

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

ENVIRONMENTAL PROTECTION

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June 26, 2009
Start: 10:28am
Recess: 4:31pm

HELD AT: Council Chambers
City Hall

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Chairperson

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Thomas White, Jr.
Mathieu Eugene
Elizabeth Crowley
Eric Ulrich
Daniel R. Garodnick
Melissa Mark-Viverito
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Pat Sapinsley
Good Energies

Charles Cameron
Architectural Lighting Designer

Alexander Truitt
John E. Osborne P.C.

CHAIRPERSON GENNARO: It really got quiet, huh? Jeez. Okay. Before we start I'm happy to announce that all the rain is going to come to an end, because in the cloakroom of the Council in the member's lounge, I just found my raincoat, which has been missing for the last three weeks. So the rain will certainly come to an end now. Imagine that. When I really needed the raincoat, where was it? Okay. Sergeant, are we ready to go? Okay. Good morning and welcome, I'm Council Member Jim Gennaro, Chair of the Council's Committee on Environmental Protection. Today, as we all know, we're holding a hearing on four bills designed to make existing buildings in New York more energy efficient. In 2008 the Council Passed Local Law 22, the New York City Climate Protection Act, which established greenhouse emission reduction goals, or actually mandates, of 30% by 2030 for New York City. There are many ways to reach the ambitious goals set out in Local Law 22, many of which this Committee has helped establish in law, but one area with great potential is existing buildings. Existing buildings are the source of 80% of the greenhouse

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2 gas emissions in the City and there is simply no
3 way that New York City can meet the requirements
4 of Local Law 22 without finding ways to reduce the
5 carbon footprints of these buildings. There are
6 950,000 buildings in New York City and about 85%
7 of these buildings will still be here in 2030.

8 Energy efficiency in building operations is very
9 likely to contribute to improved air quality,

10 health and welfare in New York City. But setting

11 health and climate impacts aside for the moment,

12 given the cost of energy today and the state of

13 our economy, these same measures make for smart

14 and valuable investments with great returns, not

15 to mention the jobs they can create. These are

16 facts we can no longer ignore. According to the

17 Intergovernmental Panel on Climate Change, the

18 IPCC, during the seven years since the IPCC third

19 assessment, emissions from residential buildings

20 have grown at a rate of 1% per year, and emissions

21 from commercial buildings have grown at a rate of

22 3% per year. Fortunately mitigating the impact of

23 greenhouse gas emissions through reduction of

24 energy use in the building sector is achievable.

25 The IPCC has concluded that substantial reductions

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2 in CO₂ emissions from energy use in buildings can
3 be achieved by using existing technologies for
4 energy efficiency. The bills being considered
5 today create a new paradigm for sustainability and
6 energy efficiency in cities. Proposed Intro 476A,
7 prime sponsor Melissa Mark-Viverito and other
8 council members, will require all buildings to
9 measure their energy usage and be able to compare
10 it to other similar buildings using a relatively
11 simple online tool. This process, known as
12 benchmarking, will enable New York City property
13 owners to learn their starting position with
14 respect to the energy and water performance of
15 their buildings, with a view towards becoming more
16 energy and resource efficient. Proposed Intro
17 564A, by my colleague Dan Garodnick, who is here
18 and who will speak on this bill in a moment,
19 creates a New York City Energy Conservation Code
20 and would require compliance with this code when
21 performing all alterations requiring a permit. It
22 is modeled on the current state code, but contains
23 elements specific to New York City. There is,
24 however, one critical difference. Under the state
25 code compliance is required for an alteration only

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2 when at least 50% of a building system or a
3 subsystem is being replaced. This new City energy
4 conservation code would eliminate that constraint
5 and the enactment of this legislation is expected
6 to reduce the City's carbon emissions by one to
7 one and a half percent over the next 20 years.

8 Audits and retrofits contained in Intro number
9 967, I'm the prime sponsor of this measure, with
10 many other council members, will require large
11 buildings to conduct energy audits every ten years
12 and make improvements that pay for themselves.

13 This law applies to buildings' central systems and
14 will cover approximately 22,000 buildings

15 responsible for 45% of the City's energy
16 consumptions. Improvements that are achieved as a
17 result of mandating audits, retrofits and retro
18 commissioning of New York City's largest buildings
19 are expected to result in a 5% citywide reduction
20 of CO₂ emissions by the year 2030. Upgrades to

21 lighting systems reduce buildings' energy use
22 significantly, and the cost of such upgrades is
23 low relative to the savings in energy costs they
24 provide. Intro number 973, sponsored by Council

25 Member Recchia and other members, requires that

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2 when tenants within buildings of over 50,000 gross
3 square feet undertake renovations that cost at
4 least \$50,000, they also upgrade lighting systems
5 to comply with the NYCECC standards for new
6 systems as well. Enactment and implementation of
7 these four laws is also expected to result in \$750
8 million in reduced energy costs, and create 19,000
9 jobs over a ten-year period. So significant I
10 lost my voice while saying it. Can you imagine
11 that? Studies show that climate mitigation
12 through energy efficient measures in the
13 residential and commercial sectors will improve
14 local air quality in large cities and contribute
15 to improved public health. Improvements in energy
16 efficiency will not only reduce greenhouse gasses,
17 but it will reduce exposure to other pollutants
18 that adversely impact upon human health such as
19 ozone and particulate matter. Studies in other
20 cities disclose that the mitigation benefits from
21 reducing greenhouse gas emissions can reduce
22 ambient concentrations of particulate matter and
23 ozone ambient concentrations by 10%, thereby
24 avoiding 64,000 premature deaths, 65,000 chronic
25 bronchitis cases and 37 million person days of

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2 restricted activities or work loss. Greening
3 buildings in New York City will increase their
4 value and also bring with it the added benefits of
5 new jobs and business opportunities, economic
6 benefits that are essential in the current
7 economic climate. Let me conclude by saying that
8 we know these bills represent a sea change in the
9 way we think about energy efficiency in our city
10 and indeed the country. This kind of change can't
11 happen in a vacuum. That's why over the past 18
12 months we, meaning us plus the administration—well
13 for the last 18 months we've been working with the
14 administration and a host of stakeholders from
15 building owners who have concerns about the
16 complexities of requiring retrofits given current
17 lease structures, to residential tenants who are
18 concerned about the possibility that a landlord
19 who is reaping the rewards of energy cost savings
20 might apply for MCI rent increases, to the
21 supportive housing not-for-profit building owner
22 struggling to make ends meet and who may not have
23 the ability to obtain financing for required
24 upgrades. We have heard all these concerns and we
25 are working hard to address them. For example,

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2 Intro 967 requires retrofits that pay for
3 themselves in seven years or less, and some have
4 told us that the seven-year payback does not
5 provide cushion enough for an appropriate margin
6 of error. I see the wisdom in that and believe
7 that a five-year payback on required retrofits may
8 be better. I also recognize the difficulties we
9 face in establishing accurate payback figures when
10 many large commercial leases contain split
11 incentives, providing energy savings to tenants
12 instead of the landlords, who would be footing the
13 retrofit bill. We need to address that. We've
14 heard the concerns about lack of financing for
15 some owners, and I think the language in Intro 967
16 that provides a safe harbor for such building
17 needs to be strengthened. We have heard the
18 concerns that we must develop the skills to fill
19 the green jobs that would be created by this
20 legislation. But as challenging as these issues
21 are, we must meet them and continue our work on
22 improving our environment and growing our New York
23 City economy. Before we hear from the
24 administration I wish to recognize some of the
25 good folks that have helped to get us to this day.

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2 I'd like to thank Speaker Quinn and her staff for
3 all of their work, particularly Rob Newman, Jeff
4 Haberman; Laura Popa, who is currently on leave,
5 Samara Swanston; to my left, Siobhan Watson; to my
6 right, Nathan Toth, Anthony Hoglebe; my staff,
7 Costa Constantinides, William Murray and Brad
8 Groznik. And I want to thank in a special way the
9 cooperation of Council Member Erik Dilan, the
10 Chair of the Housing and Buildings Committee.
11 These certainly have a great impact on buildings.
12 Erik is dealing with all this crane issues and all
13 the other things before that committee and upon
14 consultation, we thought these would be best
15 handled in the Environmental Protection Committee,
16 given the totality of the circumstances, and I'd
17 like to thank Council Member Dilan publicly for
18 his graciousness. I'd like to thank the
19 administration for all the work that they've done
20 on these bills. These bills are all put forward
21 jointly with the administration. So we're happy
22 to have their partnership. We welcome that.
23 We're also joined by Council Member Peter Vallone,
24 a member of this committee. Thank you, Peter, for
25 being here. We're going to hear from Council

2 Member Dan Garodnick in a moment. I'd like to
3 thank everyone who is coming forward here today to
4 give us the benefit of their views. This is going
5 to be a long process, but one that we are whole-
6 heartedly committed to having everyone's input and
7 making sure that we get the best possible outcome
8 from this most historic venture that we're taking
9 on behalf of New York City's environment. And
10 with that said, I'd like to recognize Council
11 Member Dan Garodnick for a statement on his bill.
12 Council Member Garodnick?

13 COUNCIL MEMBER GARODNICK: Thank
14 you, Chairman Gennaro and members of the
15 Environmental Protection Committee, for the
16 opportunity to participate in today's hearing. As
17 you pointed out, in recent years New York City has
18 been on the cutting edge of environmental policy
19 nationally, and much of that is thanks to your
20 leadership and certainly to that of the
21 administration. With PlaNYC we have pledged to
22 reduce our carbon emissions by 30%, and we have
23 already made strides in accomplishing the goals
24 set forth in that report. Yet by one significant
25 measure, New York City is falling behind. Our

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2 current energy code is woefully insufficient. 41
3 states including New York utilize the
4 International Energy Conservation Code. While
5 those 41 other states require building owners to
6 bring their building systems up to code during
7 renovations, New York State exempts renovations
8 which alter 50% of the system or less. Giving
9 that the overwhelming percentage of New York
10 City's carbon emissions come from buildings, close
11 to 80%, such an exemption is no longer acceptable.
12 It's time we take care of those rules and bring
13 them up to date. Intro 564A creates a New York
14 City Energy Code, which requires owners to bring
15 their buildings systems up to code whenever they
16 renovate that system, no 50% exclusion. Intro
17 564A applies only to renovations that landlords
18 already intended to make, no additional hassle,
19 minimal upfront costs and great potential for
20 energy savings. All four bills being considered
21 today reflect a substantial and necessary
22 commitment to reducing New York City's overall
23 carbon emissions. Although the City is facing
24 difficult economic times, we must not lose sight
25 of the big picture. We must remember that if

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2 we're able to make our buildings more energy
3 efficient and reduce our carbon emissions,
4 everyone is the victor. I therefore look forward
5 to today's testimony and to continue working with
6 my colleagues on the Council, the administration
7 and all of the relevant stakeholders that we're
8 going to hear from today to ensure that New York
9 City remains a national leader with respect to
10 environmental policy. And again, thank you
11 Chairman Gennaro for the opportunity to say a few
12 words and for your leadership.

13 CHAIRPERSON GENNARO: Thank you
14 Councilman Garodnick. I appreciate your bill that
15 you have put forward and I'm thankful that you're
16 here today. We'll hear from the first panel, the
17 Bloomberg administration panel. We have many,
18 many witnesses here today. 60 something
19 witnesses. In order to get through all of the
20 testimony today we will unfortunately have to put
21 panelists on the clock. I have asked, however,
22 the Bloomberg administration to do a full
23 presentation. You will not be restricted by the
24 clock. And so testifying for the administration,
25 Rohit Aggarwala. And Rohit, I'd like to welcome

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2 you here today and, you know, thank you for all of
3 your work and for meeting with, you know, so many
4 stakeholders and working in close partnership with
5 the Council staff. I would ask you and the
6 members of your panel to be sworn. After which,
7 you can introduce the members of your panel and
8 give us your good testimony. So thank you very
9 much for being here. I call upon Counsel to swear
10 the panel and then introduce the panel, state your
11 name for the record and then we're off.

12 SAMARA SWANSTON: Please raise your
13 right hand. Do you swear or affirm to tell the
14 truth, the whole truth and nothing but the truth
15 today?

16 [Off Mic]

17 ROHIT T. AGGARWALA: Thank, you
18 Chairman Gennaro, members of the Committee,
19 sponsors who are here. My name is Rohit T.
20 Aggarwala and I'm the Director of Long-Term
21 Planning and Sustainability. Joining me today
22 from the administration, to my right, James
23 Colgate, Assistant Commissioner at the Department
24 of Buildings; Chris Browne, Senior Director at the
25 Department of Finance; Laurie Kerr, Senior Policy

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2 Advisor in my office, and several members of the
3 Administration on hand incase of specific
4 questions. I'm also joined by two of our partners
5 from the United States Environmental Protection
6 Agency, who will testify separately, and we are
7 always grateful for their partnership and their
8 presence here. And of course I'm grateful to you
9 and to the Committee for your partnership on this
10 and the close cooperation we've had and for the
11 opportunity to testify today on the four bills
12 before you, which comprise the legislative
13 component of the Greener Greater Buildings Plan,
14 which Mayor Bloomberg, Speaker Quinn and you
15 proposed this past Earth Day in fulfillment of one
16 of PlaNYC's initiatives. Two years ago, as you
17 mentioned Mr. Chairman, the City Council passed
18 into law the goal put forward by the Mayor and the
19 Sustainability Advisory Board of achieving a 30%
20 reduction in the City's carbon footprint by 2030.
21 Since that time, we've seen dramatic fluctuations
22 in the price of oil and other energy sources.
23 We've seen the worst economic situation in a
24 generation make it ever more important that New
25 Yorkers reduce ongoing expenses and create jobs.

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2 We've witnessed increased instability in several
3 of the nations on which the United States is
4 dependent for energy. We've seen increasing proof
5 that the risks of climate change from greenhouse
6 gasses are real. Two years in, the goals and
7 initiatives of PlaNYC stand with even greater
8 urgency and relevance. And of course it's only a
9 coincidence but not perhaps a surprising one today
10 that the House of Representatives will be
11 considering what may well be the most important
12 piece of environmental legislation that we will
13 see in our lifetimes. Some have used the current
14 state of the economy as an excuse for less
15 ambitious action on climate change. I would argue
16 as has everyone from Thomas Friedman to President
17 Obama that the exact opposite is the case. PlaNYC
18 laid out an ambitious but achievable agenda for
19 tackling New York City's long-term economic and
20 environmental challenges. It set forth 127
21 initiatives that address the long-term quality of
22 life needs that our still growing city faces,
23 while also ensuring that it does not place
24 uneconomic burdens on New Yorkers. As you know,
25 and with the help of the Council we have made

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2 great progress on many of these initiatives. In
3 fact, our annual report, issued in accordance with
4 Local Law 17 of 2008, which you sponsored,
5 reported that two-thirds of the 127 initiatives
6 that are in the plan are either on time or ahead
7 of schedule to meet the milestones for December of
8 this year that we laid out in the original plan.
9 One of PlaNYC's key findings was that the energy
10 that we use in New York City's 950,000 buildings,
11 the heating oil, the natural gas, the electricity,
12 the steam, accounts for nearly 80% of New York's
13 overall carbon footprint. Further, we know that
14 because of the way that energy prices are set,
15 citywide efficiency measures save every individual
16 New Yorker money. So there is a compelling public
17 purpose, even aside from climate change and air
18 pollution, for achieving energy efficiency.
19 Finally, 85% percent of the buildings that New
20 York City will have in the year 2030 already exist
21 today. As a result, if we are serious about
22 energy efficiency and climate change action, we
23 must take real effective steps to ensure the
24 ongoing energy efficiency improvement of existing
25 buildings around the City. At the same time, we

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2 also know from PlaNYC that New York City is the
3 most environmentally efficient economy in the
4 United States. As a result, even if the
5 environment were our only focus, we must not take
6 actions that impose uneconomic investments, those
7 that don't pay for themselves over time. Such
8 actions would have the negative impact of making
9 New York City uncompetitive and driving population
10 and job growth to less environmentally efficient
11 parts of the United States. With those concerns
12 in mind we worked with you, Mr. Chairman, Speaker
13 Quinn, several members of the Council, including
14 Council Members Viverito and Garodnick, and a
15 range of stakeholders to develop the Greener
16 Greater Buildings Plan. We believe that this plan
17 is the most comprehensive and thoughtful approach
18 proposed by any American city to make existing
19 buildings greener, and we recommend that you
20 approve the four bills before you today that make
21 up its legislative component. The principles on
22 which this legislative package is based are fairly
23 simple. First, the largest buildings in New York
24 City total only 22,000 building, but account for
25 nearly half the City's entire energy consumption.

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2 Such buildings over 50,000 square feet generally
3 have some sort of professional building manager,
4 superintendent or other manager. Second, many
5 energy efficiency retrofits pay for themselves in
6 a short period. This is why several of New York
7 City's leading real estate developers and managers
8 have already invested carefully and thoughtfully
9 in their buildings, but many have not, either
10 because the market does not value efficiency fully
11 or because they have leases that split incentives
12 and thus make energy efficiency less attractive to
13 both the owner and the tenant, or simply because
14 they do not know what opportunities exist. Many
15 landlords either have not focused on energy
16 efficiency or have subjected efficiency
17 investments to unrealistically high hurdle rates,
18 such as investing only in projects that pay for
19 themselves in one year. That's like saying that a
20 bank account that paid you a 50% interest rate
21 wasn't a good enough return and you would only
22 save money if it paid you 100% each year. These
23 paybacks also mean that these opportunities should
24 be captured by whoever is paying the energy bills.
25 If the landlord will save the money, there is no

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2 reason for tenants to have to foot the bill for
3 the improvement. If on the other hands the
4 tenants pay for the energy directly by a meter or
5 a direct allocation based on energy consumption,
6 the landlord will reap no savings and thus should
7 not have to make any investment. Third, we know
8 each building is different. Some improvements,
9 such as lighting, are available to virtually every
10 building, but many are not. The investments that
11 pay for themselves in a 100-year old building
12 that's been well maintained are very different
13 from those that would pay for themselves in a 20-
14 year old building that has been poorly maintained
15 and vice versa. Similarly, the design of some
16 buildings simply doesn't allow them to achieve
17 high efficiency in an economic way. So aside from
18 lighting and a few other minor improvements, we
19 know that there is no cookie cutter approach to
20 smart energy savings. Finally, we know that
21 energy efficiency improvements that pay for
22 themselves within several years always make sense
23 for any building, big or small, luxury or
24 affordable, commercial or residential. The only
25 question is whether financing is available. The

Greener Greater Buildings Plan was designed with these principles in mind. First, with Intro 564A it takes local control of our energy code and in conformity with State law tightens it by closing a loophole that allows inefficient building components to be replaced in kind. Essentially it means that any components such as light fixtures, windows and ventilation fans that are newly installed must meet existing energy codes. Because code compliant equipment is already required for new construction and major renovations, this will add virtually no cost and requires the use only of equipment that is already widely available. A provision in the bill makes clear that any parts of the building that are not being renovated, such as an entire ventilation system if you are just changing a fan, do not have to be upgraded. But it does mean that as renovations take place, more of our older buildings will have increasingly efficient systems. Intro 476A would require all buildings over 50,000 annually to fill out an online benchmarking survey related to the building's energy consumption, the results of which will

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2 eventually be available to the public as part of
3 the Finance Department's annual tax assessment
4 role. This will allow prospective purchasers and
5 tenants to take efficiency into account when doing
6 due diligence on a given building. This public
7 disclosure is a critical component of the bill,
8 because it works with the market, allowing
9 building owners and tenants to make choices on
10 their own, but ensuring that building owners may
11 have to compete on the basis of energy efficiency.
12 Across the United States, cities and states are
13 actively making energy information more attainable
14 in this way. The State of California, the
15 District of Columbia and other municipalities have
16 adopted similar annual benchmarking and disclosure
17 legislation. The benchmarking tool, which was
18 developed by the US EPA and is available online
19 for free, takes into account building type,
20 occupancy type, hours of usage and energy
21 consumption to understand how efficient a given
22 building is relative to other buildings in the
23 United States, given its specific weather
24 conditions and the way in which its occupants use
25 it. Filling in the benchmarking tool requires

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2 only basic information about the building's
3 occupancy and its energy bills, which should be
4 generally available to building managers. For the
5 average building we expect this to be no more than
6 a few hours of work the first time and less after
7 a manager knows how to do it. The City is holding
8 itself to a higher threshold by requiring and
9 supporting the clause in this bill that requires
10 all City-owned buildings greater than 10,000
11 square feet to be benchmarked. And we have
12 already begun that process. We have two-thirds of
13 our public schools entered into the tool. We're
14 completing the rest and we're working on the
15 remainder of City properties. 476A has several
16 important caveats. First, residential building
17 owners and managers will not be required to obtain
18 tenants' energy bills if they are individually
19 metered. Requiring such would be a major
20 imposition on both tenants and landlords and we
21 envision eventually that a New York City specific
22 overlay to the EPA tool will adjust for
23 residential buildings that only have data for
24 central systems. Second, for each building class
25 there is one year in which the data will be

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2 required, but in which it will not be disclosed to
3 the public that first year. The intention of this
4 is to allow the building owner an opportunity to
5 get the data correct, to understand and fix any
6 inaccurate results and to begin work towards
7 improved efficiency. Third, the bill includes a
8 provision to temporarily postpone the public
9 disclosure of the benchmarking results for certain
10 building classes for which the EPA's tools
11 accuracy is currently under question. Finally, it
12 requires the Department of Environmental
13 Protection work towards the direct uploading of
14 water consumption data, so landlords do not need
15 to have their water bill available in order to
16 fill it out. The third bill, Intro 973 requires
17 that all buildings over 50,000 square feet upgrade
18 their lighting to meet code at least once by 2022
19 and as part of any major renovations between now
20 and then. Lighting within residential units will
21 not be impacted because the energy code does not
22 address lighting in these spaces. Given that
23 lighting technology has advanced so quickly the
24 modernization of lighting that is more than seven
25 years old virtually always pays for itself in a

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2 period of 18 to 24 months. It also will achieve
3 considerable energy reductions, because energy
4 used for lighting constitutes almost 20% of our
5 overall consumption in buildings. The fourth and
6 final bill of the Greener Greater Buildings Plan,
7 Intro 967 addresses the imperative need for
8 continuous energy upgrades in our existing
9 buildings. The bill concentrates only on the
10 central systems of buildings and prescribes a
11 process for energy improvements every ten years.
12 The process begins with an energy audit, which is
13 a professional assessment of the energy efficiency
14 improvements that could be made along with an
15 analysis of the costs and savings from each one.
16 The building will have three years to complete
17 those investments, including both capital
18 investments and tune-ups that pay for themselves
19 within seven years. By investing in central
20 systems, the owner will reap the financial savings
21 from the energy reductions. This approach was
22 selected because all existing buildings are
23 different. A one-size fits all solution will not
24 work. Setting a particular goal in terms of
25 energy use per square foot does not make sense,

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2 since some buildings were designed and built to be
3 more efficient than others, nor does it make sense
4 to require a certain energy reduction target for
5 all buildings. A 20% reduction for one building
6 that is poorly performing could be achievable and
7 cost effective, but for an already well performing
8 building it might be expensive. However,
9 implementing building specific measures that have
10 been calculated to have a quick payback always
11 makes sense. Whether it is a seven or a five-year
12 payback, a 14 or a 20% return on investment is
13 always good business. Although energy efficiency
14 improvements that pay for themselves make economic
15 not just environmental sense, we recognize that
16 some building owners may not have the financial
17 resources to undertake these improvements, even if
18 they believe that it will help their bottom line
19 over time. In some cases a building's existing
20 condition makes it difficult for an owner to pay
21 property taxes, water charges or make emergency
22 repairs, let alone tackle longer-term capital
23 improvements. In other cases, a building's
24 limited capital reserve or high level of debt may
25 preclude the owner from taking on additional

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2 financing to pay for the improvements. To address
3 these challenges the bill allows building owners
4 to receive a one-year renewable extension to meet
5 these requirements if the building cannot obtain
6 financing. We also know, however, that these
7 buildings' financial conditions stand to benefit
8 greatly from energy efficiency improvements
9 because they lower a building's operating cost.
10 To begin to help owners overcome financial
11 challenges in making these improvements, the City
12 has proposed to use \$16 million in federal
13 stimulus funding to establish a pilot revolving
14 loan fund targeted directly to financially
15 distressed buildings. Loans will be made at below
16 market rates with owners repaying the loans with
17 savings accrued from reduced energy costs. The
18 fund will also serve as an important model to
19 private financial institutions by demonstrating a
20 lending model based on energy savings, thereby
21 encouraging the private sector to replicate this
22 kind of loan fund. In addition, this past August
23 and September in 2008 NYSERDA and the state's
24 investor owned utilities filed proposals to the
25 state's public service commission to provide

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2 financial assistance to residential and commercial
3 buildings who participate in either NYSERDA or
4 utility run energy efficiency programs. A small
5 number of fast track programs have been approved,
6 but most of these programs are not what New York
7 City needs most. The City is still waiting on the
8 public service commission to assess the remaining
9 proposals and to allocate funding for those that
10 are approved. Between NYSERDA, ConEdison and
11 National Grid, the total energy efficiency program
12 funding requested for 2009 through 2011 is over \$1
13 billion. In 2007 the total state funding was
14 already \$175 million a year. Of the billion,
15 approximately \$275 million is tailored
16 specifically to meet New York City's needs in
17 large multi-family and commercial buildings.
18 During the coming months, the City will continue
19 to work to put pressure on the public service
20 commission to move quickly to approve the
21 additional funding for energy efficiency and
22 ensure that these funds are allocated
23 proportionately to New York City. I'd also like
24 to point out that in the Waxman-Markey Bill under
25 consideration on the floor of the House of

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2 Representatives today, there is a multi-billion
3 dollar energy efficiency program that would come
4 form the cap and trade revenues. And I was down
5 in Washington speaking with the New York
6 delegation yesterday and the day before and we
7 succeeded in having a provision that ensures that
8 multi-family and large commercial buildings will
9 in no way be discriminated against in the amount
10 of Federal efficiency money that they will be
11 eligible to receive. So all energy efficiency,
12 all buildings around the country will be on an
13 even footing. Together, these four pieces of
14 legislation will create 19,000 construction
15 related jobs over the next 12 years, in fields
16 such as Auditors, Retro Commissioners,
17 Retrofitters and a variety of support services.
18 It is essential that both new and existing workers
19 are well trained and learn the necessary skills to
20 fill these green jobs. To achieve this goal, the
21 City has created a working group in partnership
22 with, among others, the Real Estate Board of New
23 York, The Central Labor Council, 32 BJ and the
24 Building Trades Council, to identify the training,
25 certifications and experience needed by workers to

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2 complete the work to be created by the Greener
3 Greater Buildings Plan, as well as existing
4 training programs and any skills or training gaps
5 that may exist. The City will work with USGBC,
6 CUNY, NYSERDA and others, including Organized
7 Labor, establish whatever needs to be established
8 in terms of additional curricula, certifications
9 and training programs to ensure that all New
10 Yorkers have the opportunity to realize these
11 opportunities. In close cooperation with the
12 Council we have been working on these bills for
13 nearly two years. This package of legislation is
14 the single largest step we can take towards
15 meeting our 30 by 30 goal. And together these
16 four bills are anticipated to reduce greenhouse
17 gas emissions by 15%, generate \$125 million in
18 annual wages and save New Yorkers \$750 million a
19 year in energy costs. We recognize that these are
20 complicated issues, and in response to stakeholder
21 comments over the last year and more, we have made
22 many provisions and allowances. We also recognize
23 that there are remaining legitimate concerns that,
24 as you pointed out Mr. Chairman, we are working on
25 and are committed to work on. The qualifications

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2 for auditors and those performing retro
3 commissioning must be clarified either in the bill
4 or in the rule making that follows. For those
5 roles we must strike a balance to ensure that they
6 have all the relevant expertise, but also allow
7 the opportunity for many New Yorkers to undertake
8 those new careers. We know that some provisions
9 in leases and in rent regulation laws could allow
10 the landlords to pass on the capital costs of
11 projects that, by definition, will only be
12 required if the landlord would save money
13 themselves on energy. That would be a violation
14 of the principle that investments should be made
15 only when there is a return in the investment to
16 the investor. We are committed to working through
17 that issue and ensuring that tenants do not pay
18 for improvements that pay for themselves. We also
19 realize that many in the real estate community are
20 concerned about the process by which retrofits
21 would be required, and the provisions for
22 determining which buildings are financially
23 distressed. We are committed to continuous
24 improvement of our building stock, but we are also
25 committed to considering fully any serious

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2 proposals for alternative approaches that would
3 achieve the goal of continuous energy efficiency
4 improvement in existing buildings. We look
5 forward to our continued collaboration with the
6 City Council on developing sound green building
7 policies, including the refinement of the four
8 bills under discussion today. I thank you for the
9 hard work that you and your staffs have put into
10 this. I thank you for the opportunity to testify,
11 and I'm happy to answer any questions. Thank you.

12 CHAIRPERSON GENNARO: Thank you,
13 Mr. Aggarwala. I appreciate your comprehensive
14 testimony. I believe we're going to hear the EPA
15 testimony before we proceed to questions. Right?
16 And so happy to take the testimony from Ms.
17 Sullivan. Do we have those statements? Are those
18 the statements?

19 ALEXANDRA SULLIVAN: Yes. Those
20 are the statements.

21 CHAIRPERSON GENNARO: Great. I'll
22 take this opportunity to say that we've been
23 joined by Council Member Melissa Mark-Viverito,
24 prime sponsor of proposed Intro 476A. Happy to
25 have you with us, Melissa. Okay. We have the EPA

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2 statement and Ms. Sullivan, please proceed with
3 your statement.

4 ALEXANDRA SULLIVAN: Okay. Thank
5 you. Good morning Chairman Gennaro and other
6 members of the Committee. Thank you for the
7 opportunity to join you today to discuss the
8 important energy and environmental issues before
9 the Committee, in particular Proposed Introduction
10 476A. The New York City Council demonstrates
11 great leadership as the first in the country to
12 propose energy benchmarking for both residential
13 and commercial buildings. We believe that
14 benchmarking the energy use of buildings is a
15 critical step on the path to superior energy
16 management and will help deliver important
17 environmental benefits for the residents of the
18 City and the global community. I know that you
19 are well aware of the many challenges related to
20 increased energy use that face our nation and New
21 York City in particular and you are to be
22 commended for identifying existing buildings as a
23 major opportunity to reduce energy consumption in
24 the City. Energy efficiency offers one of the
25 lowest cost solutions for improving energy

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2 reliability and security, reducing our energy
3 bills and addressing the important issue of global
4 climate change, all while helping to grow the
5 economy. Since its inception in 1992, the ENERGY
6 STAR program has helped individuals and
7 organizations nationwide find cost effective
8 energy efficient solutions. Americans, with the
9 help of ENERGY STAR prevent about 43 million
10 metric tons of greenhouse gas emissions in 2008
11 alone, saving more than \$19 billion on their
12 utility bills. For more than a decade EPA,
13 through ENERGY STAR, has worked with tens of
14 thousands of building owners and managers to
15 reduce energy use in buildings. EPA tailors easy
16 to use tools and cost effective solutions through
17 ENERGY STAR to help businesses and organizations
18 reduce energy waste in buildings. We provide
19 objective information for buildings of all types,
20 sizes and functions, including offices, hospitals,
21 schools, retail stores, hotels, congregations and
22 many others. The cornerstone of the ENERGY STAR
23 program for buildings is energy benchmarking.
24 Simply put, you can't manage what you don't
25 measure. Measuring energy in buildings is the

1 first step to improving energy performance. EPA
2 has developed Portfolio Manager to assist building
3 owners and managers to measure and assess energy
4 use in a standardized way. Portfolio Manager is
5 an interactive energy management tool that is
6 referenced in the proposed bill 476A as the
7 mechanism by which building owners in New York
8 City will benchmark their energy performance. You
9 can rest assured that portfolio manager is well
10 suited for this type of use. It is a free tool
11 that allows users to assess and track energy and
12 water consumption for a single building or across
13 a portfolio of buildings within a secure online
14 environment. A short amount of time is spent
15 entering basic facility and utility bill data into
16 Portfolio Manager, allows owners of all types of
17 buildings to assess energy and water use and set a
18 baseline to identify underperforming and top
19 performing buildings; to prioritize energy
20 efficiency projects; to verify efficiency
21 improvements; to understand the carbon emissions
22 associated with a building; to obtain data to
23 support mortgage, sale and or lease transactions;
24 to document performance in energy service
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2 contracts and to communicate energy performance
3 with tenants, customers and the general public.
4 There is growing national interest in benchmarking
5 energy use as a way to spur and measure
6 improvements in buildings. National associations,
7 such as the Building Owners and Managers
8 Association, and the American Society of
9 Healthcare Engineers, and the National Restaurant
10 Association, are all encouraging, actually
11 challenging their members to assess energy use in
12 their buildings as an important first step towards
13 achieving improvements. Through 2008
14 organizations of all types have used portfolio
15 manager to benchmark the energy performance of
16 over 80,000 buildings, representing more than 11.5
17 billion square feet of commercial space across the
18 country. Here, in the New York City metropolitan
19 region, more than 4,000 commercial buildings
20 representing over 1 billion square feet of space
21 have already benchmarked with Portfolio Manager.
22 Use of Portfolio Manager for energy benchmarking
23 is also high in other major US metropolitan areas,
24 including Los Angeles, Chicago and Washington,
25 D.C. Perhaps more important, benchmarking with

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2 Portfolio Manager has become a key part of
3 standard business practice for most of the largest
4 building managers and management companies in the
5 country, including CB Richard Ellis, Marriott and
6 JC Penney. Portfolio Manager benchmarking is also
7 widely used among school districts across the
8 country, and right here in the City for New York
9 City's public schools. The popularity and success
10 of benchmarking with ENERGY STAR continues to grow
11 dramatically. In fact in 2008, the total number
12 of buildings benchmarking energy use in Portfolio
13 Manager increased by nearly 35%. We believe this
14 growth is due to several factors including growing
15 public and private concerns with climate risk,
16 increasing energy prices, increased consumer
17 awareness of the ENERGY STAR program, recognition
18 of EPA as a trusted and unbiased authority on
19 energy efficiency, and EPA's commitment to
20 continually upgrading the tool and adding new,
21 user-friendly features. One such feature is the
22 ability for building owners to share information
23 with others through a secure online feature. This
24 may be helpful in thinking about the
25 implementation of the provisions in proposed bill

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2 476A. While most of what I have described so far
3 applies to commercial buildings, there is also a
4 growing interest in the real estate community for
5 tools that allow similar benchmarking at multi-
6 family high-rise residential buildings. Many
7 companies who benchmark commercial properties in
8 Portfolio Manager also own residential properties
9 and would like to include these properties in
10 their benchmarking activities. And now, New York
11 City as well as several other cities across the
12 country have expressed a similar interest in being
13 able to include residential buildings in Portfolio
14 Manager. To respond to this growing interest I am
15 pleased to report that owners and managers of
16 multi-family high-rise residential buildings can
17 now track energy use and associated greenhouse gas
18 emissions in Portfolio Manager. New York City can
19 lead the way to a new standard for tracking and
20 disclosing building energy use. The City has the
21 opportunity to be among the first to require
22 benchmarking of existing private commercial
23 buildings to extend the requirement to large
24 residential buildings and to require reporting and
25 public disclosure of energy use. The concepts

1 included in the proposed legislation build on a
2 rapidly growing trend of local and state
3 governments passing legislation aimed at improving
4 the energy performance of commercial buildings.
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6 The District of Columbia; Austin, Texas;
7 Westchester, Pennsylvania; Denver, Colorado; and
8 the states of Minnesota, Ohio, Michigan,
9 California and Washington have all enacted
10 legislation that applies Portfolio Manager and
11 ENERGY STAR tools to improve the energy
12 performance in public and or commercial buildings.

13 We believe that the disclosure of energy
14 benchmarking data as required in California and
15 included in proposed Introduction 476A is an
16 important tool that will allow investors and
17 renters to make better informed decisions. These
18 disclosure requirements will ultimately drive
19 owners and operators to improve the energy
20 efficiency of their buildings. With the
21 benchmarking and disclosure concepts in Proposed
22 Introduction 476A you are clearly in good company.
23 You join leading state and local governments in
24 accomplishing your goals by leveraging the most
25 successful national energy efficiency program in

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2 the history of this country. With the concepts
3 being considered in this hearing today, you can
4 raise the bar and set a first class example for
5 others to follow. Benchmarking the energy use of
6 commercial and residential buildings and the
7 energy efficiency improvements that will follow
8 can benefit all New Yorkers by helping to ensure
9 greater energy reliability and a higher level of
10 environmental protection. I thank you again for
11 the opportunity to appear before you today and I
12 am happy to take any questions.

13 CHAIRPERSON GENNARO: Thank you
14 very much, Ms. Sullivan. We appreciate your
15 testimony, appreciate EPA's deep involvement in
16 benchmarking and all that you've done. I failed
17 to mention the last time I had an opportunity that
18 we were joined by Council Member Crowley. Thank
19 you for being here, Council Member Crowley. And I
20 will start with some brief questions. I'm going
21 to limit my questions. We have many, many
22 witnesses who wish to be heard and I'm going to do
23 my best to move through my questions quickly so we
24 can get to the many good witnesses who are here
25 today. Plus, I could talk to you anytime. You

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2 know. But one part of your statement with regard
3 to what we're trying to do with NYSERDA to create
4 a local funding program, we talked about the
5 program being over \$1 billion, all the state
6 funding, and you talked about what steps in the
7 upcoming months the City will do to put pressure
8 on PSC to move to approve additional funding. And
9 what steps is the City taking to make that happen?

10 ROHIT T. AGGARWALA: So last year
11 in fact the City worked very closely with NYSERDA,
12 ConEdison and National Grid to develop that set of
13 proposals. We have been including the advocacy
14 for all those proposals in all of our various
15 submissions to the public service commission.
16 We've also been very aggressive and outspoken,
17 even up to and including the Mayor himself in his
18 State budget testimony and including once on his
19 radio show a few weeks back, in essentially
20 complaining about that fact that the Public
21 Service Commission has been so slow in enacting
22 the specific programs that are most important to
23 New York City. However, I should make it clear
24 this doesn't mean that there's no money available.

25 CHAIRPERSON GENNARO: Right.

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2 There's \$175 million there. There are many very
3 successful NYSERDA programs, I think later on
4 today, some of the examples that are intending to
5 appear before you will talk about how they've used
6 NYSERDA money. But I think it's important to note
7 we are still working to ensure that as much
8 funding is there as we would like. But, there are
9 a number of different efforts going on at the
10 local, state and federal levels to expand the
11 amount of funding that's available. And so the
12 fears about having financing be available should
13 be ameliorated by the absolute certainty that one
14 way or another this year there's a lot more money
15 available than there was last year. Next year
16 there will be a lot more money available than
17 there was this year and the year after that there
18 will be still more.

19 CHAIRPERSON GENNARO: Thank you.

20 Also in your statement we talked about the City's
21 proposal to use \$16 million in Federal stimulus
22 funding to create the pilot revolving loan fund.
23 And this was going to provide a model that private
24 financial institutions could start doing these
25 kinds of loans. And can we talk a little more

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2 about what kind of interaction we've had with the
3 banking community and why perhaps we're somewhat
4 sanguine that financial institutions will, you
5 know, rise to this challenge and make these kinds
6 of loans available?

7 ROHIT T. AGGARWALA: So among the
8 many conversations that we ourselves and also
9 other groups both within the City and across the
10 state have had with financial institutions has
11 been about the need for a variety of different
12 financial mechanisms that would suit different
13 building circumstances. Some buildings may be
14 very eager to go through a NYSERDA program. Some
15 buildings may do a mortgage refinancing and have
16 energy efficiency improvements incorporated into
17 that. Some buildings may not want to touch their
18 mortgage but rather take financing that's on the
19 side and may not even be secured financing. And
20 it's actually that latter bucket that is the
21 biggest single gap in the world of energy
22 efficiency financing mechanisms that are out
23 there, the idea of unsecured financing backed only
24 by the energy efficiency saving themselves. In
25 our conversations with the banking community, they

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2 are very eager to explore that kind of loan
3 program, and particularly eager-- and I think
4 government would be a willing partner whether on
5 the state, federal or local level, to provide loan
6 guarantees for that kind of unsecured loan as long
7 as the proceeds were only used for energy
8 efficiency investments. But there is no wide use
9 of that kind of loan at this point and therefore
10 they don't know what kind of loan guarantee they
11 would need. What would the loan loss reserve be?
12 What's the right interest rate for that kind of
13 loan? And so that's actually the gap that we see
14 this pilot program as filling, for those buildings
15 that need a relatively low cost, unsecured loan,
16 because they don't want to touch their existing
17 building financing.

18 CHAIRPERSON GENNARO: Thank you. I
19 will come back for some more very brief questions,
20 but I want to get some of my colleagues into the
21 mix. Some of them have signed up for questions.
22 I recognize Council Member Garodnick for
23 questions.

24 COUNCIL MEMBER GARODNICK: Thank
25 you, Mr. Chairman, and I realize that there are a

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2 lot of witnesses, so I will keep my questions
3 brief and if you can keep your answers brief we'll
4 just go through a few of them very quickly and I
5 think we'll be able to get a few things, points of
6 clarification on the record here. First is, on
7 564, that's the Energy Code Bill, just tell us a
8 little bit about the costs here. Is this going to
9 raise costs for people and will it add additional
10 paperwork and impact job creation, things like
11 that? Help us understand whether there's going to
12 be economic impacts to the detriment of people who
13 are trying to accomplish these goals?

14 ROHIT T. AGGARWALA: The short
15 answer is no. We don't see any real economic
16 challenges from the tightening of the energy code
17 for two reasons; one, because all of the equipment
18 that would be required is currently available and
19 the bill is structured in such a way that would
20 not require any additional work that's not already
21 intended to be done to be done. Code compliant
22 equipment is virtually the same cost as non-code
23 compliant, maybe a few percentage points
24 difference. But we also know, and the second data
25 point on that is that many other states have a

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2 tighter code than we do with respect to this
3 provision and they have seen no major economic
4 challenges to whether renovations get done or
5 don't get done or whether buildings are
6 competitive.

7 COUNCIL MEMBER GARODNICK: Any
8 additional paperwork?

9 ROHIT T. AGGARWALA: I'd actually
10 ask James Colgate, perhaps, to ask about the
11 permitting-- to answer about that, please.

12 JAMES COLGATE: Hi. My name is
13 James Colgate; I'm Assistant Commissioner at the
14 Department of Buildings. No there would not be,
15 because there would be no additional requirement
16 for filing papers with us that aren't already
17 required to be filed with us right now. We have
18 processes in place for any application to certify
19 that they comply with the Energy Code and provide
20 that information on the plans. And it's the same
21 process we have now, it just folds right into what
22 we do now.

23 COUNCIL MEMBER GARODNICK: Thank
24 you. Now on benchmarking, would owners of a
25 building need to hire a professional to do this or

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is this something that they can do on their own?

ROHIT T. AGGARWALA: We believe that this can be done by building staff and in fact the EPA was good enough to give my staff late last year a sample of the training course, a couple hour training course, that allows anybody even as dumb as me--

COUNCIL MEMBER GARODNICK:

(Interposing) How'd you do, Rohit?

ROHIT T. AGGARWALA: I passed. To do this in a couple of hours. And perhaps, Alex, you could talk about that?

ALEXANDRA SULLIVAN: Sure, yeah. I think the tool is quite straightforward to use. We have a number of trainings available, live ones that occur regularly, and pre-recorded ones. And we do work with organizations of all sizes. So I did call attention to the large companies, but we also work with school district that have four schools, with congregations that have one parish, automobile dealers-- one dealer, and these individual one-off organizations and individuals can also use the tool. And we have resources for them.

2 COUNCIL MEMBER GARODNICK: The EPA
3 benchmarking tool, this is a national tool that
4 you all have. The question that I would have is
5 whether there is any tweaking necessary to be able
6 to handle New York City's conditions and New York
7 City's buildings and I understand from Mr.
8 Aggarwala that there was one element in your
9 testimony where you said there was some question
10 about the accuracy. And I don't know exactly what
11 you were referring to when you said that, but I
12 think it may be linked to this whole question
13 about whether the benchmarking tool is linked in
14 closely enough to our conditions here in New York.

15 ALEXANDRA SULLIVAN: Yes. The
16 benchmarking tool is appropriate for use in all
17 states and cities. The weather normalization that
18 occurs and is available for all building types is
19 based on zip code. We also do greenhouse gas
20 emission inventory, and that is regionalized to
21 your portion of the grid in accordance with all
22 standard protocol. So the information for a
23 building in New York City is extremely relevant
24 and useful.

25 ROHIT T. AGGARWALA: The one--

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2 there are a couple of building types that are more
3 common in New York City or uses that are more
4 common in New York City than generally across the
5 country. And some of the stakeholders here have
6 raised questions about those. And while-- those
7 include for example buildings with more than 10%
8 of the floor area or the energy consumption in
9 data centers, television studios, some of the
10 things that are not unique to New York but highly
11 concentrated here. And what the bill does is it
12 retains for those buildings the requirement to do
13 the benchmarking, but it would suppress the public
14 reporting until such time as we are all convinced
15 through the annual analysis of the results that my
16 office and the EPA would do together, under the
17 provisions of the bill, that those are accurate.
18 The idea is that you still need to do the
19 analysis, but if there is any question about the
20 accuracy of the number, it shouldn't be publicly
21 disclosed because it would be misleading.

22 COUNCIL MEMBER GARODNICK: Thank
23 you. And then lastly on the audit and retrofits.
24 There are some concerns among tenant advocates on
25 the subject of rent-stabilized tenants possibly

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2 footing the bill for improvements that are
3 required under the legislation. And of course we
4 all know that when something is eligible for an
5 MCI and if it is indeed allowed to go forward by
6 DHCR that it can stay permanently on a tenant's
7 rent bill, at least today, unless that law, you
8 know, changed in the State senate without my
9 noticing today. The question is, is there any
10 protection here for rent stabilized tenants so
11 that you have a situation where they're not
12 permanently paying for these improvements, even
13 while the energy benefits are being recouped by
14 the owner?

15 ROHIT T. AGGARWALA: So as I
16 mentioned in my testimony, the concern about the
17 double-dipping, essentially making an investment
18 that would directly pay for itself and then being
19 able to pass along the cost in perpetuity to the
20 tenants is a legitimate concern and something that
21 the Mayor and I noted on Earth Day. In fact when
22 we announced the bill, we do not have a solution
23 for it, so it is not reflected in the terms of the
24 bill at the moment, but it is something that we
25 are committed to finding a solution for. There

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2 are a number of different potential avenues that
3 we can take to solve that and we will-- we commit
4 to coming up with a solution.

5 COUNCIL MEMBER GARODNICK: Thank
6 you. And you know, we share that concern
7 obviously and want to find a way to handle that,
8 because I think we all agree that that's not
9 exactly what is intended here. So we're going to
10 need to find a way collaboratively to find a
11 solution. So thank you very much for that. Again
12 Chairman, thank you.

13 CHAIRPERSON GENNARO: Thank you
14 Council Member Garodnick. And I was going to
15 bring up that issue as well, so thank you Dan for
16 asking one of my questions. I think you must work
17 for me. Thank you. I recognize Council Member
18 Vallone.

19 COUNCIL MEMBER VALLONE: Thank you,
20 Mr. Chair. I want to commend you and Council
21 Member Garodnick and anyone else involved on your
22 environmental work. I take a backseat to nobody
23 when it comes to this and I'm honored to work with
24 you. As you know, my first bill was one that
25 capped Carbon Dioxide emissions, which you and I

1 backed off of when we learned it was the impetus
2 for Reggie [phonetic], the entire Northeast
3 Corridor. So I'm on two of the four of these
4 bills and the reason I was not on the bill
5 regarding energy audits was because the bill prior
6 to this week that I read would have required
7 tenants, residential tenants to give the electric
8 bills to the landlord, which I thought was
9 problematic for a lot of reasons. Number one, I
10 don't think tenants should have to do that; and
11 number two, I don't think they would, which would
12 not allow the landlords to comply. I see that
13 there is an amended bill now that only requires
14 commercial tenants. And so once I look at the
15 rest of the amendments, which I wasn't aware of, I
16 foresee signing on to that one also. And I may
17 have to come back with some more questions now
18 that I'm looking at the amended version. But for
19 now, some of these bills require, obviously,
20 outlay by landlords when it comes to installing
21 these improvements. There's an exception, if they
22 cannot-- if there's financial hardship. How does
23 that work? How does one prove financial hardship?
24 What are the standards?
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2 ROHIT T. AGGARWALA: Thank you,
3 Council Member. It's the provision for
4 financially distressed buildings is clearly one of
5 the more important components of the aspect of the
6 bill that requires retrofits to be made--

7 COUNCIL MEMBER VALLONE:

8 [Interposing] One of the more what?

9 ROHIT T. AGGARWALA: The more
10 important components of that bill. It is not very
11 detailed in the bill as it is written, in part on
12 purpose because we believe, and at least at the
13 moment during the drafting Council-- the Chairman
14 agreed that much of it would have to be worked out
15 by rule making. Because you need to have a
16 certain level of detail provision for that.
17 However, the way that we are imagining it would be
18 that by and large the current standards for what
19 HPD would consider a financially distressed
20 building would be the level of financial distress
21 that would allow one type of qualification for
22 that provision. There's another which would
23 essentially be an automatic provision, and that is
24 mentioned in the bill, which is that buildings
25 that have existing emergency repairs or are

1 significantly in arrears on tax or water bills
2 would be essentially automatically considered
3 financially distressed. The theory behind that is
4 if a building is in such bad shape that it has
5 emergency repairs being made, as much as we care
6 about energy efficiency, we don't want management
7 thinking about energy efficiency; we want them
8 thinking about safety and the need for high
9 quality housing for the tenants. And the third
10 would be the ability to demonstrate that you
11 attempted to get financing but were unable to do
12 so. That is in fact the least defined approach to
13 this, but it is one that we think is fair and
14 we're committed to working through.

16 COUNCIL MEMBER VALLONE: You said
17 the current standards at HPD would apply. What
18 are those?

19 ROHIT T. AGGARWALA: Actually, do
20 we have HPD? Oh. Could you talk about that?
21 This is, yeah, could you come up and introduce
22 yourself?

23 COUNCIL MEMBER VALLONE: You just
24 need to state your name for the record and
25 proceed.

2 MERYL BLOCH WEITZMAN: Meryl Bloch
3 Weitzman [phonetic], HPD.

4 COUNCIL MEMBER VALLONE: Please
5 speak very close to the microphone so we can hear
6 you.

7 MERYL BLOCH WEITZMAN: Meryl Bloch
8 Weitzman from HPD. What we're looking at is
9 buildings that are on our existing pipeline that
10 are going through our finance programs, so
11 buildings that we know will be renovated and will
12 have energy efficient measures included in them in
13 the upcoming years.

14 COUNCIL MEMBER VALLONE: Buildings
15 that you know will be renovated. How does that
16 involve financial hardship?

17 MERYL BLOCH WEITZMAN: Typically
18 for example if they're going through our programs
19 they're unable to get financing in some other way,
20 that's how they do end up coming to HPD. So
21 buildings that typically are not in financial
22 distress would not be coming to us.

23 COUNCIL MEMBER VALLONE: I see.
24 I'm not going to ask a lot of questions because
25 there are a lot of people we need to hear from.

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2 But this is my concern-- my major concern with
3 this bill, as it appears to be all of yours, the
4 fact that I don't like to leave our landlords or
5 anyone out there trying to make some money up to
6 pass a bill that has no standards and not know
7 what those will be, and leave the decision up to
8 the people who aren't elected and just part of a
9 bureaucracy. Not that that's always a bad thing,
10 but once that happens we lose control over it and
11 it takes a long time to fix. So that's something
12 I'm going to continue to work with all sides on
13 establishing those guidelines. Okay. Thank you,
14 Mr. Chair.

15 CHAIRPERSON GENNARO: Thank you.
16 Thank you, Council Member Vallone. Council Member
17 Crowley.

18 COUNCIL MEMBER CROWLEY: Thank you,
19 Chairman Gennaro. Mr. Aggarwala, I have a
20 question as it relates to the workforce
21 investment. Will there be a significant amount of
22 funds put into training and then will that
23 training, do we currently have the workforce that
24 could perform this type of work, and will?
25 Because you mention that there will be a

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2 significant amount of training for 19,000 new
3 jobs. Will there be certification and will that
4 be regulated by the Department of Buildings?

5 ROHIT T. AGGARWALA: Thank you,
6 Council Member. So the answer in general is yes,
7 to all of your questions. But to be more
8 specific, first of all, particularly with auditors
9 and retro commissioners, which are the people who
10 would be determining what energy efficiency
11 measures have the right payback, and the people
12 who would be prescribing the tune up procedures
13 for buildings, we do foresee a certification
14 process of some sort, and one that would require a
15 base of some sort of existing license. It could
16 be stationary engineers license with some
17 additional training that we will be working
18 through to determine through this work or this
19 taskforce. It could be a professional engineer;
20 it could be any number of things, and that's again
21 what we are trying to determine. Because there is
22 currently no clear license, say, for an energy
23 auditor or a building retro commissioner. So
24 those will have to be certified because those will
25 be signatures on forms to be submitted. In terms

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2 of the people doing the work, first of all we know
3 there are lots and lots of people in New York
4 already who have the skills to do this. Later on
5 this morning you'll hear from some of the labor
6 unions, and we know that some of New York City's
7 trades have existing training programs. They are
8 focused on green buildings skills. They are
9 already, in fact in some cases, some of the state
10 of the art around the world training programs and
11 facilities. And many of them have already begun
12 working with the US Green Building Council even
13 further to refine their curricula. I think one of
14 the questions that is out there is whether it is
15 auditors, retro commissioners, people doing
16 electrical upgrades, plumbing-- whatever it is, I
17 think we have to make sure that the number of
18 people who have already gone through those
19 trainings is sufficient. Some believe that it is,
20 some believe that it isn't. We have to determine
21 that and then we will work with CUNY and NYSERDA
22 to ensure the training is available. And again,
23 whether that goes through existing union programs,
24 whether it's a CUNY program, whether it's some
25 other program, we don't know yet. But we do know

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2 that just in fact one of the things that the
3 Public Service Commission did do finally two weeks
4 ago is approve \$19 million for NYSERDA to do
5 energy efficiency training for building workers.
6 So the money is there. We're working closely with
7 NYSERDA to map this out and we're pretty confident
8 that whatever training needs exist will be met.

9 COUNCIL MEMBER CROWLEY: Thank you.

10 CHAIRPERSON GENNARO: Thank you.

11 And thank you, Council Member Crowley. Council
12 Member Mark-Viverito.

13 COUNCIL MEMBER MARK-VIVERITO:

14 Thank you, Mr. Chair. Good morning, Mr. Aggarwala
15 and Ms. Sullivan. I wanted to-- and thank you for
16 your testimony. I just want to really add my
17 concern with regards to the concerns about the
18 pass through costs, MCI increases, obviously. Now
19 does that issue only pertain to, I guess it's
20 Intro 967. It would not be relevant to the
21 others, correct? Okay. So obviously I think
22 that's critical and I really would like to know,
23 you have absolutely no progress that you can
24 report on that in terms of conversations or...?

25 ROHIT T. AGGARWALA: I would not

1
2 want to say we have no progress but I don't think
3 we're at a point when we should make any
4 announcements or anything like that.

5 COUNCIL MEMBER MARK-VIVERITO:

6 Because I think obviously that would put a lot of
7 pressure on us as a council with regards to that
8 particular legislation in terms of how to we
9 proceed. And it's not to say that it's not an
10 important bill, that it's not important
11 legislation, but anything that would put our
12 tenants in further-- further concern for the
13 increase in rents, etcetera and any pass through
14 costs is something that we would want to take into
15 serious account. Now Ms. Sullivan, I wanted to
16 ask you about the tool in particular, Intro 476A,
17 which is the one that I'm sponsoring. Actually it
18 would have been kind of nice to visually see it
19 here. It could have been, you know, maybe
20 projected so we could get an idea of just what the
21 program looks like or the tool looks like, but you
22 talk about different residential buildings, you
23 talk about commercial buildings, you're talking
24 about places of worship, potentially schools. So
25 all of those different entities use the same tool,

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correct?

ALEXANDRA SULLIVAN: Yes. We have one tool and when you log in you create an account, you can put in a building type and specify the activity that happens. And we have a range of categories that are modeled off of the range in the standard Department of Energy survey for standard building categories; office, school, hospital, hotel, multi-family.

COUNCIL MEMBER MARK-VIVERITO:

Because I guess one of the concerns that was raised when we spoke earlier in one of the briefings that we had on this bill was the fact that some people making recommendations of improvements on it, they wanted to make sure that the comparisons that were being done-- because that is really the purpose of the tool is to really to compare similar buildings and structures to each other to see how they're doing in terms of energy use. So that's something that needed to be tightened up a little bit, correct?

ALEXANDRA SULLIVAN: So there's a number of metrics that are available in the tool, and they range from the energy per square foot,

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2 and that value normalized for weather, and the
3 greenhouse gas emissions and water. Those four
4 items are available for all building types and
5 there's no challenge with calculating them; they
6 can be done appropriately for New York. We also
7 have a 1 to 100 rating that is available, and that
8 one is a comparison that assesses how well you're
9 doing to your peers. And that one does depend on
10 which building type you are. So for that one we
11 have a limited number, it's 11 building types that
12 can receive this rating. So that's sort of one,
13 fifth, complimentary metric that is available for
14 a subset. But all buildings can track energy
15 normalized for weather and look at greenhouse gas
16 emissions.

17 COUNCIL MEMBER MARK-VIVERITO: Now
18 in the use of the tool, does the EPA also provide
19 any sort of recommendations for buildings that
20 maybe are not as energy efficient as they should
21 be, what options they have available, or is it
22 just a metric of benchmarking use?

23 ALEXANDRA SULLIVAN: The focus of
24 the tool is a metric of benchmarking. It does not
25 make any specific technical assessment of

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2 equipment at the building, but we do have both
3 management and technical guidelines free and
4 available online to help you figure out what you
5 do after you start benchmarking.

6 COUNCIL MEMBER MARK-VIVERITO:

7 Because you mention here in terms of the tools
8 some-- I guess some things that I would like some
9 further clarification on. You say document
10 performance in energy service contracts. What
11 exactly does that mean?

12 ALEXANDRA SULLIVAN: Sure. What we
13 mean is from the tool we have a number of outputs
14 that you can generate, including one that is a
15 summary sheet which displays the main attributes
16 of the building, its energy use, its emissions.
17 And it also includes a place where a certified
18 professional could stamp that. So we use that for
19 our own recognition, but it's also really
20 applicable for any organization who would like to
21 incorporate it. And in fact, for example, the US
22 Green Building Council in their existing
23 certification uses ENERGY STAR as part of its
24 energy credits. And so this piece of
25 documentation can serve that purpose for the US

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2 Green Building Council. In the same way if you're
3 looking in an energy service contract to
4 demonstrate that you have achieved the efficiency
5 that was set out by the program, you can generate
6 one of these standard reports before and after the
7 upgrade to your building and see a direct
8 comparison to make sure that the savings are
9 verified. So we do have these standard outputs.

10 COUNCIL MEMBER MARK-VIVERITO: Now
11 I would have a lot more questions, but I can
12 actually get those answers-- I do know we have a
13 large number of people that want to testify. But
14 I do want to thank the amount of time that's gone
15 into at least looking at some of the specific
16 concerns that New York City may have and the ways
17 of really tweaking the tool, so to speak, so that
18 it really accurately reflects our need and the use
19 that we would want. But the last question I have
20 is, obviously, you know, we're implementing
21 legislation which basically would say that we need
22 buildings of a certain type to do this, so here's
23 this tool. But in other cases there are cities
24 probably that don't have legislation like that and
25 a lot of the use of the tool is done voluntarily,

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2 correct? So how does the EPA put the information
3 out--- that you're saying there's an increase in
4 the use of the tool, but how is that information
5 put out there and what do you base it on? You
6 indicated some reasons for that, but it is
7 voluntary in most cases.

8 ALEXANDRA SULLIVAN: The ENERGY
9 STAR program is voluntary and the use of the tool,
10 when I said we have 80,000 buildings, at this
11 point that's through voluntary participation
12 because most businesses and organizations find it
13 in their financial interest to benchmark and
14 improve energy consumption. And we have found
15 through this application that really organizations
16 of all sizes see the value and therefore as a
17 voluntary mechanism it has been effective.

18 COUNCIL MEMBER MARK-VIVERITO: In
19 reducing costs--

20 ALEXANDRA SULLIVAN: [Interposing]
21 Yes.

22 COUNCIL MEMBER MARK-VIVERITO: And
23 in basically becoming more efficient as was
24 indicated. So definitely. Okay, well thank you
25 very much for your testimony.

CHAIRPERSON GENNARO: Thank you, Council Member Mark-Viverito. In the interest of time and because my colleagues have asked some of the questions I wanted to ask, I will ask just one final brief question. A brief answer is fine. What protections do building owners have from poorly performed audits or situations where bids for work come in higher than projected, extending the payback period for recommended audits beyond five years?

ROHIT T. AGGARWALA: The bill as it's currently drafted, and in fact we welcome suggestions for refinements on this, allows for a post-audit adjustment. If a building owner finds that the bids come in higher than estimated, energy costs change, what have you-- the audit itself is not the legally binding document, it's the bundle of documents at the end that are legally binding. And therefore the manager has the ability-- I mean frankly if the manager doesn't like what the auditor says, you can find another auditor, just like you can find another accounting firm if you want. You have to have one that will be certified, but you can always adjust

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2 after the fact.

3 CHAIRPERSON GENNARO: Thank you.

4 Thank you. I'm very grateful to you, Rohit and to
5 your panel for all that you've done to help us get
6 to this good day. Many, many days left before we
7 get this completely finished, but we think we're
8 well on our way and we're very gratified by this
9 outstanding partnership that we have with the
10 Bloomberg administration to get this work done.

11 Thank you very much. I appreciate your being here
12 today, and we will be talking. Okay. The next
13 panel-- oh, we're joined by Council Member Eric
14 Ulrich from Queens. Thank you, Eric, for being
15 here, a member of the Committee. We will have
16 next what we're referring to as our real estate
17 panel. Representing REBNY we have Marilyn
18 Davenport. Representing Jaros Baum and Bolles,
19 Scott Frank. Representing BOMA, Sylvester
20 Giustino. Representing RSA, Frank Ricci.

21 Representing Trinity, Emily Lloyd, a fixture
22 before this Committee for many years. A pleasure
23 to see you, Emily. Representing the New York City
24 Partnership, I'm not sure if it's Kathy Wild or
25 Ramon Cruz. Ramon Cruz? Representing Johnson

Controls, Paul Rode and--

[Pause]

CHAIRPERSON GENNARO: And we're not sure whether or not we have a representative from the New York Real Estate Association here. Do we have a representative of the New York Real Estate Association here? They're on the list, but no name. This is a record size panel that we have here. And I would ask the Sergeant to make all necessary accommodations to get the witnesses seated. It looks like we're in pretty good shape. Okay, with everyone in place and the Sergeant having the statements, we'll take this opportunity for Council to swear in the panel. I would ask Counsel to swear the panel.

SAMARA SWANSTON: Please raise your right hands. Do you swear or affirm to tell the truth, the whole truth and nothing but the truth today?

[Off Mic]

CHAIRPERSON GENNARO: Okay. Thank you. Thank you for being here. And well we could, you know what? Emily is the first person to my left here, maybe well just go in that order

1
2 and it's a pleasure to see you Emily. It's been a
3 little while, but it's wonderful to have you back.

4 EMILY LLOYD: Thank you.

5 CHAIRPERSON GENNARO: No regrets
6 about leaving government?

7 EMILY LLOYD: Thank you, Mr.
8 Chairman. Well, not since I'm able to come back
9 to City Council occasionally.

10 CHAIRPERSON GENNARO: Okay. Good
11 one.

12 EMILY LLOYD: You will find me
13 astonishingly brief today given our past
14 conversations.

15 CHAIRPERSON GENNARO: Okay.

16 EMILY LLOYD: My name is Emily
17 Lloyd and I am the Chief Operating Officer for
18 Trinity Real Estate, which is part of the Parish
19 of Trinity Church. We own and operate
20 approximately 5 million square feet of Class B
21 Commercial Space, which is concentrated in the
22 Hudson Square area in Manhattan. Trinity is
23 committed to environmental sustainability in its
24 role as a property owner as well as its role as a
25 member of the Anglican Communion, which has

embraced environmental sustainability as one of its millennium goals. We have supported the goals of PlaNYC and are actively engaged in reducing our emissions by 30% by 2030. Environmental sustainability is an issue about which the broader Hudson Square community cares deeply as well. The new Hudson Square Business Improvement District, which Trinity helped create, plans to promote sustainability in the public realm. Our creative commercial tenants also care about this issue and we work with them on strategies for sustainable fit outs in their office space. While Trinity is committed to environmental sustainability from a moral and civic perspective, we are of course also aware that our real estate supports our churches and charitable work, consequently we are very mindful of the bottom line. We look for investments that make sense environmentally and economically, and we have evaluated the proposed legislation accordingly. Trinity supports the goals of the four pieces of proposed legislation. We wholeheartedly support the substance of the lighting bill, the benchmarking bill and the bill regarding the energy code. We believe that the

1 requirements of these bills will provide concrete
2 environmental benefits at a reasonable cost to
3 owners. Comprehensive legislation should also
4 address audits and retrofits. We support
5 legislation that requires mandatory audits of
6 existing buildings so owners can identify
7 opportunities that make sense from both an
8 environmental perspective and an economic
9 perspective. Ultimately we believe that retrofits
10 of base building systems should also be required.
11 Unfortunately the structure of the commercial
12 leases representing most of Manhattan's office
13 space are not conducive, as they should be, to
14 encouraging owners to retrofit their buildings.
15 Under most office leases, capital improvements
16 paid for by owners would provide energy savings
17 only for their tenants because tenants pay the
18 operating expenses within their spaces. The
19 realignment of incentives with regard to capital
20 improvements and paybacks thus strikes us as one
21 of the keys to garnering support for mandatory
22 retrofits. It may be incumbent upon players
23 within the real estate industry to create a lease
24 structure where incentives benefit both building
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2 owner and tenant. Once they have had the
3 opportunity to do so, mandatory retrofits can be
4 considered on their merits without the concerns
5 that they currently trigger. In sum, we support
6 the three bills as written as well as mandatory
7 audits today, with an eye towards mandatory
8 retrofits in the future. Thank you.

9 CHAIRPERSON GENNARO: Thank you.
10 Thank you, Ms. Lloyd. A pleasure to have you here
11 today. Please--

12 EMILY LLOYD: [Interposing] Thank
13 you, Mr. Chairman.

14 CHAIRPERSON GENNARO: Please be
15 sure to come back any time.

16 EMILY LLOYD: Thank you.

17 CHAIRPERSON GENNARO: And sir?
18 Yes, we'll take you next.

19 SCOTT FRANK: Yes, thank you.

20 CHAIRPERSON GENNARO: If you'll
21 state your name for the record, and proceed.

22 SCOTT FRANK: Sure. My name is
23 Scott Frank and I'm a partner in the firm of Jaros
24 Baum and Bolles, Consulting Engineers. JB&B is a
25 200 person mechanical and electrical engineering

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2 firm based in New York City that designs more than
3 20 million square feet of commercial and
4 institutional building space in the city each year
5 for both new and existing buildings. We've had
6 the privilege of designing the energy related
7 systems for several of the City's most advanced
8 green buildings, including the recently completed
9 Bank of America Tower at One Bryant Park, and all
10 of the projects at the World Trade Center Site. I
11 wish to register my support for all four of the
12 bills receiving testimony today. Relative to two
13 of these proposed bills, I wish to offer the
14 following specific comments; relative to Intro
15 564A, the New York City Building Code, as
16 previously mentioned New York City is currently
17 required a statewide energy conservation
18 construction code. However, in addition to the
19 previously mentioned 50% exclusion provision, for
20 more than a decade the state has not been
21 responsive in providing required support for
22 issues germane to the downstate urban building
23 market, which in general are very different from
24 those of the many smaller non-urban jurisdictions
25 located throughout the remainder of the state.

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2 Specific areas of need include providing formal
3 interpretations of the code, granting variances
4 and enacting appropriate and timely code updates.
5 Intro 564A will start to address these critical
6 issues. I also strongly recommend that
7 appropriate measures be included in this
8 legislation to enable the City agency that will be
9 responsible for administering this code to devote
10 the resources required to rigorously and
11 successfully administer this code. If this bill
12 turns into an unfunded mandate it will not be
13 successful. Since the New York State energy law
14 was first enacted in 1976, New York City
15 government took no action of any kind towards
16 administering the energy code until 2007, 31 years
17 later. I personally have been part of the start
18 up effort with the New York City Department of
19 Buildings during the last several years in the
20 form of volunteer professional time, and have
21 taught training sessions for all of the plan
22 examination staff of the department. And I can
23 tell you firsthand that these professionals are
24 interested, dedicated and hardworking but they're
25 at the very beginning of a long process in

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2 understanding and learning how to administer this
3 technically complex set of energy regulations.
4 They will need significant resources in the form
5 of dedicated expert staff, building on the single
6 staff person they have today, and extensive
7 outsource training to administer the code as well
8 as the ability to provide education, awareness
9 raising and outreach to the industry practitioners
10 in the City who now must all design buildings in
11 conformance with this code.

12 CHAIRPERSON GENNARO: I'm going to
13 give you just a little bit of latitude because you
14 were just about to talk to-- about Intro 967--

15 SCOTT FRANK: [Interposing] Yes.

16 CHAIRPERSON GENNARO: Which is of
17 particular interest to me.

18 SCOTT FRANK: Thank you. And I
19 apologize for running long. While the audit and
20 retrofit bill may be the most complex to implement
21 of the four energy bills receiving testimony
22 today, it will require changes to leasing
23 practices to eliminate split incentives for energy
24 costs and capital investment, that should not
25 serve as a hindrance to passing this critical

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2 legislation. If our City is serious about
3 reducing carbon emissions in the near future, a
4 systematic approach for identifying energy
5 conserving opportunities within existing building
6 stock of this city is fundamental. In this regard
7 I once again must emphasize the importance of City
8 government's role in actively administering the
9 requirements of this bill. Building systems are
10 complex, more complex than, I am convinced, than
11 most people realize. The energy auditing process
12 is complex, while imminently doable, also more
13 complex, I am convinced, than most people realize.
14 And without rigorous and excellent development of
15 the details and rules for implementing the
16 requirements contained in this bill, the effort
17 could very well be an abject failure. I
18 specifically suggest that the Department of
19 Buildings be given clear instructions including
20 tasks for completion with schedule milestones, and
21 most important, the funding mechanisms to properly
22 support this undertaking in order to ensure the
23 successful beginning of the process of
24 transferring the energy efficiency of the building
25 stock of the City of New York is successful.

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Thank you, and I apologize for running long.

CHAIRPERSON GENNARO: Thank you Mr. Frank, I just wanted to give you a little bit of latitude because you were making, in particular in recommendations, to the bill. So I wanted to give the ability to do that. Thank you--

SCOTT FRANK: [Interposing] Thank you.

CHAIRPERSON GENNARO: For your statement. And the next witness? Oh, yes, Marilyn. Of course.

MARILYN DAVENPORT: Marilyn Davenport with the Real Estate Board of New York. REBNY members have been at the forefront of the green buildings movement. They are building LEED certified buildings. They have adopted energy efficiency measures for decades, because it is economically advantageous to do so, and they are making-- they have really intensified these efforts to analyze their buildings and to address tenant interests in sustainable buildings. We have been working closely with both the City and the City Council and really appreciate the vast amount of time that both of their staffs have put

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2 into this. And we support the goals of all four
3 of these bills. Three of these bills we could
4 support the bills themselves if certain changes
5 are made; but there is one we do think is
6 unworkable as written. I'll deal with the ones
7 that we think we are working towards some
8 solutions with the City and the City Council on.
9 The benchmarking bill, benchmarking is something
10 that my members have been doing for the last ten
11 years to their buildings, and it's a very useful
12 tool. But I do want to clarify, it is not a
13 measure of the building's efficiency; it is a
14 measure of the energy that the occupants consume.
15 And so the very same building, if I have financial
16 services firms that are working 24/7 and they move
17 out and a law firm that works from 8:00 to 6:00
18 and doesn't have five computers on every desk and
19 large data centers, they're going to have an
20 entirely different rating, but it's the same
21 building. So we think there are things that need
22 to be adjusted for high-energy users, and we think
23 that we need some clarification so that people
24 looking at this data will know what they're
25 looking at. The lighting retrofits bill is

1 something that we definitely support.

2 Conceptually lighting is your low-hanging fruit
3 for energy efficiency. We do want to point out
4 however that in terms of retrofits, leases tend to
5 run 10 to 15 years, so it should be coincident
6 with common lease terms; and the second thing is
7 that the owner can't make the retrofit in a tenant
8 space. The tenant-- there's a lot of disruption
9 that's involved, and so we have to find a way to
10 deal with landlord tenant issues on that one.

11 With respect to the energy code, again,
12 conceptually we are very much in support of this
13 and think we can find a bill that we can work
14 with. We did go to our-- many of our owners own
15 buildings in other cities; Los Angeles, San
16 Francisco, Washington, Chicago. So they went to
17 those building managers because they thought that
18 the code, since there are 40 other states that
19 have it, would apply. And they wanted to simply
20 assess the impacts, what does this mean, how does
21 this play out? And frankly, they don't apply
22 there. So the City has promised to give us
23 information. In fact I think I have an email from
24 them this morning. So we're working on that. But
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2 we need to understand the impacts, and the
3 simplest way for us to do it is to find those
4 locations where what is being proposed in New York
5 actually applies, and find out what our members
6 there are doing. We do want to be careful on the
7 administrative and regulatory burden that this
8 carries for the simple reason that we don't want
9 to find ourselves doing a \$5,000 alteration with a
10 \$15,000 filing and compliance fee. But now let me
11 talk about the big one. Building owners really do
12 act in their own self-interest, and they make
13 energy efficiency upgrades all the time. The
14 market is moving in a very fast direction towards
15 green and sustainable buildings, energy efficient
16 buildings and tenants are asking for that. So,
17 you know, that's our job, to be responsive to our
18 tenants. So a lot of this is going on without
19 legislation and has been for a very long time.
20 The audits provide very useful information that
21 really does help you figure out what you-- what
22 makes sense to do and when and to plan your
23 capital improvements program. But they are also
24 very complicated and very expensive. We can
25 support an audit requirement, certainly for large

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2 commercial office buildings. I think for smaller
3 residential buildings, which we quite honestly
4 have focused on the commercial in our committee
5 meetings on this, but I think you have to look
6 carefully for the small residential buildings.
7 The retrofits sections, and by the way I'll give
8 you a-- I don't have written testimony but I do
9 have a list of the steps that are required in the
10 audits and retrofit through signoff process and
11 it's mind boggling. The retrofit section, I'm
12 sorry, but we think it is unworkable. When it
13 makes sense for an owner to do a retrofit he does
14 it. Our members participate in NYSERDA and all of
15 those programs, but the bill does not account for
16 the different types of buildings, the different
17 types of building systems, the different lease
18 structures within the same building. So the same
19 system that--

20 CHAIRPERSON GENNARO: [Interposing]
21 Unfortunately I need you to start to conclude,
22 yes.

23 MARILYN DAVENPORT: There's a lack
24 of financing. And as I said, finally, the simple
25 payback is really just not simple at all. Again I

1
2 have another chart, which I will give you, of case
3 studies to show--

4 CHAIRPERSON GENNARO: [Interposing]
5 I'll come back on questions. I'll come back on
6 questions.

7 MARILYN DAVENPORT: Sure.

8 CHAIRPERSON GENNARO: But I have to
9 keep it moving, but I will come back on questions
10 for you. Okay.

11 [Pause]

12 CHAIRPERSON GENNARO: I would ask
13 all the panel members to stay with the panel until
14 we've concluded. Ramon?

15 RAMON CRUZ: Thank you Chairman
16 Gennaro. I'm Ramon Cruz, Vice President for
17 Energy and Environment at the Partnership for New
18 York City. Thank you Chairman and members of the
19 Committee for the opportunity to testify today in
20 support of legislation developed by City
21 administration and City Council for the purpose of
22 making New York City's building environment
23 cleaner and greener. The Partnership for New York
24 City is an organization of business leaders
25 dedicated to strengthening the economy of New York

1
2 City and State. Our membership includes many
3 multi-national corporations that are global
4 leaders in developing, financing and adoption of
5 green technologies and products. These companies
6 understand that the reduction in building
7 emissions and more efficient use of energy are not
8 only good for public health and the environment,
9 but also good for business. Many, including Bank
10 of America, the Hirsh Corporation and Goldman
11 Sachs have built iconic headquarters in the City
12 that meet the most stringent standards. They
13 recognize that such buildings help attract the
14 best employees, reduce operating costs and enhance
15 their corporate brand. Our membership also
16 includes the City's premiere international real
17 estate firms, which similarly are committed to
18 building and retrofitting their properties to the
19 highest possible standards of energy efficiency
20 and conservation. At the same time the real
21 estate community is generally concerned about one
22 aspect of the proposed legislation, which is the
23 mandate for audits and retrofits. Compliance
24 could be difficult for owners of certain,
25 especially older buildings and smaller properties-

1
2 - especially during an economic downturn when
3 building incomes are weak and access to financing
4 is limited. The variations in terms of the leases
5 for commercial properties also make calculation of
6 payback an attribution of cost extremely
7 difficult, particularly where buildings are not
8 sub metered. We understand that the Council and
9 the Administration are working closely with the
10 industry to come up with practical solutions to
11 these issues that still achieve the ultimate goal
12 of full compliance among the City's larger
13 buildings. This will probably require longer
14 phasing and expanded public financial and tax
15 incentives, including the use of American Recovery
16 and Reconstruction Act funds to support this
17 effort. There are other actions that could
18 complement and facilitate the objectives of
19 legislation before the Committee today. For
20 example, sub metering would make it easier for
21 building owners to bill tenants according to their
22 energy use, while smart demand response devices
23 could help tenants measure their individual use in
24 order to create strategies to consume energy more
25 efficiently. Also, as current leases expire,

2 owners and tenants should be encouraged to adopt
3 green lease riders that would standardized lease
4 terms with respect to allocation of incentives and
5 costs associated with retrofits and energy
6 conservation. This would help to encourage owners
7 to invest in long-term efficiency upgrades and
8 reward tenants with lower energy utilization.

9 While this is a complex endeavor, the Partnership
10 congratulates the Council and the Administration
11 for positioning New York City as a pioneer in
12 figuring out how to reduce energy consumption and
13 emissions in our urban building stock. We look
14 forward to working together with you to achieve
15 the goal of a long-term comprehensive improvement
16 in energy efficiency of existing buildings. Thank
17 you.

18 CHAIRPERSON GENNARO: Thank you.

19 Thank you, Ramon. Perfect timing.

20 PAUL RODE: Hello, Mr. Chairman.

21 My name is Paul Rode--

22 CHAIRPERSON GENNARO: [Interposing]

23 can you just bring the mic up a little bit and
24 speak right into it? It would be better.

25 PAUL RODE: Hello, Mr. Chairman and

Members of the Committee. Thank you for allowing me to testify today. My name is Paul Rode. I am a Project--

CHAIRPERSON GENNARO: [Interposing]
Mr. Rode, why don't you--

PAUL RODE: [Interposing] Sure.

CHAIRPERSON GENNARO: Do you have a written statement?

PAUL RODE: I handwrote it.

CHAIRPERSON GENNARO: Oh, handwritten? Oh, fine. Okay.

PAUL RODE: And when I'm done I'll--

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CHAIRPERSON GENNARO: [Interposing]
No. That's quite all right. I just want to know whether or not I should look for it on the desk.

PAUL RODE: Okay.

CHAIRPERSON GENNARO: Okay, fine.

PAUL RODE: Anyway, I'm a Project Executive for Johnson Controls. Johnson Controls is an energy service company among other things. We've had an office in New York since 1914. And in that capacity in our office I perform our energy related work in New York City.

1
2 Specifically the existing buildings energy
3 efficiency industry, something I've supported for
4 20 years. I'm a professional engineer, having
5 received my degrees from our won Manhattan College
6 in the Bronx, and as the case may be, know
7 intimately the members in the industry at the
8 field level. I am a practitioner of what is
9 called for in the bill, having performed hundreds
10 of level 2 audits and level 1 audits in Manhattan,
11 and dozens of projects that may have resulted from
12 those. I recently completed the project at the
13 Empire State Building, having done the audits and
14 then construction at this moment. I'm actually
15 here instead of at a construction meeting.
16 Audits, what is called for in the bill is noted as
17 a level 2 audit. From my perspective that is the
18 audit that does provide the most value to the
19 owners, mostly because it contains actionable
20 items that if acted upon result in savings
21 directly. A level 1 audit, the actionable items
22 are another audit. A level 3 cannot be performed
23 unless some prior work has been done. The audits
24 are well defined in the industry. ASHRAE has
25 taken a lead some time ago. ASHRAE is the

1
2 American Society of Heating and Refrigeration and
3 Air-conditioning Engineers. There are other
4 societies, the American Society of Energy
5 Engineers, which provide rules and regulations for
6 these audits. The audits are our normal course of
7 business, and again, very well understood in our
8 industry. No doubt they have to be codified
9 better in the bill, but there is ample material, I
10 believe, out there that will provide that
11 codification. The other thing-- I would like to
12 make a point that the audits themselves also, in
13 my experience, are self-funding. The level 2
14 audits provide not only capital project
15 recommendations but operational change
16 recommendations. Most of the time, in all but a
17 very few cases, those operational changes result
18 in energy savings that very year that result--
19 that more than overcome the cost of the audit.
20 And we find that day in and day out in our
21 practice. In fact the capital projects that are a
22 result of the bill-- I'll complete fast. The
23 resulting capital projects themselves are always
24 cash flow positive in terms of net costs over net
25 savings, when they can be financed. And we do

1
2 find that the difference between the hundreds of
3 audits done and the dozens of projects done is
4 whether there's financing available or not.

5 CHAIRPERSON GENNARO: Thank you.
6 Was that the end of your statement? Okay.

7 PAUL RODE: Thank you.

8 SYLVESTER GIUSTINO: Good morning,
9 Mr. Chairman. My name is Sylvester Giustino,
10 director of--

11 CHAIRPERSON GENNARO: [Interposing]
12 Oh, you know what? Pardon me. Sorry. I have no
13 manners, but I keep on neglecting to recognize
14 some of my colleagues who've joined us. We have
15 Councilman Recchia, has joined us; Council Member
16 White was here, Council Member Koppell was also
17 here. I needed to put that on the record.
18 Council Member Dilan too? Oh, Erik. Erik is
19 sitting right behind me. Okay. Yes. I made very
20 gracious statements about you, Erik, at the
21 beginning of the hearing. Hopefully the good word
22 got to you. But thank you, Erik, for being here.
23 I didn't see you behind me. I'll try to be on my
24 best behavior now. And forgive the interruption.

25 SYLVESTER GIUSTINO: No problem.

1
2 My name is Sylvester Giustino. I'm Director of
3 Legislative Affairs of the Building Owners and
4 Managers Association of Greater New York. We
5 represent more than 850 owners, property managers
6 and building professionals who either own or
7 manage 400 million square feet of commercial
8 space. We're responsible for the safety of over 3
9 million tenants, generate more than \$1.5 billion
10 in tax revenue and oversee the annual budgets of
11 more than \$4 billion. We commend the Bloomberg
12 Administration for taking the lead for proposing a
13 bold program to make existing buildings more
14 energy efficient. BOMA New York firmly stands
15 behind the concept of greening our city, and we do
16 that every day in the buildings we own and manage.
17 Our members have voluntarily pursued and received
18 LEED, ENERGY STAR and ISO 14001 certification, the
19 gold standards of energy and environmental
20 conservation, whose requirements often exceed the
21 proposals contained in the legislation we are
22 discussing today. To date, more than 50 million
23 square feet of New York City office space has
24 achieved these certifications. Moreover, our
25 members have signed on to the BOMA Market

1
2 Transformation Energy Plan and Seven Point
3 Challenge. We have challenged our members to take
4 voluntary steps to improve energy efficiency
5 across their portfolios by 30% by 2012 in
6 comparison to an average building. To this end we
7 are in full support of Intro number 564-A, the
8 creation of a New York City Energy Conservation
9 Code. In addition we support the aims of Intro
10 number 973. However we would like to offer some
11 caveats based on our experience. While upgrading
12 lighting during renovations prior to December 31st,
13 2022, the building owner has the option to avoid
14 disturbing asbestos and other hazardous materials
15 by circumventing renovating any area containing
16 asbestos. However, if all lighting must be
17 upgraded by December 31st, 2022 any are that would
18 be otherwise avoided and thereby remain safe will
19 have to be addressed. Removing asbestos adds a
20 significant cost to any project, and since intact
21 encapsulated asbestos is perfectly state, we
22 encourage you to an appeal option that addresses
23 these types of situations. Also, the proposed
24 legislation allows for exceptions of upgrading
25 lighting during renovations limited to plumbing,

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2 sprinkler or standpipes. We would like to add the
3 renovations of fire systems and HVAC systems to
4 the list of exemptions as they are in the same
5 category as the others. We believe that
6 incentives, not mandates, are the best way to
7 encourage owners to make buildings more energy
8 efficient and reduce carbon emissions. Intro
9 number 967 and Intro number 476-A do not take into
10 account the individual realities of each
11 building's structure and engineering, which only
12 its owner or manager can fully assess. If enacted
13 the good intention of the proposed mandated audits
14 and retrofits bill could have the opposite effect
15 as law. This bill would be difficult and costly
16 to implement. We are already struggling in a
17 contracting economy and these additional costs,
18 which would be partially absorbed in rentals,
19 would cut into New York City's competitiveness in
20 the marketplace. In addition the term energy
21 professional is far too vague and appears to give
22 this professional the right to dictate changes to
23 our buildings, changes that could be contrary to
24 the lease obligation or tenant requirements. In
25 this tumultuous economic climate this bill gives

no cost and or investment consideration. Payback of seven years is too long. A three to five year payback would be more economically viable. I'll just finish up. With respect to Intro 476-A and benchmarking, we believe that building owners should be able to release their benchmarking results at their discretion. The EPA Portfolio Manager standard is an imperfect mechanism that does not take into account all the different building uses in New York City. We believe that these concerns can be addressed in concert with the City and we stand prepared and ready to lend our expertise and insight into the nuts and bolts of making a greener New York a reality. BOMA New York knows that by making building more resourceful is the biggest single step to help make this City to achieve its sustainability goals and remain competitive as the business capital of the world. We look forward to working with the Administration and the City Council to refine this plan to ensure that property owners across all asset classes can capture efficiency opportunities in the most cost effective and reasonable way.

Thank you, Mr. Chairman.

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2 CHAIRPERSON GENNARO: Thank you,
3 Mr. Giustino. I appreciate your being here. And
4 I think that's all the statements from the panel.
5 Now in terms of comments or questions, just
6 returning to Ms. Davenport who was giving a longer
7 presentation, and I guess one of the threshold
8 questions with regard to 967, the energy audit and
9 retrofit is-- well there's two categories. Some
10 witnesses even on this panel have indicated that
11 there are challenges with the bill that, you know,
12 can be overcome with the right amount of
13 partnership with the administration and the
14 council. And then there's the category of witness
15 that says, you know 967 is unworkable and we
16 should not do it. So I kind of just want to
17 figure out, like what category you're in with
18 regard to 967.

19 MARILYN DAVENPORT: Actually
20 neither if you're saying it's a straight yes or
21 no. We think that there are parts of 967 that are
22 valuable to building owners and to the City. We
23 think that the audits do provide a good analysis
24 of what is going on in the building and what you
25 can do. We find that commissioning and

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2 commissioning reports, which deal with the
3 operating the systems in the best possible way, is
4 also a very valuable tool and we've been talking
5 to the City about how you would administer
6 something like that. So there are certainly parts
7 of the bill that we want to work with the City and
8 find a way to come to-- and the Council of course,
9 to come to resolution. The retrofits piece, and
10 I've passed out some case studies--

11 CHAIRPERSON GENNARO: [Interposing]

12 Yes.

13 MARILYN DAVENPORT: --that we did,
14 which is that colored chart, which I won't try to
15 explain to you in any detail this morning. But
16 the point of that was to look at a high rise
17 office-- multi-tenant office building with all the
18 different types of systems-- we have very
19 different systems from a ten-story residential
20 building for example-- with different types of
21 systems, different ownerships of those systems,
22 different responsibilities for maintenance of the
23 systems, different lease structures and different
24 payments of the energy bill; because that's
25 typical. That's a big problem. And that we spent

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2 hours meeting after meeting trying to come up with
3 something we could propose an alternative, because
4 we don't like to say we can't do it. We couldn't
5 find an alternative that works across the many
6 different types of buildings with different
7 equipment on the retrofits portion. I think we
8 can, as we keep talking, we can figure out
9 something as far as the audits go. Certainly a
10 lot of my members are in the process of doing
11 them. We can work on operational requirements
12 that make the system-- which is really critical to
13 the efficiency of a building, is that their
14 systems be operated properly. But I don't know
15 and we couldn't come up with a recommendation of
16 how you make the retrofits workable. On a
17 voluntary basis, which is NYSERDA--

18 CHAIRPERSON GENNARO: [Interposing]

19 When you say workable, I mean--

20 MARILYN DAVENPORT: [Interposing]

21 The mandatory retrofits.

22 CHAIRPERSON GENNARO: But when you
23 say, I'm looking for like what you mean by
24 workable. What does that mean? Like, they're
25 going to lose money, we can't administer it, it's

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2 a bad investment, a five-year payback is not good
3 enough. I don't know what workable means.

4 MARILYN DAVENPORT: It means in a
5 multi-tenant office building it's the difference
6 in the systems and the lease structures, none of
7 that is accounted for in the bill, different types
8 of systems, different lease structures, different
9 payback. There's no--

10 CHAIRPERSON GENNARO: [Interposing]
11 We made a recognition that--

12 MARILYN DAVENPORT: [Interposing]
13 There's no simple payback.

14 CHAIRPERSON GENNARO: But we made a
15 recognition, you know, that the lease structure is
16 something that's under the microscope now and we
17 recognize it as a big problem. And we would urge
18 your continued cooperation to figure out how we,
19 you know, deal with this very complicated issue.

20 MARILYN DAVENPORT: We've been
21 working with a group that's developed a Green
22 Lease Guidance, and I think that's certainly
23 coming into greater use in the City, that kind of
24 thing. But at the moment, I mean if I have a
25 tenant, a large tenant, who has a 15-year lease

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2 and exercises an option to renew, you know, we
3 can't change our entire business model overnight.
4 That's a problem.

5 CHAIRPERSON GENNARO: Fair enough.
6 But we look forward to, you know, ongoing colloquy
7 with REBNY to get the best possible outcome, and
8 hopefully we'll continue to have that colloquy so
9 that we can get the benefit of all of your views
10 and do the best thing we possibly can by all of
11 your members. You have my commitment that we'll
12 do that. And I thank you for being here.

13 MARILYN DAVENPORT: Thank you. We
14 appreciate that.

15 CHAIRPERSON GENNARO: Thank you.
16 You bet. And I'd like to thank Emily for her
17 testimony from Trinity in support of three of the
18 bill and the recognition that the lease and the
19 lease structure, we'll have to deal with that.
20 Mr. Rode, thank you for the points that you
21 brought forward. And-- oh, okay. I'll just
22 finish my thought here. While I'm arranging the
23 papers on my desk and coming up with my next
24 questions and comments, let me take this
25 opportunity to recognize our building chairman,

1
2 Erik Dilan, who has questions. Chairman Dilan.

3 COUNCIL MEMBER DILAN: I'll be very
4 brief, Mr. Chairman. I just wanted to address
5 something that Mr. Giustino said in his testimony
6 and just get his ideas on approaches. You stated
7 in your testimony that you believe the incentive
8 approach would be better than a mandated approach
9 and I too agree that every building in this City
10 can become more energy efficient, and I think
11 that's a worthy goal this City should try to
12 achieve. But I guess the big question is how do
13 we get there and what's the best way to get there?
14 So I guess do you have any ideas of incentives
15 that may be workable for the building industry?

16 SYLVESTER GIUSTINO: Well BOMA
17 International, which we're part of a member of the
18 Federation of the internationally know
19 association, we have a relationship with the
20 Clinton Climate Initiative, and they have been
21 very generous to our members that retrofit their
22 buildings. And that's been very successful. But
23 perhaps we can have a conversation to develop a
24 way to create more incentives for our members here
25 in New York City to make it more economically

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2 viable, perhaps some kind of tax credit or
3 something more incentively based to get this done.
4 And we're open to have that conversation.

5 COUNCIL MEMBER DILAN: So I would
6 imagine that the main bill you'd have a concern
7 with would be the retrofit bill and the cost. Do
8 you have any type of projections of costs to your
9 members?

10 SYLVESTER GIUSTINO: No I don't,
11 Councilman, but I can find that information out
12 for you.

13 COUNCIL MEMBER DILAN: All right.
14 Ms. Davenport, would you have that information for
15 your members?

16 MARILYN DAVENPORT: It's going to
17 vary both by building to building, but also by
18 building type. We can give you some cost
19 estimates for different kinds of building types or
20 different types of systems. We can certainly do
21 that.

22 COUNCIL MEMBER DILAN: Okay. I'd
23 appreciate that information as we go forward,
24 because I know there will be a financial impact to
25 buildings and how they operate can be impacted

1
2 greatly depending on the outcome of these bills.
3 I'm still learning a lot about what's in these
4 bills. I think the overall goal of the
5 legislation is good. I think this is the
6 direction that the City should move in, but I want
7 to make sure that we do it very carefully and very
8 diligently so that we encourage owners to do it,
9 not mandate them to do it. But at a certain
10 point, this City needs to get it done and I
11 believe the country and the rest of the world
12 needs to follow this direction, because it's
13 something that's very important to our
14 environment. Thank you, Mr. Chairman.

15 CHAIRPERSON GENNARO: Thank you,
16 Chairman Dilan. I recognize Council Member
17 Garodnick.

18 COUNCIL MEMBER GARODNICK: Thank
19 you, Mr. Chairman. I wanted to start with just a
20 question for Ms. Davenport and Mr. Cruz. Ms.
21 Davenport, first of all the chart is both
22 complicated and impressive in terms of how
23 complicated it is. And I think we appreciate that
24 in a situation where you have varying lease
25 structures and varying payments on energy bills

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2 that that creates complications here. The
3 question that I have for you is you mentioned that
4 you are working with a group on Green Lease
5 Guidance. And I understand your point about if
6 you have a 15-year lease with an option to renew
7 with the same-- presumably at the same terms, then
8 at that moment in time you can't necessarily
9 restructure the lease terms. But the question
10 that I have is, is REBNY taking any steps-- and I
11 also want to ask this of the partnership because
12 they were encouraging this as well, for new
13 leases, to put them in line so that we can have
14 these green lease riders to avoid the
15 complications and to make sure that we have
16 parallel incentives between the tenants and the
17 commercial landlord in these contexts?

18 MARILYN DAVENPORT: What we're
19 doing-- as I said, we've been working with these
20 groups that have been developing and providing as
21 much information and input and education then to
22 our members as to what's available and publicizing
23 it, that kind of thing. As a trade association,
24 legally we can't recommend anything. It's an
25 anti-trust kind of situation. But what we can do

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2 is serve as an education vehicle, convene
3 seminars, that type of thing. And we do.

4 COUNCIL MEMBER GARODNICK: And you
5 will.

6 MARILYN DAVENPORT: Absolutely.

7 COUNCIL MEMBER GARODNICK: So just
8 one more for you and then I'll get an answer from
9 Mr. Cruz. On the subject of the energy code bill.
10 It sounded to me that you were conceptually in
11 support but you may need just a little bit more
12 information from your members in other states. Is
13 that a fair assessment of what you said?

14 MARILYN DAVENPORT: That's correct.

15 COUNCIL MEMBER GARODNICK: And I
16 just want to make sure that you appreciate and
17 those folks who are here, you raised the concern
18 about having a \$5,000 alteration and then a
19 \$15,000 compliance cost. This bill is structured
20 so as-- and I know that this is what you will find
21 when you dig deeper and talk to colleagues in
22 other states and certainly look closer at the
23 legislation, that the paperwork that needs to be
24 filed in connection with this bill is the same
25 that is already required to ensure that projects

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2 meet code. We were very careful to ensure that
3 we're not adding additional paperwork here for
4 compliance. And presumably if that bears out to
5 be true, as I certainly know that it will, will we
6 be able to count on your support?

7 MARILYN DAVENPORT: Like I said, we
8 have to get some more feedback from-- we have a
9 lot of members with national portfolios. So we
10 need to talk to them as to how these kinds of
11 requirements actually play out in the real world.
12 I don't envision it being a problem, but I need to
13 finish that process.

14 COUNCIL MEMBER GARODNICK:
15 Understood. Thank you. Mr. Cruz, on the subject
16 of the green riders, which you noted in your
17 testimony, what steps has the Partnership taken,
18 can the Partnership take, to promote this sort of
19 alignment of interests here between commercial
20 landlords and commercial tenants so as to avoid
21 what, you know, what we're looking at in the chart
22 where there are varying lease obligations and
23 various terms?

24 RAMON CRUZ: Well thank you. And
25 well, the answer would be very similar to what Ms.

1
2 Davenport said. We're organized, structured, in a
3 similar way so we work with our members in terms
4 of education, creating policy positions. And we
5 have been part of the same group that has been
6 organized with the-- together with the industry,
7 the real estate community. There are several law
8 firms part of it, environmental groups. So we can
9 find, hopefully, some common grounds. Different
10 to other cities in the US, New York City, there is
11 no standard lease. And so it's a very complex
12 issue and so, yeah, I mean for now what we can
13 hope is that we can align some of those incentives
14 for new leases. But we cannot enforce that in any
15 capacity right now.

16 COUNCIL MEMBER GARODNICK: But what
17 we'd like to encourage is for the Partnership and
18 REBNY and others who-- and I think that this is
19 precisely where you all are headed, to use the
20 influence that you have provided that it doesn't
21 create anti-trust problems for you, to make sure
22 that we're aligning the interests here. Because
23 until those interests are aligned then obviously
24 there's that additional element of complication
25 here. I had one question for Mr. Giustino. Thank

1
2 you, by the way, for your full support of Intro
3 564-A. We appreciate that. You noted that in the
4 lighting bill that the asbestos issue creates an
5 additional complication. You said that removing
6 asbestos adds costs to a project and whereas you
7 might leave it be, this, if you have a situation
8 where the lighting is involved there you might
9 find yourselves opening up asbestos where you
10 might otherwise not. My question for you is how
11 frequent a situation is that? I don't really have
12 a great sense of how often one would find
13 themselves trying to change lighting and have to
14 pull out encapsulated asbestos?

15 SYLVESTER GIUSTINO: I asked the
16 same question of my members and they told me that
17 the risk of opening, encountering asbestos that
18 might hit the air runs that risk. But I don't-- I
19 can certainly find out and maybe do a case study
20 or something, but what we were concerned about was
21 the risk of having asbestos in a-- contained it's
22 fine, but if it's exposed to the air it can pose a
23 risk. So we want, you know, just want the
24 legislation to kind of reflect that.

25 COUNCIL MEMBER GARODNICK: Well it

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sounds to me that it's not 100% certain that--

SYLVESTER GIUSTINO: [Interposing]

In terms of chance of how many times we encounter it, I'm not sure.

COUNCIL MEMBER GARODNICK: It's not necessarily a big issue.

SYLVESTER GIUSTINO: I can find out for you.

COUNCIL MEMBER GARODNICK: Okay, please do.

SYLVESTER GIUSTINO: Sure.

COUNCIL MEMBER GARODNICK: Because obviously you raise a point that I had not considered. My sense is that it may not be such a large issue, but we certainly would want to know that from you.

SYLVESTER GIUSTINO: Absolutely.

COUNCIL MEMBER GARODNICK: And my last question is-- well it's really more of a comment for Mr. Frank. Thank you for your comment about the need for resources to successfully administer the code. You made a comment at the end of your testimony that there is a need to have outreach to industry and to practitioners in the

1
2 City who now all must design buildings and
3 building systems in conformance with the code. I
4 just want to be absolutely clear, because you were
5 referring to 564 at the time, is that this is not
6 legislation which requires, deals with the design
7 of buildings at the outset. It deals with
8 situations in which you are making replacements
9 voluntarily. So I just wanted to clarify that
10 because I think that-- either I didn't understand
11 what you were saying in your testimony or it was
12 just-- well I'll let you address it if you want.

13 SCOTT FRANK: Yes, thank you. I
14 guess the point I was making was subtle from the
15 standpoint that in theory for the last 31 years
16 New York City should have been actively
17 administering the State Energy Code. And that has
18 not happened. It's a credit to this
19 administration for the last couple of years those
20 first steps have been taken. But that is a long
21 complicated process that's going to take time and
22 resources to do properly. So as it pertains
23 strictly to this bill, I guess it is almost a
24 separate issue. However, the bill as written
25 would also be applicable to new building

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2 instruction. The law governing energy performance
3 for new and existing would be the City regulation.
4 So the City then would take on a role and a
5 responsibility for administering all aspects of
6 that law for both the retrofits that we're talking
7 about as well as new construction.

8 COUNCIL MEMBER GARODNICK: Okay.

9 Thank you. I think I hear your point that there's
10 a bigger picture issue. But as to 564-A that one
11 is a narrow change, which of course you know deals
12 with the loophole of the State law. But I think I
13 now understand what you were saying. Thank you
14 very much, Mr. Chairman.

15 CHAIRPERSON GENNARO: Thank you,
16 Council Member Garodnick. We have been joined by
17 Council Member Eugene. Happy to have Council
18 Member Eugene here. I wish to recognize Council
19 Member Mark-Viverito for questions. I just want
20 to give a-- I just want to let all of the Council
21 Members know that we have about 50 more witnesses
22 to go. So people should be, you know, modest in
23 their questioning. Council Member Mark-Viverito.

24 COUNCIL MEMBER MARK-VIVERITO:

25 Thank you, Mr. Chair. I just have one question.

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2 Ms. Davenport, with regards to Intro 476-A you
3 indicate in your testimony that this legislation
4 or this bill as proposed measures only tenant
5 efficiency not building efficiency. So my first
6 question is what exactly on that bill on
7 particular is REBNY's recommendation on changes
8 that would take into account your concerns?

9 MARILYN DAVENPORT: The EPA
10 benchmarking tool measures energy use and it's the
11 tenants who are the energy users, the occupants.
12 And so--

13 COUNCIL MEMBER MARK-VIVERITO:
14 [Interposing] But buildings do have central
15 systems that accommodate all of the tenants, no?

16 MARILYN DAVENPORT: Correct. I
17 should clarify that. Somewhere, depending on the
18 bill, somewhere between 20 to 40% of the energy
19 use is definitely the building, central systems or
20 central or common areas. But a larger portion is
21 clearly determined by the occupants. We have been
22 using the benchmarking tool for a very long time,
23 and it's a very useful tool. We're not suggesting
24 that it's not. But it doesn't reflect the
25 building. It reflects the overall usage by the

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2 central systems and the occupants, and therefore
3 we feel that there are some things that need to be
4 adjusted because those occupancies can vary
5 dramatically. That's all.

6 COUNCIL MEMBER MARK-VIVERITO:

7 [Interposing] I think that--

8 MARILYN DAVENPORT: [Interposing]

9 We're still in favor.

10 COUNCIL MEMBER MARK-VIVERITO:

11 Understood. I think there-- our discussions are I
12 think part of the conversations with regards to
13 the use of the tool is to accommodate those
14 concerns, take into account. But I don't think it
15 really-- I think it's in everyone's best interests
16 including tenants to learn about energy
17 consumption, that it can be measured and that
18 people have the opportunity to use that
19 information in a powerful way, which is to become
20 more efficient. And I think ultimately that is
21 the crux of the bill as well in terms of the
22 information gathered. And to make, you know, give
23 people motivation to make changes in terms of
24 consumption and behavior, which is very important.
25 And I do appreciate the fact that there is support

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2 for it, and I think that's some of the concerns
3 that are raised, the ones that are being taken
4 into account. So, having said that, that's
5 basically-- I wanted to see what other concerns
6 you had specifically on that matter. So thank
7 you, Mr. Chair.

8 CHAIRPERSON GENNARO: Thank you.
9 Thank you Council Member Mark-Viverito. And with
10 that said I'd like to thank the panel very much
11 for their good comments and the value that you
12 brought to this process. I appreciate it very
13 much. Thank you. The next panel, folks from
14 Labor and Building and Construction Trades
15 Council. From 32 BJ Mike Fishman, and Jason
16 Panarella; from DC 37 Jon Forster; from Local 12,
17 Dennis Ippolito; from local 94, Kuba Brown and
18 Vito Pitta; the Building and Construction Trades
19 Council, Paul Fernandes. Oh, and Brian Mullins
20 from Operating Engineers Local 30. I apologize
21 for the length of the hearing. I will do my best
22 to try to move it along so we can get the benefit
23 of everyone's views. I am going to do my best to
24 ask as few questions as possible and I'd ask
25 Council Members to do the same. We want to get

1
2 the benefit of all of these people's views. I
3 would ask Counsel to swear the panel and the
4 Sergeant to get the statements.

5 SAMARA SWANSTON: Can you please
6 raise your right hands? Do you swear or affirm to
7 tell the truth, the whole truth and nothing but
8 the truth today?

9 [Off Mic]

10 [Pause]

11 CHAIRPERSON GENNARO: Yes, again.
12 I know I don't know everybody on the panel.
13 Forgive me. But we'll yes, I'm going to ask you
14 to state your name for the record and start your
15 testimony.

16 MIKE FISHMAN: Mike Fishman,
17 President of Local 32BJ of SEIU. Good afternoon
18 members of the City Council. I appreciate the
19 opportunity to testify before you today. With
20 more than 70,000 members in New York 32BJ is the
21 largest private sector union in this state. As
22 Doormen and Resident Managers, Handymen, Supers,
23 Office Cleaners, School Cleaners and Security
24 Officers, our members are in virtually every
25 building in New York City. In particular, 32BJ

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2 represents the vast majority of workers in New
3 York's residential buildings, ensuring the proper
4 maintenance and operation of most of the
5 residential buildings covered by the bills we are
6 discussing today. Simply said, our workers are on
7 the front lines of greening our city's buildings.
8 With New York's buildings generating more
9 greenhouse gas than any city in the country, New
10 York can and should take the lead in reducing
11 carbon emissions and conserving energy by passing
12 legislation to make our city and our country
13 cleaner and our environment safer. While we have
14 an interest in all the bills before you today, I
15 would like to focus my comments on one bill in
16 particular, Intro 967, Chairman Gennaro's
17 legislation on audits, retro commissioning and
18 retrofits of building systems. Let me begin by
19 stating our support for the Council's effort to
20 make New York the greenest city in the country.
21 The administration's PlaNYC and this critical
22 piece of building energy legislation will put our
23 city at the forefront of the national drive
24 towards reducing carbon emissions. And as the
25 Council knows, large commercial and residential

1 buildings are exactly the right place to start.
2
3 In New York City, buildings consume 66% of total
4 energy and generate 77% of City greenhouse gas
5 emissions. So if our city is going to make a dent
6 in reducing energy waste, greening our buildings
7 is the lowest hanging fruit. The City must now,
8 however, miss a prime opportunity to make sure
9 that jobs that are created from this initiatives
10 are good jobs that support New York's working
11 families. The Labor and Environmental Community
12 are united in making sure that green jobs ensure
13 pathways out of poverty. Indeed growing the green
14 economy in New York is one of the single best
15 opportunities we have to lift workers out of dead
16 end jobs and create high road jobs with living
17 wages, health benefits and opportunities for
18 training and advancement. This is a critical
19 point that 32BJ has been emphasizing with our New
20 Deal for New Yorkers campaign, and this
21 legislation should accomplish no less than that.
22 Before I get to our recommendation for this
23 legislation, I just wanted to state why our
24 members, New York City's handypersons,
25 superintendents and porters are essential to the

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2 City achieving it's goal of reducing emissions by
3 30% by 2030. Our members know their buildings
4 better than anyone else and are ultimately
5 responsible for all aspects of a building's
6 operation and maintenance. They are the workers
7 best positioned to identify priority green
8 improvements and implement changes consistently
9 over a span of months and years. Inside the
10 building our members are trained to install low-
11 flow showerheads and toilets, seal air leaks,
12 install motion detectors on light switches; many
13 of the low cost but high impact techniques
14 involved in weatherizing buildings. Once energy
15 efficient changes are made, our members keep
16 buildings efficient months and years later by
17 properly maintaining boilers and HVAC systems,
18 identifying additional energy savings as buildings
19 age and regulating a building's energy use during
20 peak and down times. Building staffs offer their
21 experience to tenants on how they can lower energy
22 costs within their own units. And perhaps most
23 importantly many of the cost savings projections
24 achieved by energy efficiency measures are
25 achieved by proper long-term maintenance. 32BJ

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2 represents workers in 80% of New York City's large
3 apartment buildings, so we are well positioned to
4 impact the energy efficiency of a sizeable share
5 of these buildings, including buildings in a
6 significant cross section of the City's
7 economically and ethnically diverse neighborhoods.
8 As such, we support this legislation but only with
9 changes prior to passage to guarantee that green
10 jobs that are created by this legislation are good
11 jobs. Specifically our recommendations fall into
12 four main areas. First, incorporate job
13 certifications in the legislation. The bill lacks
14 specific definitions as to who is qualified to
15 perform auditing, retro commissioning and
16 retrofitting functions. Without proper worker
17 certifications there is no insurance that skilled
18 professionals who have been trained to perform the
19 best work possible will be hired. A group of
20 labor unions that wants to see this legislation
21 succeed have been working on a consensus list of
22 licensing and certification requirements that
23 should be included in the legislation. I
24 encourage the Council to avoid vague or undefined
25 terms in the legislation and instead include

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2 specific job titles with accompanying
3 certification as a requirement for doing the work
4 as outlined in the legislation. Second, include
5 apprenticeship and labor management training
6 programs. Training is critical to prepare workers
7 for green collar jobs and to ensure the work is
8 done right for maximum savings and long term
9 efficiency. Auditing, retro commissioning and
10 retro fits should be managed and performed by
11 individuals who have been appropriately trained
12 either through a state-certified apprenticeship
13 program or by a qualified training provider that
14 meets state recognized building performance
15 standards. These training programs already exist
16 in New York, such as 32BJ's Thomas Shortman
17 Training Fund, which has launched an innovative
18 and ambitious green building initiative called
19 1,000 Green Supers, where 1,000 residential
20 building superintendents will be trained to become
21 energy efficient building operators. Existing
22 residential and commercial building staff should
23 be trained by qualified providers as building
24 operation and maintenance will be critical to the
25 short and long term success of energy efficient

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buildings once they are retrofitted.

CHAIRPERSON GENNARO: Mr. Fishman, I'm just going to give you a little latitude to cover your third and fourth point.

MARK FISHMAN: Right.

CHAIRPERSON GENNARO: You have a section after that, you were going to have one of your members--

MARK FISHMAN: [Interposing] Yes.

CHAIRPERSON GENNARO: We're not going to be able to get to that.

MARK FISHMAN: Okay. Sorry, Jason.

CHAIRPERSON GENNARO: I have to try to, you know, keep with that. I'm giving you a fair amount of latitude, but--

MARK FISHMAN: [Interposing] I appreciate it.

CHAIRPERSON GENNARO: Jason, you and I are going to go to lunch soon, okay? Okay. You and I are going to go to lunch.

MARK FISHMAN: Jason is one of our Supers who has been doing a great job on energy efficiency and is included in our program, which you are all getting a copy of.

CHAIRPERSON GENNARO: Okay. If we could just get to the third and fourth item.

MARK FISHMAN: Third, ensure that green jobs are highly qualified jobs, most agree that green jobs must be good jobs and the growth in the green collar workforce should provide pathways out of poverty for workers who are unemployed or under employed. President Obama has already made this commitment as evidenced by the fact that stimulus dollars now going to green jobs across the country are tied to prevailing Davis-Bacon rate. Fourth, require compliance and oversight in the bill. And my last point was of course to introduce Jason. But I will say--

CHAIRPERSON GENNARO: [Interposing] What I'll do, Mike, is I'll come back on questioning and ask Jason to share some of his thoughts.

MIKE FISHMAN: That would be great.

CHAIRPERSON GENNARO: That's why-- I just want to try to keep it fair.

MIKE FISHMAN: That's fine.

CHAIRPERSON GENNARO: And you know, three minutes is kind of like a tight sweater to

1
2 fit into, but we have 50 something witnesses and
3 so I'll definitely get to you, Jason.

4 MARK FISHMAN: I'll just conclude
5 by saying that green jobs should not come at the
6 expense of the existing workers who maintain our
7 buildings, nor should they bring the promise of
8 employment without wages and benefits that will
9 grow and keep a strong middle class. The good
10 news is we can have both good jobs and green jobs.
11 The Council can achieve this goal by improving the
12 legislation with amendments that include
13 comprehensive provisions to create a workforce
14 that is trained, certified and guaranteed a living
15 wage. We appreciate the Council's leadership on
16 this issue. We look forward to more opportunities
17 to work with you, to make New York City the leader
18 in green building efficiency and maintenance. The
19 last thing I would say is I may have to walk out
20 in the middle, I have to catch a plane, but our
21 staff will be here to-- and Jason will be here to
22 fill in if you have questions.

23 CHAIRPERSON GENNARO: You bet.

24 Thank you.

25 MIKE FISHMAN: Thank you.

2 CHAIRPERSON GENNARO: Thank you,
3 President Fishman.

4 PAUL FERNANDES: Good morning, Mr.
5 Chairman and members of the Committee. My name is
6 Paul Fernandes and I'm the Chief of Staff of the
7 Building and Construction Trades Council of
8 Greater New York, an organization that consists of
9 local affiliates of 15 national and international
10 unions, representing 100,000 members in New York
11 City. We're pleased to testify today on the
12 legislative package for green building
13 initiatives. We believe that these proposals to
14 improve the energy efficiency of buildings
15 presents our City with an opportunity to stimulate
16 economic activity, as we make investments to
17 reduce consumption and harmful emissions and
18 conserve natural and financial resources. It is
19 important when we consider this package, however,
20 that we ensure that the work undertaken pursuant
21 to this legislation is performed with a commitment
22 to the training and skills required to achieve the
23 desired results. If this work is done
24 incompetently it will waste money and discourage
25 further efforts to green our building stock. It

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2 may also endanger employees involved in the work,
3 occupants of effected buildings and other members
4 of the public. As currently drafted the
5 legislative package, and particularly Intros 967
6 and 973 do not sufficiently address these
7 concerns. We do however look forward in the
8 coming months to seeing this legislation amended
9 so that it can actually fulfill the goals that the
10 Council desires. First and foremost, we must
11 assure that the employees of the owners and
12 managers of effected buildings and the contractors
13 utilized by the owners and managers of these
14 buildings to perform retro commissioning and
15 retrofit measures and upgrades of lighting systems
16 meet certain standards to demonstrate their
17 commitment to the training and skills required to
18 competently and safely perform work undertaken
19 pursuant to this legislation. One measure we
20 specifically proposed to address this concern is
21 that any and all the contractors utilized by the
22 owners and managers of these buildings to perform
23 this work be required to participate in an
24 apprentice training program in each apprenticable
25 trade they employ that is approved by the New York

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2 State Department of Labor, and has not less than
3 three successful years of operation. It is
4 important to understand that this work does not
5 involve reclassifications of workers. It will
6 require operating engineers, plumbers, steam
7 fitters, electricians, heat and frost insulators
8 and many other trades in the building maintenance
9 and construction industry, that will continue to
10 perform the work of maintaining, renovating,
11 improving and building structures throughout the
12 City. It is certainly the case that to perform
13 this work these trades will need to maintain a
14 commitment to continuing education and attaining
15 skills in new technologies. It is also the case,
16 however, that to properly perform this work, these
17 new skills must be added to a foundation of many
18 other skills that only come with prior training
19 and experience. Mr. Chairman and members of the
20 Committee, we believe that the legislative package
21 represents a great opportunity to green our
22 building stock and stimulate economic activity at
23 a time when it's desperately needed. We do urge
24 you, however, to proceed deliberately and to
25 engage with the private sector so that the folks

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2 who are ultimately responsible for doing this work
3 are consulted and it can be done with a
4 legislative framework that is very clearly stated
5 at the outset so that the work is done properly
6 and safely. Thank you.

7 CHAIRPERSON GENNARO: Thank you.
8 Thank you very much, Mr. Fernandes and hang around
9 for questions and comments. Thank you. Next
10 witness?

11 [Pause]

12 CHAIRPERSON GENNARO: Mr. Mullins?
13 Oh, I'm sorry. Forgive me.

14 [Off Mic]

15 CHAIRPERSON GENNARO: Oh, okay.

16 [Off Mic]

17 DENNIS IPPOLITO: Councilman
18 Gennaro, I want to thank you for the opportunity
19 and the City Council Members on the Committee, I
20 want to thank you for the opportunity. I'm Dennis
21 Ippolito. I'm the Business Manager of Local 12
22 Heat and Frost Insulators. We're very excited
23 about these bills that are on the table right now.

24 CHAIRPERSON GENNARO: Do you have a
25 statement, Dennis? Do you have a printed

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statement?

DENNIS IPPOLITO: No, I don't.

CHAIRPERSON GENNARO: Okay, great.

DENNIS IPPOLITO: It's important.

Heat and Frost Insulators do mechanical systems in buildings, and our motto is, Insulate. It's worth the energy. If we're serious about saving the environment and saving energy costs, people have to start paying attention to green jobs and green retrofitting. Mechanical insulation is often ignored when building a building, especially a new one. The insulation part of the building is a small part of a big building, but it's a very important part. And not only will we save energy costs and the environment, but mold and mildew-- if the mechanical systems aren't insulated properly the buildings get sick and mold and mildew grows in the buildings. So it's very important. Besides retrofitting of the buildings, the gentleman before that said new construction was very important, new construction is very important. And still today, even with LEED, insulation is being ignored, and we want to bring that to your attention. The mechanical insulation

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2 in, besides buildings, but big facilities like
3 universities, hospitals, power plants and large
4 housing projects is important for retro fitting
5 because these systems have to be-- the insulation
6 has to be maintained. And if it ain't maintained
7 properly, you lose a lot of energy. The other
8 thing that's important about these bills is it's
9 going to create jobs. And Local 12 and the
10 Building Trades support Construction Skills 2000,
11 which brings kids out of City schools and housing
12 projects and gives them careers and jobs. Besides
13 Construction Skills 2000 we also work with NEW,
14 Non-Traditional Employment for Women, and Helmets
15 to Hardhats, to give people careers and jobs for
16 the future, not just for, you know, a short period
17 of time. The other thing that should be watched
18 and paid attention to with this retrofitting and
19 with new construction is there should be licensed
20 contractors to perform mechanical insulation.
21 Besides licensed contractors there should be
22 inspectors to go around to make sure that the work
23 is being performed properly and we're not just
24 cost saving the job and cutting down on the way
25 jobs are being performed. And that's the end of

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2 my statement, Mr. Chairman. And thank you for
3 your time.

4 CHAIRPERSON GENNARO: Thank you.
5 Thank you, Dennis. Good to see you. I appreciate
6 you being here. Mr. Brown.

7 KUBA BROWN: Good morning, Chairman
8 Gennaro and members of the Committee on
9 Environmental Protection. I'm Kuba Brown,
10 Business Manager of Local 94, 94A, International
11 Union of Operating Engineers. And we welcome this
12 opportunity to discuss green building and
13 sustainability, developing the City of New York.
14 The members of this union know the value and
15 necessity of energy efficiency and environmentally
16 friendly development and maintenance. Our 6,000
17 plus members service more than 700 buildings and
18 work closely with the owners and managers to
19 operate those buildings efficiently within
20 allocated budgets. Further, local 94 Training
21 Fund, in which more than 1,600 members attend
22 annual classes for both mandatory an continuing
23 education, provides training in areas such as
24 Green Buildings, Environmental Health and Safety,
25 Air Quality, Energy Conservation, Recycling and

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2 Emission Reductions as well as other programs. In
3 conjunction with the Central Labor Council, the
4 Urban Agenda and the Real Estate Community, the
5 members of this committee have been drafting
6 legislation for more than a year that was intended
7 to be not only a model in green legislation, but
8 also practical and pragmatic for the building
9 owners and managers and engineers. As Business
10 Manager and President of Local 94, I assigned a
11 number of our Business Agents and our Training
12 Directors, all of whom have relevant expertise in
13 this area, to work on this worthwhile project.
14 Today, while I applaud the efforts and intentions
15 of all involved, I must express my disappointment
16 with the legislation as it stands. In this
17 legislation, the administration has failed to
18 include three fundamental features necessary for
19 it to be useful and successful. The current
20 legislation lacks the following. One, tax credits
21 or some other incentive program to assist
22 residential, mixed-use, and commercial building
23 owners to implement the provisions of this
24 legislation. Two, enforcement provisions to
25 guarantee compliance. Three, meaningful labor

standards or requirements that workers performing the work be certified. While, as a labor leader, I certainly would like to ensure good paying green collar jobs such as the one created by this legislation are performed by New Yorkers, the more important concern is that this legislation not be a wasted endeavor. Much time and well-intentioned effort has been expended by all in creating this legislation. We must make sure that the final product can achieve the desired results. I have taken the liberty of submitting along with my testimony, revised versions of the legislation being considered today, which incorporates our suggestions for improvement. Specifically these suggestions add language that will ensure that qualified workers perform the functions created by this legislation. By addressing these concerns and those previously mentioned, we can come closer to realizing the ultimate goals of energy efficiency and sustainable development. Mr. Chairman, in the past you have offered us the opportunity to your legislative staff. Today I would like to take you up on your offer. I would also like to ask that we be active in the

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2 oversight of this legislation, particularly in
3 assisting with the green collar code task for and
4 technical advisory committee that has been
5 established by these bills. I thank you for this
6 opportunity to address the committee. I know I
7 gave you an extensive package.

8 CHAIRPERSON GENNARO: Yes.

9 KUBA BROWN: I will let you digest
10 that. Myself or anybody in my staff you can
11 contact at any time and we'll gladly sit down and
12 explain with the reasons why we're looking for
13 what we're looking for. Thank you, sir.

14 CHAIRPERSON GENNARO: Thank you.
15 Thank you, Mr. Brown.

16 JON FOSTER: Good afternoon,
17 Chairman Gennaro and members-- I'm going to use a
18 couple of your seconds-- and members of the City
19 Council. My name is Jon Forster. I am the First
20 Vice President of Local 375, the Civil Service
21 Technical Guild of DC 37. Our 6,000--

22 CHAIRPERSON GENNARO: [Interposing]
23 Do you have a statement, Jon?

24 JON FOSTER: I don't. I can you
25 provide you one afterwards.

CHAIRPERSON GENNARO: Okay. I'll take off my glasses then and just listen.

JON FOSTER: Yeah. Absolutely. Our 6,800 engineers, architects, project managers and scientists who work for the City of New York have been involved in almost every aspect of PlaNYC. We are supportive of that plan. We have been involved in this legislative process for over a year, and we are very supportive of these legislative initiatives. However, we do believe that we already have an existent and highly trained workforce, that between the civil servants of this City, these are the construction trades, the stationary engineers, 32BJ and our other organized brothers and sisters, that we have a workforce that must be used, that we have apprenticeship programs that must be used and that that must be specified in the legislation as we move forward. There are a couple of specific things that I would also like to draw attention to as we move forward on this. I think we have to understand and envision how these bills, particularly in terms of Intro 967 are supposed to work. I believe it needs to be led by a Lead

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2 Energy Professional, L-E-A-D, not L-E-E-D. I
3 believe that needs to be a licensed person under a
4 PE or an RA so that there is a license on the
5 line. That person needs to be able to have an
6 overview and sign off on drawings that would be
7 important for the retrofits. We need to have
8 energy auditors. Those energy auditors obviously
9 conduct the audit. They also could have a variety
10 of licensing and certifications and we have
11 attempted to provide some of those suggestions. I
12 think we're very together as a group on that in
13 terms of those certifications, and they must have
14 a familiarity with the building as well. And then
15 we have, very importantly, the trained and
16 qualified, and I would hope unionized workforce to
17 do the actual work, to do the retro commissioning
18 the retrofitting work, and we have that workforce.
19 Secondly, I think we need to think about providing
20 additional economic incentives to make this
21 happen. There are other models in this City,
22 packaged by organizations such as the Fair Markets
23 Collaborative, whereby if we can draw down money
24 from organizations such as the Housing Development
25 Corporation and ensure the purchase of mortgages

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2 in the secondary markets. We can then enable
3 commercial banks to in fact come in and refinance
4 for owners and provide-- a refinance mortgage is
5 the least expensive kind of available loan you can
6 get today. And you can do that-- if you can do
7 that over a term, let's say 30 to 40 years, and as
8 part of the requirements for that, that you have a
9 substantial retrofit done, you come out the other
10 side of that with actually costs that can be lower
11 per month than they are at the moment with having
12 already done the retrofit. And it's important in
13 terms of being able to leverage that finance.

14 It's important to be able to provide that kind of
15 economic incentive. And then finally if I may,
16 one last point. I think another piece that we
17 need in this legislation is a more rigorous
18 enforcement mechanism. It is envisioned at this
19 point that the Department of Buildings will do an
20 occasional audit and that somehow that will be
21 sufficient to bring this into compliance. I don't
22 think that's true. I don't think we have self-
23 enforcing regulations here. Even in Intro 476-A,
24 in the benchmarking, I think that there are
25 incentives in there to not necessarily be

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2 perfectly honest, that in fact if you turn out a
3 better, energy efficient building, you will in
4 fact affect the property value of your building.
5 And I think therefore I would suggest-- and I will
6 conclude-- I think that the Housing Preservation
7 Development is an agency that should be looked to
8 for a possibility of enforcement. They were
9 critical in the weatherization efforts of the late
10 70s and 80s when we went from single to double-
11 paned--

12 CHAIRPERSON GENNARO: [Interposing]
13 We understand.

14 JON FOSTER: --windows. They have
15 the ability and more they have the expertise.
16 They also have the ability to provide economic
17 incentives and loans to owners, which I think is
18 also very critical. So I would like to leave you
19 with those suggestions.

20 CHAIRPERSON GENNARO: Thank you.

21 JON FOSTER: Thank yo8u.

22 CHAIRPERSON GENNARO: Thank you,
23 Mr. Forster. I appreciate it.

24 BRIAN MULLINS: Good afternoon,
25 ladies and gentlemen. My name is Brian Mullins.

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2 I'm the Assistant Director of Training for Local
3 30 Operating Engineers. I'd like to take this
4 opportunity to thank the Chair, Council Member
5 Gennaro and the entire committee for affording me
6 this opportunity to speak on the local laws being
7 introduced today. The International Union of
8 Operating Engineers Local 30 looks forward to
9 working with the Speaker, the City Council and the
10 Mayor's Office of Long Term Planning and
11 Sustainability in formulating effective
12 legislation that will reduce our carbon footprint
13 and expedite the greening of New York City. It's
14 our hope in the final hour that the legislation
15 passed will utilize the existing workforce of New
16 York City licensed Refrigeration and System
17 Operating Engineers and High Pressure Boiler
18 Operating Engineers, otherwise known as Stationary
19 Engineers, the recognized experts in energy
20 conservation and indoor air quality to accomplish
21 much of this work and provide future job
22 opportunities for 150 apprentice engineers in
23 training. Thank you for this opportunity.

24 CHAIRPERSON GENNARO: Thank you,
25 Mr. Mullins. I appreciate that. Before I get to

1
2 my questions, I see Council Member Garodnick needs
3 to be recognized. Council Member Garodnick?

4 COUNCIL MEMBER GARODNICK: Thank
5 you very much, Mr. Chairman, and gentlemen, thank
6 you for your testimony. Most of what you said
7 focused on worker standards and qualifications and
8 licensing and I think we're all very eager to work
9 with you on precisely how to do that and how to do
10 it right. I do think there's a fundamental
11 question that I think you should weigh in on
12 because we've heard some testimony today and
13 obviously we will hear more as the day goes on, we
14 just heard from a panel of the Real Estate Board,
15 and the Real Estate Board and the Building
16 Managers who took the position that audits were
17 okay, but required retrofits were perhaps going
18 too far. And I wanted to ask how important you
19 think that element is to this legislation and
20 whether you agree with that statement?

21 JON FOSTER: May I respond? I
22 think the retrofit part is absolutely essential to
23 this legislation. I mean we can't lose sight of
24 where we're going with this legislation. It is
25 part of a package and an initiative in this City

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2 to reduce CO₂ emissions. It is part of an effort
3 that's going on, you know, way beyond just us in
4 New York City. And the retrofitting piece is
5 absolutely essential to being able to bring down
6 the emission of CO₂. There are a lot of
7 initiatives where owners are doing that on their
8 own and that's great, and I listened to that
9 testimony. But where we do not have that
10 happening on a voluntary basis, then I think a
11 combination of carrots and sticks, frankly, is
12 going to be necessary to make that happen.

13 KUBA BROWN: I agree that it's an
14 important part, but it's a very, very expensive
15 part. And you have to make it somewhat
16 financially available for the owners to do it.
17 It's not something that you can walk in and happen
18 overnight. It's a long process. As I said to you
19 folks many time, we were green before the buzzword
20 became green. We can run the most energy
21 efficient building in the City and the most Pig in
22 the City depending on the needs of the building.
23 But when the building is taken out of the original
24 design, it was taken out over 20, 30, 40 years.
25 You can't expect it to happen overnight. And to

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2 put it back into the original design and then
3 improve upon it takes a lot of money. So you have
4 to look at some way to give an initiative to an
5 owner to get involved and want to do it. And
6 right now, the law doesn't cover that protection.
7 So there has to be something written into the law
8 to help the owner along and make it more appealing
9 to him to do the work. But it's a very, very
10 expensive proposition.

11 CHAIRPERSON GENNARO: Thank you
12 Council Member Garodnick. And just a few comments
13 here. Mr. Brown, I'd like to thank you for
14 putting forward some concrete recommendations in
15 the package that you put forward. We will look at
16 that closely. You also indicated you wanted to
17 take me up on my offer to have staff meet with
18 you. I'd like to direct the Counsel to the
19 Committee, Samara Swanston, to contact Mr. Brown
20 and have that meeting. Here's his card. So, if
21 you could meet with Mr. Brown that would be great.
22 And so, thank you Mr. Brown for coming here today.
23 Dennis, it's a pleasure always to see you. And
24 your point with regard to insulation, do you think
25 that insulation is not being spoken to clearly

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2 enough in the bill? Because certainly that would
3 come out of some sort of energy audit of a
4 building that perhaps any better insulation-- do
5 you fear that's something that might be overlooked
6 in an energy audit and ask that it be more
7 explicit?

8 DENNIS IPPOLITO: Not in an energy
9 audit. Over the last 30 years mechanical
10 insulation has been ignored in building a
11 building. And that brought the standard of the
12 building down by not paying attention to the
13 mechanical insulation. We're such a small part of
14 a big structure that we're usually a sub of a sub.
15 The GC and then you have the sub, and then we're
16 the sub of the sub. And we're totally ignored.
17 Most of the times the general contractor that
18 builds the building or retrofits a building
19 doesn't even know who the insulator is, doesn't
20 even care who the insulator is. And what we're
21 trying to do is bring it to the forefront that
22 mechanical insulation should be at the front end,
23 not at the back end. People should be paying
24 attention-- if we're serious about saving the
25 environment and not just New York City, but the

1
2 whole country and the world, if we're serious
3 about saving the environment, mechanical
4 insulation should be right in the forefront-- not
5 in the back of the car, in the front of the car,
6 driving the car to make sure that people are
7 paying attention that mechanical insulation is
8 being done properly and not being cost saved. A
9 lot of times our contractors are told to give them
10 the cheapest possible price to do the mechanical
11 insulation in the building. They don't care about
12 the long-term savings. They just look to build it
13 the cheapest way they can build it. And that's
14 what Local 12 is trying to get that point out.

15 CHAIRPERSON GENNARO: Sure. And
16 certainly we have all the top people from the
17 administration still here, including Rohit
18 himself. And certainly we have to make sure that
19 any kind of standards we have for, you know,
20 energy audits of buildings take a close look at
21 insulation needs as well. Because it would be my
22 thinking that if somebody did an audit of a
23 building who saw the type of insulation that
24 wasn't up to standard or that would be one of the
25 recommendations that could come out of an audit,

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2 and we'll make sure that we keep a close eye on
3 that, so that's part of the equation when it comes
4 to retrofitting these buildings and making them
5 more efficient.

6 DENNIS IPPOLITO: Thank you very
7 much, Councilman.

8 CHAIRPERSON GENNARO: And so many,
9 so many statements here. Where's Jon Forster's?
10 Right. Okay. And Mr. Mullins, your comments and
11 other folks' comments about using apprentice
12 programs are duly noted. And certainly we've been
13 talking about that in discussions. And so thank
14 you for making that point. And my final question
15 or comment would be to-- before I recognize
16 Council Member Crowley-- Jason Panarella, if you
17 could come forward, Jason. Now I know that you've
18 taken part in a green building training course.
19 And you've been versed in creating energy
20 efficiency in buildings. And I know that you had
21 some thoughts to share with the committee. I'd
22 like to give you the opportunity to share those
23 thoughts briefly with the Committee.

24 JASON PANARELLA: As a 32BJ member
25 I am glad the City Council recognizes how

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2 important it is that buildings become more
3 sustainable and energy efficient, and I hope the
4 City plan includes training workers for the reason
5 that with proper training as well as up to date
6 equipment, building services workers could make
7 sure that buildings run more efficiently, thank
8 you.

9 CHAIRPERSON GENNARO: Thank you.
10 Thank you, Mr. Panarella. Now, what building do
11 you work in?

12 JASON PANARELLA: I work in
13 Washington Square Village, a 1,296-unit NYU owned
14 complex.

15 CHAIRPERSON GENNARO: Well, thank
16 you for your contribution to making us a more
17 energy efficient city.

18 JASON PANARELLA: I greatly
19 appreciate it.

20 CHAIRPERSON GENNARO: We greatly
21 appreciate you and all the other 32BJ members.
22 And so I'd like to thank this panel for the value
23 added that they brought to our understanding of
24 these bills. Oh and pardon me. Forgive me. I
25 recognize Council Member Crowley. I said I was

1
2 going to do it and then I didn't do it. Shame on
3 me. Council Member Crowley.

4 COUNCIL MEMBER CROWLEY: Thank you,
5 Chairman Gennaro. Thank you. I'd like to thank
6 the various different labor leaders for coming
7 here today. I respect the work that you do and I
8 agree with the need to make sure that there's some
9 type of language amended in the future to ensure
10 that people will be doing these jobs coming out of
11 some type of apprentice trained workforce. I want
12 to ask Dennis Ippolito a question because I'm a
13 little concerned, what you said about the
14 insulation that even new LEED certified buildings
15 that are built today are not meeting a standard
16 that you think should be met in terms of properly
17 insulating. And also, is it just insulating for
18 machinery or is it insulating in other areas of
19 the building?

20 DENNIS IPPOLITO: Mechanical
21 insulation, let's use the Bank of America
22 Building, a tremendous insulation job. They paid
23 attention to everything that was going on there.
24 And the work in the Bank at One Bryant Park was
25 fantastic. And then you move over to Goldman

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2 Sachs. And if you look into the Goldman Sachs
3 facility you'll go into those big mechanical
4 equipment rooms and you'll look at the ductwork
5 that's insulated there, they used the least-- the
6 cheapest insulation on the big ductwork in those
7 mechanical equipment rooms. But the insulation on
8 the piping is tremendous, but the insulation on
9 the HVAC ductwork is minimum standards. And
10 that's where a little bit is getting lost in the
11 shuffle. They're also building a couple of new
12 apartment houses on the west side of Manhattan
13 right now where they're insulating the riser on
14 the steam lines, but they're not insulating the
15 branches. And that's because they want to save
16 money on the mechanical insulation. Those
17 branches going into the units should be insulated.
18 Once it comes out of the units it's a different
19 story; it's got to cool as it goes down to the
20 boiler. And LEED has helped us tremendously, but
21 there's still a lot of improvement that has to be
22 made on mechanical insulation.

23 COUNCIL MEMBER CROWLEY: Do you
24 think there needs to be a specific law that
25 addresses mechanical insulation?

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2 DENNIS IPPOLITO: I think with this
3 new City Code that Councilman Garodnick-- it's one
4 of his bills, I think that we should just maybe
5 pay a little bit more attention to that and this
6 bill is welcome. Because if you look at if you
7 were building a house, what would you do? If you
8 were building a house and you had to make a
9 decision on insulation, wouldn't you use a little
10 bit more than a little bit less, right? And now
11 people are still using a little bit less.

12 COUNCIL MEMBER CROWLEY: Thank you.

13 CHAIRPERSON GENNARO: Thank you
14 Council Member Crowley. I recognize Council
15 Member Melissa Mark-Viverito.

16 COUNCIL MEMBER MARK-VIVERITO:
17 Thank you, Mr. Chair. Just very brief. I just
18 really want to say that with regards to this panel
19 and your recommendations are ones that I really
20 agree with strongly. I think that we have to do
21 more with regards to really specifying within the
22 legislation the certification aspects of-- and
23 really ensuring that these are quality jobs, but
24 you know, in terms of the service to be provided
25 is quality as well. But, you know, that's

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2 something that really I think we should be paying
3 a little bit more attention to. So I welcome that
4 opportunity in terms of the ongoing dialogue and
5 seeing how we can change some of the language in
6 the legislation to accommodate that and clearly
7 provide great jobs for many of our constituents.
8 So thank you for your interventions, for your
9 presentations. Thank you.

10 CHAIRPERSON GENNARO: Thank you.
11 Thank you, Council Member Mark-Viverito. And I
12 thank this panel one and all and I appreciate you
13 being here and look forward to ongoing discussions
14 to get to the best result we can. Thanks Jon.
15 Next panel-- before the next panel takes its seats
16 the Sergeants are going to move another table so
17 that we don't have to play musical chairs so much.
18 And while they're making that move I'll call up
19 the next panel. From The NRDC, Donna DeCostanzo,
20 who has served with great distinction as the
21 Counsel to this committee. We welcome Donna back.
22 From the Sierra Club, Loren Blackford. Anyone is
23 here from Sierra? We weren't sure if they were
24 going to come or submit testimony. From the
25 Environmental Defense Fund, Elizabeth Stein--

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2 although I saw Andy Darrell here as well. From
3 the AIA, Margaret Castillo. From the US Green
4 Building Council, another graduate of the Council,
5 Russell Unger, who also served here with great
6 distinction as a staff member of the Council.
7 From the League of Conservation Voters, Josh
8 Nachowitz. Although I saw Marcia here, Marcia
9 Bystryn. So whoever is going to represent LCV,
10 come forward. And from Urban Agenda it looks like
11 MiJin Cha. So that is the panel. I'm very
12 gratified to have this panel here. And Donna, as
13 one who gave the oath so many times as the Counsel
14 to this Committee, you get a chance to take it
15 now. And notice how life goes in cycles. And so
16 I'd ask counsel to swear in this panel.

17 SAMARA SWANSTON: Please raise your
18 right hands. Do you swear or affirm to tell the
19 truth, the whole truth and nothing but the truth
20 today?

21 [Off Mic]

22 CHAIRPERSON GENNARO: So starting
23 with, I guess my left, your right-- we can start
24 with Ms. Cha. Do we have statements from folks?
25 Give those to the Sergeants. Do you have a

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statement, Ms. Cha?

MIJIN CHA: I do.

CHAIRPERSON GENNARO: Okay.

MIJIN CHA: I just handed it over.

CHAIRPERSON GENNARO: All right.

It'll make its way to me.

MIJIN CHA: Great.

CHAIRPERSON GENNARO: So I would ask that you state your name for the record and commence and I'll catch up once I get the statement in my hands.

MIJIN CHA: Sure. Thank you, Council Member. Thank you Council Member Gennaro and the rest of the members of the Committee. My name is Mijin Cha. I'm the director of campaign research at Urban Agenda. Urban Agenda works closely with the New York City Labor Movement and other social justice movements to push for progressive policy change in our city. Urban Agenda is also the convener of the New York City Apollo Alliance, a local affiliate of the National Apollo Alliance. The Apollo Alliance is a coalition of labor, environmental, social justice and business organizations working together to

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2 promote policies that bring us closer to energy
3 independence, create green collar jobs and make
4 our environment both natural and built more
5 sustainable. Before you today is an ambitious
6 farsighted set of legislation. As stated, New
7 Yorkers spend a total of \$15 billion to fuel our
8 buildings, and buildings produce 80% of our carbon
9 dioxide. This legislative package aims to tackle
10 this problem and Urban Agenda commends the City
11 Council for taking this huge step, and recognizes
12 the significance of this legislation. However,
13 while we support the intention behind the
14 legislation, as written, the legislative package
15 is incomplete. We echo the concerns raised by our
16 Housing Advocate allies and are also concerned
17 about the severe lack of enforcement. The lack of
18 job standards in the legislation is particularly
19 troubling, and here we will largely echo the
20 concerns of our Labor allies that were in the
21 panel before. There is no doubt that when
22 properly enforced this legislation has the
23 potential to create work for thousands of workers,
24 yet without adequate job standards or clear job
25 titles, there is no guarantee that the work will

1 be done properly or that it will be done safely.

2 As written there are no definitions or required

3 qualifications for Energy Professional, Lead

4 Energy Professional, or Registered Design

5 Professional. It is also unclear who would be

6 qualified to do energy auditing, retrofitting or

7 retro commissioning. Requiring completion of

8 training programs or certifications in the

9 legislation would help ensure that the work was

10 done properly and safely. The panel before listed

11 several specific training programs and

12 certifications, and there are also more listed in

13 my written testimony. These trainings and

14 certifications are widely used in the industry and

15 are proven to provide the skills, knowledge and

16 experience necessary to ensure that the work done

17 in the buildings is done properly and safely.

18 These trainings and certifications must be

19 explicitly included in the legislation. It cannot

20 be assumed that the right training and

21 certification would be automatically applied. We

22 also need to ensure that the jobs that we are

23 creating are good, green collar jobs that provide

24 a family-sustaining wage, paid benefits and

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2 pathways out of poverty. While these elements
3 cannot be mandated, requiring proper training and
4 certifications goes a long way towards providing
5 adequate job standards so the jobs that are
6 created are not just green jobs, but good jobs.
7 Thank you for your time and consideration and we
8 appreciate the dedication to green initiatives the
9 Council has shown. We look forward to the amended
10 legislation that addresses the current
11 shortcomings, makes our buildings more efficient
12 and brings our city to the forefront of the fight
13 against climate change. Thank you.

14 CHAIRPERSON GENNARO: Thank you.
15 Thank you, Ms. Cha for your statement, and for
16 being here. Ms. DeCostanzo. Do I have a
17 statement from you?

18 DONNA DECOSTANZO: I do have a
19 statement, which I have provided.

20 CHAIRPERSON GENNARO: Okay. Fine.
21 I have it. I have it.

22 DONNA DECOSTANZO: So good morning,
23 Chairman Gennaro and Council Member Garodnick.
24 It's great to be back. My name is Donna
25 DeCostanzo and I am a Senior Attorney at the

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2 Natural Resources Defense Council, a national non-
3 profit environmental organization based in New
4 York City. Thank you for the opportunity to
5 testify in strong support of the legislation
6 before the Committee today. The NRDC applauds the
7 City Council for moving forward on these bills, in
8 partnership with the Mayor, which are not only a
9 critical part of the solution to address climate
10 change, but will also result in significant job
11 creation, lower energy costs for consumers, fewer
12 emissions of harmful pollutants, increased
13 reliability of our electric grid and greater
14 energy security. The science is in and the debate
15 about whether climate change is happening is over.
16 We need to focus on how to address the problem at
17 all levels of government. This committee and the
18 Council recognized that fact when it adopted Local
19 Law 55 of 2007, which institutionalized in law the
20 strong and achievable greenhouse gas reduction
21 targets of PlaNYC, including reducing citywide
22 emissions 30% by 2030. The landmark legislation
23 before you today will go a long way towards
24 meeting that requirement by addressing existing
25 buildings, the largest contributor to the City's

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2 carbon footprint. A number of jurisdictions have
3 focused on new buildings, which are also
4 important, but dealing with buildings that are
5 already standing and will be around for decades to
6 come is key, particularly in New York City, where
7 emissions from energy consumption in buildings
8 comprise nearly 80% of the City's global warming
9 pollution. Energy efficiency is an important
10 resource and is the cheapest, easiest and fastest
11 way to meet New York City's energy needs while
12 reducing global warming pollution. According to a
13 2007 analysis by McKinsey & Company, which looked
14 at the cost and potential of different approaches
15 to reduce greenhouse gas emissions in the United
16 States, there is enormous potential for energy
17 efficiency in buildings. In addition, the
18 economic benefits of investing in energy
19 efficiency roughly cover the cost of reducing such
20 emissions on the scale and timeframe needed to
21 avert potentially catastrophic warming. Buildings
22 are our largest source of efficiency that is just
23 waiting to be tapped. This package of bills will
24 require that sensible, cost effective energy
25 efficiency measures are implemented and will

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2 create demand in scale that is necessary to send a
3 signal to the marketplace. New York City is
4 poised to become a center for green jobs,
5 innovation and financing. As demand for energy
6 efficiency measures grows here and throughout the
7 Country, New York City can position itself as a
8 leader in the industry in providing energy
9 services, financing products and the work needed
10 to install the upgrades themselves. In addition,
11 central systems and lighting represent the most
12 significant portion, about 75% of our energy use
13 in buildings, so targeting them represents a large
14 opportunity. Much of the energy used in our
15 buildings is wasted. It's like we have a hole in
16 our pocket and our money just keeps falling out.
17 Energy efficiency measures such as retrofitting
18 existing buildings can generate net savings using
19 technology that exists today, and provide a low
20 risk investment on which the potential return is
21 substantial. Intro number 967 as now being
22 considered would only require measures to be
23 implemented that have a payback period of five
24 years. However, many energy efficiency measures
25 pay for themselves within two to three years and

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2 continue to provide energy cost savings for many
3 years thereafter. This package of legislation
4 will not only result in a multitude of benefits in
5 New York City, but can also serve as a model for
6 other cities around the country and the world. I
7 thank you for your leadership on this issue and
8 urge this Committee and the Council to
9 expeditiously move forward to adopt these bills as
10 soon as possible. Thank you.

11 CHAIRPERSON GENNARO: Thank you,
12 Donna. Thank you.

13 RUSSELL UNGER: Good afternoon.

14 CHAIRPERSON GENNARO: Do we have a
15 statement? Do you have a written statement?

16 RUSSELL UNGER: You do, somewhere.
17 My name is Russell Unger. Council Member Gennaro
18 and Garodnick, thank you for having me. I'm the
19 Executive Director for Urban Green Council, we're
20 the US Green Building Council of New York, and I'm
21 here to express Urban Green's strong support of
22 all legislation you're considering today. The
23 mission of Urban Green is to advance
24 sustainability in urban built environments and to
25 make New York City a model for the rest of the

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2 country, through education, advocacy,
3 collaboration and research. Our parent
4 organization, the US Green Building Council,
5 developed and manages the LEED Green Building
6 rating system, which has driven the green building
7 movement. And our membership includes many of the
8 City's top owners and developers, trades,
9 contractors, product manufacturers and many of the
10 foremost architects and engineers in the country.
11 Chairman Gennaro, I think you hit on the kind of
12 key point for today in your opening remarks when
13 you made reference to the City's law mandating
14 reductions in greenhouse gas emissions. These are
15 not goals. This is a law on the books, and 80% of
16 our greenhouse gas emissions come from buildings.
17 So, you have to do the math there. Even if you
18 eliminated all the greenhouse gas emissions from
19 other sources, you'd need to get on buildings.
20 And if all these things were going to happen on
21 their own as some of the industry is saying it
22 will, we would be there already. And this is
23 probably, I think what we're considering today,
24 particularly the retrofit piece, this may be a
25 little more like sprinklers. Sprinklers are not

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2 only a great idea, they're a necessary idea;
3 that's why they're required in the building code.
4 And reductions in energy and water use in
5 buildings isn't just a great idea, it's a
6 necessary idea and that's why it has to become
7 law. These things do make sense though. They
8 make business sense. That's why a lot of better
9 owners in the City are doing them. And so what
10 we're talking about today is really effectively
11 mandating what the best owners in the City are
12 already doing. The reason why some owners might
13 not be doing it is well, maybe a 20% rate of
14 return isn't good enough. They've found something
15 else that has a 30% rate of return. The hassle
16 factor is high. There are other barriers to doing
17 this, but it can make economic sense. And this
18 legislation in particular, focusing on the
19 retrofits legislation, is structured in a way that
20 it only happens if it makes economic sense. You
21 know the other kind of big picture, I think to
22 comment on, as an environmentalist, as someone
23 looking across the country, is I think that this
24 package will become the environmental equivalent
25 of the City's smoking laws. It's something that

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2 everyone in the country realizes we have to do.
3 We have to address existing buildings. Everyone
4 is waiting for somebody to act first, for someone
5 to blink. New York has, you know, taken the lead
6 on a lot of environmental issues and a lot of
7 other issues. The country looks to us and I think
8 it's great the Council is taking the lead on this
9 with the Mayor. And by acting, we'll see the rest
10 of the country follow suit. That's going to be
11 great for the economy. It's going to bring jobs.
12 The expertise is developed in New York, there's
13 going to be expertise and people are going to hire
14 New Yorkers to use elsewhere in the country.
15 Again, I express our strong support and
16 congratulate you on a great effort.

17 CHAIRPERSON GENNARO: Thank you.
18 Thank you, Mr. Unger. I appreciate it. Please.
19 You've got to talk right into the mic.

20 ELIZABETH STEIN: Good afternoon.
21 My name is Elizabeth Stein. I am an attorney with
22 Environmental Defense Fund, a non-profit group
23 headquartered in New York City. Before coming to
24 EDF I had five years' experience as a real estate
25 attorney in the private sector, working on

1 commercial and residential development projects,
2 of which many were prominent initiatives in New
3 York City. My bottom line for you today is
4 simple. These bills are good for the bottom line.
5 They constitute the largest and most cost
6 effective action New York City can take to reduce
7 energy demand, greenhouse gas impacts and consumer
8 electric bills. EDF supports the bills before you
9 today, recognizing that they will need to be
10 modified to strengthen environmental performance
11 and ensure public input and respond to some
12 practical implementation needs. But the basic
13 framework before you today deserves your strong
14 support and your commitment to work through
15 whatever outstanding issues may arise. Prompt
16 passage of the full package of bills is vital for
17 several reasons. First, even the most significant
18 of the four bills before you requires only
19 modifications that can pay for themselves. As a
20 result, over the medium term these bills should
21 have a negative net cost to those affected by
22 them. A negative net cost because wasting less
23 energy saves money. Second, prompt action on
24 these bills will put our city's workforce ahead of
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2 the curve, preparing us to tap into the national
3 market for green building technology as it
4 expands. Third, the retrofit bill is far more
5 flexible than a blunt mandate, giving building
6 owners flexibility to substitute alternative
7 measures to achieve the same efficiency results.
8 Fourth, timelines and exemptions reflect today's
9 economic needs. The bills contemplate flexible
10 timing for building owners whose ability to comply
11 is constrained in light of the current financial
12 climate or for other reasons. EDF supports this
13 flexibility so long as financial hardship
14 exceptions are not permitted to swallow the rule.
15 In closing, in considering the package as a whole,
16 we ask you to consider two fundamental realities.
17 First, passing the bills now helps clear away
18 market barriers that currently prevent sensible
19 energy efficiency modifications from being made.
20 Concerns about market readiness can be addressed
21 by enacting legislation now and building into the
22 legislation the breathing room that real estate
23 owners and lenders will need to adjust their
24 practices during the early years of the new
25 requirements so that they can maximize their

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2 ability to capture the benefits of resulting
3 energy efficiencies. And finally, please think of
4 what happens if we don't act. We will miss the
5 biggest local opportunity to solve global warming.
6 We will miss a key chance to reduce the strain on
7 the Grid during peak demand periods and resulting
8 brown outs. And the City will have to address
9 growing energy demand with more power plants
10 within the five boroughs, emitting pollutants that
11 according to recent studies can lead to such
12 negative health effects as reduced IQ and heart
13 attacks. We understand that details relative to
14 implementation of these bills are still being
15 negotiated. Our written testimony addresses some
16 of these key issues in greater detail, however we
17 think it would be best to conclude these
18 negotiations quickly so that this extraordinary
19 moment does not pass us by and these game changing
20 bills can move forward. Thank you.

21 CHAIRPERSON GENNARO: Thank you.

22 Thank you, Ms. Stein and I will note that you have
23 this whole package that is attached to your
24 statement, which we certainly appreciate all the
25 detail that you've provided in addition to your

statement that you read. We appreciate that.

ELIZABETH STEIN: Thank you.

MARGARET CASTILLO: Good afternoon
Chairman Gennaro and other council members. My
name is Margaret Castillo. I'm the Vice President
for the AIA, American Institute of Architects.
And we are here to testify on behalf of the New
York chapter of the American Institute of
Architects, which is a professional organization
that has 4,300 architects and public members. The
AIA chapter applauds its friend here at the City
Council Environmental Protection Committee, the
Mayor's Office for Long Term Planning
Sustainability and the proposed bills that we are
discussing today. These bills, all four of them,
are central to the continuing efforts of PlaNYC,
which is bringing New York City to the forefront
of sustainable City planning in the United States
and internationally. As architects, we understand
buildings contribute significantly to carbon
emissions and climate change, and therefore we
have a fundamental responsibility to improve
building energy efficiency in order to reduce the
negative impact on the environment. AIA New York

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2 endorses retrofitting and upgrading the City's
3 almost 1 million existing buildings to fit these
4 new standards. We know we can make our City more
5 energy efficient and less detrimental to our
6 environment. This is especially critical for New
7 York. As PlaNYC points out, almost 80% of the
8 City's carbon footprint comes from building energy
9 use. Environmental degradation is a threat to
10 health, safety and welfare of our citizens.

11 Previously the New York City energy code-- New
12 York State energy code applied only to portions of
13 existing buildings that meet a threshold
14 substantial renovation. The creation of a New
15 York City Energy Code would require that buildings
16 over 50,000 square feet and under will follow the
17 same green energy standards. The City Council and
18 administration should be commended for taking on
19 this environmental degradation as a building code
20 issue. Given the economic downturn, these
21 proposed bills present an unprecedented
22 opportunity to recycle and retrofit the stock of
23 older buildings in New York. With the necessary
24 regulator oversight and enforcement, our buildings
25 can become more efficient, cleaner and greener

1 structures. Further, this proposed legislation
2 will set a leading example nationally and globally
3 of best practices in sustainability and urban
4 planning for other cities to follow. We do have
5 some recommendations, particularly for the bill of
6 audits and retrofitting that there are
7 qualifications for energy auditors and it should
8 require a licensed architect or professional with
9 ASHRAE level 2 energy audit training. There
10 should be training and qualifications I should say
11 for cost estimators, and these need to be
12 determined so that they refer to an industry
13 standard; and payback calculations. A rolling
14 average of the building's prior two years energy
15 costs should be the basis for payback
16 calculations. Additionally, the chapter feels
17 strongly that in order for the proposed energy
18 conservation legislation to be successful there is
19 a training and certification must be established
20 for energy auditors. We commend the six point
21 green building plan for including a job program to
22 train workforce for real estate, construction
23 industries. In addition, the AIA recommends
24 training be made available to architects,
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2 engineers, the New York City Department of
3 Building Examiners, building managers, on the
4 requirements of the code's legislation and
5 standards for its implementation. We have a long
6 history of providing education and training
7 programs and of successful collaboration with the
8 DOB and other city agencies, and we welcome the
9 opportunity to develop educational programs--

10 CHAIRPERSON GENNARO: [Interposing]
11 Thank you.

12 MARGARET CASTILLO: --in order to
13 ensure this legislation is implemented.

14 CHAIRPERSON GENNARO: Thank you so
15 much. We appreciate this, Ms. Castillo. You're
16 representing Sierra, is that right?

17 LOREN BLACKFORD: Yes, I'm with the
18 Sierra Club. I was on your list, but we submitted
19 written testimony from Michael Richter, who in
20 addition to being my co-chair of the Sierra Club
21 National Advancement Committee is also a partner
22 with Environmental Capital Partners and also the
23 Former All Star hockey goalie with the New York
24 Rangers. Do you wish me to read his statement?

25 CHAIRPERSON GENNARO: Who doesn't

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know that?

LOREN BLACKFORD: There must be one or two people here.

CHAIRPERSON GENNARO: It was a pleasure to meet Mike at the announcement of the bills on Earth Day. Not necessary that you read the statement. And thank you for representing the Sierra Club and Mr. Richter, who are true partners in this initiative.

LOREN BLACKFORD: Thank you. We appreciate your work.

CHAIRPERSON GENNARO: Thank you. Josh?

JOSH NACHOWITZ: Good morning, Chairman Gennaro and Council Member Garodnick. My name is Josh Nachowitz. I am the Policy Director for the New York League of Conservation Voters. I am honored to testify here today in support of this groundbreaking package of green buildings legislation. The four proposed bills before the Committee would make New York City one of the greenest cities in the world, creating more efficient commercial and residential buildings is an environmental and economic imperative for New

1
2 York City. The threats of climate change are real
3 and growing. As a coastal city, New York and its
4 aging infrastructure are particularly vulnerable
5 to rising sea levels and more frequent and severe
6 storms. Our economic well-being is also
7 endangered by our voracious appetite for energy.
8 All indications point to continued volatility in
9 the cost of fossil fuels, inadequate energy
10 production and delivery infrastructure, combined
11 with price volatility and demand, will result in
12 more outages and higher consumer and business
13 expenses. This package of bills is a simple and
14 cost effective way to dramatically improve energy
15 efficiency in the city. The combination of
16 disclosure requirements and mandates in these
17 bills will provide consumers with much needed
18 information about the energy profile of properties
19 when they're considering leasing or purchasing,
20 and will result in long-term savings. It is
21 important to remember that while some measures in
22 these bills will require upfront costs, they will
23 all result in long-term savings for both landlords
24 and tenants. It is clear the cost of energy will
25 only increase in the future. The more

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2 aggressively we act now to improve the efficiency
3 of our homes and office buildings, the more we
4 will be able to save in the future. Now the time
5 is now to pass this groundbreaking package of
6 legislation, which will dramatically improve our
7 energy efficiency and reduce energy costs by
8 roughly three-quarters of a billion dollars a
9 year. Now we owe a tremendous debt of gratitude
10 to the City Council and to the administration for
11 proposing this initiative, and we look forward to
12 working with you in seeing these bills passed,
13 certainly. Thank you.

14 CHAIRPERSON GENNARO: Thank you,
15 Josh. I appreciate all the support of the LCV. I
16 saw Marcia briefly before. She and I have been
17 playing phone tag the last couple of days. But,
18 you know, send her my best wishes. And I thank
19 the LCV for all that they're doing. I really
20 appreciate it. Ms. Blackford, thank you for being
21 here on behalf of Sierra and Mr. Richter, we
22 certainly appreciate the role that you're playing
23 in this process as well. And, okay. And I'm
24 going to recognize-- Dan do you want to get
25 recognized?

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2 COUNCIL MEMBER GARODNICK: Okay,
3 sure.

4 CHAIRPERSON GENNARO: And Ms.
5 Castillo, thank you for the perspective that you
6 bring from the architects. And you have those
7 three, you know, bullet points you put forward,
8 which are duly noted and will be helpful. And
9 I've already thanked Environmental Defense for
10 what they've done with regard to this
11 comprehensive recommendations that you've made,
12 which is appended to your testimony. And Russell,
13 thank you for saying very clearly what needed to
14 be said. We appreciate all your work now and all
15 your work that you gave us at the Council, going
16 back to the green buildings bill of 2005 and the
17 misty past. Thank you for your great efforts and
18 now we appreciate that. And Donna DeCostanzo, who
19 sat next to me for so many years, it's good to see
20 you on the other side. Maybe I'll be on the other
21 side some day myself. But thank you for
22 everything that NRDC-- I guess my time is up. And
23 Ms. Cha, I want to-- you talk a lot about
24 standards here in your testimony. I appreciate
25 the case that you made here for standards. Those

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2 are duly noted. I appreciate you bringing them
3 forward. And so that concludes what I have to
4 say. But Council Member Gardonick has a question
5 or a comment. I recognize Council Member
6 Garodnick.

7 COUNCIL MEMBER GARODNICK: Thank
8 you very much. And I will be very brief. Thanks
9 to the entire panel. I wanted to single out
10 Russell Unger and Donna DeCostanzo, because they--
11 I credit them with teaching me everything that I
12 know on the subject of greenhouse gas emissions
13 from before I was on the Council and certainly up
14 to today, for their role in the evolution of some
15 of the bills, not all of the bills, that we're
16 hearing today. But I just wanted to ask a
17 question similar to the one I asked of the labor
18 panel. Mr. Unger, you noted that the retrofit
19 bill makes business sense and that it happens only
20 when it makes economic sense. You also noted the
21 municipal law requiring us to reduce our
22 greenhouse gas emissions by 2030 by 30%. So my
23 two questions here are, one, when you hear the
24 testimony from Real Estate Board and building
25 owners who say that it's too difficult to

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2 accomplish this because of the varying lease
3 scenarios that exist and the various
4 responsibilities in some of these buildings, if
5 you could address why that is right or wrong. And
6 then the second question is, can we accomplish
7 what we need to accomplish under the law without
8 mandatory retrofits here?

9 RUSSELL UNGER: I'll do my best.

10 COUNCIL MEMBER GARODNICK: I ask
11 you the hard ones because I know that, you know, I
12 know that you can handle these.

13 RUSSELL UNGER: Well you know, the
14 concerns that-- I think one of the important
15 points to make is the real estate industry is not
16 monolithic in its opinion on this. There's owners
17 who are already doing these things, those who are
18 in support of this legislation. And there's
19 owners who are doing this who are uncomfortable
20 with the idea of something becoming required, that
21 are already doing it. So there's a range of
22 opinion within the real estate industry. That's
23 the first point to make. The second is, the
24 concerns they raise are legitimate; that, you
25 know, they need to get financing for these things.

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2 There are difficult leasing structures. Systems
3 are complex in buildings. But that doesn't mean
4 that the answer is make this voluntary. I think
5 the answer is, the onus has to be on the real
6 estate industry. Okay, given the, you know, you
7 want a clear explanation of what financial
8 hardship is, come back. Come to the Council.
9 Come to the Mayor's office with their idea of what
10 standard is appropriate. The lease structures are
11 indeed a barrier but the lease structures are the
12 creation of the owners themselves and negotiations
13 with tenants. And I think, you know, these things
14 do have to be improved. I think that's something
15 that's going to come over time, but they haven't
16 happened by themselves. And it's going to take a
17 push, and I think this legislation will bring them
18 there. So the fact that this is already being
19 done by the better owners in the City and the fact
20 that they find these things cost effective says
21 that everyone can do it, just they may have not
22 chosen to do it so far.

23 COUNCIL MEMBER GARODNICK: Anybody
24 else want to address that before...? Okay, so go
25 ahead and answer that second question, which his

1
2 how critical is the mandatory retrofit to
3 accomplishing what we need to accomplish under
4 City law?

5 RUSSELL UNGER: It's essential. I
6 just don't think it's possible that the City is
7 going to get to its required reduction of 30% by
8 2030 without mandatory reductions in energy from
9 existing buildings. It can't. The math just says
10 you're not going to get there. The City has
11 gotten there a lot of ways with other work,
12 repowering power plants, changes to fleets, those
13 are all going to help. But when 77% of your
14 greenhouse gas emissions come from one source,
15 unless you're addressing that source you're not
16 going to get to where you need to get to.

17 LOREN BLACKFORD: The question on
18 complexity, I think they have to separate, the
19 Real Estate Board. It is possible to do an audit
20 on systems, even if they're both central and
21 individual for tenants. It's a measurable thing
22 to do. The complexity seems to lie more in the
23 lease, and they shouldn't be co-joined. You can
24 find a way to measure and retrofit systems.

25 ELIZABETH STEIN: Sorry. Just

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2 further to Russell's point about the complex
3 leases being the creation of negotiations between
4 owners and tenants, I think it's important to
5 frame the problem of the split incentive as innate
6 to making efficiency improvements and not specific
7 to this legislation. It stands in the way of
8 owners making efficiency improvements with or
9 without the legislation. So the legislation
10 provides an opportunity to create an environment
11 where it becomes clear they have to get around to
12 producing these efficiencies and should try to
13 find a way around or a way to repair their current
14 lease structures, because the lease structures
15 prevent them from doing energy efficiency
16 improvements without legislation.

17 COUNCIL MEMBER GARODNICK: But let
18 me just push you on that for one second because I
19 think that this is an important point and surely
20 will be part of any future discussions that we
21 have. When the Real Estate Board was here they
22 noted that in some cases they have a 15-year lease
23 with an option to renew for the same terms, for
24 the same lease, for another 15 years. Now, even
25 if we were to require audit and require retrofit

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2 in the circumstances where it pays for itself
3 within a finite period, how does that affect that
4 lease and the terms that they have previously
5 negotiated?

6 ELIZABETH STEIN: I mean it depends
7 on how we propose to deal with it in the
8 legislation. But it may be that with respect to a
9 lease that's beginning today and has 15 years
10 ahead of it and a five-year option that is
11 exercisable unilaterally by the tenant where no
12 further negotiation takes place, there may be no
13 way to rescue that lease in that timeframe. But
14 that's a narrow set of the leases that are in
15 existence. There are maybe over 100 leases in the
16 building, probably they're not all subject to that
17 set of constraints.

18 RUSSELL UNGER: Just to clarify,
19 there's nothing in a lease that's going to prevent
20 a landlord from making improvement to their base
21 systems.

22 ELIZABETH STEIN: Right. Correct.

23 RUSSELL UNGER: The question is, is
24 a lease structured in such a way that the landlord
25 is going to benefit from it. And right now a lot

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2 of leases are not structured that way. They're
3 actually structured so that the landlord makes a
4 certain amount of money when energy costs-- when
5 they pass on the energy bill, when energy costs go
6 up, some of them actually make more money. So
7 there are a lot of disincentives to the leasing
8 structure. Those have to be improved and this
9 legislation will create an environment where there
10 will be a strong incentive to align those and make
11 them more rational.

12 DONNA DECOSTANZO: Yeah, the only
13 other thing that I wanted to say is I wanted to
14 just stress the importance of these bills in
15 reaching the City's requirement that it reduces
16 emissions by 30% by 2030. Again, as Russell
17 mentioned, as we've heard many times earlier by
18 the administration and others, buildings and
19 existing buildings really need to be addressed if
20 we're going to really get serious about tackling
21 the issue of climate change. And buildings that
22 exist today are going to be around for decades to
23 come. And we really need to scale up energy
24 efficiency, and the only way to do that is with a
25 mandate; and we need to scale it up tremendously.

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2 And by scaling it up tremendously we will also
3 then start seeing I think those financing products
4 become available and things that will follow. But
5 I think it's key-- you really have to get energy
6 efficiency at scale.

7 COUNCIL MEMBER GARODNICK: Do you
8 agree with Mr. Unger that we cannot achieve that
9 goal that's set by law without the mandatory
10 retrofit.

11 DONNA DECOSTANZO: I think that it
12 would be incredibly difficult, if not impossible.

13 COUNCIL MEMBER GARODNICK: Thank
14 you.

15 CHAIRPERSON GENNARO: Thank you.
16 Thank you, Council Member Garodnick and many
17 thanks to this panel and I appreciate everything
18 that you've added to this discussion. And the
19 next panel, from the Federation of Coops and
20 Condos Greg Carlson. Council of New York Coops
21 and Condos, Maryann Rothman. Energy Management
22 and Research Associates, Fred Goldner. Ferreira
23 Group/Noveda Technologies, John Lembo. From
24 Brevoort, Diane Nardone. From OMNI Courtney Reed.
25 Two people from OMNI? Also from OMNI, Eugene

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2 Schneur. And from JASA, Donald Manning, another
3 big panel. And while that panel is getting
4 settled, the panel after this will be
5 representatives of tenants, Women's Housing and
6 Economic Development Council, Tenants and
7 Neighbors, Legal Aid Society, Legal Services NYC,
8 The Center for Working Families will be the panel
9 after this one. Other panels to follow that of
10 course. Okay. Thank you all for coming. I'd ask
11 the counsel to swear in the panel. And we can
12 begin.

13 SAMARA SWANSTON: Can you please
14 raise your right hands? Do you swear or affirm to
15 tell the truth, the whole truth and nothing but
16 the truth today?

17 [Off Mic]

18 CHAIRPERSON GENNARO: Thank you.
19 Now from this panel I have one written statement
20 from the Brevoort Corporation. Okay. And the
21 other witnesses do not have statements? Okay.
22 You're handing in statements also? Okay. At this
23 time why don't we start to my far right, your
24 left, if you could identify yourself sir.

25 JOHN LEMBO: Good morning, Mr.

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Chairman.

CHAIRPERSON GENNARO: And do you have a written statement, sir?

JOHN LEMBO: I don't.

CHAIRPERSON GENNARO: You don't. Okay.

JOHN LEMBO: I'm speaking extemporaneously.

CHAIRPERSON GENNARO: If you could state your name for the record and proceed.

JOHN LEMBO: Good afternoon, all. My name is John Lembo. I am the Principal and Managing Director for the Ferreira Group. We are an organization that focuses on optimizing building performance through technology and service. Prior to my tenure at the Ferreira Group I was the Director of Energy for Starwood Hotels and Resorts for North America, at which time I was integral in the development of the Portfolio Manager Program for Hospitality for benchmarking. I just want to mention that I am tremendously supportive of this bill. And with--

CHAIRPERSON GENNARO: [Interposing] The benchmarking bill?

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2 JOHN LEMBO: Correct. And all
3 bills inclusive. I think they're all
4 interrelated. And tremendously supportive of the
5 Portfolio Manager Program of the EPA as well. And
6 I remain critical of that as well. The only way
7 you can really support something is if you
8 continue criticism of it, and that's how it gets
9 better. Using the portfolio manager program for
10 benchmarking I think is a great tool. I think
11 every building should benchmark and continue to
12 try to better itself against itself and buildings
13 of similar types. That said, my organization
14 provides this type of service and we've seen many,
15 many buildings that have achieved high scores on
16 Portfolio Manager that are not truly energy
17 effective or energy efficient for that matter. On
18 the flip side, I've seen many LEED buildings that
19 are not energy efficient. I think what needs to
20 be done is we need to go the extra step and
21 provide a bill to focus on, or I should say--
22 pardon me, I'm out of breath from running up the
23 stairs. I guess I'm getting older. Optimizing
24 performance of buildings is key. It's not all
25 about energy efficiency. It's about optimum

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2 performance. I've found many buildings that are
3 energy efficient that are not optimal in their
4 performance. Many times I've gone through
5 buildings and have found 40 to 50% of the
6 equipment not in operation. If you conceivably
7 benchmark your building at that level and then
8 continue to reduce energy from there, you're not
9 doing due diligence on your part as a consultant
10 or as a professional. So what needs to be done in
11 my opinion is to focus on the retro commissioning
12 aspect of this bill first. Get buildings where
13 they need to be, then determine the benchmark or
14 their baseline level and then drive down energy
15 from there. It doesn't always mean saving energy.
16 It means optimizing performance of the building.
17 Sometimes energy will go up initially, but at
18 which time you'll have a true line of the
19 baseline. The way that's done is through a
20 comprehensive effort of conservation and
21 monitoring visualization. The benchmarking tool
22 is key and needs to be done on an annual basis.
23 But a point of truly real time monitoring
24 visualization of the energy use or the optimum
25 capability of buildings needs to be assessed as

1 well. Cars have dashboards that tell you how it's
2 running. Buildings have nothing. Building
3 automation systems tell you how the HVAC systems
4 are operating to the best of their ability. Nine
5 out of ten buildings I've been through in my
6 career of 25 years have no electricity, natural
7 gas, utility meters being monitored on a regular
8 basis. And when we're talking about energy, you
9 need to know where your building is-- how you're
10 running. So in my opinion, what we need to do is
11 address this on a comprehensive basis of retro
12 commissioning, but utilizing the real time
13 visualization tool to see the value of your
14 efforts going forward, then consistently driving
15 down consumption and optimizing performance. Many
16 times you're going to see consumption go up--

18 CHAIRPERSON GENNARO: Mr. Lembo I
19 have to ask you to conclude.

20 JOHN LEMBO: Please do.

21 CHAIRPERSON GENNARO: Yeah, I just
22 wanted to ask you to conclude your statement,
23 because you've done the three minutes plus a
24 little. And does that conclude your statement?

25 JOHN LEMBO: It does. It concludes

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my statement.

CHAIRPERSON GENNARO: And, so any kind of materials that you could provide to the committee to give us further insight into your perspective would be helpful.

JOHN LEMBO: I would be happy to do that.

CHAIRPERSON GENNARO: I appreciate that, Mr. Lembo. Greg Carlson. I just want to make sure that I have your statement, Greg. Okay. One sheet Greg?

GREGORY CARLSON: Yes. Very environmentally safe.

CHAIRPERSON GENNARO: Yes. Okay.

GREGORY CARLSON: I'm going to not- - you have it in front of you. I'm just going to summarize.

CHAIRPERSON GENNARO: Terrific. Just state your name for the record, Greg.

GREGORY CARLSON: Good day, Chairman Gennaro and the rest of the environmental protection Committee. My name is Gregory Carlson. I'm the Executive Director of the Federation of New York Housing Cooperatives and Condominiums.

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2 Founded in 1993, it represents middle class
3 affordable coops and condominiums. I'm also
4 Executive Director of the New York Affordable
5 Housing Management Association, which represents
6 owners and managers of affordable housing in New
7 York State. I am also President of the New York
8 Association of Realty Managers, which is a
9 property management association. The bills. The
10 Intro 967 will make it mandatory once a decade to
11 do an energy audit, and the results show a payback
12 period of five years or less and must do it or
13 prove hardship. The 476-A, which is the
14 benchmarking of buildings, despite what was
15 previously said in testimony, I have tried to fill
16 out this page and from my best estimate, the
17 initial time that you put to doing this and to get
18 online, you may need professionals to help you out
19 and that will add to the cost of trying to do
20 this. From then on I think it's just a matter of
21 updating your energy needs. As far as the Intro
22 564-A, the New York City Energy Code, I think
23 there is going to be a lot of hidden costs, such
24 as the higher costs for equipment, your energy
25 consultant because you have to bring one on now,

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2 and other hidden costs. The Intro 976, the
3 lighting upgrades, well we have no-- my
4 organizations don't object to it because it's
5 primarily to commercial property, I am concerned
6 about the lack of effort to get LED lighting
7 approved by NYSERDA, ConEdison and others. The
8 aforementioned are always pushing the compact
9 fluorescent bulbs which is know to contain
10 mercury, and no one has come up with a disposal
11 plan. In summary, in these days of hard economic
12 times for residents and building members our
13 organizations want to protect our member buildings
14 from bankruptcy. With water and sewer bills just
15 increased over 12% and coops and condominiums have
16 to increase their maintenance or carrying charges
17 by 37.8% in the last six years, the question is
18 where do coop and condominium buildings going to
19 go to get these needed funds. Remember, we need
20 green to go green. In addition, I just want you
21 to understand there are special funding needs of
22 condominiums and government supervised affordable
23 housing. Thank you.

24 CHAIRPERSON GENNARO: Thank you,
25 Greg. And I'll come back to you on questions. I

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2 appreciate it very much. Thank you, Greg.
3 Please.

4 MARYANN ROTHMAN: Good afternoon
5 Chairman Gennaro and members of the committee. My
6 name is Maryann Rothman. I'm the Executive
7 Director of the Council of New York Cooperatives
8 and Condominiums. We're a membership organization
9 comprised of housing cooperatives and condominiums
10 located throughout the five boroughs of New York
11 City. More than 500,000 families in our City live
12 in housing cooperatives and condominiums. The
13 majority of these homeowners are of moderate
14 income and thousands of them are seniors on fixed
15 incomes. The national economic crisis has
16 impacted New York cooperatives and condominiums
17 like everyone else. Many shareholders and unit
18 owners have suffered job loss or salary reduction,
19 yet our operating costs continue to rise and have
20 to be met by the homeowners living in the
21 building. Many of our member cooperatives and
22 condominiums are struggling to make ends meet or
23 are being forced to make difficult choices with
24 scarce resources. CNYC has long supported energy
25 conservation and has encouraged our members to

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2 take advantage of programs available through
3 NYSERDA and various utilities to reduce energy
4 use. We congratulate the City Council and the
5 Mayor's Office of Sustainability and Long Term
6 Planning for addressing this important issue. The
7 goals of the four proposals before you today are
8 admirable. Indeed, many of our member
9 cooperatives and condominiums have on their own
10 initiative begun to make many of the
11 environmentally sound improvements contemplated in
12 this legislation. CNYC also recognizes that
13 proper maintenance of new equipment is vital to
14 achieving predicted savings. We encourage our
15 members to have their building supers take the
16 comprehensive energy training program that's now a
17 part of the curriculum of the Thomas Shortman
18 Training Fund of Local 32BJ. I think you've
19 received this flyer in your packets from Local
20 32BJ. CNYC would welcome the creation of new
21 incentives to enable more buildings to adopt green
22 practices. We would happily work with you to
23 craft such incentives, however we cannot
24 responsibly support the creation of new, unfunded,
25 mandates as proposed in Intro 476-A and Intro 967.

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2 It's within this context that I would like to make
3 the following comments on the proposed
4 legislation. CNYC is not opposed to Intro 973
5 regarding lighting upgrades, nor are we opposed to
6 Intro 564-A creating a new--

7 CHAIRPERSON GENNARO: [Interposing]
8 Ms. Rothman?

9 MARYANN ROTHMAN: Yes.

10 CHAIRPERSON GENNARO: In the
11 interest of time, why don't we jump to the-- your
12 comments on 476-A and 967, because you--

13 MARYANN ROTHMAN: [Interposing]
14 That's exactly where I was going.

15 CHAIRPERSON GENNARO: Okay.
16 Terrific.

17 MARYANN ROTHMAN: We do have-- but
18 I'm out of time anyway.

19 CHAIRPERSON GENNARO: I'm going to
20 give you a little latitude--

21 MARYANN ROTHMAN: [Interposing]
22 Thank you.

23 CHAIRPERSON GENNARO: To talk about
24 those bills that you have a problem with.

25 MARYANN ROTHMAN: I'll continue

with--

CHAIRPERSON GENNARO: [Interposing]

And you represent zillions and zillions of people.

I just want to get that on the record.

MARYANN ROTHMAN: Thank you. I'll

skip as much as I think I can. You have it in

writing. We do have serious concerns about Intro

476-A mandating the benchmarking of central

systems' energy use for public disclosure. As I

mentioned, many of our members are monitoring

energy use already with an eye toward making sound

investments that will reduce their consumption and

their energy bills. But our experiences of using

the online benchmarking tool is it's neither

simple nor cost free, and we are not convinced

that major utilities will take the necessary steps

to provide this information directly to the City.

We also question the usefulness of disclosing the

energy statistics of comparable buildings. How

will this comparability be determined? What would

tell the modeler whether a building is populated

by large families or by seniors living alone?

These demographics are important as they heavily

impact patterns of energy use. But they're not

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2 likely to be reflected in any computer modeling of
3 so-called comparable buildings. Finally we
4 strongly oppose Intro 976 regarding energy audits
5 and retro commissioning and retro fits of building
6 systems. Our concerns are both financial and
7 practical. The initial cost of complying with
8 this bill is considerable and there will also be
9 ongoing fees associated with filing of all the
10 reports this law requires. But perhaps most
11 troublesome is the absolute requirement that a
12 building implement all measures deemed to have a
13 payback of seven years or less. This removes from
14 the board of director or the board of managers any
15 discretion to run its cooperative or condominium.
16 It imposes large expenditures on buildings whose
17 shareholders or unit owners may be struggling to
18 make ends meet. It forces boards to raise
19 carrying charges today in anticipation of energy
20 savings half a decade away. Adding to the
21 uncertainty, the legislation leaves many items
22 undefined, deferring to a future administrative
23 rule making process. We urge the Council not to
24 adopt vague legislation that will directly affect
25 thousands of New York City homeowners,

1 particularly in this time of financial crisis. We
2 do understand that there are some resources
3 available to help fund energy upgrades and we
4 certainly support all efforts to improve energy
5 efficiency and reduce global warming, but we
6 believe it's unfair and wrong to mandate enormous
7 capital expenditures by the families and
8 individuals who call cooperatives and condominiums
9 their home. Instead we suggest linking the
10 improvements to meaningful incentives, such as an
11 enhanced and financially realistic J-51 program or
12 property tax abatements calibrated to demonstrated
13 energy savings. Such programs would result in
14 greener homes, new jobs and an acknowledgement of
15 the City's leadership in environmental
16 stewardship. I thank you for your consideration.

17
18 CHAIRPERSON GENNARO: Thank you,
19 thank you.

20 MARYANN ROTHMAN: And I also I have
21 a statement from one of our members, the Board
22 president of a Queens building that I would like
23 to place in.

24 CHAIRPERSON GENNARO: Fine. Fine,
25 I appreciate that. Yes.

DIANE NARDONE: Good afternoon

Chairman, Councilmen. My name is Diane Nardone.

I serve as the President of the Board of Directors of the Third Brevoort Corp, which is a residential cooperative located at Lower Fifth Avenue Here in the City. The Building is approximately 400,000 square feet. We have 288 apartments and we are 100% owner occupied. We're also a 32BJ building.

Two years ago I asked-- I posed the following question to my fellow board members. How can we refit our 1955 building to meet the economic, social and environmental challenges of the 21st Century. That question inspired the Board to implement a comprehensive sustainability plan that attempts to reduce our energy consumption and costs by an ambitious 50% over the next two years.

Summarizing that plan in three minutes is not an easy task, but here are the highlights. We installed Compact Fluorescent Light Bulbs in the common areas, converted to green cleaning products and required shareholders to install ENERGY STAR appliances as they replace old one. We installed 12,000 square feet of green roof last spring and we're going to install an additional 22,000 square

1 feet of green roof next spring. The cost of those
2 projects was \$56,000. A one-time property tax
3 credit of \$4.50 for each square foot of green roof
4 will reduce the capital costs to \$40,000. Our
5 conversion from Number 6 oil to natural gas begins
6 on July 6th of this year. We hope that the project
7 will be completed by December 6th, but it depends
8 mightily on the cooperation that we may or may not
9 receive from ConEdison. The conversion from oil
10 to gas will cost \$108,000. The payback is 1.5
11 years and it will save us \$70,000 per year in fuel
12 costs. In September we're replacing all windows
13 and doors with high performance energy efficient
14 glass that exceed current energy codes at a cost
15 of \$1.6 million. We hope to install a co-
16 generation system at a cost of \$3.2 million,
17 contingent on NYSERDA approving our overall energy
18 plan, providing us with a grant for \$603,000 and a
19 smart loan for \$1.4 million. The co-gen project
20 will save an additional \$350,000 in energy costs
21 with a payback in approximately 10 years. It
22 takes vision, passion and courage to tackle the
23 problems as monumental as the vulnerability of
24 this planet, so I applaud the Bloomberg

1
2 administration and this committee for addressing
3 these critical environmental issues and urge the
4 full council to support the four green bills for
5 the sake of all New Yorkers who live here now and
6 who will follow us. Thank you.

7 CHAIRPERSON GENNARO: Thank you.
8 Thank you very much, Ms. Nardone and all that you
9 are doing. Thank you.

10 FRED GOLDNER: Good afternoon. My
11 name is Fred Goldner and I'm with full time Energy
12 Research and Management Associates. The reason
13 I'm here today though is I'm Past International
14 President of the Association of Energy Engineers,
15 an organization of some 10,000 plus energy
16 professionals throughout the world, mostly
17 centered in this country though. I serve very
18 actively on a number of engineering and energy
19 industry committees and boards, including
20 Certified Energy Manager Board, which is actually
21 referenced in Intro 967. I'm on ASHRAE Technical
22 Committees, ASP Plumbing Engineers Committees,
23 Board of Trustees for the Energy Master Planning
24 Institute, and in 2007 I was inducted into the
25 Energy Managers Hall of Fame. In relation to

1
2 energy audits, one of your main objectives here,
3 over the past quarter of a century, in addition to
4 conducting energy audits and energy efficiency
5 projects on the gamut of building types present in
6 New York City, I've reviewed literally hundreds of
7 audit done by a very wide range of providers and
8 have taught over 10,000 individuals, including
9 other practitioners on topics including how to
10 conduct energy audits from the graduate to
11 professional levels. In 2007 my firm actually
12 audited over 25 million square feet of spaces
13 using over \$50 million in energy use annual. We
14 believe that there is much that can be done to
15 improve the energy efficiency and reduce the
16 environmental impact of energy use in New York
17 City. We think the direction of these four pieces
18 of legislation in front of this Committee proposed
19 begins to take us towards the correct path in
20 effecting such improvements. I'm going to go over
21 just a few points that I think deserve
22 highlighting and then be happy to answer any
23 questions that the Council and this Committee
24 might have of someone who has not only trained
25 others but has the dirt under their fingernails

1
2 from being in countless boiler and mechanical
3 rooms and crawled around in buildings to help
4 clients positively affect their facilities. In
5 relation to Intro 967 on audits and retro
6 commissioning, while I understand the
7 rationalization of the folks on central systems
8 owned and operated by the facility, given that
9 lighting, as we've heard, is responsible for 20%
10 of New York City building energy consumption, the
11 energy audits should be required to evaluate
12 lighting owned by the building, even where that
13 resides in tenant spaces. The reason is to wait
14 until the Intro 973 kicks in under the renovation
15 clause is it's a lost opportunity. Because even
16 if the bill does not require, as it maybe should,
17 such measures should be installed. At the very
18 least, let's use this opportunity to identify
19 those energy efficiency opportunities. A number
20 of places in the bill it talks about simple
21 payback. This terminology should be stricken from
22 the document, and corresponding use in audits and
23 be replaced at the very least with simple return
24 on investment. No, no other business decision
25 that I know of is being made using this payback

1
2 parameter. If we want energy improvements to be
3 seriously considered and to be let to compete for
4 facilities' limited capital with all the other
5 potential uses of that capital, then at least we
6 need to use such terms as simple ROI. I realize
7 it's nothing more than the inverse of simple
8 payback, but by communicating in business terms we
9 begin to put energy efficiency measures into the
10 discussion of all the other uses. A couple of
11 exceptions that the bill talks about--

12 CHAIRPERSON GENNARO: [Interposing]
13 Mr. Goldner, I don't think we're going to be able
14 to go through your whole document here.

15 FRED GOLDNER: There's one-- fine
16 then I'll skip to, if I might, about the
17 requirements that I think have been misunderstood
18 by a lot of the other speakers. Section 2b-- such
19 energy audit performed prior to the completion of
20 rule making shall be signed and dated by
21 professional engineer, a certified energy manager
22 or a certified energy auditor and shall so on.
23 Let me point out that just being a professional
24 engineer does not mean that one knows anything
25 about energy. There are PEs who do know about

1
2 building energy issues, but those are the ones who
3 have taken the time to learn about energy
4 efficiency issues. PEs also include engineers
5 with degrees in structural, chemical and other
6 areas which have little or nothing to do with
7 building energy operations. The most important
8 thing in the quality and value of an energy audit
9 beyond everything else is the eye of a trained
10 auditor. Building energy systems, technology and
11 operations--

12 CHAIRPERSON GENNARO: Mr. Lembo--
13 what I think we're going to do is we're going to
14 use your depth of experience to sort of, you know,
15 schedule a meeting with you so that we could get a
16 better opportunity to get the value and benefit of
17 your views.

18 FRED GOLDNER: Could I just put one
19 other sentence in the record?

20 CHAIRPERSON GENNARO: Quickly
21 because I'm trying to be as fair as I can.

22 FRED GOLDNER: Quite contrary to
23 what both Mr. Aggarwala stated and others have not
24 been aware of up here, Certified Energy Managers
25 and Certified Energy Auditors are trained and

1
2 certified in this function. AE currently has over
3 8,000 active CEMs and CEAs and about 700 of those
4 in the tri-state area and AE will be more than
5 glad to work with the administration and the
6 council to widen the base of qualified
7 professionals.

8 CHAIRPERSON GENNARO: Thank you,
9 Mr. Goldner. More to come from you certainly on
10 this. We appreciate you being here.

11 EUGENE SCHNEUR: Yes, good
12 afternoon. My name is Gene Schneur. I'm the
13 managing director of OMNI New York. We're the
14 owner and operator of over 3,200 units of
15 affordable housing, mostly in New York State.

16 CHAIRPERSON GENNARO: Do you have a
17 written statement, sir?

18 EUGENE SCHNEUR: No, I don't. I'm
19 sorry.

20 CHAIRPERSON GENNARO: Okay. Fine.

21 EUGENE SCHNEUR: I support the
22 Mayor's legislation and plan as someone who has--
23 our company has used either NYSERDA or the
24 National Grid program for about ten different
25 complexes with over 2,000 units, 1,000 units of

1
2 which are in New York City. From our experience
3 using NYSERDA and National Grid and making some of
4 the changes that would be made under this
5 legislation, like, you know, using low E Argon
6 field windows, using doors with weather stripping,
7 replacing boilers with condensing high efficiency
8 boilers, using lights with compact fluorescent
9 lighting or bi-level lighting, making sure the
10 refrigerators are ENERGY STAR refrigerators,
11 reducing run times-- motor run times on elevators.
12 And also installing energy management and
13 monitoring systems, we have found all of these
14 measures to be not only good for the environment,
15 but also good business. It helps reduce operating
16 costs. It helps the bottom line and it's, you
17 know, it's good for business. I will say that in
18 terms of the legislation and being in the
19 affordable housing industry, special attention
20 needs to be paid to the fact that a lot of the
21 affordable housing complexes have various layers
22 of subsidy and some of them cannot go obtain
23 additional financing because it would be in
24 violation of their subsidy financing that they
25 received. So we need to include something that

1
2 affordable housing complexes that have received
3 subsidy from the City or the State, whatever it
4 may be, can go use some of the grants or loans
5 that may be available for the upfront cost, and
6 they can participate in the program.

7 Additionally, you know, as it relates to
8 affordable housing and other housing, you know, I
9 think a clear definition of financial hardship
10 would be helpful, as a lot of housing, you know,
11 falls into financial hardship. I think it needs
12 to be careful that it's not abused, but on the
13 other hand there is housing that, you know, may
14 need-- whether it's additional loans or additional
15 subsidy to help implement the programs that are
16 under the Mayor's plan. But, you know, in
17 conclusion our view and our experience has been,
18 you know, this is good business. Besides doing
19 good for the environment this, you know, will help
20 your building and will help your business.

21 That's, you know, I'd like to conclude. Thank
22 you.

23 CHAIRPERSON GENNARO: Thank you.

24 Thank you, Mr. Schneur. I appreciate it. And
25 yes, yes sir.

1
2 DONALD MANNING: Hi. Good
3 afternoon. I'm Donald Manning. I'm the Director
4 of Housing at JASA, and I'm also a board member of
5 NYAMA. I have--

6 CHAIRPERSON GENNARO: Do you have a
7 statement? Oh, no. The Sergeant will get it from
8 you if we have written statements.

9 DONALD MANNING: Okay. I agree
10 tremendously with Eugene. We also are in the
11 affordable housing business. All of our tenants
12 are seniors citizens, 62 and older, and are low
13 income or very, very low-income tenants. Three to
14 four years ago we determined that we needed a
15 capital needs assessment of all of our properties
16 and an energy audit made sense. And we reached
17 out to NYSERDA and to Weatherization Assistance
18 and to National Grid, and only through their
19 expertise really were we able to identify the
20 areas that could make a difference. With our
21 limited funds, as Eugene mentioned, low income
22 housing, you know, our effort is to keep rents as
23 low as we can and don't necessarily have the
24 reserves and capability to reach out. Based on
25 our subsidies from the federal government we're

1
2 not allowed to have second mortgages. So we've
3 lived predominantly on grants from NYSERDA and
4 weatherization programs. In fact, in New York
5 City our properties are only in New York City, and
6 during the last three years we've weatherized
7 1,300 apartments. Of that, we were able to put up
8 \$1.4 million from reserves that we had, but we
9 were able to obtain \$2.4 million in grant money
10 from NYSERDA or National Grid. Without that money
11 we simply wouldn't have been able to make the
12 difference at these properties. What a good test-
13 - where it does make good business for the tenants
14 as well as for the property owners in this case,
15 as part of our HUD program, we're mandated to do a
16 utility analysis for our tenants each year. And
17 of the buildings we've weatherized, even though
18 utility costs have increased dramatically, our
19 tenant utility spending has stayed constant since
20 we weatherized for the last three years in these
21 buildings. So it's gone-- benefits have gone
22 directly to the tenants themselves in these cases.
23 The fact is that we have buildings that don't have
24 reserves, buildings that were financially in
25 straights and couldn't participate in these

1
2 programs because we couldn't come up with the
3 matching money. And if you are going to put
4 something forward like this to properties that are
5 subsidized by the City or the federal government
6 and don't have the ability to go and find money
7 elsewhere, some considerable thought needs to be
8 placed in coming up with ideas so non-profits and
9 those especially who support low-income housing,
10 can participate in these programs. Again, I think
11 I agree with Eugene, it's good business sense for
12 the owners and it's good sense for the tenants.
13 And most of these programs we support.

14 CHAIRPERSON GENNARO: Thank you.

15 Thank you, Mr. Manning. We actually are going to
16 be having a panel that deals with affordable
17 housing, and maybe there's a little bit of a-- so
18 we have more-- we'll be hearing more testimony
19 today with regards to people that manage
20 affordable housing and build affordable housing.
21 And your comments with regard to affordable
22 housing and the subsidy that you get and the
23 definition of hardship and rules that might get
24 involved and might hurt your ability to go out and
25 finance some of the stuff is duly noted and we'll

1
2 be hearing more about that. We have to pay more
3 attention to that. We still have Rohit Aggarwala
4 here-- and who is listening to all of this
5 testimony. So we have more work to do there and
6 thank you for giving us some insights. With
7 regard to Greg Carlson and let me just-- all the
8 testimony that I'm sifting through here. And
9 Rothman, first of all, what is the difference
10 between your organizations? There's the
11 Federation of New York Housing Cooperatives and
12 Condominiums, which is you, Greg; and Council of
13 New York Cooperatives and Condominiums. What's
14 the--

15 GREGORY CARLSON: [Interposing]

16 We're older.

17 CHAIRPERSON GENNARO: What's that?

18 GREGORY CARLSON: We're older.

19 We've been around since '53. And basically the
20 federation started under the HUD program 213s,
21 which was to build affordable housing of
22 cooperatives for returning veterans in the early
23 '50s.

24 CHAIRPERSON GENNARO: I see. Okay.

25 And Maryann?

2 MARYANN ROTHMAN: Maryann. We kind
3 of grew out of the cooperative conversion movement
4 of the '60s and '70s.

5 CHAIRPERSON GENNARO: Okay.

6 MARYANN ROTHMAN: But we work
7 together on many issues.

8 CHAIRPERSON GENNARO: You look
9 great together.

10 MARYANN ROTHMAN: Thank you.

11 CHAIRPERSON GENNARO: Now with
12 regard to the work that's been done over the last
13 year or two to put this legislation together, what
14 has been your interaction with either the Mayor's
15 folks or the Council folks? Have you been part of
16 that process?

17 MARYANN ROTHMAN: Yes. The City
18 Council and the Mayor's Office for Sustainability
19 and Planning have spoken with us on many
20 occasions. Our major theme is that we distinctly
21 prefer incentives to mandates.

22 CHAIRPERSON GENNARO: Okay. And
23 Greg, how does that...?

24 GREGORY CARLSON: Yes. As you
25 know, I've spoken to you.

CHAIRPERSON GENNARO: Yes, yes, to me of course. You're my constituent and, you know, we're buddies. Who doesn't know that.

GREGORY CARLSON: And we have met at the Mayor's office. Again, it's a funding issue. All the organizations I belong to feel the same way. With affordable housing it's a funding issue; they have special needs. Condominiums have special needs because they don't have the luxury of going out and getting a loan. If they already have their carrying charges pledged because they did another major capital improvement, how can they do it again? It's a very-- you know, they have limited resources of getting the availability of money. So that's why we are both on the same page as saying incentives would work better. As we know, I've spoken to some people in the City, both in the Mayor's office and in the Council when we talk about a green 51 instead of a J 51. And their response is that the City can't afford it. Well if the City can't afford it, how do you expect buildings to afford it?

CHAIRPERSON GENNARO: Okay. It just seems that we've got a little bit of an issue

1
2 here with regard to coops and condos. And
3 notwithstanding a lot of conversation between you
4 and other folks, you know, you're both doing a
5 pretty good imitation of people who are very
6 unconvinced at the benefits of what we're putting
7 forward. You know.

8 GREGORY CARLSON: Well if I may
9 add--

10 CHAIRPERSON GENNARO: [Interposing]
11 I know you're not imitating. I know it's sincere.

12 GREGORY CARLSON: I myself am doing
13 a \$4 million energy project and energy reduction.
14 So I do buy into it.

15 CHAIRPERSON GENNARO: Yeah but--

16 MARYANN ROTHMAN: [Interposing] I
17 would like also to say that, you know, for decades
18 we've been promoting energy conservation as an
19 organization. Fred speaks for us at our
20 conference every year. I'm blown away by the
21 wonderful improvements that my colleague here has
22 made.

23 CHAIRPERSON GENNARO: Right. Yes.

24 MARYANN ROTHMAN: But we're just
25 not positive that this is the best way to go. And

1
2 important to coops and condos is the home rule
3 factor, the ability of a board to operate its own
4 building. So to be told everything with a seven-
5 year payback has to be done, they've opted at the
6 Third Brevoort to do something with a ten-year
7 payback. That was more important to them, and it
8 should be the right that the coop or the condo
9 board should have.

10 CHAIRPERSON GENNARO: Okay. I'm
11 going to have to get involved myself in some of
12 these discussions, so I'm going to direct Counsel
13 and people from Rohit's office-- I want to get
14 personally involved in the details of, you know,
15 why there are folks of great standing within the
16 coops and condos in the City who are just pushing
17 back so hard. And so why don't we put that
18 together? It will be the coop and condo folks,
19 people from Rohit's office, people from the
20 Council Staff. And so we'll talk more about this
21 because we, you know, we should.

22 MARYANN ROTHMAN: Thanks. We
23 really appreciate it.

24 GREGORY CARLSON: We welcome that.

25 CHAIRPERSON GENNARO: Sure. Okay?

1
2 We got that? Bill? You got that? Okay. And
3 however, going to the-- but to hear what the
4 Brevoort Corporation and Ms. Nardone, what you've
5 done is really terrific and I just want to commend
6 you for that and it's just terrific and thank you
7 for that. What you're doing is an inspiration.
8 And Mr. Lembo, you should get us further
9 information on your perspectives. You can direct
10 it to the Counsel to the Committee, Samara
11 Swanston. And Mr. Goldner, I would ask that you
12 also make arrangements with us that we can get--
13 give you the opportunity to talk about some of
14 your ideas in greater detail.

15 FRED GOLDNER: Yeah, I also had
16 experience-- I was director of Research Analysis--

17 CHAIRPERSON GENNARO: [Interposing]
18 Okay.

19 FRED GOLDNER: -- at HPD--

20 CHAIRPERSON GENNARO: [Interposing]
21 We'll talk about it. We'll get together.

22 FRED GOLDNER: --working with
23 Mitchell-Lamas.

24 CHAIRPERSON GENNARO: Okay. So
25 thank you, I really appreciate what this panel has

1
2 brought forward. And thank you for your
3 invaluable contribution.

4 [Pause]

5 CHAIRPERSON GENNARO: The next
6 panel as I said before, Women's Housing and
7 Economic Development Council, Nancy Biberman;
8 Tenants and Neighbors represented by Maggie, it
9 looks like Russell, Ciardi; okay. Legal Aid
10 Society, Judith Goldner-- or it looks like
11 Goldner, or Goldener? Legal Services, represented
12 by David Robinson; Center for Working Families
13 Chloe-- I can't make out the last name. Trebich
14 [phonetic] or Tribich?

15 SERGEANT-AT-ARMS: Ladies and
16 gentlemen, please have the copy of your testimony
17 ready when you come up.

18 CHAIRPERSON GENNARO: And the panel
19 that will follow this one is a panel that will
20 talk about affordable housing. Common Ground,
21 Enterprise Community Partners, Supportive Housing
22 Network, LISC, West Bronx LDC, NYSAFAH, will be
23 the next panel. Thank you Sergeant, I appreciate
24 that. If we could have order and quiet in the
25 back of the chambers that would be great.

1

[Pause]

2

CHAIRPERSON GENNARO: And if

3

Counsel will swear the panel.

4

SAMARA SWANSTON: Can you please

5

raise your right hands? Do you swear or affirm to

6

tell the truth, the whole truth and nothing but

7

the truth today?

8

[Off Mic]

9

CHAIRPERSON GENNARO: Thank you

10

very much for being here today. Thank you for

11

your patience and I have two statements, one from-

12

- of the Women's Housing and Economic Development

13

Corporation, and a statement of-- oh, a Coalition.

14

And so why don't we start on my left with you,

15

okay? Forgive me for not-- I don't know your name

16

until you identify yourself.

17

NANCY BIBERMAN: Oh. I'm Nancy

18

Biberman, the President of WHEDCO, the Women's

19

Housing and Economic Development Corporation, and

20

we're an affordable housing developer--

21

CHAIRPERSON GENNARO: [Interposing]

22

Okay.

23

NANCY BIBERMAN: --and owner based

24

in the Bronx. We work with families in a variety

25

1
2 of ways in the Bronx, helping them deal with
3 multiple challenges presented by property. And a
4 large part of our work is building new, green,
5 affordable housing. We've just completed the
6 largest fully green multi-family affordable
7 building in the nation. And we are in the middle,
8 in the second year of a three-year retro fit of
9 the building that's our flagship, which was a
10 former and abandoned City hospital, the old
11 Morrisania Hospital in the Bronx that we rehabbed
12 about 15 years ago before green was in the
13 vocabulary. So we are-- we wear many hats. And
14 in this testimony, we're service providers, we're
15 tenant advocates, but we're also landlords. We're
16 developers, we're owners and we're property
17 managers, and we are deeply supportive of these
18 bills because we believe that they can and should
19 be seen as a cornerstone to preserving housing
20 affordability. According to HUD, nationally, low-
21 income families spend more than 17% of their net
22 income on utilities. That is an unsustainable
23 amount of money. And--

24 CHAIRPERSON GENNARO: [Interposing]

25 What percent was that?

NANCY BIBERMAN: 17.

CHAIRPERSON GENNARO: 17.

NANCY BIBERMAN: Yes. 17%. And, you know, the only thing that we can do to, you know, put money back in people's pocketbooks, and I mean the tenants that live in our buildings, plus the affordable housing providers who you'll hear more from in the next panel, is to do whatever it is that we can do to reduce energy expenses. I have to say I'm deviating from my script here because I really don't want to repeat things that other people have said already.

CHAIRPERSON GENNARO: God bless you. Thank you. That's the way to go.

NANCY BIBERMAN: But you know, I think that we can't ignore the fact that less than a week ago the rent guidelines board, you know, just passed yet additional rent increases, and every year that I've lived in this City, which has been a long time, and watched these hearings, these rent increases are based almost exclusively on increases in utility costs. So what owners, what private owners are doing, you know, with respect to rising energy costs is just passing on

1
2 those costs to tenants and not doing anything
3 because no one is requiring it of them, you know,
4 to deal with the underlying problem, you know, how
5 do you reduce those costs. You reduce those costs
6 by retrofitting your buildings. That will reduce
7 costs for owners; it will reduce costs for
8 tenants. And there is no need, as probably my
9 colleagues will be talking about, to utilize major
10 capital improvement provisions of the rent
11 stabilization law to make these necessary repairs.
12 We've worked with NYSERDA for several years, as a
13 couple of people have already testified. They
14 have become much more user friendly. We have
15 found the energy audit process to be extremely
16 useful. It has really enabled us to focus only on
17 those things that actually provide, you know,
18 virtually immediate payback. So just like one
19 small example. In the building that we're doing
20 our retrofit in, 132 apartments, 40,000 square
21 feet of commercial space. At, you know, we did
22 what we call the low-hanging fruit stuff. We
23 replaced all the refrigerators with ENERGY STAR
24 refrigerators, compact fluorescent lights, you
25 know, a bunch of other things that, you know, we

1
2 knew that tenants would, you know, appreciate and
3 would make them more energy conscious as it has
4 made us energy conscious. And they shared with us
5 their utility bills for a three-month period of
6 time before we did the energy improvements in
7 their apartments as well as a three month period
8 of time, exactly the same three months, you know
9 of the year subsequent to those improvements. And
10 we found, you know, based on ConEd data that at a
11 time when Citywide utility costs were increased by
12 over 8%, our tenants after these low-hanging fruit
13 upgrades saw their utility bills decrease by over
14 6%. That's real money. You know, that's real
15 money in people's pockets and we are not talking
16 about complicated things like co-generation,
17 although that's something we do plan to do. So I
18 just wanted to make that point that, you know,
19 energy efficiency is a cornerstone to
20 affordability.

21 CHAIRPERSON GENNARO: Yeah, okay.

22 I certainly want to give you the opportunity to
23 conclude. I've enjoyed your testimony.

24 NANCY BIBERMAN: Okay. So other
25 than that I would say that we support the audits

1
2 and retrofits. We believe the benchmarking is
3 critical and it should be made public. And with
4 respect to the workforce, the only thing I would
5 add to what the unions have already said is that
6 in order to bring jobs to really low-income
7 communities one of the things that we have found
8 with respect to the green jobs movement is that
9 there's really, you know, there's a skills issue
10 with respect to math and science, and these are
11 really critical for a lot of the more higher
12 paying jobs.

13 CHAIRPERSON GENNARO: Thank you.

14 And thank you Ms. Biberman.

15 NANCY BIBERMAN: Biberman, yes.

16 CHAIRPERSON GENNARO: Okay. Thanks
17 very much. I appreciate your testimony very much.
18 And okay. And I'm not sure who-- I've got a...

19 DAVID ROBINSON: You've got a lot
20 of organizations there.

21 CHAIRPERSON GENNARO: Are you both
22 together?

23 DAVID ROBINSON: We're both
24 together and we're going to sort of split up the
25 testimony based on the written testimony.

CHAIRPERSON GENNARO: Okay. And this is the testimony from the Coalition, right?

Yeah it is, and I'll read the names of the groups. My name is David Robinson. I'm with Legal Services NYC. And we've submitted a written statement on behalf of ACORN, the Association for Neighborhood Housing Development, The Center for Working Families, Housing Here and Now, The Legal Aid Society, Legal Services NYC, Make the Road New York, and the New York State Tenants and Neighbors Coalition. And this is a group, a coalition of organizations that have advocated and represented low-income tenants and other tenants around the City and we have come together and we've actually had some meetings with-- constructive meetings with the City, both the City administration and staff of the City Council about our concerns about the impact of this legislation, particularly Intro 967, on rent stabilized tenants, because we're concerned that rent-stabilized landlords will seek major capital improvement rent increases and some other rent increases that they could claim to be eligible for under the rent stabilization code-- discretionary

1
2 rent increases based on improvements made to the
3 property to comply with a requirement of law. And
4 the reason we're concerned with these is that the
5 cost, these improvements, 1/84th of the cost of the
6 improvements is passed along to the tenants. And
7 rather than-- it would be difficult already for
8 tenants if simply they were required to pay for
9 the cost of the improvements, and then that cost,
10 once it's paid off is gone, but these become a
11 permanent part of the base rent for tenants and
12 they become a permanent increase and then all of
13 the other increases that come along after that are
14 based on an increased base rent. So we're very
15 concerned with that. And we'll talk further about
16 possible solutions to this. One of the reasons
17 we're so concerned about this is that tenants have
18 been paying increased rent over the years and as
19 it was just mentioned, the Rent Guidelines Board
20 just met this week and for the second consecutive
21 year, passed along very high rent increases,
22 higher than those called for, and in addition
23 increased the impact on low-income people by
24 passing dollar amount rent increases that are
25 higher than the percentage increases and are-- and

1
2 become-- and again are based on those tenants who
3 have brought stability to their neighborhoods by
4 living their for even longer. One other issue
5 that I'd like to bring up is the-- another
6 population that could be impacted by this is
7 tenants living in Mitchell-Lama apartments who may
8 be passed along rent increases to pay for these
9 costs. We've been in discussions, some members of
10 our coalition, with HPD, which runs some of the
11 Mitchell-Lama projects to try to mitigate this
12 problem either by making these at least temporary
13 rent increases. HPD is also hopeful that because
14 the energy savings ultimately Mitchell-Lama
15 tenants may end up paying lower rent increases in
16 the future. However, we're concerned with this
17 issue. The other thing, in rent-stabilized
18 apartments the increases will be come permanent.
19 The landlords will benefit in permanent energy
20 savings, the tenants will pay the costs. And
21 frankly to counter-- on the Rent Guidelines Board,
22 utilities, whatever, the Rent Guidelines Board
23 will always find a reason to unnecessarily raise
24 the rents on rent-stabilized tenants. So, we're
25 really concerned about that issue. On the other

1
2 hand we really do want to say that we very
3 strongly support the goals of this legislation and
4 would like to find a way to work with the City and
5 the state if necessary to find a way to alleviate
6 these problems and to fully support this
7 legislation. Thanks very much.

8 CHAIRPERSON GENNARO: Thank you.
9 Thank you, Mr. Robinson. Perfect timing.

10 MAGGIE RUSSELL-CIARDI: So I can
11 pick up there and talk a little bit about some of
12 the specific--

13 CHAIRPERSON GENNARO: [Interposing]
14 What I need is for you to state your name for the
15 record.

16 MAGGIE RUSSELL-CIARDI: Sure. My
17 name is Maggie Russell-Ciardì and I'm the
18 executive director of Tenants and Neighbors, which
19 is two affiliate organizations, the New York State
20 Tenants and Neighbors Coalition, which deals
21 primarily with rent regulated housing; and the New
22 York State Tenants and Information Service, which
23 deals primarily with the subsidized stock. So, I
24 can pick up a little bit from where Dave left off
25 and talk about some of the specific

1
2 recommendations that the coalition that has formed
3 to talk about how to mitigate the impact this
4 would have on tenants has come up with. Our
5 initial thought was perhaps the best solution
6 would be to exempt rent regulated tenants and
7 potentially Mitchell-Lama tenants from the
8 legislation until a change could be made to the
9 laws in Albany that would say that the cost
10 associated with this couldn't be passed off to
11 tenants permanently in the form of permanent rent
12 increases. It's unclear when that might happen,
13 so short of exempting rent regulated or Mitchell-
14 Lama tenants we have some other recommendations
15 which we think could be implemented at the City
16 level. One is that we would strongly advocate for
17 having the payback period be five years rather
18 than seven. That will reduce or limit the costs
19 of these projects and the cost that could be
20 passed off to tenants.

21 CHAIRPERSON GENNARO: I agree.

22 MAGGIE RUSSELL-CIARDI: It also
23 perhaps would be easier to get legislation passed
24 in Albany if it were five years rather than seven
25 years. We'd love to see an advisory opinion from

1
2 DHCR that states which of the upgrades would
3 qualify for MCI or discretionary rent increases
4 and which would not. We've heard anecdotally that
5 they've said probably about only five percent
6 would. We'd love to have that in writing from
7 them indicating which those five percent would be
8 and what the estimated costs would be. Another
9 idea that we had was that we'd like to see an
10 advisory opinion from the regulatory agencies that
11 oversee Mitchell-Lama housing indicating what they
12 have said, basically that it would be a temporary
13 surcharge, not a permanent rent increase, and that
14 potentially over time it could actually reduce the
15 rent costs for tenants. And we're looking forward
16 to continuing to work with both HPD and DHCR on
17 that issue. We'd love to see a written commitment
18 from the administration to submit a program bill
19 to Albany indicating that the rent stabilization
20 laws should be changed to make it clear that these
21 upgrades with the payback period, whether it's
22 five or seven years, would not be subject to MCI
23 increases. We'd also like to see a written
24 commitment from the Mayor that the Rent Guidelines
25 Board, he oversees the Rent Guidelines Board,

1
2 should not consider the expenses associated with
3 the upgrades that these bills, particularly Intro
4 967, would mandate as part of the Price Index of
5 Operating Costs, which one of the things that the
6 RGB looks at when they're determining what rent
7 increases for tenants will be from year to year.
8 And then finally we would like to echo the
9 importance of there being adequate financing or
10 funding available to do this work, with the
11 stipulation that if people are receiving public
12 financing that they not also be able to apply for
13 MCI rent increases. And in the case of non-profit
14 preservation partners, we'd like to see that be
15 funding rather than loans, a grant program, so
16 that non-profit preservation partners who are
17 interested in acquiring and operating affordable
18 housing can do so for the lowest income tenants.

19 CHAIRPERSON GENNARO: Thank you.
20 Thank you very much. This has really been a great
21 panel, and I-- Mr. Robertson [phonetic] and Ms.
22 Russell-Ciardi? Am I saying...?

23 MAGGIE RUSSELL-CIARDI: Ciardi.

24 CHAIRPERSON GENNARO: Ciardi.
25 Right. Your comments have been in a reasonable

1
2 and measured and helpful and hard to find fault,
3 from my perspective, with anything that you've
4 said. Now, you've been part of this dialogue all
5 along. I understand from Council Staff and the
6 Mayor's staff that you have been part of these
7 discussions. And I just want to say that I'm
8 grateful for that. And we certainly need your
9 participation in order to, you know, make this
10 fair for everyone. And I thank you for coming
11 forward with some recommendations that I think are
12 very helpful. And I'll do my best as chairman to
13 advocate for. I really appreciate you being here.
14 That was really, really good. And Ms. Biberman,
15 also very happy that you are here. You gave us
16 some great perspectives that I think give us a lot
17 of encouragement to move forward and bring down
18 the cost of what people pay for utilities. And I
19 thank you for what you've done and how you've
20 pioneered this. And really great to meet you and
21 thank you very much for being here. Okay.

22 [Pause]

23 CHAIRPERSON GENNARO: And as I said
24 before, the next panel is going to be talking
25 about affordable housing. We've heard a little

1
2 bit about that already from some witnesses. But
3 this panel will have Dave Beer representing Common
4 Ground. Bomee Jung, representing Enterprise
5 Community Partners; Nicole Branca, representing
6 Supportive Housing Network; Ariel Behr,
7 representing LISC; Walter Houston, representing
8 West Bronx LDC; Camilla Kisco [phonetic],
9 representing NYSAFAH; and, yeah, and Catholic
10 Community Relations Council, which may no longer
11 still be in the house, Rosemary Ginty; and also
12 Jerilyn Perine, representing Community Housing and
13 Planning Council.

14 [Pause]

15 CHAIRPERSON GENNARO: Give your
16 statements to the sergeant.

17 [Pause]

18 CHAIRPERSON GENNARO: And the panel
19 after this, just to let them know that they're on
20 deck, representatives of UPROSE, New York City
21 Environmental Justice Alliance and WE ACT, and
22 also The Point CDC. That will be the next panel.

23 SAMARA SWANSTON: Can you please
24 raise your right hands? Do you swear or affirm to
25 tell the truth, the whole truth and nothing but

1

2 the truth today?

2

3

[Off Mic]

4

CHAIRPERSON GENNARO: Thank you.

5

Thank you very much for being here and-- okay,

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we've got some statements that are coming our--

7

oh, I have them. I have a statement from Common

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Ground, a statement from-- oh, this is the whole

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pile here.

10

SAMARA SWANSTON: That's the older

11

pile.

12

CHAIRPERSON GENNARO: Okay. Sorry.

13

Okay. Is the Catholic Community Relations Council

14

still here? No. So we just have their testimony.

15

Why don't we start from my right this time? And

16

I'm going back and forth. There's no real rhyme

17

or reason there. And why don't-- just welcome and

18

state your name for the record and I'll see if I

19

have your statement.

20

JERILYN PERINE: My name is Jerilyn

21

Perine and I'm the Executive Director of the

22

Citizens Housing and Planning Council. We'd like

23

to say that we strongly support the goals of the

24

legislative initiatives that you're considering

25

today. However--

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2

CHAIRPERSON GENNARO: [Interposing]

3

Do you have a statement? Do you have a written

4

statement?

5

JERILYN PERINE: Yeah, it's

6

submitted.

7

CHAIRPERSON GENNARO: Okay, I just

8

wanted to make sure that I have that.

9

JERILYN PERINE: We are concerned

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about many of the details of their implementation.

11

Most striking is that the proposed legislation

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does not address any existing regulatory

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impediments to green development and technology.

14

For example, still, photovoltaic panels are not

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considered a permitted height instruction in

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current zoning regulations, nor are heading

17

systems when placed on the route. This

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discourages their inclusion in building design and

19

there's many more examples of this. We've

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attached a list in your package that is just

21

regulatory things that could be changed today with

22

very little cost to the City that would help to

23

encourage green technology adaption and inclusion

24

in new design. The legislation does not address

25

buildings that are less than 50,000 square feet.

1
2 This means for the residential stock, that about
3 68% of the City's housing units are left out,
4 approximately 2.26 million units. Well-
5 established tools such as the J 51 tax exemption
6 program and low-interest loans from the City's
7 housing department could be adapted to provide
8 assistance to this kind of a stock and reach a
9 much larger inventory than we're currently doing.
10 You're only reaching less than a third of the
11 City's housing stock. The proposed energy code
12 would require the Department of Buildings to
13 significantly expand their overview of building
14 renovations. CHPC is extremely concerned that
15 adequate resources and training are provided to
16 buildings to ensure that their staff can
17 adequately enforce these new and very extensive
18 regulations. The rules should clearly specify
19 achievable energy savings goals based on similar
20 buildings that have actually similar uses and
21 operations in New York City and national standards
22 should be carefully considered before applying
23 them wholesale to New York City's building stock.
24 One bill will require owners to engage an energy
25 professional to perform an audit. The

1
2 qualifications of such professional should be
3 clearly specified. And while larger owners will
4 be able to find them easily, smaller owners will
5 have a difficult time. Think about the TIL Coop
6 on Southern Boulevard or the small owner, you
7 know, out in Bushwick. It's not going to be such
8 an easy situation for him to engage a good,
9 qualified professional. The City should ensure
10 that a sufficient number of such professionals
11 will really be available in the marketplace to all
12 owners. The projected cost-savings may not be
13 enough of an incentive to encourage building
14 owners with low and moderate income tenants to
15 actually be able to comply with such energy
16 upgrades, nor is it clear what will happen if the
17 projections in the future do not match up with the
18 reality of today. The benchmarking bill will
19 require building owners to annually collect and
20 report energy and water usage. However, the bill
21 offers a practical way to collect that data
22 directly from the utility companies. Surely
23 whatever privacy and bureaucratic issues the
24 utilities companies raise could be overcome in
25 order to ensure the accurate and timely collection

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of this important data.

CHAIRPERSON GENNARO: Thank you.
Thank you so much for your testimony. And I may
have a comment. So stay with us. Okay. Thank
you.

CAMILLA KISCO: My name is Camilla
Kisco and I'm testifying on behalf of the New York
State Association For Affordable Housing. NYSFAFH
is a statewide organization of developers and
others involved in the financing and building of
affordable housing. The bulk of our 300 members
work throughout New York City's five boroughs and
are collectively responsible for most of the
housing built with City, state or federal
subsidies in New York City in recent years. It's
been a pleasure to work with the City Council on
many issues related to affordable housing
development. While we strongly support measures
to encourage the development of green buildings, I
would like to discuss our concerns with Intro 967.
We share the concern of many of our colleagues
that the bill establishes an unfunded mandate for
building owners, since the financing measures
currently under discussion would be nowhere near

1
2 enough to retrofit every eligible building. I
3 would like to go further and explain how this bill
4 would impose particular difficulties for
5 affordable housing, by which I mean housing that
6 was built or renovated under government subsidy
7 programs with restrictions on incomes and rent or
8 sales prices. Over the past three decades, over
9 300,000 units of affordable housing have been
10 built or preserved through New York City's housing
11 programs. This may not have solved the housing
12 crisis, but it has changed the lives of millions
13 of people. While we are hard at work helping to
14 bring Mayor Bloomberg's New Housing Marketplace
15 Plan to completion, many of us are working equally
16 hard to manage and maintain the many units already
17 built under this and previous initiatives. When
18 many of these buildings were completed in the
19 1980s and 1990s, sustainable building technologies
20 were in their infancy. Certainly many building
21 owners have done their best to upgrade and
22 retrofit these buildings since then, but the
23 financial situations of these buildings often
24 leave little room to finance these improvements.
25 Do to income based rent restrictions, owners are

1
2 not always able to get the full increases allowed
3 under rent stabilization. Thus, over the years
4 expenses have risen faster than rents, making it
5 impossible to finance these improvements out of
6 cash flow. Further, these buildings typically
7 carry multiple mortgages with high balances. Low
8 interest rates keep them financially sound. But
9 even if financing was available for retrofits, it
10 would have to be subordinate to two or more
11 existing mortgages, and the combined balances
12 might well exceed the value of the building.
13 Under these circumstances, no responsible lender
14 would be willing to make a loan to pay for the
15 required energy improvements. Even the J 51 tax
16 abatement program would offer little help, since
17 these buildings are already almost fully tax
18 abated. In short, without access to cash flow,
19 financing or property tax abatement, owners would
20 be extremely hard pressed to pay for these audits,
21 much less improvements themselves. The bill does
22 include an exemption for financially distressed
23 buildings, which includes buildings that
24 participate in the City managed financial
25 assistance program. However, from the bill it is

1 impossible to determine what this means. A better
2 solution would be to exempt all buildings that are
3 receiving substantial government assistance, at
4 least to the end of their regulatory periods.
5 We'd be happy to develop language for this
6 exemption. Once again, on behalf of NYSFAFH,
7 thank you for your continued support of affordable
8 housing development. We look forward to
9 continuing to work with you on this and other
10 initiatives.

12 CHAIRPERSON GENNARO: Thank you.
13 Thank you for your very concise and important
14 testimony. Thank you for being here.

15 [Pause]

16 CHAIRPERSON GENNARO: Please.

17 BOMEJ JUNG: Chairman Gennaro and
18 members of the committee thank you for the
19 opportunity to testify on these proposed bills.
20 My name is Bomee Jung and I'm the Program Director
21 for Green Communities in the New York office of
22 Enterprise. Enterprise is a national innovator in
23 creating affordable homes and revitalizing
24 communities. For 25 years, Enterprise has
25 pioneered neighborhood solutions through public

1
2 private partnerships with financial institutions,
3 governments, community organizations, for-profit
4 neighborhood developers and others that share our
5 vision. In New York, Enterprise has invested over
6 \$2 billion to create or preserve affordable homes
7 for roughly 100,000 New Yorkers. While proud of
8 these achievements, Enterprise recognizes that
9 counting production numbers is not sufficient and
10 since 2004 Enterprise has pursued an ambitious
11 initiative to green affordable housing through the
12 Enterprise Green Communities Program.

13 [Pause]

14 BOME E JUNG: The impact of
15 improving energy efficiency and making other
16 improvements in the performance of affordable
17 housing would create significant cost savings,
18 health benefits and employment opportunities.
19 Enterprise's experience through the Green
20 Communities Program indicates that new and
21 existing properties that achieve 20 to 30% greater
22 energy efficiency generate substantial cost
23 savings from lower energy and water use, hundreds
24 of dollars per unit on an annual basis in many
25 cases. These savings either accrue directly to

1
2 the low-income residents or are reinvested back
3 into properties by the building owners or both.
4 The proposed legislation under discussion today
5 represents a bold and ambitious step towards
6 improving the environmental performance of New
7 York City's buildings, addressing nearly half the
8 built square footage of the City. It's a grand
9 vision, which if implemented with transparency and
10 prudence, promises to deliver benefits not only to
11 these large buildings that are directly affected,
12 but also to all New York City buildings by
13 creating a large and vibrant market for retrofit
14 products and services, establishing a common
15 protocol for property managers to track and
16 compare energy performance and creating jobs
17 focused on improving the energy and environmental
18 performance of the built environment. With the
19 successful fruition of this vision in mind,
20 Enterprise submits the following comments and
21 requests for clarifications. First on the
22 provisions for financially vulnerable buildings,
23 it's our experience that some community based
24 owners of affordable housing face uniquely
25 difficult circumstances due to the capacity of

1 financial burdens brought on by the current
2 economic downturn. Enterprise comments the
3 authors of these bills in including provisions
4 that will serve to mitigate any negative impacts
5 on financially vulnerable buildings, specifically
6 the exemptions for TIL buildings and buildings
7 participating in HPD programs from the definition
8 of City buildings, and the availability of
9 extensions for financially distressed buildings.
10 We urge the Committee to preserve these provisions
11 in the Bill's final form. On Intro 476-A,
12 benchmarking, benchmarking energy and water use in
13 existing buildings is an important step in
14 property management. We request that the
15 Committee consider a one-year extension on the
16 administrative requirements of collecting the
17 necessary information for benchmarking to July 1st,
18 2011, for financially distressed buildings. As no
19 specific source of financial support exists to
20 fund administrative costs arising from
21 benchmarking, this extension will allow the
22 housing industry to create the appropriate aid to
23 assist vulnerable buildings. I'm happy to share
24 that enterprise is working on solutions to the
25

1 challenge of supporting these kinds of endeavors.
2 With respect the disclosure-- oh, I'm sorry. I
3 could either talk faster or summarize.
4

5 CHAIRPERSON GENNARO: Well, I'm
6 going to give you just a little bit of latitude
7 because you're making very specific
8 recommendations to the bill, which I appreciate.
9 So just please continue briefly--

10 BOME E JUNG: Thank you.

11 CHAIRPERSON GENNARO: But talking
12 quickly is great too.

13 BOME E JUNG: With respect to the
14 disclosure of performance metrics in section 28-
15 309.8, we request the addition of a clause that
16 addresses the public availability not only of the
17 outputs of the benchmarking tool, but also of the
18 collected data through the authority of the agency
19 best suited for the responsibility. Public access
20 to such information will enhance independent
21 analysis and assist in the development of
22 additional supportive solutions such as private
23 retrofit funds. Enterprise comments the authors
24 of the bill in including provisions for direct
25 upload, the ability to access information for

1
2 benchmarking directly from a utility company or
3 other source would reduce significantly the
4 administrative burdens associated with compliance.

5 On Intro 967 audits and retro commissioning.

6 Energy audit is defined in this bill as that which
7 conforms to a Level 2 audit as defined by ASHRAE.

8 In the interest in specificity and ease of use, we
9 request-- excuse me, particularly for the

10 residential developers, we request clarification

11 whether audits performed under the multi-family

12 performance program of NYSERDA and those performed

13 under the Weatherization Assistance Program will

14 meet this requirement. As 2009 saw the release of

15 significant funds to WAP and to NYSERDA,

16 consistency between those funding sources and the

17 requirements of the energy programs is critical.

18 In the exceptions to section 28-302.8 Enterprise

19 requests that the Committee consider the explicit

20 addition of buildings that have implemented energy

21 efficiency measures as part of the Weatherization

22 Assistance Program within three years of filing

23 the energy efficiency report as also exempt.

24 Enterprise also urges the Committee to further

25 refine the definition of retro commissioning to

1 explicitly state that retro commissioning shall
2 not be limited to services performed to any
3 standard or practice specifically called
4 commissioning per se, but shall serve to mean the
5 measures that improve or optimize the building's
6 energy performance and that are not retrofit
7 measures as defined in the bill, nor be limited to
8 those services performed by a professional who
9 holds a certification or qualification
10 specifically for commissioning other than that
11 which would qualify him or her as an energy
12 professional as already defined in the bill. The
13 term retro commissioning enjoys varying
14 interpretations among building energy
15 professionals, and some may interpret this
16 provision to require measures that imply high cost
17 services by certified commissioning agents
18 involving the review of design documents to infer
19 their original intent and other complicated
20 expensive endeavors. Similar to our comments on
21 476-A, Enterprise also requests that the Committee
22 consider the addition of a provision that provide
23 public access to the energy efficiency reports
24 filed in compliance with this law in order to
25

1
2 foster the transparent implementation of its
3 provisions. In conclusion we look forward to
4 working with you and the Mayor on the adoption and
5 implementation of programs to--

6 CHAIRPERSON GENNARO: [Interposing]
7 All right. That we've got. We understand that.

8 BOME E JUNG: Thank you very much.

9 CHAIRPERSON GENNARO: Okay. Thank
10 you so much.

11 ARIEL BEHR: Good afternoon. My
12 name is Ariel Behr and I'm a Community Development
13 Officer at LISC in the New York City Office. I've
14 submitted written testimony, but I'm going to
15 shorten it to fit into three minutes.

16 CHAIRPERSON GENNARO: You are a
17 great American.

18 ARIEL BEHR: LISC is a national
19 community development intermediary that helps
20 community-based groups transform distressed
21 neighborhoods into healthy ones by providing
22 capital, technical skills, training and
23 information. In New York City our core portfolio
24 consists of about 10,000 units of affordable
25 rental housing that are located in Brooklyn and

1
2 the Bronx and in Manhattan, that serve families
3 with incomes below 60% of area median. The
4 majority of our buildings are small, probably 12
5 units and below the 50,000 square foot cut-off,
6 however a lot of our partners also work with
7 larger HUD assisted buildings such as 202
8 buildings that receive Section 8 subsidies.

9 Overall we are very supportive of the PlaNYC
10 initiatives and the goals embodied in the bills
11 that are the subject of today's hearing. However
12 we have some concerns specifically related to
13 Intro 967. Our central concern about the bill is
14 that it's not tied to a financing source to assist
15 buildings and owners that are unable to pay the
16 cost of retrofits upfront or to obtain financing
17 for them. Not tied maybe to a sufficient
18 financing source. The bill contains provisions
19 for exempting or extending the requirement for
20 financially distressed buildings as well as owners
21 of buildings that are unable to obtain financing.
22 We support these provisions because they protect
23 buildings that are already troubled financially,
24 but in absence of increased financial assistance
25 for these inventory, large portfolios of housing,

1 particularly the housing that Nancy described
2 before that is paying 17% of its income on
3 utility, is threatened by being left behind. And
4 the \$16 million loan fund that was mentioned
5 earlier is a good start and we think it will have
6 to be increased significantly to reach the
7 buildings in our portfolio. We would also urge
8 all agencies and levels of government to
9 scrutinize how their programs and guidelines can
10 work together best to meet the goals of this
11 legislation. For example, under current rules a
12 building cannot access weatherization financing
13 more frequently than once every 15 years. However
14 this bill calls for upgrades every ten years, and
15 weatherization is one of the primary sources that
16 our buildings rely on. Also, while the exceptions
17 for financially distressed buildings includes
18 buildings participating in city managed financial
19 assistance programs, scopes of work for these
20 buildings that are receiving city funds now often
21 do not include the energy efficient measures that
22 could save the same costs that we're talking
23 about. We have observed tension between energy
24 efficient goals as discussed today and budget
25

1
2 constraints of the housing subsidy programs that
3 our properties rely on. We echo the-- I can stop
4 there. The rest of this is echoing concerns.

5 CHAIRPERSON GENNARO: Thank you.
6 Thank you very much.

7 ARIEL BEHR: Thank you.

8 CHAIRPERSON GENNARO: Sure.

9 CORINNE LETOURNEAU: Good
10 afternoon. My name is Corinne LeTourneau. I'm
11 the Director of Special Projects for Common Ground
12 Community, a New York City based non-profit
13 dedicated to ending homelessness by transforming
14 people, buildings and communities. Common Ground
15 is one of the nation's largest developers of
16 housing for formerly homeless and low-income
17 individuals. The supportive housing that we
18 develop provides permanent housing for these
19 individuals, coupled with onsite support services
20 that help people maintain their housing, restore
21 their health and regain economic independence. In
22 New York City Common Ground operates five
23 supportive housing buildings representing over
24 1,500 units of affordable housing. In addition to
25 our five existing buildings, we are currently

1
2 developing four other supportive housing buildings
3 throughout New York City, comprising over 600
4 units. As part of this holistic approach to
5 renewing the health and wellbeing of the
6 individuals and communities, Common Ground is
7 committed to making sustainability an integral
8 part of all of our housing. To meet this goal, we
9 are incorporating environmentally sustainable
10 design, construction, operating and maintenance
11 practices throughout all of our buildings and
12 seeking LEED certification in our new construction
13 projects, therefore Common Ground supports public
14 policies that promote similar building practices
15 in New York City and beyond. We applaud Mayor
16 Bloomberg and Council Speaker Quinn in developing
17 the Greener Greater Buildings Plan. We also
18 support the policy goals of the four pieces of
19 legislation within this plan, because these local
20 laws will have long-term benefits for all New
21 Yorkers. At Common Ground our current building
22 practices seek to make all our buildings more
23 energy efficient while employing green design
24 elements. Through our commitment to greening
25 buildings, Common Ground hopes to make sustainable

1
2 design a mainstream practice in all supportive
3 housing. We are pleased that this legislation
4 will enable energy efficiency to become mainstream
5 practice throughout New York City driving down
6 costs for consumers and developers while reducing
7 the greenhouse gas emissions throughout the City.

8 Given the fact that we are a housing developer and
9 operator of buildings larger than 50,000 square
10 feet, these four pieces of legislation will impact
11 Common Ground's buildings. More specifically,
12 Intro number 967 could have significant upfront
13 costs. We hope to work with you ensuring that the
14 Greener Greater Buildings Loan Fund will be useful
15 in financing such capital improvements for non-
16 profit affordable housing developers.

17 Additionally, Common Ground would like to join the
18 conversation surrounding green workforce
19 development training. We believe that this
20 component of the plan is a great economic
21 development tool that can certainly benefit those
22 individuals who we work with on a daily basis.

23 Again, we commend the Mayor and City Council for
24 proposing this plan that improves the health of
25 all New York's communities. Thank you.

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CHAIRPERSON GENNARO: Thank you.

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Thank you very much. And as you said in your

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statement, we hope to work with you too to make

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sure that we get the best possible outcome. And

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we thank Common Ground for their support and their

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contributions to what we're trying to get done.

8

Thank you. And just generally speaking, do we--

9

is everyone on this panel kind of part of the

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discussions that have been going on with Council

11

Staff and the Mayor's Office? Have you found that

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process to be helpful? Do you feel like you're

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getting through? To the extent that you've been

14

part of that what has your experience been?

15

JERILYN PERINE: No, actually. Our

16

organization hasn't. Have a committee that's part

17

of our organization that formed to sort of come to

18

this position. A lot of the members of that

19

committee, because of other roles that they play

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have somewhat been part of it. But largely, no.

21

And I also think that--

22

CHAIRPERSON GENNARO: [Interposing]

23

So Citizen's Housing and Planning Council have not

24

really been a part of the discussion--

25

JERILYN PERINE: [Interposing] No.

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2 Again, we have a committee that formed of our
3 board, and the people on that committee in the
4 professional hats that they wear in different
5 places were part of this conversation. I think
6 some of the initial talks that I had-- we were
7 interested in having the residential building
8 stock looked at separately from commercial. That--
9 - to apply legislative requirements to these two
10 very, very different situations.

11 CHAIRPERSON GENNARO: Right, but
12 I'm--

13 JERILYN PERINE: [Interposing] So
14 the answer is no--

15 CHAIRPERSON GENNARO: [Interposing]
16 I'm just more concerned with-- Okay.

17 JERILYN PERINE: Because that was
18 not of interest to anyone else other than us, I
19 guess.

20 CHAIRPERSON GENNARO: Okay. Are
21 the other groups kind of participating in the
22 process or...?

23 BOME E JUNG: We've participated to
24 a small extent in the process. We've had several
25 phone calls with people in the Mayor's office--

2 CHAIRPERSON GENNARO: [Interposing]
3 Right.

4 BOME E JUNG: Over the course of the
5 past year. It's been good from our end.

6 CHAIRPERSON GENNARO: Okay. I just
7 want-- I'm very grateful for everyone for coming
8 forward and giving the benefit of their views.
9 And if you haven't been participating or part of
10 what has gone on to date, you're part of it now.
11 And to the extent that you need to speak to the
12 Council staff to follow some of your initiatives
13 or proposals or your testimony, feel free to do
14 that. The Counsel to the Committee is Samara
15 Swanston, Siobhan Watson is the Policy Analyst.
16 My own staff member Bill Murray is here as well
17 and they're all available to you and thank you for
18 what you brought to the table today. We greatly
19 appreciate your participation. Thank you.

20 [Pause]

21 CHAIRPERSON GENNARO: The next
22 panel will be the Environmental Justice panel,
23 representatives of UPROSE, New York City
24 Environmental Justice Alliance, from WE ACT and
25 the Point CDC.

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[Pause]

CHAIRPERSON GENNARO: And the panel after this one will be some people involved in planning; The Institute for Urban Design, Regional Plan Association and the Pratt Center.

[Pause]

CHAIRPERSON GENNARO: Sorry about that. And do we have statements from this panel? Written statements, does this panel have written statements to give to the Sergeant? Okay, hand them out. Okay. Fine. Okay, we're going-- okay, that panel, did you swear the panel?

SAMARA SWANSTON: No.

CHAIRPERSON GENNARO: Okay.

SAMARA SWANSTON: Could you please raise your right hands? Do you swear or affirm to tell the truth, the whole truth and nothing but the truth today?

[Off Mic]

CHAIRPERSON GENNARO: Okay. All right. Hopefully I have all the statements. We're going to start on this side this time.

ANHTHU HOANG: Good afternoon. My name is Anhthu Hoang and I'm General Counsel for

WE ACT for Environmental Justice.

CHAIRPERSON GENNARO: Okay. Let me just make sure that I have your statement. And I don't have it. Okay. I'm very frustrated. I can't get statements.

ANHTHU HOANG: I could also email it to you.

CHAIRPERSON GENNARO: No, no. That's okay. That's okay. Okay. This one? No. Okay. Oh, okay. You're representing WE ACT.

ANHTHU HOANG: Yes.

CHAIRPERSON GENNARO: Okay. I'm set.

ANHTHU HOANG: Okay. So WE ACT would like to thank Chairman Gennaro and the Environmental Protection Committee for providing the much needed action on climate change. And we'd also like to thank the Bloomberg Administration for providing such strong leadership in developing the New York City Greener Greater Buildings Plan and the suite of legislation that's before you today. We add support to the City's commitment to increase energy efficiency as part of an overall strategy

1
2 to reduce New York City's carbon footprints, and
3 to rollback the advance of global warming and the
4 climate crisis that it sets in motion. In
5 addition to a contribution to global warming, the
6 process of energy generation wreaks havoc on
7 environmental justice communities throughout the
8 City and really all over the world. Power
9 companies are allowed to operate Peaker Power
10 Plants, so called because they are used only
11 during peak use periods when the demand is higher
12 than the capacity of the base load plants can
13 allow. Peaker Plants have the oldest, most
14 polluting equipment--

15 CHAIRPERSON GENNARO: [Interposing]
16 Why don't we, for the interest of time, why don't
17 we move to your specific comments on the bills.

18 ANHTHU HOANG: Okay.

19 CHAIRPERSON GENNARO: Right.
20 Because I don't think we'll be able to get
21 everything in.

22 ANHTHU HOANG: Okay.

23 CHAIRPERSON GENNARO: Yeah.

24 ANHTHU HOANG: Okay.

25 CHAIRPERSON GENNARO: Let's just do

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that.

ANHTHU HOANG: So, we support the bill, but we have a few concerns. First of all, the bill requires the energy efficiency provisions and benchmarking requirements for only buildings that are greater than 50,000 square feet. And while we host quite a few of those in our communities, the vast majority of the buildings in our communities are smaller than that, and so it won't be swept up by the bill. The operation of poorly maintained equipment and the use of the dirtiest fuels by some of these smaller buildings contribute to local hot spots of air pollution that cause the tremendous amount of asthma and other respiratory and environmental health problems that plague our community. And those, the operation of those buildings and that sort of equipment will not be covered by the legislation. And we've expressed that concern to the Mayor's office before. We also-- many of our buildings are also financially distressed, and or they operate on very small financial margins, which means that they will either not be able to afford the sort of renovations that would be covered by

1
2 the energy code, or they would not be required to
3 perform the sort of benchmarking or retrofits that
4 are required by the benchmarking and retrofit
5 legislation, because there is a provision in there
6 for applying for waivers. And you can get a
7 waiver if you're financially distressed. And so
8 while we understand that the suite of legislation
9 before you is only a first step in sort of
10 improving the City's energy efficiency, we would
11 like to, for the City to be mindful of our
12 communities' issues in future legislative actions.
13 And we would also like to ask the City to
14 prioritize EJ communities in financing and the
15 worker training and enforcement provisions for
16 these laws. And lastly I'd just like to say that
17 today you've heard a lot of the private sector's
18 lament over the financial cost of the legislation
19 to their operations. And while we understand
20 their business problems, I would just like to
21 remind you that not adopting the legislation would
22 have other costs, and those costs would be borne
23 by our communities and our health and our quality
24 of life. Thank you.

25 CHAIRPERSON GENNARO: Amen. Thank

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you for that. Thank you for that. Yes?

AMANDA SEPTINO: Hi. I'm Amanda Septineau. I'm a former member of Action at Point CDC and I will be reading the testimony on behalf of the current Action president, Tatianna Echevarria.

CHAIRPERSON GENNARO: Okay.

AMANDA SEPTINO: I think you have that in front of you.

CHAIRPERSON GENNARO: Yes. Who are you testifying for?

AMANDA SEPTINO: Tatianna Echevarria.

CHAIRPERSON GENNARO: Yes, okay. I have that.

AMANDA SEPTINO: And then I will be reading just short excerpts from the Point CDC testimony.

CHAIRPERSON GENNARO: Is there a written statement from them?

AMANDA SEPTINO: Yes.

CHAIRPERSON GENNARO: Oh. Okay. I need that as well. Okay, thank you. Please state your name for the record and commence.

1
2 AMANDA SEPTINO: Okay. I'm Amanda
3 Septino. The movement to go green is one that has
4 swept America like a storm with sayings on
5 everything from t-shirts to bracelets, yet there
6 is not much concrete evidence that one can point
7 to that demonstrates this movement is more than
8 just a phase that is built on good ideas. I'd
9 like to commend the City for breaking out of this
10 idealistic phase and developing a plan that is
11 progressive in both principle and practice by
12 addressing the issue of climate change with such
13 an aggressive agenda. Coming from an area like
14 the South Bronx I have experienced firsthand the
15 negative effects of an unhealthy environment.
16 While endless truck traffic, ever going
17 construction and virtually toxic factories are not
18 pleasant, the thing that troubles me most is the
19 lack of effort to change any of this. As a city
20 we have maintained a notoriously hands off
21 approach in regards to the environment and have
22 watch pockets of low-income communities of color
23 suffer through the harsh impacts of environmental
24 decay. This plan comes as almost a literal breath
25 of fresh air, because it not only outlines steps

1
2 to help alleviate environmental issues, it also
3 signals that the City has finally realized that
4 our environment is not something that is only
5 relevant by zip code, and has committed to
6 reversing the effects of a grim environmental past
7 and preventing what could be a disastrous future.
8 The ultimate priority of this legislation is the
9 future, and New York's environmental future is of
10 particular concern to me, because it is a City my
11 generation will inherit. There's always reference
12 that today's young people are tomorrow's leaders.
13 Well on behalf of the young community I am urging
14 our leaders of today to recognize that climate
15 change is a pressing issue that must be addressed
16 because the true ramifications of environmental
17 damage being done today will be felt by everyone
18 tomorrow. But passing this package will move the
19 City towards a greener, healthier existence and
20 pave the way for an efficient yet healthy
21 environmental future. Thank you.

22 CHAIRPERSON GENNARO: Thank you.

23 And you had some excerpts from the Point, right?

24 AMANDA SEPTINO: Yes. I'm just
25 going to grab the key points. Green workforce

1
2 development training is the solution to so much
3 more than just our environmental issues. In Hunts
4 Point, where the unemployment rate is over 24%,
5 this is a fact confronting residents daily. When
6 the estimated 19,000 construction related green
7 jobs are created, attention needs to be paid to
8 where these workers are coming from. The Greener
9 Greater Buildings Plan estimates that 2.5 billion
10 square feet of NYC retail will be impacted, and so
11 when this retail is within the communities I am
12 speaking of, not only should local hiring be
13 prioritized, but mandated to the fullest extent
14 possible. We must also be mindful of potential
15 unintended consequences from this legislation. In
16 low-income neighborhoods rent stabilization is a
17 lifeline and the only reason that many people are
18 able to stay in their homes. Before the audits
19 and retrofits program is rolled out, it should
20 clearly state that the corresponding upgrades are
21 not eligible criteria for MCI rent increases. We
22 understand that this concern has already been
23 acknowledged and assurances made that fairness
24 will prevail, but only an explicit statement
25 saying as much will ultimately put the issue to

1
2 rest. In closing, we would like to thank the City
3 Council and all the groups that worked so hard to
4 create this legislation. We know that other
5 groups will testify today as to the power and
6 breadth of these bills, and we still wanted to
7 focus on certain aspects that we feel could be
8 made even stronger. But it should not be left
9 unsaid that the Greener Greater Buildings Plan is
10 an innovative and vital piece of legislation that
11 will benefit all New Yorkers. We commend you for
12 your work on it and thank you.

13 CHAIRPERSON GENNARO: Thank you.

14 SOLEDAD GAZTAMBIDE: Good afternoon
15 Chairman Gennaro and members of the Committee. My
16 name is Soledad Gaztambide and I am here on behalf
17 of UPROSE. I am Program Coordinator. We are
18 grateful for the opportunity to testify today on
19 the four bills before you. We are also here
20 representing the New York City Environmental
21 Justice Alliance. As you know, our Executive
22 Director, Elizabeth Yampierre serves on the
23 Mayor's Sustainability and Long-Term Planning
24 Advisory Board, who has worked so diligently to
25 make recommendations that will serve to reduce

1 carbon and co-pollutants throughout the City.
2 UPROSE is Brooklyn's oldest Latino community based
3 organization. Our mission is to ensure and
4 heighten community awareness and involvement,
5 develop participatory community planning practices
6 and promote sustainable development with justice
7 and governmental accountability. The New York
8 City Environmental Justice Alliance is an umbrella
9 organization comprised of member groups based in
10 low income communities and communities of color
11 throughout New York City. Founded in 1991 by
12 environmental justice activists, NEJA empowers its
13 member organizations to fight against
14 environmental injustice by the coordination of
15 citywide campaigns. While UPROSE and NEJA support
16 the four pieces of legislation before you, we do
17 have a number of concerns, which we would like to
18 address as we move forward supporting this
19 historical effort. Because we represent the
20 interest of communities of color that have long
21 been the reluctant hosts of the City's most
22 polluting infrastructure, we want to ensure that
23 the efforts to reduce carbon don't have negative
24 impacts on our communities. You have already
25

1
2 heard the importance of the energy code bill, the
3 lighting bill and the importance of benchmarking
4 energy efficiency. We agree that tools and
5 standards are necessary if we are to make
6 progress. We also believe that the benefits of
7 beginning this initiative by retrofitting the
8 City's buildings is so substantial that it gives
9 us a hope that our ability to address the impacts
10 of climate change. However, we are concerned that
11 as buildings become more energy efficient their
12 collaboration with the state increases to address
13 removing old, dirty, toxic Peakers generators that
14 operate in our communities. The efforts are
15 substantial, but we are concerned that the
16 projected increase in population of 1 million
17 people will leave us without any environmental
18 remediation. So for us this is a great
19 opportunity, if we are to decrease emissions, that
20 then we can have the additional benefit of not
21 having these co-pollutants in our communities.
22 People of color and many immigrants become
23 maintenance workers and superintendents of
24 buildings without having any formal training,
25 command of the English language or support of

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2 unions. Any licensing, certification or required
3 training must occur without displacing these
4 workers. You must provide them with multi-lingual
5 training and support services, and employment
6 criteria must be entirely job related. We also
7 stand in solidarity with the housing advocates in
8 stating that major capital investments that arise
9 from landlord investment must end as soon as the
10 funds are recouped. The fact that MCIs last
11 forever and landlords get the money back several
12 times is an injustice. It is our position that
13 these bills are necessary if we are to address the
14 urgency of the climate change crisis, but they
15 must be rolled out mindful of the needs of New
16 York City's most vulnerable communities. Thank
17 you.

18 CHAIRPERSON GENNARO: Thank you.
19 Thank you very much.

20 RICHARD CHERRY: Good afternoon. I
21 am Richard Cherry, President of Community
22 Environmental Center. And I both thank you and
23 commend your patience and stamina for doing all
24 this.

25 CHAIRPERSON GENNARO: Thank you.

RICHARD CHERRY: Community

Environmental Center has been around 15 years and we are basically in the business that you're talking about. For these 15 years we've done audits and retrofits in over 100,000 apartments and homes. And the wonderful thing about it is that through that work we have reduced emissions of carbon by over 750,000 tons. So we know what this bill is about. We know that it works. We know that it can be done. And we are here primarily to urge you to get passage of this and get passage as quickly as possible. We run all of NYSERDA's programs in the City. We're an approved provider as well as the largest provider of the Weatherization Assistance Program. And I want to say two things. I'm not even going to read the testimony here. One is that because this is so important, because we need to save this earth before it erodes under us, do this faster. 14 years before the full effect of this bill becomes effective is just too long. I know there's concerns that the industry won't be there to be able to do the audits or do the work, but we've been hiring and training. If you pass this

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2 legislation and say in one year it will start, the
3 young engineers coming out of school will go into
4 the field, they'll stay in New York; we'll get
5 them trained. There's so many green job programs
6 already starting up. We've got many of our own.
7 We'll have the capacity there to deliver. Do
8 this. We suggest 20% a year, not 10% a year. And
9 give owners two years, not three years, to get
10 this work done. Let's get this job done in five,
11 six years and not 14 years. The second concern I
12 have is that there's no funding here or no
13 discussion even of administration and quality
14 control. If you just put this on the books and
15 trust owners to do the right thing, and even
16 auditors and contractors to do the right thing,
17 you won't have anywhere near the effect that you
18 intend here. There's a cost to this. We've got
19 to recognize there's a cost to this. The City is
20 going to administrate it or an outside agency
21 hired by the City. We really need to have ways to
22 make sure that we're doing spot checking, like the
23 Internal Revenue Service or some other method to
24 make sure that the pressures from an auditor-- and
25 the owner is telling me I want to do as little as

1
2 possible. Audits come out various ways and you
3 can sometimes find things and sometimes not find
4 things that needs to be done. The pressures here
5 are all to minimize what's found. We need
6 pressures from the City to make sure that there's
7 checks done on what's done here. But overall we
8 need legislation that does this. There are many,
9 many owners who aren't doing the right things and
10 who need to be mandated to do the right things.
11 These are all cost effective. They are not that
12 expensive if you only do five, seven year
13 measures. And I went to a graduation ceremony for
14 Hunter High School yesterday and I saw 100 smiling
15 faces. Let's save the earth for them. Thank you.

16 CHAIRPERSON GENNARO: Thank you.

17 Thank you, Mr. Cherry. I appreciate your
18 testimony. And, yeah. Because of the late hour
19 we have to move to our next panel. We appreciate
20 this panel and your patience and what you've
21 brought forward. Thank you.

22 [Pause]

23 FEMALE VOICE: It's going to be
24 Olympia Kazi from Institute for Urban Design;
25 Neysa Pranger from Regional Plan Association;

1
2 Wendy Fleischer from Pratt Center and Amy Anderson
3 from New York Industrial Retention Network. And
4 then after that we have the panel of Green
5 Building Professionals, Dave Hepinstall from The
6 Association for Energy Affordability; Green Home
7 NYC, I don't know if somebody is still testifying
8 from Green Home.

9 [Pause]

10 FEMALE VOICE: Sorry. This is the
11 one after this panel. Pat Sapinsley from
12 AIA/COTE, and David Bomke from Energy Consumers'
13 Council.

14 [Pause]

15 FEMALE VOICE: And then if there's
16 anybody else who is with an organization whose
17 name I didn't say, could you let me know?

18 [Pause]

19 CHAIRPERSON GENNARO: Okay.

20 [Pause]

21 CHAIRPERSON GENNARO: One moment.
22 Forgive me. One moment.

23 [Pause]

24 CHAIRPERSON GENNARO: Okay. And on
25 this panel we're also going to add Dave

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2 Hepinstall. Dave Hepinstall is going to join this
3 panel as well. I know that you have to leave.

4 [Pause]

5 CHAIRPERSON GENNARO: And, okay.
6 In keeping with our sort of going back and forth
7 as to which side we start from, we'll, David,
8 we'll start with you. We'll start to my right
9 this time. Oh, and pardon me. The Counsel has to
10 swear the panel. Sorry about that.

11 SAMARA SWANSTON: Would you please
12 raise your right hands? Do you swear or affirm to
13 tell the truth, the whole truth and nothing but
14 the truth today?

15 [Off Mic]

16 CHAIRPERSON GENNARO: Mr.
17 Hepinstall, thank you. You've got to--

18 DAVID HEPINSTALL: [Interposing]
19 There we go.

20 CHAIRPERSON GENNARO: Okay.

21 DAVID HEPINSTALL: Thank you very
22 much for the opportunity.

23 CHAIRPERSON GENNARO: Sure. You
24 just have to put your name on the record.

25 DAVID HEPINSTALL: I am David

1
2 Hepinstall, Executive Director, Association for
3 Energy Affordability. And I appreciate the
4 opportunity to speak today, and I remember a year
5 ago when we started the first draft of some of
6 this legislation. And just few major things I'd
7 like to say. First, in terms of process, I think
8 that the combination of having these four bills is
9 holistic and comprehensive and I think that's
10 really positive. You've really exercised great
11 leadership. Second, the partnership between the
12 administration and City Council and the outreach
13 and feedback that has been solicited throughout
14 this year also I think has been extraordinary. So
15 related to that though, in fact in those efforts
16 to get feedback, as we saw today, there are a lot
17 of people resisting for a variety of reasons.

18 CHAIRPERSON GENNARO: I noticed.

19 DAVID HEPINSTALL: But let me just
20 comment that in the language I believe many of the
21 people resisting didn't read the language
22 carefully. There's been very careful work done on
23 the language basically allowing rules, not
24 legislation, to give detail. And there were
25 several instances in which that's been stated, and

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2 I agree with that perspective. Legislation points
3 a direction, allows policy to develop and rules to
4 get developed. And so such things as the
5 definition of an Energy Professional and a whole
6 series of things about the audit tool and all of
7 those things that many people raised criticisms
8 of, I think the language in the legislation is
9 appropriate and allows flexibility. At the same
10 time it is clear there's a division of
11 responsibility among several city-- components of
12 the administration. And I don't know that
13 legislation needs to signify or identify exactly
14 who's in the lead, but realistically for this city
15 to be as effective in implementing this, pulling
16 it off, I think there does need to be an agency
17 that is clearly in charge and clearly reporting to
18 the Mayor in a way that we know we can pull all
19 this together. There were also a lot of comments
20 made about funding, several of those related to
21 the National Grid program, the low-income program
22 which we want run, and the Weatherization, the
23 NYSERDA program we've been involved in all of
24 those. It's clear that in the environment of a
25 lot of stimulus package money coming to

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2 Weatherization and these other programs, this is
3 perfect timing for this bill and for it to move
4 forward quickly because we do have so many more
5 resources than we've had before. So the timing it
6 seems to me, if we have adequate leadership of an
7 entity in the City and we've got some kind of
8 clear, detailed rules developed, not slowly but
9 quickly-- I agree with Rick Cherry on that. We
10 need to move on this as quickly as we can. And
11 unfunded mandates-- there are so many
12 opportunities of resources, okay, available. But
13 I think low-income-- and there are some missing
14 things. I think you've not yet taken on the split
15 incentive adequately. You allowed in-unit tenant
16 measures not to have to be addressed. And that
17 really--

18 CHAIRPERSON GENNARO: [Interposing]
19 What was that again?

20 DAVID HEPINSTALL: Residential.
21 You've only--

22 CHAIRPERSON GENNARO: [Interposing]
23 I kind of missed that last point. What was that?

24 DAVID HEPINSTALL: On the split
25 incentive you've essentially given up on doing in-

1
2 unit in residential properties in the language
3 included there.

4 CHAIRPERSON GENNARO: Yes. Right.

5 DAVID HEPINSTALL: They're
6 excluded. I think there is a need to keep that
7 open so that in terms of development of rules we
8 can take it on, because it's got to be all hands
9 on deck. Whether it's condo, coop, rental units,
10 we've got to have a way that we're moving on that.
11 Secondly I agree with the perspective that was
12 mentioned a few minutes ago, and that is over
13 50,000 makes sense as a starting point, but
14 realistically we have to go beyond that. We have
15 to go under 50,000 square feet as well. That's
16 about a 50 unit building. And in fact in many
17 neighborhoods around this City we don't have many
18 units above 50 units. In terms of the residential
19 property we've really got to take on somehow.
20 Sort of last point related to that is the notion
21 of prescriptive measures like refrigerators making
22 so much sense and lighting-- I think it's really
23 positive that you've included something that is so
24 predictably always going to be cost effective to
25 do. So I applaud the administration and the City

1
2 Council for working together on this. I've
3 appreciated the opportunity to give feedback along
4 the way and I want in every way possible-- I'm
5 very busy related to all the stimulus money
6 package right now and weatherization and training
7 and all of this. I appreciate the opportunity to
8 speak perhaps with you more in more detail about
9 where we can move forward. Please don't back off
10 what you're doing because of resistance. Thank
11 you.

12 CHAIRPERSON GENNARO: Thank you
13 very much, Mr. Hepinstall. I appreciate that. I
14 know you have to go. Thank you. And do we have
15 statements from this panel? Okay. That seems to
16 be like the story of today. I am very statement
17 poor today. Statements don't seem to make their
18 way to me. Okay. I have a statement from the
19 Institute for Urban Design.

20 OLYMPIA KAZI: That's me.

21 CHAIRPERSON GENNARO: Okay. So why
22 don't you start.

23 OLYMPIA KAZI: My name is Olympia
24 Kazi and I'm the Executive Director of the
25 Institute for Urban Design, a non-profit member

1
2 organizations of architects, planners and real
3 estate developers. And I want to thank Chairman
4 Gennaro and the Committee of Environmental
5 Protection for the opportunity to testify today.
6 I am in support of the Greener Greater Building
7 Plan here today. Several initiatives within the
8 proposed bills are timely and relevant. Above all
9 we're thinking that expanding and improving New
10 York City's building code is a pressing matter.
11 In the architecture and urban design world the
12 joke is codes are as good as to keep you out of
13 jail. And we must aim higher than that. It's
14 about time that we raise our standards and
15 establish a comprehensive, modern regulatory
16 framework. By making energy efficiency a
17 quantifiable measure for buildings and by setting
18 performance standards, not only will we be taking
19 a great step towards diminishing our carbon
20 emissions, we will also be putting an end to an
21 investment black hole, because environmentally
22 unsound buildings are in the long run less cost
23 efficient too. As part of our support for these
24 bills we would like to advise a couple of comments
25 and suggestions. Although it seems to us

1
2 appropriate to focus on existing building first
3 and pursue initially the most cost effective
4 doable ideas as these bills do, we must not lose
5 sight of the bigger picture. It is essential that
6 we work on different fronts and try to develop an
7 array of green initiatives for both existing and
8 future buildings, initiatives that need to be
9 aligned across the agencies. One example, it is
10 important that we address things that may seem
11 inconsequential, but can actually make a great
12 difference. For example, the use of iterating
13 thermostats and light-saving timers in all New
14 York City buildings, that could be mandatory. And
15 at a more basic level encourage people to get
16 greater understanding of the function of shading
17 devices or even the importance of cross-
18 ventilation. Things like these, which can have a
19 significant impact on quality of life are hard to
20 quantify and codify, but they must be promoted by
21 your Committee. I think that Office of Long-term
22 Planning and Sustainability has been doing great
23 work in public outreach, but a greater investment
24 on civic education is needed. So I'm not going to
25 talk about the MCI because people that, you know,

1
2 have already thoroughly explained that. My
3 closing comment, actually I want to change it and
4 just refer to the fact that after six hours that
5 I've spent here, have you noticed the level of
6 this air conditioning? This is not an efficient
7 way of using a building system.

8 CHAIRPERSON GENNARO: What's that?

9 Sorry?

10 OLYMPIA KAZI: Have you noticed the
11 level of air-conditioning? We are freezing here
12 today and I can take it this is not an efficient
13 way to run this building.

14 CHAIRPERSON GENNARO: Let me tell
15 you what my life is like. I sat down here and I
16 said I'm comfortable under all the lights and if
17 I'm comfortable under all the lights it must be
18 freezing out there. And five hours ago I said
19 turn down the air-conditioning, and so, that was
20 five hours ago. And so-- and it's one of these
21 things where it's controlled from across the
22 street, so somebody has to tell somebody, has to
23 tell somebody, and we should live long enough that
24 the air-conditioning gets turned down. I can't
25 get a five hour turn around on turning the air-

1 conditioning-- because I knew when I sat down here
2 that it had to be freezing out there. I was
3 tempted--

4
5 OLYMPIA KAZI: [Interposing]

6 Anyway, thank you very much. And please pass
7 these bills.

8 CHAIRPERSON GENNARO: --to go
9 across the street and turn it down myself, but I
10 don't know how to do that. And so I apologize for
11 that.

12 OLYMPIA KAZI: Thank you.

13 CHAIRPERSON GENNARO: Thank you.
14 Thank you. Yes. And the next witness and also
15 just let me know if you have a statement. This is
16 again my legacy, I can't seem to get statements.
17 And so the next witness is from what organization?
18 Oh, can you just turn your microphone on?

19 MEGAN HUSTON: Hi.

20 CHAIRPERSON GENNARO: Hi, do you
21 have a statement, a written statement?

22 MEGAN HUSTON: No, not from the
23 Pratt Center.

24 CHAIRPERSON GENNARO: Okay. So
25 please. No, it's okay. I'll just know not to

1
2 look for it if you don't have one.

3 MEGAN HUSTON: But thank you for
4 the opportunity. My name is Megan Huston
5 [phonetic] and I'm speaking on behalf of Adam
6 Freidman, who is the Executive Director of the
7 Pratt Center for Community Development. Promoting
8 sustainable development, energy efficiency and
9 renewable energy are central components of our
10 mission and we support passage of the legislative
11 packet before you today, and also reducing the
12 amount of electricity and heating fuel that these
13 buildings burn is the most meaningful way to
14 reduce the amount of emissions, and comprehensive
15 building upgrades for energy efficiency preserves
16 affordability and makes the building more
17 comfortable, durable, healthy and safe. The
18 legislation proposed today is a major step in the
19 right direction. And while Pratt Center supports
20 the legislation, we urge the Council to take this
21 opportunity to address the financial pieces of the
22 puzzle. And the general statement regarding
23 Interim number 967 on the simple payback
24 qualification there-- it's a comparison between
25 initial investment to annual energy savings and of

1 course those-- the other costs that are involved
2 case by case are the interest rates and loan terms
3 with individuals and also the soft cost associated
4 with getting the necessary recommendations. And I
5 think people will ask about that as they read
6 through the legislation on how that will apply if
7 they are supposed to go forward and required to do
8 the actual simple payback standard. And
9 additionally, while the loan fund is being created
10 to finance retrofits in buildings that lack
11 sufficient cash flow, we are concerned, as well as
12 you've heard, that the funds will be inadequate
13 given the scale of the undertaking. And again,
14 emphasizing that the City needs to make sure that
15 this is an effective financing program. And then
16 Adam goes on to provide examples of owners
17 financing the work through their property taxes
18 and this is being piloted in Babylon and Berkley,
19 California. There's on build financing and other
20 financial instruments that give the banking
21 sectors confidence to factor savings from the
22 energy improvements into their loan criteria. You
23 know, of course affordable housing and non-profit
24 owner buildings are in great need of cost saving
25

1
2 energy upgrades, but they lack the need for the
3 upfront costs. In addition, we ask to include
4 funds to provide technical assistance for retrofit
5 project management to enable affordable housing
6 and non-profits to participate in what is
7 ultimately to their advantage. And briefly, the
8 other piece is we view this legislation as an
9 opportunity to support economic growth and every
10 effort should be made to encourage local
11 manufacture of materials used in retrofitting,
12 from cellulose insulation to HVAC systems to
13 further stimulate economic business and job
14 growth. Thank you.

15 CHAIRPERSON GENNARO: Thank you.

16 And thank you very much. Give my best to the
17 folks at Pratt. Just one second. I just have to
18 consult.

19 [Pause]

20 CHAIRPERSON GENNARO: Okay, sorry.

21 NEYSA PRANGER: Hi. Good
22 afternoon, Councilman. My name is Neysa Pranger.
23 I'm with Regional Plan Association. I' the
24 Director of Public Affairs. I believe you do have
25 my comments there in front of you. RPA is a

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2 research planning non-profit organization. We
3 serve the greater metropolitan region, and we work
4 with 31 counties in this region for smarter
5 planning projects. RPA was an original member of
6 the Mayor's Sustainability Advisory Board, so it's
7 probably not surprising for you to hear that we
8 are supportive of all those pieces of legislation
9 that are before you today. We think that each of
10 these proposals meets three critical bottom lines
11 of improving the environment, saving money and
12 having a positive economic impact on the City.
13 Just a few comments about each of the pieces of
14 legislation. I'll be very brief. But the New
15 York City Energy Code that requires the closing of
16 the loophole to allow for inefficient equipment to
17 be replace is just very simple and
18 straightforward. Lighting upgrades also make a
19 lot of sense. The bill doesn't seem to go too far
20 here, but we think the City has probably done the
21 most that it can with regard to this, so that's
22 also very straightforward. The benchmarking bill
23 is also going to have probably the largest impact
24 of all four of these pieces of legislation here,
25 creating-- basically--

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CHAIRPERSON GENNARO: [Interposing]

The benchmarking bill?

NEYSA PRANGER: Yeah. We think the benchmarking bill-- it's going to create an effective--

CHAIRPERSON GENNARO: [Interposing]

Not my bill? Anyway, continue.

NEYSA PRANGER: I'm sure that will too. It plays into the-- I know, we would label this bill really as brilliant because it inserts energy efficiency information into the assessment and you're really getting the market value of properties to reflect that they are energy efficient, so that's why we think that this is perhaps the-- I won't say the biggest impact, but it will have a very big impact in the long-term. Then the audits and retrofits bill will-- the only thing here we think is that it will require major monitoring and staffing from the private sector to complete the audits and retrofits. I think you've heard from a lot of people here today and you know that the resources around the City are ample to be able to do that. This could pose a lot of challenges. We encourage you as part of the bill

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2 to be very strong, but it is laudable and we
3 definitely support it. Just lastly two things.
4 We are also at RPA supporters of affordable
5 housing around the City and we would not support--
6 we would support proper incentives for protection
7 of rent regulated and rent stabilized tenants.
8 And we also encourage the Council to take up the
9 other two remaining pieces of legislation out of
10 the Greener Greater Buildings Package for
11 workforce development and for the financing plans.
12 We think that if you don't pursue these two bills
13 then the potential for the economic impact on the
14 City and the ability to actually complete these
15 goals in the four bills we just talked about would
16 be severely undermined.

17 CHAIRPERSON GENNARO: Sure. Just
18 those last two items are not pieces of
19 legislation. They're sort of--

20 NEYSA PRANGER: [Interposing]
21 Right. Okay.

22 CHAIRPERSON GENNARO: --part of the
23 overall package.

24 NEYSA PRANGER: Sure, right.

25 CHAIRPERSON GENNARO: And they're

1
2 part of the package but they're not being done
3 legislatively--

4 NEYSA PRANGER: [Interposing]

5 Right. We would encourage you to take those up.

6 CHAIRPERSON GENNARO: But they are
7 certainly being advanced.

8 NEYSA PRANGER: Great.

9 CHAIRPERSON GENNARO: Yeah, so it's
10 six items, four of which are legislative. We can
11 continue to debate which one is going to have the
12 biggest impact.

13 NEYSA PRANGER: That's just in our
14 humble opinion.

15 CHAIRPERSON GENNARO: Okay.

16 AMY ANDERSON: Hi. Good afternoon.
17 My name is Amy Anderson. And I am a Project
18 Manager for Sustainable Initiatives at the New
19 York Industrial Retention Network.

20 CHAIRPERSON GENNARO: Okay. And I
21 have your statement here.

22 AMY ANDERSON: Okay. So thank you
23 for allowing me to participate in this process.

24 NYIRN is a citywide economic development
25 organization that works with manufacturers to

1
2 retain and create blue-collar jobs and promote
3 sustainable development. Since 2005 we have been
4 providing technical assistance and funding to
5 manufacturing firms to undertake facility audits
6 and implement energy conservation measures,
7 therefore increasing their companies' energy
8 efficiency and ultimately reducing their overall
9 operating costs. To date, our organization has
10 worked with over 41 companies and has leveraged
11 over \$1 million in project financing in the form
12 of grants. So NYIRN does support the merits and
13 the goals that are set forth in these proposed
14 local laws, however we are concerned about some of
15 the imposed requirements on the manufacturing
16 sector. There are approximately 1,000 industrial
17 lots that are going to be required to comply with
18 the proposed laws and the manufacturing firms in
19 New York City are primarily small businesses that
20 are operating with an extremely tight margin with
21 little to no extra cash flow to cover the up front
22 costs that are associated with making the
23 facilities more energy efficient. Most cost share
24 programs such as those offered by NYSERDA are on a
25 reimbursement basis with long-term timelines for

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2 repayment. According to the New York City
3 Department of Finance it there will be an
4 estimated 14,000 lots across all building types
5 that must comply with this law. The proposed
6 revolving loan fund comprising of \$16 million of
7 federal stimulus money will not suffice to cover
8 the amount of financial assistance that will be
9 needed, given the number of identified properties
10 and the anticipated costs that owners will be
11 responsible to pay when implementing measures with
12 a seven year or less payback. In addition to the
13 financing component, NYIRN has also found that
14 proving technical assistance to these companies is
15 critical to maintaining project timelines and
16 achieving project objectives. Since most
17 companies have limited administrative capacity
18 combined with little education concerning existing
19 incentive programs, NYIRN has filled a gap in the
20 market by facilitating both the audit and
21 implementation processes between the manufacturer
22 and energy contractor. It is our belief that
23 these services should continue to assist companies
24 with the benchmarking, auditing and implementation
25 phases, which will ensure a greater rate of

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2 compliance amongst these firms. And so we offer
3 the following recommendations for consideration to
4 be incorporated in the design and implementation
5 of the proposed laws. Explore the additional
6 financing sources on both the front and back ends
7 of the project to ease the burden on manufacturing
8 firms that have to provide up front costs for
9 energy conservation measures. Extra incentives
10 may take the form of a sales tax abatement on
11 equipment purchases or attaching upgrade cost to
12 property tax bills. Financial assistance will
13 likely also ensure further compliance. Establish
14 an on the ground network of non-profit
15 organizations, such as NYIRN, and other community
16 agencies to assist companies in the process of
17 maintaining audits and implementing these ECMS.
18 Identify and promote local businesses to source
19 the required materials and equipment necessary to
20 make the improvements. Local procurement of
21 materials will create an additional network of
22 businesses related to energy efficiency and spur
23 activity with the local economy. Thank you.

24 CHAIRPERSON GENNARO: Thank you.

25 Thanks very much for being here. Make sure to

1
2 give my best to Adam and all the good people at
3 NYIRN. And I wish to thank this panel for your
4 contribution to the discussion and for your humor
5 and for your-- at this late hour to be
6 lighthearted and-- it's hard after six hours, you
7 know? And we asked for the air-conditioning to be
8 turned down again. And this time we asked for
9 same day service. We'll see if they can provide
10 that. Thank you very much.

11 [Pause]

12 CHAIRPERSON GENNARO: So... Fine.
13 Okay. We have some green building professionals.
14 Charles Cameron, a lighting designer; also we're
15 looking for a representative of Green Home NYC if
16 there is a person from Green Home NYC in the
17 house. Pat Sapinsley. David Bomke from Energy
18 Consumers' Council. And if there's a
19 representative from the Greenpoint Manufacturing
20 and Design Center. And I was told to offer an
21 apology at this point. There was some mix-up that
22 lead to you being called now versus earlier when
23 there was some other panel, and we apologize for
24 that lapse. Okay.

25 SAMARA SWANSTON: Can you please

1
2 raise your right hands? Do you swear or affirm to
3 tell the truth, the whole truth and nothing but
4 the truth today?

5 [Off Mic]

6 CHAIRPERSON GENNARO: Okay. So
7 we're going to be starting on my left, your right.
8 And if you have written statements, please provide
9 them to the-- I have two statements here. And
10 what's your name, sir?

11 BRIAN COLEMAN: I'm Brian Colman
12 from the Greenpoint Manufacture and Design Center.

13 CHAIRPERSON GENNARO: And I do have
14 your statement. So welcome. Just state your name
15 once again for the record and proceed with your
16 testimony.

17 BRIAN COLEMAN: Sure. Good
18 afternoon. I'm Brian Coleman. I'm the CEO of the
19 Greenpoint Manufacturing and Design Center, New
20 York City's leading non-profit industrial
21 developer. I'm here today to inform you of some
22 of our concerns regarding the proposed
23 legislation. I'm just going to skip through some
24 of this for your sake and for mine. Firstly, a
25 50,000 square foot building is not that large.

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2 Many New York City non-profit organizations
3 operate in buildings of 50,000 square feet.
4 They'll be adversely affected by this legislation.
5 These include hospitals, community centers,
6 grammar schools, high schools, daycare centers,
7 medical clinics and other community based
8 organizations. Our organization, as well as these
9 others operate on fixed budgets with limited
10 staffs. The proposed legislation will place a
11 burden both financially and administratively on us
12 since there are no provisions in the proposed laws
13 to offer financial assistance for the
14 implementation of the work that will be required.
15 As a landlord with commercial tenants, it is often
16 very difficult to get a tenant to report
17 information that they are required to report as
18 per there lease, such as a New York City IDA
19 questionnaire. It will be extremely difficult, if
20 not impossible, to get a large percentage of
21 tenants to report information that they have no
22 obligation to report. Sure, we'll amend our
23 leases so new tenants or renewals will be
24 obligated in the future, but that won't help us
25 now. It sounds easy, but on a practical day-to-

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2 day level this will be an administrative
3 nightmare. With reference to the utility
4 responsibility of uploading accurate information,
5 we are very suspect. We literally we see utility
6 bills that have been whited out and handwritten on
7 computer generated bills. We receive inaccurate
8 estimated bills. I am not sure that the data that
9 is to be provided would be worthwhile, because we
10 often receive bills that are just plain wrong and
11 require significant staff work to unwind. We are
12 afraid that the benchmarking data will be similar
13 and will require the same amount of staff time. I
14 know there is a provision in the proposed
15 legislation to account for landmarked or historic
16 structures, unfortunately we don't believe that
17 provision goes far enough. GMDC recently
18 completed a complicated transaction at our 221
19 McKibbin facility that was partially funded with
20 support from the City Council. In this
21 transaction we used a combination of federal
22 Historic Rehabilitation and New Markets Tax
23 Credits. Any changes to the work that the state
24 or federal governments required us to do-- that
25 means physical work-- would trigger a recapture of

1
2 the tax credits and, frankly, cause financial ruin
3 for the project. The law should provide certain
4 provisions so that cannot happen. Certainly with
5 our project or others. GMDC strongly believes in
6 the intention of the proposed legislation. We
7 consider ourselves leaders in greening long before
8 it became popular. Our six-year-old photovoltaic
9 solar powered system is the largest commercial
10 power system in the City of New York. With
11 financial support from the Council, we will begin
12 shortly initiatives to expand solar power to all
13 of our facilities and will begin major systems
14 upgrades at our Manhattan Avenue Facility. We get
15 it. We believe in the cause, but we're very
16 concerned about the financial and administrative
17 burdens that the legislations will put on small,
18 non-profit organizations such as ours. Thank you
19 for your consideration.

20 CHAIRPERSON GENNARO: Thank you.

21 Thank you. Yes. Very compelling testimony from
22 someone who clearly is in part of the movement but
23 yet sees the difficulties. I'm moved by your
24 testimony. Thank you, Mr. Coleman. I appreciate
25 that.

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[Pause]

CHAIRPERSON GENNARO: Sir?

DAVID BOMKE: My name is David

Bomke. I'm the Executive Director of the New York Energy Consumers' Council, or NYECC, located here in New York. Our membership represents a broad spectrum of energy consumers including hospitals, universities, financial institutions, residential and commercial property owners and managers, public benefit corporations, energy service companies and energy consultants. Our membership may represent as much as one third of the large commercial electric load in New York City, or more than five percent of the total electric load in our city. Thank you, Chairman Gennaro for inviting me to attend this hearing and testify herein. I applaud your commitment and patience and loneliness from the rest of your committee. My testimony is aimed towards ensuring that the legislation contemplated today is crafted to achieve the City's energy goals and objectives rather than to thwart them. The urgency of reducing our nation's energy consumption is far too great to place the burden of responsibility on

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2 building owners and managers. We are primarily
3 concerned that the proposed legislation will not
4 be effective, will not be fairly and equitably
5 feasible and is largely misdirected. In addition
6 to expanding on each of those concerns, I'll offer
7 specific remedies. First, legislative mandates
8 have a long history of failure to achieve
9 meaningful results, particularly in terms of
10 energy consumption. The example of the double
11 nickel C limits imposed in the 1970s and largely
12 overturned within the following two decades is
13 worth considering; as is the example of corporate
14 average fuel economy, or CAFE standards. I would
15 suggest that our nation saw a far greater
16 commitment to reducing vehicular energy
17 consumption last year when prices jumped from less
18 than \$3 per gallon to more than \$4 per gallon than
19 we ever saw as a result of mandated reductions in
20 speed limits or incremental CAFE standards. Even
21 presidential leadership, President Johnson Turning
22 off lights in the Whitehouse and President
23 Carter's wearing cardigan sweaters failed to make
24 a significant change in behavior. Behavioral
25 changes require broadly based constituent

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2 commitment. Contrast the rate of evolution of
3 technology in telephone service under mandatory
4 regulation with the accelerated changes in the
5 past decade? Revolutionary behavioral changes
6 require a fundamental partnership between an
7 industry and that industry's constituents. All
8 parties must work together to motivate energy
9 consumers to change their behavior. Second, by its
10 own account, the New York City Department of
11 Buildings maintains a focus on safety, service and
12 integrity in its responsibility to ensure the safe
13 and lawful use of over 950,000 properties by
14 enforcing the City's building code, electrical
15 code, zoning resolution, New York State Labor Law,
16 and New York State Multiple Dwelling Law. The
17 proposed legislation would impose significant
18 incremental burden on an agency already facing
19 extraordinary challenges. Enforcement success
20 would presumably rely heavily on the consent of
21 all the governed, the visibility of the work and
22 community awareness and understanding. The
23 absence of all three of those elements fosters an
24 environment for an inequitable compliance.
25 Parties such as the ones I represent, committed to

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2 energy efficiency, will ultimately bear the cost
3 of compliance. And those entities that are not so
4 committed will not. No good deed would go
5 unpunished, but there would be tremendous
6 potential for less scrupulous parties getting away
7 with the bad behavior. Third, this legislation is
8 aimed at building owners and managers. The
9 building occupants drive the bulk of the energy
10 consumed in each building. Tenant requirements
11 set heating and cooling levels and many of their
12 operating practices set electrical requirements.
13 Tenants who operate 24/7 use more energy than
14 tenants who operate only 40 to 50 hours per week.
15 Occupants who use energy intensive data centers
16 and other technology use more energy than those
17 who maintain less energy intensive technologies.
18 Legislation that holds building owners and
19 managers accountable for energy consumed by their
20 tenants misses the mark. Finally we would urge
21 this City to slow down this legislative effort.
22 Start with collecting and analyzing the data.
23 Mandate benchmarking to provide opportunities to
24 learn from that data before committing to
25 publicizing it. Use the data initially collected

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2 to identify benchmarking deficiencies as talked
3 about earlier and implement solutions to improving
4 the benchmarking process itself. Evaluate the
5 data to identify where the most cost effective and
6 effective opportunities for savings actually
7 exist. Design legislative and leadership
8 processes that would drive changes where they're
9 most needed. Test the hypothesis with voluntary
10 and pilot programs. Evaluate the results and then
11 implement viable energy consumption reduction
12 strategies and legislature that will achieve those
13 results. All parties should demonstrate both the
14 urgency and benefits of increased energy
15 efficiency. Reward energy performance improvement
16 but remember that using less energy is not
17 necessarily better. A building that increases its
18 space and energy utilization should reduce energy
19 consumption per person, even though it may
20 increase energy consumption per square foot.

21 Tactical increases in New York's energy
22 consumption can and should lead to significant
23 decreases in energy consumption on the planet.

24 Increasing the direct and indirect financial
25 burden on New York's large buildings may reduce

1
2 their energy consumption by driving businesses and
3 tenants away from New York, reducing New York's
4 tax base and driving them elsewhere, increasing
5 energy consumption on the planet. I know I'm
6 long, but I wanted to add one more comment. I
7 would welcome the opportunity to address the
8 topics of why energy renovations do not ensure
9 increased energy efficiency. I note, as noted
10 earlier, this chamber has testified eloquently to
11 the challenge of eliminating energy waste. Warm
12 lights help offset the refrigeration, but it's not
13 green. Even the most sophisticated, expensive and
14 complicated commissioned energy equipment in the
15 world is held captive to the people who set the
16 thermostat, building occupants; commercial,
17 residential, retail, student, outnumber the
18 building owners and managers and their staff by
19 100 to 1. I can talk more. I wont.

20 CHAIRPERSON GENNARO: Thank you.

21 Thank you. What is the Energy Consumers' Council?
22 What is it? Let me come back and ask that
23 question later.

24 DAVID BOMKE: Sure. That's fine.

25 PAT SAPINSLEY: My name is Pat

1
2 Sapinsley. I work with a company called Good
3 Energies. We invest in renewable energy
4 technologies and energy efficient technologies for
5 buildings with the idea that by funding them as
6 venture capitalists these technologies will be
7 more widely deployed and will help reduce carbon
8 emissions. I'm also a LEED AP Architect and I am
9 a co-chair on the Committee on the Environment for
10 the American Institute of Architects, so the
11 statement from the AIA was largely written by me.
12 This way I get to speak twice. I want to thank
13 your committee, especially for staying so late in
14 the afternoon, and the Mayor's Office of Long-term
15 Planning for their attention to this matter. I
16 strongly support this suite of bills. There are a
17 couple of things I want to address that came along
18 earlier. One is that all four of these bills have
19 to be passed together as a suite of bills. The
20 fellow who was talking about insulation earlier
21 was pointing out a problem that was not very well
22 defined, which is that some areas of this bill
23 have weaknesses and are complemented by strengths
24 in other areas of the bill. For instance, the
25 insulation would not be addressed by the Energy

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2 Auditing, but it would be addressed by the
3 incorporation of the IECC. So it would be a
4 mistake to take the bill apart and try to pare out
5 certain portions of it. It should be passed as a
6 suite of four bills. Another thing that I think
7 needs some attention that we did mention in the
8 AIA statement is practical implementation and
9 enforcement. That would be not only training of
10 energy auditors using the ASHRAE level 2 energy
11 auditing program, but also Department of Buildings
12 Examiners are going to need to be trained so that
13 they can approve these things. The people who are
14 doing the payback calculation need to use metrics
15 which are standardized and people need to be
16 trained in doing payback calculations so that
17 they're all using three-year energy average costs
18 and means or some construction data that is
19 uniform, and that might be written in to the
20 rules. Conflicts of interest should be avoided.
21 It would be important not to have the audits done
22 by those who are going to be doing the
23 retrofitting. I think conflicts of interest could
24 be a problem here and I think we should watch for
25 that. And lastly, I'd just like to close by

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2 saying that in 1918 New York took a very
3 courageous position and passed the first zoning
4 laws in the country. Those are responsible for
5 the shape of this city with the setbacks. We were
6 leaders then. We have fallen behind and we could
7 be leaders again now by having the best green
8 suite of building laws in the country and perhaps
9 in the world. So I applaud you for trying to do
10 that and I hope it will come to pass.

11 CHAIRPERSON GENNARO: Thank you.

12 And your name is?

13 PAT SAPINSLEY: Sapinsley.

14 CHAIRPERSON GENNARO: Sapinsley.

15 Thank you. Thank you very much. Sir?

16 CHARLES CAMERON: Great. So my
17 name is Charles Cameron. I'm an architectural
18 lighting designer. I am a member of the
19 International Association of Lighting Designers
20 and I am part of their Energy and Sustainability
21 Committee. Am also incoming vice president of the
22 New York City chapter of the Illuminating
23 Engineering Society. And I'm here to commend the
24 Council and the Mayor's office on the active
25 stance they've taking in reducing the

1
2 environmental impact of the City. The creation of
3 the New York City energy code is a great idea that
4 I wholeheartedly support, particularly the
5 modification to take out the 50% floor area
6 exemption. I think that's going to be an
7 important step towards improving the environmental
8 performance of our construction here in New York
9 City and I do suggest that we keep the New York
10 City energy code in step with the state code or
11 the ASHAE 90.1 standard, which is the other widely
12 used standard for energy code, with a few
13 straightforward modifications. That way, for
14 practitioners such as myself, it's pretty
15 straightforward and understandable to do. The
16 other thing that I think is important in this code
17 is going to be enforcement. I know the state
18 energy code has been on the books for the entire
19 time I've been practicing; it's only been in the
20 last five years that it's really become an issue
21 in any projects. And to date in 12 years of doing
22 architectural lighting, I don't know that any of
23 my projects have ever been checked. So I think
24 that's an important thing, to make sure that this
25 law has teeth and accomplishes its goals. As we

1
2 go into the future, I do want to bring up a point,
3 that we must remember that in our move to
4 pronounce that we're going to reduce use of power
5 by X percent or carbon emissions by so many tons,
6 we need to remember that light is not just a use
7 of power. Right? At the baseline, light is
8 needed for vision and an appropriate amount of
9 light is required to do tasks accurately. There
10 are many other aspects of our relationship-- the
11 relationships of humans to light that we need to
12 think of. More and more scientists are
13 quantifying the ways in which lighting effects
14 human physical and psychological health, and so we
15 must understand that light is part of the
16 environmental quality of a space. Well-designed
17 light also creates a sense of place and wonder.
18 This has aesthetic benefits, prestige, design
19 quality, but also it has economic impact. 2006,
20 the City of Liverpool commissioned a study about
21 their urban light--

22 CHAIRPERSON GENNARO: [Interposing]
23 I'm just looking for the connection of this to the
24 legislation.

25 CHARLES CAMERON: This is I guess

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2 more into the future work as you go forward. And
3 so, what it also comes to is the idea that we need
4 to remember that the other side of the electricity
5 equation is the electrical supply. And if our
6 power all came from non-polluting sources we
7 wouldn't have to worry about how many watts we
8 spend on lighting. So, I would encourage the
9 Council to look at those issues as well and, you
10 know, maybe there are ways in terms of putting
11 that into an incentive-- like if a developer wants
12 to create iconic lighting at the top of their
13 building, it's not necessary lighting, then they
14 have to, you know, be providing non-polluting
15 power to get that done.

16 CHAIRPERSON GENNARO: I see.

17 CHARLES CAMERON: And just to throw
18 out there the gentleman's concern about asbestos.
19 I've done some projects where we had to use all
20 the existing locations, because there was asbestos
21 in the ceiling. So it can be worked around to
22 some extent.

23 CHAIRPERSON GENNARO: Thank you.
24 Thank you. And I appreciate that illuminating
25 testimony. Get it? Right. Thank you for that.

1
2 And we appreciate you being here. But getting
3 back to my question about the Energy Consumers'
4 Council. What is the Energy Consumers' Council?

5 DAVID BOMKE: We're an advocacy
6 group. Primarily we exist-- the short story is
7 I'm David, ConEdison is Goliath and my job is to
8 fight them for--

9 CHAIRPERSON GENNARO: [Interposing]
10 What's that now? Sorry. No.

11 DAVID BOMKE: It's an advocacy
12 group.

13 CHAIRPERSON GENNARO: Right.

14 DAVID BOMKE: Focused on the energy
15 costs for large energy consumers. In 1953 the
16 Owners Committee on Electric Rates was founded to
17 intervene on behalf of its membership in public
18 service commission rate cases. In 1992, the New
19 York Energy Buyers Forum was instituted on natural
20 gas cases. We came together to form the New York
21 Energy Consumers' Council in 2004.

22 CHAIRPERSON GENNARO: I see.

23 DAVID BOMKE: So if you look at my
24 cover letter you'll see on the masthead a list of
25 some of my members who serve on the board of

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directors.

CHAIRPERSON GENNARO: Right.

DAVID BOMKE: We have large commercial properties, institutional properties and so forth.

CHAIRPERSON GENNARO: Yes, you do. Well thank you. And thank you for that, Mr. Bomke and all the members of this panel and make sure that we're kept apprised of the latest thoughts on lighting, seriously, so that we can integrate some of these concepts into things we do in the future. We appreciate that.

CHARLES CAMERON: Okay. We can replace the lights on both sides of these with something more efficient.

CHAIRPERSON GENNARO: Yeah, okay.

CHARLES CAMERON: In a pretty easy way.

CHAIRPERSON GENNARO: Thank you. Thank you. Thanks very much.

[Pause]

CHAIRPERSON GENNARO: We're not sure if these other folks are still here. Alexander Truitt, Jane DeCessia [phonetic], Colin

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2 Howe [phonetic], Colin Howe. Oh, I don't know
3 what she's...

4 [Pause]

5 CHAIRPERSON GENNARO: Mr. Truitt?
6 Is that right? Okay. I think you're the last
7 witness. Thank you for your patience, and you
8 represent John Osborne PC? Okay. You have to
9 turn your microphone on. Okay.

10 ALEXANDER TRUITT: Correct.

11 CHAIRPERSON GENNARO: We're going--
12 special dispensation from being sworn, okay?
13 How's that?

14 ALEXANDER TRUITT: Sounds good.

15 CHAIRPERSON GENNARO: I just want
16 to give you some benefit for having so-- please
17 happy to have you. State your name for the
18 record. I have a copy of your statement. We're
19 all set. You're not on the clock. Knock yourself
20 out.

21 ALEXANDER TRUITT: Okay. I will
22 keep it brief because it has been a long day. My
23 name is Alex Truitt. I'm from the Law Firm of
24 John Osborne PC, to comment today on City Council
25 Intros 967 and 973, which propose measures to

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2 reduce energy consumption and the emissions of
3 greenhouse gasses by requiring owners of thousands
4 of existing buildings to upgrade everything from
5 boilers to light bulbs. John Osborne PC
6 represents major real estate owners including
7 developers, hospitals, hotels, school districts,
8 universities as well as public sector real estate
9 owners. In the interest of time I will not go
10 through all of the comments we have here. A lot
11 of them are very specific comments about Intro 967
12 as well as Intro 973. I'll kind of just touch on
13 a couple of the major points. Number one, Energy
14 efficiency mandates are necessary. Mayor
15 Bloomberg's 2030 plan, which was unveiled in 2007
16 set the goal of reducing the City of New York's
17 carbon footprint by 30% by the year 2030. Without
18 mandates New York City's per capita increase in
19 electricity consumption will continue to climb
20 1.1% per year. It has been calculated that
21 approximately 85% of the existing buildings in New
22 York City will still be standing in the year 2030
23 and therefore it is clear that the progress to be
24 made is in existent buildings. Secondly, we
25 strongly endorse the use of the well established

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2 EPA energy criteria and the use of EPA Portfolio
3 Manager, and have given some specific suggestions
4 to legislation in our written testimony. One of
5 those in Intro 967 Article 28-308.2 it is
6 indicated that the covered buildings receive an
7 EPA ENERGY STAR label. We suggest this provision
8 be changed to require a specific ENERGY STAR score
9 rather than requiring an EPA ENERGY STAR label,
10 because the EPA ENERGY STAR label covers many
11 factors such as ventilation standards, other
12 requirements which may unduly complicate the
13 process. Third, just to comment on simple payback
14 period, it appears that the seven-year period
15 should be appropriately shortened to a shorter
16 period of five years. It seems to be a more
17 viable period for building owners. Next, we also
18 recommend that there be a specific focus on
19 developing the regulations to be adopted in
20 connection with the legislation with specific
21 emphasis on training in the setting of
22 professional requirements for carrying out the
23 energy audits and other aspects of the energy
24 saving measures. It is important that specific
25 input be obtained from design professionals,

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2 constructors and the real estate and the business
3 communities. If you get the proper training for
4 the audits, it's going to be that much more
5 effective. And lastly we believe it's also
6 essential that there be a focus on incentives for
7 implementing energy saving measures in the form of
8 tax abatements, credits and deductions as well as
9 grants. Without these incentive, it would be very
10 hard for the bills, in our opinion, to be
11 effective. Thank you for your time today.

12 CHAIRPERSON GENNARO: Thank you.

13 Thank you, Mr. Truitt. We appreciate your
14 testimony, your support of what we're doing and
15 your recommendations as to how we can make it
16 better. And your patience at, you know, going the
17 distance. We certainly appreciate that.

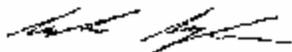
18 ALEXANDER TRUITT: Thank you.

19 CHAIRPERSON GENNARO: And so, thank
20 you for your testimony. No other witnesses to be
21 heard. And yeah, you've been here for six hours.
22 I can say whatever I want now. Who's listening
23 anyway? But yeah, so I'm going to adjourn the
24 hearing. I want to thank everyone that
25 participated. But going to adjourn the hearing on

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2 a note of sadness with the loss of, in the last
3 couple of days, popular cultural icons, Ed
4 McMahon, Farrah Fawcett, Michael Jackson. It's
5 just interesting how-- who would have thought that
6 those three would have shared this fate, you know,
7 of leaving us pretty much at the same time. There
8 we have it. So we adjourn the hearing on a note
9 of sadness. But to make us happy again, we are
10 going to read into the record testimony that was
11 submitted to be entered into the record, and this
12 testimony is from Emily Fano [phonetic], NYCOSH,
13 Christina Montengens [phonetic], Barth Bazuk
14 [phonetic], Beverly Silow [phonetic], Mary Fisher,
15 Gregory Jockomo [phonetic]. Didn't we hear from
16 that person? Yes, we did. Lawrence Mandelker,
17 New York Metropolitan Retail Association,
18 Supportive Housing Network, National Grid,
19 ConEdison, American Council of Engineering
20 Companies, Rent Stabilization Association, Center
21 for Working Families-- we heard from them.
22 Rosemary Ginty, Catholic Community Relations,
23 Carol Jackson, and Chris Garvin and Bob Fox of
24 Cook and Fox Architects. With that said, this
25 hearing is adjourned.

C E R T I F I C A T E

I, Erika Swyler 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 July 29, 2009 _____