes not only here,  
10 but we also have families in other countries that  
11 we support. Thank you so much for letting me  
12 speak. Thank you.

13 CHAIRPERSON COMRIE: Thank you.

14 Thank the panel for coming. Zella Jones, is she  
15 here?

16 COUNCIL MEMBER GERSON: Mr. Chair,  
17 she had to leave but she submitted testimony.

18 CHAIRPERSON COMRIE: Is Doris  
19 Corrigan still here?

20 COUNCIL MEMBER GERSON: I think she  
21 was actually here for the sanitation garage.

22 CHAIRPERSON COMRIE: Okay. Is  
23 Derek Johnson here? Alfred Lavery? Is Kurt  
24 Brokaw here? Any relation? Sam Cuevas? All  
25 right, come on down.

DEREK JOHNSON: Good afternoon. My name is Derek Johnson. I've been a supporter of street artists for over 30 years. I'm a graduate of the city CUNY system. I study studio arts. I'm a photographer also. I did a little research on the Constitution yesterday. According to the Constitution, to promote the progress of science and useful arts by securing for identified times to authors and inventors exclusive rights and their respective writings and discovery. So artists are covered by the Constitution, not only for free speech but also for their artwork. The government also says that it empower the legislator over to define a limit, the distinction between government in limited powers abolish limits on persons if laws on persons are not equally enforced. So in other words, if all the vendors are not given the opportunity to have permits, it's not legally being enforced by the Constitution. That was found by a book called the Constitutional Law for Change in America: Rights, Liberties and Justice, the sixth edition, by Lee Epstein and Thomas G. Walker. A solution I believe that would help is to deregulate, as our

2 President Bush said yesterday, regulation by  
3 government is sometimes needed. To deregulate and  
4 establish in the community boards panels  
5 comprising of community to regulate the vendors  
6 and artists, include advisory boards of senior  
7 artist. This would probably help regulate the  
8 problem of the street artists. Let them regulate  
9 among the community boards in their districts and  
10 help the areas. Instead of going through the City  
11 Council, let's do it locally. Deregulate.

12 President Bush said that yesterday and that's  
13 probably one of the most intelligent things he's  
14 said in his presidency. I just think it's  
15 important to have art vendors. They serve a  
16 purpose for this city. The expression that they  
17 give is very important. I really appreciate their  
18 help. I have a lot of their work. I have taken  
19 pictures of the art vendors. I think they are an  
20 important fiber in our society. Thank you.

21 CHAIRPERSON COMRIE: Thank you.

22 Next speaker?

23 ALFRED LAVERY: Good afternoon,  
24 ladies and gentleman. My name is Alfred Lavery.  
25 I'm a citizen of the United States. I live in

1  
2 Brooklyn. Thank you, Council Member, for hearing  
3 my voice today. I'd also like to say thank you to  
4 Robert Lederman who has emailed me on the updates  
5 of this hearing. I'd also like to say thank you  
6 to the citizens of New York City for being here  
7 and a very special thank you for the veterans who  
8 have given me the right, because of their fight,  
9 to speak here. I'd also like to thank all the  
10 immigrants who showed up today trying to find  
11 their own right as entrepreneurs who seek  
12 employment in America. I was laid off about one  
13 year ago from my job. This is the first time I've  
14 been to one of these hearings. When I walked into  
15 these chambers here I was amazed at the  
16 architecture. When I looked up at the ceiling and  
17 I read a government of the people by the people  
18 and for the people by Abraham Lincoln, I wondered  
19 what Mr. Lincoln would think about stopping our  
20 rights to become entrepreneurs. There are too  
21 many laws that you want to pass for me to go into.  
22 But what Mr. Barron said earlier today that he  
23 would like to see the limit raised to 25,000, he's  
24 absolutely right. It might have to go higher. We  
25 need to think about what's going on in our country

1  
2 right now. We have an economic crisis that we  
3 haven't seen since the Great Depression. I am not  
4 being bailed out by the \$700 billion bailout  
5 package. All I'm asking for is a right to show my  
6 art on the street. It's getting very tough right  
7 now. Mr. Gerson said the laws are not being  
8 enforced. Well they are, Mr. Gerson. Here's a  
9 ticket that I received. It's frivolous. I'll  
10 fight it in court and I'll probably get another  
11 one and another one. But we need to be open  
12 minded and think out of the box for employment  
13 opportunities for people that are being laid off  
14 because the numbers are not getting smaller,  
15 they're getting larger. I'm a little upset right  
16 now because we don't need new laws, we need more  
17 opportunities for people like myself that are  
18 getting laid off. Again, thank you, everybody  
19 that's fought for my right to be here. Thank you.

20 CHAIRPERSON COMRIE: Thank you.

21 The next person? No clapping please. We're  
22 trying to finish the day.

23 KURT BROKAW: I'm Kurt Brokaw.

24 I've taught on the faculty at New School  
25 University for 22 years. I also teach at the 92nd

1  
2 Street Y and at New York Society for Ethical  
3 Culture. For some years now I've been selling off  
4 my lifelong collection of 20th literature and pulp  
5 magazines that go back to 1885 on the sidewalks on  
6 New York. I want to speak briefly to 828, 830,  
7 832 and then a little bit of detail on 830. New  
8 York City law began permitting the vending of  
9 written matter without a license on the sidewalks  
10 of New York about 1895. The law was established  
11 largely to protect Jewish immigrants who sold  
12 chapbooks and other printed materials from  
13 pushcarts for a penny a copy on the Lower East  
14 Side, primarily on Orchard Street. Historical  
15 photos reveal a vibrant street and sidewalk life  
16 far more crowded at the beginning of the 20th  
17 Century than the vast majority of New York streets  
18 in 2008. There were far more than two First  
19 Amendment vendors per block as Intro. 830 would  
20 permit. Sidewalks were narrower and in far worse  
21 repair and had many more obstructions, even from  
22 horses than all the sidewalk planters and sidewalk  
23 furniture that Intro. 832 carefully omits.  
24 Vendors in 1895, often had to leave their  
25 pushcarts for longer than 30 minutes to find a

1 workable bathroom, just as I do at age 70, which  
2 Intro. 828 would prohibit me from doing. Now to  
3 burrow in on 830 for a minute. I enjoy the same  
4 vending rights on the sidewalks of this city as  
5 The New York Times, The Daily News, The Post, The  
6 Observer, The Wall Street Journal and all the  
7 other people of the press table who have left this  
8 hearing already. The New York Times is sold by  
9 independent newsstand operators, by vendors on  
10 street comers employed by publishers, and in coin-  
11 operated vending machines that occupy sidewalk  
12 space day and night, 24/7. The New York Times and  
13 other publishers enjoy three times the number of  
14 vending opportunities on any given block than I do  
15 as an independent vendor of written matter. If an  
16 independent vendor of written matter or art or  
17 photography is removed from a block by any of Mr.  
18 Gerson's eight proposals, or the other 12 that he  
19 has under consideration, or the other 14 that he's  
20 put up here in the last years, under a fair  
21 interpretation of the law, and I'll repeat that,  
22 under a fair interpretation of the law, The New  
23 York Times and all other vendors of written matter  
24 would need to be similarly removed. I'm going to  
25

2 conclude with a different ending than the one I've  
3 given you. I'm looking up at the ceiling of  
4 Lincoln's quote here, a government of the people,  
5 by the people, for the people and I want to tell  
6 you gentleman and ladies, there is absolutely no  
7 doubt in my mind that what Alan Gerson has put  
8 together in the seven years, this mess of new  
9 laws, is basically a fusion of the beginnings of  
10 corporate power and police power. When you put  
11 together a corporate state and a police state, you  
12 have the beginnings of the doorway to fascism.  
13 Benito Mussolini didn't hesitate to walk through  
14 that doorway and I'll tell you, Alan Gerson isn't  
15 hesitating either. If he was here I would tell  
16 him to his face that I think he's a disgrace to  
17 the office he holds. Thank you.

18 CHAIRPERSON COMRIE: Quiet please.

19 Next speaker?

20 SAM CUEVAS: My name is Sam Cuevas.

21 I was born and raised here in the City of New  
22 York. The city has changed. It seems like every  
23 decade there is some progress, but with some  
24 progress, there seems to be a situation in which  
25 an administration that comes in gradually becomes

1  
2 more powerful. I see this. What I'm here to  
3 speak about is about a right. People have rights  
4 and dignity. I choose not to work for anyone. I  
5 do photography on the street because I don't want  
6 to work for anyone. I work seven days a week. If  
7 it's not raining outside, I'll be out there. But  
8 it's insulting when you close a street because  
9 there is a restaurant who is having their business  
10 being conducted and you close it out for everyone  
11 else just because the NYPD says so. The other day  
12 I had two carts. One for myself. As for that 30-  
13 minute rule, a gentleman went to the bathroom.  
14 He's sitting right there. A police officer told  
15 me I had to move. I said I sure will. When the  
16 gentleman comes to pick up his cart, I shall move.  
17 He told me that was the wrong answer. You're  
18 supposed to say, yes, sir. I said the only may I  
19 have to have to say, "yes, sir" to is my father,  
20 may he rest in peace. Are you kidding me? I  
21 said, wait until he comes and then we'll settle  
22 this. He gave me a ticket for disorderly conduct.  
23 Now I don't come from somewhere else. I was born  
24 and raised here. I told him to do what he needed  
25 to do. I'll see you in court. But he won't be

1  
2 there. So it'll get dismissed. So I have to go  
3 there for all day while he's just writing tickets  
4 because his sergeant told him to do so. That's  
5 totally contrary to the beliefs of this particular  
6 system in which we live in. It's just uncalled  
7 for. These proposals are moving to make people  
8 who find a way to move people who are trying to  
9 make a living, especially in these hard times. As  
10 a history minor and a political science major,  
11 what's going is pathetic. Gradually that's where  
12 we're moving. In short, it doesn't matter what  
13 happens. People will be getting arrested because  
14 when the laws are there and they're telling you to  
15 move, I'm not moving. As long as they're in the  
16 books as such, I'm not moving. I know people who  
17 have done it and they have been arrested 30 times.  
18 A man who is 70 plus years old and refuses to  
19 move. He said you have every right to do so and I  
20 will be exercising my right.

21 CHAIRPERSON COMRIE: Thank you. No  
22 clapping please. Mr. Lederman, I'm going to put  
23 you out. You keep inciting the clapping. We've  
24 got to finish the hearing. Second warning. The  
25 next panel is Jay Kim, Karen Giamelli, and Mike

2 Wang. Are the three of you here? You're Ms. Kim?  
3 They're no longer here? You're speaking for them?  
4 Okay. Is Jack Nesbitt still here? Pat  
5 Christiano? All right, Ms. Kim.

6 JAY KIM: Good afternoon. My name  
7 is Jay Kim. I'm a staff attorney with a nonprofit  
8 organization called Common Law. Today Common Law  
9 would like to voice its support for Intro. 324-A.  
10 First, let me introduce Common Law. Common Law is  
11 a nonprofit organization that provides free legal  
12 education and legal services to members of  
13 community based organizations. Pursuant to our  
14 mission, Common Law has provided legal  
15 representation for food vendors who are members of  
16 VAMOS Unidos, a community-based organization that  
17 focuses on the rights of workers, most of whom are  
18 low-income street vendors. We are pleased to have  
19 this opportunity to talk today about an issue that  
20 affects so many hard working New Yorkers. It is  
21 critical that all of use understand how the  
22 disproportionately low cap on vendor permits hurts  
23 New York City's working families. Currently there  
24 are an estimated 15,000 to 20,000 food vendors in  
25 New York City and only 3,100 permits. The number

1  
2 of permits for food vendors in New York has not  
3 increased since 1979.

4 CHAIRPERSON COMRIE: Quiet please.

5 JAY KIM: As a result, there are  
6 approximately 3,000 people on the waiting list to  
7 obtain a permit and more than 10,000 people  
8 waiting to qualify to join the waiting list. In  
9 this time of great financial crisis, more and more  
10 individuals and families are finding themselves  
11 unemployed and unable to find jobs with fair  
12 wages. Because the job market is shrinking, many  
13 New Yorkers are forced to find alternative means  
14 to support themselves and their families. Many  
15 New Yorkers turn to vending, even though the hours  
16 are long and the pay is low. The already  
17 disproportionably low cap on vendor permits leaves  
18 many New Yorkers with no choice but to vend  
19 without a permit. Vending without a permit, in  
20 turn, leaves workers vulnerable to harassment,  
21 arrest, confiscation of their merchandise and  
22 carts, and thousands of dollars in fines. A  
23 vendor who receives more than one ticket for  
24 vending without a permit faces \$1,000 fines. As  
25 attorneys and advocates who have stood alongside

1  
2 food vendors at administrative hearings, we have  
3 seen firsthand what a devastating impact the low  
4 cap on vendor permits has had on low-income  
5 families. A \$1,000 fine can be a crippling amount  
6 for a family struggling to make ends meet.

7 Although this may seem to be an issue that only  
8 affects vendors, it is actually an issue that  
9 affects all New Yorkers because it is an issue of  
10 economic growth and economic justice. An increase  
11 in the number of vending permits available in New  
12 York City would mean an increase in jobs available  
13 to New Yorkers. Vendors who currently face  
14 institutional barriers to making an honest living  
15 would be able to work without facing harsh fines.  
16 New York City would increase revenue and decrease  
17 spending. Currently, the city spends a tremendous  
18 amount of money each year to enforce vending laws.  
19 If the current cap on vendor permits is increased  
20 to 16,000 at the current rate of \$200 per permit,  
21 this city would generate more than \$3.2 million in  
22 revenue and would spend a fraction of what it  
23 currently costs to enforce vending laws. Thus,  
24 increasing the cap on vendor permits would create  
25 jobs and strengthen the local economy. Common Law

2 stands in solidarity with food vendors in New York  
3 City and we urge the city to increase the cap on  
4 vending permits. Thank you.

5 CHAIRPERSON COMRIE: Thank you.

6 Next speaker? No clapping please.

7 JACK NESBITT: My name is Jack  
8 Nesbitt. I'm a member of ARTIST. I'd like to  
9 speak about an issue that Council Member Barron  
10 brought up and that's the right of street artists  
11 to make a living. Selling my work on the streets  
12 of New York City benefits me financially. The  
13 money helps me to eat, pay my rent and taxes and  
14 to buy supplies to continue my work. As a New  
15 York City street artist who makes his living  
16 selling my work on the streets, I am truly  
17 saddened that Council Member Gerson's proposed  
18 bills will virtually wipe out my ability to earn  
19 my living doing what I love. Because of the  
20 ability to show my art on the streets, I have my  
21 work all over the world and I receive letters of  
22 thanks from so many people that have purchased my  
23 work. I am spiritually blessed by that and very  
24 grateful. If all of these restrictions are  
25 passed, it will silence me and I will be forced to

2 quit my life's work and my life's passion. Please  
3 do not treat the artists as obstructions to be  
4 removed. Instead, remove the planters and make  
5 room for more of us. Please do not support these  
6 convoluted bills. Thank you very much.

7 CHAIRPERSON COMRIE: Thank you.

8 Next speaker? No clapping please.

9 PAT CHRISTIANO: I want to thank  
10 the council for hearing me. My name is Pat  
11 Christiano. I'm a street artist and a writer.  
12 I've been selling and showing my work for six  
13 years. I agree with my friend, Mr. Balmuth, in  
14 that you should enforce the laws that are on the  
15 books now rather than propose new ones. I have  
16 been on the street six years and I can count on  
17 the fingers of one hand any rudimentary  
18 enforcement of the existing laws. So I find that  
19 the bills 830, 832, 846, and 828, to varying  
20 degrees, either unconstitutional, unenforceable,  
21 or both, especially 846. I find it objectionable  
22 in that the First Amendment rights which include  
23 the right to distribute literature, the right to  
24 protest, the right to vend, distribute literature  
25 and art, political and religious opinion will be

2 eliminated for a 20-block stretch of a populous  
3 Brooklyn neighborhood. It reminds me a little bit  
4 of a time when a certain mayor tried to close an  
5 entire museum because he didn't like a certain  
6 painting. I hope these times have not come back.  
7 I beg the City Council to consider and reject  
8 these proposals. Thank you.

9 CHAIRPERSON COMRIE: Thank you.  
10 Thank you panel for coming. The next panel will  
11 be Xu Zi and Kat O'Sullivan. Is Kat O'Sullivan  
12 still here? John Wetherander? Your handwriting  
13 is worse than mine. Is Jerome Armour still here?  
14 Bernard Zalon? Bill Leonard? Come on up. We've  
15 got four. Ma'am, you can go first.

16 Xu Zi: Hello, I'm from Beijing,  
17 China. My name is Xu Zi. My American name is  
18 Linda. My job is multilingual calligraphy. I  
19 work for International Tours. I'm an independent  
20 artist. I sell art on the street in a public park  
21 or something place, all of these are legal places.  
22 Before five years ago, I sold my art at Union  
23 Square. My work space is only six feet because  
24 Union Square had some huge company coming for  
25 marketing, different marketing coming, or for

1  
2 Christmas rented the whole Union Square space. I  
3 can't find six feet by myself. Now I've moved to  
4 Battery Park. Union Square now has more street  
5 marketing, or a different agency make the  
6 difference for marketing coming here. Monday,  
7 Wednesday, Saturday and Sunday each week. Four  
8 days a week for them. For me there was no chance  
9 to do a small business. My job is a very small  
10 business. Always tried to service for tourists.  
11 We never pass where people work. If some people  
12 or governments or police, please check who is the  
13 worker, not the artists. A lot of bigger  
14 companies use more and more space and ruined the  
15 whole Union Square. Last year I worked at Battery  
16 Park. One year before I can set up. I use six  
17 feet. Because of one company, I don't know. What  
18 about the 200 feet about advertising. Police told  
19 the artists to get out. I am wondering why I had  
20 to get out. You big company get out. This is a  
21 public country. I'm part of the freedom of the  
22 country. I'm from Beijing. I love freedom. I  
23 love art. I don't like to go to job to sell hot  
24 dogs. I like art. Thank you.

25 CHAIRPERSON COMRIE: Thank you.

2 Next speaker?

3 BERNARD ZALON: My name is Bernard  
4 Zalon. I'm a print maker. I make etchings. I've  
5 been selling my work on the street for over 30  
6 years. About ten years ago our right to sell on  
7 the street was recognized under the First  
8 Amendment by the federal courts. This ruling  
9 survived several appeals by the city. The  
10 proposals before us today are a transparent  
11 attempt to get around that victory through the  
12 back door. Sort of like what you did with term  
13 limits. According to Intro. 828 on unattended  
14 stalls, if a cop comes by while I'm in the  
15 bathroom, how will he know how long I've been  
16 gone? Is he going to chalk my display, like he  
17 would my car tires? Who is attending all of those  
18 newspaper boxes that spew trash out onto that  
19 street and that I wind up picking up? Intro. 830  
20 is about the 12-foot rule. Even if we weren't  
21 there, it would be just as difficult or easy for  
22 people to walk down the sidewalk because of all of  
23 the planters and the newspaper boxes. We're only  
24 allowed three feet from the curb. We don't go  
25 beyond those pieces of sidewalk furniture. Under

1  
2 the present rule, 75% of the sidewalks are already  
3 off limits to vendors. I guess you just want to  
4 get rid of the other 25% with Intro. 832. Intro.  
5 846 will just set a precedent for unelected BIDs,  
6 which are backed by the real estate interests, to  
7 tell me where I can or cannot sell. That's like  
8 putting the fox in charge of the chicken coop. If  
9 Council Member Gerson were here, I would say that  
10 instead of spending the last seven years trying to  
11 figure out ways to get rid of us, he should be  
12 proud and you should all be proud of the fact that  
13 New York City is about the only city in the world  
14 where an artist has the freedom to set up on the  
15 streets and maybe even make a living. This is a  
16 win/win situation for everybody. Tourists love  
17 us. Why do you think they come here? They come  
18 to New York because they want to see stuff that  
19 they can't see at home. In the last 10 or 15  
20 years, this city has started to look like  
21 everywhere else. High rise condominiums have  
22 changed the looks of entire neighborhoods. Small  
23 businesses have gone out of business, not because  
24 of us but because of the skyrocketing rents that  
25 only national chains, chain stores, restaurants

1  
2 and banks can afford. We're the real New York.  
3 You can get rid of us, sure, but after you  
4 sterilize the streets and New York starts to look  
5 like a cross between Indianapolis and Disney  
6 World, I don't think people are going to want to  
7 come here anymore. Maybe they'll go to Las Vegas.  
8 In Las Vegas they have a New York world also.  
9 They can gamble over there as well. Thank you.

10 JOHN WETHERHOLD: I'm John  
11 Wetherhold. I'm not an artist. My wife is and  
12 she's a good one and brings a lot of joy to a lot  
13 of international visitors who come here. I failed  
14 crayons in kindergarten. In the crude way  
15 democracy does it here, you've got a lot of  
16 information from these hearings from a lot of  
17 different kinds of people. Two things stand out.  
18 You hear it from everybody. The problem is  
19 illegal vendors. To the extent there's a problem  
20 on the street blocking streets, it's illegal  
21 vendors and concrete planters. I think everyone  
22 agrees on that too. A very good idea that came  
23 out was to find out what exists right now. Find  
24 our how many illegal vendors are on the street.  
25 There's statistical methods. There are people

1  
2 that can go out and do this. And in all fairness,  
3 find out how many concrete planters are located  
4 throughout the city, where they're located, how  
5 big they are, what they're doing, how they block  
6 34th Street, and where they are in SoHo. There's  
7 a way to reduce congestion right away. You don't  
8 have to have those illegal trees in the big  
9 concrete things. Anyway, I think you know that.  
10 There is an encouraging amount of information  
11 here. Enforce the existing laws. It comes out  
12 from the Downtown Alliance. It comes out from the  
13 BIDs. Even most artists I think would agree with  
14 that. Illegal vendors are a major problem.  
15 People who sell illegal copyrighted material,  
16 false material, are a major problem. How you're  
17 going to do that, I don't know, with the resources  
18 the police department has. But beating up on the  
19 current vendors and the artists is not the answer.  
20 There is a very disturbing thing, and I'm  
21 addressing Gerson here. Privatizing the city  
22 streets through a lottery system is just the wrong  
23 way to go right now. We've had eight years of the  
24 Bush privatization ideas and anything goes kind of  
25 thing for the wealthy and it hasn't worked very

2 well. We're seeing that right now. We have some  
3 pretty bitter and difficult economic times for  
4 everyone, not just for artists. I think you need  
5 to think about that and deal directly with the  
6 problem of illegal vendors. Good luck.

7 CHAIRPERSON COMRIE: Thank you.

8 The next speaker?

9 BILL LEONARDI: My name is Bill  
10 Leonardi. My wife and I have sold our original  
11 artwork on the streets of SoHo for 11 years.  
12 Twelve years ago, the organization ARTIST won  
13 their first federal appeals court decision. Since  
14 then we survived an appeal by New York City to the  
15 U.S. Supreme Court and consequently have won four  
16 more federal appeals court decisions. Every one  
17 from the first one has said the city cannot make  
18 any law that limits First Amendment artists, that  
19 in any way creates a lottery, or requires a  
20 permit. Frankly, I've spoken here before and this  
21 is 12 years later and it's very disappointing that  
22 the council for this committee allows bills like  
23 830 and 846 to come before this committee. No  
24 personal offense intended. These are in direct  
25 violation of every federal appeals court ruling

2 that we've won. On the issue of 828, I'd like to  
3 bring to the committee's attention that several  
4 months ago we were under constant police  
5 surveillance or action in SoHo. Every Saturday  
6 morning a police detail, headed by a police  
7 lieutenant showed up, measured us and said artists  
8 could not set up in certain areas. They  
9 restricted our activity. Finally, one morning we  
10 decided to have a peaceful protest. That day it  
11 just happened there was a detail two police  
12 lieutenants present. After they checked us out  
13 and saw our tables were there, along with a  
14 protest table which they knew was there and they  
15 knew who was with it, they decided to walk across  
16 the street to the other side of the street. We  
17 followed them and peacefully protested. As we  
18 did, within three minutes, our displays were taken  
19 as being abandoned property by the city police  
20 department.

21 CHAIRPERSON COMRIE: Talk into the  
22 mike please.

23 BILL LEONARDI: In three minutes'  
24 time the police can use an abandoned property law  
25 to take our tables. There is absolutely no need

1  
2 for a rule like 828 to be put on the books, which  
3 is 30 minutes. There's no need. The police can  
4 do it in two minutes, why do we need another law.  
5 This is what happened. Other rules like 832 that  
6 even add more restrictions to already restricted  
7 streets in SoHo and other parts of the city are  
8 just going to make it impossible for law abiding  
9 citizens to find a place to sell on the streets of  
10 New York, trying with full intent to obey the laws  
11 to find any place that is legal. I brought this  
12 up to a police lieutenant. I said that if they  
13 enforce the 20-foot rule and you enforce this rule  
14 and now these added rules, there will be no place  
15 on West Broadway, a street which is 17-feet wide  
16 and the safest street in SoHo, to have vending.  
17 There would be absolutely not one space on that  
18 street that's legal. He said that was right, we  
19 don't want you. This is not what the Constitution  
20 intended. This is not, I believe, what was meant  
21 when the city should make the rules for public  
22 safety. Thank you.

23 CHAIRPERSON COMRIE: Thank you.

24 Thank you, panel. The last panel is Manuel  
25 Servin. Is Manuel here? Is Divine Wright here?

1  
2 Alex Alkowsky? Your handwriting is pretty bad  
3 too, Alex.

4 ALEXANDER ALHOWSKY: My name is  
5 Alexander Alhowsky. I'm not a vendor. I'm a  
6 street artist. The reason I wanted to speak is  
7 because I don't have any display per se. I work  
8 in the Central Park in front of the South Gate  
9 with nothing but a palette of face paints. The  
10 reason I really wanted to tell you this is because  
11 after getting so many summonses for area use  
12 restrictions, which is a City Code, I realized--

13 CHAIRPERSON COMRIE: [interposing]  
14 What streets did you say?

15 ALEXANDER ALHOWSKY: I work in  
16 Central Park. It's the area which is called Wien  
17 Walk, preceding the South Gate of Central Park  
18 Zoo. To the description of the environmental  
19 court Judge Lazario [phonetic], it's by far the  
20 widest and most expansive area of that particular  
21 area in the Central Park Wien Walk. Yet, just two  
22 weeks ago I got another summonses for obstructing  
23 the traffic in the midst of like semi-empty  
24 situation. It was a half rainy day anyway. I was  
25 there all by myself. I was about to actually

2 leave because I couldn't make any tips. I work on  
3 donations. I don't sell anything. Whenever the  
4 city officials, like Park Enforce Patrol  
5 approaches and they see all of those dismals that  
6 I have to present them and the statement from the  
7 judges, they laugh and they saw, look, we  
8 understand you, but we've been told to do so.  
9 Whenever I ask them who ordered them to remove me  
10 from here, they said they cannot do that or they  
11 would lose their jobs. My main point is there is  
12 certain tactics that sometimes agencies can use to  
13 take advantage of the situation. I had to file a  
14 federal lawsuit and I'm in the midst of the  
15 federal lawsuit. And even that fact still does  
16 not make them stop harassing me. I mean the last  
17 summonses I got two weeks ago and it's my fifth  
18 one since I filed for the federal lawsuit. I  
19 don't have a display. All I have is paint and  
20 palette that they keep taking away from me and  
21 cuffing me. That's just what it is. That's it.  
22 Thank you very much.

23 CHAIRPERSON COMRIE: Thank you for  
24 coming down. This is the last person to testify  
25 today. Unless there was someone that filled out a

2 card and didn't say. All right, seeing none, then  
3 I want to thank everyone for coming. It's been a  
4 very interesting hearing. I think we've all  
5 learned a lot. I want to thank both staffs for  
6 putting this together, the Immigration staff and  
7 my staff with Consumer Affairs. I look forward to  
8 continuing the discussion to try to get something  
9 done to make some necessary improvements to  
10 protect all parties regarding this issue. With  
11 that, I'd like to declare today's hearing of the  
12 Consumer Affairs together with the Immigration  
13 Committee closed, unless there are some objections  
14 from Council Member Stewart.

15 CHAIRPERSON STEWART: I wish to  
16 keep this hearing open.

17 CHAIRPERSON COMRIE: Well you got  
18 right ahead. Have as good weekend, everyone.

C E R T I F I C A T E

I, Donna Hintze 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.



Signature\_ \_\_\_\_\_

\_\_\_\_\_

Date February 9, 2009 \_\_\_\_\_