

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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June 22, 2010
Start: 01:00pm
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HELD AT: Council Chambers
City Hall

B E F O R E:
ERICK MARTIN DILAN
Chairperson

COUNCIL MEMBERS:
Gale Brewer
Fernando Cabrera
Leroy G. Comrie, Jr.
Elizabeth Crowley
Lewis A. Fidler
Daniel R. Garodnick
Robert Jackson
Letitia James
Brad Lander
Melissa Mark-Viverito
James S. Oddo
Joel Rivera
Eric A. Ulrich
Jumaane D. Williams

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

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Deborah Mansfield
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HPD

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

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Hershel Weiss
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Dottie Harris
VP of State and Local Government Relations
International Code Council

Angela Sung
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Real Estate Board of New York

Charles Hernandez
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Plumbing Manufacturers Institute

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

Sylvester Justino
Director of Legislative Affairs
Building Owners and Managers Assn. of Greater NY

Terrence O'Brien
Deputy Director
Plumbing Foundation of New York

Arthur O. Klock, Jr.
Director of Training
Plumbers Local #1 New York City

Maurice Costantino
Representative
Davis & Warshow Plumbing

CHAIRPERSON DILAN: Good morning everybody. Yes, members, for the benefit of the members, I've got people working on the lights, so the lights will get adjusted. Good afternoon, my name is Erick Martin Dilan, I'm the Chair of the Housing and Buildings Committee, and I'd like to apologize at the outset for my tardiness. The hearing today will be a little bit different than normal because of the large amount of items on the agenda. We're going to compartmentalize, if you will, the agenda, and hold it in two parts. The first part will be a hearing on proposed Intro 87A, which is sponsored by my colleague from Manhattan, Melissa Mark-Viverito, and that will have to do with the local law regarding multiple dwelling registrations. And the second part of the hearing will be nine bills that will have recommendations on how the City's building code can become more energy efficient. Like I said, the first hearing will be proposing Intro 87A, which will be a local law to amend the administrative code in relation to the filing of registration statements by owners of dwellings. This bill will require as ... this bill would

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2 require as part of an annual multiple dwelling
3 registration a statement be filed with HPD that
4 names the address of the principals of a corporate
5 entity or a partnership, general and limited
6 partnerships, that act as owners of a multiple
7 dwelling, be provided when a principal's ownership
8 interest in such a corporation exceeds 25%. The
9 Committee will be hearing testimony on Intro 237
10 till about 2:30 p.m. and then I'll cut it short at
11 that time. And then after that, the other nine
12 items on today's agenda. Now, at this time, I
13 want to just ask for Intro 87A only, if you want
14 to testify on behalf, whether either in favor or
15 opposed to 87A, please see the sergeant at arms
16 and fill out an appearance card. And I'd also
17 like to remind people to take their cell phones
18 and put it in silent mode or vibrate. And if
19 there's a need for private conversations, if that
20 could happen outside of the hearing room. So at
21 this time I'd like to turn ... well, before I turn
22 to my colleague who's the sponsor of the bill, I
23 just would like to acknowledge the members of the
24 Committee who are present. Starting to my far
25 left, we have Leroy Comrie of Queens, Council

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2 member Lewis Fidler of Brooklyn, the sponsor of
3 87A, Melissa Mark-Viverito. Next to me I have my
4 legislative counsel Baaba Halm. New to the
5 Committee, counsel to the Committee, Laura
6 Rodgers, Joel Rivera of the Bronx, Council member,
7 and Council member Gale Brewer of Manhattan. So
8 at this time I'd like to turn to my colleague, the
9 sponsor of the bill, to make a brief opening
10 statement.

COUNCIL MEMBER MARK-VIVERITO:

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12 Thank, Mr. Chair, and I want to just say good
13 afternoon to everybody that's in the room, I'm
14 Council member Melissa Mark-Viverito, and sponsor
15 of Intro 87A, a bill that I'm proud to reintroduce
16 to session after its initial introduction last
17 year. And I want to thank the Housing and
18 Buildings Committee Chair, our Chair, Erick Dilan,
19 for holding this hearing as well as all the staff,
20 all the advocates, that have really worked hard to
21 get this legislation going.

22 Apartment buildings around the City
23 are increasingly owned by partnerships and
24 corporate entities, rather than individual owners.
25 These ownership structures have allowed some

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2 landlords to hide behind the shell companies,
3 making them difficult to reach when tenants or the
4 City needs to get important housing issues
5 resolved. Oftentimes advocates have found that
6 the landlords provide nothing more than a P.O. box
7 where rent checks can be sent. This has forced a
8 number of tenants into litigation when so many of
9 these problems could have been settled outside of
10 court. Intro 87A will require that when corporate
11 and partnership owners of multiple dwellings file
12 registration statements with HPD, they must
13 provide the names and addresses of all individuals
14 whose share of ownership of these companies
15 exceeds 25%. So it would provide obviously much
16 greater transparency. Additionally, this local
17 law would require that these owners register with
18 a brick and mortar address, rather than merely
19 providing a P.O. box. This increased transparency
20 will benefit both the City and our tenants,
21 particularly those that are most vulnerable to
22 substandard housing conditions. So I want to
23 thank everyone that's here and I look forward to
24 hearing today's testimony.

25 CHAIRPERSON DILAN: Okay, and I

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acknowledged the other Committee staff, I also want to acknowledge that I've also been joined by Ben Goodman who is the policy analyst of the Committee. So at this time we do have representatives from HPD who intend to testify in favor of the bill. Mr. Christopher Gonzalez, welcome, and even though I've identified you, you have to do so in your own voice. And you can identify your colleague and give us your side of the story.

MR. GONZALEZ: Is this on? Hello? All right. It's on? All right. Good afternoon, Chairman Dilan and members of the Housing and Buildings Committee. I am Christopher Gonzalez, Director of Intergovernmental Relations for the New York City Department of Housing Preservation and Development.

CHAIRPERSON DILAN: I'm sorry, if you could just adjust the mic so you could speak more directly into it.

MR. GONZALEZ: Sure.

CHAIRPERSON DILAN: There you go.

MR. GONZALEZ: Good afternoon, Chairman Dilan and members of the Housing and

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2 Buildings Committee. I am Christopher Gonzalez,
3 Director of Intergovernmental Relations for the
4 New York City Department of Housing Preservation
5 and Development. I am joined by Deputy Counsel
6 Deborah Mansfield. Thank you for the opportunity
7 to discuss the multiple dwelling registration
8 system, MDR, and the amendments to the Housing
9 Maintenance Code proposed in Intro 87A. The MDR
10 system was created to insure that HPD has current
11 contact information for all residential property
12 owners in New York City. The system requires all
13 New York City multiple dwelling owners and
14 managing agents, and certain one and two family
15 owners, to supply their names, business addresses,
16 residential addresses, and telephone numbers, to
17 HPD on an annual basis. The MDR system is
18 designed to 1. Give HPD information to use to
19 contact landlords in instances of housing
20 maintenance code violations, complaints, or
21 emergency conditions, 2. Give HPD an address to
22 serve process on property owners when commencing
23 litigation, and 3. Give tenants an address to use
24 to serve process on property owners in tenant-
25 initiated housing maintenance code actions. Every

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2 year HPD mails out a renewal registration form to
3 the owners to complete and return. Also, when
4 property is transferred between owners, the new
5 property owner is required to register with HPD
6 upon transfer of title. HPD has made the
7 registration process more accessible to people by
8 allowing individuals to obtain property
9 registration forms online, and has assisted owners
10 in properly completing the forms through the
11 online registration assistance process. Quite
12 frequently, property in New York City is owned by
13 a corporation. In this instance, current law
14 requires the names, the business addresses,
15 residential addresses and telephone numbers of all
16 the named officers in the corporation, to be
17 disclosed on the MDR form. The legislation before
18 us, Intro 87A, would amend the current law to
19 require a corporation or partnership that is
20 listed as a property owner to supply the name and
21 business address for each person whose ownership
22 share exceeds 25%. Along with this requirement,
23 Intro 87A prohibits registration of a post office
24 box, or anything similar, to a mailing handling
25 service as a business address. HPD's primary goal

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2 is to get all property owners to comply with the
3 law and register with the Department. Full
4 compliance is a means to enforce landlord
5 accountability, which in turn can help insure that
6 tenants' units are properly maintained. HPD
7 supports the idea of increased transparency, but
8 is concerned that requiring additional owner
9 information might have the unintended effect of
10 dissuading owners from registering at all. This
11 is due to the fact that property owners generally
12 seek incorporation to insulate themselves from
13 individual liability, and so may be reluctant to
14 provide individual ownership information. HPD
15 fully supports the second portion of the
16 legislation that prohibits the registration of
17 post office boxes and mail collection services as
18 primary business or residential addresses for the
19 property owner. HPD currently rejects MDR's that
20 provide post office boxes as managing agents'
21 addresses as a matter of policy. We do not now
22 reject MDR's that provide mail collection services
23 with street addresses, although we agree that
24 owners who register these addresses as "places
25 where they are doing business" are not actually

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2 doing business there. Accordingly we agree it
3 would be useful to have better information about
4 where some owners are actually doing business.

5 The mail collection service addresses are,
6 however, adequate for service of process when HPD
7 starts an action for violation correction in
8 Housing Court. However, to insure the
9 registration attempts by owners are not validated
10 unnecessarily, we suggest changing the last
11 sentence of section 27-986 to read "For the
12 purposes of this section, a United States Postal
13 Service mail delivery box, a mail delivery box
14 maintained through a privately operated mail
15 handling facility, or the address at which any
16 similar service is provided, shall be deemed an
17 invalid business address, and the department shall
18 not accept for filing registration statements
19 containing only such an address". This change
20 will thereby allow an owner to provide a
21 legitimate business address along with the post
22 office box or mail collection service. We
23 understand that post office boxes can be useful to
24 property owners and do not want to prohibit that
25 option, as long as a proper business address is

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2 also provided. Finally, if Intro 87 is enacted,
3 HPD would need more time than the 90 days
4 currently provided to implement the changes in the
5 MDR system. We suggest that an effective date of
6 nine months is more in line with the realistic
7 expectations for implementation. Thank you for
8 the opportunity to testify before you today, I'd
9 be happy to answer any questions that you may have
10 at this time.

11 CHAIRPERSON DILAN: All right, I'd
12 like to give the privilege, if she chooses to take
13 it, to the bill's sponsor to lead off with
14 questions.

15 COUNCIL MEMBER MARK-VIVERITO:
16 Thank you, Mr. Chair. And thank you, Mr.
17 Gonzalez, for your testimony, and Ms. Mansfield,
18 for being here. I also want to just take a
19 moment, because I know that there are many
20 representatives in this room, but as always, I
21 really want to thank the work and the diligence of
22 Make the Road New York and really pushing for this
23 legislation, and supportive in being here today to
24 express the concerns and what led to the need for
25 this. But you express in your testimony about

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2 that you believe in the idea of transparency but
3 are concerned that requiring additional owner
4 information might have the unintended effect of
5 dissuading owners from registering at all. So if
6 an owner doesn't register, what happens? What are
7 the repercussions?

8 MR. GONZALEZ: Basically the
9 process the way it stands right now is annually
10 HPD sends out in two different cycles a renewal
11 registration form. Should that registration form
12 not be returned, we send out another mailing to
13 all of the entities listed on the previous
14 registration form, giving them notice that they
15 need to respond. And then beyond that- -

16 MS. MANSFIELD: (Interposing) Well,
17 I think aside from the enforcement of trying to
18 get people- -

19 COUNCIL MEMBER MARK-VIVERITO:
20 (Interposing) I think you have to identify
21 yourself, I'm sorry.

22 MS. MANSFIELD: Sorry, I'm Debby
23 Mansfield, Deputy Counsel from HPD. Aside from
24 the enforcement, if we don't have a current
25 registration statement, we're hampered in our

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2 ability to just contact owners to tell them if
3 there is a problem.

4 COUNCIL MEMBER MARK-VIVERITO: How
5 often, in terms of the information that you gather
6 right now in these registrations, how often do you
7 have to communicate with owners? And how often do
8 you avail yourselves of that information and use
9 it? And do you find that you have difficulty
10 contacting the people that are registered?

11 MS. MANSFIELD: Contacting people
12 who are registered?

13 COUNCIL MEMBER MARK-VIVERITO: Of
14 the buildings, I mean, the owners. You're saying
15 that you require this information, for what
16 purpose do you require the information?

17 MS. MANSFIELD: Well, one thing
18 that has to be registered is a 24 hour number,
19 which is a confidential number that HPD can use to
20 call an owner if we have a complaint, or there's
21 an emergency condition in a building. If we have
22 that number and that number is accurate, that's
23 the most important piece of information we need
24 for owner contact.

25 COUNCIL MEMBER MARK-VIVERITO:

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2 Right, I guess my question is, how frequently does
3 HPD ... because the question here, the problem here,
4 is the transparency aspect, that a lot of times
5 the information may not be listed, that it's a
6 P.O. box, if people have a problem with the
7 apartment, that really contacting somebody to take
8 responsibility, it's not there. So that's the
9 intent here, which I ... and I appreciate that you
10 support, but I'm just trying to understand right
11 now the way you are structured and gathering the
12 information that you do gather from, you know,
13 from owners, like when you've had to communicate,
14 you know, with them, do you have difficulty
15 because maybe the information is not as accurate
16 as it should be? You know, I'm just trying to
17 just figure out what is the system that you have
18 right now.

19 MS. MANSFIELD: Well, right now ...
20 go ahead.

21 MS. TASSINA: Grace Tassina, I work
22 in Enforcement Services and I oversee the
23 registration unit. Currently registration
24 information is used basically on a daily basis,
25 through call backs to owners on complaints, we

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2 also try to contact owners with respect to
3 violations, health inquiry actions. So the
4 information on the registration form is used on a
5 daily basis by a number of units within HPD's
6 Enforcement Services.

7 COUNCIL MEMBER MARK-VIVERITO: You
8 use it pretty much daily?

9 MS. TASSINA: Oh yes.

10 COUNCIL MEMBER MARK-VIVERITO: Now
11 currently, names and addresses of principals of a
12 corporation that own an SRO, for instance, the
13 single room occupancy dwellings, has to be
14 provided in the annual multiple registration
15 statement, that was mentioned. Have you ever
16 experienced difficulty in gathering this
17 information or enforcing the duty to properly
18 register?

19 MS. MANSFIELD: I don't believe
20 that the current registration system contains, is
21 capable of containing all of that information, if
22 it were provided.

23 COUNCIL MEMBER MARK-VIVERITO: Can
24 you repeat that? I'm sorry.

25 MS. MANSFIELD: I don't believe

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2 that our current registration system, the computer
3 system, could provide ... could hold all of that
4 information if it were provided. In order to
5 comply with Intro 87A, we will have to re-program
6 the entire premises system.

7 COUNCIL MEMBER MARK-VIVERITO: And
8 that's why you're asking for more time, is what
9 you're saying, for the implementation of it?

10 MS. MANSFIELD: Yes.

11 MR. GONZALEZ: Yes.

12 COUNCIL MEMBER MARK-VIVERITO: Now,
13 if you had, if you needed to do litigation to
14 force repairs or collect emergency repair charges,
15 how do you gather the information on the corporate
16 owners?

17 MS. MANSFIELD: Using the
18 information provided for a corporate owner on a
19 current MDR is sufficient to get jurisdiction over
20 a corporation and its property. That gives the
21 ability to initiate litigation. In addition, we
22 do other computer research to determine who an
23 owner is. Knowing who the registered owner and
24 managing agent are is just one part of the
25 research that needs to be done to start a case.

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2 COUNCIL MEMBER MARK-VIVERITO: Now
3 you kind of expressed some concern in your
4 testimony, now why do ... I mean, if you could talk
5 about why you think an individual who owns more
6 than 25% of a partnership or a corporation should
7 not be identified in the registration statements.
8 Why do you think they shouldn't?

9 MS. MANSFIELD: I don't think- -

10 COUNCIL MEMBER MARK-VIVERITO:
11 (Interposing) You seemed to allude to that.

12 MS. MANSFIELD: I don't think
13 that's what we said. We are not saying that that
14 information would not be valuable or useful.

15 COUNCIL MEMBER MARK-VIVERITO:
16 Okay.

17 MS. MANSFIELD: You know, I think
18 we agree that it would be. Our concerns are just
19 the consequences of redesigning the system to
20 capture it, and the effect that might have on
21 other people who are now validly registered.

22 COUNCIL MEMBER MARK-VIVERITO:
23 Okay. Well, I'm glad to hear that, you know, you
24 are in agreement with this. It will make the
25 process a little smoother, in terms of getting

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2 this approved more quickly. And I think, again,
3 it's based on, obviously, on-the-ground
4 experiences that individual tenants have, and
5 experiences with, a lot of times, corporations
6 that do hide behind, you know, the fact that they
7 own these corporations and you don't really know
8 who is the owner, who the individuals are who
9 accountable or responsible. And we have too often
10 situations in our communities where you have a lot
11 of violations, you have a state of disrepair in
12 apartments, creating hazardous conditions, you all
13 know that. So to the extent that we can really
14 provide opportunities for people to really hold
15 those individuals accountable and responsible,
16 that is the ultimate intent of this legislation.
17 So I'm really glad to hear that we've come a long
18 way on it, and that you are in agreement, and we
19 will take the recommendations and have
20 conversations and see if there is any additional
21 changes that we can implement. And with that for
22 now, Mr. Chair, I am done with my questions.

23 CHAIRPERSON DILAN: Okay, thank
24 you, Council member Viverito. A little
25 housekeeping, and just a little bit of

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2 information. I'm sure you've seen some members
3 already walk off at the beginning of this hearing.
4 What they all have in common is that they are
5 members of Council leadership, and the leadership
6 is meeting regarding the City budget and there'll
7 be some budget exercises that members will have to
8 get to at some point during this hearing. So if
9 you see a constant inflow and outflow of members,
10 please don't take it as a sign of disrespect,
11 because there's some other budget items going on
12 that members do have a tremendous amount of
13 interest in. So I'm going to just jump in with a
14 few questions, and then I have the list clear, so
15 if there's any members interested in asking
16 questions of HPD, I'd just like to ask them to get
17 to them quickly, because the number of bills that
18 we have on today's calendar is tremendous, and I
19 want to try to get to everything. So I'm just
20 going to be brief, as I said. Just under this
21 bill, if the principals of the corporation or
22 partnership are changed, what would require the
23 corporation or partnership to change their
24 records, to change their registration, and in what
25 time period?

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2 MS. MANSFIELD: When there's a
3 change in ownership.

4 CHAIRPERSON DILAN: Yeah, and if
5 you need me to restate the question, I will.

6 MS. MANSFIELD: Yes.

7 CHAIRPERSON DILAN: If you could
8 speak more directly into the mic, so that your
9 answer can be recorded.

10 MR. GONZALEZ: Could you restate
11 the question, actually?

12 MS. MANSFIELD: Yes.

13 CHAIRPERSON DILAN: Sure. Say
14 there's a change in ownership or the percentage of
15 an ownership, if the principals of the corporation
16 or the partnership are changed, what would be
17 their requirement to update their information, or
18 of that corporation or that partnership, what
19 changes would they have to make to their
20 registration statement, and within what time
21 frame?

22 MS. MANSFIELD: It is 30 days, and
23 that would not change under this bill.

24 CHAIRPERSON DILAN: So it would
25 remain- -

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2 MS. MANSFIELD: (Interposing) It's
3 currently 30 days when there's a change in
4 ownership or- -

5 CHAIRPERSON DILAN: (Interposing)
6 So it would remain current at 30 days.

7 MS. MANSFIELD: Yes.

8 CHAIRPERSON DILAN: Okay.
9 Currently the names and addresses of certain
10 principals of a corporation that own SRO's must be
11 provided ... oh, it was done already? Okay, so
12 we'll skip that. Has it been, I guess, in your
13 experience particularly difficult for HPD to
14 establish contact with owners who only provided
15 P.O. boxes as their address?

16 MS. TASSINA: We contact owners- -

17 CHAIRPERSON DILAN: (Interposing)
18 Into the mic, please.

19 MS. TASSINA: We contact owners,
20 not just through the P.O. box on the ... well, we
21 don't accept P.O. boxes on the registration form
22 currently. But we contact owners by the 24 hour
23 contact number, as well as the phone numbers on
24 the registration form. So we don't just contact
25 owners via mail. So- -

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CHAIRPERSON DILAN: (Interposing)

So HPD does not accept it?

MS. MANSFIELD: We don't currently accept a P.O. box on a registration form right now.

CHAIRPERSON DILAN: All right, so I want to follow up on a question that the sponsor asked, and it was around your concerns about failure of an ownership to register. What are the current ... under current laws, what are the penalties for an owner failing to register?

MS. MANSFIELD: A civil penalty of \$250, but that would require initiating litigation in Housing Court. Currently we would only make that claim in situations where there was a comprehensive action on a building because the building conditions were deteriorating. We would not independently start a case against somebody whose building was pristine.

CHAIRPERSON DILAN: Yeah, how ... I guess, how often do you take any legal actions for failure to register?

MS. MANSFIELD: I mean, I don't have a number on that.

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2 CHAIRPERSON DILAN: Do you have an
3 estimate, any type of estimate? You have no
4 numbers at all?

5 MS. TASSINA: I think in our
6 litigation unit, during the comprehensive cases,
7 it's part of their pleading, failure to register.

8 CHAIRPERSON DILAN: All right, well
9 this- -

10 MS. TASSINA: (Interposing) I don't
11 have numbers on that.

12 CHAIRPERSON DILAN: If ... I'd like
13 to make a request that you get back to the
14 Committee with the number of instances. Okay, so
15 I'm going to stop at this time, I may have some
16 questions at the end, but I'm going to acknowledge
17 Council member Brewer for the purpose of
18 questions.

19 COUNCIL MEMBER BREWER: No, I don't
20 have any, for once.

21 CHAIRPERSON DILAN: I thought you
22 were acknowledging me, we'll go to Council member
23 Jackson.

24 COUNCIL MEMBER JACKSON: Thank you,
25 and good afternoon, everyone. You know, in your

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2 statement you said that this could be done, but
3 you are requesting nine months. Why does it ... why
4 should it take nine months to implement something
5 like this? I just don't understand why it should
6 take so long. And normally, when someone says
7 nine months, they're really talking about a year
8 or a little longer than that. So tell me why
9 would it take so long, if in fact this law was
10 implemented, why would it take so long to
11 implement the law?

12 MS. MANSFIELD: Because currently
13 the information the law requires would not fit
14 into the fields or the logic of our computer
15 system. In order to reprogram the computer
16 system, we'd have to let an RFP, we'd have to
17 design specs, we'd have to basically hire people
18 to redesign the system, to enable the system to be
19 able to capture the information that Intro 87A
20 requires.

21 COUNCIL MEMBER JACKSON: But the
22 requirement is about registration, isn't it?

23 MS. MANSFIELD: Well- -

24 COUNCIL MEMBER JACKSON:

25 (Interposing) Isn't it?

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2 MS. MANSFIELD: Well, it requires
3 owners to register more information.

4 COUNCIL MEMBER JACKSON: Okay.

5 MS. MANSFIELD: Than they are
6 currently required to register.

7 COUNCIL MEMBER JACKSON: And so
8 basically what I'm hearing from you is that HPD
9 doesn't have the staff in order to do that. In
10 essence, what systems ... you don't have people that
11 can adjust your system? You'd have to hire a
12 contract every time you needed to do that?

13 MS. MANSFIELD: This would be a
14 major revision of the system, and yes we do.

15 COUNCIL MEMBER JACKSON: Right now
16 as far as HPD your computerized system, what's the
17 name of it?

18 MS. MANSFIELD: Premises.

19 COUNCIL MEMBER JACKSON: And how
20 long have you had that system in place, and by
21 what contractor?

22 MS. MANSFIELD: Almost, let's see,
23 '92, it's maybe fifteen years old, and I'm just
24 guessing there, I don't know exactly.

25 COUNCIL MEMBER JACKSON: And so in

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2 order to, if this law was passed, to reconfigure
3 that, you would have to then go back to that
4 contractor, to have it reconfigured? In order to
5 carry out the law?

6 MS. MANSFIELD: I don't know what
7 contractor would end up doing the work, but we
8 would need a contractor to reconfigure the system
9 to enable it to capture the information Intro 87A
10 would require owners to provide.

11 COUNCIL MEMBER JACKSON: I'm sort
12 of laughing because my colleague is saying our
13 interns can do it. Anyway, I just, you know, from
14 sitting here as a legislator, I can understand an
15 agency having to go through processes in order to
16 carry out a law. I just think that, considering
17 that you had a system for fifteen years, in
18 essence any time that you need to reconfigure it,
19 you have to then go back to a contractor to
20 reconfigure it, you know, and I think that's where
21 contractors hold us in a bind. And so we need to
22 educate our own people to be able to have our own
23 system in place, so when we need to reconfigure it
24 in order to get this additional information, or
25 maybe, as Gale said, maybe you should turn to Gale

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2 Brewer for her interns to do it. Just hire them,
3 and pay them 1/1000th of the money that you would
4 have to pay a contractor. So that's all, thank
5 you, sir, thank you, Mr. Chair.

6 CHAIRPERSON DILAN: I'm sure her
7 interns could do it, but I know one thing, I
8 certainly can't. So I'm not going to even go
9 there. Yeah. Council member James.

10 COUNCIL MEMBER JAMES: Hi.

11 CHAIRPERSON DILAN: And, I'm sorry,
12 we've been joined by Council member Eric Ulrich.
13 Council member James, I'm sorry.

14 COUNCIL MEMBER JAMES: So
15 oftentimes corporations register in these multi-
16 units and it's oftentimes difficult to get to the
17 actual owner. They fail to include personal
18 information. It's usually a corporation and
19 there's no personal liability of any individual
20 person. So it's really hard to pierce the
21 corporate veil, which is a legal term. So my
22 question really comes down to, what can you do,
23 what can we do with respect to just allowing
24 companies to register without any personal
25 information with respect to who is behind the

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corporation?

CHAIRPERSON DILAN: And before you answer, I'd like to remind everyone again, if their cell phones could be set to vibrate, and if there's a need for private conversations, to have them outside of the chambers.

COUNCIL MEMBER JAMES: So the question comes down to, should the principals of the corporation be listed, and if not, why not?

MS. MANSFIELD: Well, the corporate officers should be listed, and are listed, and that is what the law currently requires. But- -

COUNCIL MEMBER JAMES:
(Interposing) And let me just ... and it's listed where? Because when I go to a lot of the apartments in my district, it's usually WABC Corporation.

MS. MANSFIELD: There is under responsible parties also the names of officers and addresses at which officers can be served with process.

COUNCIL MEMBER JAMES: Within your office or the secretary of state?

MS. MANSFIELD: It's on the

1 registration form currently.

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3 COUNCIL MEMBER JAMES: It's on the
4 registration?

5 MS. MANSFIELD: Yes.

6 COUNCIL MEMBER JAMES: Okay, okay.
7 And is it on the web? I mean, is it on the
8 internet? Or does one have to actually go to your
9 administrative office to obtain that information?

10 MS. MANSFIELD: You can get, yeah,
11 it's on HPD info. Yes, online, HPD online.

12 COUNCIL MEMBER JAMES: Okay, I will
13 check that, because it's been my experience that
14 that has not been the case. But that's another
15 piece of legislation. Thank you.

16 CHAIRPERSON DILAN: Okay, thank
17 you, Council member James. And I forgot to
18 acknowledge Council member Williams, so I
19 apologize for that. I would like to acknowledge
20 him now to entertain HPD with some questions.

21 COUNCIL MEMBER WILLIAMS: No
22 problem, thank you. My question is simple. I'm
23 just wondering kind of on the same train of
24 thought. Has HPD ever had the same difficulties
25 in contacting an owner that the tenants and the

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advocates have had?

MS. TASSINA: Like I said earlier, we attempt to contact the owner through calling the registered managing agent, the last validly registered managing agent, any officer at any phone number given, and that's at the beginning of the complaint stage, as well as when we issue violations. It doesn't stop our ... the inability to contact the owner, however, doesn't stop the enforcement process. We're still able to issue violations, we're still able to perform emergency repairs, and we're still able to bring actions in Housing Court.

COUNCIL MEMBER WILLIAMS: You know, I have to ... I'm happy to co-sponsor this, but the primary sponsor, I think, is going to go a long way, but every time I have this hearing, my issue is the enforcement of the fines and collecting the fines is a problem, and I know that we need to add some more teeth in how we do that, as well as sometimes it's, you talk about emergency repairs, it just takes so long sometimes to navigate that whole system to get repairs done. And anything we can do to speed up both of those things would be

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2 great.

3 CHAIRPERSON DILAN: Okay, and just
4 for the benefit of my colleagues, there's going to
5 be no vote on these items today. At the end of
6 the hearing, these items will be laid aside, and
7 they'll be potentially disposed of at another
8 time. We've also been joined by Council member
9 Brad Lander of Manhattan ... I'm sorry, Brooklyn. I
10 am totally sorry. I'm having a rough day. I'm
11 sorry, you're one of mine, I should know that, you
12 know. So seeing no other questions from the
13 panel, I know you just got here, Brad, but if
14 there's anything you want to ask on this subject,
15 now is the time. And I know it's difficult
16 because you'd like to take a few minutes to get
17 adjusted.

18 COUNCIL MEMBER LANDER: Not knowing
19 anything has rarely stopped me from asking
20 questions.

21 CHAIRPERSON DILAN: Okay, so with
22 that, we'd like to thank you for your time and
23 your testimony.

24 MR. GONZALEZ: Thank you.

25 CHAIRPERSON DILAN: All right, so

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2 we do have ... we have ... I'd like to call Mitch
3 Posilkin from RSA, to come up and provide
4 testimony. Okay, you may begin.

5 MR. POSILKIN: Sure.

6 CHAIRPERSON DILAN: Just identify
7 yourself.

8 MR. POSILKIN: Good afternoon, my
9 name is Mitchell Posilkin, and I'm the general
10 counsel for the Rent Stabilization Association of
11 New York City. I'm just here to provide some very
12 brief testimony in opposition to Intro 87A, and
13 I'll just read from the very brief memorandum in
14 opposition that we've submitted. RSA, as you may
15 know, represents over 25,000 owners and managers
16 in New York City who own and manage over one
17 million units of housing. Intro 87 would expand
18 the current MDR form used by HPD to include
19 information relating to investors and corporations
20 or partnerships, in addition to the corporate
21 officers currently required on the MDR. There is
22 no apparent useful purpose in our view to require
23 this information. RSA in addition has had
24 discussions with practitioners and administrators
25 that utilize MDR's and we have yet to find a valid

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2 reason for requiring this additional information.
3 Currently, if a building is owned by a corporation
4 or a partnership, the officers and their contact
5 information is required already by HPD.
6 Additionally, the managing agent and an emergency
7 contact person, as well as a 24 hour contact phone
8 number, are also listed with the requisite contact
9 information. Requiring yet additional information
10 concerning business addresses of partners or
11 investors, in our view, serves no legitimate
12 purpose, particularly given the extent of the
13 information already available to HPD through its
14 own database, as well as the databases of other
15 government agencies, including the Department of
16 Finance and the State Division of Housing and
17 Community Renewal. As a result, RSA is opposed to
18 Intro 87A for the above stated reasons. If you
19 have any questions, I am happy to answer them.

20 CHAIRPERSON DILAN: Okay, the only
21 member I see at this time with questions is
22 Council member Williams.

23 COUNCIL MEMBER WILLIAMS: Thank
24 you, Mr. Chair. I'm shocked and amazed that RSA
25 is opposed to this legislation. My first

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2 question, is there an extra administrative cost or
3 any cost that would be affiliated with
4 implementing this?

5 MR. POSILKIN: Not that I'm aware
6 of, other than HPD ... other than the testimony that
7 HPD ... to property owners, no.

8 COUNCIL MEMBER WILLIAMS: Yes.

9 MR. POSILKIN: With regard to HPD,
10 obviously they've already testified to that.

11 COUNCIL MEMBER WILLIAMS: So I'm
12 just unclear then, to what your opposition is.

13 MR. POSILKIN: Well, the opposition
14 is really based upon, I guess, a couple of points.
15 One is that we firmly believe that there is
16 already adequate information provided to HPD by
17 property owners, that there is in addition to that
18 information, other information available through
19 the databases from other government agencies. And
20 as far as we are aware, all of that contact
21 information provided by those different government
22 agencies has not ... in fact has enabled HPD to
23 bring any and all enforcement actions that they
24 have needed to bring. And I highlight one other
25 point, which is that, you know, the existing law

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2 already requires, as you know, this additional
3 information to be provided by owners of SRO hotels
4 in the city. That's been the law for I don't know
5 how many years. As you heard HPD testify, they
6 have never implemented that provision, and one ...
7 and I have on the other hand, you've never heard,
8 I've never heard of enforcement efforts that were
9 unsuccessful because that additional information
10 relating to investors was not available. Cases
11 are brought, enforcement actions are brought in
12 Housing Court all the time. Enforcement actions
13 to collect emergency repair liens are brought, the
14 correction of violations is undertaken by HPD, and
15 I think, so if you're ... we have guessed this is
16 additional information, which on paper, yes, adds
17 transparency, as the sponsor has indicated. On
18 the other hand, we're trying to understand what
19 ultimate purpose, other than transparency where
20 there is no demonstrated problem that we're aware
21 of, what that is accomplishing. And I think HPD's
22 testimony also highlights one other point, which
23 is that, to the extent that legislation like this
24 results in undercompliance by property owners.
25 The people that are not going to comply, for the

1
2 most part, are going to be clever enough not to
3 comply. And the laws like the harassment law and
4 other laws that get enacted, oftentimes end up
5 victimizing or subjecting the people that will
6 comply anyway. The people that end up avoiding
7 those laws are the same people that will avoid
8 this law as well. And I think at the end of the
9 day the question is, not how we enact more laws to
10 affect all property owners, the question is, how
11 do you better target a piece of legislation so it
12 really targets those people who are the bad
13 actors. And I think, although we disagree on this
14 bill, I think we do have that in common.

15 COUNCIL MEMBER WILLIAMS: I do
16 think we do have to step up enforcement, but I
17 mean, I've listened to everything you've said, and
18 I couldn't find one way it would be harmful to
19 provide this extra information, and having been on
20 the ground and been a tenant organizer, I do see
21 the benefit in providing additional information,
22 because in many, many times it's nearly impossible
23 to find out who we should be directing our energy
24 toward. And anything that can help us do that,
25 and help any advocate do that, I think it is

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beneficial.

CHAIRPERSON DILAN: Any other members have questions? Council member Viverito.

COUNCIL MEMBER MARK-VIVERITO: It's not necessarily ... I mean, just to respond to what he was saying, in terms of the concern. I mean, don't you think that if there is a face behind the corporation, that basically people will act more responsibly. Right now they can hide behind an entity which is anonymous, that doesn't have a face. People don't know who to contact, people don't know where to go, if they have a problem. Why should the city have to resort to have to step in and assume litigation against a landlord who has been negligent? Like we shouldn't have to get to that point. So if there is a face behind the corporation that people can go to, I think it will help, you know, in making them behave more responsibly, and not create situations which are really detrimental to the health and to the quality of life of individuals in apartments. So I think that that is ultimately, I mean, why would you have a problem with that?

MR. POSILKIN: Well, I think we ... I

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2 guess maybe where we're talking past each other,
3 I'm not really sure. There already are names
4 attached to these multiple dwelling registrations.
5 There are names for the officers of the
6 corporation. There is a name of the managing
7 agent, there is a 24 hour contact number. No
8 multiple dwelling registration form is accepted
9 for filing by HPD unless those names are on that
10 form. So the question is, what does this
11 additional information that you are proposing to
12 be required, what will that buy HPD? And as we've
13 already seen, with the law that's been on the
14 books relating to SRO hotels, it hasn't bought
15 them anything because they never even implemented
16 it. And they are ... yet on the other hand they
17 were able to enforce the housing code against
18 owners of SRO hotels over all of these years in a
19 very diligent manner, as they bring hundreds and
20 hundreds of cases every year for building-wide
21 violations. They bring thousands of cases every
22 year for heat and hot water violations. And all
23 of those cases are brought using the existing
24 information available in HPD's database, and the
25 database of other government agencies. So I think

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2 that there already is that accountability that you
3 are looking for, and I'm just saying that
4 requiring yet more information doesn't
5 necessarily, I believe, get you what you're
6 looking for, which is that level of
7 accountability. I think there will always be
8 clever people who will circumvent this, or any
9 legislation. You know, we can go through any
10 number of laws that we're all familiar with, where
11 clever people are able to manipulate their
12 structure to circumvent them. And I'm just saying
13 that this will not ... the responsible owners will
14 end up complying with this, but if at the end of
15 the day your goal is really to target the
16 irresponsible owner, the bad apple, the bad actor,
17 they're going to figure out a way to get around
18 this. And that's my, that's our point.

19 COUNCIL MEMBER MARK-VIVERITO: And
20 then we'll figure out a way to close the loophole.
21 So I mean, we will disagree on that- -

22 MR. POSILKIN: Well, maybe that's
23 where we should be targeting our efforts.

24 COUNCIL MEMBER MARK-VIVERITO: No,
25 if it gets to that point, I don't necessarily

1
2 agree with what you're saying, but again, I thank
3 you for your testimony, though, and this also will
4 create some level of uniformity because, yes, it's
5 information that's currently required of corporate
6 SRO multiple dwelling units, but it's not uniform
7 across the board with others. So we want to ...
8 that's also something that will be addressed. But
9 again we don't necessarily agree, but I appreciate
10 you coming in and providing your testimony, thank
11 you.

12 MR. POSILKIN: Thank you.

13 CHAIRPERSON DILAN: Council member
14 Lander.

15 COUNCIL MEMBER LANDER: I was just
16 curious, so are you also opposed to the second
17 part of the bill that would prohibit the use of a
18 mail delivery box as an address for owners?

19 MR. POSILKIN: We believe that
20 HPD's recommendation, which we were not aware of
21 until I just heard their testimony, is the proper
22 way to go, that there should be ... HPD already
23 prohibits administratively the use of the P.O.
24 boxes, so we don't have an issue with that part of
25 the legislation. I would just state that HPD, I

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2 think, has figured out a way to allow for P.O.
3 boxes, so long as a business address is also
4 provided, and as long as that's done, then, you
5 know, the issue has been addressed adequately, in
6 our view. But certainly, HPD's practices, the law
7 ... you know, HPD's practice is consistent with what
8 the bill, you know, would do anyway.

9 COUNCIL MEMBER LANDER: So you're
10 not opposed to that part of the bill?

11 MR. POSILKIN: Not opposed to it in
12 and of itself, no. But we do buy into what HPD
13 has proposed as an alternative.

14 COUNCIL MEMBER LANDER: Thank you.

15 MR. POSILKIN: Thank you.

16 CHAIRPERSON DILAN: Okay, seeing no
17 other questions from my colleagues, I'd like to
18 thank you for your time and testimony.

19 MR. POSILKIN: Thank you.

20 CHAIRPERSON DILAN: The next panel
21 will be Ericka Stallings, John Whitlow and Maria
22 Najera. Okay, why don't we begin with Ms.
23 Stallings?

24 MS. STALLINGS: Hello, can you hear
25 me? Great, hi. Good afternoon, my name is Ericka

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2 Stallings, I'm the housing advocacy coordinator of
3 the New York Immigration Coalition, a policy and
4 advocacy organization with approximately 200
5 member groups throughout New York State that work
6 with immigrants and refugees. I would like to
7 thank the Committee on Housing and Buildings, as
8 well as the members of the City Council for
9 allowing our organization to testify at this very
10 important hearing on Intro 87. Our member groups
11 have increasingly reported that tenants of
12 corporate-owned multiple dwellings are having
13 great difficulty accessing the owners of their
14 buildings. This limits their abilities to get
15 repairs, pursue litigation, or simply bypass
16 unhelpful frontline staff. By requiring landlords
17 organized as corporations and partnerships to
18 register the names of the individual owners with
19 stakes of 25% or more, Intro 87 encourages needed
20 transparency and provides tenants with basic
21 information about their home. For many tenants
22 their only access to the owner of their building
23 is through a P.O. box, an answering service or an
24 intermediary with limited authority. To the low
25 income immigrant and limited English proficient

1 tenants, it is extremely important to reduce
2 barriers that prevent tenants from identifying
3 owners and decision makers. The alternatives,
4 reviewing government records, such as those at the
5 Department of Finance, are daunting, particularly
6 without legal assistance or support from an
7 advocacy organization. These barriers exacerbate
8 the housing challenges of immigrants who are
9 already more likely to live in substandard
10 conditions, and are significantly less likely to
11 make complaints about housing violations. Intro
12 87 would give tenants and advocates a greater
13 access to key decision makers, thereby reducing
14 delays in the correction of housing problems. If
15 Intro 87 is passed, tenants will have better
16 access to individuals who have the capacity and
17 authority to address important tenant concerns,
18 directing their communication to individuals who
19 have direct responsibility and control over the
20 conditions of tenant homes. This is an important
21 tool for tenants and advocates, and for this
22 reason the New York Immigration Coalition strongly
23 encourages the City Council to support this
24 legislation. Thank you.
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CHAIRPERSON DILAN: Okay, Ms.

Najera.

MS. NAJERA: (speaks in Spanish)

MS. ALDARIAS: Good afternoon, my name is Aldarias, I'm a freelance interpreter and I'll be interpreting for Ms. Najera. The testimony is as follows. Good afternoon, my name is Maria Najera, and I am a member of Make the Road New York, and I have lived in my apartment for four years. I am here to talk to you today about my efforts to communicate with the manager and the landlord to my apartment building. Last year, January 2009, a man came to our apartment and told me that he was the new manager of the building because there were new owners. He gave us a letter with an address on where to send the checks for the rent payments. However, in that letter there was only a name of a corporation and not specific names of the owners. The address where the check was to be sent was a mailbox in a post office store. The same year we had problems with our apartment due to the lack of repairs. The manager promised he would fix them, but never did. This January 20th, there was construction on

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2 the first floor and the second floor of the
3 building, without any notice from the management.
4 When I arrived from a doctor's appointment with my
5 two children, I had a difficult time entering the
6 building because there was a lot of dust and
7 garbage. When I entered the building, I saw that
8 there was dust and holes in my apartment due to
9 demolition occurring in the other floors. The
10 owners, whose names I do not know, put my family's
11 lives in danger with the construction in the
12 building. My son had recently had an operation,
13 an appendix operation, and the doctor told me he
14 was to rest in a clean place. After the
15 construction in the apartment building I filed a
16 lawsuit against the corporation due to the lack of
17 repairs. When we went to the court, only the
18 lawyer and the manager were present, but not the
19 owners of the corporation. The lawyers reached an
20 agreement that stated that my husband and I would
21 get a discount off our rent due to the bad
22 conditions. And the manager would make all the
23 necessary repairs. The conditions in our
24 apartment have still not been fixed, and we will
25 probably have to go to court to get our landlord

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2 to comply with the law. Presently the building is
3 infected with mice and cockroaches. I have to be
4 cautious when I enter my home and wait until the
5 mice go back into the holes in the wall. I feel
6 that my landlord has ignored his responsibilities
7 to me and my family, I support the proposed law,
8 because it would make it harder for landlords to
9 hide behind a corporation, and it will make them
10 more accountable to their tenants.

11 CHAIRPERSON DILAN: Okay, thank
12 you. Mr. Whitlow?

13 MR. WHITLOW: Thank you. My name
14 is John Whitlow and I'm a supervising attorney at
15 Make the Road New York, a non-profit organization
16 based in the communities of Bushwick, Brooklyn,
17 Jackson Heights, Queens and Port Richmond, Staten
18 Island. We work to promote economic justice,
19 equity and opportunity for all New Yorkers. Our
20 organization consists of over 7,000 members, most
21 of whom are immigrant tenants, and many of whom
22 live in sub-standard housing. I submit this
23 testimony on behalf of Make the Road New York, and
24 thank the Committee for the opportunity to
25 participate in this hearing. I would particularly

1
2 like to thank Council member Melissa Mark-Viverito
3 for her strong support of this law. Make the Road
4 New York supports the proposed law, Intro 87A,
5 which requires that corporate owners of multiple
6 dwellings register with HPD the names of
7 individuals who own at least 25% of the
8 corporation, and register an actual brick and
9 mortar address of their businesses. Make the Road
10 New York began working on this issue when we saw
11 that a significant number of our members,
12 particularly those living in sub-standard housing,
13 simply had no idea who their landlord was. When
14 doing housing-related legal intakes, we repeatedly
15 saw the same problem. A new landlord, organized
16 as a limited liability corporation, had bought the
17 building, announcing its presence with a note
18 directing the tenants to send rent to a post
19 office box. When our attorneys and paralegals
20 checked HPD's online registration for the
21 building, they would often see the same name
22 listed as the building's corporate officer,
23 managing agent and emergency contact, with a
24 registered address which was in fact a post office
25 box. Many of our members reported significant

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2 difficulty trying to contact their landlords to
3 get problems resolved. Indeed, the only
4 interaction that a number of our members had with
5 their landlords was in Housing Court, and even
6 there, they rarely if ever dealt directly with
7 anyone with real decision-making authority over
8 the property. Intro 87A amends the current
9 registration scheme by making the requirement that
10 corporate-owned SRO's register the names of
11 individual owners of 25% of the corporation
12 applicable to all corporate-owned multiple
13 dwellings, and by specifying that landlords
14 register with HPD an actual brick and mortar
15 address. Intro 87A is an improvement over the
16 current law primarily because its enhanced
17 registration requirements will lead to greater
18 transparency in landlord-tenant relations. By
19 requiring that all corporate multiple dwelling
20 owners register the names of individual owners of
21 the corporation, the law significantly increases
22 the likelihood that tenants will be able to
23 communicate with people that possess real
24 decision-making authority over their buildings.
25 This will mean that tenants will not necessarily

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2 have to resort to litigation and/or agency
3 complaints to get repairs made in their
4 apartments, or to address problems relating to
5 their rent or leases. The requirement that
6 corporate multiple dwelling owners register brick
7 and mortar address with the city further chips
8 away at recalcitrant landlords' ability to shield
9 themselves from their legal obligations to their
10 tenants. The law will be an important tool for
11 tenants and housing advocates, who can use a
12 landlord's improper registration as a defense in
13 Housing Court. As more tenants interpose the law
14 as a defense, it will pressure non-complying
15 landlords to accurately register, since failure to
16 do so acts as a bar to the collection of rent in
17 Housing Court. Intro 87A will also promote
18 greater transparency in the real estate market, as
19 it will better allow the city to track patterns in
20 concentrations of property ownership. Under the
21 current registration regime, there is no truly
22 accurate way to determine which individuals own
23 which, or how many, properties. Given the recent
24 mortgage and foreclosure crisis, this can lead to
25 blind spots that greatly handicap policy makers'

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2 ability to intervene to stabilize markets. Intro
3 87A is a straightforward, commonsense improvement
4 to the city's existing registration requirements
5 for corporate multiple dwelling owners. It
6 follows and amplifies already existing and
7 longstanding SRO registration requirements and it
8 does not require a significant expenditure of city
9 resources. In short, through this simple change
10 to the code, tenants all over the city will have
11 more clarity about who owns their building, and
12 will be more likely to resolve their housing
13 problems without resort to litigation. In
14 conclusion, for all of these reasons, Make the
15 Road New York urges the Committee to approve Intro
16 87A, and to support the law for passage in the
17 City Council. We are hopeful that the Council
18 will share our commitment to safeguarding tenants'
19 rights by promoting transparency and
20 accountability in the corporate multiple dwelling
21 registration process. Thank you.

22 CHAIRPERSON DILAN: I would think
23 the common approach, whether you're on the
24 tenant's side of the ledger or the owner's side of
25 the ledger, is to resolve all problems without

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2 litigation, but that's just my opinion. Do any of
3 my colleagues have any questions for this panel?

4 Council member Viverito?

5 COUNCIL MEMBER MARK-VIVERITO:

6 First of all, Senora Najera? (speaks in Spanish)

7 And Mr. Whitlow, I want to thank you, because I

8 think there's two points that you raised which

9 didn't come out before, which is about being able

10 to use the improper registration as defense in

11 Housing Court, which I think is important, and

12 also about being able to track the multiple, you

13 know, how these individuals own multiple

14 properties and multiple companies, and I think

15 that keeping track of that, and I know that's

16 something that had come up in prior conversations

17 with HPD, is how we keep track of kind of some of

18 the ones that have been more ... you know, the worse

19 landlords, so to speak, and being able to track

20 how many buildings they own, and to this extent is

21 very helpful. So thank you for the testimony.

22 Thanks to both of you, to all of you as well.

23 CHAIRPERSON DILAN: Okay, so just

24 one question before you go, for Mr. Whitlow. You

25 said in your testimony that you have had instances

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2 where you've looked up the registration that was
3 filed with HPD that indeed include a P.O. box,
4 even though HPD testified that that wasn't common,
5 that that wasn't their current policy?

6 MR. WHITLOW: Actually it's an
7 important point to clarify. Often what we see is
8 an address which is, from looking at the address
9 you wouldn't know on its face that it's a P.O.
10 box. It's in fact a mailbox store that has boxes
11 inside, it's not an actual place of doing
12 business. So, you know, the most commonly used is
13 199 Lee Avenue in Brooklyn, a significant number
14 of our members have landlords registered at that
15 address. Again, it's just a store full of small
16 mailboxes.

17 CHAIRPERSON DILAN: And that's
18 acceptable to HPD, and not a P.O. box? Apparently
19 they're getting away with it.

20 MR. WHITLOW: I- -

21 CHAIRPERSON DILAN: (Interposing)
22 Whether it's acceptable to them or not, they're
23 getting away with it.

24 MR. WHITLOW: Right, I don't want
25 to speak for the agency, I do think it's something

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2 that we see with possibly the majority of our
3 people who are tenants in Brooklyn.

4 CHAIRPERSON DILAN: Do you have an
5 estimate about how many tenants at that one
6 particular site, an estimate on the- -

7 MR. WHITLOW: (Interposing) I can
8 really only speak anecdotally, but I think between
9 that site and there's another, which is 543
10 Bedford Avenue, I would actually say probably the
11 majority of our members who come in with housing
12 problems in Bushwick have their landlords
13 registered at those two, one of those two sites.

14 CHAIRPERSON DILAN: All right, so
15 do you have an anecdotal number of people?

16 MR. WHITLOW: More than half.

17 CHAIRPERSON DILAN: More than half?

18 MR. WHITLOW: Yes.

19 CHAIRPERSON DILAN: Thank you.

20 MR. WHITLOW: Thank you.

21 CHAIRPERSON DILAN: Any other
22 questions? If not, thank you for your time and
23 testimony today. Next we'll have Mr. Dave Hanzel,
24 Maria Maisonette, and Mr. Michael Grinthal. And
25 this will be the last panel for 87A, then at the

1
2 end of this panel, this item will be laid aside
3 and we'll begin the hearing on the green code
4 bills. Okay guys, you know I have a ladies-first
5 policy, so.

6 MS. MAISONETTE: Good afternoon,
7 thank you. Good afternoon, my name is Maria
8 Maisonette and I am a leader with New York
9 Communities for Change.

10 CHAIRPERSON DILAN: I'm sorry,
11 Maria, could you speak more directly into the
12 microphone?

13 MS. MAISONETTE: Sure. Rich
14 landlords are hiding behind names of corporations
15 anonymously abusing tenants. Tenants need to be
16 able to organize, to fight for their rights, just
17 like I did when we were organized in Star City to
18 keep our housing affordable. If tenants don't
19 know who their owner is, it is much, much harder
20 to fight for your rights, such as getting repairs
21 and disputes over rent payments. We need to
22 strengthen and reform our laws so that landlords
23 cannot get away with hiding in the shadows,
24 leaving tenants with no options outside of going
25 to court to get justice. If we cannot hold

1
2 landlords accountable for what their actions are,
3 they will continue to treat tenants as such ...
4 excuse me. They will continue to treat tenants as
5 sources of income for their portfolios rather than
6 as people, and continue ... and the continuance in
7 which we are forced to live ... I'm sorry, I'm a
8 little nervous.

9 CHAIRPERSON DILAN: Relax.

10 MS. MAISONETTE: And the conditions
11 in which we are forced to live. Thank you.

12 CHAIRPERSON DILAN: Thank you.

13 MR. GRINTHAL: Good afternoon,
14 Committee, my name is Michael Grinthal, I'm a
15 housing staff attorney at South Brooklyn Legal
16 Services, I'm testifying this afternoon on behalf
17 of South Brooklyn Legal Services and Legal
18 Services New York City. Legal Services New York
19 City provides free legal services in civil matters
20 to low income households throughout New York City.
21 South Brooklyn Legal Services is a program of
22 Legal Services NYC that provides free legal
23 services to low income residents of the
24 neighborhoods of South Brooklyn. Our housing unit
25 represents individual tenants facing eviction as

1 well as groups of tenants who are seeking to
2 improve their living conditions or avoid
3 displacement. We strongly urge passage of Intro
4 87A, which would improve transparency in the
5 ownership of rental housing, and would help make
6 the multiple dwelling registration work more
7 effectively for tenants and communities. As a
8 housing attorney, I meet hundreds of tenants every
9 year, my office speaks with thousands whose
10 ceilings are falling in, whose windows are broken,
11 whose heat does not work, whose walls are covered
12 in mold, whose doors don't lock. And in every
13 neighborhood and every building, regardless of the
14 conditions, regardless of what the tenants are
15 facing, whether they are asking in English, in
16 Spanish, in Creole, in Russian, in Yiddish, in
17 Mandarin, every one of these tenants ask me the
18 same question. Who is my landlord? Now, all
19 these tenants know of their landlords is the LLC
20 that is named on the multiple dwelling
21 registration, which is usually simply the name of
22 the address of the building, with LLC after it.
23 The address given for the multiple dwelling
24 registration, as others have testified today, is a

1 post office box, often at 199 Lee Avenue. When I
2 first started as a housing attorney, I imagined
3 that 199 Lee Avenue was an enormous skyscraper,
4 full of management companies. In fact, it's a
5 small room, about one quarter the size of this
6 room. It's true, as the RSA testified earlier
7 today, that the MDR does list the names, or it's
8 supposed to list the names of corporate officers,
9 emergency contacts, managing agents. It's also
10 true that very often those are the same names
11 listed at the same address, the same post office
12 box. The emergency contact may be the
13 superintendent of the building, who has no real
14 authority to address anything beyond small
15 immediate repairs. The individuals with authority
16 to respond to tenant problems remain anonymous and
17 unreachable. And often these tenants have formed
18 tenant associations seeking to improve the
19 conditions in their buildings, but they can't
20 contact anybody with the authority to address the
21 problems in their apartments. As an attorney, I
22 can, and I often do, help tenants by looking up
23 signatures on deeds, searching Westlaw, Lexus-
24 Nexus, other legal databases, other kinds of
25

1
2 online resources, to find corporate and property
3 transaction information. Eventually we can
4 excavate the names and the contact information of
5 the people with authority to make decisions in
6 these buildings, but tenants should not have to
7 retain lawyers to find out who their landlords
8 are. Nor is this a cost effective use of scarce
9 legal resources. Before testifying today, I went
10 over my timekeeping records. In 2010 alone I have
11 spent thirty hours, at least, helping tenants
12 uncover the most basic information about the
13 ownership and control of their homes. My office,
14 South Brooklyn Legal Services, due to limited
15 capacity is forced to turn away more than 50% of
16 eligible tenants facing eviction who come to us
17 for help. We support Intro 87A primarily because
18 it would provide tenants and tenant associations
19 with the information they need to resolve issues
20 with their landlords directly. However, another
21 benefit of passing this legislation is that the
22 cost of implementing this relatively minor change
23 to an already existing registration process is far
24 less than the cost of hundreds of hours of legal
25 services, which are funded in part by the city,

1
2 which could then be redirected to more efficiently
3 assisting tenants and preventing homelessness.

4 Now, a separate, an entirely separate benefit of
5 this legislation, is that it would also give a
6 powerful tool to address a large-scale problem
7 that the Council has recognized as a destructive
8 and destabilizing force in the New York City
9 housing market, and I'm talking about predatory
10 equity. As the Council is all too aware- -

11 CHAIRPERSON DILAN: (Interposing)

12 Could I ask you to sum up, please?

13 MR. GRINTHAL: I'm sorry. As the
14 Council is aware, over the past several year large
15 investors have consolidated huge pieces of the New
16 York City housing market, and it's been very
17 difficult to track them, it's taken again
18 hundreds, dozens of hours of legal resources. By
19 making the corporate owners of the LLC's who
20 purchase these buildings visible on the multiple
21 dwelling registrations, it very quickly and
22 inexpensively makes it possible to track the
23 consolidation of housing markets. So again, much
24 work remains to be done in improving the MDR, but
25 this is a simple and cost effective step forward.

1
2 We thank the City Council for introducing the
3 legislation, and strongly urge its passage.

4 CHAIRPERSON DILAN: Thank you.

5 MR. HANZEL: Good afternoon, thank
6 you, Chairman Dilan and Council members for this
7 opportunity to testify in support of Intro 87A.
8 My name is Dave Hanzel, I'm the Policy Director
9 for the Association for Neighborhood and Housing
10 Development. ANHD is a nonprofit membership
11 organization of over 100 neighborhood-based
12 housing groups across the five boroughs. The
13 folks who have testified before me on this panel
14 and on the previous panel have done a remarkable
15 job summarizing the problem and how this
16 Introduction would take great steps to improve the
17 tenant/landlord relationship, so I will streamline
18 my testimony. Intro 87 is of great importance to
19 ANHD and we would like to recognize the leadership
20 of Council member Mark-Viverito for her efforts to
21 bring greater accountability and transparency.
22 ANHD continuously encounters the problems with
23 corporate owners that were detailed by Make the
24 Road, New York Immigration Coalition and South
25 Bronx (sic) Legal Services. When working with our

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2 members who are helping tenants get repairs, stop
3 harassment, or identify predatory equity-backed
4 developers who are destabilizing both buildings
5 and entire neighborhoods, one of our members, the
6 Pratt Area Community Council, which works in Fort
7 Green, Clinton Hill, Bed-Stuy and Prospect
8 Heights, is currently working in 40 buildings, and
9 they estimate that over 90% are owned by
10 corporations or partnerships. As multi-family
11 housing becomes increasingly owned by these types
12 of corporations, and not individual owners, it is
13 clear that action must be taken in order to
14 empower our tenants to get repairs made and
15 maintain their housing. Had the proposed system
16 been in place, it would have been much easier for
17 us at ANHD to identify at-risk buildings and
18 intervene to insure tenants were not displaced,
19 services were not disrupted, and local elected
20 officials were notified of the potential impact on
21 their district. ANHD believes the lack of
22 transparency governing the regulations statements
23 is unfortunate and begets questions as to whether
24 the owner truly intends to be a responsive,
25 accountable property owner. Intro 87 presents a

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2 cost effective, straightforward way for tenants to
3 have access to the name and contact information
4 for the owner or an empowered designee, and that's
5 key, a designee who is empowered to rectify these
6 situations, so that issues are resolved in a
7 timely manner. Again, thank you for your
8 attention to this matter, and we hope that you
9 will support Intro 87.

10 CHAIRPERSON DILAN: Thank you, Mr.
11 Hanzel. I defer to my colleague, if she has
12 anything. If not, I'd like to thank you all again
13 for your time and your testimony here today.
14 Thank you.

15 MR. HANZEL: Thank you.

16 CHAIRPERSON DILAN: I do have one
17 piece of testimony that's to be submitted for the
18 record, that's from the Legal Aid Society, and I
19 believe it's in support. I can't quite tell by
20 looking at the first couple of lines.

21 FEMALE VOICE: It's in support.

22 CHAIRPERSON DILAN: It's in
23 support, and we'd like for that to be entered into
24 the record as if read in full. At this time ...
25 okay, just give it to the sergeant, and then we

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2 can submit that. All right, so I've also been
3 given testimony for the record from the Pratt Area
4 Community Council, and that will be entered into
5 the record as if it was read in full. And at this
6 time Intro 87A is laid aside, and that will
7 conclude the first portion of this hearing. So
8 we'll take a five minute recess, and I will resume
9 the second half of this hearing at that time.

10 [pause]

11 The hearing, I believe if the
12 administration has testimony that they need to
13 provide the Committee, if you haven't given it to
14 the sergeant-at-arms, please do so at this time,
15 for the benefit of the members, so that we can
16 read along with the testimony. Okay. Okay, so
17 now we begin the second part of the hearing, and
18 I'd like to reconvene at this time on the nine
19 other bills on today's agenda. And they're based
20 on recommendations from the New York City's Green
21 Codes task force, and are intended to improve the
22 energy efficiency of newly-constructed buildings
23 in the City of New York. These four bills seek to
24 improve water efficiency of buildings, and the
25 first of those are proposed Introduction 263A,

1
2 which is a local law to amend the code of the city
3 in relation to reducing the waste of drinking
4 water for cooling heavy equipment. Intro 264 is a
5 local law to amend the plumbing code of the City
6 of New York in relation to drinking fountains, and
7 Intro 268, which is a local law to amend the code
8 in relation to preventing water waste in
9 buildings, as well as Intro 271, which is another
10 law that would amend the city's code in relation
11 to enhancing water efficiency standards. And
12 those are the set of bills that relate to water.
13 There are also another four set of bills on the
14 agenda that deal with lighting efficiency in
15 buildings, the first of which is Intro 266, which
16 is a local that would amend the city's code in
17 relation to energy efficiency standards in
18 commercial buildings, 273, another law that will
19 amend the city's building code in relation to the
20 lighting of temporary walkways at construction
21 sites, as well as Intro 277, which will amend the
22 administrative code of the city in relation to
23 improving lighting efficiency in dwellings.
24 Lastly we have on the agenda Intro 267, which is,
25 I believe, sponsored by my colleague Jim Gennaro,

1
2 that would explicitly make environmental concerns
3 a guiding principle and interest in the New York
4 City's building code. The Committee expects to
5 hear testimony today on these nine set of bills
6 from representatives of the Department of
7 Buildings, HPD, real estate professionals,
8 including developers and contractors, and any
9 other persons interested in these bills, and I
10 would like to remind the general public again at
11 this time, if you would like to testify in favor
12 or in opposition to any of these bills, please see
13 the sergeant-at-arms and fill out an appearance
14 card, and indicate whether you are for or against
15 any of the nine items that I outlined in my
16 opening, and we would also like to ask that if
17 there is a need for private conversation, if it
18 could happen outside of this hearing room, and to
19 ask that all cell phones be either shut off or
20 turned to silent mode.

21 Okay, so first we will hear from
22 the administration. We have Ms. Laurie Kerr from
23 the Mayor's office, welcome. And we have a Mr.
24 John Lee, who is here on behalf of the Department
25 of Buildings. You can go in any order. Just

1
2 identify yourself in your own voice, even though I
3 have already introduced you.

4 MS. KERR: I'll be presenting the
5 testimony. Good afternoon, Chair Dilan and
6 members of the Committee. I'm Laurie Kerr, Senior
7 Policy Advisor in the Mayor's office of Long-term
8 Planning and Sustainability, and a registered
9 architect in the State of New York. Thank you for
10 the opportunity to testify today on the nine
11 introductory bills that would improve the
12 environmental impacts from the design,
13 construction and operation of buildings in New
14 York City, especially as related to lighting and
15 water use. These bills would help us achieve
16 several NYC initiatives, and we have appreciated
17 the opportunity to work with the Council on these
18 pieces of legislation. In PlaNYC, the City set
19 forth an initiative to "strengthen the energy and
20 building codes to support energy efficiency
21 strategies and other environmental goals".
22 Because New York City's buildings have a major
23 impact on the City's environment, this broad
24 initiative will help the City achieve many
25 PlaNYC's goals, including the enhanced reliability

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2 of our water and energy systems and a 30%
3 reduction in citywide greenhouse gas emissions by
4 2030, a goal that was codified into local law 22
5 of 2008. For example, 75% of our carbon emissions
6 come from energy used in buildings, 85% of our
7 water is consumed in buildings, and over 60% of
8 our solid waste by weight is construction debris.
9 Determining how New York City's code should be
10 amended to achieve the City's objectives in a
11 cost-effective manner is clearly a vast,
12 technically complex project, requiring LEED
13 certifications, a widely known voluntary
14 certification program for green buildings
15 developed by the U.S. Green Building Council for
16 private sector buildings, is an approach that has
17 been taken by some cities. But the City
18 ultimately rejected this strategy because LEED was
19 not crafted as a regulatory tool. Also many LEED
20 measures do not translate perfectly to the New
21 York context, while other pervasive New York City
22 issues, such as the lighting used in sidewalk
23 sheds, are not addressed. Therefore, in the
24 spring of 2008, Mayor Michael Bloomberg and
25 Speaker Christine Quinn asked the Urban Green

1 Council to assemble a Green Codes task force,
2 composed of the City's experts in real estate and
3 sustainable design, in order to develop
4 enforceable recommendations tailored specifically
5 to New York City. The task force consists of over
6 200 individuals from private real estate firms,
7 development and construction companies, and
8 architecture and engineering firms and was
9 assisted by technical staff from several City
10 agencies. The task force was asked to consider
11 not just the building codes, but also the zoning
12 resolution, the housing maintenance code and other
13 codes and regulations that impact building design,
14 and they were asked to look for opportunities to
15 remove code impediments to sustainable design,
16 since these tend to be cost neutral, along with
17 the code enhancements that should be added. The
18 task force developed 111 proposals that were
19 delivered to the Mayor and the Speaker on February
20 4th of 2010, after eighteen months of pro bono
21 work. Several of these proposals, including
22 requirements for retrocommissioning or sub-
23 metering tenants, have already been enacted as
24 part of the greener greater buildings plan, or as
25

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2 updates to the energy code. And another proposal
3 requiring that the City streamline the approval of
4 sustainable technologies and projects was adopted
5 by the Department of Buildings through the
6 creation of a building sustainability board, and
7 enacted into law as local law 5 of 2010. The
8 remaining proposals have been undergoing an
9 exhaustive review by the green codes task force,
10 industry advisory committee, as well as City
11 agencies. The nine introductory bills before the
12 Committee represent the first fruits of that
13 refinement process. The Office of Long-term
14 Planning and Sustainability is pleased to testify
15 in general support of all these introductory
16 bills, which would help achieve PlaNYC's goals in
17 measurable ways. Intros 283, 268, and 271, which
18 address water efficiency, would reduce per capita
19 water consumption by an estimated 6.7% by 2030.
20 This translates into a reduction of almost 8.5
21 gallons per person per day, and a more drought-
22 resistant water system for all New Yorkers.
23 Intros 262, 266, 273, and 277, which address
24 lighting, are more incremental in nature, reducing
25 carbon emissions citywide by an estimated .6% to

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2 .8%, depending on how many buildings take
3 advantage of the proposed voluntary allowances,
4 which would permit the use of more efficient
5 strategies. Still, this is equivalent to making
6 at least 50,000 New Yorkers carbon neutral. And
7 it slightly exceeds the impact of converting all
8 of our 13,200 Yellow taxis into hybrids. Most of
9 the lighting bills remove impediments to
10 sustainable design practices, so they help achieve
11 the City's objectives with no mandatory costs,
12 while the others, which place new requirements,
13 are cost effective strategies that generally pay
14 for themselves in less than three years.

15 The first bill, Introductory 267,
16 establishes that the regulation of building
17 construction in the interest of the environment is
18 a fundamental purpose of the New York City
19 building code. This codifies the growing
20 understanding within the real estate community and
21 at large of the immense impacts that buildings
22 have on the environment, and also how much they
23 affect human health, both through their design and
24 their materials. It sets the appropriate
25 conceptual framework for the City's efforts to

1 align its building codes with its goals for
2 sustainable growth. And perhaps most importantly,
3 it puts the Department of Buildings in a better
4 position to implement these green codes. Of all
5 the water efficiency bills, the one with the most
6 significant impact is Introductory 271, which
7 would set more stringent standards for new
8 plumbing fixtures, including toilets, urinals and
9 shower heads that are sold or installed in New
10 York City. The proposed standards are generally
11 in line with those of the EPA Watersense program,
12 the water equivalent of an energy star appliance,
13 so the products are clearly labeled and readily
14 available. These efficient fixtures will reduce
15 the water consumed by each fixture from between
16 20% to 50%, and they need not cost more than the
17 less efficient products.
18

19 Introductory 268 would require sub-
20 metering for pieces of equipment, such as boilers
21 or cooling towers, that use large amounts of
22 water, in order to enable building operators to
23 detect leaks more clearly ... quickly.

24 And Introductory 263 would put an
25 end to a very wasteful practice of running water

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2 once through a cooling system and then dumping the
3 water, with the exception for relatively small ice
4 making machines.

5 A final water-related bill,
6 Introductory 264, would make clean, free New York
7 City drinking water more accessible for New
8 Yorkers by requiring new or replacement drinking
9 fountains to have a ten inch high spout for
10 filling water bottles, and by eliminating an
11 option in the current code which allows water
12 bottles dispensed from vending machines to
13 substitute for half of the required drinking
14 fountains.

15 Two of the remaining bills address
16 the energy wasted by fully lighting hallways,
17 stairways and other common spaces during the
18 lengthy periods when no one is present, or when
19 available daylight would suffice, thus reducing
20 energy consumption without compromising safety.
21 Introductory 262 amends the New York City energy
22 conservation code, while Introductory 277 makes
23 the parallel revisions needed to bring the housing
24 maintenance code into alignment. Both bills
25 address statutory provisions regarding the minimum

1
2 light required for the purposes of safety, and
3 make clear allowances for daylight lighting and
4 bi-level lighting, thereby reducing the code
5 impediments to efficient lighting design. The
6 Office of Long-term Planning and Sustainability is
7 working with the fire department to insure that
8 the light levels required and the sensor and
9 control technologies allowed would insure that
10 safety needs are met.

11 Intro 266 requires, in spaces where
12 occupancy sensors and controls are now required,
13 that lights be turned on manually with sensors
14 only acting to turn them off. This saves energy
15 because often space has enough daylight and does
16 not need artificial lighting, or someone is merely
17 ducking into a room to pick up something they
18 forgot. The industry estimates that the use of a
19 manual on switch reduces energy use by 15% to 20%.

20 Finally, Introductory 273 addresses
21 the lighting used in the sidewalk sheds and
22 scaffolding that surround many of New York's
23 buildings, often for many years, and often in
24 broad daylight, when no lighting is necessary.
25 The Department of Buildings licenses sidewalk

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2 sheds, and their figures indicate that there are
3 204 miles of sidewalk sheds in the City, enough to
4 stretch from New York to Baltimore. This bill
5 would require the use of energy efficient lights
6 for such sheds, clarify the minimum light levels
7 allowed, and allow but not require photosensors to
8 turn lights off, thereby removing some code
9 impediments to efficiency, while adding new
10 requirements for efficient light bulbs.

11 By allowing, and in some cases
12 requiring, New Yorkers to use energy and water
13 resources more efficiently, these bills will help
14 improve air quality and the reliability of our
15 electrical systems, reduce energy costs for
16 building owners, contribute to the citywide
17 reduction of greenhouse gas emissions, help make
18 our water system more efficient, and make free
19 healthy municipal drinking water more readily
20 accessible. Many of the bills remove current code
21 impediments to efficiency, and therefore impose no
22 mandatory costs. And where there are increased
23 costs, the required measures will typically pay
24 for themselves in less than three years, making
25 this package of bills extremely cost effective.

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2 A number of issues have been raised
3 since the bills were introduced, including
4 language in Intro 263, which would ban the use of
5 potable water to cool steam condensate, which
6 could make most systems now utilizing Con Ed steam
7 illegal, and some potentially problematic
8 divergences between EPA's Watersense standards and
9 the requirements of Intro 271. Also, the language
10 in Intro 264 needs some technical edits for
11 purposes of clarification. It is clear that these
12 and other issues deserve serious consideration,
13 and the Office of Long-term Planning and
14 Sustainability looks forward to working with the
15 City Council and stakeholders to continue to
16 refine these bills. With that said, I encourage
17 the Council to pass these bills once the remaining
18 details have been addressed. Thank you for the
19 opportunity to testify on this important
20 legislation, I'm happy to answer any questions
21 that you may have at this time.

22 CHAIRPERSON DILAN: Okay, thank
23 you, and if I understand, Buildings has no
24 testimony?

25 MR. LEE: I have nothing more to

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2 add.

3 CHAIRPERSON DILAN: Okay. I'd just
4 like to do a little housekeeping with members who
5 have arrived, Council member Garodnick, who I
6 believe is a sponsor of a measure on the
7 Committee's agenda today, Council member Cabrera
8 as well, who is a sponsor of a measure before the
9 Committee, and I believe it's his first piece of
10 legislation that has come before Committee, as
11 well as we've been rejoined by Council member
12 Elizabeth Crowley of Queens. And there's so many
13 bills on, I'm not sure if you have one as well on
14 today's agenda? I believe everybody here has a
15 piece of legislation on the agenda today, except
16 for the Chairman, let's put it that way. And Mr.
17 Lander of Brooklyn, who also has an item on
18 today's agenda, and I'll ... I'm going to just
19 acknowledge the work of my colleague, Jim Gennaro,
20 who couldn't be here today, who also has a number
21 of pieces of the work of the green code task force
22 that will come before his Committee, as well as
23 some of the bills that will eventually come to
24 this Committee for consideration and potential
25 passage. And I'd also like to just acknowledge a

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2 statement for the record that we received from
3 Council member Inez Dickens in support of an item
4 on today's agenda, and I'll have that entered into
5 the record, that will be Intro 263. And while I'm
6 not going to allow all the members of the
7 Committee who have an item on before the Committee
8 to make an opening statement this time, I will
9 acknowledge some of the new members. One has
10 accepted to speak, one has declined to speak. So
11 I'll go to Council member Brad Lander, who will
12 just make a brief statement on his bill before the
13 Committee today.

14 COUNCIL MEMBER LANDER: Thank you,
15 Mr. Chairman. I do appreciate your
16 acknowledgement that this is the first piece of
17 legislation, Intro 268, that I'm the sole prime
18 sponsor of. So I appreciate your noting that.
19 And I'm really thrilled that it's part of this
20 package of legislation implementing the work of
21 the Green Codes task force, and I know a lot of
22 work went into this on the part of the
23 administration, on the part of the Council, on the
24 part of the Urban Green Council and the Green
25 Codes task force I'm on. Intro 268 specifically

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2 will require sub-metering on equipment that uses
3 quite a lot of water, so when there are leaks in
4 boilers and swimming pools, we have the
5 opportunity to catch it and fix it. But it's
6 really the package here that I think is exciting,
7 and the steps that we're taking in the City to
8 really fundamentally address the core sources of
9 greenhouse gas emissions of energy use and of
10 water use, and it's an honor to be a part of it.
11 So, thank you.

12 CHAIRPERSON DILAN: I, you know,
13 I'll get right to the ... right to my questions, and
14 you know, try to be brief, because there are so
15 many items on, and I already have one member that
16 has already gotten my attention to maybe address
17 some questions to the City. And I guess I'll
18 start with the water efficiency bills. I think a
19 lot of the bills here are great, specifically the
20 once-through cooling bill, I think it's a good
21 piece of legislation. I guess, can you give us
22 some examples of once-through cooling equipment
23 and where they're generally found?

24 MS. KERR: These tend to be smaller
25 pieces of equipment, like refrigeration units in

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2 grocery stores or ice making equipment, pieces of
3 equipment like that.

4 CHAIRPERSON DILAN: Okay, but you
5 said there was an exemption for some small ice
6 making equipment?

7 MS. KERR: For small ice making
8 equipment of the type that you might find in
9 hotels, that was considered to be a reasonable
10 exemption.

11 CHAIRPERSON DILAN: Okay. Would
12 this bill apply to cooling systems that are
13 already existing? Or would it apply to only new
14 cooling systems?

15 MS. KERR: It would apply to
16 systems, since it's part of the plumbing code, and
17 a system that's being renovated is required to
18 conform to the plumbing code, it would apply to
19 systems upon renovation. But not a system that is
20 sitting there.

21 CHAIRPERSON DILAN: Okay, so it's
22 renovations and then newly-installed systems?

23 MS. KERR: Yes.

24 CHAIRPERSON DILAN: Okay. How
25 would this bill affect steam customers of utility

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2 companies?

3 MS. KERR: That's a good question.
4 There is language in the bill that includes the
5 cooling of steam condensate as once-through
6 cooling. That language I think was put in there
7 in error, and the administration, and I think
8 members of City Council, are aware that that
9 probably is a provision that needs to be amended,
10 moving forward.

11 CHAIRPERSON DILAN: Okay, so we
12 obviously will take a look at that, if it's the
13 administration's position that it might be there
14 in error. And if internally we agree, I'm sure
15 that it will be rectified. What is the cost
16 difference between purchasing a once-through
17 cooling system versus purchasing equipment that
18 does not use potable water for cooling purposes?

19 MS. KERR: I don't think there is
20 any significant difference, it's really a matter
21 of how you design and build your system. So, for
22 example, you could use an air-cooled system, you
23 could use a system that has a remote condenser,
24 you could use a system that has water cooling,
25 it's really a matter of design, not cost. So it's

1
2 a choice. It's a design choice.

3 CHAIRPERSON DILAN: Okay, so, and
4 all those questions were specifically on Intro
5 263. On Intro 264, what's the cost of a water
6 fountain which dispenses water to someone drinking
7 from the fountain, and provides a separate faucet
8 for filling a bottle of water, compared to a
9 fountain that only dispenses water to a person
10 drinking? And are such fountains readily
11 available?

12 MS. KERR: There are such fountains
13 on the market, and I think once this is passed, of
14 course, there will be a great many more. Our
15 research so far shows an incremental cost
16 currently of about \$300 increase per fountain. A
17 fountain installed now is, including labor and
18 materials, is currently about \$2,100, so the \$300
19 would bring it up to \$2,400. It's about a 15%
20 increase in cost. Now, although I think we can
21 expect, once this is required, that that increment
22 would go down.

23 CHAIRPERSON DILAN: Okay, so on
24 Intro 264, would it apply to commercial spaces
25 located in residential buildings?

1
2 MS. KERR: Only if those spaces are
3 required by the plumbing code to have water
4 fountains. Typically water fountains are required
5 in assembly-type spaces. John, are you- -

6 MR. LEE: (Interposing) There's a
7 minimum threshold for- -

8 CHAIRPERSON DILAN: (Interposing)
9 Okay, why don't you, since this is your first time
10 speaking, just identify yourself for the record.

11 MR. LEE: My name is John Lee,
12 representing the Department of Buildings.

13 MS. KERR: John, turn your mic on.

14 CHAIRPERSON DILAN: Yes, you've got
15 to turn your mic on. It's the button on the
16 bottom. If the light is on, the mic is on. Yeah,
17 I think you're on, I think you're on.

18 MR. LEE: This is on?

19 CHAIRPERSON DILAN: Yes.

20 MR. LEE: Okay, sorry. John Lee,
21 representing the New York City Department of
22 Buildings. The water fountain requirements are
23 generally based on the occupant load. And so
24 there's a minimum threshold of the number of
25 occupants which ... or square footage of area as

1
2 well. But there's a minimum threshold at which
3 point water fountains will tend to be required.
4 So many commercial spaces may not even trigger the
5 requirement. But predominantly you will find it
6 in assembly spaces, and educational occupancies.

7 CHAIRPERSON DILAN: What's the
8 minimum amount?

9 MR. LEE: Again, I don't have the
10 data in front of me, so I can't tell off the top
11 of my head, but it's roughly per 50 persons, it's
12 a guess, again. If I had a code book in front of
13 me, I could tell.

14 CHAIRPERSON DILAN: All right, if
15 you could, if you could just get back to the
16 relevant person at the Buildings Department that
17 are working on this, and just get the Committee
18 that answer, it will be appreciated.

19 MR. LEE: Sure.

20 CHAIRPERSON DILAN: Then also, how
21 many manufacturers are in this arena?

22 MR. LEE: For drinking fountains in
23 general?

24 CHAIRPERSON DILAN: Yes.

25 MR. LEE: Dozens of them.

CHAIRPERSON DILAN: Oh, okay.

That's a sufficient answer for me. Okay, so now I'm going to move to Intro 268, which deals with waste water in buildings. What would happen if a commercial space is reconfigured? Would this also require an owner to install an additional sub-meter?

MS. KERR: Again, since these provisions are in the plumbing code, they would apply to new construction or renovation. So if you were renovating a particular system, you would have to address that system, but only that system.

CHAIRPERSON DILAN: Okay, so if they reconfigure the floor layout?

MS. KERR: Not unless that reconfiguration involved significant pieces of equipment, such as a boiler or a cooling tower.

CHAIRPERSON DILAN: Okay.

MS. KERR: So that would be unusual, that would be unusual, except perhaps in the case of a commercial restaurant, that might happen.

CHAIRPERSON DILAN: So the bill requires an installation of a high water level

1
2 alarm on all roof tanks. How much do the alarms
3 cost, and how readily available are they?

4 MS. KERR: I don't have the cost on
5 the alarms. In general we have had costs on the
6 pieces, the metering equipment, and they range
7 from \$500 to \$1,500, depending on the application
8 and size of the piping. Here's some answers from
9 the Department of Environmental Protection, saying
10 that for an evaporative cooling tower, the payback
11 is almost instantaneous, since it's required for a
12 waste water allowance, in other words, the
13 discount that you get. So by installing this
14 feature, the building owner would recoup that
15 money right away in terms of the discount from
16 DEP.

17 CHAIRPERSON DILAN: This shows up
18 in my district, the potential benefits of this
19 bill, and I hope it leads to it, it shows up in my
20 district because you have many Laundromats
21 operating in residential buildings. And I
22 understand the need to address the savings of
23 water, but there's another need out there for
24 individual owners, and I know it's not addressed
25 by this bill, but I do have to make my pitch here,

1
2 is that hopefully this sub-metering will lead to a
3 separate acknowledgement of liability on the water
4 bill, because it's done obviously for commercial
5 purposes, and I do have to say on the record that
6 a lot of Laundromats walk away from their
7 responsibility of that water bill, leaving the
8 owner on the hook for that. So hopefully that
9 could be addressed in the future in another bill,
10 but I do believe that sub-metering is a good first
11 step to, one, prevent the excessive use of the
12 water, and to, two, actually start to get a
13 segregation of how much the residential tenants
14 use and the commercial tenants use, on the water.
15 So that bill, which is I believe sponsored by
16 Council member Lander was of particular interest
17 to me, out of this entire package. What are the
18 makeup of the water supply lines? What are ...
19 excuse me, what are makeup water supply lines?

20 MS. KERR: I think that in a
21 cooling tower the water is evaporated, and so you
22 need to bring in fresh water, and that would be
23 makeup water. That's my understanding, at any
24 rate.

25 CHAIRPERSON DILAN: All right, we

1
2 may need, at some point, I won't get into that too
3 in depth here, because it sounds extremely
4 technical, but we may need further clarification
5 offline at some point on that. I'm going to stop
6 here, and just see if my colleagues have anything
7 that they'd like to add or question, and then pick
8 up at some point. Council member Garodnick?

9 COUNCIL MEMBER GARODNICK: Thank
10 you very much, Mr. Chairman. And I only have a
11 couple of questions, and I wanted to direct them
12 specifically to Intro 266. This, of course, is
13 the manual on, auto off, on lighting. And for
14 those who are in the audience, this is the bill
15 that would require the sensor which would turn on
16 manually, but would turn off automatically in
17 certain specified areas, and they are set forth in
18 the bill as to what exactly those areas would be.
19 Of course, they're classrooms, conference meeting
20 rooms, employee lunch and break rooms, and offices
21 smaller than 200 square feet. My question for you
22 is, do you think that we have captured the right
23 universe here of spaces that should be covered by
24 this bill? Do you have any thoughts as to other
25 spaces that should be included? Any comment at

1
2 all about 200 square feet as to any other square
3 footage that we could be considering in this
4 legislation?

5 MS. KERR: The Green Codes task
6 force did consider that. This is an amendment to
7 a list of spaces that's currently in the energy
8 code. It's ... there's a list of spaces in the
9 energy code that includes, let me think,
10 classrooms, cafeterias, common rooms, and does not
11 include offices, and does not include K one
12 through twelve classrooms. So the first idea was
13 that in spaces where occupancy sensors are already
14 required, it made sense to just change them into
15 being vacancy ... what are also called vacancy
16 sensors. In other words, the manual on, automatic
17 off. It was thought that it made sense to also
18 include classrooms one through twelve, and small
19 offices. The size of 200 was agreed upon as being
20 the size where you could enter through the door
21 and turn the light on. Larger than that you're
22 really talking about open office spaces, which are
23 much more complex in the way you would want to
24 control the lighting. So it wasn't thought to be
25 reasonable for that.

1
2 COUNCIL MEMBER GARODNICK: Did I
3 hear you make a distinction between occupancy and
4 vacancy?

5 MS. KERR: Yes, although- -

6 COUNCIL MEMBER GARODNICK:
7 (Interposing) The sensors.

8 MS. KERR: So that's not in the
9 language of the code, it's the kind of jargon of
10 the industry though now, that an occupancy sensor
11 senses occupancy when you come in, and senses lack
12 of occupancy when you leave. This other type of
13 sensor, the manual on, automatic off, doesn't
14 sense your presence when you enter the space, it
15 only senses it when you leave, with the exception
16 of the fact that these sensors are set up to turn
17 back on within 30 seconds of noticing that you're
18 still there. So they have that same capability
19 that if you wave your arms, they'll turn back on,
20 you don't have to go back to the door.

21 COUNCIL MEMBER GARODNICK: That's
22 the grace period as described by the bill.

23 MS. KERR: Yes.

24 COUNCIL MEMBER GARODNICK: Okay.
25 And the other question I had for you was about

1 commercial spaces in residential buildings.

2 Obviously there are a lot of residential buildings
3 that have commercial space. If you have that
4 situation, would that be covered in this bill, or
5 is that only if it's an office that's smaller than
6 200 square feet?
7

8 MS. KERR: It would only be those
9 specific spaces listed. So- -

10 COUNCIL MEMBER GARODNICK:

11 (Interposing) So if you have any office smaller
12 than 200 square feet that is in the base of a
13 residential building, that would be covered?

14 MS. KERR: Yes.

15 COUNCIL MEMBER GARODNICK: Well,
16 thank you, that's all I had. And I appreciate it,
17 thank you, Mr. Chairman.

18 CHAIRPERSON DILAN: Thank you, and
19 when the Council member is referring to this bill,
20 I assume it was 266.

21 COUNCIL MEMBER GARODNICK: 266.

22 CHAIRPERSON DILAN: Which is the
23 bill. I knew you had it, but I just had to do it
24 for the ... Council member Lander.

25 COUNCIL MEMBER LANDER: Thank you.

1
2 This is really a question related to 264, more
3 than about 264. I mean, this was a green
4 buildings review, but obviously once you start
5 thinking about water fountains, you start thinking
6 about them in other public places as well, and I
7 just wondered whether, as part of this process or
8 separately as part of the Office of Long-term
9 Planning and Sustainability, you've thought about
10 whether we ought to be doing more to have more
11 public drinking fountains in general, in order to
12 cut down on bottled water use. You know, I think
13 we've thought a lot about our public spaces and
14 parks and streets recently, but it doesn't seem to
15 me that you've had a sort of a campaign that says,
16 let's increase the number of available public
17 drinking fountains in public places, on streets
18 and in parks. And I guess it's probably hard to
19 measure what the impact of that would be in terms
20 of reducing bottled water, but since there's
21 clearly some thinking going into what we can do
22 with drinking fountains for water reduction, I
23 wonder if that's something you've given thought to
24 at all.

25 MS. KERR: That's definitely

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2 something that came up repeatedly during the
3 committee, so there's definitely broad interest in
4 pursuing something like that, so.

5 MR. LEE: If I may add to that.
6 The bill that's before you also eliminates a
7 section of the code where you trade off
8 essentially a bottled water facility, such as a
9 vending machine, for the drinking fountain
10 requirement. And so if this bill were to pass,
11 then that exclusion would be removed.

12 COUNCIL MEMBER LANDER: Great, no,
13 I saw that, thank you. I have a separate bill
14 that's not being heard as part of this today, to
15 eliminate the use of bottled water in public
16 buildings as well, and one of the issues there is
17 making sure that in place of bottled water, you
18 know, for sale, what we have is good drinking
19 fountains that are available to municipal and
20 other public employees, so I think that would be
21 great to look at it, you know, go back and look at
22 the, I mean, on the one hand ... but I was also
23 thinking about ... but obviously you couldn't do
24 this obviously in the building code, but just, you
25 know, you'd have to work with DOT and Parks and

1
2 try to figure out how you could do it by local
3 law. But you could work together, certainly, to
4 have them be a good deal more available than they
5 are now. So I'll have a chance to work with you
6 on that in the future. Thank you. Thank you, Mr.
7 Chairman, that's all.

8 CHAIRPERSON DILAN: Thank you. Do
9 any of my other colleagues have anything they'd
10 like to ask? So I'll resume and I want to just
11 focus on 271 for a second, which seeks to enhance
12 water efficiency standards. And I know that this
13 bill seeks to install some fixtures that would
14 have to do with lowering the maximum water
15 consumption, flow rate, or quantity for certain
16 plumbing fixtures. These would be shower heads,
17 urinals, toilets, certain lavatories, sink
18 faucets, and would set a maximum flow rate or
19 quantity for quantity or service sinks, to enhance
20 water efficiency. Would a plumbing permit need to
21 be pulled or needed for installing these fixtures?

22 MR. LEE: In general, no. Most end
23 point fixtures, such as a sink, where it will not
24 be relocated, will not require a permit from the
25 Department of Buildings.

1
2 CHAIRPERSON DILAN: Okay, so then
3 would a plumbing permit be needed to install a
4 dual flush toilet, or a non-water urinal, under
5 the proposed legislation?

6 MR. LEE: At face value, not
7 necessarily. However, something like a waterless
8 urinal would require, may require a configuration
9 of the piping that's behind the wall, especially
10 if you're going from a water-based urinal to a
11 non-water urinal. And so it's a matter of scope,
12 for that case it may require a permit. In terms
13 of a dual flush toilet that is being replaced ...
14 replacing a conventional toilet, that would
15 generally not require a permit.

16 MS. KERR: I just also want to
17 clarify that this piece of legislation does not
18 address waterless urinals, I think it's just
19 carried over as part of the definitions currently
20 there, so it's really a requirement for urinals
21 that use half a gallon or less per flush, is the
22 requirement.

23 CHAIRPERSON DILAN: Okay, so how
24 would then, if 271 would be enacted, how would the
25 plumbing suppliers and professionals and property

1
2 owners be aware against the prohibition in the
3 bill against selling or offering for sale, buying
4 or offering to buy, or causing a person to buy or
5 sell or import any plumbing fixture which does not
6 comply with these water consumption requirements?
7 And what would be the penalty for lack of
8 compliance?

9 MS. KERR: The sale provisions
10 would be enforced by the Department of Consumer
11 Affairs, and we've spoken to them about how they
12 might enforce. It might be that they need to ...
13 stores that offer such plumbing fixtures would
14 have to have a readily visible sign stating that
15 their fixtures were in compliance, or it may be
16 that the fixtures themselves have a visible
17 marking on them. So they enforce things like this
18 either way, and so it's a matter of figuring out
19 what makes the most sense in this case.

20 CHAIRPERSON DILAN: Yeah, the
21 natural concern would be the outreach to the
22 public, because there's a potential for violating,
23 people here who would be in violation of these new
24 standards. So you know, I would wonder if the
25 Department of Consumer Affairs, one has the

1
2 ability, if some sort of special campaign were to
3 be made public, so that the public knows what the
4 new New York City requirements are, so that they
5 can, you know, willfully comply, and then I'd like
6 to be able to segregate, you know, those who
7 didn't know, and those who willfully went against
8 the law. So that's a little bit of the concern of
9 mine. And the penalties?

10 MS. KERR: For the building code
11 violations, for the building penalties, this
12 provision would be in both the building code and
13 the administrative code. So the installation of
14 these fixtures is addressed in the building code,
15 and the sale of these fixtures is in the
16 administrative code. So it's addressed in both
17 places. With the building code it would be a
18 typical code violation, probably of a low,
19 relatively low order. For the- -

20 CHAIRPERSON DILAN: (Interposing)
21 So it's in the code, but you don't know it here as
22 we sit now, it's not classified?

23 MS. KERR: Well, there is- -

24 CHAIRPERSON DILAN: (Interposing) I
25 know it may reference the- -

1
2 MR. LEE: (Interposing) Well, in
3 terms of the installation, if it were a job that
4 required a permit, and upon the construction
5 document they indicated a compliance fixture, but
6 then the inspector actually observed a non-
7 compliant fixture, then it would be work contrary
8 to permit, and there is a penalty schedule in the
9 administrative code ... on the building code side
10 for that. I would have to defer to Ms. Kerr for
11 what the sale provision penalty would be.

12 MS. KERR: I would have to get back
13 to you on that.

14 CHAIRPERSON DILAN: You know,
15 again, we would like to see that before these
16 bills would be disposed of out of this Committee,
17 to the full Council, or discharged to the full
18 Council. You know, even though they are in the
19 code and you know, Committee staff certainly could
20 look them up. You know, I certainly expect that,
21 you know, the agencies would kind of have this
22 readily available for us here today. Okay, so I
23 would like to shift to just one question on 276,
24 which ... or, excuse me, 267, which just asks that
25 the building code now include a environmental

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2 concerns as an interest in the building code. Why
3 do you think this is important to add this in?

4 MS. KERR: I think that the impact
5 of buildings on the environment is becoming
6 increasingly obvious how significant that is. In
7 a city as dense as New York, where in fact our
8 environment is the buildings, that's particularly
9 the case. 75% of our greenhouse gas emissions, as
10 I'm sure you've all heard, come from energy used
11 in buildings. 85% of our water use is used in
12 buildings. I think something like 95% of our
13 electricity is used in buildings in New York City.
14 So that's one reason, is the growing realization
15 of that enormous impact, and therefore that
16 building codes need to play a role in addressing
17 those impacts. I think that this is being seen
18 around the country and around the world, that
19 there are new green codes that have been developed
20 nationally, there are some model green codes,
21 there are green codes that have been developed in
22 California and a partial code in Massachusetts.
23 So these things are ... this is becoming an ... it's a
24 realization that the codes need to address these
25 things. And so therefore ... and I think the final

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2 piece is that this is in line with the history of
3 the codes, where the purpose of the building code
4 has been really to protect health and safety, and
5 as environmental issues from increasingly ... it's
6 increasingly clear that those are health and
7 safety issues as well, for people, that
8 environment should join those other traditional
9 issues.

10 CHAIRPERSON DILAN: My concern
11 here, and I agree with a lot of the stats that you
12 threw out, but my concern here is that the term
13 'environment' is relatively broad, and then the
14 operational concern I have for the city is, if ...
15 and maybe I'm asking your opinion here, but at
16 what point is it an encroachment of DP into the
17 jurisdiction of what has traditionally been the
18 jurisdiction of the Buildings Department? Do you
19 see that as a potential concern?

20 MS. KERR: That was brought up as
21 this was being refined. And because the language
22 in the bill specifically references with regard to
23 the construction of buildings, it stays within the
24 purview of the Buildings Department. Or that's
25 what a team of lawyers agreed, from different

1 agencies.

2
3 CHAIRPERSON DILAN: Okay, I just
4 have ... and I'm going to sum up after this, and
5 we'll hear testimony from the public on Intro 277,
6 which has to do with improved lighting efficiency
7 in multiple dwellings, and I believe this is
8 probably the only bill that amends the housing
9 maintenance code on the agenda. Why is replacing
10 the watts as a unit of measurement with foot
11 candles important to improve lighting efficiency?

12 MS. KERR: The use of watts as a
13 measure of lighting, the amount of lighting, is
14 not an accurate measurement. So, for example,
15 depending on the lighting source, X number of
16 watts, the amount of ... the actual amount of light
17 hitting a surface could vary enormously, depending
18 on the design of the light fixture and the type of
19 lamp, and so forth. So it's much more in line
20 with industry standards to require a foot candle
21 measurement, which is actually a measurement of
22 the amount of light hitting a surface.

23 CHAIRPERSON DILAN: Okay, this bill
24 will allow the use of automatic and occupant
25 sensors, or photo sensors, as well as lighting

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2 controls in mechanical equipment rooms, storage
3 rooms, laundry rooms, provided that certain
4 conditions are met. What are those conditions,
5 and how do they address safety concerns?

6 MS. KERR: I believe, although I
7 need the language in front of me, but I believe
8 that the conditions are that there should be, that
9 the fixtures should fail in the on position, and
10 that there be a dual sensing technology.

11 CHAIRPERSON DILAN: Okay, now this
12 would apply, and I just want clarification, would
13 this apply to all existing buildings, or would
14 this apply to new construction?

15 MS. KERR: This would apply to any
16 building, but it would ... it's in the nature of an
17 allowance, so nobody would have to do anything
18 unless they wanted to. So it would enable you to
19 install sensors and controls that could turn off
20 the lights in those spaces. But you would not
21 have to.

22 CHAIRPERSON DILAN: Okay, so nobody
23 has to go back and retroactively repair this?

24 MS. KERR: No. No, this just
25 allows more efficient design.

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2 CHAIRPERSON DILAN: Is that
3 explicit in the language of the bill, that they
4 wouldn't have to retroactively make repairs?

5 MS. KERR: It doesn't explicitly
6 say that, but it's very much the case. I don't
7 think bills would say that explicitly.

8 CHAIRPERSON DILAN: Okay, thank
9 you. I have no more questions. Do any of my
10 colleagues have anything they'd like to add before
11 we hear from the public? If not, I'd like to
12 thank you for your time and testimony. I know a
13 lot of this stuff is very technical in nature, and
14 it's going to be very difficult for members to
15 understand all the technical aspects of it. So
16 we're going to have tons of questions, not only
17 for the agencies, but for the industry
18 professionals as well, so that at the time of
19 disposition we can make a more informed decision.
20 So I certainly look forward to reaching out to you
21 as an asset on these bills, as well as some of the
22 industry professionals as well. And thank you for
23 your time and testimony here today. Okay, so next
24 we are going to be hearing from ... give me a
25 moment. All right, so next I'm going to call up

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2 Mr. Russell Unger, Mr. ... I was about to say Jack
3 Bauer. Jack Bailey, and Mr. Hershel Weiss, and
4 they'll be followed by Dottie Harris, Angela Sung,
5 and Charles Hernandez. We received a bunch of
6 testimony in advance, so for the members' benefit,
7 we're looking at Urban Green Council, One Luck
8 Studio, and I can't pronounce the last one. Mr.
9 Weiss, what is the name of your company?

10 MR. WEISS: It's A-S-H-O-K-A-N.

11 CHAIRPERSON DILAN: Ashokan Water.

12 Okay, why don't we begin with Mr. Unger, since
13 you've kind of taken the lead, along with Ritt,
14 who is no longer with the City, but I do have to
15 acknowledge the work Ritt Idlewild on this
16 package. Mr. Unger, why don't you begin?

17 MR. UNGER: Good afternoon, and
18 thank you for the opportunity to speak. My name
19 is Russell Unger, I'm the Executive Director of
20 Urban Green Council and I was the chair of the New
21 York State Green Codes task force. And I'll be
22 providing testimony on behalf of the task force,
23 I'm joined by my colleagues, Hershel Weiss, who is
24 a member of the committee on water efficiency and
25 Jack Bailey, who is a member of the committee on

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2 lighting and daylighting, who will be available to
3 answer any technical questions you have, and I'm
4 pleased to express the strong support of Urban
5 Green for all the bills you're considering as part
6 of the hearing. Let me begin by congratulating
7 the Council and the Mayor's office for where we
8 are today. It's pretty much unheard of for a blue
9 ribbon commission to release a complex report,
10 ours was about 600 pages, and five months later
11 come to a hearing where a number of bills are
12 being considered based on that. You know, it took
13 an enormous amount of effort, and we thank you for
14 that. I'd like to single out Intro 267 for
15 special comment. This would just add three words,
16 "and the environment", to the purpose section of
17 the building code, and this small change goes to
18 the heart of what the Green Codes task force is
19 trying to do, it's a recognition that society's
20 values have changed, that we face different risks
21 than we did in the past, including climate change
22 and air pollution. And just as it's important for
23 a New Yorker to know their ceiling is not going to
24 fall in, it's also important to know that they can
25 pay their energy and water bills, that they know

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2 the air inside the houses and their workplaces is
3 safe for their kids to breathe, as it can
4 aggravate their asthma. And greening codes is
5 going to insure that all New Yorkers get the
6 benefits of green building, not just those who can
7 afford to live in the best buildings. So
8 ultimately Green Codes is about social equity, and
9 that's what changing the purpose of the building
10 codes reflects. I'm, you know, we have technical
11 suggestions for amending several of the bills, and
12 I would be happy to share those with the Council
13 at another time, and substantive comments on just
14 two bills. The first is Intro 271, which reflects
15 the task force recommendation, water efficiency
16 one. That recommendation included a provision
17 that would limit the number of shower heads per
18 shower compartment to just one. And in the
19 1990's, Congress passed a law that limited the
20 water flow out of shower heads, in order to reduce
21 water use inside showers. Increasingly high-end
22 buildings have been putting multiple shower heads
23 into one shower, which directly undermines the
24 intent of Congress in setting these limits. The
25 task force recommends some language on this that

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2 is similar to what was done in California, and
3 we'd also recommend a corresponding prohibition on
4 the devices that allow you to split a single
5 shower into two heads. We understand that
6 developers have concerns about this, they're
7 concerned that it would reduce their
8 competitiveness, particularly in uses like hotels,
9 and our recommendation is if the City wants to
10 accommodate those concerns, to look at more
11 tailored approach, like perhaps exempting
12 something like a hotel. Our second substantive
13 comment is with Intro 263, which was intended,
14 it's intended to prohibit the waste of potable
15 water for cooling. Like the Mayor's office, we
16 recommend removing the sentence that begins "Once
17 through cooling ...". As written, this provision
18 would effectively prohibit the use of steam in the
19 City and as the Mayor's office testified, we think
20 that was in error. So thank you for your
21 consideration, and we're available to answer any
22 questions you have.

23 CHAIRPERSON DILAN: I hope that's
24 now and after the hearing is over, because there's
25 going to be tons of questions. Okay, why don't we

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2 go with Mr. Bailey. I almost did it again. It's
3 my dad's favorite show, 24. Okay, so you're here
4 only to answer questions? You don't have any
5 testimony?

6 MR. BAILEY: Yes, I have no
7 prepared statement, I just wanted to offer to
8 answer any technical questions on the lighting
9 provisions, if you have any.

10 CHAIRPERSON DILAN: Is that the
11 same for- -

12 MR. WEISS: (Interposing) As to the
13 water provisions.

14 CHAIRPERSON DILAN: The water
15 provisions. So I would say the one concern that I
16 had in preparation on lighting provisions in
17 getting prepared for this hearing, and maybe that
18 was a question more directly answered to the
19 administration, but there's a provision that
20 allows for natural daylight to be used in
21 conjunction with lighting. And just my concern is
22 that what, you know, daylight varies during the
23 daytime because of, you know, the climate outside,
24 the weather. How ... it seems like this is a gray
25 area for inspectors to kind of enforce. How do

1
2 you perceive this being enforced in the everyday
3 operations of city government?

4 MR. BAILEY: Yeah, well I believe
5 that the technical requirement is to maintain a
6 minimum of one foot candle at any point in the
7 covered areas in this legislation. That's
8 actually a very easy thing to enforce, because it
9 means that at any time an inspector could come out
10 with a light meter that's readily available from a
11 photography shop, take a light level reading, and
12 if they read less than one foot candle, then
13 that's not in compliance, at any time of the day
14 or night.

15 CHAIRPERSON DILAN: Just give us a
16 better definition of what one foot candle is.

17 MR. BAILEY: It's a measure- -

18 CHAIRPERSON DILAN: (Interposing)
19 And how much area it covers.

20 MR. BAILEY: Yeah, it's a measure
21 of light falling on a surface, not light reflected
22 off a surface. And to give you an analogy,
23 typically New York City street lighting at night
24 is around one foot candle, on the roadway
25 surfaces. A minimum of one foot candle, which you

1
2 commonly find required for egress areas like fire
3 stairs, corridors, etc., in emergency conditions
4 in all of the national building codes. So it's a
5 somewhat low level of light, compared to a room
6 like this, but it's certainly enough to insure
7 safety.

8 CHAIRPERSON DILAN: Okay, so then
9 it may not be appropriate for this panel, but I
10 think the follow up that I have to do is to see
11 if, you know, HPD is equipped, and I'm not sure if
12 they are, they may be, or they may not be,
13 equipped with the right technology to kind of
14 measure this.

15 MR. BAILEY: Yeah, I will add that
16 the term "foot candle" shows up in a number of
17 places in the building code today. And there are
18 also some housing requirements. For instance,
19 there's an old requirement that you maintain a
20 minimum of five foot candles at the entrance to a
21 multiple dwelling unit, as another example. So
22 it's a pretty commonly used industry term that I
23 think is already showing up, and is already
24 defined in relevant city documents.

25 CHAIRPERSON DILAN: All right,

1
2 since I got you, Mr. Weiss, what are blowout
3 design toilets, and clinical sinks?

4 MR. WEISS: Blowout design, and
5 what was the other item?

6 CHAIRPERSON DILAN: The clinical
7 sinks.

8 MR. WEISS: There were certain
9 fixtures that were not readily available in low
10 flow fixtures. Two of those examples were blowout
11 and these sinks. And therefore, since they
12 weren't readily available, we didn't put on
13 stringent standards for them, when they're not
14 being made at the current time.

15 CHAIRPERSON DILAN: All right, but
16 what are they?

17 MR. WEISS: I'm not exactly sure.

18 CHAIRPERSON DILAN: Good, because
19 I'm not either.

20 MR. WEISS: I could get you an
21 answer today.

22 CHAIRPERSON DILAN: I think he has
23 one, so he'll- -

24 MR. BAILEY: (Interposing) I think
25 a blowout sink is something you use in the oil

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industry that doesn't work all the time.

CHAIRPERSON DILAN: All right, but I think we were asking about blowout toilets. Okay? All right, any questions?

MR. UNGER: Council member, previously you had asked about the enforcement provisions on the consumer affairs side.

CHAIRPERSON DILAN: Yes.

MR. UNGER: I can answer that, if you'd like.

CHAIRPERSON DILAN: If you could address it briefly, that would be fine.

MR. UNGER: Sure, well the provision in here that would add requirements to the consumer affairs code is adding to an existing code right now, consumer affairs, dealing with the sale of endangered and threatened species. That provision, the violation is \$500 for the first violation and \$1,500 for subsequent violations. And you'll find in many places of the Green Codes task force the recommendations for enforcing material standards to the consumer affairs code, because it was a very efficient way of doing it.

CHAIRPERSON DILAN: Now this would

1
2 be on the sale of the prohibited products that I
3 mentioned. But I'm not necessarily concerned
4 about violating people at the outset. My concern
5 is about making sure that the general public,
6 including, you know, the practitioners, the
7 vendors, and everybody else that's going to use
8 this project, these products, kind of know that
9 the standards have changed. That's what I'm more
10 concerned about at this time. I kind of felt in
11 my gut that there was a mechanism to violate them,
12 even though I didn't know what the number was.
13 But, you know, before we start violating people,
14 and I'm not sure, maybe we need to look internally
15 at, you know, a period of time of adjustment, so
16 that the private sector can know that, you know,
17 the standards have changed before we do indeed
18 start violating them. But thank you for that
19 clarification, and that's something that I'll have
20 to address in the future. Thank you, and I
21 appreciate all the work that you have done. I
22 think that this is the first in a series of
23 legislative packages that will come before the
24 Council, hopefully not all this Committee, because
25 I'll be tired and confused. But I know Jim

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2 Gennaro, my colleague, is ready to do some work,
3 as well as potentially Elizabeth Crowley, the
4 Chair of the Fire and Criminal Justice Committee.
5 So thanks. So next we have Dottie Harris from the
6 International Coat Council, Angela Sung of the
7 Real Estate Board of New York, as well as Charles
8 Hernandez from the Plumbing Manufacturers
9 Institute. They will be followed by Charlotte
10 Matthews, Sylvester Justino, and Terrence O'Brien.
11 That will be the next panel. Okay, so why don't
12 we begin with Ms. Harris, then we'll do Ms. Sung,
13 and Mr. Hernandez, I'm sorry, but I do try to keep
14 to a ladies-first policy. If you can indulge me.

15 MS. HARRIS: Thank you. Thank you,
16 Chairman Dilan and members of the City Council
17 Committee on Housing & Buildings for providing me
18 the opportunity to testify on behalf of all the
19 intro bills in front of you today, I won't list
20 all the numbers, which go back to the construction
21 codes of the City of New York. My name is Dottie
22 Harris, I'm the Vice President of State and Local
23 Government Relations for the International Code
24 Council. We are a non-profit membership
25 association dedicated to building safety, fire

1 prevention and energy conservation. Today the
2 international codes are adopted in all 50 states,
3 the District of Columbia, Puerto Rico and the U.S.
4 Virgin Islands, and over 21,000 local
5 jurisdictions in the U.S., with the authority to
6 adopt and implement building construction code.
7 The international codes, including our newest
8 code, the international green construction code,
9 are a comprehensive and fully coordinated family
10 of codes which encourage the use of new materials,
11 products and systems that can address the issues
12 important to New York City, including economic
13 growth, sustainability, energy conservation,
14 housing preservation and, of course,
15 affordability. As you know, the new construction
16 codes became effective July 1, 2008, with a
17 mandatory effective date of July 1, 2009,
18 following your Committee's historic passage of
19 this critical legislation in 2007. Also included
20 in this significant law is the requirement to
21 review the next version of codes every three
22 years, modeled after the national code development
23 process. Accordingly, this year the code should
24 be reviewed and updated so that New York City
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2 construction codes, and I quote from the Mayor's
3 press release, "Do not become dated again".

4 Therefore I would recommend the review of the 2009
5 international building code, fire, mechanical,
6 plumbing, fuel gas, and the international green
7 construction code. It updates the New York State
8 energy law requiring the 2009 energy conservation
9 code will become effective December 14th statewide.

10 As a result, green provisions will then be
11 coordinated with the rest of the construction code
12 already being enforced. The IGCC, as our
13 abbreviation, provides a comprehensive set of
14 requirements intended to reduce the negative
15 impact of building on the national environment.

16 It is a document which can be readily used by
17 manufacturers, design professionals, contractors,
18 but what sets it apart in the world of green
19 building is that it was created with the intent to
20 be administered by the enforcement community and
21 adopted by jurisdictions as a tool to drive green
22 building beyond the market segment that has been
23 transformed by voluntary ratings systems. The
24 IGCC was undertaken by ICC, ASTM International,
25 AIA, with the development and support of USGVC,

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2 ASHRAE and the Illuminating Engineering Society,
3 IES. The IGCC is applicable to the construction
4 of high-performance commercial buildings,
5 structures and systems, including existing
6 buildings. Due to its coordination with building,
7 plumbing, mechanical and energy codes that are
8 already being utilized in the City, it could
9 easily be harmonized with the construction codes
10 modified to suit the City's needs and administered
11 and enforced by the Department of Buildings. The
12 Code Council is pleased to continue to partner
13 with the City of New York, and we look forward to
14 continuing to serving your needs. Thank you for
15 the opportunity to present testimony, and I'd be
16 happy to provide you with additional documentation
17 if you so need. Thank you.

18 CHAIRPERSON DILAN: Thank you.

19 MS. SUNG: Hi, my name is Angela
20 Sung, CMS President from the Real Estate Board of
21 New York. The Real Estate Board of New York,
22 representing nearly 12,000 owners, managers,
23 developers and brokers of real property in the
24 City of New York, supports the nine bills being
25 heard today that come out of the Green Codes task

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2 force. The Real Estate Board has been involved
3 with the Green Codes task force since its
4 inception in 2008. The 111 recommendations that
5 the task force released represent the collective
6 talents of dozens of experts in sustainability,
7 green building development, engineering and
8 architecture. The Real Estate Board has
9 participated along with many of our members on the
10 industry advisory council. We are pleased to see
11 that this first round of legislation takes into
12 account many of our concerns and comments
13 regarding the initial recommendations. We have a
14 few comments on the legislation as drafted, but on
15 the whole we believe these bills reflect the
16 thoughtful input of industry and can work
17 effectively to continue the goals of PlaNYC and
18 all of us who believe in a greener city. Our
19 single issue is with Intro 263, which at this
20 point is a bit redundant, which prohibits the use
21 of potable water for once-through cooling and for
22 tempering hot water or steam before discharging to
23 sewers. We recommend limiting this code
24 modification to new construction, or otherwise
25 amending it to recognize the infeasibility of

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2 eliminating once-through cooling from many
3 existing buildings. We also support the Mayor's
4 office recommendation to delete the line in the
5 legislation that prohibits the use of potable
6 water to temper steam condensate, as this would
7 effectively render most buildings using Con Edison
8 steam illegal by nature of the fact that the
9 condensate by DEP regulation may not be discharged
10 at a temperature above 150 degrees Fahrenheit.
11 There is as of yet no way to fully eliminate the
12 practice in new construction. Other than Intro
13 263, we do not have major concerns with the other
14 legislation as it is introduced and look forward
15 to continuing to work with the Council to insure
16 these bills are reasonable for the real estate
17 industry and the tenants who live and work in our
18 buildings.

19 MR. HERNANDEZ: Good afternoon,
20 Chairman Dilan and Council members. My name is
21 Charles Hernandez, I am the technical specialist
22 with the Plumbing Manufacturers Institute,
23 representing plumbing manufacturers, both national
24 and international, of suppliers of fixtures and
25 fittings. I have two comments to make, one on

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2 Intro 271 and another one on Intro 264. I'll
3 begin with 271. The Plumbing Manufacturers
4 Institute, PMI, would like to thank the City of
5 New York and the Housing and Buildings Committee
6 for allowing us to provide testimony on this all-
7 encompassing water efficiency initiative. We
8 congratulate the City of New York on initiating
9 the most comprehensive changes in environmental
10 stewardship in a major city, and for taking a
11 holistic approach to water efficiency,
12 sustainability and energy usage. The Plumbing
13 Manufacturers Institute believes that providing
14 proven performance and water-efficient fixtures
15 and fixture fitting options to the consumer will
16 create an environment of water conservation
17 awareness. The utilization of established
18 industry water conservation practices, along with
19 adopting existing harmonized plumbing codes, will
20 have a significant impact on water efficiency and
21 waste removal at the state and local levels. PMI
22 is dedicated to manufacturing cost effective
23 consumer-based solutions for all plumbing
24 products, and to lead and foster the conservation
25 of water and the safe and effective removal of

1 building waste water. With regards to the items
2 in WE1, PMI is in agreement with several of the
3 conservation measures. However, we do have
4 concerns with the adaptation of some items which
5 will impose an inconvenience on the product users
6 without significant impact or substantiation of
7 water conservancy. Based on the vast experience
8 of PMI members, we respectfully submit the
9 following comments and proposed amendments to the
10 New York City plumbing code with regards to Intro
11 271 from WE1 of the New York Green Codes task
12 force proposals. A markup of IET271 is also
13 attached to my testimony. Amendments to New York
14 City plumbing code: 419.1 approval. The reference
15 standard in the first sentence listed here should
16 be corrected to read: ASME A12.19.2-2008/CSA
17 B45.1-08, this is a harmonized standard now, so
18 this is exactly the existing standard. The
19 hydraulic performance of urinals are also covered
20 in the above standard, and do not require an
21 additional standard listing, and therefore the
22 third sentence should be deleted. Item #604.4,
23 maximum flow in water consumption. Exceptions:
24 products listed under exceptions should be
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1 removed, since they are not listed in table 604.4,
2 and are understood to be exempt. Table 604.4:
3 maximum flow rates and consumption for plumbing
4 fixtures and fixture fittings. Item A: service
5 sink, should be removed from the table, as it is
6 exempt. Item B: sink faucet, should be remain at
7 the current standard of 2.2 gallons per minute, at
8 60 PSI, for the reasons that the primary function
9 of a kitchen sink faucet is to deliver a desired
10 volume of water, whether filling a pot, pitcher,
11 or rinsing, washing dishes, a fixed volume of
12 water is needed to successfully complete each
13 task. A reduction in flow will only lead to
14 increased time to obtain desired volume, not a
15 reduction in water use. Additionally, the time to
16 obtain hot water will take longer, resulting in an
17 increased wasted water as people will turn it on
18 and walk away. For example, reducing the kitchen
19 sink faucet flow rate to 1.5 gallons per minute
20 from 2.2 gallons per minute will increase the hot
21 water wait time by 32%. The only variable in
22 reducing flow will be the time required to
23 effectively complete the task, which will lead to
24 increased consumer dissatisfaction. Table 604.4
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2 footnote should be amended to read, "a dual flush
3 toilet with the average of one full flush and two
4 reduced flushes is less than or equal to 1.28
5 gallons per flush." Item #8, with regards to the
6 local law, taking effect January 1st, 2011, PMI has
7 implemented a date of 2014 as the time required to
8 provide a wider range of models and types of high-
9 efficiency toilets less than 1.6 gallons for
10 consumers to select from. This date runs parallel
11 with California and Texas changeovers to HET's.
12 PMI also believes the need to preserve the option
13 to use 1.6 gallon toilets until more research
14 becomes available on commercial drain line carry
15 studies currently in progress. Further reduction
16 in flow rates may cause other problems, primarily
17 with waste, water carry and flow. PMI urges due
18 diligence in implementing HET's by the 2011 date,
19 and that all concerns be thoroughly vetted for the
20 reasons indicated in the following items A and B.
21 Item A: the plumbing efficiency research
22 coalition, known as PERC, is a coalition of five
23 organizations, the Alliance for Water Efficiency,
24 the International Code Council, IATMO, and the
25 Plumbing Heating and Cooling Contractors National

1 Association, and PMI. PERC has just signed a
2 memorandum of understanding with the Australian
3 scientific review of reduction of flows on
4 plumbing and drain systems, known as ASFLOW. The
5 focus of initial work with the PERC coalition will
6 be to understand the limits of drain line carry
7 with HET's and to determine the effect and the
8 addition of water-flushing water upon those
9 limits. The transport of waste will become an
10 issue as waste water may not properly flow through
11 the building and municipal sewer systems. Waste
12 may remain in the building's sewer and cause
13 blockages. Modern municipal sewer systems are
14 sized based on maximum flow and operate best when
15 the system is fully loaded. Reducing the flow
16 carry may lead to other health and maintenance
17 risks. Prior to the adaptation of design and
18 material standards, sewer piping installed in
19 older cities can be of various ages and sizes.
20 The green buildings plus water performance white
21 paper, published by Buildings Design and
22 Construction, in November of '09, indicates in its
23 principal findings, there may be limits to water
24 efficiency. In some cases saving water can lead
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1
2 to unintended consequences, such as pipeline
3 drainage problems, health and safety concerns, and
4 negative impacts on the environment. There have
5 been significant improvements in the efficiency of
6 plumbing products in the last two decades, but
7 saving too much water could lead to conditions
8 that might impact the health of building
9 occupants. In closing, the Plumbing Manufacturers
10 Institute would like to thank the Mayor's office
11 of Long-term Planning and Sustainability, the
12 Green Codes task force, and City Council for
13 eliminating the mandating of dual flush toilets,
14 which would have negatively affected the consumers
15 by imposing limits on brand and style. It is also
16 design-restrictive and hinders innovation where an
17 alternative design may be achieved that can prove
18 to be just as efficient in terms of performance
19 due to water consumption. We applaud the
20 Council's efforts to legislate these initiatives
21 in a timely manner, we hope that PMI can be
22 instrumental in providing sound industry knowledge
23 in water efficiency that will impact the citizens
24 of New York in a positive way. Thank you.

25 CHAIRPERSON DILAN: Okay, thank

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2 you. I'm not sure, and I know that was pretty
3 long, but it was useful, because it's a good
4 perspective for us to know what the capability of
5 the manufacturers are. You didn't go into Intro
6 264.

7 MR. HERNANDEZ: I will do that now.

8 CHAIRPERSON DILAN: Could you maybe
9 just shorten it.

10 MR. HERNANDEZ: Yes.

11 CHAIRPERSON DILAN: To include the
12 suggested changes you want us to consider.

13 MR. HERNANDEZ: I will do that.

14 CHAIRPERSON DILAN: Okay, thank
15 you.

16 MR. HERNANDEZ: Thank you. Items,
17 Intro 264, which is the amendment to city plumbing
18 code section PC410: drinking fountains. 410.1:
19 approval, reword the language in the first
20 sentence to: "Drinking fountains shall dispense
21 potable water that may be drunk without using a
22 cup, and which shall be dispensed at such an angle
23 as to prevent facial parts of persons drinking
24 from such fountains from coming into contact with
25 the water outlet. The dispensed water shall be at

1 a height and angle that is at least ten inches
2 high, or the drinking fountain shall also
3 incorporate a separate faucet or other outlet
4 which is suitable for filling a bottle with
5 potable water. Substantiation would be that all
6 parts of the face or potential contaminating
7 surfaces, ears, chins, and cheeks, etc., provide
8 an option for additional filling faucet if
9 drinking fountain does not comply with the height
10 and angle requirements to fill a bottle." Item
11 #2, the reference standard in the second sentence
12 should be corrected to read: "ASME A112.19.1/CSA",
13 and three other ones, again, that are similar to
14 that standard. The standards right now are
15 incorrect. In addition, the requirement for water
16 coolers is now included in ANSI/ASHRAE 18-2006.
17 The requirements of ARI 1010 have been withdrawn
18 and are no longer applicable. Remove all language
19 referencing the use of any type of bottled water
20 as a substitute to drinking fountains, or has an
21 additional requirement. This defeats the purpose
22 of water conservancy. Plumbing codes are designed
23 to provide for the health and safety of delivery
24 and dispensing of potable water and the removal of
25

1
2 waste water within a plumbing system. When codes
3 are adopted by state or local jurisdictions, they
4 become law. Inserting consumer option or items
5 within the code language which are not
6 appurtenances to the plumbing system is not an
7 appropriate method of enforcement or proper use of
8 the code. Bottled water coolers which dispense
9 water from three, five or six gallon bottles
10 should not be considered a substitute to drinking
11 fountains, since they do not comply with ADA
12 requirements, require replacement of costly
13 bottles delivered by trucks which add to CO2
14 emissions, require storage and disposal of
15 unsightly bottles within buildings. The water
16 storage reservoirs in these devices are not
17 completely sealed, and can become contaminated by
18 airborne or waterborne sources. When exposed to
19 direct sunlight and/or stored for long periods of
20 time, water stored in plastic or glass five-gallon
21 bottles can become stale or otherwise compromised.
22 They are not permanently affixed to the building
23 and can be moved or eliminated altogether, thus
24 removing the source of water over time. Bottled
25 water vending machines should not be considered a

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2 substitute as well, for the following reasons.
3 They add to additional recycling of disposable
4 products. It is not a cost effective substitute,
5 and it discriminates against the poor and the
6 homeless. Thank you.

7 CHAIRPERSON DILAN: Okay, thank
8 you, and I'd just like to say that it was
9 particularly helpful, and obviously we would like
10 to consider some of the changes and work with you
11 on the incorporation of them where practical. I
12 just want to say to Ms. Harris, just a couple of
13 questions. First, it was a pleasure working with
14 you and your organization on adopting the City's
15 building code, and it's great to see that you're
16 involved, to some degree, on this level on these
17 changes. But, so I think the ... what I'm looking
18 at here is, in your testimony I see that there's a
19 suggestion that we kind of work with the required
20 three year review that was set aside in the
21 original code that we passed, and to adopt any
22 greening of it into the changes that we made after
23 the three year review. Why do you think this is
24 pertinent?

25 MS. HARRIS: I think that that

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2 would be the best way for the actual enforcement.
3 What we found and, you know, why I'm an advocate
4 of the international green construction code, as
5 well as all the rest of the codes, is because it's
6 in a code, it's a mandatory document, but it's
7 completely coordinated with the rest. So there
8 wouldn't really be - I don't want to be negative
9 and say a loophole, but it would make sure that
10 it's completely coordinated throughout all the
11 documents. Like, for instance, the green
12 construction code not only would affect the
13 building code, but also the plumbing and
14 mechanical, the field gas.

15 CHAIRPERSON DILAN: So
16 conservatively you could say there's potential for
17 inconsistency of it being done this way?

18 MS. HARRIS: I think it would, you
19 know, I can't help but be most sympathetic to the
20 actual enforcement entity. In most cases it will
21 be the Department of Buildings that will have
22 those enforcement requirements. So we want to
23 make it as easy as possible to make sure that
24 nothing is overlooked, regardless if it's a life
25 safety provision, a green provision, an energy

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conservation provision, what have you.

CHAIRPERSON DILAN: Okay, and you stated that, in your testimony that ICC would also have its green energy, it's green code provisions completed shortly in the near future. When do you- -

MS. HARRIS: (Interposing) We have a public document right now that's available because of the desire for so many jurisdictions to have a green code that is coordinated with the rest of the international codes. So yes, we do have a document out now. It is going through the code development process. We have hearings coming up in August that will produce another version, and then it will be introduced with the rest of the suite of codes in 2012. But there are jurisdictions that are looking at it now. Some have adopted it as a compliance alternative, some are looking at it as an actual mandatory document. I'm working with another jurisdiction in New York right now.

CHAIRPERSON DILAN: It would seem to me on some level to make sense. I mean, we did adopt, you know, the ICC code here in New York

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2 City. I know a lot of professionals have put a
3 lot of work into the 111 recommendations,
4 including the nine legislative items here today,
5 so I would hope that we could overall work
6 together to integrate them into what is the
7 current building code, to minimize the impact of
8 inconsistencies. So I look forward to working
9 with you in that regard. To Ms. Sung, I guess
10 congratulations, I believe this is the first time
11 you appear before this committee in your new role,
12 and you had specific concerns regarding 263, and I
13 just say that, you know, just by listening to your
14 testimony from my understanding of the bills are
15 the way you desire to see them, according to your
16 testimony. Unless I'm wrong, if you want to just
17 maybe highlight something that I'm missing, I
18 don't ... because my understanding is it doesn't
19 affect existing buildings, it only applies to new
20 construction, or renovations. Now I believe your
21 issue may be on larger renovations, and if it is,
22 you can clarify your position.

23 MS. SUNG: So the one issue is the
24 one specific language is the same issue that Ms.
25 Kerr brought up from the Office of Sustainability,

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2 and we also wanted to make a clarification that
3 this requirement was only for new construction or
4 substantial renovations. So it is there.

5 CHAIRPERSON DILAN: Yeah, okay, I
6 would say that, from my understanding, that's the
7 case. But if, as you go back and review and you
8 need clarification on certain things, we can
9 discuss offline and seek to correct them where
10 possible. And then to Mr. Hernandez, I would say
11 your testimony was extremely helpful. I would
12 imagine that my staff will go back and review it,
13 and you know, seek clarification. It was good
14 that you basically did most of their work for them
15 on the attachments for that. I'm sure they would
16 personally appreciate that, which is why I'm
17 pretty sure they didn't mind you going on for too
18 long, because it saved them time on the back end,
19 which I'm sure they're going to appreciate. But I
20 think the major point to it, and my Council
21 pointed it out to me, the major point that I took
22 from your testimony is that if the manufacturers
23 aren't ready to build the products that we are
24 requiring, that's a major concern. So that leaves
25 me with some concern, and the, you know, the other

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2 pertinent changes as a technical expert I don't
3 know that I can go point by point with you, but
4 they seem to be considerably helpful and we can
5 review them.

6 MR. HERNANDEZ: Well, the biggest
7 challenge is, you're showing an implementation
8 date of 2011.

9 CHAIRPERSON DILAN: Yes.

10 MR. HERNANDEZ: Which is in six
11 months.

12 CHAIRPERSON DILAN: Yes.

13 MR. HERNANDEZ: We'd have to tell
14 our ... and I have two representatives here, one
15 from Kohler and one from American Standard, they'd
16 have to tell everybody right now to start pulling
17 stock and start remanufacturing new toilets. That
18 can't be done in six months.

19 CHAIRPERSON DILAN: Well, I- -

20 MR. HERNANDEZ: (Interposing) And
21 because we want the 2014 date, that's the date the
22 manufacturers agreed this is all we're going to
23 install from now on, 1.28 or less. So that would
24 pretty much tell everybody that's all you can buy
25 anywhere.

CHAIRPERSON DILAN: Yeah, I would like to think that that's flexible, but- -

MR. HERNANDEZ: (Interposing) Yeah, I would agree with you, it is a flexible date. This is one we put out a couple of years ago as a timeline, because we wanted to coincide with California and Texas and possibly a few other states making this change over at the same time. And we wanted to try to keep it harmonized and not have to have so many different types of brands of toilets out there.

CHAIRPERSON DILAN: Yeah, I'd like to think that's flexible, I know I would certainly like to work with you. I'm sure the people, the chairman of the task force is here still listening, I'm sure they'd like to discuss this with you as well. So I'd like to thank you for your ... thank you all for your time and testimony.

MR. HERNANDEZ: Thank you.

CHAIRPERSON DILAN: Okay, next we have Mr. Sylvester Justino, Charlotte Matthews and Terrence O'Brien. And they will be followed by the final panel of Mr. Arthur Klock and Mr. Maurice Costantino. Ladies first. I see you

1
2 adjusting the mic, but ladies first, let's start.

3 MS. MATTHEWS: Good afternoon, my
4 name is Charlotte Matthews, and I'm the Vice
5 President of Sustainability for Related Companies.
6 I'm pleased to be here today to testify on the
7 very important bills under consideration today.
8 Related is a real estate development owner/manager
9 of a diverse portfolio valued at over \$12 billion
10 that includes affordable housing, market-rate,
11 multi-family, commercial office, hotel, mixed-use,
12 big box retail and cultural institutions. We
13 completed our first lead green building in 2004,
14 not too far from here in Battery Park City, and
15 are now in construction on our 12th, up on the West
16 Side at 42nd Street. We have instituted energy and
17 water efficiency upgrades and rolled out green
18 operation protocols across our portfolio of
19 managed assets. Due to our green building
20 experience, and general support for greener
21 building codes, particularly where energy use is
22 concerned, we have been integrally involved in the
23 development of the code modifications under
24 discussion today. We were members of the Green
25 Codes task force, and an outspoken supporter of

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2 the task force mission and first crack at greening
3 New York City's building codes and we continue to
4 be very active in the industry review process the
5 City Council and Mayor's Office of Long-term
6 Planning and Sustainability have undertaken. We
7 have been confident and feel even more so today,
8 based on the quality of this legislation, that the
9 process would result in rational, affordable and
10 enforceable green building codes. With the sole
11 exception of Intro 263, our experience confirms
12 that the code modifications under discussion today
13 will result in healthier and more resource-
14 efficient buildings and place no undue burden on
15 developers and building owners. For Intro 263, we
16 would like to join the Mayor's Office, REVNI, and
17 other members of the industry in recommending the
18 deletion of the line prohibiting use of domestic
19 water for once-through cooling, and also second
20 the industry's concerns that eliminating once-
21 through cooling systems will be infeasible for
22 some existing buildings, and thus this code
23 modification should be limited to new construction
24 or otherwise amended. Greening New York City's
25 building codes is vital to achieving the

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2 sustainability goals of PlaNYC and insuring all
3 New Yorkers live, work and learn in healthy
4 buildings. Related takes great pride in our
5 involvement and contribution to date and looks
6 forward to continued work with the City Council,
7 Mayor's Office, Urban Green and our industry in
8 realizing the promise of this effort. Thank you.

9 CHAIRPERSON DILAN: We have been
10 rejoined by Council member Williams. Mr. O'Brien?

11 MR. O'BRIEN: Good afternoon,
12 Councilman Dilan, my name is Terrence O'Brien, and
13 I'll summarize the first paragraph, a little
14 background. I'm the Deputy Director of the
15 Plumbing Foundation, we represent ... we're a non-
16 profit association of licensed contracting firms,
17 engineering associations, manufacturers and
18 suppliers, whose sole mission is to insure the
19 public health, the enactment and enforcement of
20 safe plumbing codes. I'm here today just to
21 testify in support of Intro 263, 264 and 268, and
22 also to testify on Intro 271. First, the
23 Foundation would like to applaud the City on its
24 continued goal of making New York a greener city
25 by reducing inefficient water usage. Intro 263

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2 strives to reduce the discharge of potable water
3 by restricting the use of potable water in once-
4 through water-cooled appliances. This bill would
5 require other methods, like air-cooled condensers
6 or condensers that circulate water, compared to
7 potable water being used to cool equipment and
8 discharging the water into the drain. The current
9 method, which uses a lot of water for equipment
10 like ice makers, walk-in coolers and air
11 conditioning units, is not green efficient. Intro
12 263 reduces the unnecessary use of potable water
13 where there are other greener methods to cool
14 equipment. The Foundation is fully supportive of
15 Intro 263, a little contrary to your belief.
16 Intro 264 amends the plumbing code with regards to
17 regulating of drinking fountains, plumbing code
18 section 410. This bill would amend the current
19 code which allows bottled water dispensers to be
20 substituted up to 50% of all required water
21 fountains. This bill would eliminate the water
22 dispenser, bottled water dispenser option and
23 replace it with a provision to authorize purified
24 tap water, thereby reducing the use of plastic
25 bottles. We are supportive of Intro 264. Intro

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2 268 will alter as well as add subsections to
3 plumbing code section 606, installations of
4 building's water distribution systems. To briefly
5 summarize the bill, sub-meters and alarmed
6 shutoffs will be required to be installed on
7 certain water-using and water-storage equipment.
8 These sub-meters and alarms would make it easier
9 for plumbing ... building operators to better detect
10 when equipment is malfunctioning and leaking and
11 use wasted water. However, the current bill does
12 not state whether these monitoring and alarm
13 systems are retroactively required on all
14 equipment or are only for new construction and
15 alterations and whether for direct replacement of
16 existing equipment. The Foundation suggests the
17 Council amend the bill to state when these sub-
18 meters and alarms must be installed due to the
19 extreme importance of decreasing the amount of
20 waste water equipment produces. The Foundation is
21 in favor of this bill, but with reservations that
22 the addition of when this bill should be applied
23 is a significant impact and impacts the water
24 efficiency. Lastly, the substantive one, I think,
25 of the day is Intro 271. Generally we are in

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2 support of 271, with two major reservations, that
3 the effective date and the deletion of a provision
4 that would allow the use of waterless urinals only
5 when they can demonstrate water savings for that
6 building. Bear with me for a second, this is a
7 little lengthy, but I think it will drive home a
8 very important fact. Our first concern is that
9 the current bill requires plumbing fixtures listed
10 in table 604.4 to comply with new standards by
11 January 1, 2011. As prior people have testified,
12 it is unreasonable for the City to require the
13 installation of fixtures that meet these new flow
14 rates in less than seven months. Some products
15 have already been ordered by plumbers and will not
16 be installed until next year. Also there's not
17 enough lead time for the plumbing industry as a
18 whole, designers, engineers, architects,
19 installers, plumbers, and of course the supply
20 houses, to prepare for this change. Informing the
21 industry of these new restrictions requires
22 notifying thousands of professionals and is
23 timely. In terms of supply houses, they have
24 inventory currently in the warehouses that will
25 become useless in this version of the bill if it

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2 comes into law. Our second concern, a little more
3 technical, is that the plumbing code section
4 appendix C102.1 prohibits the use of waterless
5 urinals unless they are part of a building's water
6 conservation plan approved by DOB. This is
7 current law. This bill eliminates that subsection
8 entirely, which will allow waterless urinals to be
9 installed without the Department of Buildings'
10 approval, which will cause buildings to be
11 actually less green, less hygienic, and more
12 costly to maintain compared to alternate methods
13 like ultra-low-flow urinals. Deletion of section
14 C102.1 would allow waterless urinals to be
15 installed in any location throughout the City.
16 When this was first introduced ten to fifteen
17 years ago, waterless urinals sounded like a
18 reasonable idea. They were touted by companies
19 wanting to sell these products. Unfortunately,
20 vastly inflated water conservation claims were
21 made compared to the use of three gallons of flush
22 rate to no-water urinals. Using these numbers,
23 the water savings achieved would be great, and
24 actually understandable. The fact is, the
25 industry now uses a substantial less amount, which

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2 is a pint, which is .12 gallons per flush urinals,
3 so the water savings achieved when using alternate
4 methods is negligible. Also the waterless urinal
5 industry downplayed the health, the cost and the
6 maintenance impact of waterless urinals. In
7 settings where maintenance is easily controlled,
8 for instance, I'm not going to name which stadium
9 in New York City, but for the lesser team, where
10 the usage is limited- -

11 CHAIRPERSON DILAN: (Interposing)

12 The Mets?

13 MR. O'BRIEN: I didn't say it, you
14 did.

15 CHAIRPERSON DILAN: I hope you're
16 not looking for amendments on this one, but- -

17 MR. O'BRIEN: (Interposing) I know
18 where you stand, that's okay. In other settings,
19 notably office buildings, waterless urinals have
20 been disastrous. This past February, CNN and a
21 couple of other news sources had a report on how
22 California's EPA and itself ended a six year trial
23 basis of waterless urinals in its own
24 headquarters, which resulted in 56 waterless
25 urinals being replaced by more conventional

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2 urinals. This replacement is ironic for an agency
3 whose goal is water reduction. Due to poor
4 hygiene of waterless urinals and new water-
5 efficient urinals that use, like I said before, a
6 pint of water, the California EPA had to spend
7 tens of thousands of dollars to get rid of these
8 waterless urinals in its own headquarters.

9 Waterless urinals have a hygienic problem and
10 concerns that are not limited to just outside New
11 York City. The City's own Department of Health
12 and Mental Hygiene wrote a memo to the First
13 Deputy Commissioner of the Buildings Department
14 dated July 9th, 2006 which is attached to my
15 testimony, stating its concerns of allowing
16 unrestricted use of waterless urinals. C102.1
17 only allows waterless urinals to be site-specific
18 in a DOB-approved water conservation plan. The
19 Department of Mental Health and Hygiene supported
20 the provision because of these site-specific
21 installations. The City required the, and I
22 quote, " manufacture, maintenance and operation
23 requirements must be followed, including cleaning
24 with proper chemicals and scheduling and
25 maintenance". By allowing waterless urinals to be

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2 used anywhere in the City, the hygiene concerns
3 expressed by the Department of Health cannot be
4 fully addressed. Also, waterless urinals are not
5 as green as people think. These urinals require
6 chemical cartridges, which are plastic and not
7 recyclable, and usually need to be replaced on a
8 quarterly basis. In some instances where these
9 urinals have a high usage, like I said, that
10 lesser-known stadium that we don't talk about,
11 these cartridges are replaced at an even higher
12 rate. Also, waterless urinals have an extreme
13 negative to a building's existing copper piping.
14 According to a February 8th of 2010 news report
15 regarding the Chicago city hall, waterless urinals
16 were replaced due to odor and corrosion in the
17 building's piping system. In that same report,
18 the U.S. Army Corp of Engineers specifically
19 stated that waterless urinals corrode piping. My
20 question posed generally is how can a product be
21 considered green if it results in repiping a
22 building and the introduction of more plastic that
23 can't be recycled? Lastly, this version of the
24 bill also does not state whether these new
25 restrictions are only for new construction and

1 alterations, or whether for direct replacing of
2 existing equipment. Knowing when this applies is
3 a major issue of the plumbing industry, and in
4 addition, property owners and property managers.
5 We applaud the City Council for thinking green by
6 decreasing the maximum amount of water for certain
7 plumbing fixtures in use, but we ask the City
8 Council to extend the effective date. We
9 suggested July 1, 2012, but as my colleague stated
10 before, if it's good for California, which is the
11 leading head of the spear in terms of water
12 efficiency, 2014, we'll agree with him. The 2014
13 ... now, 2014 will be enough time for all parties in
14 the plumbing industry to become informed and
15 prepared for these new restrictions. More
16 importantly, the deletion of C102.1, the
17 ineffective method to make to the green movement,
18 an agreement that the plumbing industry otherwise
19 fully supports. Thank you, Councilman Dilan.

21 CHAIRPERSON DILAN: Okay, thanks.

22 Mr. Justino?

23 MR. JUSTINO: Good afternoon,
24 Chairman Dilan and members of the Committee. My
25 name is Sylvester Justino, Director of Legislative

Affairs for the Building Owners and Managers Association of Greater New York. BOMA represents more than 700 owners, property managers and building professionals who either own or manage 400 million square feet of commercial space. We're responsible for the safety of over three million tenants and generate more than \$1.5 billion in tax revenue. We commend the Bloomberg administration for taking the lead in proposing a bold program to make existing buildings more energy efficient. BOMA New York firmly stands behind the concept of greening our City, and we do that every day in the buildings we own and manage. Our members have voluntarily pursued and received LEED, Energy Star and ISO 9001 certification, the gold standards in energy and environmental conservation, whose requirements often exceed the prerequisites contained in the proposed legislation we are discussing today. BOMA has been an active participant of the industry advisory committee of the New York City Green Codes task force. I'd like to thank Laurie Kerr and her team for allowing us to share our insights and incorporating them in the legislation. With

1
2 minor exception, we support the proposed
3 legislation, but we do have some issues with Intro
4 263, which were discussed earlier today. The
5 specific bills before you today amend the sections
6 of the construction and building codes. While
7 this legislation should be commended, they are a
8 minimal representation of what could be required
9 of green, sustainable and high performance
10 buildings. A code like the IGCC is needed to make
11 the bold move necessary to green existing
12 buildings. BOMA knows that by making buildings
13 more reasonable ... I'm sorry, more resourceful, is
14 the single biggest step that can help our City
15 achieve its sustainability goals and remain
16 competitive as the business capital of the world.
17 We look forward to working with the Bloomberg
18 administration, the City Council and our industry
19 partners in making a greener New York a reality.
20 Thank you.

21 CHAIRPERSON DILAN: Okay, I'd like
22 to thank you all for your time and testimony. You
23 did all have suggested changes that you'd like the
24 Committee to consider, and where appropriate,
25 either myself or the appropriate Committee staff

1
2 will be reaching out to you to discuss these
3 items.

4 MR. JUSTINO: Thank you, sir.

5 CHAIRPERSON DILAN: Okay, the final
6 panel is Mr. Arthur Klock and Mr. Maurice
7 Costantino.

8 MR. KLOCK: Chairman Dilan, my name
9 is Arthur Klock, I'm the Director of Training for
10 Plumbers Local #1 here in New York City. I've
11 been teaching plumbers in New York City for more
12 than 20 years. And first I'd like to offer to
13 answer your previous question about what is a
14 blowout toilet.

15 CHAIRPERSON DILAN: Thank you.

16 MR. KLOCK: And what is a clinic
17 sink. A blowout toilet is a specialized toilet
18 that does not have the normal tortuous waterway.
19 This allows solid objects to be blown through, and
20 it would be used in certain applications, like in
21 a stadium or a prison, or areas where there's a
22 concern of stoppages. A clinic sink is a
23 specialized cleaning sink that's used for things
24 like bedpan cleaning and other nasty things in
25 hospitals, so it's got a flushometer and a

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2 flushing rim, so it cleans itself every time that
3 it's used. That's what those two fixtures are.
4 You really can't restrict the water being
5 delivered to those, because they won't function
6 with the lower water rate. I'm here today to
7 comment on Intros 263, 264, 268 and 271. My first
8 comment regards 263, and it may be a moot point,
9 because I believe it's been, the point has been
10 withdrawn, but I was going to say that I feel that
11 the idea of substituting non-potable water for
12 potable water currently used to temper hot water
13 steam or steam condensate before discharging it
14 into the public sewer is commendable, and I think
15 is an achievable goal, which some people seem to
16 think it was not. The problem is that in most
17 buildings there is currently no suitable source of
18 cool, non-potable water readily available for this
19 purpose. It's not acceptable to simply dump hot
20 water, steam or steam condensate into the drainage
21 system. It will be necessary to have an engineer
22 devise an acceptable method of capturing and
23 storing rain water, gray water or other cool non-
24 potable water for this purpose, and then have that
25 system installed by a licensed master plumber.

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2 Obviously, implementation for this would be much
3 longer than what's shown in the current
4 legislation. And so I was going to suggest an
5 extension, but I'm understanding from other
6 testimony that this is going to be withdrawn, so I
7 guess this is a moot point. 264. 264, the
8 language is extremely difficult to understand, the
9 language that's been proposed for substitution in
10 section 410.1 regarding drinking fountains. The
11 proposed language obviously needs a rewrite so
12 that confusion and misinterpretation will be
13 avoided in the future, and it may be that I have
14 misinterpreted it myself because of that language.
15 But in reading it, I'm still concerned that there
16 is, the language is not clear in doing away with
17 these bottled water dispensers. Bottled water
18 dispensers of any kind should not be allowed to
19 substitute for required drinking fountains. New
20 York City has a high-quality public water system.
21 The negative environmental and social impact of
22 bottled water and the commoditization of our water
23 supply are becoming more apparent every day.
24 Bottled water undermines confidence in New York
25 City's public water supply, and pollutes the

1
2 environment. Plastic water bottles require
3 tremendous amounts of fossil fuels to manufacture
4 and transport, and over 80% of these bottles end
5 up incinerated, buried in landfills, or are
6 discarded on our roadways or in our waterways as
7 litter. The U.S. Conference of Mayors passed a
8 resolution at their 2008 annual meeting
9 encouraging cities across the country to phase out
10 use of bottled water, and promote the importance
11 of strong public water systems. Already more than
12 60 major cities have responded to this resolution
13 and have been taking commonsense actions to
14 protect the environment, save money and restore
15 confidence in our public water supplies. The New
16 York City Council should take this opportunity to
17 take similar action. Last year the American
18 public spent more than \$15 billion buying bottled
19 water, this at a time when our public water
20 systems are in need of increased public support,
21 facing at least an annual \$22 billion shortfall
22 between what these systems require and what is
23 allocated. Ironically, in 2007 several large
24 water bottlers issued press releases that
25 identified their bottled water sources as being

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2 taken from municipal operations. They're getting
3 the water from us and selling it back to us and a
4 thousand times the price. In 2008, Steven
5 Lawitts, acting Commissioner of the New York City
6 Department of Environmental Protection, stated
7 "New York City water is not only good for your
8 health, it's healthier for your wallet". Drinking
9 two liters of New York City water each day costs
10 just 50 cents a year, while drinking two liters of
11 bottled water a day could cost more than \$1,400 a
12 year. In addition to being economically prudent,
13 it is also environmentally responsible to drink
14 tap water. 47 million gallons of oil used to
15 produce all the plastic bottles that Americans use
16 each year, which result in one billion pounds of
17 CO2 added to the atmosphere. By drinking New York
18 City water instead of bottled water, you can help
19 protect our environment and minimize the likely
20 impacts of climate change on our water supply
21 system. An environmentally responsible code
22 should not allow substitution of required drinking
23 fountains by bottled water dispensers. The City
24 Council should show leadership on this issue by
25 amending the plumbing code in favor of our public

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2 water system, ending the 50% substitution
3 allowance presently permitted under the plumbing
4 code. Unfortunately, Intro 264, even with all its
5 confusing changes, I'm not sure that it doesn't
6 still allow that, because I can't really
7 understand the language. Ms. Kerr said that it
8 doesn't, so hopefully the clarified language will
9 make that clear. It's primarily for that reason
10 that I would say it should have to be sent back to
11 the drawing board. Comments in support of Intro
12 268. It's extremely difficult to identify the
13 location of leaks, increases or spikes in water
14 usage in a large building. The addition of sub-
15 meters for major water-consuming applications in
16 buildings will prove an invaluable source of
17 information in the effort to cut water waste and
18 water consumption generally. Sub-metering will
19 make building management professionals aware of
20 how much water each area of the building is using,
21 and the true cost of that usage. Water auditing,
22 to devise a plan for a building to cut water waste
23 and reduce consumption, requires accurate data.
24 Sub-metering is one of the most important steps
25 necessary to collect that data and facilitate

1 auditing and conservation of this important
2 natural resource. Intro 268 provides the tools to
3 take water conservation to the next level and
4 should be approved with the added provisions that
5 sub-meters be installed only by a licensed master
6 plumber, and installed within twenty feet of the
7 equipment or area being metered. On a technical
8 note, it is recommended that the word "make-up" be
9 stricken from the text for the proposed new
10 section, 606.7, as this term is not applicable to
11 item two, which is commercial cooking facility;
12 item three, commercial laundry; item four,
13 commercial gym and spa, as listed in the section.
14 Make-up water, by the way, you asked that question
15 also, is when you have a ... Ms. Kerr was pretty
16 close, when you have any device that has a
17 reservoir of water, and that reservoir reduces
18 through evaporation or causes, the industry term
19 for the water is made up, that is brought back in,
20 is a make-up line. So that's what make-up is.
21 Now, 271, I put down I was in opposition, but
22 again I'm confused, because I've heard that we're
23 banning waterless urinals, and we're not banning
24 waterless urinals. I'm a little confused about
25

1 the language, so I'm going to go through it.

2 Water use reduction for several types of fixtures

3 in this intro are positive steps and worthy of

4 support. However, the waterless urinal changes

5 are not well thought out. The waterless urinal is

6 promoted by its proponents as the ideal in water

7 conservation, since it is a plumbing fixture that

8 uses no water. To the average person this sounds

9 as good as a light bulb that uses no electricity.

10 The problem is that there are hidden economic and

11 environmental impacts associated with waterless

12 urinals. The secret of how waterless urinals work

13 is not really a secret. Almost everyone knows

14 that oil is lighter than water and will float on

15 top of water when the two are in contact.

16 Waterless urinals work by having a quantity of oil

17 captive in the fixture trap. Some waterless

18 urinals have an integral trap, while others use a

19 disposable plastic cartridge as a trap. When

20 urine enters the trap, it simply passes through

21 the oil in the trap and emerges undiluted on the

22 other side in the drain line. Waterless urinals

23 do not wash themselves down and do not dilute the

24 urine, as a conventional fixture does. As there

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1
2 is no wash-down function, it is necessary to have
3 someone wipe down a waterless urinal daily with a
4 cleaning solution, and that's what's recommended
5 by the manufacturer. Additionally, undiluted
6 urine, upon entering the drainage system, can
7 cause excessive corrosion and seriously shorten
8 the lifespan of drainage piping connected to a
9 waterless urinal. Another issue is the oil seal
10 in a waterless urinal. It must be periodically
11 replenished, according to the amount of usage it
12 receives. In waterless urinals with an integral
13 trap, a janitor must periodically flush out the
14 old oil by pouring a full bucket of water down the
15 drain. Then the trap must be resealed by pouring
16 a new quantity of oil into the trap. In the case
17 of a waterless urinal which uses a removable
18 plastic cartridge, the complete plastic cartridge
19 containing the sealant oil must be physically
20 removed, disposed of in the trash and replaced by
21 another on an ongoing basis. This results in
22 increased landfill of non-biodegradable plastics.
23 Recent developments in conventional urinal flush
24 valve technology have dramatically reduced the
25 amount of water necessary for a self-cleansing

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2 conventional-style urinal, which does not consume
3 trap oil or plastic cartridges. These new urinals
4 function admirably on only 0.125 gallons per
5 flush, that's just one pint of water. One pint
6 urinals are the smart choice economically as well
7 as environmentally, and will prevent the corrosion
8 and subsequent repairs which may result from a
9 waterless urinal's discharge of undiluted urine
10 into the drainage piping. The hidden impacts
11 associated with waterless urinals in man hours, in
12 chemical cleaning solutions, in trap oil
13 replenishment, and disposable plastic cartridges,
14 and in potential piping damage, make the overall
15 benefits of waterless urinals extremely
16 questionable. Waterless urinals should only be
17 permitted as part of an approved building water
18 conservation plan. Accordingly, section C102,
19 waterless urinals, of the New York City plumbing
20 code, should not be deleted, and therefore Intro
21 271 in its present form should not be approved.

22 CHAIRPERSON DILAN: Okay, thank
23 you. Mr. Costantino?

24 MR. COSTANTINO: Good day, Chairman
25 and Council members. My name is Maurice

1
2 Costantino, this is my first visit to City Council
3 in testimony, so I'll give you a bit of my resume
4 for your use. But I would like to say that I'm
5 from Davis and Warshow Company, we're a premier
6 wholesale distributor of plumbing materials in the
7 City. As myself, I was an industry representative
8 in implementing the international plumbing code
9 into New York City. We also teach a backflow
10 prevention course and certify about a hundred
11 people a year for backflow testing. We are also a
12 silver sponsor, a member of USGBC. Also, I was
13 executive chief plumbing inspector of the
14 Department of Buildings, where I was also a
15 representative implementing the international code
16 into New York City. Enough about me. It is my
17 honor to testify before the New York City Council
18 Committee on Housing and Buildings with regard to
19 the following. Intro 263, local law to amend the
20 New York City plumbing code in relation to
21 reducing the waste of drinking water use for
22 cooling. I am in favor and support this
23 legislation, based on drinking water efficiency,
24 and prohibiting the use of potable water for once-
25 through cooling of process equipment, I would like

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2 to add, with the exceptions noted by previous
3 speakers earlier. Regarding Intro 264 by Council
4 member Eugene, local law amendment to the New York
5 City code in relation to drinking fountains. I am
6 in favor and support of this legislation based on
7 drinking water efficiency, less reliance on
8 bottled water and health and hygiene issues, I
9 would like to add again, with the exceptions noted
10 earlier by other speakers. With regard to Intro
11 268, by Council member Lander, a local law to
12 amend the administrative code of the City of New
13 York in relation to preventing water waste in
14 buildings by mandating sub-metering on high-use
15 equipment, I am in favor and support of this
16 legislation, based on drinking water efficiency
17 and use measurement, using approved sub-meters.
18 With regard to Intro 271, local law to amend the
19 New York City plumbing code and the administrative
20 code, in relation to enhancing water efficiency
21 standards, by making it unlawful to buy or sell
22 any fixture which does not comply with the
23 proposed consumption requirements, I am in favor
24 and support of this legislation, based on drinking
25 water efficiency, using very low flow plumbing

1 fixtures, with two exceptions to follow, please.

2 With regard to the non-water urinals, non-water

3 urinals must remain as part of a water

4 conservation system, in accordance with New York

5 City plumbing code C102.1. Based on the track

6 record of the limited applicability of non-water

7 urinals, I caution the Council on the many

8 technical reasons the Plumbing Technical Committee

9 approved non-water urinals utilized only as part

10 of an approved building water conservation plan.

11 Some of the concerns that the Plumbing Committee

12 looked at were: water use, global warming,

13 population increase, water utility infrastructure,

14 underpriced water, wasteful practices, and the

15 hydrological cycle. The effects of very low water

16 use in existing buildings with piping from the old

17 codes, which will be oversized, causing the dry-

18 drain phenomenon, with the potential of safety and

19 health problems. The original water saving

20 potential has not kept up with the very low flow

21 urinal technology available now. There must be a

22 commitment by building owners for the higher

23 maintenance required by non-water urinals to

24 remain sanitary. The many projects that non-water

25

1
2 urinals have been installed and removed, due to
3 unsatisfactory performance, including New York
4 Times building here in New York City, and that's
5 the old New York Times building, and the
6 California EPA headquarters. Therefore I
7 respectfully submit to Council that this issue
8 should be reviewed during the three year update of
9 the New York City plumbing code, using the
10 technical committees available. With regard to
11 the dating of 271, the effective date of January
12 1st, 2011 should be extended at least to 2012, and
13 we're saying July 1st, 2012, with other members
14 saying even further push back. Some of the
15 reasons that City agencies will be affected,
16 including the Department of Buildings and the
17 Department of Environmental Protection, will be as
18 follows. Manufacturers have limited offers of
19 approximately 30% of very low flow equipment at
20 this time, and will not be able to provide the
21 needs of the City. Wholesalers have millions of
22 dollars of what will be obsolete and illegal
23 inventory. Architects and engineers have already
24 specified and approved many projects with fixtures
25 that will not meet the new requirements. Building

1
2 contractors will suffer construction delays.
3 Plumbing contractors will not be able to legally
4 complete contracts, due to non-compliant fixtures.
5 City agencies will need additional resources to
6 manage the abrupt change to approved materials,
7 including but not limited to amendments to
8 existing applications, permits, inspection
9 protocols and administration. Building owners
10 could incur cost overruns and be subject to
11 violating the new local laws. City Council will
12 be in media spotlight and subjected to many
13 questions as the City grinds to construction
14 delays and cost overruns. The City has suffered
15 similar implementation precedents, as local law 29
16 of '89, the first low-flow fixture initiative,
17 phased in over five years. Questions still exist
18 every day on low-flow fixture compliance. Thank
19 you. Sorry for the nervousness.

20 CHAIRPERSON DILAN: I would say,
21 you didn't appear to be too nervous, so I think
22 you got through it okay. Again, I would say to
23 both, thanks for your time and testimony. There
24 were some, you know, specific objections, though
25 minor. I think that the tone of the testimony was

1
2 in support of the package. So again, I look
3 forward to working with each of you on the minor
4 details, so that we can get to a better place and
5 make the bill stronger, as we look to adopt them.
6 So I'd like to say thanks for your time and
7 testimony, and thank you for coming in.

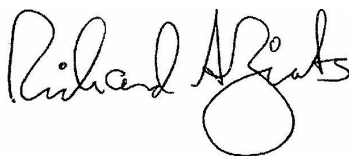
8 MR. KLOCK: Thank you, Mr.
9 Chairman.

10 MR. COSTANTINO: Thank you, Mr.
11 Chairman.

12 CHAIRPERSON DILAN: We have no
13 statements for the record, so at this time all
14 items before the Committee at this time will be
15 laid aside, and that will conclude this hearing.
16

C E R T I F I C A T E

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



Signature _____

Date July 6, 2010