

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

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November 24, 2009  
Start: 10:18 am  
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HELD AT: Council Chambers  
City Hall

B E F O R E: ERIK MARTIN DILAN  
Chairperson

COUNCIL MEMBERS:  
Robert Jackson  
Lewis A. Fidler  
Tony Avella  
James Vacca  
Leroy G. Comrie, Jr.  
James S. Oddo  
Rosie Mendez  
Gale A. Brewer  
Joel Rivera  
Elizabeth Crowley

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

Stephen Kramer  
Senior Counsel  
Department of Buildings

John Doyle  
Senior Vice President for Government Affairs  
Real Estate Board of New York

Jessica Handy  
Building Owners and Managers Association of Greater  
New York

Robert Altman  
Legislative Consultant  
Queens and Bronx Building Association and  
Building Industry Association of New York City

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2 CHAIRPERSON DILAN: If the chambers  
3 could come to order.

4 SERGEANT-AT-ARMS: [Off mic] your  
5 cell phones to set to vibrate.

6 CHAIRPERSON DILAN: Okay. Good  
7 morning everyone, my name is Erik Martin Dilan and  
8 I am the Chairperson of the City Council's Housing  
9 and Buildings Committee.

10 Today, the Committee will conduct  
11 an initial hearing on Introduction 1008, which is  
12 a Local Law to amend the Administrative Code in  
13 relation to the issuance of building permits. The  
14 Council is obviously concerned about the practice  
15 of the Department of Buildings issuing building  
16 permits to applicants irrespective of whether or  
17 not the applicant has outstanding fines or civil  
18 penalties owed to the City of New York. Intro  
19 1008 would prohibit the Commissioner of Buildings  
20 from issuing a permit to any applicant with any  
21 outstanding fines, civil penalties, or judgments  
22 imposed or entered against an applicant or owner,  
23 fees or other charges assessed by the  
24 Commissioner, fees or a lien related to emergency  
25 repairs or repairs to buildings performed by or on

1  
2 the behalf of the Department of Housing,  
3 Preservation Development, as well as tax arrears  
4 owed to the city.

5 Obviously, today this committee  
6 expects to hear testimony from representatives  
7 from the Department of Buildings, from real estate  
8 professionals including developers, property  
9 owners, and representatives from the labor force.  
10 Anyone wishing to sign in on these items, please  
11 see the Sergeant-at-Arms and fill out an  
12 appearance card and we will obviously hear what  
13 you have to say on this issue.

14 Before I get to the Commissioner's  
15 testimony, I'd like to introduce some of my  
16 colleagues who are here. I have Council Member  
17 Robert Jackson of Manhattan, Council Member Lewis  
18 Fidler of Brooklyn, Council Member Tony Avella of  
19 Queens, and the sponsor of the bill, Jimmy Vacca,  
20 of the Bronx. And at this time, if you're ready  
21 Councilman, I give you prerogative if you'd like  
22 to make a brief statement.

23 COUNCIL MEMBER VACCA: Yes, Mr.  
24 Chair, thank you. I'm glad today that the  
25 Committee is having a bill on my Intro 1008 and

1  
2 basically this bill is meant to accomplish two  
3 goals. First, it's to identify and crackdown on  
4 builders and property owners who have a terrible  
5 track record of not paying fines, not paying  
6 taxes, or not paying other charges to the city,  
7 knowing that these same builders are most likely  
8 not following are the rules and regulations. And  
9 two, to help the city plug a massive budget gap by  
10 forcing builders and property owners to pay up.

11 I came up with the idea for this  
12 bill finding out that a controversial building in  
13 my district was being developed by a notorious  
14 landlord who owed more than \$250,000 in ECB fines,  
15 \$60,000 in taxes, over 15,000 in emergency housing  
16 repairs at properties he already owned as well.  
17 But there was no way for the Buildings Department  
18 to withhold new permits based on these outstanding  
19 debts to the city. I thought we were missing an  
20 opportunity and I want to work with the Buildings  
21 Department and the administration to see how we  
22 can make sure that in the future we can stop  
23 instances like this from happening.

24 Basically, I want people who owe  
25 outstanding fines in this city--be they water,

1  
2 real estate, or other bills and fines, emergency  
3 HPD repairs--I want them to be current in their  
4 accounts with the city, I want to collect that  
5 revenue, and I certainly do not want the same  
6 actors to be given permits to build further in  
7 this city over and over again without having paid  
8 the city the fines they owe.

9 I realize there are issues I'd like  
10 to work out as to identifying them through various  
11 corporations and different LLCs that they may use,  
12 I certainly do not intend to stop development in  
13 New York City, that's not my purpose. I know many  
14 times we're not talking about contractors, we're  
15 talking about property owners, so something like  
16 this is going to be a challenge to really pin  
17 down, yet my bill is the beginning, my bill  
18 articulates something that many people throughout  
19 the five boroughs have experienced. There's an  
20 issue of fairness, there's an issue of justice,  
21 there's an issue of revenue, and I hope the  
22 Buildings Department will be receptive to making  
23 sure that we plug this gigantic loophole insomuch  
24 as the issuance of building permits by people who  
25 already owe fines to the city is concerned. Thank

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2 you.

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CHAIRPERSON DILAN: Thank you, Council Member Vacca, and as I said in my initial opening, we're in the early stages of this bill, we'll hear this bill today. Obviously, the bill still needs a lot of work, but I think the goal here is worthy and at the end, you know, I certainly hope to have a balanced bill that gets at the heart of what Council Member Vacca is trying to achieve without overly burdening the people that look to construct in this city. But the fact remains, if their huge and egregious outstanding fines, the Buildings Department needs a mechanism to prevent or to either, one, have people pay up or prevent people from building that refuse to pay.

So with that, we will hear from the New York City Department of Buildings first and we'll hear from their senior counsel, Mr. Stephen Kramer, and you can announce the other members of the panel who are with you this morning.

STEPHEN KRAMER: Thank you. Good morning, Chairman Dilan and other members in the Housing and Building Committee. My name is

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2 Stephen Kramer and I am senior counsel to Robert  
3 LiMandri the Buildings Commissioner and I'm here  
4 with Donald Ranshte who's head of our  
5 Intergovernmental Affairs division and other  
6 members of our staff. I want to thank you for  
7 this opportunity to comment on Introductory number  
8 1008, a proposed amendment to the building code in  
9 relation to the issuance of building permits.

10 Intro 1008--and pardon me for my  
11 voice, I'm a little hoarse today--Intro 1008,  
12 would prohibit the Department of Buildings from  
13 issuing building permits when building owners or  
14 their applicants owe the department fines or  
15 judgments or when the owner or their applicants  
16 owe the city any taxes, and there's some other  
17 provisions relating to HPD fines and outstanding  
18 liens.

19 The term owner as defined in the  
20 bill includes any entity in which the applicant or  
21 property owner has a financial interest of 10% or  
22 more. Specifically it would apply where owners or  
23 their applicants, first, owe the department any  
24 fines, civil penalties, or judgments issued by a  
25 court or the Environmental Control Board, ECB; owe



1 fees or charges imposed by the department under  
2 the building code; owe fee, fines, or liens  
3 related to emergency repairs performed by HPD; D,  
4 owe the city any taxes; or, C, have not complied  
5 with any outstanding requests for corrective  
6 action or other order of the Commissioner. The  
7 only exceptions in the bill would be for permits  
8 to correct outstanding violations or where the  
9 owner has entered into an agreement with the city  
10 to pay--[coughs] excuse me--to pay any outstanding  
11 amounts owed.  
12

13 At the outset, I want to state that  
14 we certainly support the underlying goal of this  
15 legislation--to keep permits and licenses out of  
16 the hands of owners and contractors who don't pay  
17 their fines and penalties, and to increase  
18 compliance associated with outstanding violations.  
19 Before I address the implementation challenges we  
20 anticipate with Intro 1008 as it's currently  
21 written, I'll explain why this legislation is so  
22 important to the department and to the city.

23 The mission of the Department of  
24 Buildings is clear: to ensure a safe home and work  
25 environment for New Yorkers through compliance

1 with the building code and zoning resolution.  
2  
3 Violations will deter offenders only if they know  
4 that they will have to pay the fines levied  
5 against them or face consequences for not paying  
6 fines. Code compliance is the department's  
7 primary goal, fines and penalties are the means in  
8 our arsenal to force a reasonable degree of  
9 compliance.

10 Collecting fines and penalties has  
11 historically been the primary responsibility of  
12 the Department of Finance as ECB fines are  
13 technically owed to that department. City  
14 licensees and permit recipients owe significant  
15 ECB debt and many debtors owe ECB fines originated  
16 by multiple agencies, not just the Department of  
17 Buildings. Nevertheless, over the last six years  
18 the Buildings Department has developed a number of  
19 its own programs to encourage the payment of  
20 outstanding fines and penalties.

21 One of the most effective programs  
22 we created was to address the impact on the city's  
23 safety of those who don't pay their fines stems  
24 from the use of stop work orders. Under authority  
25 that the Council has given us under your

1 leadership, Chairman Dilan, and that of City  
2 Council Speaker Quinn, we do not lift stop work  
3 orders until penalties for work without a permit  
4 and penalties for a violation of stop work orders  
5 have been paid. We have seen a dramatic increase  
6 of penalties paid to the department in the last  
7 five years, these have increased from  
8 approximately \$12 million a year to \$24 million a  
9 year.  
10

11 A second program we implemented to  
12 decrease the number of outstanding fines owed to  
13 ECB and Finance is to require DOB licensees and  
14 registrants to pay outstanding ECB fines before  
15 they may have their licenses renewed. We've been  
16 able to implement this program pursuant to a  
17 provision in the construction code that the  
18 Council approved in 2007. The results of these  
19 efforts have been equally dramatic. The city's  
20 collections from DOB violations returnable to ECB  
21 have grown 50% over the last five calendar years  
22 from approximately \$18 million to \$28 million last  
23 year. While we don't have final year figures for  
24 this calendar year, we anticipate a comparable  
25 amount as we have collected well over \$27 million

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2 as of early November.

3                   While some of the increase is due,  
4 of course, to higher penalties and increased  
5 enforcement resulting from our increased inspector  
6 headcount, the trend in payments is clearly  
7 encouraging. If withholding license and  
8 registrations is extended to the remainder of  
9 contractors who register with the department,  
10 specifically those who are now registering with us  
11 under the recently enacted Safety Registration  
12 Program--general contractors, concrete  
13 contractors, and demolition contractors--we should  
14 continue to see further reduction in scofflaw  
15 status. While the department would prefer code  
16 compliance rather than burdening contractors and  
17 property owners with the cost of violations, the  
18 simple fact is that violations and heavy penalties  
19 are necessary to deter bad actors.

20                   Finally, DOB is working with the  
21 Mayor's Office of Operations on a multifaceted  
22 effort to enhance revenue collection. A key  
23 aspect of this initiative is a review of the  
24 existing practices through which DOB and other  
25 agencies that issue permits and licenses to keep

1  
2 them out of the hands of owners, contractors, and  
3 others who don't pay their fines and how the city  
4 can extend these practices through legislation or  
5 other efforts. While those efforts are currently  
6 more narrowly focused than what Intro 1008 would  
7 establish, they point to opportunities to match  
8 the worthy aims of Intro 1008 to the current  
9 operational and technological capacity of the  
10 Department of Buildings and other relevant city  
11 agencies. As we continue to work with you on this  
12 issue, coordination with this larger project will  
13 allow the department and other city agencies to  
14 leverage current successes and focus this  
15 legislation on the most problematic debtors.

16 As you can see, at the Buildings  
17 Department we are already implementing programs in  
18 line with the goal of this legislation--to require  
19 scofflaws to pay outstanding fines and penalties  
20 before they obtain permits and licenses and to  
21 increase compliance with associated outstanding  
22 violations. However, as I mentioned, we have some  
23 concerns with some of the administrative issues we  
24 anticipate with Intro 1008 as it's currently  
25 written, which we believe must be addressed, and

1 I'll outline a few of those now.

2 Intro 1008 will require DOB to  
3 check each of the various agency databases for  
4 outstanding penalties before issuing a permit. In  
5 the last fiscal year, DOB issued in excess of  
6 140,000 permits and permit renewals, it was  
7 actually I think 144,000. The department does not  
8 currently have an automated system capable of  
9 rapid information sharing required to prevent  
10 delays in issuing permits if we had to check the  
11 various city databases before issuing each of  
12 these permits. Development of such a system would  
13 be a necessary prerequisite to implementing the  
14 bill, establishing a mandate beyond the capacity  
15 of the city's current IT capacity will impose a  
16 crippling burden for our staff. It will also  
17 create significant unnecessary delays for the tens  
18 of thousands of homeowners, construction workers,  
19 contractors, and businesses who all depend on  
20 timely permit issuance.

21 DOB has devoted significant  
22 resources over the past few years to streamline  
23 our processes, to encourage safe business  
24 activity, and to eliminate unnecessary delays that  
25

1  
2 provide incentives for corruption. In order to  
3 maintain our successes in providing timely  
4 service, any system where a permit depends upon  
5 paying outstanding fines and taxes must address  
6 these various information technology and data  
7 integrity issues. This is particularly true with  
8 respect to the collection of taxes on liens owed  
9 to the Department of Finance or HPD as our  
10 computer system at the Department of Buildings  
11 does not keep track of tax liens and fines owed to  
12 other city agency.

13 Further, the bill as drafted would  
14 prohibit the issuance of permits where the  
15 property owner owes DOB or HPD any outstanding  
16 fines or owes the city taxes. As I noted earlier  
17 in my testimony, owner is defined in the bill as  
18 including persons who have a 10% or greater  
19 financial interest in any entity that owes the  
20 city money. Oftentimes ownership of property is  
21 vested in a corporation or a partnership or, as I  
22 think as you mentioned, Council Member Vacca, an  
23 LLC, and the city does not have any records  
24 indicating the stockholders or partners of these  
25 entities. Indeed, I don't think that any

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2 governmental agency, not just the city, keeps a  
3 record of stockholders in these corporations or  
4 limited partners. Moreover, matching the full or  
5 partial principals of the entities owning the  
6 975,000 properties in the city to the population  
7 seeking any and all DOB permits is at this point  
8 beyond the city's capacity.

9           A workable requirement is also  
10 important because we do not want to create a  
11 system that would push work underground, that is,  
12 to implement such a cumbersome process that  
13 applicants avoid the permitting system altogether  
14 and decide to not even apply for a permit. We can  
15 avoid this outcome and keep the department's  
16 permit issuance processes from grinding to a halt  
17 by focusing the legislation on areas where the  
18 city has the capacity to effectively tie the  
19 payment of fines and penalties to the issuance of  
20 penalties.

21           Notwithstanding these issues, I do  
22 want to reiterate the support of the department  
23 and the administration to pursue any practical way  
24 to deny permits and licenses to owners,  
25 contractors, and others who don't pay their ECB



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2 fines and city taxes. Knowledge that fines will  
3 have to be paid for illegal behavior is a strong  
4 incentive to comply with the law and taxpayers can  
5 reasonably expect the city to continue improving  
6 its ability to collect the money it's owed. In  
7 coordination with the Office of Operations ongoing  
8 multi-agency project to improve penalty collection  
9 in the city, we can focus this legislation on  
10 keeping the most problematic outstanding debtors  
11 from obtaining permits and licenses. We do look  
12 forward to working with you to achieve this bill's  
13 worthy aims, and we also look forward to working  
14 with you to revising the legislation.

15 I'll be glad to answer any  
16 questions you have, but if I could, could I ask  
17 for a cup so I can have some--

18 [Crosstalk]

19 CHAIRPERSON DILAN: [Interposing]  
20 Certainly, Sergeant, if we could help Mr. Kramer  
21 out there or, if you don't mind, we could pass  
22 you--

23 MR. KRAMER: [Off mic]

24 CHAIRPERSON DILAN: --somebody's--  
25 yeah, just pass 'em over. Yeah, we'll take those,

1  
2 we gave him some. I guess we'll give him a minute  
3 to get a sip of water.

4 And I'll just say that, you know,  
5 thank you for highlighting some of the challenges  
6 that we are going to have to bring in this bill to  
7 adoption. The things that you mentioned are  
8 similar things that I had in my head that would  
9 make this a challenge, plus a few others.

10 But if you're ready, I'd like to  
11 just take this time and defer my questions 'til  
12 the end and I'll allow Council Member Vacca to  
13 begin the questions, followed by Council Member  
14 Fidler.

15 COUNCIL MEMBER VACCA: I thank you  
16 for your testimony and I very much appreciate the  
17 openness of the Buildings Department in this  
18 matter where you are willing to consider a bill  
19 and even make it better, because I do realize that  
20 the bill needs work. And I thank also Deputy  
21 Mayor Skyler and Cass Holloway in the Speaker's  
22 office because they've expressed an interest in my  
23 bill as well.

24 I have some ideas and many of them  
25 will go into the bill formulation process or the

1  
2 refinements of the bill. I do think it's time  
3 that when we have an application filed by an LLC  
4 that on that application we have full information,  
5 in the interest of full disclosure and  
6 transparency, who is a member of the LLC, who is a  
7 principal of the LLC, and these are all public  
8 records again, LLCs must be filed at the New York  
9 State Secretary of State's office. However, when  
10 they file with the Buildings Department, they file  
11 as an LLC and we have no idea who the principals  
12 are. So it becomes difficult to find out, because  
13 different people use different LLCs, who are the  
14 principals and do they have fines pending from the  
15 city of New York.

16 That database that I know your  
17 agency may have difficulty maintaining, as you  
18 indicate in, I think, page 5 of your testimony,  
19 that database could perhaps be maintained by a  
20 different agency or perhaps a different agency,  
21 such as DoITT or Department of Finance, could set  
22 up that database and give Buildings the assistance  
23 that I think it may require. My interest in this  
24 is to get a cross-section, a cross analysis of all  
25 the fines from different agencies. Right now, if

1  
2 I were a developer and I own 60 properties across  
3 the city all under different LLCs and I owed \$1  
4 million in outstanding property taxes and \$2  
5 million in ECB fines, \$500,000 in emergency  
6 housing repairs, and 250,000 in overdue water  
7 bills and I apply for a new 20-story building in  
8 the Bronx, number one, is there any way that DOB  
9 would know? I think the answer is no. I don't  
10 think there's any way right now, if someone had  
11 all those pending fines and they went and filed  
12 under an LLC, you would not know, and you would  
13 not inquire as to whether or not they had all  
14 those fines.

15 And my bill goes to the heart of  
16 the matter, namely, what can we do so that DOB  
17 knows before they issue the next permit, and in  
18 that process, before they get the next permit, can  
19 we stop--use that permit issuance as a way to  
20 leverage getting those fines paid up? Now my bill  
21 does give a six-month period after the enactment  
22 for this system to be set up, so we realize that  
23 there is a time element, but by the same token, I  
24 think that with all that we know about technology,  
25 I don't think it speaks well of the city of New

1  
2 York that one agency does not know what the other  
3 agency has done. The public's not willing to  
4 accept that, I, as a citizen, find it hard to  
5 believe that one agency can not make itself aware  
6 of what another agency has done because of a  
7 technological inability or because that entity is  
8 under a different corporate name, yet the same  
9 individuals.

10 When you mention scofflaws, and  
11 certainly I understand Buildings has improved or  
12 tried to improve in this regard, there's over \$2  
13 billion in undue fines and assessments and  
14 penalties that is owed the city of New York at  
15 this point--2 .5 billion. And our collecting that  
16 money at a time of a fiscal crisis is very  
17 important, but it's also an issue of fairness.

18 Now, you seem to understand that  
19 this is important and you're looking for ways to  
20 do it, am I correct at this point?

21 STEPHEN KRAMER: Yes, there are a  
22 couple of different issues you raised. The first  
23 one, I just do want to mention in terms of what's  
24 owed other city agencies, that I agree with you,  
25 that although those of us who are not IT people

1  
2 tend to think that there's a quick and easy IT fix  
3 and then my IT person comes and glares at me and  
4 says what seems easy to you, may not be so easy in  
5 reality or that there's, maybe even if it can be  
6 done, there's a long queue of other things. And I  
7 think you do know some of the extraordinary  
8 improvements we made to our website and really  
9 what we've been focusing on, things like getting  
10 the contents of folders scanned so that we reduce  
11 the problem of lost folders, and we're putting  
12 diagrams of new buildings on the web.

13 But I think we can do better,  
14 particularly regard to other agencies and it's  
15 something that we really would like to work  
16 toward. I mean, for example, collecting HPD liens  
17 on buildings for unsafe work it certainly should  
18 be and is a high priority. Liens and taxes are  
19 both in terms of relatively easy to cut because we  
20 have the Department of Finance's ability and the  
21 city's ability to sell it at tax lien sale and  
22 that usually gets owners and the mortgager's  
23 attention very quickly.

24 Some of the others though, the  
25 fines owed by, you know, stockholders in a

1  
2 corporation that may own a piece of a building,  
3 that's a lot harder because, in general, these  
4 shares of stock are freely transferable and there  
5 is no central registry, just as we can't get it  
6 from Exxon and we can't get it from the limited  
7 partners in probably 250 Broadway, LLC, they're  
8 not registered. Obviously, the president of the  
9 corporation has registered, as you mentioned, with  
10 the Secretary of State, but the individual  
11 stockholders and the individual limited partners  
12 are not registered and that's going to be a  
13 significant problem. That's more than an IT  
14 problem, that's really a question of the  
15 responsibility of the corporate entity.

16 One solution there that's something  
17 we could talk about is whether or not ECB  
18 penalties that are issued associated with a  
19 particular property should become liens on the  
20 property, 'cause if they do become liens on the  
21 property, then you have the ability of the tax  
22 lien sale. When we've looked at this in the past  
23 and discussed it with the corporation counsel's  
24 office, they've told us that this has to go  
25 through the state legislature, there are some

1  
2 provisions, but they're so limited right now for  
3 tax liens that they're not really workable. But  
4 if we can't get behind this corporate veil, the  
5 veil of secrecy of the corporations, the LLCs,  
6 maybe that's something we should think about.

7 COUNCIL MEMBER VACCA: I appreciate  
8 your suggestion, you know, I hope you understand  
9 the frustration of many of us. I mean, I gave the  
10 one classic case in my district, guy wants to  
11 build a high-rise building and then I go two  
12 months later to a Tenants Association meeting in a  
13 pre-World War II building he's owned for several  
14 years and I find 500 violations and HPD all over  
15 the place. How is someone like this, who has a  
16 history of not maintaining property and of getting  
17 fines and of having significant violations over  
18 and over in building after building, now being  
19 given a permit to build again? So the residents  
20 in my area then say, Mr. Vacca, what will the new  
21 building look like, with a record like he's very  
22 amassed, what can we expect from the new building  
23 he's building? They're concerned about getting  
24 another building that's not maintained, that will  
25 accrue fines that will not be paid, or violations



1  
2 that will be serious. And it just seems that we  
3 have to lay down the law that, you know, you will  
4 do business with New York City based on your  
5 previous record with our city, and I think people  
6 should expect nothing less.

7 And I'd like to continue our  
8 conversations about these bills and I think they  
9 address an important topic and I appreciate that  
10 you're looking at ways to address this.

11 I want to address as many agencies  
12 as possible. You know, the Council certainly took  
13 a position when it came to water liens and unpaid  
14 water bills, and the Council took a position that  
15 there would be water liens placed. So that's why  
16 I mention water bills, ECB is very important,  
17 Department of Finance taxes that are paid, HPD  
18 emergency repairs that are made, and HPD bills  
19 that are not paid. When HPD makes an emergency  
20 repair the owner has to pay back to HPD the cost  
21 of that repair. Are they current in paying back  
22 another city agency?

23 This all amounts to one city agency  
24 that has power at a particular point, which is the  
25 Buildings Department. You have power at a

1  
2 particular point, your power is to issue a new  
3 permit, but what I want to say is that before you  
4 issue that new permit, that's when the city can  
5 raise a red flag and say, hey, this is an  
6 opportunity for us to improve the quality of other  
7 housing and to collect revenue owed the city. We  
8 are stopping this new project, because we've  
9 identified that there are people involved in a  
10 corporation here that owe the city money and have  
11 not been good neighbors.

12 So, I am, with that thought, I look  
13 forward to working with you further and I thank  
14 the Chairman.

15 CHAIRPERSON DILAN: Thank you,  
16 Council Member Vacca. Council Member Fidler.

17 COUNCIL MEMBER FIDLER: Thank you,  
18 Mr. Chairman. And, Mr. Kramer, I put my name on  
19 this bill because I applaud the purpose and the  
20 goal that Council Member Vacca is attempting to  
21 reach, and I think we're in agreement that the  
22 purpose is there, I think I'm also in agreement  
23 that this bill is far from ideal in its  
24 methodology at this point. I also want to, while  
25 I'm saying thank you, thank you for the comment in

1  
2 your testimony that points out that the goal here  
3 is code compliance and not revenue collection.  
4 Revenue collection is the means by which we seek  
5 code compliance, not by the means in which we  
6 close budget gaps.

7 I do want to first ask you about  
8 your testimony about doubling fine and penalty  
9 collection at DOB, the \$28 million a year and  
10 perhaps more this year. Forgetting the other  
11 agencies, what are the outstanding--what  
12 percentage of the outstanding violation fines,  
13 this 28 million represent?

14 MR. KRAMER: The problem in  
15 developing those kind of percentage figures is  
16 that the \$28 million we collect, let's say in a  
17 calendar year, I can pretty categorically say the  
18 vast majority of that relates to fines and  
19 penalties issued in previous years 'cause there's  
20 not only a lag time in getting to the  
21 Environmental Control Board and having a hearing  
22 because we do provide an incentive for owners to  
23 correct the violation 'cause they get a lower fine  
24 if they correct--sometimes no fine at all if you  
25 correct the violation immediately. So there is a

1  
2 lag time so I can't give you percentage figures,  
3 but when we've looked at, in terms of corrections  
4 of violations, which really isn't the topic of  
5 this hearing particularly, but let's say we go  
6 back and reinspect, you know, we see a pretty good  
7 level of compliance and then for those that go do  
8 a violation and actually where a fine is imposed,  
9 if we go back again, almost every effort we see a  
10 50% reduction in the outstanding violations.

11 COUNCIL MEMBER FIDLER: Well, Mr.  
12 Kramer, I'm sure that DOB knows what the  
13 outstanding imposed fines are.

14 MR. KRAMER: Actually, I don't have  
15 that figure, but we can look to see the amount, I  
16 mean, those are imposed by ECB, you have to  
17 understand that, they're not actually imposed by  
18 our agency.

19 COUNCIL MEMBER FIDLER: So--

20 MR. KRAMER: But we can get--

21 COUNCIL MEMBER FIDLER: --there's  
22 no--forgetting the other agencies, the problem of  
23 knowing what the right hand and the left hand and  
24 all the fingers are doing, DOB can't push a button  
25 on their system and know what the outstanding

1  
2 fines are resulting from buildings violations?

3 MR. KRAMER: No, because there's a  
4 penalty range for each individual violation, so it  
5 depends on how much of the penalty is imposed by  
6 ECB. And very often one of the things that, you  
7 know, are perhaps our greatest challenge at ECB is  
8 on defaults, where the respondent does not answer,  
9 very often claiming that he never got a copy of  
10 it. So when you go into a default you have the  
11 highest penalties imposed, which can sometimes be  
12 as high as \$25,000, more often as 10,000 or 5,000  
13 and so it will show up on the books as a very high  
14 number, but three months later when that appears  
15 on some statement that the property owner gets, it  
16 will go back to ECB and open up the default and a  
17 lower penalty will be assessed. And that's what  
18 we're finding right now, we have a program which  
19 we've worked out through some legislation that you  
20 passed earlier in the year to open up those  
21 defaults, and we're finding a very large number in  
22 which the owner has been able to come in and cure.

23 But what we can give you is the  
24 number of violations that are issued per year, and  
25 I think it won't be a perfect correlation because

1  
2 of the date issue, that people come in with  
3 different dates, but I can give you the, probably  
4 the numbers of certificates corrections filed.

5 COUNCIL MEMBER FIDLER: Not  
6 withstanding the fact that the number might be  
7 artificially inflated, I'm still a little stunned  
8 that you can't tell me that Buildings does not  
9 know what the outstanding sum of fines imposed for  
10 buildings violations are at any given time.

11 MR. KRAMER: I'll ask ECB and see  
12 if we can get you that--

13 [Crosstalk]

14 COUNCIL MEMBER FIDLER:  
15 [Interposing] Does ECB not report back to  
16 Buildings, does it not become part of your system?  
17 I mean, you know, let's forget about all the fancy  
18 stuff here, if ABC Corporation comes to the  
19 Buildings Department and asks for a building  
20 permit or a new building and they haven't--you  
21 know, they're not playing a shell game with LLCs  
22 or different corporate entities and, you know,  
23 maybe it's even the same property, you don't know  
24 that--you can't push a button and say ABC  
25 Corporation owes us 10,000, 2,000, 25,000, 2

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million?

MR. KRAMER: No, we--

COUNCIL MEMBER FIDLER: For buildings violations?

MR. KRAMER: --no, we do not have that, we have the violations, we do not have the amounts imposed by ECB.

COUNCIL MEMBER FIDLER: And so if ABC Corporation comes on a buildings violation and has buildings violations and it's the same property on their [off mic] and you see that they have seven violations, what do you do?

MR. KRAMER: If it's the violations, if the outstanding violations are something, for example, there are two issues there, one if the violation relates to the permit asked for, we can withhold the permit, and if the applicant is a licensee, we can either refuse to renew the licensee's application when he comes in for a renewal license or we can start disciplinary proceedings if that's appropriate at the Office of Administrative Trials and Hearings, and we have a pretty good record actually of doing that on terms of licensees.

2 But in terms of applicants, say, if  
3 for example, you have certain outstanding  
4 violations that are safety related, we can  
5 withhold a permit if it's a safety--

6 [Crosstalk]

7 COUNCIL MEMBER FIDLER:

8 [Interposing] But if they're not safety related--

9 MR. KRAMER: [Interposing] If it's  
10 merely--

11 COUNCIL MEMBER FIDLER: --they're  
12 not safety related--

13 MR. KRAMER: --it's merely--

14 COUNCIL MEMBER FIDLER: --but the  
15 accumulated fine's not on default, you know, are  
16 5, 10,000, you're blind to that, is that--

17 [Crosstalk]

18 MR. KRAMER: [Interposing] That's  
19 exactly what this bill is designed to address.

20 COUNCIL MEMBER FIDLER: Well I  
21 understand that, but, you know, this bill goes  
22 way, way beyond that, but I'm just noting here  
23 with a little surprise that if you look at this  
24 problem with just absolute blinders on, the same  
25 corporation, the same job site, same, you know,



1  
2 outstanding--that you don't even look at that  
3 unless it's a safety violation. So, you know,  
4 that to me seems simple compared to the task that  
5 Council Member Vacca is seeking, you know, and I  
6 can't even get to the other stuff, this seems to  
7 be directly on-point. I mean if Buildings has the  
8 same applicants applying, and they have  
9 outstanding fines elsewhere, that they not be  
10 cleaned up before the next permit is issued,  
11 whether they're for safety violations or not  
12 seems, you know, a no-brainer to me.

13 MR. KRAMER: But it's saying as a  
14 policy matter, I'm not sure that we disagree with  
15 you.

16 COUNCIL MEMBER FIDLER: So what's  
17 stopping you from doing it? I don't understand.  
18 You need a law for that?

19 MR. KRAMER: Right now, the way the  
20 code is written is that, except subject to certain  
21 exceptions and this bill would expand them,  
22 issuance of a building permit under state law is a  
23 ministerial act that we have an obligation to  
24 issue it, even if it's a bad actor. Now as I  
25 understand it, the Council has the power to

1 restrict that and that's what this bill would do.

2  
3 COUNCIL MEMBER FIDLER: So city  
4 law, if this bill was strictly saying that the  
5 Buildings Department may not issue a permit where  
6 the same applicants is applying for a new permit  
7 but has outstanding fines in excess of \$5,000,  
8 until those fines are paid or otherwise cleared  
9 up, we would have the power to do that, you would  
10 support that, and you could implement that.

11 MR. KRAMER: Subject to the issues  
12 that I raised this morning, yes.

13 COUNCIL MEMBER FIDLER: I'm not  
14 sure I understand what the issues that you raised  
15 this morning--

16 [Crosstalk]

17 MR. KRAMER: [Interposing] Well,  
18 listen, we issue 144,000 permits a year--

19 COUNCIL MEMBER FIDLER: Right.

20 MR. KRAMER: --and we have a lot  
21 of--you know, it's a very large volume and it's  
22 not just an assembly line that they get stamped  
23 out.

24 COUNCIL MEMBER FIDLER: Yeah, no,  
25 but I understand that, but now I'm asking you not

1  
2 to check whether there are water liens, I'm asking  
3 you to check the Buildings Department's own  
4 records as to whether or not the same applicant,  
5 and we haven't even gotten to the issue of the  
6 shell LLCs and the, you know, today I'm ABC and  
7 tomorrow I'm DEF, same applicant making an  
8 application, checking your own computers, you  
9 can't do that, that's a substantial delay in  
10 issuing a permit?

11 MR. KRAMER: There would be a  
12 substantial IT investment in order to enable us to  
13 do that.

14 COUNCIL MEMBER FIDLER: You can't  
15 now, if I--

16 MR. KRAMER: We don't--

17 [Crosstalk]

18 COUNCIL MEMBER FIDLER: --apply to  
19 the Department of--if I ask the Department of  
20 Buildings, you know, if Lew Fidler, as an owner,  
21 as an applicant, have outstanding Building  
22 violations, that's not a push the button, get an  
23 answer?

24 MR. KRAMER: Correct.

25 COUNCIL MEMBER FIDLER: Wow. Well

1  
2 look, I understand the IT issues involved here  
3 and, you know, and Councilman Vacca is correctly  
4 seeking to get to a world that is much more  
5 complicated, and I would also point out that even  
6 if we were to require every applicant of an LLC or  
7 a corporation to disclose to some agency the, you  
8 know, 10%, 25%, whatever beneficiary interests or  
9 investors, it would still not get us to the point  
10 where we had the other 900,000 existing building  
11 owners in a database to compare it to, so I see  
12 that problem as well.

13 MR. KRAMER: There are many issues,  
14 I mean, I'll give you a typical example where  
15 we've had problems. Let's say you have a  
16 corporation taking over a cooperative or a  
17 condominium association where you have a  
18 restaurant on the ground floor and there are  
19 violations on that restaurant, does that mean that  
20 the apartment owner on the third floor should not  
21 be able allowed to renovate his kitchen? The  
22 building is owned by a corporation, by 250  
23 Broadway Corporation. And, you know, we have had  
24 that issue at the department where, particularly  
25 where it relates to a building system, such as a

1  
2 plumbing system. Even though it's an unrelated  
3 issue, if you put in a hard stop and you say  
4 sorry, there's no permits are going to be issued  
5 to 250 Broadway unless it's an emergency because  
6 there's a restaurant on the ground floor with  
7 outstanding health code violations, it's very  
8 unfair and the--

9 [Crosstalk]

10 COUNCIL MEMBER FIDLER:

11 [Interposing] I agree with that, I agree and I'd  
12 also agree that there's a lot of unfairness at ECB  
13 that needs to be cleaned up and reformed as well,  
14 and I think I suspect we're going to hear some  
15 testimony from someone later about that.

16 I will just drop it at this point,  
17 but I have to say for the record that I'm just  
18 amazed that Buildings--that the IT system at  
19 Buildings can't tell Buildings at the push of a  
20 button whether or not a present applicant who's  
21 not trying to hide, I mean they're hiding in plain  
22 sight. You know, I'm coming before you, I'm  
23 seeking a new benefit, a new privilege, a new  
24 permit, and you won't know whether or not they're  
25 a huge Buildings Department scofflaw, that's a

1  
2 problem that really needs to be fixed and we need  
3 to work on that.

4 MR. KRAMER: Yeah, right, I agree,  
5 and I think particularly in so far as we're  
6 relating--that we're discussing this with relation  
7 to contractors, which I think really present a  
8 significant issue, that I think is a workable one.  
9 That if we're given the authority to withhold  
10 permits to contractors who have outstanding  
11 violations 'cause that normally would be safety-  
12 related, that would be a major improvement.

13 And we have been given that in  
14 limited ways, but say we enforce that on license  
15 renewal, but now with the expanded legislation  
16 that you passed earlier this year relating to  
17 general contractors and if we can expand that  
18 legislation and that program to general  
19 contractors and withholding licenses or  
20 registrations, I think we really make, again, a  
21 significant improvement and it is going to slow  
22 things down and it is going to complicate things  
23 and people will be upset about not being able to  
24 get their permits, but sometimes you have to make  
25 a sacrifice for a worthy aim and I--

COUNCIL MEMBER FIDLER:

[Interposing] Well I think if contractors knew that that was going to happen, they might be a little bit more circumspect about not leaving themselves in that position.

MR. KRAMER: I think that's exactly right, I mean we, for example, have tried to keep track of how much we've collected in terms of license renewals, but in fact now that word is out on the street that we're not renewing licenses if you have got outstanding ECB penalties owed to us, people are paying them. So it may show a drop-off in what we show, but over at ECB side of the house, in fact, that may well account for part of the increase.

COUNCIL MEMBER FIDLER: Thank you, Mr. Kramer.

CHAIRPERSON DILAN: Okay. We've been joined briefly by Council Members Leroy Comrie, now by Council Members Jimmy Oddo, Rosie Mendez, and Gale Brewer. I want to--and as well as Council Member Joel Rivera. I'd like to acknowledge Council Member Jimmy Vacca for a follow-up question.

1  
2 COUNCIL MEMBER VACCA: I want to  
3 expand just briefly on Council Member Fidler's  
4 remarks and state for the record my understanding.  
5 My understanding is if John Doe files to build a  
6 new building and, even though the Buildings  
7 Department does not research John Doe's history of  
8 fines that are pending, if I point out that John  
9 Doe has violations and unpaid fines on other  
10 properties John Doe now owns and has occupied, you  
11 will not stop the permit of the new building John  
12 Doe wants to build, because I think Building has  
13 maintained that you do not have the legal  
14 authority to do that. This is a very narrow  
15 definition of the reality of the situation that we  
16 have to do something about, even if it's clear as  
17 day that you have somebody with interagency  
18 problems and fines unpaid, he now files a permit  
19 to build something new and Buildings has said that  
20 legally they have to review the application, if it  
21 passes based on zoning, he will get a new permit.  
22 I think we have to do something, I don't think  
23 that's right. And even when something clear as  
24 day like that hits us right in the face, we are  
25 powerless to address that. Thank you.



1  
2 CHAIRPERSON DILAN: Okay. We've  
3 also been joined by Council Member Elizabeth  
4 Crowley.

5 I think the challenge to this bill  
6 is that you can see the need for what the intent  
7 of the bill is, but by the same token the bill is  
8 very broad and I think it's the breadth of the  
9 bill that may be scares a good number of people.  
10 And I think just leading into that, I guess is  
11 there anything--then I'll start by asking, is  
12 there any sorts of fines or types of fines or  
13 violations you feel should be exempt?

14 MR. KRAMER: Well I think it  
15 probably--this certainly would be a major change.  
16 So I'd say if we're talking about 140, 150,000  
17 permits a year, I think we need to be careful to,  
18 and approach the problem incrementally. So I  
19 think I would like to see first perhaps to the  
20 first effort here to be looked toward DOB related  
21 violations and fines 'cause it's easier for us to  
22 research those. When you start to getting to  
23 other agencies, let's say it be water liens or  
24 HPD, even though clearly it's in the interest of  
25 the city and, in fact, the interest of the

1  
2 department to have those paid, I'm not sure that  
3 it should be the first effort in terms of--

4 CHAIRPERSON DILAN: [Interposing]

5 Yeah, okay, 'cause you start to get outside of  
6 your area of expertise and you don't know how all  
7 the other city agencies basically collect their  
8 fines. I guess my fear is there's nothing in the  
9 bill that addresses, say, parking scofflaws, let's  
10 say. Would this new mandate basically give you  
11 the authority if somebody owes a parking ticket?  
12 I don't think so, but I don't see anything that  
13 prohibits that.

14 So I'll move on, and I agree that  
15 that's something we need to look at. I think that  
16 it would be--while the intent to get all the other  
17 city agencies included is a good one, I think if  
18 we start with Buildings and then expand it out, I  
19 think that may be the way to go.

20 I'll ask you then, to your  
21 knowledge--and you may not know--but does any  
22 other city agency currently have the authority to  
23 deny a permit or a privilege based on outstanding  
24 fees or the charges that are owed?

25 MR. KRAMER: I believe that most of

1  
2 the other city licensing agencies, just as we have  
3 the power to now deny a license renewal on the  
4 basis of outstanding fees or outstanding  
5 violations, I would think that agencies like the  
6 Business Integrity Commission when you come up for  
7 renewal of a BIC license, or the Department of  
8 Consumer Affairs when you're coming up for a  
9 Consumer Affairs license, or Taxi and Limousine  
10 Commission when you come up for renewal of your  
11 TLC license, all of which, I'm sure, I mean I  
12 haven't researched it, but have the authority to  
13 say, you know, you don't have--you know, whether  
14 it be moral character and fitness or it's directly  
15 related to your license, that it should not be  
16 renewed. But I would be very surprised if, for  
17 example, the Taxi and Limousine Commission would  
18 deny a license to a driver based on an ECB  
19 violation.

20 CHAIRPERSON DILAN: Okay. You  
21 mentioned something when you were answering one of  
22 Council Member Fidler's questions and it was with  
23 respect to commercial tenants. I guess, how would  
24 this bill affect a commercial tenant seeking a  
25 permit for a property where the owner of that said

1  
2 property has outstanding fines or other charges  
3 owed to the city?

4 MR. KRAMER: Yeah, well see that's  
5 certainly is a challenge that we would have. I  
6 think that the--you know, when you have, let's  
7 say, the classic example is a restaurant which has  
8 an outstanding violation or even perhaps, I guess,  
9 you're asking the converse, is that you've got the  
10 tenant who doesn't have any violations, but he's  
11 in a building where he's got a bad landlord,  
12 should we punish the tenant because of the bad  
13 landlord. And I think you have to really work out  
14 how you want to deal with that because it's not  
15 really in anyone's interest to punish the tenant,  
16 I mean, I can see well, you know, 'cause if you  
17 end up with a tenant who's not able to pay his  
18 around because he or she has a--you know, 'cause  
19 the landlord has--you know, is a bad guy--

20 CHAIRPERSON DILAN: [Interposing]  
21 So then to that respect--

22 MR. KRAMER: --it's not really  
23 fair.

24 CHAIRPERSON DILAN: --so to that  
25 respect, is there any relief for a building owner

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in the bill for bad commercial tenant?

MR. KRAMER: Not the way it's written right now, but I think we can--I think what we have to do is approach it incrementally. Let's say perhaps, that's really, you know, perhaps trying to identify precisely who it is who owes the funds and if it turns out to be a different corporate entity or a different tenant within the same building, perhaps you would not want to prohibit the permit issuance in that case.

CHAIRPERSON DILAN: Okay. At this point has the agency or yourself or anyone in the agency identified any additional criteria in relation to unpaid penalties which the department believes should limit an applicant's ability to receive a permit?

MR. KRAMER: I think we would need to work with you to develop the right criteria. Specifically, you know, I think the example that Council Member Vacca gave of certainly if you have, let's say, you want to have a new building going up, and you've got outstanding HPD liens from a prior building that was on the property or--you know, that's a situation, those really should

1  
2 be cleared up before you get the new building  
3 permit is issued. So maybe the buyer of the  
4 property should know that those liens are out  
5 there, that those fines are out there, even if  
6 they haven't been reduced to a lien.

7 CHAIRPERSON DILAN: Okay. I may  
8 have a follow-up question or two, but I guess at  
9 this point, I will move to Council Member Gale  
10 Brewer.

11 COUNCIL MEMBER BREWER: Thank you,  
12 Chairman. Just quickly, on the IT front brought  
13 up by Council Member Fidler, is it an input  
14 problem? What is the IT challenge to being able  
15 to easily access DOB info? Because obviously your  
16 BIS site is excellent, so what's the challenge  
17 there?

18 MR. KRAMER: Well essentially, it's  
19 the extent to which the BIS system, the Building  
20 Information System, is linked to databases in  
21 other city agencies. And we are linked, for  
22 example, when we issue a violation to a property  
23 owner, there is a person who sits at a terminal  
24 and looks at the Department of Finance property  
25 records, that's where we get the address from and

1  
2 you push some buttons and it gets printed out on  
3 an envelope. But the problem what you have is  
4 that if you have fines issued to different  
5 corporate entities or are located some in Finance,  
6 some at HPD, some at DEP, some over at the  
7 Department of Sanitation, there are many agencies,  
8 to the extent they're not centralized, the two  
9 issues are, one, developing the link to those  
10 agencies' databases and, secondly, the time  
11 involved in having--you know, every one of those  
12 permits is a person's involved in, it's not  
13 electronic, it's not like buying a book on Amazon  
14 or from BarnesandNoble.com, somebody looks at the  
15 vast majority of permits, indeed, I think probably  
16 all of them, except in certain ministerial permits  
17 like a permit renewal for an electrical job.

18 So you really want to set up a  
19 system which is automated to the extent possible  
20 and also which, quite frankly, removes discretion  
21 from the clerk, you really--I mean, the clerks are  
22 very hard-working and under tremendous pressure  
23 with a lot of volume, with people standing in line  
24 behind them, and they should not have the--I mean  
25 they should not have the pressure of trying to

1  
2 make a decision on whether or not a 1999  
3 Department of Health violation should really  
4 prohibit the issuance of this permit, it should be  
5 a hard stop in the system. And then you have to  
6 then develop a system of appeals because very  
7 often those permits are good permits, permits for  
8 people who you really want them to get their  
9 permit to put up some affordable housing.

10 COUNCIL MEMBER BREWER: Right, so  
11 there's two issues, one, of course, is the  
12 linkage, which is a long-term IT issue. And the  
13 second is within the DOB, 'cause when Council  
14 Member Fidler was asking, it sounded like even  
15 within DOB, there are some challenges to finding  
16 out if that same owner with the same LLC, the same  
17 shell, or whatever, whether he or she still has  
18 outstanding permits or outstanding violations.

19 MR. KRAMER: Well, yeah, the way  
20 our system is organized is by--

21 COUNCIL MEMBER BREWER: Address.

22 MR. KRAMER: --by address, by--

23 [Crosstalk]

24 COUNCIL MEMBER BREWER: In other  
25 words, if you're at a different address, it's



1  
2 almost like the same linkage problem is what  
3 you're saying.

4 MR. KRAMER: That's true.

5 COUNCIL MEMBER BREWER: All right,  
6 so there are lots of IT issues, all right, thank  
7 you.

8 CHAIRPERSON DILAN: Okay. Yeah, I  
9 just want to follow up and I think this gets to  
10 the--I'm hoping it gets to the heart of the  
11 matter, it may not, but just by agency  
12 definitions, what defines someone as a bad actor?  
13 And I know it's a tough question, but it's, I  
14 think it's the key to everything that needs to be  
15 done here, because in my mind, somebody that owes  
16 the city \$1,000 doesn't necessarily make them a  
17 bad actor, however, somebody who owes the city say  
18 \$50,000 in fines, also may not be a bad actor.  
19 But there's instances, I guess, where someone who  
20 owes the city \$50,000 could be, and depending on  
21 how many buildings or how much work they do,  
22 50,000s in some scenarios may be nothing. So I  
23 just wanted to get your, I guess conceptually,  
24 what your--

25 [Crosstalk]

1  
2 MR. KRAMER: [Interposing] To us, I  
3 mean, I think that the way we use the term is we  
4 certainly focus it primarily on contractors who  
5 ignore violations, people who ignore stop work  
6 orders. You know, you issue a stop work order and  
7 you go back out to the site and they're still  
8 working. And you may recall that you raised the  
9 fines for violating a stop work order, civil  
10 penalties very high two years ago in 2007--

11 CHAIRPERSON DILAN: [Interposing]  
12 You also have the authority to arrest, I know some  
13 arrests were made in my district yesterday for  
14 violating stop work orders--

15 [Crosstalk]

16 MR. KRAMER: [Interposing] Yes, I  
17 mean, we have to use the cooperation of the police  
18 department and the sheriff's department, which  
19 both agencies have been very cooperative on this  
20 kind of situation. But so, you know, we mainly  
21 use the term in relation to contractors. But we  
22 also, I mean, there aren't going to be certain  
23 property owners which really, you know, we tend to  
24 get them most often and can through work with HPD  
25 who, with their enforcement of the multiple

1 dwelling law and the housing maintenance code--  
2 although we don't write violations, for example,  
3 for failure to provide heat, that's something that  
4 HPD issues. Certainly the failure to provide  
5 heat, the failure to fix leaking roofs, you know,  
6 slumlords really are the second group. But it's  
7 also true, as you point out, that you could even  
8 have a large property owner who might own a half  
9 dozen or a dozen properties in the city and they  
10 could end up having two or three violations  
11 outstanding on each, which could add up quite  
12 quickly to 20 or \$50,000 and would not necessarily  
13 be a bad actor. So I don't think you can--I mean,  
14 I think you probably do want to set a minimum, but  
15 I'm not sure that you can--

17 CHAIRPERSON DILAN: [Interposing]

18 And that's kind of what I'm thinking here is that  
19 at what point--and I don't know the answer as I  
20 sit here, but what I'm concerned about is, you  
21 know, I see a lot of potential for unintended  
22 consequences here in this bill and, you know, I  
23 guess I look for guidance from yourself as well as  
24 from the bill's sponsor as to how we solve this  
25 problem because I think what he's trying to get at

1  
2 is the guys who are just terrible and egregious  
3 and don't do anything in terms of making their  
4 buildings better, their situation right, they're  
5 not conscious of their neighbors, and they flaunt  
6 the rules and they're only concern is profit at  
7 the end of the day. I think that's what his  
8 intentions are, but with the breadth of the bill  
9 it captures a lot more than that. So that's the  
10 one major concern that I have here and I would  
11 think that no one--you know, and I see there's a  
12 lot of opposition from the real estate industry,  
13 but I think even past a certain point not even the  
14 real estate industry will stand up for someone  
15 who's, you know, irresponsible and negligence with  
16 their buildings. So I think we need to proceed  
17 carefully here, but I do think that we need to  
18 find the right way to proceed and do so.

19 Are there any other questions from  
20 Members of the Committee? If not, I'd like to  
21 thank you, Mr. Kramer and Mr. Ranshte for your  
22 time and your testimony today.

23 MR. KRAMER: And we do look forward  
24 to working with you on the bill.

25 CHAIRPERSON DILAN: Thank you.

1  
2 Okay, next we'll hear--how many chairs we got  
3 there, two? We'll hear from Mr. John Doyle and  
4 Ms. Jessica Handy [phonetic]. And they'll be  
5 followed by Mr. Robert Altman.

6 JESSICA HANDY: I'm first? Okay.

7 CHAIRPERSON DILAN: You can begin  
8 in a minute, let's just allow for the chambers to  
9 settle, then you can begin.

10 JESSICA HANDY: Do you want water?

11 FEMALE VOICE: Thanks.

12 CHAIRPERSON DILAN: Okay. Why  
13 don't you begin and tell us what your concerns  
14 are.

15 JESSICA HANDY: Good morning.

16 Chairman Dilan and Members of the Housing and  
17 Buildings Committee, my name is Jessica Handy and  
18 I'm a property manager for a very large real  
19 estate firm here in New York City, and I am  
20 testifying here today on behalf of the Building  
21 Owners and Managers Association of Greater New  
22 York.

23 For BOMA, I serve as the co-vice  
24 chair of the Codes and Regulations Government  
25 Affairs Committee. BOMA represents more than 850

1  
2 owners, property managers, and building  
3 professionals who either own or manage 400 million  
4 square feet of commercial space. We're  
5 responsible for the safety of over 3 million  
6 tenants, generate more than \$1.5 billion in tax  
7 revenue, and oversee annual budgets of more than  
8 \$4 billion. BOMA New York is proud of our members  
9 who day in and day out work hard to ensure that  
10 their buildings are compliant with building codes  
11 and safe for their workers, tenants, and visitors.  
12 And often we have offered our expertise and  
13 insight toward efforts to strengthen building and  
14 construction laws. As the New York City real  
15 estate industry continues to navigate itself  
16 through the precipitous economic conditions toward  
17 a robust recovery--knock on wood--we must rise in  
18 opposition to the proposed bill.

19 We are aware of the city's  
20 budgetary issues and that it must raise revenue to  
21 ensure quality government services, however, this  
22 attempt to raise revenue goes beyond its scope.  
23 It will adversely impact construction and leasing  
24 activity and will unfairly harm tenants and  
25 landlords due to the absence of controls and

1  
2 procedures in place to make the bill fair in its  
3 application. The bill also needlessly replaces  
4 existing measures for collections of fines and  
5 liens.

6 Intro 1008 is grossly expansive by  
7 its reference to judgments which are imposed by a  
8 court of competent jurisdiction. The impact of  
9 such is to mandate satisfaction of any civil court  
10 judgment against the building owner, which may  
11 and, likely will, have no connection whatsoever to  
12 a notice of violation for unsafe work or work not  
13 per code. There is of course no corresponding  
14 reference to judgments or courts in the provisions  
15 requiring fines or civil penalties paid before a  
16 certificate of occupancy is issued.

17 The bill is also overbroad by its  
18 attack on those other than the applicant. The  
19 terms used in the legislation mandate an owner to  
20 satisfy existing fines or penalties having nothing  
21 to do with the alteration or new building work  
22 being applied for.

23 The bill is not needed, given  
24 already existing procedures. The 2008  
25 construction code gives the city of New York and

1  
2 corporation counsel broad enforcement and  
3 foreclosure powers concerning unpaid fines and  
4 penalties and liens due to fines. This procedure  
5 is fair and equitable and leaves the matter with  
6 the courts. Also the 2008 construction code  
7 already provides that letters of completion may be  
8 withheld if there are open fines or civil  
9 penalties. Code Title 28, I think you can read  
10 that in your copy. Most construction work are  
11 alterations where letters of completion are issued  
12 by the Department of Buildings. Accordingly,  
13 there is already a mechanism in place to ensure  
14 those who cause or create fines or penalties will  
15 have them at least paid off before the work is  
16 fully approved by the city.

17 Intro 1008 is also unfair by its  
18 implementation before there is an expeditious  
19 process in place to challenge the denial of a work  
20 permit. Without a fair and prompt process in  
21 place, the building owner will have no choice but  
22 to pay sums that may be wrongfully assessed just  
23 so that construction can proceed.

24 Lastly, the bill is wrong by its  
25 imposition of a hurdle before work may commence.



1  
2 The bill as written threatens the start of  
3 construction and leasing activity. Simple  
4 enforcement of existing provisions in the code  
5 would ensure fair and directed compliance and  
6 payment of fines without harming economic  
7 activity--activity that is always needed in good  
8 times or in current challenging times.

9 We again urge that the pending  
10 legislation proceed no further and instead the  
11 city utilize the existing procedures to facilitate  
12 raising revenue. Thank you.

13 CHAIRPERSON DILAN: Mr. Doyle?

14 JOHN DOYLE: Good morning, Chairman  
15 Dilan, Members of the Committee. Thank you for  
16 the opportunity to come here today and testify.  
17 My name is John Doyle, Senior Vice President for  
18 Government Affairs of the Real Estate Board of New  
19 York, which has about 12,000 members here in New  
20 York City, owners, managers, and brokers of real  
21 property.

22 I want to start by saying that in  
23 no way, shape, or form would I want to defend  
24 anybody who has done the type of things that  
25 you've described, Council Member Vacca. I mean,

1  
2 folks like that shouldn't be in the business,  
3 shouldn't be permitted to construct anything--  
4 additional housing, office buildings, anything.  
5 Even if they do pay their fines, frankly. So for  
6 all the reasons that you would like to see these  
7 people addressed, mine, in addition, it would make  
8 my job so much easier coming before you if there  
9 weren't people like that out there. Because, you  
10 see, we look--it's the glass is half-full, glass  
11 is half-empty situation. You're looking at people  
12 who are the most egregious violators of everything  
13 that you've passed and I'm trying to defend people  
14 who are not in that category at all. It's the  
15 unintended consequences that cause us to oppose  
16 this bill.

17                   Now some of them you've touched  
18 upon in the commercial situation. You've asked  
19 about what happens if a tenant wants to do some  
20 sort of renovations on their premises and the  
21 owner of the building is on this list of people  
22 who haven't paid fines or penalties or whatever.  
23 Well as the Buildings Department pointed out, the  
24 way this bill is structured, that tenant would be  
25 denied a permit, and vice versa more to the point

1  
2 from our perspective. If there's a ground floor  
3 retail tenant that gets a littering violation,  
4 then that goes against the building, and if the  
5 owner wants to take out the elevators and renovate  
6 the lobby, they would not be permitted to do that  
7 until they pay the littering violation that had  
8 been issued against the tenant, could have been  
9 five years earlier, and that they had no knowledge  
10 of. So it goes both ways, at least the way the  
11 bill is structured so far.

12 Let's talk a little bit about ECB.  
13 In preparation for this meeting, I looked through  
14 my files and saw that as early as 1994 we  
15 supported legislation in Albany that would have  
16 had some important reforms built into the ECB law,  
17 such as that the department would have to set up a  
18 database that owners could register who the  
19 contact person should be for any violations.  
20 Right now, violations get issued, the owner  
21 frequently doesn't even know that there is a  
22 violation, they have no opportunity to cure it  
23 whatsoever. In addition, to force ECB to issue a  
24 notice of impending default judgment, meaning that  
25 prior to a judgment being issued, there would be a

1  
2 notice sent to the designated person at the  
3 owner's premises to be able to take a look at it,  
4 see what the problems were, and maybe even go in  
5 and prove that they weren't the responsible party.

6 Now let's come back to that. You  
7 said earlier, Council Member, Chairman, that you  
8 want to know how you identify who the bad player  
9 is. That's exactly the perspective that we come  
10 from in looking at this bill--there has to be a  
11 responsible party out there. Council Member  
12 Vacca, you know that there was this person that  
13 did all of these things--the violations that are  
14 out there, the tax liens, everything else.  
15 Presumably, that person was sheltered by whatever  
16 LLCs or corporate entities they had, yet you knew  
17 who that person was, so it's not impossible to  
18 identify who the responsible party is--that's the  
19 person that legislation should address; that's  
20 what the Council should be looking at, trying to  
21 identify who the bad player is, who the  
22 responsible party is. This legislation doesn't do  
23 that because it is captures everybody.

24 Let's talk about the 10% ownership  
25 issue. I know you picked 10%, you could be 25%,

1  
2 could be whatever, that's not the issue, it's not  
3 the percentage, it's passive investment versus  
4 active operation. I could own 25% of a building  
5 and have nothing whatsoever to do with the  
6 operation of that building by the way the contract  
7 was established to set up the entity, somebody  
8 else could be the one that's actually responsible  
9 for operating that building. And yet, if I own a  
10 second building where I want to get work done in,  
11 I would not be able to do that until I paid the  
12 indebtedness from the first building that I had no  
13 control over.

14 So this idea of shell entities,  
15 it's not a phrase I'm very keen on. Keep in mind  
16 that the ownership of real estate is an investment  
17 vehicle, and frequently there are numerous owners  
18 in these things, in these buildings, or the  
19 entities that are set up to control them. And to  
20 do things that discourage the continuation of  
21 those entities, by the same token, you'll be  
22 discouraging investment.

23 So what you need to focus on, I  
24 believe, is the person who's responsible for  
25 maintaining that building, not the manager, but

1  
2 the ownership person who is responsible for making  
3 those decisions, for failing to pay the fines,  
4 failing to pay the penalties, and failing to make  
5 repairs. Thank you.

6 CHAIRPERSON DILAN: Okay. I have  
7 Council Member Fidler.

8 COUNCIL MEMBER FIDLER: You know,  
9 Mr. Doyle, I know you're occasionally a reasonable  
10 person, I agree with everything you said except  
11 for that last point. You know, if I were an  
12 investor, a 25% investor in a series of  
13 properties, all of which were being poorly  
14 maintained, I think I bear responsibility, even  
15 from a passive investor. And so I think at that  
16 point, we part company.

17 And in conclusion, I think that, I  
18 don't know if the number is 10, but I think you do  
19 bear responsibility for the project that you're  
20 financing, even if your role is as a minority  
21 investor or as a minority shareholder or a  
22 minority partner. At a certain point in time you  
23 have an obligation to say, hey, I'm investing in a  
24 piece of property that you're allowing to become  
25 run down, I may be making a profit on it, but

1  
2 that's not the end of the circumstance. I think  
3 there's some level of responsibility.

4 JOHN DOYLE: And I am a completely  
5 reasonable person, as you say, and I would agree--

6 COUNCIL MEMBER FIDLER:  
7 [Interposing] I didn't say completely.

8 JOHN DOYLE: --and I would agree if  
9 I was a 25% investor in a series of properties,  
10 then you're absolutely right, I am as guilty as  
11 the person who's the operating partner. But if I  
12 am a partner of 15% or 12% in a single building,  
13 then I would disagree with you.

14 COUNCIL MEMBER FIDLER: Well I  
15 think--

16 JOHN DOYLE: [Interposing] And I  
17 guess what I say to you is the reality is it's  
18 almost impossible for you and I or me and this  
19 panel to try to come up with a formula that  
20 depicts who the responsible party is. I guess  
21 what I'm trying to say is I think there needs to  
22 be a finding of a qualified tribunal as to who the  
23 responsible party is and if it turns out that  
24 after the presentation of evidence that it is a  
25 25% investor, then all well and good. This bill

1  
2 doesn't allow for that, it just assumes that a 10%  
3 investor, in this case, is a responsible party.

4 And I think it's very important for the Council to  
5 recognize there's a difference between investing  
6 and being the responsible party, and I would urge  
7 you to go after the responsible party, not get  
8 hung up on 10%, 25%, or anything else. Could be  
9 5% could be a responsible party.

10 COUNCIL MEMBER FIDLER: I think an  
11 investor bears some responsibility at some point.  
12 And so we'll just agree on that generality without  
13 getting into the specifics. And I think you've  
14 already heard the sponsor and other members of  
15 this committee acknowledge that this bill is, in  
16 this form, is far, far, far, far from perfect in  
17 achieving its goals. So I just want to ask the  
18 two of you whether or not you would agree with the  
19 proposition that if limited to building fines,  
20 would you support the Buildings Department's right  
21 to deny new permits to any applicant who has a  
22 certain threshold amount of outstanding building  
23 fines?

24 JOHN DOYLE: No.

25 COUNCIL MEMBER FIDLER: Same



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applicant, same person, same entity.

JOHN DOYLE: No, because of the simple fact that if all of those violations were issued against tenants in the building and the ownership entity never got a single violation, that ownership entity, as per the records of ECB, would be the responsible party and would be that very same entity--

COUNCIL MEMBER FIDLER: A building violation?

JOHN DOYLE: Yeah.

COUNCIL MEMBER FIDLER: Okay. So let's carve those out, all right, that the violation itself can somehow be defined as not being the responsibility of the applicant, not having been that, you support the concept?

JOHN DOYLE: Yes.

COUNCIL MEMBER FIDLER: Ms.--

MS. HANDY: Yes--

[Crosstalk]

COUNCIL MEMBER FIDLER: Okay.

[Off mic]

COUNCIL MEMBER FIDLER: Okay.

'Cause, you know, when I look at the objective of

1  
2 this bill and then the very frustrating idea of  
3 having to implement it in baby steps, clearly the  
4 first baby step is the Buildings Department  
5 enforcing their own violations. And I want to  
6 start by trying to find the limited common ground  
7 that we can begin to work on this. So I think  
8 we've now found the most limited common ground  
9 that you could support and I think we need to work  
10 on that.

11 JOHN DOYLE: I would suggest to you  
12 that that in order to have that finding made,  
13 there needs to be significant changes to ECB  
14 first, that has to be part of the process, which,  
15 the little research that we've done on it,  
16 suggests that that requires legislation in Albany.  
17 But yes, I'll come back to what I started in  
18 saying, I'm not here to defend the bad players, I  
19 would like it very much if they could be found  
20 guilty, prosecuted, and put out of business,  
21 frankly.

22 [Off mic]

23 CHAIRPERSON DILAN: Council Member  
24 Vacca.

25 COUNCIL MEMBER VACCA: If I can

1  
2 just clarify too, and we certainly have agreements  
3 and disagreements and I hope we can work together,  
4 but I do want to indicate that my bill originally  
5 did not start out as a revenue raising bill for  
6 the city of New York, it so happens it raises  
7 revenue, but my bill started out as a fairness  
8 bill and as a bill to address inappropriate  
9 development and to make sure that we don't further  
10 give permits to those who owe money to the city,  
11 so I did not start out thinking that this is going  
12 to help the city's budget gap. My thought here  
13 was a fairness issue and it is not right in our  
14 city, in my opinion, to give those who do not pay  
15 previous fines, who do not correct previous  
16 building violations that are significant--I'm not  
17 saying all violations--that are significant, I  
18 think we have to arrive at a threshold of fairness  
19 insomuch as our city continuing to grant permits  
20 over and over again.

21 I do think that there is an issue  
22 when one city agency does not know what another  
23 city agency is doing. When one city agency cannot  
24 tell if another city agency has assessed fines and  
25 when one city agency continues to give permits to

1  
2 somebody which they themselves have fined and  
3 can't collect, but they give more permits. I  
4 think the average taxpayer would say, hey, wait a  
5 minute, before you raise my taxes and before I  
6 have to pay more, this is a fairness issue. The  
7 city has to be, able within its own bureaucracy,  
8 to understand the status of an applicant and to  
9 understand across the board who has a history of  
10 being a bad actor insomuch as violations are  
11 concerned or a bad actor insomuch as not paying  
12 assessed fines.

13 Most of these fines that are  
14 assessed have already been appealed, adjudicated,  
15 sometimes they've been reduced, but that hearing  
16 process and the due process is mostly finished.  
17 If you go into these fines ECB, the Buildings  
18 Department's website will give you the ECB  
19 violation, the hearing date, the date the  
20 violation was issued, and the fine that was  
21 assessed, and then they will say whether or not,  
22 in the computer, whether that fine has been paid  
23 and whether or not the violation has been  
24 corrected.

25 So a lot of this stuff within

1  
2 Buildings is transparent, but within other  
3 agencies, it's less transparent. Other agencies  
4 do not have the database that Buildings has.  
5 Buildings has a long way to go, other agencies  
6 have further to go. This is 2009, this is  
7 unacceptable in our city, unacceptable. People  
8 demand a fairness threshold and they demand  
9 accountability, transparency, and this is not what  
10 they're getting.

11 I realize many of your points, I  
12 understand, I'm willing to work with you and to  
13 work with the Administration and to work with the  
14 Speaker's office. No bill upon drafting is  
15 perfect, but I think the hearing today is  
16 appropriate because I think that this is a problem  
17 that's been ignored far too long and that there  
18 are too many case studies that have pointed out  
19 the need for action.

20 CHAIRPERSON DILAN: Okay. Thank  
21 you, Council Member Vacca. And I would say that  
22 those comments, I think, are more so appropriate  
23 to this Council and the Administration as to how  
24 we improve the bureaucracy that is New York City.  
25 I don't see this bill whatsoever as a revenue

1  
2 raiser, I see it as an attempt to collect on  
3 revenue that has already been out there. You  
4 know, I understand some of the concerns that the  
5 real estate industry has, but to say that, you  
6 know, there's no right way to do this, I think is  
7 also wrong and I think that you guys, to some  
8 degree, acknowledge that as well.

9 I think the important thing is the  
10 mechanism as to how we get towards the root of  
11 what the Council Member is looking for is how do  
12 we get at the bad actors. And I don't think  
13 anybody has that answer right now 'cause if they  
14 did, we'd be much further along in this than we  
15 are.

16 But I would expect that, maybe not  
17 this Council, but the next Council which convenes  
18 in January will continue to look at this issue and  
19 move this bill to a better place and hopefully one  
20 day passage. And we'd hope to do that with your  
21 input.

22 And I'm glad to see that, at least  
23 in some form of Council Member Lew Fidler's  
24 questioning, you did find some frame of reference  
25 as to where you could be supportive, so it leads

1  
2 me to believe that you're here and you're saying  
3 no, no, no, we just don't want this. I think it's  
4 good in many respects, but your input would be  
5 particularly helpful and, one, mitigating the  
6 unintended consequences out of the legislation.  
7 And, two, helping us fine tune it so that we get  
8 to the heart of the building owners, commercial  
9 tenants, or whoever is leading to unsafe  
10 conditions in buildings throughout this city, so  
11 that we can, one, continue as a city to collect  
12 the needed revenue that's already on the books but  
13 not collected. And, two, to avoid having your  
14 responsible owners penalized for basically running  
15 a good building.

16 So I certainly, for one, look  
17 forward to that and hope that you can find it  
18 possible to become part of that process.

19 JOHN DOYLE: We absolutely would  
20 like to be part of the process. Council Member  
21 Fidler identified one area that we could come to  
22 an agreement on. The areas that we can come to an  
23 agreement on, I believe, are far broader than  
24 that.

25 And I do believe that there is a

1  
2 need for this legislation, there are bad players  
3 out there, and so there needs to be something done  
4 to prevent them from continuing to play badly.

5 CHAIRPERSON DILAN: Okay. Well I  
6 thank you. If there's no more questions, I'd like  
7 to thank you for your time and your testimony  
8 today.

9 JESSICA HANDY: Thank you.

10 CHAIRPERSON DILAN: The last person  
11 we have to testify on this bill is Mr. Robert  
12 Altman. Sergeant, I believe he has some  
13 testimony?

14 ROBERT ALTMAN: Good morning.

15 CHAIRPERSON DILAN: Good morning.

16 ROBERT ALTMAN: My name is Robert  
17 Altman, I'm the legislative consultant to the  
18 Queens and Bronx Building Association and the  
19 Building Industry Association of New York City,  
20 two local chapters of the New York State Builders  
21 Association. I submit this testimony in  
22 opposition to Intro 1008.

23 I just want to join in on what was  
24 said by [off mic] I don't think it's necessary for  
25 us to repeat a lot of the same points that they



1  
2 stated and as also stated in the written  
3 testimony.

4 I would like to say one thing  
5 though and that is, as wonderful as DOB has  
6 improved over the years, it's not necessarily  
7 perfect, and that was one of the things which my  
8 membership commented on when we first forwarded  
9 this bill.

10 I got two examples, both of which  
11 are a little bit amusing, both of them are recent  
12 examples to show that DOB does not necessarily  
13 have the best records in its system. One is,  
14 somebody just received--and I brought it with me  
15 today if the Committee actually wants it--a  
16 violation for not having a permanent CO on a  
17 shopping center. Now as many of you know, the COs  
18 are within the BIS system, supposedly. However,  
19 the fact that the shopping center was 20 years  
20 old, never had this violation before, and  
21 everybody knows it in the College Point, Malba  
22 area of Queens should have indicated to the person  
23 who was an experienced DOB Inspector that maybe it  
24 did have a permanent C of O and sure enough, it  
25 had had a permanent C of O for 20 years, it just

1 had not been registered in BIS.

2  
3 The unfortunate thing is that's a  
4 violation that they're actually going to, in a  
5 sense, get penalized on anyway since they must  
6 show up at ECB court that day, they will send  
7 their representative done there, and they will be  
8 paying their representative \$1,000 to show up for  
9 the ECB hearing. So even though this is a  
10 situation where they had a permanent CO, and they  
11 were getting violation, they're getting basically  
12 fined anyway by this.

13 Another one was also interesting  
14 was, this is from, one was from Queens, the other  
15 one's from Staten Island. Is a person who  
16 received a violation, received it, cured it, paid  
17 it the same day. A couple months later, he  
18 noticed that the violation was still on the  
19 property, came in, said look, here's my paperwork,  
20 I paid it, the person looked it over, looked at  
21 the records and they said, you paid it too quick,  
22 you cured it too quick, we didn't have a chance to  
23 get it into the system. So here it is, a  
24 violation that's outstanding.

25 That much said, you know, I also

1  
2 join in with what John Doyle said, in fact, that  
3 someone who's a bad builder, we're not going to  
4 sit there and [off mic] bad developer or a bad  
5 property owner, we're not going to go and say  
6 don't go after them, obviously they shouldn't be  
7 in the business. But, you know, the bill is  
8 overbroad, I hear all the comments about narrowing  
9 it down.

10 One of the things I do state right  
11 up on top in the testimony is right now in this  
12 environment, I wouldn't be stopping anybody from  
13 pulling a building permit for the most part. I  
14 think where you can get them is for when you go  
15 and get sign offs, when you go and get the CO,  
16 when you're finishing it off. Right now, frankly,  
17 the economy of this city is in the worst shape, at  
18 least in the real estate industry, that I have  
19 ever seen it, and I certainly lived through the  
20 late 80s early 90s recession where I was a part of  
21 it, seeing it, part of city government at the  
22 time. And frankly, we were very sensitive to the  
23 fact that doing certain things in certain programs  
24 in order to make sure that things got started, you  
25 do things incrementally, there were bigger tax

1  
2 breaks that actually got given for development and  
3 things like that. Some of which have been cut  
4 back, ironically, right at the beginning of this  
5 recession, which probably should not have  
6 happened, but did, you know, it's tough to time  
7 the market.

8 But I would let the economic  
9 activity go forward. There are points in times  
10 where somebody's going in and doing something that  
11 somebody said for a tenant or such like that,  
12 where don't delay it, please don't delay it. It's  
13 just the economy is just too bad, these people  
14 need to--the contractors need to get working and  
15 such. And if you have to, at the end of it, you  
16 know, you've given them notice maybe at the very  
17 beginning and that by the time they get the sign  
18 offs, they have to take care of everything.

19 And that's pretty much it. We look  
20 forward to working with the Committee. If you  
21 have any questions, I'd be certainly happy to  
22 entertain them.

23 CHAIRPERSON DILAN: Council Member  
24 Vacca.

25 COUNCIL MEMBER VACCA: Just one

1  
2 question, or really a statement, but Mr. Altman, I  
3 thank you for your testimony, I understand your  
4 concerns, I am not here to hurt people who are  
5 doing good work, and I do believe that there has  
6 to be a balance.

7           But just let me state this, your  
8 acknowledgment that the Buildings Department needs  
9 to get--in paragraph 1, 2, 3, 4, paragraph 6, the  
10 city does not necessarily have its own records in  
11 order, I agree. I agree they don't have their own  
12 records in order and they should get them in order  
13 because that's their responsibility and if they  
14 don't have the technology to get their records in  
15 order, shame on them.

16           You mentioned about perhaps  
17 withholding a C of O. I have to tell you about  
18 certificate of occupancies, and I agree that we  
19 need continued reform at the Buildings Department,  
20 you are correct, more needs to be done,  
21 absolutely. One of the things that needs to be  
22 done is that what good is a certificate of  
23 occupancy? I have buildings in my district, new  
24 construction, they go up, they have no C of O, I  
25 have people living in them. The Buildings

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2 Department doesn't issue a C of O, they issue a  
3 violation, the landlord gets a \$500 fine, but the  
4 building is occupied, the fine is maybe the cost  
5 of doing business, I don't know why they don't get  
6 a Certificate of Occupancy, but I do think it's  
7 the law, I know it's the law. So I don't know if  
8 not giving a C of O means much because many people  
9 have their buildings occupied without a C of O.

10 Your citing the shopping center  
11 certainly is a clerical mistake and it's an  
12 outrageous thing that something of 20 years and  
13 the C of O is not in the BIS system does not make  
14 sense to me.

15 So a lot of us are experiencing  
16 similar problems and I do think there's a  
17 willingness to address it. And I thank you, I  
18 understand your perspective, and I think that we  
19 have to take a look at this and I look forward to  
20 working with you, too.

21 ROBERT ALTMAN: Yeah, I would note  
22 that with respect to a rental properties, that  
23 should be an issue with respect to COs. I would  
24 say with respect to properties that have  
25 homeowners to them, you should not have that

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2 instance, no attorney should be closing a property  
3 that doesn't have a C of O.. Frankly, nobody  
4 should be leasing a property if it doesn't have a  
5 C of O, but you know and I both know that  
6 residential tenants don't necessarily hire an  
7 attorney for their residential lease.

8 COUNCIL MEMBER VACCA: So much of  
9 my bill is the frustration we have with one agency  
10 not knowing what another is doing, and the city  
11 not maintaining its own records transparently so  
12 that we could tell across the board were there  
13 violations, were there issues, were there  
14 problems. We don't have that system in New York  
15 City and that's what my bill is aiming at.

16 I realize it's a big fish, however,  
17 if we don't start somewhere, then do we continue  
18 as we are? No, I don't think we should continue  
19 as we are. My bill is an acknowledgment of an  
20 issue where I'm seeking to get my handle on  
21 something, and I realize it will not happen  
22 overnight, but if we don't address it, then shame  
23 on us. I think if we don't address it, we're not  
24 doing the taxpayers a service.

25 ROBERT ALTMAN: I would point out

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2 one thing though and this is in the Buildings  
3 Department's thinking about how they would think.  
4 It almost sounds like what you're saying is that  
5 the reform for the recordkeeping is a predicate  
6 for being able to do this bill. They are going to  
7 need the resources just like--the Buildings  
8 Department had tremendous cuts starting with the  
9 Dinkins Administration and continuing through the  
10 Giuliani Administration and somewhat of the  
11 Bloomberg Administration, then all of a sudden had  
12 a substantial increase. The Buildings Department  
13 now is once again experiencing cuts, just like  
14 every city agency, and what you're proposing here  
15 is going to be a significant outlay for them, not  
16 only with respect to the IT implementation, but  
17 also with respect to the personnel to go forward  
18 on that.

19 So I mean, there is an impact to  
20 this bill at a time when Buildings revenue  
21 generation is also going to go down in the next  
22 few years. It is the law that whatever they get  
23 from user fees, they're supposed be applied back  
24 into the department, and that's one of the reasons  
25 why the administration increased its budget, but



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2 you're going to see over the next few years that  
3 the amount of building going on is going to  
4 substantially decrease, and, as a result, you're  
5 going to see their revenue decrease. So you might  
6 have to have this revenue coming forward, not from  
7 with the revenue of the agency, but from the  
8 general city fund because I think they're going to  
9 see substantial decreases. I mean, there's just  
10 going to be a lot less building over the next  
11 five, six years.

12 COUNCIL MEMBER VACCA: I agree with  
13 you, and I think it has to be an interagency  
14 effort. I don't mean to place the onus only on  
15 the Buildings Department, because we're looking at  
16 agencies with a multitude of issues across-the-  
17 board. However, I have to tell you, I'm around a  
18 long time, and I don't remember the city really  
19 not being in a fiscal crisis, with the exception  
20 of 2006, 2007 where the economy was booming. But  
21 if you look at the financial history from the  
22 financial crisis of 1975 where the city almost  
23 went bust, you go to 1990s and other crisis, now  
24 we're in another crisis, I don't think something  
25 like this can wait for there not being a crisis.

1  
2 I think something like this is governmental  
3 efficiency and governmental efficiency is always  
4 beneficial to the citizenry, it's what people who  
5 pay taxes expect--efficient government.

6 ROBERT ALTMAN: '95 and '96 on were  
7 also pretty good years for the city budget, too.

8 COUNCIL MEMBER VACCA: Yeah--

9 [Crosstalk]

10 ROBERT ALTMAN: 'Til about 2001.

11 COUNCIL MEMBER VACCA: Okay. So we  
12 had bad periods, we've had recessions, we had the  
13 whole issue in the 70s where we almost defaulted.  
14 So we had financial issues in the city, but yet  
15 the city continued to run and the taxpayers  
16 demanded that their government run efficiently.

17 CHAIRPERSON DILAN: Thank you,  
18 Council Member Vacca. Are there any questions for  
19 Mr. Altman? If not, we'd like to thank you--

20 ROBERT ALTMAN: Thank you.

21 CHAIRPERSON DILAN: --for your time  
22 and testimony today, sir. There is no testimony  
23 that needs to be submitted for the record, we will  
24 have Mr. Altman's testimony submitted for the  
25 record as if read in full.

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And Intro 1008 will be laid aside,  
and that will adjourn this hearing.

C E R T I F I C A T E

I, Tammy Wittman, 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 Tammy Wittman

Date December 7, 2009