

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON GOVERNMENTAL OPERATIONS, SMALL
BUSINESS AND ECONOMIC DEVELOPMENT

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June 25, 2010
Start: 1:11pm
Recess: 2:42pm

HELD AT: Council Chambers
City Hall

B E F O R E:
GALE A. BREWER
DIANA REYNA
THOMAS WHITE, JR.
Chairpersons

COUNCIL MEMBERS:
Council Member Margaret S. Chin
Council Member Eric Martin Dilan
Council Member Inez E. Dickens
Council Member Mathieu Eugene
Council Member Letitia James
Council Member Peter A. Koo
Council Member Brad S. Lander
Council Member Stephen T. Levin
Council Member James S. Oddo
Council Member Peter F. Vallone, Jr.
Council Member Mark S. Weprin

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

Sami Naim
Assistant Counselor
Office of the Mayor

Elizabeth Weinstein
Director of Agency Services
Mayor's Office of Operations

Robert Bookman
Attorney with Pesetsky and Bookman
Counsel to the New York State Restaurant Association

2 CHAIRPERSON REYNA: Good morning.

3 My name is Diana Reyna, and I'm Chair of the
4 Committee on Small Businesses. I'd like to thank
5 Chairperson Brewer, who is on her way from a
6 graduation, she will be joining us shortly, for
7 holding this hearing jointly with the Small
8 Business Committee, and the Committee on Economic
9 Development. As many of you know, there are
10 approximately 220,000 small businesses that reside
11 in the City of New York. These businesses account
12 for 98 percent of the small businesses and--of all
13 small businesses--and employ a little over 1.5
14 million people, which makes up more than half of
15 the City's entire private sector workforce. It is
16 also no surprise to anyone here that in this
17 economy small businesses are struggling. The loss
18 of jobs in the private sector continues to mount
19 and small businesses continue to have serious
20 problems maintaining cash flow, accessing capital
21 and just having the know-how to operate and
22 succeed in the City. To analyze and address these
23 struggles, the Council formed the Regulatory
24 Review Panel, in order to modernize and rule--the
25 rulemaking process. The specific goals of the

2 panel were to find ways of enhancing public
3 participation and identifying fixing problems with
4 existing rules and regulatory implementation. The
5 panel received input from well over 200 small
6 business owners, industry representatives, and
7 other stakeholders, through outreach sessions with
8 business owners in all five boroughs, meetings
9 with various industry and civic groups, and
10 written comments from the general public. The
11 panel found that a major source of discontent
12 cited repeatedly by small businesses is in dealing
13 with the City's rulemaking process, and the lack
14 of legal and operational review on this process.
15 Currently, this process, known as the City
16 Administrative Procedure Act, or CAPA, is designed
17 to increase public participation in drafting new
18 rules and to standardize rulemaking processes
19 among City agencies. The rulemaking process
20 occurs in three steps. First an agency notifies
21 the public of a hearing on a proposed rule change.
22 Next, the agency solicits public comments on the
23 rule change at the hearing, and for thirty days
24 after. And finally, the rule is adopted and
25 published in the City Record. However, a

2 consideration as to whether a proposed rule will
3 be unduly burdensome on those who will have to
4 comply with it is not part of this process. A
5 perfect example of rules that are promulgated and
6 passed down to an agency are the Public Health
7 Department, which then is enforced by the
8 Department of Health. The bill we will be hearing
9 today, Introduction No. 91-A will be a major step
10 in improving this process; in short, the bill will
11 direct that the Mayor's Office of Operations and
12 the Law Department both review a proposed rule
13 change before it takes effect. Under this bill,
14 the Law Department will make sure that the rule
15 helps accomplishes, help accomplish the goals of
16 the law it falls under; does not conflict with an
17 already existing rule; is specific enough to
18 achieve its goals; and clearly explains its intent
19 and meaning. Also, the Office of Operations will
20 check to see that the rule is easy to understand,
21 and written in plain language; that enough
22 outreach was conducted to get business owners'
23 comments; that a grace period is given to business
24 owners to implement the changes, especially if
25 there is a financial penalty for failing to do so;

2 and, last, ensures that compliance will be at the
3 lowest possible cost to businesses. This bill
4 will be an important step towards, towards proving
5 to small business community that City government
6 is serious when it says that it wants to create a
7 less intrusive and more business friendly
8 environment for our small businesses. I look
9 forward to hearing from the members of the
10 Administration and public who have come here today
11 to testify. I'd like to thank the sponsor of the
12 bill, Council Member Oddo, who will be joining us
13 shortly. And I'd like to recognize Council
14 Members Peter Vallone, Jr., who is here today; and
15 Council Member Peter Koo from, both from Queens.
16 As we move along, I'd like to just make mention of
17 the work that Council staff has made concerning
18 all these particular details in improving the
19 environment for small businesses: Matt Gewold,
20 Counsel to the Committee; Kristoffer Sartori,
21 Counsel to the Committee; Ashwin Cortile
22 [phonetic]; Thomas Donaldson, Amanda Santiago,
23 policy analysts. And without further ado, I'd
24 like to ask Sami Naim, Assistant Counselor to the
25 Mayor's Office; Elizabeth Weinstein, Director of

2 Agency Services. And is there a third? No?

3 Okay. Are you ready? Fantastic.

4 SAMI NAIM: Good afternoon, Chair
5 Reyna, and Member of the Committee. I am Sami
6 Naim, Assistant Counselor to Mayor Michael R.
7 Bloomberg, and I'm here on behalf of the
8 Administration, to testify in support of Intro 91-
9 A, a measure which would further, which would
10 require further review, which would require
11 further review of proposed rules by the Law
12 Department and the Mayor's Office of Operations.
13 With me today is Liz Weinstein, Director of Agency
14 Services at the Mayor's Office of Operations. Let
15 me first say that the Bloomberg Administration
16 remains steadfast in its commitment to small
17 businesses, a commitment we share with the City
18 Council. Small businesses are critical engines of
19 our economy, employing half of all New Yorkers who
20 work in the private sector. They are also
21 important contributors to our quality of life,
22 creating a special sense of community in
23 neighborhoods throughout the five boroughs. Let
24 me also begin by reaffirming the Administration's
25 commitment to providing the best customer service

1
2 to New Yorkers. Indeed, since 2002, improving
3 customer service standards has been a cornerstone
4 of the administration. In fact, Mayor Bloomberg
5 signed an executive order to create a customer
6 service group within the Mayor's Office of
7 Operations to ensure that every member of the
8 public who interacts with City agencies, receives
9 the best customer service possible, regardless of
10 how those services are received, whether in-
11 person, over the phone, by letter or email, or via
12 NYC.gov. Customer service is, of course,
13 essential to our relationship with businesses.
14 Building on those two commitments, the
15 Administration has developed a number of tools to
16 allow small businesses to develop and grow. A few
17 examples include NYC Business Express, a web based
18 resource for business owners that serve as a one-
19 stop shop for the permits and licenses of business
20 owner needs to open and operate his or her
21 enterprise. NYC Business Solutions, a suite of
22 free services offered by the Department of Small
23 Business Services that help businesses of any size
24 and at any stage of development, open, operate and
25 expand. Workforce One, an initiative that helps

2 business owners navigate the labor market using a
3 customized recruitment approach tailored to a
4 company's specific needs. The new Business
5 Acceleration Team, a new streamlined program that
6 will make it possible for qualifying entrepreneurs
7 in the restaurant business to open their bar,
8 bakery or restaurant, more quickly, through, for
9 example, coordinating multiple agency inspections
10 on the same day. And development coordinator, an
11 initiative that assists qualifying developers,
12 contractors, and other licensed professionals who
13 are stuck between agencies because of confusing or
14 conflicting policies or jurisdictional issues.
15 But to preserve and build upon the progress that
16 we are making, we must do more than provide the
17 tools necessary for small business to succeed. We
18 must also create an environment that facilitates
19 their growth. With this in mind, the
20 Administration worked with the City Council on
21 developing a panel on regulatory review, which was
22 codified in legislation that was introduced by
23 Council Member Oddo, and signed into law by Mayor
24 Bloomberg as Local Law 45 of 2009. The Panel was
25 intended to scrutinize the City's regulatory

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2 system with an eye towards easing the burden born
3 by small businesses, and eliminating obstacles to
4 their development and growth. The report the
5 Panel produced identified ways to modernize and
6 strengthen the process established by the City
7 Charter, known as the City Administrative
8 Procedure Act, or CAPA. To modernize the
9 rulemaking process, the Administration launched a
10 new website earlier this year called NYC Rules.
11 This new website enables the public to track and
12 monitor rulemaking activity, submit comments
13 regarding proposed rules, and learn about the
14 rulemaking process through plain language guides
15 and process maps. We believe that by spurring
16 greater public participation in the rulemaking
17 process, we are making it easier for small
18 businesses and the public at large to stay on top
19 of the latest regulatory developments, to ensure
20 better levels of compliance, which helps
21 businesses avoid violations and save money. To
22 strengthen the rulemaking process, the
23 Administration seeks to ensure that agencies are
24 promulgating rules in accordance with sound, well
25 established operational and customer service

2 principles. Intro 91-A helps achieve this
3 objective by creating a mechanism by which the
4 City can tap into the experience and expertise of
5 the Mayor's Office of Operations during the early
6 stages of the process. Under Intro 91-A
7 Operations would conduct a review of proposed
8 rules to ensure, to make sure that it is easy to
9 understand, consistent with other agency
10 processes, and achieves policy objectives without
11 imposing undue burdens, measured in both time and
12 money. But use different process in different
13 timeframes. This impo--sorry. For example, when
14 two agencies are regulating the same activity, but
15 use different processes in different timeframes,
16 this imposes an unfair burden on a business owner
17 who is required to juggle this agency information
18 in his or her head all while running a business.
19 In these cases, we would want Operations to step
20 in and before new rules are piled on top of
21 existing rules, to see if there's a better way to
22 achieve the policy objective at hand that avoid
23 creating additional bureaucracy. Accordingly, we
24 fully support this effort as a common sense reform
25 toe CAPA. However, we would like to continue to

2 work with Council to further refine the bill, in
3 order to make it as effective and efficient as
4 possible. And to ensure that it always furthers
5 the public best interests in purposes.

6 Specifically, we have three areas of concern that
7 we believe require further discussion with
8 Council. First, we believe that the bill should
9 be amended to ensure more efficient review process
10 that maximizes the Mayor's Office of Operations'
11 skill set. This, the bill in its current form
12 would require Operations to analyze and publish a
13 report outlining various aspects of every single
14 action regardless of the action's potential scope
15 or impact. This may not be necessary or practical
16 in all cases, such as when the Department of
17 Records and Information Services amends this rule
18 to establish or change fees for the reproduction
19 of a tax lot photo. Indeed in such cases, the
20 review called for under this bill as currently
21 drafted may not be the best one for the office's
22 limited staff and resources during a time in which
23 we are all focused on streamlining City government
24 and eliminating outmoded processes. Therefore, we
25 propose that the bill be amended to exempt rules

2 in certain situations, for instance when a rule's
3 sole purpose to implement a federal, state or
4 local law, or to establish or amend administrative
5 fees. Second, we believe that the bill's notice
6 requirements should be amended in light of what is
7 already required under CAPA. Under the bill,
8 agencies would be asked to engage one set of
9 stakeholders before another set of stakeholders.
10 Under CAPA's standard process, all stakeholders,
11 whether they be institutional forces or individual
12 New Yorkers, learn about a proposed rule at the
13 same time and are provided the opportunity to
14 provide their feedback, at a public hearing that
15 is open to all. Moreover, the bill does not
16 provide enough guidance as to who should be
17 considered a relevant stakeholder, which could
18 result in certain persons or organizations being
19 inadvertently left out of the process. Therefore,
20 we believe that further discussion is required on
21 this issue to reconcile what is provided for under
22 the bill, and what currently exists under CAPA.
23 Third, we believe that the bill should incorporate
24 an emergency rulemaking exemption that is
25 consistent with CAPA. Indeed, the bill as written

2 does not provide an exception for when the City
3 must respond swiftly to the situation that
4 threatens the public health or safety. This is of
5 great concern to the Administration, and Emergency
6 Rules, of course, that could eventually expire, at
7 which point they must be repromulgated through the
8 standard rulemaking process. We believe that the
9 standard process is a more appropriate situation
10 for review by the Mayor's Office of Operations.
11 We also believe that the Council does not intend
12 the bill to apply to emergency rules; therefore,
13 we propose that the bill be amended to exempt
14 emergency rules from the process. In conclusion,
15 we thank Chair Brewer, Chair Reyna and Chair
16 White, and the Committee on Government Operations,
17 Small Business Services and Economic Development,
18 for calling this public hearing to discuss Intro
19 91-A. And we look forward to continue to working
20 with the Council to refine the bill, and establish
21 a process that yields efficient and effective
22 regulatory outcomes which will ease the regulatory
23 burden born by small businesses, consumers and the
24 public at large. We'd be happy to answer any
25 questions you may have.

2 CHAIRPERSON REYNA: Thank you very
3 much, Mr. Naim. I want to just recognize two of
4 my colleagues: Council Member Margaret Chin from
5 Manhattan and Council Member Steve Levin from
6 Brooklyn, who have joined us. We do have some--we
7 are in the process of being joined by Council
8 Member Oddo, the sponsor of the bill. Thank you
9 so much for joining us. I don't know if you
10 wanted to, as you settle in, make a comment?

11 COUNCIL MEMBER ODDO: [off mic] No,
12 let's hear from - -

13 CHAIRPERSON REYNA: Oh, absolutely,
14 we just finished hearing testimony.

15 COUNCIL MEMBER ODDO: [off mic] Oh,
16 we did, oh, okay.

17 CHAIRPERSON REYNA: I apologize.

18 COUNCIL MEMBER ODDO: Oh, my, my
19 bad.

20 CHAIRPERSON REYNA: We have--
21 [pause] So while Council Member Oddo just settles
22 in, I just wanted to ask, how often have rule
23 changes been withheld due to public comments that
24 have been received after the hearing, in
25 particular in the 30 day interim period?

2 SAMI NAIM: I'm not sure how many,
3 you're saying after the public hearing, how many
4 times has a agency chosen not to move forward with
5 a rule?

6 CHAIRPERSON REYNA: How many times
7 have they offered not to move forward and in
8 particular because of public comments?

9 SAMI NAIM: I'm not sure how many
10 times that has occurred. What I do know is that a
11 lot of times a proposed rule is significantly
12 amended in light of the public comments an agency
13 has received. But as far as when an agency
14 chooses not to move forward, I can find out and
15 get back.

16 CHAIRPERSON REYNA: That would be
17 very helpful. Just trying to understand, in
18 reference to your testimony, you provided three
19 basic points as to what you feel should change
20 concerning the bill. And obviously, emergency
21 status was one of the particular points. Any law
22 that is being implemented from the federal level,
23 state level or local law, that would establish or
24 amend an administrative fee or policy. Correct?

25 SAMI NAIM: Administrative fee.

2 CHAIRPERSON REYNA: Only

3 administrative fee?

4 SAMI NAIM: I don't think we said
5 policy.

6 CHAIRPERSON REYNA: Okay. [pause]
7 And you want further discussion on the issue to
8 reconcile what is provided under the bill, and
9 what currently exists under CAPA. And you have
10 not reviewed those particular, that particular
11 point?

12 SAMI NAIM: Oh, as far as engaging
13 stakeholders.

14 CHAIRPERSON REYNA: Mhm.

15 SAMI NAIM: Yeah, we've, we worked,
16 we work diligently with Council to develop the,
17 the bill today, but we all--

18 CHAIRPERSON REYNA: Separately from
19 the Council, what has been done concerning further
20 review within the Administration, to currently
21 review the, what is under CAPA?

22 SAMI NAIM: One example is NYC
23 Rules. So, currently, under CAPA, an agency is
24 required to publish a rulemaking notice in the
25 City Record, as well as email a number of civic

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2 organizations and, and the Council itself. But
3 you know, really the City Record has 300
4 subscriptions outside of government entities. And
5 it really doesn't push the word out. And so what
6 we heard during the regulatory review panel was
7 that they didn't even know that a rule was under
8 consideration, because reasonably, maybe, they
9 don't read the City Record every day. And so,
10 what we did was post those notices online on a
11 site called "NYC Rules," which allows business
12 owners to, and the public at large, to review
13 rulemaking agencies, and also comment on rules
14 from any home or office computer, before they
15 would have to either write a letter to an agency,
16 some agencies accepted email, other agencies had
17 a, most agencies had a public hearing. You know,
18 especially if you're running a small business,
19 it's difficult to make time to attend a public
20 hearing. So what we did was bring the rulemaking
21 process to as many New Yorkers as possible, by
22 posting it online.

23 CHAIRPERSON REYNA: And that's in
24 effect today.

25 SAMI NAIM: Yes.

2 CHAIRPERSON REYNA: And what has
3 been the response to that new instrument or tool?

4 SAMI NAIM: I mean, we've, we've
5 heard nothing but positive feedback. And, you
6 know, we, it was developed in light of the
7 comments we receive from business owners in all
8 five boroughs. But also, from other civic
9 organizations that often feel that regular New
10 Yorkers don't know what goes on at the agency
11 rulemaking level. And so, it just started, the
12 Mayor signed the executive order just a couple
13 months ago, and we're building and building and
14 building on the site. But I think this represents
15 how we can bring the rulemaking process, and open
16 it up to a population that's beyond special
17 interests.

18 CHAIRPERSON REYNA: Council Member
19 Oddo, do you have a--

20 COUNCIL MEMBER ODDO: [off mic]
21 Yeah, please.

22 CHAIRPERSON REYNA: Thank you.

23 COUNCIL MEMBER ODDO: Madam Chair,
24 thank you, I apologize for being late, but, you
25 know, [laughs] the last few days are a blur. I

2 just, first I'd like to thank our staff, including
3 my own counsel, Chris Decicco, for all his work,
4 and I appreciate the cooperation to-date from the
5 Administration. The genesis of this bill was a
6 concept called regulatory flexibility that has
7 been passed on the State level and across the
8 country. And the idea is that, that in the
9 rulemaking process, we don't make things harder on
10 small business. And this Administration has put a
11 lot of effort into small, helping small business.
12 This Council has made it a prime focus and the
13 speaker essentially dedicated a State of the City,
14 an entire State of the City, to helping small
15 business. And the idea here simply is that while
16 agencies, individual agencies, have sort of a
17 micro-perspective, we want someone to kind of take
18 a big picture from 20,000 feet so that when we
19 make rules, we don't actually inadvertently make
20 things tougher on, on small business. And so I
21 appreciate the cooperation to date. I'm not sure
22 that we're completely there just yet, but I think
23 we're, we're mostly there. The, the one, one of
24 the sticking points I see is the, the desire in
25 the administration to exempt when we implement

2 federal, state or local--when we implement
3 administrative fees, can you explain to me what
4 the thinking is there, and why we don't want to--
5 why we want to have that exemption?

6 SAMI NAIM: Sure. One reason was
7 so even when an agency such as the Department of
8 Records imposes a fee for the reproduction of a
9 photo, this is a rule that is required to go
10 through CAPA, yet has very little impact on the
11 business community. It really just reflects
12 costs. And oftentimes, that rule will go through
13 the rulemaking process without anyone attending
14 the public hearing, anyone submitting any
15 comments, because it has minimal impact. And what
16 we would want to do is leverage the expertise and
17 the skill set of the Mayor's Office of Ops, to
18 tackle the hard stuff. And I'm with Liz
19 Weinstein, the Director of Agency Services, but
20 she can speak to that, as well. But what, you
21 know, it is a limited staff and limited resources.
22 We want to make sure that we're attacking the
23 rules that really impact and really burden small
24 businesses, and not address the rules that really
25 have no perceivable burden on anyone.

2 ELIZABETH WEINSTEIN: Yeah, the
3 only thing I would add is just, in a situation
4 where we're just raising a fee because it's been
5 shown that we have, on the back end, our costs
6 have gone up and therefore we need to raise a fee
7 or anything that, is that minor, we wouldn't
8 really have much analysis to add to that. So the
9 agency would've had to have done an analysis to
10 get to that point, so there really wouldn't be
11 anything for us to add in terms of value.

12 COUNCIL MEMBER ODDO: So just to
13 make sure that we're on the same point, the, the
14 Law Department, the Mayor's Office of Operation,
15 would review each of the rules you see and try to
16 determine if it's in conflict with any other rule,
17 sort of get again the big picture look at it.
18 Make sure that it's narrowly written to achieve
19 the stated purpose, make sure it's understandable
20 and language we all can get. Make sure there's
21 outreach to the regulated community. A cure
22 period, which I think is a big issue for us in the
23 Council. And try to minimize the compliance
24 costs. And then, sort of publish the rule changes
25 or re--before we actually implement them. Right?

2 So we're, we're all on agreement on this sort of
3 big picture stuff, right?

4 SAMI NAIM: Yeah, I mean, like the
5 point is that there's sometimes agencies
6 promulgate rules that make sense in their own
7 agency world, but that actually are regulated by
8 other agencies, and so you'll have Agency X
9 saying, "Submit this piece of paper using blue
10 ink," and Agency Y saying, "Submit this piece of
11 paper using red ink," and we need someone to
12 actually step in and say, "Actually, wait, this
13 doesn't make sense, there are too many things that
14 you're imposing and making a problem for business
15 owners and the public, that you should be
16 consistent when regulating the same area." This
17 would help ensure that it's just easier to comply
18 with rules, and that way you avoid violations.
19 And once you get hit with violations, it's
20 burdensome as far as taking up time, taking up
21 money, and just you're focusing on running, on
22 dealing with government rather than dealing with
23 your business. And so, just as a basic conceptual
24 agreement, I mean, when those problems exist, we
25 want to be able to step in and address those

2 problems before they hit business owners
3 downstream.

4 COUNCIL MEMBER ODDO: Okay, [off
5 mic] I just wanted - - [on mic] an area that we
6 still have to find some agreement is what happens
7 when the review takes place and we find that the
8 new rule is problematic. What happens when it
9 sort of fails the test? How do we handle it at
10 that point?

11 SAMI NAIM: There are some tools
12 that, in the testimony, that kind of deal with
13 that area. Like what happens when business, when
14 government actually created a problem, and can
15 government be the solution. So, I guess one
16 example, NYC Business Express. So there are like
17 200 permits and licenses that are required by law,
18 but the fact is, and a lot of those permits and
19 licenses actually act, ask for the same
20 information. So that should be our problem and
21 not the business owner's problem. So the
22 business, what Business Express did was the
23 business owner inputs that information once, and
24 then we'll make it our problem to actually put it
25 in the right places. Another example would be

2 development coordinator where maybe the rules do,
3 as written, are confusing and they do overlap, and
4 they do create situations where a developer gets
5 stuck. So, what we're doing is we have a
6 development coordinator that works with the
7 agencies and works with the, a developer, to get
8 unstuck. And so there, those are kind of reforms
9 on the back end. And what this bill does is, it's
10 a reform on the front end. So, it, in essence, we
11 kind of make those tools go away as we promulgate
12 new rules, by addressing the problems before they
13 hit businesses.

14 COUNCIL MEMBER ODDO: I guess this
15 is a, what's the phrase, it's, this is an
16 operational review bill and not a regulatory
17 flexibility bill, in that with reg flex across the
18 country, there's an independent entity analyzing
19 the proposed rule. Here, because of the
20 structure, I guess, the City government, I mean,
21 essentially the Administration is the judge and
22 jury, because they're the agency's proposing it,
23 and another arm of the Administration is
24 reviewing, it's a little different concept. But I
25 still think it's, it's a worthy piece of

2 legislation, it's a worthy concept. Okay, well, I
3 guess we're just going to continue to work out the
4 few remaining issues and hopefully fast track the
5 bill. I thank you, Madam Chair.

6 CHAIRPERSON REYNA: Thank you very
7 much, Council Member Oddo. We have been joined by
8 Inez Dickens, and our Chair of Government Ops,
9 Council Member Gale Brewer. I'd like to, as I
10 give Gale the opportunity to settle in, I wanted
11 to just clarify something you had said, Sami. The
12 rules, as they are promulgated amongst agencies,
13 and the cost benefits or the cost analysis, as to
14 what it would impose on businesses is very
15 minimal, as you need to be exempted to impose
16 those increases. Is the same true, the reverse,
17 where, is there a cost analysis conducted as to
18 how rules, as they are promulgated, how it will
19 affect businesses?

20 SAMI NAIM: So, with, are you
21 talking about with respect to fees? Or just rules
22 in--

23 CHAIRPERSON REYNA: With respect to
24 fees, but separate and aside from fees, the rules
25 themselves.

2 SAMI NAIM: I mean, cer--

3 CHAIRPERSON REYNA: For instance,
4 and I'll give you an example.

5 SAMI NAIM: Yeah.

6 CHAIRPERSON REYNA: The TLC
7 imposing a rule where vehicles will be inspected
8 four times a year. And the system doesn't support
9 letting you know that you're up for a inspection,
10 and the--it's the imposition of the driver keeping
11 a log as to when is the next inspection is
12 necessary, because DMV is not uniform with TLC
13 inspection rules. It's a universal system for the
14 State of New York. And so, that rule is a perfect
15 example of how TLC comes up with these very
16 challenging positions that drivers, vehicle
17 owners, because that's what livery drivers
18 normally own their own vehicles, are dealing with.
19 And the issue of was there ever a cost analysis
20 concerning this, and how it would affect that
21 particular line of business, the industry itself.

22 SAMI NAIM: Yeah, I mean, those are
23 exactly the type of situations where this review
24 would kick in. To say, maybe the public, maybe
25 it's a matter of public safety that there are four

2 inspections a year, but how are those inspections
3 going to be conducted? Is it in a customer
4 service way? Do you have a plan to reach out to
5 businesses and make it easier for them to comply?
6 We have a customer service group in place now that
7 looks at agency processes. This is after their,
8 you know, the process is either formulated in a
9 rule or, or by a policy decision, to ensure that,
10 you know, people are receiving customer service.
11 When a new rule comes in, we want to see and kind
12 of analyze that rule from a customer service
13 perspective. To see, does this rule limit us in a
14 way to operationalize it in a customer service, or
15 a customer friendly way? So, that's a perfect
16 example of when we'd want to step in and say, and
17 ask, and press the agency, "Is there a plan to
18 kind of roll this out? Does this make, doe this
19 require a taxi drivers to actually have a notebook
20 and log it? Or is it in a database somewhere? Or
21 is it on the web somewhere?" But yeah, I'm glad
22 you raised that issue, because this is exactly
23 what we want to address.

24 CHAIRPERSON REYNA: And as part of
25 the implementation of these rules prior to

2 implementation, are they going to require a cost
3 analysis so that there's a clear indicator or a
4 weighing of factors that will take into effect as
5 rules begin to be considered?

6 SAMI NAIM: I mean, I think it's
7 our belief that, you know, great customer service
8 will save people time and money. And, you know,
9 as far as the calculus of how to get there, you
10 know, we would want to further talk to Council,
11 but what we're prepared to do and what we have a
12 great team that's in place that already does this,
13 is saying, "Does this process result in good
14 customer service or bad?" If it's bad, then it
15 takes up time and for business it could take up
16 money.

17 CHAIRPERSON REYNA: Correct.

18 SAMI NAIM: And so that's what
19 we're looking at, and then we're focused like a
20 laser--

21 CHAIRPERSON REYNA: And so those
22 are two elements that you would be taking into
23 consideration.

24 SAMI NAIM: As a function of
25 customer service. I mean, we're focused like a

2 laser on customer service. And when we do
3 promulgate new rules, we want to make sure that
4 they mesh neatly with our customer service
5 objectives.

6 CHAIRPERSON REYNA: Mhm. Thank
7 you for that clarification. I'd like to ask
8 Council Member Gale Brewer, the Chair, if she has
9 any comments, remarks.

10 CHAIRPERSON BREWER: Take questions
11 from - -

12 CHAIRPERSON REYNA: Okay. Council
13 Member Margaret Chin, and to follow, Council
14 Member Peter Koo, and we have been joined by
15 Letitia James from Brooklyn.

16 COUNCIL MEMBER CHIN: Thank you,
17 Chair. I just had a question in terms of, I guess
18 with the legislation, in order for you to kind of
19 follow and implement how much more time and staff
20 would you need to really do a good job in terms of
21 the analysis and the outreach to the community,
22 the stakeholders, to let people know what the
23 changes are and how it affects them and things
24 like that?

25 ELIZABETH WEINSTEIN: So, our hope

2 is that the agencies will do a lot of what you
3 just said. So in terms of the outreach,
4 Operations wouldn't be doing that, we would just
5 be making sure that it's been done at the agency
6 level. So, that which I think is a big piece of
7 what we want to make sure agencies are doing,
8 would be done there, and that would certainly take
9 some resources, but we believe they already have
10 those resources, because they're doing a lot of
11 this today. At our office, we'll be using the
12 folks that Sami mentioned who are dedicated to
13 customer service to be doing a review of what
14 comes after this bill. But we're not asking for
15 additional people, and that's one of the
16 challenges that we're trying to balance with some
17 of our concerns on the last page, just to ensure
18 that we can do it with the staff that we have, and
19 that what they're being asked to do really suits
20 their skill set, which is looking at things from a
21 customer service perspective, and also having a
22 cross-agency perspective in terms of what
23 different agencies are doing at any given time,
24 and being able to hold those agencies accountable
25 for what they're doing, which is a big function of

2 the Mayor's office.

3 COUNCIL MEMBER CHIN: But also, how
4 do you kind of like work with the agency and make
5 sure that their outreach effort does cover all the
6 stakeholders, like immigrant community, their
7 language and culture issue, I mean, we talking
8 about, you know, posing the NYC Rule on the, the
9 web and people can do that, but a lot of the
10 immigrant community, for example, a small
11 business, they, they don't have that access, or
12 they, that's not the way they do business. So,
13 how do you work on making sure that as a
14 stakeholder from different communities in small
15 business do know about what's going on before the
16 change comes?

17 ELIZABETH WEINSTEIN: So, I think
18 that's a really good question and something that's
19 near and dear to--our office implements the City's
20 language access policy, together with the Mayor's
21 Office of Immigrant Affairs, that sits within our
22 customer service group, so language access and
23 those issues are near and dear to, to our heart.
24 But we would have to, very quickly, after this
25 legislation is passed, come up with a set of

2 criteria that talk about exactly what you're
3 mentioning, what was the outreach, did we think
4 it, were there specific things that need to be
5 taken into account for a specific group or set of
6 communities that would be impacted by this? How
7 do we account for language access or culture
8 differences? What were the different steps that
9 were taken? And then, talk to the agencies when a
10 bill comes across our desk, to ensure that they
11 meet those criteria that we've set up. So, we
12 have an idea what those might be, but we haven't
13 actually set them out into stone. But we would
14 before this bill comes and is ready to be
15 implemented.

16 COUNCIL MEMBER CHIN: Uh-huh. I
17 mean, just an example, like the Department of
18 Health posting the letter grades on restaurants.
19 I know that in our community, there was this
20 tremendous number of people come out, came out to
21 the workshops, by the, you know, local
22 organization and Department of Health, because it
23 really affects them. But--

24 ELIZABETH WEINSTEIN: One of the
25 things that we would like to do is we just

2 launched a new website called "The Language
3 Gateway," I don't know if you've seen that. It's
4 on NYC.gov/languagegateway. And that's a new
5 website that publishes essential documents in the
6 top four languages in the City, so right now it's
7 English, Spanish, Russian and written Chinese.
8 And we've asked agencies to translate their
9 documents, and with some grant money, translated
10 some ourselves. And those are posted on that
11 site. So what we would love to see is the
12 integration of the concept there with NYC Rules.
13 The challenge, as you know, is that translation is
14 incredibly expensive. And so we don't, right now,
15 have the funding to translate everything that goes
16 up on NYC.gov, but we have created this portal so
17 that what is there can be accessible to folks who
18 only read a language or don't read English well.
19 So, obviously a goal for us would be to have
20 something as important as NYC Rules also available
21 in multiple languages. We're not there yet, and we
22 don't have the funding right now. But that would
23 be the goal.

24 COUNCIL MEMBER CHIN: Yeah, I guess
25 one last comment on that is like how do you get

2 that information out so people in the community,
3 or elected officials or community board know that,
4 this are available?

5 ELIZABETH WEINSTEIN: So, that's a
6 really good question. So, that [laughs] I'm open
7 to your suggestions.

8 COUNCIL MEMBER CHIN: I mean, we
9 know about it, then we can also help publicize it,
10 but--

11 ELIZABETH WEINSTEIN: Yeah, so
12 right now, that went out through the Mayor's
13 Office of Immigrant Affairs on their listserv, and
14 we also had a story in the press and sent out a
15 press release. But we would love to talk to you
16 about ways that we can enhance that. Because of
17 course we want people to know.

18 COUNCIL MEMBER CHIN: I mean,
19 definitely all the City Council Members' Office
20 should have all this information.

21 ELIZABETH WEINSTEIN: Yes, that
22 would be great to get that. We can make sure that
23 you get that, at least, right away.

24 COUNCIL MEMBER CHIN: Thank you.

25 CHAIRPERSON REYNA: Thank you very

2 much, and it would be great to perhaps make sure
3 that those particular services are given to bids,
4 as well, considering how many there are in the
5 City of New York today as opposed to eight years
6 ago. And community boards, as well. So the more
7 we just spread the information, perhaps we can
8 make a huge difference in making sure that these
9 services that do exist, are being used. I'd like
10 to ask Peter Koo.

11 COUNCIL MEMBER KOO: Thank you,
12 Mr., Ms. Chair. I'm a small businessman myself.
13 So, I thank the Administration for proposing this
14 new legislation, so that businesspeople have a
15 chance to understand the consequences of any rule
16 change. My question is like if an agency has a
17 rule change, or how does this work? I mean, they
18 go to the Law Department first, for review, and
19 then go to the Office of Operations? And what's
20 the timeframe of it?

21 SAMI NAIM: So under, currently,
22 when an agency promulgates a rule, the Law
23 Department reviews it to make sure it's legal.
24 But that doesn't mean that it is understandable,
25 or in plain English, as much as it could be. So

2 under the bill, what would happen is that review
3 would be emboldened by the Mayor's Office of
4 Operations to ensure that a business owner can
5 make sense of what, what this rule, or proposed
6 rule, is. And I should stress, it's going to be a
7 proposed rule, because business owners will have
8 an opportunity to comment on the rule at a public
9 hearing, according to the standard process. So
10 that's how the process would play out under the
11 bill. Before like the bill is published, does
12 this bill make sense? Or does it read like
13 another language?

14 COUNCIL MEMBER KOO: So how does
15 the businesspeople know there's a proposal that
16 affect their business?

17 SAMI NAIM: So the old system was
18 that the proposed rule would be published in the
19 City Record, the official like newspaper of the
20 City. But outside of government agencies, there
21 are 300 subscriptions to the City Record. So the
22 word didn't get out as much as it could have.
23 What we did was we created a website called "NYC
24 Rules," where you could see all the rulemaking
25 actions and all the proposed rules. You can

2 search by them by date, by keyword, or by agency.
3 So you can look at the rules,. Read them, but the
4 other thing that NYC Rules allows you to do is to
5 comment on the rules from any home or office
6 computer. So you didn't even have to take time
7 out of your day to travel to another borough, for
8 example, and submit testimony at a public hearing.
9 So this was recently enacted and we believe it
10 opens up the rulemaking process and really helps
11 get the word out. As we developed NYC Rules, we
12 let all the chambers of commerce know about the
13 site, and hopefully they amplify the message even
14 further, to ensure that everyone who needs to know
15 about a proposed rule, or who needs to know about
16 NYC Rules, knows.

17 COUNCIL MEMBER KOO: So, what is
18 the participation rate of the public at rule
19 change hearings? In relations to how many
20 business or members of the public are notified?

21 SAMI NAIM: I mean, it varies.
22 Some public hearings are very well attended. A
23 good example probably would be the last, sorry the
24 Department of Health's proposed rules and now
25 adopted rules, regarding restaurant grading.

2 COUNCIL MEMBER KOO: Mmhm.

3 SAMI NAIM: Other public hearings
4 are not well attended. For example, if, if the
5 Office of Administrative Trials and hearings
6 simply reassesses the, a fine for a particular
7 violation, very few people attend. So, what we
8 were thinking is that maybe we should tailor this
9 review to attack the rules that really impact
10 businesses, such as the Department of Health
11 restaurant grading. As opposed to the rules where
12 there doesn't seem to be a lot of interest from
13 businesses. And, and of course, you know, that
14 is, it fluctuates here and there, but what we want
15 to do is make sure that we're devoting all the
16 resources to the things that have the greatest
17 impact.

18 COUNCIL MEMBER KOO: I would
19 suggest that for any rule changes, we have to send
20 notice to the local business associations.
21 Related to restaurants, send to the restaurant
22 associations, and in general to the local like
23 Queens Chamber of Commerce, or this function, this
24 is a function, Chinese Business Association. And
25 in addition to community boards, because most

2 people in the community board, they are not
3 business people.

4 SAMI NAIM: Yeah, and one of the
5 advantages of the NYC Rules is that you can sign
6 up to receive updates, and so anyone can sign up
7 to receive updates on what's happening in the
8 City. But and the other advantage is that anyone
9 can log on to the site. There's, it's not
10 password protected or--

11 COUNCIL MEMBER KOO: Okay.

12 SAMI NAIM: --or anything like
13 that. So it really opens it up to as many people
14 as possible to get information out. Because we
15 want people to participate in the rulemaking
16 process. So when new rules go into place, they
17 know exactly what's expected of them, and they
18 know exactly how to adjust their operations to
19 avoid fines and fees. We don't want the first
20 time they learn about a new rule to be when they
21 get a ticket. We want to get ahead of the problem
22 that way.

23 COUNCIL MEMBER KOO: So, the key is
24 how do we publicize this, the website you're
25 talking about? So that more important, more

2 people know about it, they can--

3 SAMI NAIM: We were hoping Peter
4 Koo could spread the word in Flushing.

5 COUNCIL MEMBER KOO: Yes. I'll do
6 my best to help you, yeah. Thank you.

7 CHAIRPERSON REYNA: Thank you so
8 much, Council Member Koo. And I just wanted to go
9 back to, as far as the communication process is
10 concerned, the application for business right now,
11 are emails collected? Is email address--are email
12 addresses asked for?

13 ELIZABETH WEINSTEIN: I--you, so
14 when you're applying for a permit or a license, is
15 that what you're asking? If we're gathering
16 emails?

17 CHAIRPERSON REYNA: Correct, any
18 process that--

19 ELIZABETH WEINSTEIN: It depends,
20 it depends on how you enter the system, and which
21 agency you start with, would be my guess, that it
22 varies. Through NYC Business Express you would be
23 giving your email address. But I, I couldn't
24 answer that for, for every agency process.

25 CHAIRPERSON REYNA: And considering

2 the effort that you're trying to work with the
3 Council on in streamlining so that there's, the
4 Mayor's of Operation, trying to make sure that
5 we're not asking one person, one agency is asking
6 to write in red and the other agency is asking to
7 write in blue; but rather that the Mayor's Office
8 of Operation's is going to pick up these
9 conflicting directions for the same purpose that
10 if we can make sure email addresses, as often as
11 possible, are asked, to use as a point of
12 reference for email blasts, so that when there's a
13 time to advise the public of a rule change, this
14 is the specific population that it affects,
15 considering small businesses that were gathering
16 as many emails because we're asking for the
17 information on every piece of documentation that
18 requires them to fill out, so that we're able to
19 build up a database that will help us advance
20 communication opportunity with the businesses.

21 ELIZABETH WEINSTEIN: Yeah, one of
22 the things I didn't mention was that on NYC.gov,
23 you can opt into I think multiple agencies'
24 newsletters, so if you're interested in hearing
25 from the Department of Buildings, if you're

2 interested in hearing about, from the Department
3 of Environmental Protection, you can. There's a
4 checklist where you can give your email address
5 and ask for information to be pushed to you. So
6 rather than just gather and use information for
7 those folks who don't want to hear from the City
8 as often, right now it's an opt-in system, and NYC
9 Rules will just be another example of that. But I
10 think that's right, as many information--

11 CHAIRPERSON REYNA: Right.

12 ELIZABETH WEINSTEIN: --and
13 communication touch points as we can gather, we
14 should be using, as long as folks sort of allow us
15 to communicate with them, as sort of a push. So,
16 I think that's, that's what we're trying to do and
17 that's what we'll continue to do.

18 CHAIRPERSON REYNA: Okay. I know
19 that we have to interrupt this hearing, because
20 there is a pending vote. I'd just like to
21 recognize Council Member, Chair Brewer.

22 CHAIRPERSON BREWER: Thank you very
23 much. And--

24 CHAIRPERSON REYNA: Oh, I'm sorry,
25 I apologize, I wanted to introduce Council Member

2 Mathieu Eugene, who has joined us, I apologize,
3 that was the first thing I wanted to do, thank
4 you.

5 CHAIRPERSON BREWER: Thank you very
6 much, Madam Chair, and we're just going to
7 interrupt this hearing for a moment to talk about
8 260-A, that's the bill that the Governmental
9 Operations had a hearing on last week. We're
10 going to be voting on it today. This particular
11 legislation would mandate three things. First, it
12 would require the City Clerk's office to post on
13 its website section relating to marriage, domestic
14 partner, or other similar subjects, a list of all
15 domestic and international jurisdictions that
16 perform same sex marriages, and a prescribe
17 statement alerting the public, among other things,
18 that lawfully married individuals, including
19 individuals in same sex marriages, are entitled to
20 more New York State rights and benefits than those
21 registered as domestic partners here in New York
22 City. Second, the legislation would require the
23 City Clerk's office to prominently display in its
24 marriage bureau and distribute free of charge in
25 hardcopy, all of the information that is required

2 under this local law to be available on the
3 internet. Third, the legislation would require the
4 City Clerk's office to make reasonable efforts to
5 keep said information current. We had very good
6 testimony, I think the issue is clear without
7 marriage equality, which many of us want. There
8 are different laws and different pieces of
9 information. It is confusing for those
10 individuals who want to get married. Same sex to
11 go to other states, and then come back to New
12 York, what benefits do they have? What benefits
13 do they not, do not. And we had lots of testimony
14 for those who are living in New York, want to get
15 married, or disabled, and what are the
16 opportunities travel wise, and coming back. And
17 needless to say, many calls, many emails to the
18 City Clerk's office, and many calls, many emails
19 to leaders in the community, and they have to do
20 ad hoc responses. So this would make it really
21 clear. The City Clerk's office indicated that
22 they could keep up with the information and make
23 it available on the web and all other aspects of
24 the law. So, without further ado, we could call
25 the roll and vote on this legislation, 260--260-A.

2 Thank you.

3 [long pause, background noise]

4 CLERK: William Martin, Committee
5 Clerk, roll call on the Committee on Governmental
6 Operations. Introduction 260-A. Council Member
7 Brewer.

8 CHAIRPERSON BREWER: I vote aye and
9 welcome Council Member Dilan and a very special
10 extra member of the Committee. I vote aye.

11 CLERK: Dilan.

12 COUNCIL MEMBER DILAN: I vote aye.

13 CLERK: Dickens.

14 COUNCIL MEMBER DICKENS: Aye.

15 CLERK: By a vote of three in the
16 affirmative, zero in the negative, and no
17 abstentions, item is adopted. Members please sign
18 the Committee report. Thank you.

19 [pause]

20 CHAIRPERSON REYNA: I just wanted
21 to [crosstalk]

22 CHAIRPERSON BREWER: I had one
23 quick question, I was late, so I feel bad, but
24 the--I was at graduations, like everybody else.
25 The question is, the plain English portion, which

2 is in the bill, isn't most information now plain
3 English, or is that something you're still
4 striving for?

5 ELIZABETH WEINSTEIN: It's
6 definitely something we're still striving for. So
7 we've--

8 CHAIRPERSON BREWER: I thought so.

9 ELIZABETH WEINSTEIN: [laughs]
10 Yeah. We are working very hard, we have set up
11 over the past year a plain language training
12 that's now available, just developed by our
13 Mayor's Office of Correspondence and our Office of
14 Adult Education and Operations. It's now
15 available for every agency and frontline staff
16 member to take. But our office has tried to
17 really push it and we think we're getting
18 somewhere. But we're certainly not there yet.
19 And especially with legal documents.

20 CHAIRPERSON BREWER: 'Cause that
21 would certainly help with communication and every
22 other aspect of this bill and other bills. Okay,
23 thank you.

24 CHAIRPERSON REYNA: Could you guys
25 give us a, an example of the regulatory review

2 process of a business complaint that was specific
3 to, to a rule raised?

4 SAMI NAIM: So, could you rephrase
5 the question?

6 CHAIRPERSON REYNA: Could you give
7 us an example of a business that raised, a
8 business complaint that was raised during the
9 regulatory review process, implemented due to a
10 specific rule?

11 SAMI NAIM: Oh, so, which rules
12 created complaints from businesses. When we did
13 the road show, going to all five boroughs, we
14 didn't hear a lot about the rules, per se, like we
15 knew--businesses understand that there are certain
16 regs that are in place to protect the public
17 health, safety, wellbeing. What we did hear a lot
18 of is the way these rules are implemented and
19 operationalized, that really lead to a very clunky
20 kind of regulatory system. Right? And it's a
21 regulatory system that even the good guys that
22 seek to comply have, you seem to be in the
23 situation where no good goes unpunished. So you
24 spend a lot of time doing the right thing. And
25 anything we can do to make that easier, we're

2 seeking to do.

3 CHAIRPERSON REYNA: Would you be
4 able to share a specific rule that will be
5 reviewed and possibly revised?

6 SAMI NAIM: Not right now. I mean,
7 I could, we could take a look at the regulatory
8 agendas of various agencies and see which ones
9 would likely arise and would likely require
10 operational and customer service review. I don't
11 have any agendas with me, but I'll, I'm sure there
12 are some around the way. Some agencies impact
13 businesses more than others, like Department of
14 Consumer Affairs, Department of Health.

15 CHAIRPERSON REYNA: Or the TLC.

16 SAMI NAIM: Department of
17 Buildings. TLC. So, definitely there will be
18 rules and I'm pretty sure the rules will find us,
19 we won't have to find them.

20 CHAIRPERSON REYNA: [laughs] I, I
21 believe that, as well. I wanted to ask, because
22 there's a very specific task that is associated to
23 this specific process in trying to make a
24 rulemaking process more customer friendly. What
25 is the expected timeline, if any at all,

2 associated to providing a review process? Before
3 implementation or before even revision to
4 reconsider a rule. Is it going to take twelve
5 months? Is it expected to be reviewed and
6 processed and decided upon six months? Tangible
7 goals with specific deadlines.

8 SAMI NAIM: I mean, I know some,
9 some rules are more time sensitive than others.
10 Some rules come, emanate out of legislation with
11 specific deadlines, so the--to the extent there is
12 a review, it has to be a pretty quick review in
13 order for us to meet the deadline the Council sets
14 for us. Other rules are more complicated and we
15 want to get it right. And, and are not main--they
16 don't have a deadline. So, in those situations, I
17 mean, the, the objective is to get it right. And
18 I'm not sure how long it would take, you know,
19 when there are specific instances where the public
20 safety, health and wellbeing is at stake, and if
21 issues are arising that we need to respond, we
22 need to respond. Of course, we want to make sure
23 that response is, makes sense, from just a
24 business standpoint, but also just the general
25 public's standpoint. It's plain language, it's

2 easy to understand. If you are to comply, we're
3 not punishing you for complying. That sort of
4 thing.

5 CHAIRPERSON REYNA: I, I do support
6 all of what has been mentioned, but I also believe
7 that there needs to be a, a responsible,
8 expeditious process. And it, I believe that it
9 would be helpful to seek certain timeline
10 milestones set with dates that would allow for the
11 process to be helpful for businesses to plan
12 ahead, or perhaps have ample time participate in
13 the process, to be given accuracy with notices.
14 So for instance right now, we give 30 days after
15 the process of a rule announcement. And we're,
16 you know, I asked before, how many businesses have
17 come forward complaining during that 30 period
18 process. You, you're going to get back to us, but
19 at the moment, we don't know what has successfully
20 been changed, revised, or eliminated as far as
21 rules due to the public participation process.
22 Correct?

23 SAMI NAIM: So, with the notice,
24 you know, one thing that we're trying to do is,
25 it's not so much the 30 days at the end where

2 businesses might feel that they need more time.

3 It's the fact that they don't know about the

4 rulemaking process--

5 CHAIRPERSON REYNA: To begin with.

6 Mhm.

7 SAMI NAIM: --at all. And that was

8 a main, a main motivation to really open up the

9 rulemaking process, so businesses know there is a

10 process in place, there's a process in place which

11 allows you to provide comment, allows at times

12 those comments actually impact what eventually is

13 adopted. So, the more that businesses are

14 involved in the rulemaking process, the more that

15 we can actually head off the problems. Currently,

16 a lot of businesses only know about a new rule

17 when they get a ticket. And we want to avoid

18 that. We want businesses to be engaged as we

19 develop the rule, through the rulemaking process.

20 And not just businesses, but the consumers, the

21 public at large. 'Cause not every rule concerns

22 businesses. There are a lot of quality of life

23 regulations that are out there, a lot of Parks

24 rules, for example, that don't really correspond

25 with a business, necessarily. But we want the

2 public to be engaged in the rulemaking process
3 because that was the intent of CAPA, to make it a
4 public, open and transparent rulemaking process.

5 CHAIRPERSON REYNA: And in addition
6 to just informing the public, is there going to be
7 an opportunity to present rules that exist that
8 should be revisited?

9 SAMI NAIM: I think in CAPA there's
10 a mechanism for when the public takes issue with a
11 rule, or suggests a rule change. And, you know,
12 we, we live in a very responsive City, and so as
13 issues arise, and as issues are brought to us, we
14 seek to be responsive 'cause we serve the public.
15 So, if there's a rule that's not working, you
16 know, we definitely that that feedback. There's
17 311. There are also various business association
18 that we regularly speak with. SBS has a great
19 outreach program with the various chambers of
20 commerce. So, I mean, we definitely keep an ear
21 to the ground, we don't promulgate rules in a
22 vacuum.

23 CHAIRPERSON REYNA: Well, I know
24 that we have other questions from my colleagues,
25 and I'd like to turn over the opportunity to

2 Council Member Brad Lander, from Brooklyn, who has
3 joined us.

4 COUNCIL MEMBER LANDER: Thank you
5 very much, Chair Reyna and Chair Brewer. Thanks
6 so much for your testimony, and your assistance
7 with this important legislation. I also
8 appreciate your optimism that the plain language
9 provisions of this will work, and I look forward,
10 I hope you'll provide us with some examples over
11 time, both of the language that you get and of the
12 language that you substitute, which at least can
13 create like a work's humor column part of your
14 blog, on NYC Rules. But I was interested in
15 something that you said that, and this was my
16 perception as well, from a lot of the small
17 business owners that I talk to about the
18 regulatory review panel, that the concerns were
19 much more about enforcement and implementation
20 than they were specifically about particularly
21 problematic rules. And I wondered to what extent,
22 if any, you've thought about that in potential
23 implementation of this provision, you know, where
24 you'll have some things to say about how the rule
25 is drafted. But that seems like it would also be

2 a good moment to provide some guidance in how the
3 rule should and should not be enforced. And, and
4 how, what that might look like. Is there a
5 situation that you've thought about in the past
6 where something like this has happened where the
7 enforcement or implementation was, was influenced
8 by thinking about how it would or wouldn't work in
9 the field, and what that might, what that might
10 look like here, since, if it sounds like that's
11 sort of the core challenge that businesspeople
12 have, this might be one moment when somebody with
13 the framework of "What's this going to mean to a
14 small businessperson?" will be sitting there
15 thinking, or "What's this going to look like when
16 it hits the ground?" And "What could we do at
17 this moment before it gets adopted to try to, you
18 know, make sure that we make that work better?"

19 SAMI NAIM: I mean, this is what
20 that bill, this bill is intended to, to get at.
21 And to capture those operational issues that could
22 be identified in a, in a proposed rule. And
23 operations regularly seeks to attack those
24 inefficiencies when, when agencies are kind of
25 regulating the same area, but in very different

2 ways. And if they could be streamlined, and we
3 could simplify the way that the public interacts
4 with government, which is something that
5 Operations does. So that's why we thought
6 Operations would be a great place for this review
7 to sit, because they do have that expertise, and
8 also this is what they do. I don't know if
9 there's anything else.

10 COUNCIL MEMBER LANDER: All right,
11 I mean, I don't want to belabor the point, but I
12 guess I'm imagining, it's easier to imagine how
13 you might adjust a rule, based on feedback, than
14 it is how you might proscribe better enforcement.
15 So I don't have any good examples, it's just if
16 what people said is their problem is really with
17 the enforcement, almost more than it is with the
18 rule, if there's some way for you guys to
19 communicate back to agencies, to provide guidance
20 on enforcement, that may not be specifically
21 adjust the rule tightening in this way, but--and I
22 just, you know, not, not doing this day-to-day,
23 I'm not sure I have a good example of what it
24 would mean. But it just, if there's this, not
25 that there's a mismatch, but if the, if the

2 challenges people talked about are really related
3 almost more to enforcement than they are with rule
4 specifics, then we not only need to review each
5 rule and make sure we get the specifics right, we
6 need to find some way to give enforcers guidance,
7 encouragement, you know, in how to do it. So, I
8 don't, I mean, I'm not sure I know what I'm asking
9 for. But it--

10 ELIZABETH WEINSTEIN: I think that,
11 well I think you're hitting at something
12 important, which is that this is one piece of a
13 broader effort that comes out of the regulatory
14 review process, and some of the other projects
15 that we've worked on and that you've worked on,
16 that address these issues. But one thing comes to
17 mind which I know was recently passed, which was
18 the inspectors, the business owner's Bill of
19 Rights, right, which is more about what it's like
20 when the inspector comes to your shop and what
21 that interaction is like. And that's something
22 that's coming out of the same shop, in our office,
23 as the people who would be reviewing this. So,
24 it's not exactly written in here as such, but the
25 people who are writing this bill of rights right

2 now, as pursuant to your legislation, are very
3 familiar with the concerns that were raised on the
4 panel, and what it's like on the ground when these
5 rules sort of hit the road, so to speak. So,
6 there's that consciousness, and to the effect that
7 the rule talks about enforcement, we're going to
8 be looking at that in terms of "What is the cost
9 of this interaction when something goes wrong?"
10 So, it's, it's there, even though maybe it's not
11 as clear as, as it should be. But it's also part
12 of this bigger effort that I think we've started
13 and will continue to work on with you.

14 COUNCIL MEMBER LANDER: Thank you,
15 thank you.

16 CHAIRPERSON REYNA: Thank you very
17 much, Council Member Brad Lander. I want to thank
18 the Administration for coming and giving their
19 testimony, and we look forward to further dialogue
20 on the progress of this particular bill. And
21 should there be any further questions or comments
22 from my colleagues, feel free to contact Council
23 from the Committees of Governmental Operations,
24 Small Business, and Economic Development, who are
25 joint in working together on the regulatory

2 review, as well as the upcoming sponsoring of
3 bills that will continue to provide a better
4 economy and environment for small businesses, at
5 least that is the goal. Thank you very much. I'd
6 like to request for Robert Bookman, from the New
7 York State Restaurant Association, to come and
8 join us.

9 CHAIRPERSON BREWER: And every
10 other association. [laughs]

11 [pause]

12 ROBERT BOOKMAN: Yeah, after 30
13 years, you'd think I'd know to do that.
14 [laughter] Good afternoon, my name is Robert
15 Bookman. I am an attorney in the Manhattan law
16 firm of and Pesetsky and Bookman, and I am counsel
17 to the New York State Restaurant Association here
18 in the City, the New York Nightlife Association
19 for many years, the New York City Newsstand
20 Operators Association, which is the little
21 sidewalk newsstands, those are that are left, and
22 I've been doing, I guess I've been the unofficial
23 voice of small business representers working with
24 the Council for many years now, due to my almost
25 30 years experience with this from when I was at

2 the Department of Consumer Affairs, a lifetime ago
3 and in private practice for a quarter a century.

4 And, and yes I was an attorney while still in
5 diapers before you start looking at, counting up
6 the years. I have a number of comments, nothing
7 formal. This is obviously from the business

8 community's perspective, you know, an excellent
9 piece of legislation. Like Councilman Oddo said,

10 however, it is, you know, it's not the best idea
11 to have the Administration do their own review,

12 it's a little bit like having, you know, the fox
13 guard the chicken coup, but it's the best that we

14 have, and it's an important step forward. For
15 decades now, we've been trying to get City

16 government to talk the talk about the importance
17 of small businesses. I think we've finally

18 reached that, but now it's time to walk the walk,
19 and the small business bill of suggestions was,

20 you know, not it, but this really is an important
21 piece of legislation. I think it's an essential

22 step towards meeting the goals of regulatory
23 reform, although it doesn't deal, Councilman

24 Lander, with the enforcement problem which every,
25 as you know, in your district and every other

2 district, that's what business owners are just
3 nuts about, is, is enforcement. But it does
4 require badly needed central review of dozens of
5 various agencies' rulemaking, and that's nothing,
6 you know, that's not any small thing. It asks for
7 a cure period, which is I think an important
8 statement of public policy for this Council to
9 make once and for all, that we're not just passing
10 laws to raise money, but that, you know, these are
11 important rules, presumably, and that the goal is
12 not to play gotcha, but to get you, but the public
13 policy is to comply. And minimizing compliance
14 costs, even with the wiggly language of when
15 possible, is still, you know, a good step forward.
16 So, all that, you know, all that's good. And I
17 think most importantly, increasingly, agencies are
18 expanding their powers by passing regulations and
19 rules that are not tied to any specific piece of
20 legislation passed by this Council. This
21 legislation starts to address that by saying that
22 they have to state what is the--that is drafted so
23 as to accomplish the purpose of the authorizing
24 provisions of law. I think it, the most important
25 aspect of regulatory review starts and ends here

2 with our legislative body here in the City of New
3 York, which is the Council. And I think
4 increasingly, the Council has allowed agencies to
5 get away with expanding their powers without any
6 authorizing legislation. You know, back when I
7 was in the Department of Consumer Affairs, if you
8 passed a rule, step one, it was generally pursuant
9 to a particular new licensing law or statute that
10 you guys passed, and the last line of that is
11 always, "The agency is hereby authorized to
12 promulgate rules pursuant to this statute." And
13 the debate here was always to get as specific as
14 possible language in the law so that the agencies
15 didn't go way far out beyond what your intent was.
16 That's why I wanted you to stay for a second,
17 because what's happening, even I started to say
18 rule and law, they're not the same thing, and the
19 questions that you're asking about enforcement, a
20 lot of those questions really shouldn't be in a
21 rule. That's legislation. How their policy is
22 implementing your intent is, is a good issue, and
23 that's what your oversight hearings are for. But,
24 I mean, they raised, which I think is the best
25 example, and it goes to your question, Chairman

2 Reyna, about do these rulemakings really count, do
3 they really mean anything? Well, my experience is
4 basically they're fairly pro forma. For the most
5 part, I can't think of a single rule that was,
6 that was started the CAPA process, which was
7 cancelled altogether. You know, in my, in my
8 practice, and generally the best you can hope for
9 is a little, you know, change around the edges
10 here and there. So, I think it is pro forma, and
11 they raise the--the Health Department's recent
12 adoption of letter grading for restaurants, as an
13 example of one that was well attended. Well, it's
14 one I've been integrally involved with, and you've
15 probably seen me quoted at every meeting in the
16 world about it. And yeah, it was well attended.
17 It was well attended for a Council hearing. It
18 made no impact how well attended it was, but it
19 was well attended. And it was offensive, because
20 the CAPA process there was not speaking to the
21 decision makers, the Commissioner of the
22 Department of Health or any of the members of the
23 Board of Health, but speaking to a tape recorder
24 effectively with a couple of staff people up
25 there. And then they summarized our testimony to

2 the decision makers, and we weren't allowed to
3 speak to them directly. And I know Borough
4 President Stringer wrote a letter to the, to the
5 Commissioner, you know, saying that that process,
6 you know, doesn't work. But it relates to this
7 because in my opinion, and I'm just one lawyer,
8 but in my opinion, that's not rulemaking what they
9 did. They passed legislation. What statute, they
10 created a whole new, politically controversial
11 piece of law, requiring that, you know, not
12 directly related to any health issue, because the
13 A, Bs and Cs that are going to go on the windows
14 of every restaurant in the City of New York now,
15 they've already determined that those restaurants
16 are safe to be open. Where, you know, the unsafe
17 ones, they're closing, they don't get a letter
18 grade, they get closed. So, it's not directly
19 related to any health, which presumably in their
20 expansive view of their regulatory powers, they
21 could pass rules. But this is a whole piece of
22 legislation. And I urge the Council, when looking
23 at regulatory review, to say, you know,
24 "Regulatory review starts here." And we can't
25 allow these agencies to keep expanding and

2 expanding and expanding their powers, you know,
3 like the Bush Administration did with their
4 signing bill, you know, signing, you know, notes.
5 They passed the legislation, they sign it, and
6 then they do a memo saying, "We're not going to
7 adopt, you know, the following ten parts of it
8 because we disagree with it." That's called a
9 veto. You know, and here, what the, what the
10 Health Department especially is notoriously, in
11 the last eight years, been expanding their power
12 with rulemaking. So, I think this is important
13 because at least they have to say how it is
14 related to their authorizing legislation.

15 Councilman Oddo's question, I don't have the
16 answer to, either. What if it fails the test?
17 What if it is reviewed and it fails the test? As
18 I think letter grading, if it went through this
19 review, would have to fail the test, both on cost
20 to the industry, both on authorizing legislation.
21 I don't know. That's, but at least we would have
22 something to deal you folks on, you know, if their
23 own report came back saying, you know, it has some
24 problems. You know, certainly, we could, be a
25 good grounds for an oversight hearing. So, last I

2 just want to conclude by commenting on the
3 portions of the bill the Administration is already
4 saying they want you to, to weaken, and I hope you
5 don't. They said that issuing a report can be a
6 burden. Gee, I'm sorry, you know, these rules are
7 burdens. You know, issue the report. I don't
8 think you should exempt anything from the report.
9 If it's as simple a rule as their claiming with
10 their Department of Records, you know, rules, then
11 it should be a pretty simple report. You know, I
12 can't imagine it taking much time to issue a
13 report, you know, on that. But I don't think,
14 once you start doing exemptions, again, it's the
15 fox, the agency, going to be deciding which rules
16 fit into the exemption and which don't, which get
17 reports and which don't get reports, and then I
18 think, you know, we're just passing, you know,
19 we're not walking the walk. Excuse me, we're not
20 talking the talking then. And second, they want
21 you to, they want to weaken the outreach efforts
22 to engage stakeholders. I think, you know, that's
23 a critical error. I think the language you have
24 here is appropriate. In this day and age, it
25 should be easy to figure out who the stakeholders

2 are, or do outreach, through to get the
3 stakeholders to sign up. You know, and not, like
4 I've been tripped up over the years, I've signed
5 up with Consumer Affairs, and then I see there's a
6 rule being, you know, published, I hear about it,
7 and I didn't get notice, and they, and I asked,
8 called them, and they say, and I say, "Why?", they
9 go, "Oh, you didn't review your [laughs] your,
10 it's an annual, you know, submission that you have
11 to make, an annual registration. Well, you know,
12 you think I'm really calendaring you when my
13 annual registration comes up, for every agency.
14 It's not a registration, even, it's not form, it's
15 like you send an email to somebody. I think, you
16 know, I think, you know, the New York State
17 Restaurant Association, we're around for 75 years,
18 if we tell the Health Department and Consumer
19 Affairs and a couple of industries once that we
20 want to be notified of any rule, I think that
21 should be sufficient. So I don't think you should
22 weaken that at all, and I'm afraid that, you know,
23 the average business owner, and you would know
24 this better than me, although I'm a small business
25 owner, I have a small law firm, I think our chance

2 of regularly taking a look at www.nycrules.is is
3 about as likely as us, you know, getting a
4 subscription not the City Record. So, I think we
5 need to find out, you know, figure out a better
6 way. And I think you were asking questions about
7 "Are you collecting email addresses?" they're not.
8 And there are tens of thousands of businesses that
9 are licensed by the City of New York now, and I'm
10 sure everyone, each and every one of 'em has an
11 email address. And you know, it's amazing to me
12 how we're still sending renewals out by mail, and
13 clients will come to me and say, "I didn't get
14 it." And then they say, "Well, we sent it." You
15 know, how about sending a blast email?" you know,
16 to an, you know, to a whole industry, a sidewalk
17 newsstand industry, saying, you know, "Renewals
18 are coming up in 60 days, if you haven't received
19 your papers, you better get down here, it's your
20 responsibility." You know, it's mindboggling how
21 little email the communications, you know, Mayor,
22 you know, I know it's one step at a time, but I
23 think we should definitely make clear that we
24 should not weaken the engaging the stakeholders.
25 As far as emergency rulemaking exception, that

2 makes sense. And I didn't see this as prohibiting
3 that. But if they do and you want to clean that
4 up, emergency rules have, have their own thing.
5 So, there's not a problem with that. I think that
6 that's it. Sorry, I'm sorry it took, if I took
7 too much time, but I appreciate, always, the
8 ability to, you know, speak, and, and your staff
9 knows how to reach out to us. And they always do
10 and make sure we're here. So, thank you very
11 much.

12 CHAIRPERSON REYNA: Thank you, Mr.
13 Bookman, I really do appreciate and value what you
14 have just expressed to us. And I just want to ask
15 direct, directly, you know, the rest--the New York
16 State Restaurant Association, and the New York
17 City Newsstand Association, and the New York
18 Nightlife Association, are all in agreement that
19 this bill, as is, is supported, and would like to
20 see it voted on, as is, moving forward.

21 ROBERT BOOKMAN: Absolutely. As
22 well as hundreds of hundreds of other small
23 businesses that my practice represents that don't
24 fit into one of those three organizations. And we
25 have abroad small business practice. I think

2 there's universal support for this.

3 CHAIRPERSON REYNA: Mhm. And
4 thank you for reminding me it's not the Public
5 Health Department, it's the Board of Health that
6 promulgates many of these rules that then are
7 implemented by the Department of Health and no one
8 knows about it until it's being enforced. And
9 enforce is not really something that we should
10 define as implementation.

11 ROBERT BOOKMAN: That's correct.

12 CHAIRPERSON REYNA: Because it's
13 not a law.

14 ROBERT BOOKMAN: And I'm sorry if I
15 was pontificating too much on that point, but I,
16 you know, I, you could chart the expansion of
17 these agencies' powers. You know, I, you know,
18 frankly, it started with term limits in the City
19 Council, when they weren't seeing the same faces,
20 in my personal opinion, for all those years, and
21 they saw a turning, I think they took it as an
22 opportunity to use rulemaking to expand their
23 powers when it should be laws that are passed, and
24 then they have very narrow rulemaking authority
25 under the laws that you passed.

2 CHAIRPERSON REYNA: Well, I
3 appreciate your candidness, and I know that
4 Council Member Brewer has a few questions.

5 ROBERT BOOKMAN: Thank you.

6 CHAIRPERSON BREWER: Thanks, Rob.
7 You obviously wear many hats. Have you ever been
8 asked as an association or as a incredibly
9 articulate and informed individual, to participate
10 in these rulemaking in the past? Just out of
11 curiosity.

12 ROBERT BOOKMAN: Not informally,
13 but I've, you know, we've received the Consumer
14 Affairs, like I said, I receive the notices that
15 is required to go out to the public sometimes, so
16 yes, you know, they--And then it's up to us,
17 obviously, to get the real rank and file people
18 there. But we have received notices, I think it
19 could be improved dramatically, and there have
20 been examples, like I said, where they've passed
21 rules that I was interested in where I hadn't
22 received notice.

23 CHAIRPERSON BREWER: Right, so I
24 think what you're saying is, "Yes, we've been
25 notified, but the whole process could be

2 improved," which is--

3 ROBERT BOOKMAN: No question about
4 it.

5 CHAIRPERSON BREWER: Okay. Second
6 question is, obviously as part of this analysis,
7 with the Law Department or relevant agencies,
8 there'll be an analysis of, you know, as outlined
9 by the bill. Would there be any problem in making
10 that information public? I know there's always a
11 concern about things that are to market advantage
12 one way or the other. So, is there any
13 restriction you would think, on any of those
14 analyses?

15 ROBERT BOOKMAN: Not at all.

16 CHAIRPERSON BREWER: Okay.

17 ROBERT BOOKMAN: I think it's
18 essential that it be made public. The report has
19 to be, I think, made public, you know.

20 CHAIRPERSON BREWER: Right.

21 ROBERT BOOKMAN: Especially, you
22 know, when they're supposed to be looking at
23 compliance costs, and things of that nature, and,
24 you know, we need to know and you need to know
25 whether that was a, a real review of compliance

2 costs, and how are they doing that without
3 reaching out to the impacted businesses. So, you
4 know, this, it has to be done in a public and
5 transparent way; otherwise, it's, you know, it's
6 gamesmanship.

7 CHAIRPERSON BREWER: Okay. And
8 just picking up on your comments and Council
9 Member Lander, this issue of enforcement which the
10 previous bill that we passed, and I guess
11 regulations are being written, helps, it mostly
12 just lists what is supposed to happen, and again
13 it doesn't, there's still much more to be done on
14 enforcement. So, how do you feel that this
15 legislation could or could not interact with this
16 issue that is so important enforcement. If at
17 all. In other words, would there be some analysis
18 or anything?

19 ROBERT BOOKMAN: I don't think it,
20 I don't think it does, I don't think this really
21 does. I mean, it's a prospective bill, I see it,
22 I don't see them going, they're not going back on
23 any rules that have passed and, and putting this
24 to the test. I mean, let's be realistic. It's
25 prospective, and to the extent that it limits

2 this, you know, this willy-nilly rulemaking, and
3 clarifies it and tightens it up, it will help
4 enforcement because I think it'll force them,
5 before they adopt rules, to face these issues that
6 are presented in this legislation.

7 CHAIRPERSON BREWER: And to maybe
8 look how enforcement is carried out and whether or
9 not the analysis could help in that aspect.

10 ROBERT BOOKMAN: That's correct.

11 CHAIRPERSON BREWER: Okay. Are
12 there any other questions?

13 CHAIRPERSON REYNA: I do want to
14 ask Robert, the, the issue of the collection of
15 data as far as the email approach, do you have
16 suggestions as to whether or not that is something
17 that should be asked and at what point?

18 ROBERT BOOKMAN: Right. I think it
19 should be, it's, I think it's essential that it
20 should be started right now. And it should be,
21 you can't make it a required field, you know, in
22 the application process, but I think whatever's
23 one step short of required. I mean, your business
24 address is required, phone numbers are often
25 required. Increasingly, social security numbers

1 COMMITTEES ON GOV'T OPS, SMALL BUS, ECON DEV 75
2 are required for security purposes. I think as a,
3 I think, you know, you folks could sit down with
4 the Mayor's folks, it doesn't require legislation,
5 and as a policy, word needs to go out from, to all
6 the licensing agencies, which is a great place to
7 start. You got TLC, Consumer Affairs, Health
8 Department. There's a lot of businesses licensed
9 by those agencies, tens of thousands. And say,
10 you know, for all new applications and all renewal
11 forms, we want email to be a field that's included
12 with maybe three asterisks saying, "We urge you to
13 provide this to us, because we're going to use
14 this, you know, to keep you notified of things
15 like renewal dates and new rules." I think most
16 people would be more than happy to put it in then.
17 And I think, you know, in a matter of months, you
18 know, we can have a tremendous--

19 CHAIRPERSON REYNA: Database.

20 ROBERT BOOKMAN: --collection of
21 database here.

22 CHAIRPERSON REYNA: Mhm.

23 ROBERT BOOKMAN: Which we don't
24 have to worry about people going on to an NYC
25 Rules, we'll just send it out to 'em. And yeah,

2 you, you know, the computer, you know, they, you
3 know, they, they have computer records of all,
4 all, say all who the, every restaurant owner that
5 has a sidewalk café. That's a field. You know,
6 if they're going to promulgate a sidewalk café
7 rule, all the got to do is, you know, click that
8 field and send an email to every restaurant owner
9 that has a sidewalk café saying, you know, you may
10 want to check NYC Rules because we're promulgating
11 a new rule relating to sidewalk cafés.

12 CHAIRPERSON REYNA: Mhm.

13 ROBERT BOOKMAN: It's pretty
14 simple.

15 CHAIRPERSON REYNA: I agree with
16 you. And--

17 ROBERT BOOKMAN: I mean, I mean,
18 like--

19 CHAIRPERSON REYNA: It's the common
20 sense approach that never gets--

21 ROBERT BOOKMAN: And it's the way
22 to go. I mean, I can't communicate with my 22
23 year old without texting him, you know, so I mean,
24 that's how you communicate today. [laughs]

25 CHAIRPERSON REYNA: [laughs] And I

2 also wanted to just touch base on the timeline.
3 You heard me mention and ask the importance of
4 having realistic dates where we're meeting
5 milestones. Do you believe that it is important
6 or it shouldn't have deadlines due to the fact
7 that you don't want a rushed process? Or I just
8 want to hear what is the position of the
9 Associations concerning realistic approaches
10 towards meeting these goals, as the rule changes
11 are made?

12 ROBERT BOOKMAN: I think that for
13 many minor rules, and again it's, you know it when
14 you see it, you know, I guess it's like the
15 Supreme Court said about pornography. A 30 day
16 notice is more than sufficient. But for major
17 rules, things that I consider legislation, 30 days
18 is not sufficient. You know, and the, the
19 timeframe on letter grading for 30 days to get the
20 essence of what is probably the most significant
21 change in the operation of an important industry
22 in decades out to an entire industry, and get them
23 to understand it, and the impact on it, so they
24 can meaningfully participate, 30 days wasn't even
25 begin to be, wasn't--it wasn't even begin to be a

2 sufficient time. Just imagine you guys passing a
3 major piece of legislation in which there's only a
4 30 day notice out there, what it's about. The,
5 the dissemination of that was done weekly, you
6 know, and your voting on it on the first hearing.
7 Which is effectively what happens in the
8 rulemaking, 'cause you don't get to see them
9 again. You know, they take their, your comments,
10 and then they promulgate. And as long as the
11 promulgation is substantially similar to the
12 initial publication, they don't have to start all
13 over again. And they rarely start all over again.
14 So, I think 30 days is not sufficient in many
15 situations.

16 CHAIRPERSON REYNA: You do not
17 think--

18 ROBERT BOOKMAN: 30 days notice--

19 CHAIRPERSON REYNA: Is sufficient.

20 ROBERT BOOKMAN: --is sufficient in
21 many circumstances.

22 CHAIRPERSON REYNA: What do you
23 believe should be the minimum?

24 ROBERT BOOKMAN: 60 days.

25 CHAIRPERSON REYNA: 60 days? With

2 a maximum cap?

3 ROBERT BOOKMAN: Well, I think it
4 could range from 30 to 60, depending on this
5 analysis that they have to do here, you know, I
6 think there could, you know, the impact is
7 required in this bill. And so I think we can come
8 up with some good faith agreement that if the
9 impact is minor, then they can go forward with a
10 30 day notice, and if the impact is significant,
11 they need to go forward with a 60 day notice.

12 CHAIRPERSON REYNA: Well, I
13 appreciate that specific mention of a realistic
14 timeline, because, you know, time is money for
15 these businesses. And so, planning ahead is also
16 very important.

17 ROBERT BOOKMAN: And that, and
18 that, for that as well. But I can tell you, even
19 with all the publicity letter grade has gotten
20 the--the industry is still first catching up,
21 catching up to it. Which would not have happened,
22 you know, in a normal piece of legislation with a
23 public hearing, we didn't talk about the bill, we
24 have a second hearing. You know, they're still
25 catching up to it, they're still realizing, you

2 know, the unbelievable impact that it's going to
3 be for some of the most famous restaurants in the
4 world located here in New York City, having to put
5 a "B" in their window for five to seven months,
6 because of some nonfood related violations that
7 gave them points.

8 CHAIRPERSON REYNA: Right.

9 ROBERT BOOKMAN: It's, it's
10 incredible to me that that's being allowed to go
11 forward without the Council acting on it.

12 CHAIRPERSON REYNA: Right. Well,
13 thank you very much. Council Member Gale Brewer.

14 CHAIRPERSON BREWER: A very quick
15 question, Rob, you know, I asked earlier about
16 plain English, not something that you need, but
17 others might.

18 ROBERT BOOKMAN: [laughs]

19 CHAIRPERSON BREWER: Do you know if
20 there has been any improvement in any of the
21 regulations for getting even this bill in
22 particular out of the plain English, plain
23 language side.

24 ROBERT BOOKMAN: I think they've
25 gotten better. You know, from when I was drafting

1 COMMITTEES ON GOV'T OPS, SMALL BUS, ECON DEV 81
2 bills for Consumer Affairs 30 years ago, it was
3 pretty legalese, and I think they're, there's been
4 an improvement over the decades on that.

5 CHAIRPERSON BREWER: Okay, all
6 right, thank you. [pause] All right, so we thank
7 you. We're done with this portion of the hearing,
8 and we will leave it open for a few more minutes
9 for those who want to join us for voting. And
10 thank you very much. This hearing is adjourned
11 until there, unless there's somebody who comes up.
12 Thank you, ten minutes.

13 [gavel]

14 [long pause]

15 CHAIRPERSON REYNA: Thank you,
16 Council Member Mark Weprin for joining us here
17 today, and--this meeting is adjourned. Thank you
18 very much.

19 [pause until end]

20

C E R T I F I C A T E

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

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

Signature_____

Date July 12, 2010