

COUNCIL OF THE CITY OF PHILADELPHIA
SPECIAL INVESTIGATING COMMITTEE ON
DEMOLITION PRACTICES IN THE CITY OF PHILADELPHIA

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, August 1, 2013
11:06 a.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR. - CHAIR
COUNCILMAN JAMES KENNEY
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN BOBBY HENON

ALSO PRESENT:

COUNCILWOMAN CINDY BASS
COUNCILMAN MARK SQUILLA

RESOLUTIONS: 130546

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COUNCILMAN JONES: Good morning. This is reconvening of a Special Investigative Committee on Demolition Practices in the City of Philadelphia. I'd like to recognize to my left Councilwoman Jannie Blackwell and to my right Councilman Jim Kenney. We have an aggressive, very aggressive agenda today.

I just want to recap very quickly that the first hearing that we held talked about processes of demolition. And we had representation from L&I and the Deputy Mayor for Public Safety.

The second hearing that was held by this body was focused on industry practices and what some of the differences were particularly between public demolition and private demolition.

The third hearing focused on intergovernmental cooperation or the need for greater cooperation intergovernmentally between departments. We talked about demolition permits, and we did a case study on how a demolition should happen. We used the old Army on South Broad Street.

So this committee hearing, being the

1 fourth, will be focusing also on other
2 municipalities and industry practices that we can,
3 in the City of Philadelphia, learn from.

4 I want to also say there will be -- and I
5 will probably say this again in my closing remarks
6 based on committee persons interest -- a public
7 comment section for people who aren't necessarily
8 recognized as industry experts, but have an
9 opinion about the conduct and the condition of
10 safety for demolition.

11 It doesn't fall from our view that both in
12 the area, and I think it was Jim Kenney that
13 focused on this, that not only in demolition but
14 we need to be cognisant of safety in the area of
15 construction. He has long been a leader of trying
16 to provide common sense ways to implement that in
17 understanding basically how to do it without
18 causing too much onerous expense on people's part.
19 And I think he's done a good job of that. We will
20 continue to persue that.

21 Will the Clerk please read the title of the
22 resolution.

23 THE CLERK: Resolution No. 130546, a
24 Resolution authorizing the creation of a "Special

1 Investigating Committee on Demolition Practices in
2 the City of Philadelphia," to investigate safety
3 problems and identify solutions related to the
4 oversight of demolition projects in this City.

5 COUNCILMAN JONES: Would either of the
6 Members of the Committee like to have opening
7 remarks?

8 Chair recognizes Councilwoman Blackwell.

9 COUNCILWOMAN BLACKWELL: Thank you.

10 Thank you, Mr. Chairman and Members of the
11 Committee. This hearing is so important. And the
12 more I learn about the subject, the more I realize
13 there is to learn. It just keeps getting so big.

14 We met with people around the country
15 thanks to the Chair's efforts and have toured.
16 And we realize that there are many cities who are
17 way ahead of us in what we do, and there is much
18 we can do.

19 We wrote a letter to the Chairman thanking
20 him for the great job he's doing on the Committee
21 and saying that some of the things we need
22 consider that have come out so far during the
23 hearings are, one, the communication between city
24 departments; two, prequalification of laborers and

1 other skilled workers that Councilman Kenney has
2 talked about; three, establishment of a safety
3 committee certification program like Safety First
4 who is testifying today.

5 We met with people from other towns and we
6 realize and we believe that that would be viable
7 because perhaps together we can come up with
8 legislation that will allow that to be an
9 independent separate function. And that certainly
10 that the developers or contractors can pay for so
11 that we have safety officers and investigators
12 like they do in New York and other places who only
13 do that.

14 Also, we've also talked about number four,
15 minority training program which we met with Bruce
16 Crawley and others, and that would have to be
17 funded from our City. And then safety responses
18 to issues like asbestos, silica and other
19 environmental hazards that we haven't focused on
20 during construction or demolition process.

21 So again as my letter states, we look
22 forward to working with the Chairman and Members
23 of the Committee to at its end come up with a
24 legislation relative to these and other important

1 issues.

2 And a special thanks, I know Mr. Vallery
3 isn't in, but we thank you Kaseen Ali for being
4 able to testify today and my friend Bennett Levin.
5 We've asked him so much, Mr. Chairman, about what
6 he can do to help us going forward, help this
7 Committee and help Council with regard to L&I as
8 we move forward. We believe out of this Committee
9 and out of our meetings only great things can
10 happen.

11 COUNCILMAN JONES: Thank you, Councilwoman.
12 And I concur that we have learned a great many
13 things. And this Committee will use those tools
14 to create better public policy.

15 Chair now recognizes Councilman Henon,
16 also, that has joined us.

17 Do you have any opening comments,
18 Councilman?

19 COUNCILMAN HENON: No.

20 COUNCILMAN JONES: Then we are going to ask
21 the clerk to read the first panel to testify.

22 THE CLERK: Fran Burns, Bennett Levin.

23 COUNCILMAN JONES: Thank you. I guess the
24 proper title is former commissioner. But I want

1 to personally thank you on the record for your
2 years of service, and then thank you for once
3 again stepping up to the plate to help us to form
4 better public policy again, so we appreciate it.

5 Can you once again, you know the drill,
6 state your name for the record and please begin
7 your testimony. Again, thank you for coming.

8 MS. BURNS: Good morning. My name is Fran
9 Burns. I thank Councilman Curtis Jones and
10 Members of the Special Investigation Committee for
11 having me here today.

12 I served as Commissioner of the Department
13 of Licenses and Inspection from August 18, 2008
14 through June 3, 2012. I am here today at your
15 invitation and welcome any questions you may have.
16 I hope to be helpful to your inquiries. And with
17 that, I am available to answer any questions.

18 COUNCILMAN JONES: Again, you weren't as
19 brief when you were the actual commissioner.

20 MS. BURNS: No.

21 COUNCILMAN JONES: I guess one of the
22 questions I would have is, under your term there
23 was -- did the shift from public safety to
24 economic development happen, or did that happen

1 before you were commissioner reporting to the
2 Deputy Mayor for Economic Development versus a
3 Deputy Mayor for Public Safety?

4 MS. BURNS: Sure.

5 It's my understanding that this
6 Administration had an organizational structure
7 that was different from prior administrations
8 where department heads or commissioners would
9 report through a managing director. And the
10 organizational structure chosen for -- and I think
11 I read the transcripts from the first hearing, so
12 I do believe that Deputy Mayor Gillison attested
13 to the reasons around the organizational structure
14 in the current administration.

15 But under the Deputy Mayor structure, there
16 were different functions and departments were
17 split rather than all departments reporting
18 through one managing director. Five or six
19 departments, and I will have that accurate and
20 precise, would report through a Deputy Mayor.

21 And it was established -- I didn't start
22 immediately, meaning day one with the Nutter
23 Administration as Commissioner. I actually
24 started about six months in. That had been -- and

1 that framework had been established prior to my
2 accepting the position.

3 COUNCILMAN JONES: I know having sat on
4 that side of the table as a department head in a
5 prior life how when you are working for an
6 administration, sometimes you have to wear the
7 jersey of the administration that you have. But
8 now that you're a private individual, I was
9 wondering if at all you had any reflections on
10 what you might have done differently or as us, you
11 might not have been able to say your true feelings
12 about what your budget was in the department
13 dealing with demolition.

14 I was hoping that in this opportunity, now
15 that you are a free citizen, to be able to give us
16 some insight on that.

17 MS. BURNS: Well, I think the issue of
18 public safety regardless of organizational charts
19 and reporting structures never left the mission of
20 the employees of the Department of License and
21 Inspections or the department itself. And I know
22 that employees, particularly through the years
23 that I have worked at L&I for 25, 30 years, carry
24 that very, very strongly. That they are and will

1 continue to be a life safety department and
2 agency. So, there is, you know, in terms of that
3 and that mission, that's not sacrificed.

4 I would say that in -- hindsight is 50/50.
5 I think that we did work across departmentally
6 with police and fire even though we weren't in the
7 public safety matrix or, you know, through that.
8 That was definitely seen, too. We did get support
9 particularly at different times from the Deputy
10 Mayor of Public Safety and strong support. I do
11 think it reinforces the mission of L&I to have it
12 in a structure of public safety. Sometimes that
13 gets lost if it's not there.

14 So, you know, I guess another kind of
15 pro/con when you take a step back and have the
16 benefit of that, which you don't always have at
17 the beginning, is the Department of Licenses and
18 Inspections, in my opinion, benefitted sometimes
19 from being an economic development agency.

20 Because, great example, is getting funding
21 for -- which the project hasn't started yet, but
22 technology funding for Project eCLIPSE to make
23 some further improvements. I think that will help
24 inspections and life safety. That funding when

1 you are going against Police and Fire potentially,
2 one could question, would that funding have gotten
3 to L&I. But when you're in an agency where -- in
4 a cluster of economic development, you really rise
5 to the forefront in terms of your needs. So, I
6 think that there are definitely tradeoffs. And I
7 appreciate the question.

8 COUNCILMAN JONES: So when we look
9 retrospectively, looking back always gives clearer
10 vision than looking forward, by way of -- things
11 that we discover that we kind of overlooked in our
12 budget hearings and many years that we have
13 interacted with you was the application itself and
14 holding individuals that may be, in some part of
15 the chain of demolition on an application, their
16 name and title affixed to the application.

17 Would that, in your opinion, give us
18 stronger accountability and stronger a sense of
19 responsibility before a firm puts their name to a
20 contract or a permit? That was one of the things
21 that we observed that was kind of absent in the
22 past.

23 What is your opinion of that?

24 MS. BURNS: I think to the extent that you

1 will always have someone that is named and
2 responsible for the activity, that that's
3 absolutely something to strive for. I know in the
4 department, you know, I guess while I was there
5 general contractors weren't and contractors
6 weren't named on the permit, not specifically
7 demolition permits in and of itself, but building
8 permits. And that was a distinct, I guess you can
9 call it imperfect. But it was a distinct action
10 that we took understanding the value of the
11 suggestion that you just made.

12 COUNCILMAN JONES: This is a rhetorical
13 question but it's not. Are all demolition
14 contractors created equal by way of proficiency?

15 MS. BURNS: My understanding going back in
16 history of contractors, at one point in time in
17 the City's history, there was no license for
18 contractor. There were various licenses for
19 different trades, but not even a license for a
20 contractor. That was something -- and this was
21 way before my time -- that was proactively done by
22 the department again recognizing the need.

23 And it's my understanding and could
24 potentially be argued otherwise or supported, that

1 those -- that it was with an understanding that
2 over time you would get to some of the current
3 kind of requirements that you have for other trade
4 licenses potentially with general contractor. And
5 that had not happened to date.

6 So if I were to -- and I think that some of
7 the not knowing them precisely, recommendations of
8 going forward, I think that's one of them to have
9 some qualifications in terms of experience.

10 COUNCILMAN JONES: First, elaborate on
11 that.

12 MS. BURNS: Yeah.

13 COUNCILMAN JONES: I'd like to still call
14 you Commissioner if it's okay.

15 MS. BURNS: That's fine.

16 COUNCILMAN JONES: I'd like to ask you.
17 Going to your head, and this is your first day
18 back on the job.

19 MS. BURNS: Okay.

20 COUNCILMAN JONES: We are going to get you
21 back in another administration maybe.

22 If you would then looking at contractors
23 and said if I had my druthers, these are the
24 qualities I want to see in a demolition

1 contractor, what would those suggestions be to us
2 to incorporate in new standards and requirements?

3 What would you look for?

4 MS. BURNS: Well, first, I want to make
5 this clear in terms of I would ask the
6 experienced. And I would do the same thing -- the
7 experience, that is, within the Philadelphia
8 Department of Licenses and Inspections that is
9 from the bottom up not just at the top for their
10 recommendations on what we need to look for. And
11 so, I know you've already done that and that's
12 important. And I'd also continue what you're
13 doing which is look at other cities, particularly
14 cities that have more stringent requirements than
15 the City of Philadelphia currently does today.

16 The -- I would definitely focus in on prior
17 experience and I don't -- I can't offer to you a
18 set number of years. A lot of my ability to
19 answer that question would really -- I would want
20 to be, you know, have some time to really look at
21 what an answer like that would be. From what I
22 can tell from the hearings that you've had and
23 some of the suggestions that have been given along
24 the lines of what it would look like to have

1 qualifications for demolition contractors, I
2 think -- it's my opinion that it's headed in the
3 right direction.

4 COUNCILMAN JONES: By way of workforce and
5 one of the concerns raised often is who is on the
6 job is as important as who is on the permit that
7 has applied for it. What -- I mean, a lot thought
8 and words have been given to OSHA certifications.

9 Do you think that is some type of
10 requirement that should be requested on the
11 workforce on a demolition job in the City of
12 Philadelphia?

13 MS. BURNS: The workforce of whom?

14 COUNCILMAN JONES: Of the person on the
15 permit.

16 MS. BURNS: Okay.

17 COUNCILMAN JONES: And the person that is,
18 in fact, maybe subcontracted that is actually
19 performing the work of demolition.

20 MS. BURNS: I think it's a very valid
21 consideration, but I don't have, you know, an
22 absolute for you there.

23 COUNCILMAN JONES: My last question is by
24 way of -- did you require safety plans when you

1 were commissioner from demolition and contractors?

2 MS. BURNS: The requirement for safety
3 plans while I was commissioner and, again, my
4 understanding that this has existed and these
5 requirements have predated, was that a safety plan
6 was required to be presented to OSHA. But no, a
7 safety plan was not required to be presented to
8 the City of Philadelphia.

9 COUNCILMAN JONES: Was that on public jobs
10 or private jobs, just for the record?

11 MS. BURNS: Definitely private jobs. That
12 statement definitely applies to private jobs. And
13 it's my -- it would be my understanding that it's
14 public, as well. But I'm certain for private.

15 COUNCILMAN JONES: Thank you. I'm going to
16 recognize Councilman Kenney first and then
17 Councilman Henon.

18 COUNCILMAN KENNEY: Thank you very much.
19 Good afternoon or good morning. We're
20 still morning, good.

21 MS. BURNS: Hello.

22 COUNCILMAN KENNEY: One of the first -- one
23 of the most stunning things that I think I heard
24 from the Administration in the first actual day of

1 testimony is Everett Gillison's assertion, and
2 I'll paraphrase him, that once a permit is granted
3 for private demolition or private work, there is
4 no longer any responsibility for the City to
5 ensure safety in the public right of way.

6 MS. BURNS: Right.

7 COUNCILMAN KENNEY: I was, like, so taken
8 aback by the position, I asked him to say it
9 again.

10 What is your view of that statement?

11 MS. BURNS: Well, when demolition permit is
12 issued -- and I'm just talking generally here, not
13 specific to any, you know.

14 When a demolition permit is issued, there
15 are five inspections that are, I'm going to use
16 the word "cued," for an L&I inspector.

17 COUNCILMAN KENNEY: Your experience while
18 you were there was that that was not the case.

19 MS. BURNS: Well --

20 COUNCILMAN KENNEY: That Mr. Gillison's
21 assertion was not, in fact, accurate?

22 MS. BURNS: I can say that when -- you
23 inspect a permit, a private demolition permit, a
24 permit is issued. And there are inspections that

1 are created as a result of that. And that the
2 department, we expect it to fulfil those
3 inspections.

4 COUNCILMAN KENNEY: Let me be more
5 subjective.

6 What do you believe either explicitly or
7 implicitly the granting of a permit by a municipal
8 authority means? If you grant a permit, do you
9 not grant permission and then somehow take some
10 responsibility for the granting of that permit?

11 MS. BURNS: There -- one of the things that
12 I generally believe is that the Department of
13 Licenses and Inspections is taking action when it
14 comes to enforcement to get a private individual
15 and/or contractor and/or owner to take action.

16 In -- you know, I just want to reiterate to
17 try to be more specific to answer your question,
18 that I probably wouldn't generalize this as much
19 as you just did in that description. But I would
20 definitely say when a permit is issued, the --
21 there is -- you know, there is a -- my experience,
22 we inspect it to that permit. And the inspections
23 are part of, I think, a very basic responsibility
24 of why licenses and inspections exist.

1 COUNCILMAN KENNEY: Okay.

2 Would you agree with the possibility of
3 having two separate departments for this activity?
4 One is the revenue generating commerce moving
5 department of license issuance, and the other one
6 being a department of building and construction
7 that would be more suited and more skilled and
8 more qualified, not that our folks are unqualified
9 but to be more qualified to pay attention to
10 specific issues relative to demolition and
11 construction as opposed to an issuance of a permit
12 for business license?

13 MS. BURNS: I think that's an absolute
14 viable idea. It's done in other major
15 jurisdictions or municipalities across the country
16 where you will see a bureau of licensing that is
17 distinct and separate from the construction.
18 Sometimes you will even see models where you have
19 housing within like a housing authority.

20 I mean, there are different models that
21 break up an organization of the size and capacity
22 and responsibility of Department of Licenses and
23 Inspections.

24 COUNCILMAN KENNEY: Some of the things we

1 have come across in the course of our
2 investigation is we have been told, and I would
3 like you to comment on this assertion, that
4 inspectors in Licenses and Inspection under your
5 leadership were more generalists than specialists.
6 That people -- there were not special key
7 inspectors that would inspect for building
8 construction or demolition, but that in times
9 there were people that were out there who really
10 didn't have the experience to be looked -- to know
11 what they are looking at.

12 Could you --

13 MS. BURNS: I know the genesis of that
14 comment.

15 COUNCILMAN KENNEY: Right.

16 MS. BURNS: Let me think about how to
17 answer that.

18 I would say first and foremost -- and I
19 think this is even actually an important thing to
20 clarify in terms of inspector qualifications. One
21 of my recommendations is to get the specifications
22 that are currently on the City's HR website to
23 look at the qualifications that are required for
24 inspectors. Because there actually is four years

1 of trade experience required for inspectors today.
2 That can be offset a one-for-one with college
3 experience. One year of trade, one year of
4 college. And I think that's an important
5 distinction because I think that got lost a little
6 bit.

7 COUNCILMAN KENNEY: Not to interrupt you,
8 but does the college experience includes things
9 like engineering or is it like art history?

10 MS. BURNS: No.

11 COUNCILMAN KENNEY: What college credit do
12 you get? What helps you offset the trade
13 experience?

14 MS. BURNS: I'd have to look exactly at the
15 spec. It is -- my suggestion is particularly when
16 looking at that area to make recommendations going
17 forward to maybe have someone take a look at that
18 spec. And to that point, I don't recall
19 specifically there. The -- sorry.

20 The question about generalist very
21 specialist. That is one point. In that point,
22 you will see on the spec that trade experience
23 could be four years of plumbing, four years
24 electrical, four years -- and so you already have

1 coming in the door, in essence, specialists. Now
2 that's not -- that's not the way that the
3 organization is structured, but that is an
4 advantage to operating in the department and
5 assigning work at times.

6 COUNCILMAN KENNEY: Would there potentially
7 be a situation where a person that is skilled in
8 plumbing be sent to a site to check out a
9 demolishing of a building?

10 MS. BURNS: Well, let me get there. I
11 think that gets back to the specialist comment,
12 which there -- all of the inspectors are trained
13 in and have to be certified, actually. If they
14 don't pass certain certifications within six
15 months, they are not supposed to move on through
16 the department. They should be let go.

17 When you talk about generalist, it's
18 generalist in the sense that they -- in one sense,
19 but they have to be trained and certified in every
20 code that is administered. So, a generalist just
21 using that in this dialogue, I wouldn't
22 necessarily call it that. But would -- has to be
23 certified, for instance, in the plumbing code.
24 And they have to be recertified through the course

1 of their career in L&I.

2 Now at times, particularly when part of --
3 there is one piece of this, a lot of this -- this
4 inspector kind of conversation goes back to the
5 early 2000s when the State mandated the Uniform
6 Construction Code and mandated that inspectors
7 have certain certifications within three to five
8 years of 2004. So by July -- all of this worked
9 through the department at the time. And part of
10 the -- part of that shift in different plumbing
11 inspectors versus construction trade inspectors
12 was a lot of negotiation on pay and job class
13 specifications.

14 So when I became commissioner in August,
15 that September -- mid September was the beginning
16 of the great recession. At that time, there was,
17 you know, within a few months the City was
18 hemorrhaging like, what, a little over one billion
19 dollars deficit over five years. So decisions had
20 to be made on how to continue operations under the
21 government under that.

22 Long story but I'm getting to your answer,
23 there were at the time five plumbing inspectors
24 still in Licenses and Inspections. Every other

1 inspector on the construction side was not like a
2 specialist, so to speak. When we took the
3 reductions because of the severe deficit in the
4 revenues to the City, we did layoff three plumbing
5 inspectors. We kept two, we laid off three. Part
6 of that was the justification was, well, you know,
7 this was actually what was envisioned, at least my
8 understanding of what was envisioned. And when
9 the department through State law, you know,
10 certified all of these inspectors.

11 At that time, there was a lot of
12 consternation about this decision from certain
13 areas not, you know, and even from some employees.
14 So what was done, the department brought in a
15 national expert to train employees. We also
16 brought in folks from the International Code
17 Council in addition to this expert to train
18 employees. All employees had to get tested.

19 And then what we did a lot for larger
20 projects is we doubled up until inspectors became
21 comfortable. One of the fundamental things with
22 inspectors is that they should inspect to a plan.
23 So, the actual -- there was this period of time
24 where we had a comfort level, so we would have the

1 plumbing inspector, one of the two that was still
2 on, accompany individual inspectors through that
3 transition.

4 COUNCILMAN KENNEY: Okay. I just want to
5 hit one area and then I will relinquish the
6 microphone. This is a particular case study
7 relative to the issue of work stoppage.

8 MS. BURNS: Okay.

9 COUNCILMAN KENNEY: I'd like to after
10 explaining what I am going to explain, explain why
11 this particular issue didn't rise to the level of
12 work stoppage.

13 In 2011, there was a fire at 2nd and Reed
14 Street, an enlarged warehouse in the middle of a
15 city block. And the apparent cause of the fire
16 which took a woman's house next door and
17 endangered the remainder of the neighborhood plus
18 the firefighters who had to fight the fire, was a
19 result of a fire that started in an unlicensed
20 auto repair operation on the second floor of the
21 building.

22 Records show that there were four
23 inspections that indicated that that was an
24 unlicensed business doing that work and there were

1 actually two court hearings which confirmed that
2 this was an unlicensed business conducting inside
3 a building auto repairs.

4 Why did that rise to the level of a work
5 stoppage and clearing of the building, which is
6 what we had requested prior to the fire?

7 What are different situations that would
8 cause an operation to be shut down or continue to
9 allow it to operate while we move through this
10 laborious citation and court process?

11 When do you get to the standard where it
12 becomes a public safety threat and you shut them
13 down and move them out?

14 MS. BURNS: What was the date of that
15 incident?

16 COUNCILMAN KENNEY: It was --

17 MS. BURNS: Because I don't know that --
18 just for the record, I don't recall that exact
19 incident. I recall reading about an incident
20 similar to that early this -- but that's beside
21 the point. Your question is really about stop
22 work orders, I think.

23 COUNCILMAN KENNEY: Why would that
24 situation rise to the level of a stop work order

1 and an evacuation of the building as opposed to
2 any other business we would shut down for whatever
3 reason?

4 MS. BURNS: Sure. When it comes to
5 unlicensed, I do recall very early on at least the
6 first year, year and a half, that we set a clear
7 policy on when -- it was because of life safety
8 and also zoning. Because, you know, I felt that
9 zoning was another place where there is
10 potentially -- people take a lot of -- a lot there
11 without going through the process.

12 So I don't have the specifics, but I am
13 sure I can get a copy of that policy. That would
14 outline -- that specifically, just to be clear,
15 from a business inspector because this is an --
16 according to your -- this scenario, this is
17 unlicensed auto repair.

18 So the -- one of the things I would look at
19 in terms of the details of that, I would have
20 asked the difference between being licensed and
21 have the zoning. And I would look at the policy.
22 And I would inspect -- expect the inspectors to
23 have followed the policy and the supervisors to
24 have seen that that was followed through. But I

1 can't hypothesize on that one.

2 You do know -- I think you're very well
3 aware that the Administrative Code allows for stop
4 work orders. It's a very general description of
5 the life safety and the protection of the public.

6 COUNCILMAN KENNEY: In this particular
7 case, it wasn't just the inspector went out there
8 and missed something.

9 MS. BURNS: Right.

10 COUNCILMAN KENNEY: This was multiple calls
11 to Mr. Maenner who, for some reason or another,
12 would not stop the work. When you have a
13 situation, obviously -- I mean, we may have a very
14 wide range of abilities to shut a business down.
15 But when you are doing auto repairs with gasoline
16 and oil and the like in closed structure that's
17 not legal without sprinklers, that to me rises to
18 the level of get these guys out before something
19 bad happens.

20 I think that is the frustration that we
21 feel here as we go through this whole process is
22 there is communication -- there is not as much
23 communication as we need, but there was levels of
24 communication from elected officials about things

1 like this that seem to, like, not end up happening
2 until there was a problem.

3 MS. BURNS: Okay.

4 COUNCILMAN JONES: Councilman Kenney, point
5 I think is that there is -- and I think your
6 comment in response articulates that there is a
7 blurry line often and a generalization of what the
8 rules interpretate for when you actually take
9 action.

10 One of the things that we want to do, this
11 is not an indictment or anything like that, but an
12 observation, constructive criticism and maybe even
13 us taking action on it to be a little more crystal
14 clear about those demarcations because lives are
15 on the line. Then that goes back to training.
16 That some people can recognize a threat to health
17 and safety better when they are trained in that
18 specific area.

19 COUNCILMAN KENNEY: Mr. Chairman, finally,
20 that's one of the reasons why I think it's
21 critically important that Fire Department be
22 involved in every one of these situations when --
23 because they look at it with a different eye. If
24 they were brought on the scene before the fire

1 started, they would have shut the place down
2 themselves. That is, I think, the kind of
3 integration that we need with other departments
4 including especially the Fire Department.

5 COUNCILMAN JONES: Duly noted.

6 MS. BURNS: My only response to Councilman
7 Jones, your comment, is that there are definitely
8 very precise and written rules over instances of
9 when to seize a property and some stop work
10 orders. Then there is that judgment that is, you
11 know, to be used. And in one hand, you definitely
12 want to exert that judgment from really the
13 technicians and those trained inspectors and
14 supervisors in utmost way to protect public
15 safety. And you're also hoping that that power
16 doesn't get abused at the same time.

17 COUNCILMAN KENNEY: Just one clarification
18 for the record sake. The fire was not at 2nd and
19 Reed. It was at 2nd and Wharton. The fire was
20 December 12, but there were complaints going back
21 for two previous years. The complaints about the
22 property started two years prior to the fire.

23 MS. BURNS: I see. Thank you.

24 COUNCILMAN KENNEY: Thank you.

1 COUNCILMAN JONES: Clearly, as much as
2 elected officials or people in economic
3 development may want to weigh in on these, these
4 are the kind of decisions that I don't want us
5 weighing in on. I want it purely public safety
6 driven, not economic driven. The safety of the
7 public comes first. That, I think, is one of the
8 subtext that we are trying to push forward.

9 Chair now recognizes Councilman Henon.

10 COUNCILMAN HENON: Thank you, Mr. Chairman.
11 Commissioner, welcome back.

12 MS. BURNS: Yes. Thank you.

13 COUNCILMAN HENON: I'm sure we would like
14 to welcome you under different circumstances.
15 But, you know, a special committee has been put
16 together by the Council President. And, you know,
17 we are trying to figure out what the best
18 practices are, you know, moving forward in lieu of
19 the recent incidence and the sake of public safety
20 here.

21 I was glad to hear you talk about
22 prequalifications of contractors. Now, I know
23 just getting a little clarity. There are
24 prequalifications for specialty licenses in --

1 within the Department of L&I. If you need to have
2 a license for a plumber or electrician, there are
3 prequalifications for those?

4 MS. BURNS: Yeah. There is experience
5 required to get licensed, yes.

6 COUNCILMAN HENON: Okay. But not on
7 demolition, and I don't believe on general
8 contractors.

9 MS. BURNS: To my knowledge, that's
10 correct. I know there's been a lot of
11 conversation distinctions between public and
12 private. On the public side I know you have heard
13 there are different qualifications that are
14 required to qualify to even be hired by the City
15 of Philadelphia to do demolition work on behalf of
16 the City of Philadelphia. I just want to further
17 that distinction.

18 COUNCILMAN HENON: Right. We have the
19 opportunity to review and -- you know, both
20 demolition and construction, you know, through
21 this process. So, you know, when it comes to
22 general contractors who hire demolition
23 contractors where there is not a defined
24 prequalification standards, you know -- and I

1 think, you know, it's our intention, you know,
2 work with that department. Hopefully, we can come
3 up with, you know, some standards of
4 prequalifications.

5 Councilman Kenney had mentioned the Chief
6 of Staff at the first meeting mentioned about the
7 permits, you know.

8 MS. BURNS: Yes.

9 COUNCILMAN HENON: The permit issue and the
10 responsibility. If we have a general contractor
11 who is not really prequalified, may or may not
12 have the proper experience, I don't know, who
13 would be responsible? Would that be the -- in,
14 you know, for best practices.

15 So right now, I'm not sure who is
16 responsible for work. Would it be the owner or
17 would it be the general contractor which is, you
18 know, we're questioning, you know, some -- could
19 question, I guess, some experience and, you know,
20 some qualifications. So you know, as we move
21 forward with best practices, ultimately want to
22 see who, you know, who would be responsible for,
23 you know, work being performed.

24 MS. BURNS: Right.

1 COUNCILMAN HENON: And when we're
2 questioning, you know, the qualifications.

3 MS. BURNS: Yeah.

4 COUNCILMAN HENON: In your experience and
5 as we move forward best practices, what would you
6 suggest?

7 MS. BURNS: I would suggest that you make
8 it very clear if you're going to have
9 qualifications to general contractors, and I know
10 this is not an easy suggestion, but that owners
11 need to hire general contractors that are
12 licensed. And part of that is then you have these
13 whatever you determine are the requirements that
14 you are going to hold to that general contractor
15 license. That would be the first thing I would
16 say on the owner part.

17 The general contractor that is required
18 to -- I think there is -- I would suggest there is
19 ownership on both going forward. And that you
20 look at that but, you know, you get a -- you often
21 find owners that are, you know, reasonably not
22 educated on processes or codes so it may be -- any
23 way to make it, like, a very basic understanding
24 for them of whom to hire because you do want them

1 to be protected in their decisions and get good
2 quality, safe work done for them. So I would
3 think if you are going to make requirements for a
4 licensed general contractor that are enhanced from
5 what they are today, that a lot of the oweness is
6 placed on that contractor.

7 COUNCILMAN HENON: Do you think that moving
8 forward as we, you know, come up with a framework
9 that's, you know, has the public interest and
10 safety first and foremost that maybe we educate,
11 you know, through the permit process? Somebody
12 comes down, they get a permit. You know, educate
13 the responsibility whether it's the owner or the
14 general contractor or both and holding them
15 responsible for the permit that's being issued?

16 MS. BURNS: Absolutely.

17 COUNCILMAN HENON: That's permitted and
18 granted to do work? I personally feel that the
19 owner should be responsible as well on who they
20 hire.

21 MS. BURNS: Right.

22 COUNCILMAN HENON: Especially, you know --

23 MS. BURNS: Yeah. It's a shared
24 responsibility. I don't mean to abdicate that in

1 terms of an opinion. I just don't know. Maybe
2 it's a feeling of empathy sometimes. You've got
3 degrees just like I was asked about degrees of.

4 You know, there is degrees of a residential
5 homeowner who is doing an addition that has a
6 small demolition piece to it to expand, you know,
7 and there is -- compared to a large new
8 construction or a large alteration or renovation.
9 And maybe that's distinctions that you want to
10 consider or maybe not. Maybe you just say, you
11 know, the owner has responsibility. I don't want
12 to make light of the fact that I wholeheartedly
13 believe that we're held under the law for our
14 responsibilities.

15 COUNCILMAN HENON: Absolutely. You had
16 mentioned and -- you know, it had to be a tough
17 time managing, you know, a department such as L&I
18 under, as you said, the great depression and when
19 you were --

20 MS. BURNS: Great recession.

21 COUNCILMAN HENON: Recession, I'm sorry.
22 The great recession and making cutbacks. So,
23 inspectors -- how many inspectors were cut that
24 you can recall?

1 MS. BURNS: The -- I can't give you an
2 exact. That's definitely in my transcripts from
3 then. I'd be happy to provide you with an exact
4 as a follow up because I am sure I can find it.

5 I can tell you that there were -- one of
6 the things we did when we were faced with, okay,
7 you know, this is what it looks like. How are we
8 going to manage. Is we -- some of our team sat in
9 a room and we said we are just going across the
10 board think about what is every single thing that
11 we believe the Department of Licenses and
12 Inspections is responsible -- you know, right now
13 under the law, what do we think are our functions
14 and our services.

15 Then we looked at that and said. Okay, we
16 are going to bucket -- these are our core
17 services. You can't -- this needs to be
18 preserved. We need to at least say at some
19 minimum we are doing these X number of things.

20 Then we drew a line and we said, okay, what
21 are some of the things that we do that under these
22 circumstances we have to think about potentially
23 not doing anymore or doing differently. And one
24 of the big decisions there was this unit of

1 weights and measures.

2 Which weights and measures was a unit of
3 inspectors that they would go to gas stations and
4 see that the number of gallons that you are
5 getting, you are actually charged for. Sort of be
6 measuring there. They would go to, like, grocery
7 stores sometimes and check about the pound is a
8 pound for the deil meat that you're getting. We
9 really looked at that and said that is a
10 consumer -- largely consumer protection at least
11 in our estimation. Then at the same time, the
12 units of this weights and measure was a county
13 function. And in every single county except
14 Philadelphia, the State did weights and measures.

15 We contacted the State. And the State
16 assumed those functions for the City of
17 Philadelphia and that responsibility for weights
18 and measures. If you go to a gas station today,
19 look at the sticker that's on your pump. It will
20 say -- I don't know if it's currently still in the
21 Consumer of Bureau Affairs at the State. I don't
22 know if that got switched around. But you will
23 see the inspection's done from the State. You
24 will see punctured -- the call on the sticker from

1 when it was last done. That was the majority of
2 inspectors that were laid off.

3 We did some, like, administrative. I know
4 there may be some comments on this. I think we
5 laid off some Code Three and Code Administrators
6 because, again, looking at what is the importance
7 of life safety here. And I mentioned there were
8 three plumbing inspectors.

9 COUNCILMAN HENON: Right.

10 MS. BURNS: That weights and measures unit,
11 that was the bulk. They were at the time also
12 called business compliance inspectors. That was
13 the majority of the inspection population that was
14 laid off. Then there were three plumbing. I
15 think I recall one construction trades inspector
16 that was, for better purposes, he was not
17 certified. And he was kind of low man on the
18 totem pole in terms of seniority.

19 But I can get you specifics.

20 COUNCILMAN HENON: That's all right. What
21 I am getting to is the -- I'm not sure exactly the
22 organizational chart and how it works. You know,
23 you have a permit review department that reviews
24 the permits?

1 MS. BURNS: Yeah. I mean, I am sure it's
2 called different things through the years but
3 Permit Services.

4 COUNCILMAN HENON: Permit Services.

5 MS. BURNS: Yeah.

6 COUNCILMAN HENON: Did you lay off anybody
7 that reviewed the permits, you know, going through
8 and approved within the City? Because I think --

9 MS. BURNS: I don't want to say
10 definitively, but I don't think so.

11 COUNCILMAN HENON: Was it a robust
12 department, or did you have two people managing
13 every permit that comes through the City?

14 MS. BURNS: We had the same number that was
15 there before the recession as after. I can say
16 that after we managed through the recession, there
17 was a lot of frustration in terms of hiring. And
18 the areas where we decided to hire, we hired eight
19 construction trade inspectors. And they have the
20 flexibility of being inside doing the plan review,
21 or outside on the street inspecting to the plan.

22 We also focused on hiring inspectors. And
23 I think we hired about 35, which is a huge hire
24 for the department in that Housing C&I Fire Unit.

1 So we then -- actually, we hired and, you
2 know, the flipside of the recession, we got some
3 very talented individuals from local universities
4 that were new hires and our plans review
5 specialist today. After going through -- they
6 have to go through 18 months before they are
7 actually able to do the plan review, 18 months of
8 training. They complemented what was already an
9 excellent staff. They definitely enhanced the
10 ability to perform more reviews.

11 COUNCILMAN HENON: All right.

12 My last question on that issue was what
13 was -- what were your -- what were the
14 expectations of the permit review?

15 Were they -- each permit, were the
16 contractors vetted for history? Tax delinquency?
17 The cost that were reported on the permit? Is
18 that all part of the planning and permit
19 process -- approval process?

20 MS. BURNS: Yeah. There is a couple of
21 different -- the plans review specialists that are
22 in Permit Services Division, some permits require
23 plans, some don't. But there is a whole list of
24 permits that would require whether they need plans

1 or not. The review of a trained and specialized
2 permit can -- you know, review specialist.

3 I can say one of the things that we did and
4 it may have been there but may have gone away, but
5 we had an engineer with a great number of years of
6 experience in the department audit our plan review
7 specialists, their plan review. And they were
8 auditing for adherence to the code. They were
9 auditing for, you know, consistency across. They
10 were auditing for just how did you input your work
11 into the system.

12 Then we looked at those audits. And I
13 think was really important, again, in terms of a
14 technical life safety measure that we took for
15 plan review. To your question, and because that
16 was some part of your question, you also asked
17 about cost of construction and tax compliance on
18 permits.

19 I think it may have come out already, but I
20 think on the tax compliance side particularly with
21 permits and licenses, we had some headway with
22 licenses and tax compliance, there is opportunity
23 there. However, that looks like that is
24 operationalized aside from, like, the initial

1 license that may be given to a contractor and/or,
2 you know, or contractor within the electrical
3 plumbing license. There -- I don't think there
4 were checks on tax compliance with construction
5 permits. So definitely want to -- that's my
6 understanding that that wasn't occurring.

7 Then on the -- what was the other part of
8 that?

9 COUNCILMAN HENON: The value.

10 MS. BURNS: Yeah.

11 COUNCILMAN HENON: The value on the
12 permits.

13 MS. BURNS: The value. And this was --
14 this decision was made, I don't know the year.
15 You can look back in the code on when the year
16 changed to --

17 COUNCILMAN HENON: Commissioner, let me
18 just ask a question this way then.

19 MS. BURNS: Okay.

20 COUNCILMAN HENON: Is there, to your
21 knowledge, a checklist that was required from the
22 Permit Review Department for the permits which
23 would, you know, list multiple things, you know,
24 such as, you know, tax delinquencies, histories,

1 value of the permits?

2 Was there somebody actually auditing -- you
3 had mentioned a new team of people that would help
4 assist with that.

5 MS. BURNS: Right. No. I think we
6 actually --

7 COUNCILMAN HENON: I think that is best
8 practices moving forward for sure.

9 MS. BURNS: We had one person that was
10 auditing the group of plan reviews for an internal
11 decision on where we need to focus if at all on
12 improvements.

13 To your point, we actually had an -- I
14 think it's one of the items that was transitioned
15 to the current commissioner. We asked for a third
16 party to come in and look at every single process
17 in the permitting process. Part of that review
18 was to identify. And part of what they do is, do
19 you have checklists for your permits? What are
20 qualifications for inspectors? How do you conduct
21 a review?

22 So, if you haven't -- I don't know if
23 that -- what stage of that worked from this third
24 party or where that is. But if you haven't

1 requested the results or if there -- of what that
2 looks like or when those results would be made, I
3 think that would help you to understand, at least
4 in terms of this third-party view, what was the
5 opinion of how the department was poised in terms
6 of what you are suggesting.

7 COUNCILMAN HENON: All right. I think
8 that's -- you have what you want to -- you want to
9 follow up?

10 COUNCILMAN KENNEY: I want to follow up.

11 COUNCILMAN HENON: Right. Okay. I have
12 some more questions, but I will defer some of my
13 time.

14 MS. BURNS: Certainly.

15 COUNCILMAN HENON: I think that's an
16 excellent request, you know, to follow up on that
17 report.

18 COUNCILMAN JONES: For the record, I want
19 to recognize that Councilwoman Bass is here, and
20 she's going to have some comments after -- or some
21 questions after Councilman Kenney.

22 COUNCILMAN KENNEY: This is an area about
23 the collaboration or lack of collaboration between
24 the Revenue Department and L&I.

1 What level of importance do you think it is
2 that someone who is asking for a permit to do
3 work, either demolition or construction in the
4 City, has a company that has active payroll
5 accounts or that has employees that are listed
6 through their payroll to be able to show that
7 their insurance requirements and that their taxes
8 are paid?

9 For example, in the two cases which we are
10 not allowed to talk about, but the two
11 individuals, the real safety valve would have been
12 at the desk where they received the permit, where
13 the expediter received the permit on behalf of the
14 contractor who neither were in tax compliance.
15 That would have stopped that thing cold.

16 Why was there not an emphasis on making
17 sure that companies who do business in the City
18 are, number one, licensed; number two, are
19 following all the rules that they are supposed to
20 follow. And one of the major rules is paying your
21 taxes. If you are delinquent and out of
22 compliance and you don't have a payroll account to
23 your company's name, what makes anyone think what
24 goes on in the construction site or demolition

1 site is going to be any better than their
2 bookkeeping or lack of bookkeeping --

3 MS. BURNS: The --

4 COUNCILMAN KENNEY: This is not on you,
5 too, but I've had those discussions, very heated
6 discussions with former Revenue Commissioner who
7 told me in my office, hey, man, everything is
8 okay. Don't worry about it. We're all good.

9 That was end of our meeting.

10 MS. BURNS: Right. We did start, and it
11 probably was part of your meetings, I did have
12 regular meetings with the Revenue Commissioner to
13 work towards some of this. I think part of the --
14 potentially if you think about, there was -- there
15 is this question of you have so many resources
16 when it comes to technology, when it comes to what
17 do you need to be doing in terms of other
18 functions within your department. Again, getting
19 back to what are your core priorities and what are
20 your core services.

21 We definitely wanted to find a coordinated
22 and supportive between the two so that -- what I
23 am saying is, if you had Revenue -- if you had
24 data that came over and then populated and then --

1 that doesn't even need a person. Some of the
2 conversation around that is with limited
3 resources, do you start to do all these one offs.
4 Or knowing that you've got potentially, and it was
5 approved. And I don't know what stage it is at
6 right now, but this large project where you are
7 going to have this as one of the fundamental
8 requirements of this Project eCLIPSE.

9 I can offer that that's part of the
10 operational difficulties sometimes with getting to
11 a place where you ultimately -- a desirable place
12 to be.

13 COUNCILMAN KENNEY: In that same regard,
14 and I will give you another example. We talked
15 about this individual before. I forget his name.
16 But apparently there is an electrical contractor
17 who is stationed in Bucks County who is a single
18 operations. Is the only employee in the company.
19 He is in his 80s. He regularly pulls permits for
20 electrical --

21 MS. BURNS: Not anymore, but he did.

22 COUNCILMAN KENNEY: -- contracting jobs.
23 What's that?

24 MS. BURNS: I don't think he -- I think he

1 rescinded his license.

2 COUNCILMAN KENNEY: Okay. Well, that's
3 good. That makes me feel safer.

4 MS. BURNS: Yeah.

5 COUNCILMAN KENNEY: When that individual
6 pulled 270-some permits in a given year and turned
7 them over to some unknown company, when our folks
8 go out to do the inspection, if we get there. I
9 recognize you can't -- probably can't get to every
10 single one. But when you get there, does anybody
11 ask the question who -- this is obviously not
12 Mr -- what's his name?

13 MS. BURNS: I don't remember his name. I
14 know exactly who you are talking about.

15 COUNCILMAN KENNEY: This is obviously --
16 this is obvious -- when the inspector gets there
17 and says, this is obviously not this guy because
18 he's an 80-year-old man and he works by himself.

19 MS. BURNS: Right.

20 COUNCILMAN KENNEY: So, who are all these
21 other employees that are doing electrical work on
22 this site? Who are you paying taxes to and where
23 are you from? Are you documented? Are you
24 licensed?

1 Don't the inspectors have the right to ask
2 those questions on the job site?

3 MS. BURNS: Yeah. You definitely want to
4 fact check this. But the electrical inspections
5 are the -- when they pull the permit, they
6 actually have to -- it's incumbent upon the person
7 that pulls the permit to provide evidence that
8 they had a third-party electrical inspection. So
9 there aren't electrical inspectors in the
10 Department of Licenses and Inspections.

11 However, the Department, because of that
12 setup, audits like every tenth electrical permit
13 pulled to audit that work because it's a
14 third-party system.

15 COUNCILMAN KENNEY: But does a red flag go
16 up when this particular individual pulls that many
17 permits in a year? I don't think an individual
18 contracting company that is legitimate pulls that
19 many.

20 MS. BURNS: Well, the red flag went up
21 because we were told about it.

22 COUNCILMAN KENNEY: Okay.

23 MS. BURNS: And that individual was brought
24 in for administrative hearings and suspended in

1 their license. And all of their work was with
2 those licenses that were -- those permits that
3 were outstanding at the time, all work was stopped
4 on that while it was suspended. What the
5 department was working to do was really prove kind
6 of this case so that it wasn't just a temporary,
7 like, three-month suspension. And my
8 understanding is that that inquisition and that
9 type of pressure led this gentleman to turn his --
10 voluntarily turn his license in.

11 There were 30 administrative -- I don't
12 have the number of administrative hearings for
13 each year. I know we held 30 administrative
14 hearings in 2012 that were specifically around
15 that issue that you bring. It is -- I will say it
16 is hard for L&I to hone in on that, but we did.

17 COUNCILMAN KENNEY: I don't want to belabor
18 this. But how can it be hard to hone in on
19 something when a guy who is that age comes down
20 there that much? Doesn't the people behind the
21 desk say, he is back again?

22 MS. BURNS: He could be hiring licensed
23 electrical contractors from the hall. I mean, you
24 know, couldn't he? He could be, as a sole

1 proprietor, it's my understanding that he could --
2 he can hire licensed for that work.

3 And again, given the system that I set up
4 to my understanding, explained with the third
5 party, I think that, you know -- I don't disagree
6 with you.

7 COUNCILMAN KENNEY: Okay.

8 MS. BURNS: You don't want someone pulling
9 permits for someone else that is not licensed.
10 It's like a straw purchase. You don't want it to
11 happen.

12 COUNCILMAN KENNEY: Okay. Thank you.

13 COUNCILMAN JONES: Everybody's name needs
14 to be on the permit once again down the chain of
15 responsibility for demolition in your opinion?

16 MS. BURNS: Well, this -- the conversation
17 we just had was a little bit of a tangent to that.
18 On that one, I would just -- I would suggest you
19 continue to have those conversations with the
20 current in terms of suggestions and best practices
21 about who should or should not be on -- listed on
22 a permit and what that means.

23 COUNCILMAN JONES: We appreciate that.

24 Before we go back to Councilman Henon,

1 Councilwoman Bass, did you have a question or two?

2 COUNCILWOMAN BASS: Thank you,
3 Mr. Chairman. Good afternoon.

4 MS. BURNS: Good afternoon.

5 COUNCILWOMAN BASS: How are you?

6 MS. BURNS: Good, thank you.

7 COUNCILWOMAN BASS: I have some questions
8 for you.

9 The first thing I just wanted to do was I
10 wanted to follow up on where I think Councilman
11 Kenney was sort of going, which in my opinion
12 feels like there is -- there has been a lack of
13 sort of internal controls, checks and balances.
14 So that if someone comes in and pulls a permit,
15 that there just should be some red flags going up
16 other than someone bringing it to your attention.
17 That there should be something internal that would
18 trigger it.

19 I know I speak to you as a former
20 commissioner. But it just -- and my thoughts
21 speaks to, I think, the reputation that L&I has
22 had over the years which really hasn't been a good
23 one. I think that it's improved. I think that
24 even despite, you know, the unfortunate collapse

1 and a number of things that, you know, have really
2 been brought to our attention, I think that
3 overall, you know, Commissioner Williams has done
4 a decent job in that, you know, when I pick up the
5 phone and I call him and I have a building in my
6 district that needs to be cleaned and sealed or
7 near collapse or whatever the situation may be, I
8 get a response usually within minutes.

9 And, you know, I have to say that's new
10 because prior to that I didn't get a response when
11 I would call your office in terms of getting a
12 response for something that was critical. And,
13 you know, that's just my thoughts on the matter.

14 MS. BURNS: How much time did we overlap?
15 Because when did you -- I didn't realize we did.

16 COUNCILWOMAN BASS: I started in
17 January 2012.

18 MS. BURNS: So, it was a couple months.
19 Okay.

20 COUNCILWOMAN BASS: Okay. But I did want
21 to just ask a couple questions. I wanted to, you
22 know, just put that out there first. And I have a
23 few questions I would like to ask and get your
24 thoughts on. Please forgive me if some are a

1 little redundant because I did come in late.

2 MS. BURNS: Can I clarify something in the
3 initial comment that you just made?

4 COUNCILWOMAN BASS: Certainly.

5 MS. BURNS: In my conversation back and
6 forth with Councilman Kenney about electrical
7 permits and the ability for an electrical
8 contractor to be a sole proprietor that can hire
9 electrical licensed subcontractors, that that's a
10 very distinct conversation and isn't a
11 generalization of there is no checks and balances
12 in terms of issuing permits.

13 That's an important -- just an important
14 response. And I am happy to answer the questions
15 that you have.

16 COUNCILWOMAN BASS: Okay. Thank you for
17 saying that. But my response to your response,
18 because I know that when you spoke to Councilman
19 Kenney about what some of the possibilities were
20 that he could have been, you know, in that
21 particular situation or it could have been this or
22 it could have been that, well, you know, kind of
23 should have, could have, would have. Could have
24 been a lot of things. And so, I think that if you

1 have the internal controls, then you can clamp
2 down as much as possible on, you know, the should
3 have, could have, would have and what would
4 happen if and what if this is the circumstance.

5 There is a lot of things that happen in
6 L&I. Almost every situation is very unique unto
7 itself and we understand that. But the more
8 controls that you have I think, just the better
9 off the entire department is and the less
10 liability, obviously, for the City is just my
11 thought on that. Okay.

12 Can you talk about -- can you tell me how
13 long you were commissioner?

14 MS. BURNS: Sure. August 18, 2008 through
15 June 3, 2012.

16 COUNCILWOMAN BASS: Okay.

17 MS. BURNS: August 18, I'm sorry, 2008.

18 COUNCILWOMAN BASS: Prior to that, you
19 worked in the Department of L&I?

20 MS. BURNS: I had.

21 COUNCILWOMAN BASS: Can you talk about your
22 background, how long you were at L&I and your
23 experience with them?

24 MS. BURNS: Certainly. I had worked about

1 three and a half years as Deputy Commissioner for
2 Administration.

3 COUNCILWOMAN BASS: Say again?

4 MS. BURNS: I worked for three and a half
5 years as Deputy Commissioner for Administration
6 under a former commissioner. And prior to that, I
7 had held a couple of different positions as an
8 Assistant Managing Director. And through that, I
9 was liaison to Department of Licenses and
10 Inspections and worked with the department in that
11 capacity.

12 I also was in the Budget Office at a period
13 of my career. And I have Master's Degree in
14 Public Administration.

15 COUNCILWOMAN BASS: Okay. So, you have a
16 wealth of experience, I would say, in the work
17 that you were doing and particularly in L&I. You
18 were very familiar with the department and how it
19 operated, correct, you would say?

20 MS. BURNS: I was familiar with operations
21 of the department. I leaned very heavily on the
22 technical knowledge of some of, I think, the best
23 and brightest in the country when it comes to the
24 building codes.

1 COUNCILWOMAN BASS: Okay. All right.
2 Can you talk about the changes that I think
3 that were made with yourself as commissioner? Do
4 you see -- particularly, when it relates to the
5 collapse anything that would have been relatable
6 to this particular situation. Because I think
7 that there has been a lot of conversation that
8 more recently there have been a change within L&I.
9 And I don't know this.

10 But I'm asking you to discuss a little bit
11 further that there had been a move more from or
12 more to making L&I sort of a revenue generator
13 versus addressing safety issues first and
14 foremost.

15 MS. BURNS: Yeah. I don't know where that
16 comes from. That's absolutely not true. The --
17 as I said when I started, the mission and function
18 of the Department of Licenses and Inspections has
19 always been life safety. There is actually no
20 incentive to be Revenue producing from a
21 departmental leadership position. The revenue
22 does not come back to the department.

23 The -- a lot of -- there was a lot of -- we
24 did a lot of things in terms of our focus in our

1 administration in the department from looking at
2 answering service requests 40, 50 percent of the
3 time to responding for service requests 100
4 percent of the time within the time frame that,
5 you know, of our service level agreement.

6 COUNCILWOMAN BASS: Right.

7 MS. BURNS: We caught up in all of our
8 clean and seals.

9 COUNCILWOMAN BASS: You caught up all of
10 the clean and seals?

11 MS. BURNS: At the time, yeah. We had a
12 backlog of clean and seals when I.

13 COUNCILWOMAN BASS: When you started in
14 2008?

15 MS. BURNS: Yeah.

16 COUNCILWOMAN BASS: When you left in 2012,
17 you would say that all of those clean and seals
18 were addressed?

19 MS. BURNS: Of the backlog, absolutely.
20 But we also then -- I mean, you are getting
21 requests for clean and seals constantly. The
22 number of days between requests and the clean and
23 seal actually occurring was diminished in -- you
24 know, under Administration.

1 The -- we instituted a vacant property
2 program that actually got national recognition.
3 And the whole purpose around that program was to
4 say we already know -- you know, we forgot this
5 problem of vacancy in our city, but we want to --
6 and we don't want it to grow. So, what are we
7 doing when that first vacant occurs on occupied
8 blocks now and what does our enforcement look
9 like? We were really successful around that.

10 We did -- we ensured there were a couple
11 of -- there are certain inspections that are
12 required under the Code. For instances, do the
13 highrise inspections annually, family daycares
14 annually, school inspections annually. And we
15 ensured that they were being done annually.

16 There is a whole series of, you know -- I
17 think whole series of measures that we took to
18 really improve our performance. And I did a lot
19 of work around accountability of our inspectors
20 and supervisors.

21 COUNCILWOMAN BASS: Okay. I think that
22 we're going to have to agree to disagree on a
23 number of those performance measures that just
24 mentioned. Because I know that you and I had had

1 a conversation about the satisfaction rate of L&I.
2 I don't know if you remember this, but I remember
3 quite candidly.

4 MS. BURNS: Not at all.

5 COUNCILWOMAN BASS: That you said -- I
6 think at that point you said it was something,
7 like, a 70 percent satisfaction rate in terms
8 of --

9 MS. BURNS: No. If you check our annual
10 reports that are issued each year, that is what I
11 would have been consistent with. I don't remember
12 these conversations, but, you know, it's been a
13 while so.

14 COUNCILWOMAN BASS: It's been a while.
15 It's been a while. But I do remember having a
16 conversation about the satisfaction rate. And
17 that it was something like -- you quoted a number,
18 something like 70 percent or whatever the number
19 was. And I said -- because I remember saying if
20 it's 70 percent, then I most know the entire
21 30 percent that is unhappy with L&I performance
22 satisfaction.

23 MS. BURNS: Okay. I do remember that.

24 COUNCILWOMAN BASS: Okay.

1 MS. BURNS: Yes.

2 COUNCILWOMAN BASS: So again, you know,
3 this -- the idea that we have caught up the clean
4 and seals or that we had caught up clean and
5 seals --

6 MS. BURNS: Right.

7 COUNCILWOMAN BASS: You know, to me is, I
8 would say, questionable, you know, even though I
9 know you have your facts and figures. I just
10 think when I look at my district, when I talk to
11 my constituents, you know, when I ride around in
12 my district I know that there are things that have
13 been out there for years that have not been
14 addressed. So, I just want to -- just wanted to
15 mention that.

16 I was just wondering if you can talk
17 briefly about your thoughts on the demolition
18 process particularly in relationship to the
19 collapse that happened. I just wanted to get your
20 particular perspective.

21 Did you see that coming? Were you
22 completely surprised? What were your thoughts
23 when you heard that it happened?

24 MS. BURNS: My thoughts when it happened.

1 I don't know. I had a lot of thoughts when it
2 happened.

3 COUNCILWOMAN BASS: Do you want to share a
4 few?

5 MS. BURNS: Huh?

6 COUNCILWOMAN BASS: Do you want to share a
7 few?

8 MS. BURNS: No. I had a lot of thoughts.
9 You know, I don't know necessarily your question.
10 Can you restate it?

11 COUNCILWOMAN BASS: What was your reaction
12 to what happened on Market Street? Did you feel
13 that, you know, you were shocked and surprised as
14 commissioner with all the controls that you had
15 left in place that this happened? Were you not
16 surprised? Maybe you thought things were a little
17 bit lapse and that this could happen.

18 MS. BURNS: I don't have a response to
19 that.

20 COUNCILWOMAN BASS: You don't have a
21 response --

22 MS. BURNS: To the question.

23 COUNCILWOMAN BASS: You don't have a
24 response or thoughts at all as former

1 commissioner?

2 MS. BURNS: You know, I don't know that
3 it -- I don't know that that question really
4 matters in the context.

5 COUNCILWOMAN BASS: I think it does matter.

6 MS. BURNS: Okay.

7 COUNCILWOMAN BASS: Absolutely, as a former
8 commissioner. Because we can't move forward
9 unless we look backwards and look back at what
10 we've done, what processes we had in place, what
11 precautions. How do we get here? You can't move
12 forward unless you figure out how you get to this
13 point at this time.

14 MS. BURNS: Well --

15 COUNCILWOMAN BASS: I think that is why you
16 are here and what we were trying to ascertain.
17 How can we move forward based on what has happened
18 in the past. L&I is an agency that has not had a
19 great reputation in this City. I think if you
20 asking most folks right now, if you walk and take
21 a survey on the streets, most folks in this City
22 do not feel great about the services provided by
23 that particular department.

24 Now like I said, I think it's on the

1 comeback. I think it's turning around, but we
2 need to move forward. And we need to move
3 forward, I think, with your help.

4 MS. BURNS: I provided, you know, discourse
5 back and forth about things that I think are
6 viable suggestions. And I feel that I have been
7 helpful in those responses today. You're asking
8 about something that I just don't comfortable
9 speculating on. And I am happy to --

10 COUNCILWOMAN BASS: I'm not asking for
11 speculation. I was just asking for your thoughts,
12 but nevermind. That's okay.

13 Thank you, Mr. President or Chair.

14 COUNCILMAN JONES: Thank you, Councilwoman.
15 Councilman Henon was finishing his question.

16 COUNCILMAN HENON: Thank you, Chairman. I
17 will finish up quickly.

18 One, I do want to acknowledge and
19 appreciate, again, you attending here and
20 testifying under these circumstances when the
21 Administration has not on several occasions and
22 several requests. So, I want to acknowledge, you
23 know, credit, you know, for you. I am sure it's
24 uncomfortable.

1 A few things I just want to, you know,
2 finish up on. One, I caught the end of Councilman
3 Kenney's bringing to light again the sale of
4 third-party permits, all right, that has been
5 taking place in the City for many years.
6 Hopefully, we can put an end to it. There is
7 legislation that has been enacted now to hopefully
8 stop that and change behavior.

9 The individual that I can speak on that he
10 was discussing is Neil Rosenberg, all right. To
11 out him publicly. You have taken administrative
12 sanctions against him. But unfortunately, he is
13 still listed as a contractor, electrical
14 contractor on the website as an expediter which
15 leads me to best practices moving forward in the
16 permit review process or whatever the
17 organizational chart calls for, you know, red
18 flagging sole proprietors who may be one of many
19 listed as subcontractors on a construction site at
20 the issuance of the permit.

21 I think, you know, moving forward, best
22 practices, you know, we should take a look at the
23 permit process and how it's vetted and what should
24 be red flagged, you know, in light of, you know,

1 being informed of some of these illegal practices
2 that are taken place. So, that is what I wanted
3 to mention publicly.

4 Two, speaking of expeditors, you know, it's
5 my understanding that -- well, let's go back to
6 our conversation earlier. The owner NGC, you
7 know, who is responsible. I think they both share
8 responsibility moving forward. But as far as the
9 expeditor who certainly in most cases doesn't have
10 any experience whatsoever in either demolition or
11 construction moving forward, from some of the
12 research that I have looked into at the issuance
13 of the permit, they are supposed to be providing a
14 letter of authorization or a consent on behalf of
15 the owner to act, I guess, to represent them to
16 apply for the permit; is that correct?

17 MS. BURNS: That's my understanding.

18 COUNCILMAN HENON: Is that --

19 MS. BURNS: Yeah.

20 COUNCILMAN HENON: Okay. Did that -- how
21 critical do you think that is for that document to
22 be submitted with the permit at that time?

23 I am sure there was a reason -- there's a
24 reason that the authorization and permission is in

1 law that is submitted for the paperwork for the
2 permit.

3 MS. BURNS: I think that's important.

4 Yeah, I agree.

5 COUNCILMAN HENON: All right. Do you --
6 did we -- to your knowledge, the department's
7 supposed to be asking for that; is that correct?

8 MS. BURNS: I'm sorry. Say that again.

9 COUNCILMAN HENON: To your knowledge
10 because it's law, the department in past because
11 it's been law and required for some time, the
12 Department of L&I should be asking for that
13 document?

14 MS. BURNS: That's to my knowledge, yes.

15 COUNCILMAN HENON: Okay. Okay. 311.

16 MS. BURNS: Okay.

17 COUNCILMAN HENON: I have a smile on my
18 face when it comes to 311.

19 When a 311 -- 311, I guess, at the same
20 time kind of it was in inception, you know, when
21 you were commissioner. So a call comes into 311,
22 complaint about a unsafe work site. Can you take
23 me through the process a little bit on -- if we
24 get a call from -- somebody calls and complains to

1 311 about an unsafe work site. What happens on
2 the Department's end? Does an operator just call
3 the Department? And how is that handled?

4 MS. BURNS: I can tell you my recollection.
5 Again you can, I'm sure, get the exact as it is
6 today.

7 Call comes in. The 311 operator should
8 have like notes and a knowledge based on what
9 their -- you know, how to handle the call, how to
10 assess the -- what the call is and which, you
11 know, where to put it in the request for L&I. So,
12 you know, putting in clean and seal versus
13 property maintenance where you need an inspection,
14 you know, those are the different categories that
15 would require them to understand what type of
16 response is needed.

17 COUNCILMAN HENON: Right.

18 MS. BURNS: So that happens. It then goes
19 through. And I don't know if this is changed, but
20 whatever that 311 system software is, then goes to
21 the database in Licenses and Inspections which, if
22 you think of it as a work order system, and it's
23 assigned to an inspector to do that inspection.
24 Depending on the type of request, there is

1 different service levels, you know, of response.

2 COUNCILMAN HENON: Which on your end
3 inspector's trained, understands the order of
4 priority of the complaint and the call.

5 MS. BURNS: Right.

6 COUNCILMAN HENON: Especially when it comes
7 to unsafe conditions.

8 Are you aware of any kind of training from
9 the 311 operators whether they have any kind of
10 training in demolition or construction in, you
11 know, in order of their priority --

12 MS. BURNS: Yeah.

13 COUNCILMAN HENON: -- to push it over to
14 L&I?

15 MS. BURNS: I can't remember the initial
16 training. There was definitely training where --

17 COUNCILMAN HENON: I'm not talking about
18 systems training.

19 MS. BURNS: Yeah. No. No. No. No. No.
20 There was definitely training where we had key
21 managers go over to employees and say this is what
22 our work is. This is the severity of it. That
23 happened, I know, initially.

24 COUNCILMAN HENON: Okay. Maybe I will

1 request, you know, formally the types of
2 trainings.

3 MS. BURNS: Sure.

4 COUNCILMAN HENON: And the order of
5 priority and protocols from the operators.
6 Because I think, you know, if a call comes in, you
7 know, you have the 911 operators. They have their
8 training. They understand, you know, in the
9 priority of calls. I'm not quite sure, just going
10 through this process, you get the same level of
11 detail.

12 Thank you. I appreciate you coming in.

13 MS. BURNS: Thank you. Sure.

14 COUNCILMAN JONES: Thank you, Councilman.
15 And thank you for your endurance and patience.

16 Couple quick questions.

17 MS. BURNS: Okay.

18 COUNCILMAN JONES: 311, again, the response
19 time between a -- how is it filtered so that the
20 level of urgency -- does that come across in a
21 transmission from a caller to the switchboard in
22 to your department? How does that -- how does
23 that work?

24 MS. BURNS: Definitely want to go back on

1 this with current operations, because I don't want
2 to kind of speak out of what it looks like today.

3 But there is -- like I said, there would
4 be -- you know, some things should be an immediate
5 inspection when they get to the inspector
6 depending on the issue and the severity. Other
7 things were like two day or five day. Some were
8 ten day. Some were thirty day. And it ran the
9 gamut.

10 COUNCILMAN JONES: So there needs to be --
11 do you think there needs to be a separate
12 emergency hotline condition that we can bump that
13 up to somebody needs to go out right away?

14 I mean, is that something that makes sense
15 to do?

16 MS. BURNS: Just my opinion, I felt like
17 311 served L&I in a way that L&I had not been
18 served outside of 311. And I think that really
19 improved responsiveness. It improved outside
20 accountability so you can actually see is L&I
21 really getting there when they say they are
22 because you got this external database.

23 There is always a system that Police and
24 Fire can make referrals immediately, meaning, kind

1 of this emergency. That is through -- was through
2 a municipal switchboard. And L&I would have
3 someone on call to go out right away. The -- I
4 guess it's a question, but I do feel like we were
5 well served by 311.

6 COUNCILMAN JONES: Okay. That's an honest
7 answer.

8 Final question for me is, by way of --
9 we -- I think it's the general consensus of this
10 Committee and possibly from the interactions I
11 have had with other Members of Council, that we
12 want to change the paradigm to look at private
13 inspections and not on a honor system, per se.

14 If we were to send inspectors to these
15 sites, of your opinion, is it possible that an
16 independent entity private sector maybe through a
17 subcontracting situation, could go out to monitor
18 jobs to augment the qualified workforce that we
19 currently have? Or would it be your opinion that
20 we would go through L&I's regular department and
21 come up with a special unit, per se, that is
22 highly trained as some members have suggested?

23 It could either way be --

24 MS. BURNS: Always an option. That you

1 just have to definitely understand the labor
2 implications and whether the third-party audits
3 and inspections are something that, you know, you
4 have got a -- with your union and workforce,
5 whether that's -- I don't know the work rules
6 there. That would just be one thing that you
7 definitely want to consider.

8 But I think, you know, having a third party
9 do an audit is an absolute -- it's an option to be
10 compared. And I think that it's one that could
11 definitely be considered.

12 COUNCILMAN JONES: Are there any other
13 questions?

14 Seeing none, again, let me thank you for
15 your continued public service.

16 MS. BURNS: Thank you.

17 COUNCILMAN JONES: And we -- believe it.
18 Everything that you said we have taken to heart
19 and will be a part of our consideration as a final
20 report. And I thank you again, Commissioner.

21 MS. BURNS: I appreciate your time. Thank
22 you.

23 COUNCILMAN JONES: Thank you.

24 Will the clerk please read the next panel.

1 THE CLERK: Bennett Levin.

2 COUNCILMAN JONES: Commissioner, thank you.
3 You thought you retired?

4 MR. LEVIN: Excuse me?

5 COUNCILMAN JONES: You thought you retired,
6 huh? We got you back again.

7 Thank you so much. And would you state
8 your name for the record and begin your testimony.

9 MR. LEVIN: My name is Bennett Levin. I'm
10 the former commissioner of the Department of
11 Licenses and Inspections. I serve from, I think,
12 January 7, 1995 -- 1992 to December 7, 1995.

13 COUNCILMAN JONES: Thank you so much.
14 Would you begin your testimony.

15 MR. LEVIN: I come to you this afternoon
16 with a great sense of sadness and concern
17 reflecting on the recent tragedy in which six
18 people were killed. One person so badly wounded
19 that they lost their legs. And saddest of all,
20 apparent suicide of L&I employee.

21 I thought that after my testimony here
22 before you in the year 2000 on the subject of
23 building collapses, I would fade away off into the
24 sunset never again to voice an opinion or

1 challenge conventional wisdom. However, I agreed
2 to speak with you today because someone has to
3 speak for those who have died in the City as a
4 result of building failures, the failure of the
5 Department of Licenses and Inspections and the
6 failure of other significant government agencies
7 and departments to adequately address the need for
8 and the priority of public safety.

9 No one makes a conscious decision to be
10 derelict or contribute to a tragic situation, but
11 circumstances and events far remote from the
12 immediate situation influence outcomes which are
13 beyond our control. The current crisis
14 surrounding the department that I had the honor
15 and pleasure to serve as commissioner and which I
16 tried to reform and prove that reform is not only
17 possible but can be accomplished with significant
18 improvement and measured results cries out for
19 your attention and your action.

20 You here at City Council are the ultimate
21 guardians of the public safety, health and welfare
22 and are the logical extension of the -- and a
23 logical examination of the historical background
24 as any department's performance is critical to

1 thoughtful oversight of the one department that
2 has broader power over the quality of life in this
3 City than does any of the other operating
4 department as a result of how the City charter is
5 written.

6 Mayors and your Administrations come and go
7 and they are subject to term limits. But City
8 Council is the sole institution of our City's
9 government that has the benefit and the luxury of
10 a long time span in office not subject to term
11 limits and having the historical perspective to
12 exert oversight on the executive branch and on the
13 operating departments.

14 To start my remarks, I want to be perfectly
15 clear that my appearance before you today is not
16 to be interpreted in any way whatsoever as a
17 commentary on the current Commissioner of the
18 department. My views have been well honed over an
19 extended period of time and have been documented
20 long before the current tragedy. However, the
21 Department of Licenses and Inspections has
22 apparently reached its current state as a result
23 of things that have occurred not solely during the
24 time of the current Administration -- as to the

1 time that the current Administration has been in
2 office, but have had their genesis long ago during
3 the second term of former Mayor Rendell and which
4 apparently have continued into and through
5 succeeding administrations.

6 No right thinking person would tolerate
7 managing either the Police Department or the Fire
8 Department in the matter which L&I has been
9 managed. Yet L&I has equivalent public safety
10 responsibilities as to the Police Department
11 and/or the Fire Department, but yet we tolerate
12 and even accept sloth on accountability in the
13 name of political expediency and economic
14 development.

15 The Market Street collapse is just the
16 latest catastrophe in a tragic string of fatal
17 events that can be traced back to the Meridian
18 Fire with three dead firefighters continuing onto
19 the collapse of the Delaware River Pier with the
20 loss of lives of three young women of achievement
21 and great promise, the death of a Common Pleas
22 Court Judge on Broad Street, the death last year
23 of two firemen in an abandoned industrial
24 building, and now the sadness that fills us all as

1 a result of what has happened on Market Street.

2 My prepared comments today are general in
3 nature and will focus on three specific points. I
4 will welcome your intense inquiry into what I say.
5 And I will be more than glad to amplify my
6 statements and conclusions during your
7 questioning.

8 The first area I would like to discuss with
9 you is the current organization of the Department
10 of Licenses -- of the organizational chart of the
11 Department of Licenses and Inspections. The
12 second is the impact of the adoption of the
13 statewide building code which has stripped the
14 City of Philadelphia prerogatives granted to it
15 under the provisions of the Home Rule Charters and
16 the real world implications it has had on the
17 City.

18 Lastly, I would like to talk about the
19 historical continuing failure of myriad of
20 institutions of government individually and as a
21 whole in overseeing and managing the public
22 service -- public safety functions of the
23 Department, which has put all our citizens at
24 risk.

1 Today everybody's jumping on the bandwagon
2 to determine what really happened, why it happened
3 and how to fix it. The Committee is hard at work,
4 the District Attorney has convened a grand jury to
5 investigate not only the tragedy but the
6 circumstances around it. And now the City
7 Controller is in the mix. Frankly, the answers
8 are not that difficult or remote. The answers lie
9 in how the Department is organized, how it is
10 managed, how its employees are trained and how
11 they are managed.

12 I was fortunate prior to becoming -- that
13 prior to becoming Commissioner in 1992 to have
14 served as a member of the Building Standards --
15 Board of Building Standards for 20 years, finally,
16 as its Chairman. I was also often an abused
17 customer of the department, so when the
18 opportunity presented itself, I was an eager
19 candidate to see if Mayor Rendell's promise of
20 reinventing government was a real opportunity to
21 give something back to the City where I grew up
22 in, where I was educated in and where I was
23 successful professional practitioner in.

24 I also relished the opportunity to have

1 some of those who I perceived to be more abuse of
2 public servants, subject to my day-to-day
3 management and oversight. Two days prior to my
4 becoming Commissioner, I was greeted by an article
5 in the Sunday Inquirer magazine by Mike Sokolove
6 entitled, "The Little Fix: How Philadelphia
7 Really Works."

8 What a horrible way to face the first days
9 of a new career. What did I really face? I faced
10 the department that had had four commissioners
11 within a one-year period, a department whose
12 employees were so paranoid that they were
13 dysfunctional, a department that was so -- that
14 was rife with this most highly paid professional
15 employees treating the general public with disdain
16 and arrogance, a department whose employees
17 exhibited a complete lack of professional
18 self-esteem, and a department whose organizational
19 chart was so illogical that by its own nature it
20 forced the department to be dysfunctional.

21 Yet within almost four years, all of these
22 same employees after you weeded out some of the
23 really bad managers were to advance to achieve
24 exceptional results. I was not the one who did

1 it. The same employees who were then liberated
2 and properly managed did it and accomplished
3 basically the following. They reshaped and
4 revitalized the City's historically most corrupt
5 and inept department. They restored a sense of
6 self-esteem and self-worth to that department, a
7 department shaken by a grand jury investigation
8 during the previous administration as a result of
9 the Meridian Fire and a police corruption sting
10 that brought forth multiple indictments against
11 department employees.

12 The four years that I was commissioner, the
13 department doubled its annual revenues from the
14 sale of permits and licenses from 16 million to
15 32 million dollars and instituted a permitting
16 process which did away with general fund paid
17 overtime, reduced the backlog to zero and created
18 separate expedited lines for agencies such as
19 OHCD, community development corporations and PHA.
20 The Department in that period also promoted the
21 first woman to become a deputy commissioner in a
22 department that has always perceived to be a male
23 bastion.

24 The Department at that time has 421

1 employees. Of those 421 positions, 204 were
2 reevaluated by the personnel department resulting
3 in 195 changes in promotional opportunities or
4 compensation levels. Almost all of those
5 positions benefitting from the reevaluations were
6 represented by District Council 33 rather than
7 this District Council 47. In other words, the
8 workers got the benefit of the personnel
9 reevaluation. And we really removed the glass
10 ceiling for many positions as far as promotional
11 opportunities were concerned.

12 We doubled the number of vacant structures
13 demolished when compared to previous years. We
14 reduced the cost -- unit cost of demolition on a
15 per house basis. We initiated a program of
16 demolishing large vacant and industrial structures
17 credited by the Fire Commissioner with reducing
18 the number of fire calls in the City and removing
19 firefighters from inordinate risks.

20 We also implemented a city vendor
21 relocation project that removed 200 vendors from
22 the streets without public demonstrations or
23 rancor. We substantially increased the number of
24 vacant structures sealed. We had working groups,

1 the District Attorney and the Police Department
2 dealing with quality of life issues. And we also
3 produced several new construction codes.

4 All this came about as a result of
5 redefining the Department's organizational chart
6 into a logical and functioning configuration. If
7 you examine the organizational chart attached to
8 the current budget which I have submitted to you
9 as Exhibit B1, you can immediately see a major
10 reason why the Department has returned to the
11 state it was in prior to 1992. The current
12 organization of the Department is dysfunctional.
13 It is not based upon the Department's basic core
14 function as defined by the City Charter.

15 L&I is not an economic development entity.
16 It may have responsibilities for economic
17 development. It may have revenue
18 responsibilities. But in those areas, those
19 responsibilities are and should be subordinate to
20 the primary function as a guardian of some of the
21 most critical life safety functions born by the
22 city government.

23 The first and primary responsibility is
24 dealing with the safety of the general public. To

1 that end, the Department issues permits and
2 licenses. And the fees for those permits and
3 license by state law are supposed to be -- are not
4 supposed to be general fund revenues but are to be
5 established to cover the Department's costs and
6 the cost of other departments in administering
7 those functions.

8 The most important license that the
9 Department sells is the business privilege license
10 which is the key to get businesses on the tax
11 rolls. The City's revenue flows from tax
12 collections, not from fees that recover
13 administrative costs. I have also attached as
14 Exhibit B2 the organization charts from one of my
15 budget testimonies. You can examine the
16 differences and we can discuss them.

17 The emphasis during my tenure was not on
18 enforcement activity or revenue production but on
19 rather the integration of functions into manager
20 units that related to the mandated functions of
21 the charter.

22 For instance, we had a vibrant Neighborhood
23 Services Division which was managed by Deputy
24 Commissioner Ken Woodson and then Deputy

1 Commissioner Shirley Hayes. Within that division
2 we had one specific chain that dealt with things
3 most critically -- that most critically impacted
4 our residents: The cleaning and sealing of vacant
5 structures, the demolition of dangerous and
6 imminently dangerous structures, and the Housing
7 Code Enforcement Unit.

8 The Demolition Unit had very experienced
9 and very dedicated inspectors who were of the
10 highest caliber. I would like to mention both
11 Mike Fink and Dan Quinn who are outstanding people
12 of skill and character. They together with
13 building inspectors assigned to the district
14 offices were on constant lookout for dangerous
15 structures. And if they felt the need,
16 professional help of a higher skill level was
17 obtained in the form of a professional engineer
18 from the City, Mr. Albert Tantella, who was able
19 to provide independent professional assistance.

20 Business compliance or revenue issues were
21 addressed by a single chain under the management
22 of the deputy commissioner for the Neighborhood
23 Services, also. Construction-related activities
24 for both permit issuance as well as field

1 inspections were all in the same managerial chain.
2 We removed all non-construction related inspectors
3 and supervisors from the district offices. They
4 were distraction to the construction trade
5 specialist and they compromised the focus of the
6 district supervisors.

7 L&I employees, at least to my experience,
8 are for the most part not bad people. They become
9 detached because they are not managed properly as
10 political necessity distorts what otherwise would
11 be logical behavior. Some of the most despised
12 managers in the Department when I arrived there
13 became some of my most productive assets. And
14 then they were welcomed as coworkers by the rest
15 of the workers.

16 The ultimate keys are rational organization
17 chart and managers who cannot only manage but have
18 the technical skills that allow them to function
19 as extension of the unit they have responsibility
20 over.

21 One of the larger threats to effective
22 management was tendency of the Department to rely
23 on amorphous titles such as Code Administrator III
24 for senior managers which produced a cadre of high

1 priced staff without defined functional skills.
2 These titles proved frustrating to the rank and
3 file employees and at the same time became a
4 hinderance to effective management since the
5 commissioner was often faced with the alternative
6 of having to place a square peg in a round hole to
7 utilize a bloated bureaucracy. This can be best
8 be illustrated with issues within the management
9 of Zoning Section.

10 I was fortunate to have an excellent
11 personnel manager in Stan Pacana who appreciated
12 the initiative that I allowed him to exercise.
13 And I had the cooperation of the analysts in the
14 Personnel Department who are both eagerly to help
15 institute change within a beleaguered department.
16 However, this only happened with the intense
17 oversight and advocacy from the Commissioner's
18 office.

19 I believe that the current organization
20 chart and the resulting job titles need to be
21 thoroughly reviewed and restructured. I believe
22 the current organization charts has its roots and
23 the efforts to turn the Department into a mini
24 enforcement agency by a former commissioner who

1 was an ex-police officer. What might work in law
2 enforcement will under no circumstances work at
3 Licenses and Inspections.

4 The second area I would like to address is
5 codes and the lack thereof. The problem also lies
6 in the Building Code and its administration.
7 After tendering my resignation in the fall of 1995
8 but while still commissioner, I was asked by the
9 Mayor to testify before the State House
10 Representatives on the subject of the adoption of
11 the Statewide Building Code. I testified against
12 the adoption of the proposed code because I
13 believe it would have had the same effect on the
14 City of Philadelphia as the model codes that in
15 use, which I tried my hardest to have rewritten.
16 And the new code which subvert our needs and our
17 prerogatives as a city of a first class and
18 allowed for -- and as allowed for in the City's
19 Home Rule Charter.

20 The problems found in Philadelphia are much
21 different than those found in the rural and
22 suburban areas of our state. We have unique
23 problems that must be addressed in a unique code.
24 We have lost the ability to address our own issues

1 due to the hyperactivity of special interest
2 groups such as architects, builders, the State
3 Building Inspectors' Professional Organization,
4 PENNBOC, members of the state legislature who are
5 against anything that would benefit the City of
6 Philadelphia. These groups all wanted a uniform
7 simple set of rules to be applied in Greene
8 County, in Westmorland County as well as in
9 Philadelphia.

10 The committee of the House at that time was
11 Chair and, if I remember correctly, by a member
12 from Delaware County who held especially strong
13 anti-Philadelphia attitude. Years later I met a
14 member of the same committee who was from Bucks
15 County who recalled details from my testimony and
16 opined that the imposition of the statewide
17 building code on Philadelphia might have been
18 misguided.

19 Not only does the imposition of that code
20 and its administrative regulations prevent
21 problems for the City, but it also has a
22 substantial impact on the quality of inspections
23 and the qualifications for inspectors. Book
24 learning and good testing abilities do not make

1 competent inspectors. There is a need for real
2 and hands-on building trade experience if you
3 desire excellence from the inspection staff.

4 To diverge a minute from my remarks, one of
5 the reasons that I think I was successful as
6 commissioner is that not only did I go to college
7 and have a degree in engineering was a
8 professional engineer, but when I graduated
9 college, my father insisted that I become an
10 apprentice of Local 98 and learn the trade. So, I
11 had the skills of my hands and my head. You can't
12 be an inspector just because you pass a module
13 administered by an organization that the City has
14 no control over.

15 I believe that today the rigorous skills
16 required of inspectors have been watered down by
17 the module certification programs that are
18 provided and form the basis for promotional
19 opportunities within the Department's construction
20 services operations. I'm particularly proud of
21 the abilities of both Mike Fink and Dave Perri who
22 rose to position of authority during my tenure and
23 remain to serve our citizens with dedication and
24 integrity. They represent a significant part of

1 what I consider my legacy to the Department and to
2 the City. And I regret that the organization
3 structure put in place to allow them and others to
4 function -- of their caliber to function at the
5 highest level of proficiency has been compromised
6 by others for their own personal goals at the
7 expense of the general welfare of our citizens.

8 I had written Mayor Street at the start of
9 his first term suggesting that one of the most
10 pressing issues at L&I was a need that needed to
11 be addressed in a quiet matter was a total review
12 of the Code of General Ordinances to weed out
13 obsolete issues and requirements to streamline the
14 rules which the population was subject to. A
15 later letter written after the Pier collapse
16 reinforced the need to provide oversight in L&I.
17 I direct you to Exhibit C. Then there is few
18 other letters to Mayor Street that I'll refer to
19 later.

20 Now I will come to really the most painful
21 part of my testimony. There are many things that
22 motivated me to accept the position of
23 commissioner. And one of them was the Meridian
24 Fire. I had thought that when I left L&I, that

1 there was an organization in place and there was a
2 sense at Council and a sense within the
3 Administration that the progress that had been
4 made to make substantial change at L&I would be
5 continued. I will now read to you an opinion by
6 Federal Judge Kelley in a case effecting the
7 Department at L&I that occurred after I left.

8 Quoting Judge Kelly: "Undaunted by the
9 Constitution and Supreme Court precedent and
10 undeterred by the City's own Code, defendants" --
11 and the defendants in this matter were the City,
12 the Commissioner, the Deputy Commissioner, the
13 Members of the Law Department -- "defendants
14 steadfastly maintain their absolute right to
15 proceed unchecked into the plaintiff's house.
16 Along the way, defendants complicated the injuries
17 their conduct visited through a general disregard
18 for the law punctuated by false verification
19 repeatedly misrepresentations to the Court.
20 Fortunately for the plaintiff, they possessed the
21 stamina necessary to vindicate their position that
22 the government, even when serving administrative
23 purposes, is subject to Fourth Amendment
24 constraints. Plaintiffs may present the rest of

1 their case to a jury."

2 So wrote Federal District Court Judge J.M.
3 Kelley in a memorandum and opinion entered on
4 May 20, 1999 in a case of Christopher Maffucci, et
5 al v. the City of Philadelphia, et al., which is
6 attached to my testimony as Exhibit B -- D. Judge
7 Kelley was speaking about one of my successors as
8 commissioner, several of the Department of
9 Licenses and Inspections Deputy Commissioners and
10 some Members of the Law Department.

11 The case was settled for \$350,000 because
12 fees paid to a favorite outside law firm who took
13 over the City's representation assumes the Judge's
14 opinion was entered. And the law firm, you can
15 assume, did not do it on a pro bono basis.

16 At the time which I served as commissioner,
17 those funds would have been paid out of the
18 Department's Demolition Budget. They didn't come
19 from somewhere else. They came out of the
20 Department's ability to demolish houses. \$500,000
21 awarded or settled as a result of the actions of a
22 commissioner and his deputies would have
23 demolished 200 houses in 1999 dollars[sic].

24 In any rational jurisdiction, this behavior

1 and result would have cried out for the removal of
2 the commissioner and his deputies. But in
3 Philadelphia, the story went unreported in the
4 newspaper of record. And to add insult to injury,
5 the same commissioner was then reappointed to that
6 position by the new Mayor six months after the
7 order was issued over the objections of the
8 transition team. Is it any wonder that the
9 Department had spiraled out of control in the
10 intervening period of time?

11 I present to you Exhibits E and F, which
12 are letters addressed to Mayor John Street and
13 Marla Hamilton of his transition team discussing
14 this matter in great detail. This gentleman was
15 the commissioner who tried to mold L&I into
16 enforcement agency and is basically responsible
17 for the genesis of the current operation chart.

18 I was not Ed Rendell's first choice for
19 commissioner, but an active transition team
20 prevailed on him. And four days prior to his
21 inauguration, he offered me the position
22 especially in view of the result of the public
23 trauma in the wake of the Meridian Fire. Maybe I
24 brought some unique qualities to the position and

1 maybe my ability to say no to the power structure
2 enabled me to change a few things along the way.

3 However, as I said earlier, what has gone
4 on at L&I and the way it's managed would not have
5 been tolerated in either the Police Department or
6 the Fire Department. I am not qualified to be the
7 police commissioner. I'm not qualified to be the
8 fire commissioner. And I am not qualified to be
9 the medical examiner, but surely some of my
10 successors have not been qualified to be
11 Commissioner of the Department of Licenses and
12 Inspections. And an ineffective commissioner will
13 destroy whatever morale or whatever you try to
14 build up in the workforce.

15 The commissioners don't do the work. The
16 workers do the work, but it's the leadership that
17 commissioners provide that give the workers the
18 ability to do their jobs unfettered by the worry
19 about they're going to get in trouble. You have
20 to change the atmosphere.

21 Expediency and economic development and/or
22 revenue generation do not make for a successful
23 department. It all starts at the top. And what
24 occurred in the Maffucci matter was only an

1 example of what went out of control during the
2 second Rendell Administration at L&I. It all
3 emanated from the commissioner's office. Maffucci
4 is not the only case. There is a case *Wi v. the*
5 *City of Philadelphia and University of*
6 *Pennsylvania* that was settled for \$100,000. It's
7 probably three or four more other cases if the
8 people here do the research.

9 It could have also happened at the Vida
10 Apartments, which is Exhibit G, with the lack of
11 standpipes that were signed off by the then
12 Commissioner reportably in the name of economic
13 development over the strong protests of a Captain
14 in the Fire Department and the Fire Department
15 Commissioner.

16 When I said earlier -- as I said earlier, I
17 came here to speak for dead people. I offer you
18 Exhibit H, which is a memorandum that I appeared
19 at the time of the Pier collapse. And it contains
20 a comprehensive overview of my reaction to the
21 Meridian Fire, issues at the Spectrum and issues
22 at the Pier. It should be specifically
23 incorporated by reference into the body of this
24 testimony. It is the road map to disaster. I

1 would respectfully suggest that when I conclude my
2 remarks, that you return to Exhibit H and
3 thoroughly question me on that Exhibit.

4 When I was Commissioner, we had an issue
5 with a pier that was occupied by the Rock Lobster.
6 But it was an issue that ended with significantly
7 different results in spite of enormous political
8 pressure to allow the pier to remain open. Also
9 during my tenure as Commissioner, we had faced
10 issues with Rappaport and Mr. Basciano. I now
11 lump them as one because Rappaport is deceased.
12 At the time of my being Commissioner, Mr. Basciano
13 was operating properties for Mr. Rappaport.

14 Prior to the opening of the Convention
15 Center, the Tourism Committee chaired by Bob Hall
16 and Meryl Levitz of the Tourism Bureau expressed
17 concern about blight that the Rappaport properties
18 imposed on Center City. I charged to the
19 Department's Contractual Services Demolition Unit
20 with the task of inspecting all the blighted
21 buildings in the downtown core including the
22 Rappaport properties. The voluminous file of
23 violations were compiled. That file was sent to
24 the Law Department for an equity action. Rather

1 than sending the file for each property to get
2 some significance and weight out of it, it went to
3 the Law Department to go in as one equity case.

4 Guess what? To the best of my
5 recollection, the case never came out of the Law
6 Department. Draw your own conclusions. We often
7 quip that the Law Department was the dead letter
8 office and the Inspector General was black hole of
9 government. There was a political reason to hide
10 or obscure an issue of a civil nature was
11 dispatched to the Law Department that have had
12 criminal overtones that went to the IG. Let me
13 say now, that I believe today's IG and her staff
14 represent a much higher ethical standard than that
15 maintained by the person who held that position
16 during my tenure as Commissioner.

17 One of the Rappaport-less buildings on that
18 list of violations or citations was the same
19 building on Broad Street where the parapet work
20 loose, the sign fell and killed Judge Caesar, I
21 guess.

22 COUNCILWOMAN BLACKWELL: Berel Caesar.

23 MR. LEVIN: I guess around 2000. Dangerous
24 buildings lead to conflict with competing

1 interest. I attached as Exhibit I an article
2 about the Mayfair House in a letter to an attorney
3 representing the facade owner, which is Exhibit J.

4 L&I understood the safety and quiet
5 enjoyment of their neighborhood by residents who
6 were impacted that was more important than the
7 special interest of the absentee landlord and the
8 preservation community. I personally appeared
9 before Judge Nigro to argue for demolition order.
10 I am not even a lawyer. I endured the wrath of
11 the preservation community, but there was a higher
12 order to be served and it was public safety. The
13 Department's inspectors performed extremely well
14 and the public was served.

15 A similar scenario played itself out on
16 Glenwood Avenue at the former Nabisco Plant which
17 is donated to National Temple as part of an all
18 too common scam to avoid environmental liability.
19 L&I demolished the building for several reasons,
20 all related to different aspects of public safety.
21 One of those aspects was that I took the ability
22 to condemn a building as being imminently
23 dangerous, to be able to condemn a building with
24 significant drug activity as being equally

1 admittedly dangerous to the health, safety and
2 welfare of the community. Some of these large
3 industrial structures had become nothing more than
4 drug supermarkets. It became a quality of life
5 issue. Anyway, we demolished the building.

6 There was a building next door to it that
7 we had written up multiple violations on. That
8 was adjacent to Joe Frazier's gym. The building
9 came down. And prior to my resignation, I was
10 called into the City Solicitor's office. And I
11 was told that I was sued -- the City was sued, and
12 they were going to settle the case of the second
13 building for a quarter of a million dollars. Now,
14 the guy that owned the second building happened to
15 be a big political contributor to the Mayor from
16 the western part of the state.

17 I turned to the City Solicitor. And I said
18 I don't think we're going to settle this case. I
19 said, I think we're going to go to court. And the
20 City Solicitor said to me, well, it's not your
21 call. I said, well, maybe my next call is going
22 to be the Inquirer. We sat down and he gave me a
23 very qualified young attorney who later became the
24 lead attorney of the Department's litigation

1 section. A terrific paralegal. And for one week,
2 I sat in federal court at Sixth and Market Street
3 while the case was heard.

4 For a case that was going to be settled for
5 a quarter of a million dollars in City money,
6 L&I's demolition money, verdict from the jury was
7 \$1 because it was a defect in the forms. Years
8 later I walked down Walnut Street. And the young
9 lawyer at that time was in charge of litigation
10 for the City came over to me and said, you know, I
11 know you didn't really like any of us. He said,
12 but what you did by making us go to court all gave
13 us a level of self respect. And we really
14 appreciated what you do.

15 It can't be business as usual. You know, I
16 was fortunate enough that I was able to stand up
17 to the City Solicitor and force the issue.
18 Quarter of a million dollars. That's another
19 hundred houses that can get demolished.

20 Fire Commissioner Hairston and I worked
21 very, very closely with contractual services
22 section of the Department in demolishing large,
23 vacant industrial structures. Both of us came to
24 the realization, if you are going to have dead

1 firemen, they are going to incur in these kind of
2 large old buildings, wooden floors soaked with
3 oil. And Bobby Sobivli who handled contractual
4 services and myself and Commissioner Hairston kept
5 a continuing list. We called it the "dirty dozen
6 buildings," and we demolished them.

7 Where do we get the money from? The money
8 was not really in my demolition budget. The money
9 came from two sources. One source was an item
10 called abatements. If I demolished housing for
11 the Housing Authority or the Redevelopment
12 Authority or if I was able to collect on the lien
13 of a demolition, within that same year I had the
14 ability to spend that money a second time. The
15 money didn't go back into the general fund. That
16 money came back into L&I, and I was able to spend
17 the money the second time.

18 So what happened was that there was a pool
19 of money that was outside of the budget. There
20 was another pool of money that was outside of the
21 budget. When I came -- maybe it was like 15,
22 16 million dollars. And I would come to City
23 Council and there was some fancy select committee
24 with the managing director and Mike Masch and

1 David L. Cohen. And they would set your budget
2 goals and how much money you would have to bring
3 in. What happened was if I was 16 and they told
4 me next year you have to do 18 and I did 22, I was
5 four ahead. So I would go to the Mayor and say,
6 look, I am going to be four ahead. I want two of
7 it back for demolition. That was the agreement we
8 had.

9 If my people at L&I went out and worked
10 hard and earned the money, the money went back
11 into the neighborhood. It didn't go into
12 fantasyland. That is how Hairston and I removed
13 all these buildings from the landscape including
14 the Pullman building which is Anna Verna's
15 district, which was a \$1,200,000 to demolish.

16 Guess what? As soon as I left, gone. No
17 more abatements and no more splitting the excess
18 income. That was -- that was gone. And now we
19 have dead firemen in vacant industrial buildings
20 that the Department had the ability to take down
21 if the money was managed properly. These things
22 never make the paper. But these are the facts
23 that when on. When I left because they didn't
24 want to be embarrassed that they couldn't keep up

1 the money stream, they tried to push all the money
2 back inward and be accounted for. It never got to
3 the communities.

4 In conclusion, I guess I firmly want to
5 tell you that I firmly believe in the ability,
6 integrity and commitment most of the people who
7 worked with me in L&I when I was there as
8 Commissioner and continued to work there today but
9 under very different circumstances and conditions.
10 The Department needs to be refreshed.

11 These professional leadership, amorphous
12 job titles must be replaced by professional people
13 with dedicated skill sets and real leadership and
14 training. The Department needs to professionalize
15 its technical staff with real skill sets and not
16 rely on marginal testing regimen for promotion.
17 Some would opine that rather than a commissioner,
18 the Department needs a receiver.

19 What's expected from the Police Department
20 and the Fire Department must be demanded from L&I.
21 These fatal tragedies all point to the fact that
22 L&I can no longer be a political back walk --
23 backwater where money talks and people dies. It
24 must be recognized for its primary public safety

1 responsibilities, and nothing else must replace or
2 supercede that focus.

3 I would like to thank you for inviting me
4 here this morning and allowing me the opportunity
5 and courtesy to express my thoughts and opinions.
6 I welcome your comments as well as your questions.

7 I have attached several other exhibits, two
8 of which -- one of which my prior testimony before
9 you in the year 2000. Two of which are lectures I
10 gave at Penn State in a political science school
11 dealing with public corruption and managing the
12 bureaucracy.

13 I tell you, the problem you face with
14 demolition permitting is not that difficult to
15 resolve. It doesn't require brain surgery,
16 requires common sense and the will to get
17 something done. I thank you very much.

18 I will accept your questions.

19 COUNCILMAN JONES: I don't know whether to
20 call you commissioner or professor at this point
21 because we've been in class.

22 MR. LEVIN: I might be in the witness
23 protection program tomorrow.

24 COUNCILMAN JONES: We are going to make

1 sure you don't have to do that.

2 It was a plethora of information. And
3 keeping -- I was fortunate enough, Councilman
4 Blackwell who asked you to come here, allowed me
5 to get a sense of where we were going so I could
6 follow a lot of it. But I want to do a couple of
7 quick questions. I'm going to turn you over to
8 Councilwoman and the Committee has a number of
9 questions.

10 But one issue, whether or not L&I should be
11 under public safety or in economic development? I
12 think I heard your opinion, but once again I want
13 it underscored for the record.

14 MR. LEVIN: There is no reason whatsoever
15 that it is economic development. Economic
16 development when I was commissioner meant
17 streamlining a system. It didn't mean signing COs
18 like at the Vida Apartment with those standpipes.
19 It meant this commissioner on a Friday night in
20 the summertime rather than going to the shore,
21 sitting in his office eight o'clock at night
22 waiting for a businessman who wanted to close a
23 loan with the State Development Authority on
24 Monday morning bringing the commissioner the

1 papers that he had to sign. That was economic
2 development.

3 Economic development was making sure that
4 the Codes were competitive. There is all kinds of
5 discussion about what we're going to do about this
6 problem. Every time we pass a new rule or we have
7 a new requirement and we think we solved the
8 problem, we make the City of Philadelphia less
9 competitive as a place to build and do business.
10 You have to balance all of this.

11 If the Department functions properly, you
12 don't have to have all this overkill. I hate to
13 use the word. Department is not a contraceptive.
14 The Department is a functioning organ. And the
15 Department has to -- has to be able to -- you have
16 to liberate the people that work in the Department
17 to do their jobs. That was one of the big issues
18 I face.

19 It's absolutely life safety. Has to work
20 in concert with the Police Department. It has to
21 work in concert with the Fire Department. It has
22 parallel responsibilities.

23 I heard a question earlier. Councilwoman,
24 I think, asked a question earlier about the guy in

1 Bucks County or somebody. I tell you something.
2 When I was Commissioner, we instituted a policy
3 that if you came for a permit, anybody affected by
4 that permit had to have a business privilege
5 license number. Now going to read you something,
6 okay.

7 One day somebody comes to me and says, boy,
8 this is strange. They bring me up an application
9 for a building permit for the School District of
10 Philadelphia and the architect is from New Jersey.
11 No business privilege license. And they had
12 turned it back and somebody from the School Board
13 called and raised hell. So, I read -- I wrote
14 David L. Cohen a memo. Very short. Let me read
15 it to you.

16 "Can somebody tell me what is going on
17 here? I'm asking the question not as the
18 Commissioner but as a substantial taxpayer.

19 Why in God's creation would the School
20 District hire an architect from Cherry Hill, New
21 Jersey to design the placement of temporary mobile
22 classrooms in the City? We have overabundance of
23 small competent and underutilized architectural
24 firms, many of whom were MBE qualified and would

1 hire people who would pay City Wage Taxes and
2 occupy space which pay School Board Use and
3 Occupancy and Real Estate Taxes. This is exactly
4 what is wrong with the Facilities Operation of
5 Board of Education. How dare they claim they are
6 broke when they are exporting our tax revenues to
7 another jurisdiction. This situation might be
8 something that you and the Mayor might like to
9 consider."

10 But it came to me because on the
11 application you had to have a business privilege
12 license number. You couldn't get a permit without
13 a license number no matter where you stood in the
14 chain of command.

15 COUNCILMAN JONES: I think Councilman
16 Kenney has a question.

17 COUNCILMAN KENNEY: Let me just inter --
18 why this is most frustrating and comical at the
19 same point is that I was there when you were
20 there. I was in this Body when you were there.
21 And the things that I've complained about on a
22 regular basis are the things that they stopped
23 doing that you did.

24 I mean, the permit for the Market Street

1 building would have never been authorized because
2 they weren't tax compliant. It just --

3 MR. LEVIN: It's not even that. It's not
4 even that. The whole system has fallen apart,
5 okay.

6 COUNCILMAN KENNEY: Can I just follow up
7 with one question and then I'll be done?

8 MR. LEVIN: Go ahead.

9 COUNCILMAN KENNEY: In the forestry
10 business, responsible forestry, for as number of
11 trees that they take, they plant an equal number
12 of trees over a period of time to make sure that
13 they are continuously reforesting their operation.

14 What is the minimum percentage in your view
15 of revenue generated by L&I that should stay in
16 the department to reforest that department? Is
17 there a minimum percentage?

18 MR. LEVIN: There is a case called Rome v.
19 the Township of Tredyffrin which was when I was
20 Commissioner, the guideline why you couldn't give
21 away free permits, okay. The rationale in the law
22 was basically all that fee revenue that you bring
23 in covered the Department's operations.

24 Now, I'm puzzled. I'm the one that

1 initiated -- I'm not the one. The Department
2 under my tenure as Commissioner initiated the
3 Expedited Plan Review Process. It was a \$400
4 basic fee plus the overtime. It's 20 years later.
5 It's still \$400. Somebody is not watching the
6 store, okay.

7 COUNCILMAN KENNEY: But is there a
8 percentage of revenue?

9 MR. LEVIN: Percentage revenue? I don't
10 know what the Department's budget is. But the
11 budget that's related to plan examination
12 inspector services, that's all got to get covered
13 out of those permitting fees.

14 COUNCILMAN KENNEY: But when you look at
15 Public Safety Departments like L&I, Fire, Police,
16 Health -- and certain segments of the Health
17 Department, if all the money goes into the general
18 fund and there is not a percentage retained to
19 stop brownouts, to buy new equipment for the Fire
20 Department, to hire new inspectors, to do
21 training, to do things in the Police Department
22 that makes them a better public safety service
23 organization, then we would be doing two things at
24 once.

1 We would be ensuring the continued
2 improvement of those departments, and we would
3 also be almost back door self-budgeting ourselves
4 out of other things we shouldn't be spending money
5 on.

6 MR. LEVIN: Councilman, you know, when I
7 quipped about going into the witness protection
8 program, it might not be far from the truth.

9 COUNCILMAN KENNEY: The DA does not have
10 any money for that.

11 MR. LEVIN: I am appalled when I look at
12 the structure of the City compared to when I was
13 here. You got to remember, when you and I came
14 here in January of 1992, the City was broke. Ed
15 Rendell was scrubbing the toilets down the hall
16 from the Mayor's office. There was no money for
17 anything. We didn't have cell phones. We didn't
18 have BlackBerries. We didn't know -- we had
19 nothing. Okay.

20 I look at this City today. We have the
21 deputy mayor for this, the deputy mayor for that.
22 We have sustainability. We have all this feel
23 good stuff, but the basic functioning of
24 government has fallen apart because where services

1 have to go, the money is going elsewhere to feel
2 good stuff.

3 Councilwoman Blackwell, Darrell Clarke,
4 John Street will tell you the nights I walked
5 their districts with them looking at buildings,
6 knowing -- seeing what was going on. You asked
7 about the collapse. I would tell you.

8 Three alarm fire, the Commissioner was
9 called. Building collapsed, the Commissioner was
10 called. Imminently dangerous building, I had
11 inspectors on duty around the clock. I was
12 called. My first meeting every morning was with
13 the contractual services people, the people that
14 inspected imminently dangerous and dangerous
15 buildings. That was the key, so you got to get
16 rid of all this fancy stuff. If the City is
17 broke, you got to put the money where the services
18 are required.

19 Look, to give you another example. We had
20 district offices. We had five or six district
21 offices. In those district offices we had housing
22 inspectors, we had the building inspectors, the
23 plumbing inspectors, all the construction
24 services. And it was a real problem because the

1 housing inspectors had a different agenda. I took
2 all the housing inspectors out of each of the
3 districts and we moved them into one place with
4 one manager.

5 Why? Because the housing inspectors were
6 more critically needed in neighborhoods, but they
7 weren't needed in the Northeast where they were
8 writing up violations for cracked paint so people
9 wouldn't pay the rent. They were needed at York
10 and Dauphin where I walked into a multi-story
11 building one day and there were buckets with
12 drains come down with human sewage in it. You
13 couldn't have one inspector in a district running
14 around. You had to go out and take six and eight
15 at time and go block by block in the poor
16 neighborhoods of the City.

17 So, you got to look at the functions. And
18 the functions on that chart are not functional.
19 Just not functional.

20 You have construction people. You got to
21 keep them away from the rest of the Department.
22 Let them do their job. You have the people that
23 deal with social services like housing
24 inspections. Housing inspections clean and seal

1 the demolition of buildings. You keep them in
2 their bailiwick. And then you have all the other
3 administrative stuff that's on the side. But to
4 me it seems -- it's upside down.

5 Do we need a Deputy Mayor for
6 sustainability? We all know what sustainability
7 is, but we only have ten bucks so we can't go out
8 and buy \$20 sustainability. You going to take it
9 from life safety? You going to take it from the
10 Fire Department? You going to take it from the
11 Police Department?

12 You're taking it from the wrong place.

13 COUNCILMAN KENNEY: Thank you.

14 MR. LEVIN: I hope I answered your
15 question.

16 COUNCILMAN JONES: I think so.

17 Councilwoman Blackwell.

18 COUNCILWOMAN BLACKWELL: Thank you. I told
19 you all he would be all that he is.

20 Let me say that --

21 MR. LEVIN: I have to go to a rest home not
22 a witness protection program.

23 COUNCILWOMAN BLACKWELL: Listen, listen
24 because I am going to ask you in a minute why you

1 left.

2 Before that, I wanted to say I remember all
3 those tours. I remember when Commissioner then
4 Levin called us and said -- we talk about
5 departments interacting one with the other. He
6 said, Councilwoman, I need you to get OECD and the
7 other housing departments to give me some
8 properties in every district. We can tear down
9 minimally if we leave one house up on a block, and
10 you have to go back and demolish that. Give me
11 houses so that we are doing demo -- we're demo'ing
12 a strip of houses, we can move a family. And then
13 we do it all, and then you have a place ready to
14 redevelop.

15 When he talks about doing it in a common
16 sense approach, it's what he did. He wanted all
17 the departments to work together. And they were
18 doing it under his leadership. We had a lot of
19 help with him.

20 When he talked about all the problems we've
21 had, every time I think about the pier collapse,
22 many of you remember Lucius Toole. He was a
23 cleaner. He died. But it was his sister who lost
24 her life in that pier collapse. And I can't see

1 him or his widow without thinking of those days
2 and thinking of what happened under the leadership
3 of then Commissioner Levin.

4 I will leave the Meridian and Exhibit H to
5 you. But I want to ask you, Commissioner, what
6 made you leave the City?

7 MR. LEVIN: I think that the real issue why
8 I left was that I sensed that there wasn't a real
9 commitment to continue the reform. I left
10 particularly over the issue of a major battle that
11 I had with Mike Masch and David L. Cohen over the
12 Department's demolition budget.

13 I had been called to a meeting of the
14 Committee -- I forget the name of -- the acronym
15 for the committee. It was Linda Berkowitz. It
16 was Mike Masch. It was the council budget officer
17 Charles -- forget. Charles McMenamin or
18 something, if my mind serves me right, and David
19 L. Cohen.

20 And I sat at the meeting and I thought we
21 were going to talk about the next year's budget.
22 Mike Masch sailed into me full steam about the
23 deal I cut with the Mayor to demolish these
24 buildings with the excess money. And it dawned on

1 me that there was something wrong here. That this
2 was not a rational picture. That we had all of
3 these problems in the City and they're, pardon the
4 expression, "trying to take the fly shit out of
5 the pepper," all right, over demolition. And
6 demolition was the most sought after constituent
7 service that the Department -- the Department did.
8 And if the Department was bringing in the revenue
9 and I could work with Commissioner Hairston and
10 take down these big buildings -- but the budget
11 people, they had to control all the money. They
12 had to control all the money.

13 Well, near the end of the four years -- and
14 then I started to get lied to on an ongoing basis.
15 And I said, wait, a minute. I'm a grown up. I
16 don't need to be bothered with this stuff. One
17 day David and I got into it. And I just said, no,
18 you're lying to me. I'm sick and tired of it.
19 And I sent in my letter of resignation.

20 COUNCILWOMAN BLACKWELL: That's very sad.
21 As I said, not only did he want to interact with
22 other departments in assets for properties, we had
23 a lot of properties. We have managed to turn
24 around Mantua such that they want to raise their

1 taxes and do what --

2 MR. LEVIN: I gave you -- let me give you
3 an example. I gave you lawn mowers. I mean, it
4 was unheard of. There was a church in Mantua. I
5 went and met with the Councilwoman right by the
6 railroad tracks, that triangle there.

7 COUNCILWOMAN BLACKWELL: Yes.

8 MR. LEVIN: And they had all these vacant
9 lots. So I said, wait a minute. And I had also
10 done this with Mike DeBerardinis in his
11 neighborhood. I went out to the Home Depot. I
12 bought a lawn mower out of petty cash. I bought a
13 lawn mower out of petty cash and I gave it to the
14 pastor of the church. And I gave him a couple
15 bucks for gas.

16 I said, look, get the kids in the
17 neighborhood, you know, to take care of these
18 lots. And I will give you bags and rakes and I
19 will send a compactor truck on a weekend. We will
20 pick all this stuff up, and do it over the course
21 of the summer. And I will take the lawn mower
22 back to the clean and seal unit in the winter and
23 we will service it.

24 And then I went and I took the merchandise

1 that we had confiscated, the sodas and the
2 baseball hats and the jackets and all that other
3 stuff. And I would go out on a Saturday to these
4 churches that had the lawn mowers and I -- after
5 the kids did all their work, we had sodas. And I
6 gave all this counterfeit merchandise that the FBI
7 insisted that I shred. I gave it to the poor
8 kids.

9 Nobody ever would put a piece of paper on
10 that lot. The people in the neighborhood were
11 stakeholders. It was their lot. You wouldn't
12 dare defile that lot. The kids had some
13 productive work to do. As soon as I left, guess
14 what happened? Law Department takes away the lawn
15 mowers. We might get sued.

16 Get sued. You're not going to defend it
17 anyway. You'll settle, okay. But nobody wants to
18 do somebody different.

19 There was a massive drug raid on Stella
20 Street. My last story till you get to the
21 questions. There is a massive drug raid on Stella
22 Street. We're going to demolish the whole block.
23 There are two legitimate families on the block.
24 One of the guy's name was Mark Carter.

1 I said to him, Mr. Carter -- I went into
2 his house. He had the blue tarpaulins that you
3 get at the Home Depot. He had them catching the
4 water coming from the roof. It was a house they
5 had gotten from OHCD. I went to him. I said,
6 Mr. Carter, I would like to move you. Where would
7 you like to move? He said, I like to stay in the
8 area.

9 I called up Noel Eisenstat from the
10 Redevelopment Authority. I said, give me a house.
11 You have houses. He horsed me around for two
12 months to get Mark Carter a house. What happened?
13 One day there was a collapse in South Philadelphia
14 on South 2nd Street. And guess what? It was a
15 Redevelopment Authority house.

16 So, I called up Mr. Eisenstat. I said
17 would you like to come down here and talk to the
18 television crews. I said, I need a couple of
19 houses. I had three houses the next morning.

20 Look, it was a fight, but it was a fight
21 that I enjoyed. Ken Woodson who was my deputy who
22 is now at the Zoo, the first day I came on the job
23 as Commissioner, he was acting commissioner till I
24 got there. He had a Masters Degree in Public

1 Administration. He was a bright, bright guy.

2 Maybe six months later he comes in my
3 offices, can we have lunch. I said, sure. Go to
4 lunch he says. I got to talk to you. He says,
5 you do everything totally backwards from what they
6 taught us in school and look at the progress we're
7 making. Well, there was a reason for that. I
8 didn't need the job. I didn't need the next job.
9 Today nobody was going to be my boss and tomorrow
10 I was going to be their boss. Got to get things
11 done. So, you call up the Law Department. You
12 call up this one. You call up that one.

13 I mean, in doing all this, I found memos.
14 Crazy. Water Department, \$27,000 delinquency in a
15 speakeasy. I said, turn off the water, we raid
16 the place. Said, we can't do that. We have it on
17 our books as a house. A house? It's a speakeasy.
18 And they won't be able to do anything about it.

19 Somebody once told me, and I firmly believe
20 this. I really didn't do a great job as
21 commissioner. It was all relative. Somebody that
22 worked for me in the department said to me, you
23 know, in the land of the blind, the one-eyed man
24 is king.

1 COUNCILWOMAN BLACKWELL: Yeah. I tell you.
2 Let me thank the Commissioner. And let me say
3 that, and I will take a little license to say that
4 today is the late and great Lucien Blackwell's
5 birthday. August 1 is his birthday. And I will
6 never forget the day when Bennett Levin says he
7 doesn't need -- he called me, you know.

8 He has real trains like children have play
9 trains. He calls me one day and he said, would
10 you like to take a ride? I will take you to
11 Washington to see your husband. I couldn't go.
12 You all know I don't leave this place. But he was
13 kind enough. In all things, he thinks about
14 people in service and out of the box. And that's
15 what ultimately took him away from us. And we
16 have never been on the move like that since.

17 That's why we love you and we thank you.

18 MR. LEVIN: Look, I never thought -- I
19 would never thought I would come back here after
20 the series of letters I wrote to John Street by
21 his appointment of McLaughlin, which was the worst
22 thing that ever happened to the Department. I
23 thought I was done with the City. I had lost my
24 City.

1 The death of these people, the death of
2 these people, cry out that it can't go on any
3 longer.

4 One of the saddest days of my life is when
5 I went in to testify at the sentencing of the guys
6 that owned the pier that collapsed. And I sat in
7 the courtroom that morning and I listened to three
8 families who struggled to put their daughters
9 through college and the anguish and the longing
10 that they experienced by the death of those three
11 girls. And then I got on the stand.

12 And the Judge turned to me and he said,
13 Commissioner, what do you really think. And I
14 said, Your Honor, it breaks my heart to have to
15 say this in front of the families who have lost
16 their children, but the wrong people are being
17 sentenced today. And he says to me, what do you
18 mean? I said, this pier was inspected by people
19 with professional qualifications who said to the
20 owner you got a problem on a Friday afternoon,
21 picked up their golf bags and went and played
22 golf. The state law that licenses these people
23 which the District Attorney used as her witnesses
24 require that they called the City. And the City

1 would have put an Unfit Notice on the piers.

2 In July of 1992, there was a pier on the
3 river, I mentioned in my testimony, the Rock
4 Lobster. On a Friday afternoon, the Department
5 got a call that there was motion on the pier. The
6 people in the dangerous unit -- Dangerous Building
7 Unit said to me, what should we do? I said,
8 evacuate the pier immediately. Now it's Friday,
9 it's Delaware Avenue which is a hot area in the
10 summer. Lot of money to be made. Was owned by
11 Neil Stein and Marty Keenan.

12 Marty Keenan, they had sold me a car years
13 ago, calls me on the phone just crying to me. And
14 I said, Marty, I'm doing you a favor. Go out and
15 get yourself a marine engineer. The City doesn't
16 have the resources to do this. You get me a
17 letter sealed by a marine engineer licensed by the
18 State that the pier is safe, and I will open you
19 up. Mayor Rendell calls me. What the hell are
20 you doing? I said, I'm doing my job. That was my
21 job. Okay.

22 Those people who walked off the pier and
23 let those three girls be at risk deserve to go to
24 jail not Asbell and the other guy. It's a shame.

1 And that's something got to consider. It's not
2 just L&I. You have it at the Meridian Building
3 with three dead firemen. Go to Exhibit H. Three
4 dead firemen.

5 There was a variance for the Meridian
6 Building dealing with sprinklers, okay. They had
7 come -- they had come to L&I to the Board of
8 Building Standards. I was the chairman. They
9 came for a variance. We gave them the variance
10 with the provision that they sprinkler the
11 building over a five-year period of time.

12 Several years later, I get a letter in the
13 mail from the owner of the building addressed to
14 Commissioner Kligerman. Oh, we disavow our
15 undertakings under the variance. The people that
16 represented us really didn't have the authority.
17 I'm waiting to see what the Commissioner of L&I is
18 going to do.

19 The Thursday before the fire, the Thursday
20 before the fire Kligerman calls me and says to me,
21 you know, the paperwork, the variances aren't
22 moving fast enough. I said, why you not worry
23 about the paperwork but look out your office
24 window at the Meridian Building and look at the

1 building across the street, the Robinson Building
2 because you're going to have a problem.

3 Saturday the building burns down, okay.
4 I'm in Dallas, Texas. I come back. I see it
5 smoking on Sunday. Monday morning my first phone
6 call is from Deputy Commissioner Wismer. Bennett,
7 don't talk to the press. All right. I didn't
8 even know what the press was then. I thought I
9 paid a quarter and got a newspaper.

10 Don't talk. What the hell is going on
11 here? I don't say nothing to nobody. I'm in
12 business for myself. Twice a month I come to the
13 Board of Building Standards. Now you got three
14 dead firemen. You got an inquest. You got a
15 grand jury. Did anybody call the Chairman of the
16 City Board that granted the variances and say,
17 what happened here?

18 That's one of the reasons I wanted to be
19 commissioner because there was something really
20 rotten. To this day, what happened there, okay,
21 and why wasn't the Chairman of the Board who
22 granted the variances called before the grand jury
23 and asked about the condition of the variances?

24 Can't go on anymore. You got dead people.

1 You got dead people. You got dead people now for
2 20 years and nobody seems to look at the gravity
3 of it. Now we got some gravity. We have six dead
4 people. We have a lady with no legs. We have an
5 inspector that put a gun to his head. It's a
6 horrible, horrible thing.

7 COUNCILMAN JONES: Are you done,
8 Councilwoman?

9 COUNCILWOMAN BLACKWELL: (Nods head.)

10 COUNCILMAN JONES: I'm going to recognize
11 Councilman Henon. But history, if not corrected,
12 will repeat itself. And one of the reasons we had
13 this investigative committee established is to
14 find out and ask the tough questions to be able to
15 create better public policy going forward. Couple
16 of things I want to get you yes or no on.

17 You answered, I think, my one question of
18 why not economic development versus public safety.
19 I think you've done that in several metaphors that
20 I took note to.

21 Second thing I heard clearly from you is
22 that we need to take a long term view of how to
23 reorganize the Department so that it is not
24 promotion driven but inspection and area of

1 expertise driven, which I heard you with my good
2 ear. And something that may well come out of this
3 committee.

4 A couple of things that I also heard was
5 it's not just enough to be book qualified, but you
6 have to have practical experience that commands
7 the respect of the people that report to you as a
8 manager.

9 MR. LEVIN: Absolutely.

10 COUNCILMAN JONES: I am -- I can sit here
11 and listen to you all day, but we have witnesses
12 that drove from great miles away. But I want --

13 MR. LEVIN: That's okay. I can come back
14 next week.

15 COUNCILMAN JONES: Okay. No problem. But
16 those are things that I took from your testimony
17 and that the day that a municipality allows pure
18 economic development to drive L&I is the day that
19 we plant the seeds for the next disaster. And we
20 are going to watch that.

21 So, Councilman.

22 COUNCILMAN HENON: Thank you, Chairman.

23 Commissioner, thank you. I now know that
24 you wrote ever single page and every word on your

1 testimony. And before I get to my question, one,
2 you know, I am fascinated by your career and your
3 speaking truth to power. And I think that with
4 your vision, I mean, that's how you got things
5 done. You know, applying real life, pragmatic
6 approaches with a vision and with your experience.

7 By the way, I like that you finished Local
8 98's apprenticeship program. I happen to be a
9 24-year member. But your expertise, you know,
10 coupled with that, your educations, your
11 certifications and how you handled your tenure
12 there, is rare. It is very rare. I would like to
13 hire you, by the way.

14 MR. LEVIN: I would tell you, it was a rare
15 privilege to serve. It was a rare privilege to be
16 commissioner. And I would tell you of all the
17 things that I accomplished in my life, the best
18 thing was being commissioner and being able to
19 structurally change that department. Because when
20 I left, it was working.

21 COUNCILMAN HENON: Well, I feel that and I
22 now know that. I mean, you absolutely come across
23 that way 1,000 percent. You -- with your ability
24 to speak truth to power and you had mentioned --

1 all right, so, my question to you is two
2 questions.

3 One, was there things changed from when you
4 were commissioner to current that may have been a
5 little different to some of the recent tragedies
6 and collapses and the way we deal with
7 construction?

8 MR. LEVIN: After I left, the whole
9 organizational chart changed. The Department
10 became enforcement driven. It became a mini
11 police department. It was all about enforcement.
12 Inspectors were carrying guns. It was insane what
13 was going on, okay.

14 The organizational chart I left you is B2.
15 Tells the story. It's not rocket science, okay.
16 It's practical, pragmatic evaluation of your
17 responsibilities against your resources. And it
18 can work, but you got to put together where it
19 works. You have to face the corruption issue.
20 And regrettably, the corruption issue isn't an
21 issue of inspectors taking \$20 bills, okay, or \$20
22 bills being rolled up in a set of plans when it's
23 given to a plan examiner.

24 The corruption issue, if you look at

1 Exhibit G and you look at some of the other
2 Exhibits, okay, you can see the clear -- there is
3 a real corruption issue. Regrettably, I can
4 discuss with you if we had the time, the issue of
5 the antique -- matter and that corruption and the
6 performance of the inspector general.

7 I mean, there are a lot of things that
8 Council ought to know. I mean, I can tell you
9 about the FBI. I can tell you about false reports
10 going to the FBI. I can tell you a lot of
11 stories. And until you free the Department from
12 that kind of political chicanery, there is going
13 to be a problem. But the -- once those people are
14 liberated and they know the commissioner is going
15 to stand for it -- look, the Inspector General
16 came to me and says we are going to have a sting.
17 I said, we're not going to have a sting.

18 I said, if you catch somebody legitimately,
19 you caught them. But we are not going to have a
20 geek squad here anymore where everybody is
21 paranoid because they think the other guy is a
22 plant. These people have to work. It's more
23 important they get their work done then you get a
24 headline in the Inquirer that you arrested six

1 inspectors. If you arrest them on the street,
2 arrest them on the street. Don't arrest them
3 because there is a geek squad here. Then there is
4 a question of whether it's a gratuity or whether
5 it's a bribe. You got these real problems.

6 But somebody in the City has to finally
7 stand up and say, enough. We got dead people. We
8 have dead people now for 25 years. We got to stop
9 it. You got to get the Department where it
10 functions. You got to get competent men -- I'm
11 not talking about the current commissioner, okay.
12 I mean, the man is new on the job. I have nothing
13 to say good or bad about him. I don't even know
14 him, okay. But if you don't straighten out the
15 Department, he is going to be a victim of his own
16 position.

17 Look what happened. Wigrizer was
18 commissioner. He was Inspector General. He
19 became commissioner. He left, okay. They all
20 left. Nobody wanted to be Commissioner of L&I.
21 The risk was too great.

22 COUNCILMAN HENON: Commissioner, one last
23 question and I will be done on my -- with what I
24 am looking for.

1 MR. LEVIN: I am sorry if I beat around the
2 bush.

3 COUNCILMAN HENON: No. That's fine.

4 The question comes to permits. In your
5 experience and in your opinion, again, I just want
6 to restate what Councilman Kenney brought to light
7 today from the Administration saying that once --
8 I don't mean the Administration coming from our
9 current commissioner because I have a lot of
10 respect for the current L&I Commissioner.

11 The statement saying that once a permit is
12 released, it's in the hands and the responsibility
13 is out -- well, out of the hands of the City. Do
14 you think that once a permit is issued and release
15 to perform any kind of work in the City of
16 Philadelphia, the owner and general contractor
17 both share a responsibility? Or should the owner
18 be tied back to that kind of -- to the work being
19 performed on their property?

20 MR. LEVIN: Well, if the City is not going
21 to have responsibility, why even issue the permit.
22 That's number one. So, the City has some
23 responsibility whether it farms it out to an
24 independent -- look, in the electoral construction

1 phase, you have independent inspection agencies.
2 You have had them since Thomas Edison. It worked
3 well. I had a electrical inspectors in the
4 department when I was commissioner who couldn't
5 change a light bulb. That is how bad they were.
6 There were city electricians who tested into the
7 job. They couldn't read a plan that an engineer
8 would bring in.

9 So, the policy was if the plan was 400 amps
10 and over, it had an engineer seal, they get the
11 permit. You had to list the inspection agency on
12 the permit application who is going to inspect the
13 job, okay. The inspection agency had liability to
14 the City. The contractor had liability to the
15 City. And the owner had liability to the City.

16 The owner goes out and hires a fly-by-night
17 because it's a low bid doesn't exculpate him from
18 the liability because he knows he bought something
19 that's commercially not viable.

20 COUNCILMAN HENON: Willfully.

21 MR. LEVIN: Willfully, okay. \$10,000 on
22 the permit, you can't buy a hamburger today.

23 COUNCILMAN HENON: Well, thank you very
24 much. You answered my question.

1 COUNCILMAN JONES: Again, we may call you.

2 MR. LEVIN: Anytime. Just send the armored
3 car, okay.

4 COUNCILMAN JONES: You got it.

5 And we want to take a half hour break. We
6 will reconvene at 2:30. For those that need to do
7 a break, our stenographer has worked three hours
8 straight. We are going to --

9 MR. LEVIN: I apologize for those who come
10 behind me, okay.

11 COUNCILMAN JONES: That's all right.

12 COUNCILWOMAN BLACKWELL: You were
13 wonderful. Thank you.

14 COUNCILMAN JONES: Thank you.

15 - - -

16 (At this time, recess was taken at 2 p.m.)

17 - - -

18 (Committee Meeting recommenced at 2:40 p.m.)

19 - - -

20 COUNCILMAN JONES: Okay. We will reconvene
21 this Special Committee on Demolition in the City
22 of Philadelphia. We will now call the next panel
23 to testify.

24 Clerk, please read into the record.

1 THE CLERK: Larry Gallo, the Safety Group
2 and Joseph Albunio, The Safety Group.

3 COUNCILMAN JONES: Thank you guys for your
4 patience. And I want to also for the record say
5 that Councilman Mark Squilla was here in the early
6 part of the hearings. And we appreciate his
7 attention to this worthwhile investigation.

8 Gentleman, no particular seating order.
9 Thank you, again. Sometimes my Committee, you
10 know, in trying to find information can be a
11 little long winded, so thank you so much. Pull
12 the mics to you and say your names for the record
13 and then begin the testimony as you see fit.

14 MR. GALLO: Sure. My name is Lorenzo
15 Gallo.

16 MR. ALBUNIO: Joseph Albunio, Managing
17 Director of The Safety Group.

18 MR. WEIDEMEYER: Harry Weidemeyer a
19 consultant.

20 MR. CAMPBELL: Carl Noel --

21 COUNCILMAN JONES: Got to push the little
22 red button if you're going to do that. There you
23 go.

24 MR. CAMPBELL: Noel Campbell, Gansevoort

1 Management Group.

2 COUNCILMAN JONES: Thank you all for
3 coming.

4 MR. GALLO: Well, we thank you Councilman
5 Curtis Jones for -- and special Members of Special
6 Investigation Committee for this opportunity to
7 come here today. We've been coming here since the
8 beginning and listening and getting very educated
9 what's going on with the processes. And our
10 hearts go out to the families that were involved
11 in these tragedies.

12 New York is very familiar with tragedies
13 like these, as you know. We've had our share.
14 And a lot of the changes that you are going
15 through right now and the hearings that you're
16 having right now was pretty much about five years
17 ago for New York City, so we're very familiar with
18 this process. And we were in the same shoes
19 exactly as you are today when the Deutsche Bank
20 Fires happened, loss of life; the cranes came
21 down, loss of life.

22 And people wanted people to be held
23 accountable. They wanted to look into these
24 things and come up with best practices and new

1 protocols and procedures and proper training and
2 implementation. And they created specific
3 organizations that were fragmented like City of
4 Philadelphia is now. And consolidated and created
5 new entities that were specialized with the proper
6 training, with the proper protocols and the
7 historical levels of their educational, practical
8 and educational. And we put those people in
9 charge.

10 What we do is TSG, The Safety Group, we're
11 Geneva in an essence. We specialize. We're
12 completely unbiased. We are specialized in
13 construction site safety is our foundation. But
14 what we have done beyond that is that we have
15 created a full service entity from a consulting
16 arm, from a revenue generating arm, from all the
17 training that we provide.

18 We are one of the few people that provide
19 department building best practices and curriculums
20 in New York City. Not everybody is allowed to do
21 that. A lot of people are under the misconception
22 where OSHA is requirements, and we all understand
23 it from the federal level, but OSHA protects the
24 people in the workplace. What we do is site

1 safety. We also protect the public, which is just
2 as important for the people that are working
3 there.

4 So I at -- TSG has been around for about
5 eight years now. Joseph Albunio was the founder
6 of a company called Homeland Safety. And he'll be
7 speaking in a moment. But Joe -- Joseph was there
8 when the Towers did come down. He was one of the
9 first site safety managers on those jobs
10 implementing those protocols.

11 Just to give you an example, in New York
12 City there is probably 2,500-plus site safety
13 licenses, and it's been around for 20 years. The
14 two gentleman at this table, Mr. Weidemeyer, he is
15 number 28, so you can tell he's been around for
16 along time with his experience. And Joseph's in
17 the 600s.

18 So if you're looking at an industry and if
19 you're looking at what's going on out there,
20 construction makes 9.3 percent of the most
21 dangerous industries out there. Now, what is
22 encompassed in construction? Well, there is
23 building but there is demolition involved in that,
24 also. Now, from an insurance perspective, people

1 do not realize how important when you're working
2 with these companies these statistics are so
3 important.

4 We had some meetings with some people
5 recently where they are trying to tell us that
6 people don't get hit in the head by objects.
7 There is no accountability. They don't worry
8 about the safety protocols because OSHA is in
9 place. As a safety company in New York City where
10 the most stringent rules and the amount of people
11 coming in and out that city, we have to protect
12 the public and we have to implement these
13 particular procedures.

14 And we've been proud to say we've been
15 doing this a very long time. We're very
16 successful in this particular business. And we're
17 happy to come down here and work and get educated
18 and listen to what's going on here. And
19 hopefully, we'll be able to provide some insight
20 and some education and some best practices that we
21 can work with the City. Because we think it's
22 very important just from a loss of life
23 perspective that those things should not happen.
24 If somebody turns around and says, oh, it's an

1 isolated incident. No, that's really not the
2 truth. They are apt to put these things in place.
3 It's the tragedies that happen that create the
4 other things. It always creates a snowball
5 effect.

6 You had this incident about a month and a
7 half ago. You've had quite a few instances after
8 that. Sometimes things just happen in numbers and
9 perception becomes reality at that point and
10 people get scared and they want to hold people
11 accountable.

12 If you look at this industry, you know,
13 it's very important. We provide most of the site
14 safety construction in New York City. The site
15 safety manager, I won't get into too much detail.
16 I will pass it over to Mr. Albunio. But in New
17 York City, it's a mandated position which is very
18 important. It doesn't -- there is no bias when it
19 comes to that. It's very important that we go out
20 there. It's our fiduciary responsibility to make
21 these places and the workplace a very safe
22 environment.

23 We have a lot of control. We have a lot of
24 power and we work for the City of New York which

1 is important for the Department of Buildings. The
2 Freedom Tower is one of our jobs. One of the most
3 marquis buildings in the world at this point in
4 time. We have the power to shut that down and put
5 a stop work order for any violation if we see
6 anything wrong at that moment in time, yeah, for
7 life and health. Exactly. For any danger of life
8 and health. There's been incidence before.

9 If you shut that building down, the domino
10 effect is there. About \$800,000 a day in losses
11 between the trades not working, the people not
12 showing up. Even down to the person waving the
13 flag in the street for the traffic. Okay, so it's
14 very important. And that's why we put the
15 stringent requirements for our site safety
16 managers because of their responsibilities. They
17 take pride in what they do because they are
18 actually held accountable.

19 If they don't report something, okay, they
20 can be held liable and hit with a fine. Some of
21 those fines can go up to, correct me if I'm wrong,
22 \$25,000. So, that's why we have to get -- it's
23 important. That's why it's important from the
24 safety perspective.

1 One of the things that we specialize in
2 which actually is very synergistic to the things
3 going on here because you guys have a long road
4 ahead of you, okay. You have to walk before you
5 run. But if you implement certain foundations,
6 then you build from that foundation and you put
7 the same processes in place.

8 From site safety management, safety
9 training is extremely important. Risk management,
10 safety programs, combined fire safety and
11 emergency action plans. I heard somebody testify
12 earlier that you have to have the Fire Department
13 involved and the Police Department involved.
14 Absolutely. It makes no sense not to have them
15 involved. And then the safety equipment, which is
16 personal protection equipment.

17 Top ten causes of disabling industries, I
18 mean, injury. Okay, overexertion, hitting or
19 struck by an object, falling by an object in the
20 head. There are a lot of things out there. Now
21 here in New York City, we have scaffold laws. We
22 have sidewalk bridges, okay, that protect the
23 public. Certain people have said, well, very
24 rarely things fall down. Joseph has testified

1 before that if you look from the top of the
2 building, you can't imagine how much debris is
3 lying on that protective area, but the public
4 never sees. But it's protecting those people.

5 There is a lot of problems with this going
6 on here worldwide. And now, the most important
7 thing, indirect and -- verse direct cost. The
8 rampant amount of the workman's comp cases in the
9 country is about a billion dollars a week in
10 workman's comp cases in injuries and falls. And
11 that is public and private. Now, that is a lot of
12 money that's being charged to the insurance
13 companies.

14 Now, some of them -- maybe a lot of them
15 might be false claims. What we do with the
16 oversight is we monitor this. We partnered up
17 with the insurance companies. Now when you
18 combine safety with the insurance companies, the
19 insurance companies pretty much control everything
20 out there. Let's call a spade a spade. That's
21 the most important thing.

22 Is that when we partner up with them, the
23 reduction of the liability to the owner or the
24 contractor or the subs that are involved, they

1 provide a discount because we provide the third
2 party oversight which is not being done. We
3 become Geneva and completely unbiased. We have
4 these large construction companies that have their
5 inhouse safety. And that's important to have your
6 inhouse safety guy. Your inhouse safety manager
7 is never going to go against his own company and
8 report them to the L&I or the Department of
9 Buildings. So, we remain the unbiased person on
10 those particular jobs.

11 That is where we feel taken this insight
12 that we want to give you and implementing it from
13 a small level and building from that perspective,
14 it's only going to get better. True fact, numbers
15 don't lie. For every dollar you spend on safety,
16 you get a four dollar ROI. That is across the
17 board. It's a revenue generator for the City.

18 And the training that we could generate
19 from the people that are properly trained is --
20 having properly trained people on the workforce,
21 they have better perception and they have better
22 oversight. When it goes to tell from everybody's
23 perspective before from the educational
24 backgrounds and the practicals. It's extremely

1 important to implement these things.

2 (Indicating to screen slide show.)Over
3 here, these are just some staggering numbers of
4 claims that are being put in. And these are
5 people not uneven on the work site. People being
6 struck passing the work site. This is combined,
7 so a lot of claims are coming in. What happens is
8 that City of Philadelphia has a lot of permits out
9 there. You might have your transit permit.

10 What these people do if they get hurt
11 passing by, the person that has the permit on the
12 site, they are going to start a frivolous lawsuit.
13 They are going to see who pulled the permit, who
14 was working in that area. A lot of times you get
15 hit by default.

16 COUNCILMAN JONES: I don't mean to
17 interrupt you. But for a layperson like myself --

18 MR. GALLO: Yes.

19 COUNCILMAN JONES: Can you go down those
20 one to eight and what those hazards are?

21 MR. GALLO: Yes. Sure. Well, "Falls" is
22 falling from one level to another.

23 "Overexertion," heat exhaustion, okay, working too
24 many hours, not in good physical health. They put

1 in a lot of claims. "Struck By," that is struck
2 by from above, fall from above but also struck by
3 object. "Other Bodily Motion," could be a regular
4 fall, okay, or someone else hitting them. "Struck
5 Against," crashed into, obviously. "Caught In,"
6 is caught in a confined space, yeah, caught in
7 between. "Motor Vehicle Accidents," there is a
8 lot of heavy machinery being moved back and forth,
9 bulldozers, plows, you name it. "Replete Of
10 Motion," that is getting struck by another object,
11 also. "All Other," are just frivolous that came
12 through. If you look at the numbers, they are
13 just staggering the claims cost, \$549 million.
14 Days paid, people out of work.

15 I will give you an example. We do the
16 oversight and inspections for the MTA New York
17 City. Liberty Mutual is in charge and had the OCI
18 Program, which is the Owner Controlled Insurance
19 Program which I will get into in a minute.

20 What happens is that we put our guys, our
21 inspectors to watch the inspectors on those
22 particular jobs. They are oversight. In case of
23 an accident, they do all the claim analysis. Over
24 the past two years we saved the City of New York

1 and the MTA about \$15 million in false claims
2 because we've been monitoring these people. The
3 problem is that we have technology, which we
4 suggest you should take into consideration, for
5 the outsourcing and the audit and the compliance
6 portion.

7 We give our workers Ipads. We have
8 proprietary technology and software that every
9 person that does an inspection, there is an audit
10 control report. It's touch screen, okay, goes
11 through all the questions. If there's an
12 incident, you take a picture. It's immediately
13 filed, sent through the Cloud, created into a
14 complete database so you can create a "what if"
15 scenario. You can see if there is any
16 quantitative analysis that you can look at going
17 forward. It's a real time audit and compliance
18 report versus everything else that takes a very,
19 very long time.

20 The point that I was trying to make, which
21 is very important, a big company like Liberty
22 Mutual which has an OCIP Program received a report
23 the day I was sitting there. And all of the
24 workman's comp claims and all of the accidents

1 they had not seen them, it was over two years old.
2 And that was the time frame that they were giving.
3 Most of them they already lost by default. That's
4 a big problem a lot of loss of revenue.

5 Goes break down (injury), it's just
6 staggering. I mean, overexertion, you can see all
7 these particular numbers. The numbers don't lie.
8 We were in a meeting yesterday and someone was
9 trying to refute the numbers. And I thought it
10 was kind of outrageous that the numbers are here.
11 They are statistical. They are from the largest
12 insurance companies in the world and compiled on a
13 realtime basis. And for someone to make a comment
14 that no one ever gets hit in the head or nothing
15 really happens, I find it staggering.

16 Even if we cut these numbers in half, if
17 it's a billion dollars a week in workman's comp or
18 public claims, if it's a half a billion a week,
19 it's still a lot of money and a lot of people
20 getting injured.

21 Demolition safety and training, which I'm
22 going to pass over to Joseph right now because
23 these two gentleman been around a long time and
24 they kind of wrote the book on these particular

1 things in New York City.

2 MR. ALBUNIO: How are you today,
3 Councilman?

4 COUNCILMAN JONES: Good. Thank you for
5 coming.

6 MR. ALBUNIO: Lawrence has given you --

7 COUNCILMAN JONES: State your name again.

8 MR. ALBUNIO: Joseph Albunio, Managing
9 Director of Total -- The Safety Group.

10 What we have with the training, the
11 demolition safety -- it all started about seven or
12 eight years ago, prior to the City of New York
13 mandating that every worker that walked onto a
14 construction site must obtain a 10-hour OSHA card
15 and a 4-hour scaffold card. You can't walk onto a
16 construction site without that card. You will be
17 removed from the site.

18 The City not only asked -- the City
19 inspectors not only asked to see them, but the
20 City of New York sends out its Department of
21 Investigation to stop at construction sites
22 periodically and check the ID cards that were
23 phony ID cards. They arrest those people. They
24 do not want people on a hanging scaffold, 50, 60

1 stories above the ground, hanging up there and
2 having a phony training card that you didn't go
3 through the training class.

4 We have had scaffolds -- pipe scaffolds
5 erected in the City by people that did not know
6 what they were doing. They collapsed. People
7 died. So now if you are going to put up a
8 scaffold, you have to take a mandatory 32-hour
9 scaffold erection class. When you do that, you
10 carry your card in your pocket. If you don't have
11 that card, you can't put it up. You will be
12 stopped.

13 The training -- the training is the most
14 important thing when it comes to the worker level.
15 All right. That's -- the workers have to have
16 training because we expect that the supervisors
17 have the training already. If you are a
18 supervisor, we don't want you to have a 10 OSHA
19 card. You're supposed to have a 30-hour. That is
20 what it's there for, for the managers.

21 We have different layers of safety
22 professionals in the City. Starts with a site
23 safety manager. That's at the top of the food
24 chain. Goes down to a safety coordinator. You

1 have concrete safety inspectors. You have fire
2 safety inspectors. This -- what they've done is
3 they've delineated and made sure everyone knew and
4 everyone knows their duty.

5 Prior to the accident with the cranes,
6 okay, you were able to pass the responsibility for
7 that problem or any other problem along. Well, it
8 doesn't say I have to do it. What makes me do
9 this? Isn't the City responsible? They changed
10 that.

11 At a time, you can pass -- one time you can
12 pass the responsibility along to the Building
13 Department saying, well, they were supposed to
14 check it. That's not the way it is anymore. They
15 give you your license, you have a job to do. If
16 you do not report certain things that are going
17 on, on your job to the Building Department in a
18 site safety manager position, you will be fined as
19 the manager. It comes back to you.

20 It's become a very difficult job. At one
21 time, it was just a show up and be there, but that
22 is all completely changed. They will have -- for
23 a major construction project 15 stories or above,
24 you have to have a site safety manager. Ten

1 stories or above to the 15-story limit, you have a
2 coordinator. It's more of training position to
3 get into to be the manager.

4 These are very, very difficult positions to
5 obtain. You go through a training period. And as
6 the gentleman before was speaking that you can't
7 go through a course and then know what you are
8 talking about. You have to have the lifelong
9 training. I mean, if you want to be a safety
10 manager, you had better have been a supervisor in
11 a major construction project for 10 years. That's
12 what they want to see.

13 And you will go through a complete
14 background check when you take these tests. You
15 will take a test, you pass the test, then you go
16 through a background check. The Department of
17 Investigation runs it. It's a FBI, Homeland
18 Security, they will check everything. Then you
19 will get your license probably about two years
20 later, so you don't get it right away. It takes a
21 long time.

22 What happens is the City has gotten a lot
23 safer. What they did was they weeded out the
24 contractors --

1 COUNCILMAN JONES: I'm sorry.

2 Statistically before and after what you did on
3 risk management assessments?

4 MR. ALBUNIO: Yes. Yes. There are so many
5 different facets of safety, though. I was trying
6 to comprehend everything that's going on.

7 When we have a building going up, the
8 preliminary work could be a year prior to that
9 building starting. You have highrises going up 60
10 stories in between a couple of 5-story buildings.
11 Now, a lot of these building have rubble
12 foundations just like you have here, brick and
13 rubble foundations. If you are going to remove
14 what's in between, they fall down.

15 You have to have a series of solutions
16 prior to even getting the permit. We are the last
17 submittal to the City of New York after you have
18 received all your other permissions and permits.
19 It goes onto the site safety plan. That's what we
20 produce for the contractor or the owner/developer.
21 When we produce that, we have already compiled all
22 the other permits. We have done the checklist.

23 Eight years ago it was a four-page
24 document. It was a four-page plan. Now it's

1 thirty-six pages. All right. You must have
2 everything completed before you submit the safety
3 plan for final examination. When they get that
4 plan, they are looking. If you are doing shoring,
5 they want to see the shoring permit. They want to
6 see the shoring plan. They want to see the
7 engineers name on the shoring plan.

8 All of this is put down on the paper. We
9 are responsible to make sure it all goes in to the
10 Building Department. Now, they will examine it.
11 If they don't find it, you are turned down. You
12 have to go get it. Then you will resubmit. When
13 the safety plan is issued, when the Department of
14 Buildings' Inspector shows up, that plan must be
15 on the job. The first thing -- it's not just the
16 Building Department.

17 In New York, we are unique in a way. We
18 have what they call a BEST squad. The Buildings
19 Enforcement Safety Team. It's highly specialized.
20 The guys that are in this unit know what they are
21 talking about. There is no fooling around. You
22 will either produce what you have to do or the
23 job -- they will shut the job down, all right. We
24 don't shut jobs down that much. We don't want to

1 shut the job down. We are hired by the contractor
2 to keep it open to make sure you work. We are
3 there to be the eyes and ear for the owner or the
4 contractor to tell them if you don't do this, you
5 are open to a \$5,000 fine for this, a \$6,000 fine
6 for this, a \$20,000 fine for that.

7 Now, if they choose not to follow our
8 recommendations, we have a log. Every day when we
9 go to the job site, we have to put in everything
10 that goes on. We have to have the conversations
11 we have with the supers. We have to tell them
12 what we've told them. This becomes part of the
13 City's record. We sign a piece of paper, that's
14 the City's proof of what went on.

15 They will come to a job site. You could
16 have told the super you better fix this and he
17 didn't do it. Well, when they come and look at
18 your record and they see for the past five days
19 you've been telling the super to do something and
20 he's not doing it, they will immediately pick it
21 up, have it solved or shut them down. You can't
22 play with this. There is not -- you can't buy an
23 inspector a cup of coffee in the City of New York.
24 If you do, you're going to jail. You offer him a

1 water on a hot day, you're going to jail.

2 They definitely, definitely do not want
3 anything -- not appropriate -- you have to --
4 there is no fudging anything anymore. It's all
5 down, it's all document.

6 MR. GALLO: Which goes back to what
7 Councilman James Kenney was saying before that he
8 put in so many requests with that fire in that
9 building and it was reported or whatever. I mean,
10 these are well documented reports which are now
11 even more. They are realtime and automated.
12 Someone should have been responsible for that.
13 Someone should have responded to that. That's the
14 important thing.

15 This is all new to us, too. It's past five
16 years all these things been working. We've been
17 working very hard every day because we learned
18 more a day trying to automate it and make it even
19 easier.

20 We were in a similar situation in the oil
21 and gas industry. Fracking right now, there is no
22 safety protocols. And that is a dangerous
23 business. They brought us in right now. And we
24 are working in North Dakota, Montana implementing

1 site safety specific safety plans for each
2 particular part, the logistical plans of the
3 trucks coming in and out. It goes down to the
4 minute details.

5 So, there is a lot of things changing. And
6 to me, safety is the most common denominator
7 whether it's demolition, construction. It doesn't
8 really matter. That's the most important
9 protocol, to protect the public safety. That is
10 something we wanted to talk about.

11 MR. ALBUNIO: The gentleman on my left
12 actually sat on the Board when they were redoing
13 the safety plans for the City of New York. He's
14 also done safety programs for Charlotte, South
15 Carolina. Dear friend of mine -- Costa Rica, all
16 them, Harry Weidemeyer.

17 I am going to give the microphone to Harry
18 because he's been doing a lot of writing.

19 MR. WEIDEMEYER: Councilman, once again,
20 thank you very much for the opportunity --

21 COUNCILMAN JONES: Good afternoon.

22 MR. WEIDEMEYER: -- for us to come and
23 attend these public hearings.

24 Just a little bit before I get into my own

1 bio, I would like to say I ventured with The
2 Safety Group for a specific reason. And the
3 reason is the dedication that they have towards
4 safety and training for public property and, of
5 course, employee safety.

6 So, my tenures been 29 years in the
7 industry. My tenure has always been towards loss
8 control, risk assessment and risk management on
9 the insurance end. I have held vice president
10 positions with a specific company for 20 years,
11 resigned from them and actually consulted for them
12 two years after I left. I've been in my own
13 business since 2006 providing such services.

14 My background goes to, say, relevant to the
15 Building Trades Employee Association. They call
16 it in New York City the BTEA. I have been on the
17 Board of Directors with them for ten years. I am
18 still presently involved in the Executive Safety
19 Committee.

20 The purpose of the Building Trades Employee
21 Association and the attendees of it are all
22 construction managers, general contractors and
23 contractors. Thereafter moving forward with the
24 City and the changes and revisions of all the

1 codes and standards, the City got involved as
2 partnership. So, we would have the Department of
3 Buildings attend the meetings. And also,
4 depending on how the meetings were structured,
5 there might have been DOT. Of course, DOB was
6 there, the Fire Department and depending if DEP
7 had to come.

8 It was a correlation to cut through a lot
9 of red tape of questions and answers from
10 professionals in the industry that worked for
11 major construction outfits. Also as part of that
12 Building Trades Employee Association, I was on the
13 task force involved with the City when we started
14 to make all the revisions to Chapter 33. And that
15 was for public and safety which also included
16 employee safety.

17 I attended public hearings, I want to say,
18 for approximately three years give or take which
19 is why we go through the transitions. One of the
20 best parts about being on the committee also and
21 being part of the Building Trades is that when the
22 City drafted a new code or a new standard, that
23 standard came to the Building Trades Employees
24 Association for review and input. The City just

1 didn't say New York City, this is the way it is,
2 end of story. No. They were open to the
3 construction industry and to understand what has
4 to be done, the reasons why we have to do it and
5 the focus on safety once again. A lot of it, once
6 again I want to say, goes toward public and
7 property and safety and the involvement of
8 employee safety thereafter.

9 Also, a part of that partnership was
10 involved with OSHA. OSHA became partnership and
11 also attended all our meetings, which once again
12 was a positive attitude towards questions and
13 answers or reviews. And it's not that you had to
14 wait for an answer or you had to call for an
15 answer. You actually sat at the meeting and was
16 able to bring it back to your company as a
17 positive attitude.

18 Also, I was 8 years -- I was actually 15
19 years with GBC, General Building Contractors.
20 They are, slash, AGC, American General
21 Contractors. I was on the Board of Directors for
22 them for 8 years. That was throughout, actually,
23 New York City and going north to upstate within
24 New York. I am just trying to go through a couple

1 notes here.

2 I guess one of the biggest things with
3 moving forward was the opportunity to sit on task
4 force and be able to have input. My last tenure,
5 I just finished up with the Department of
6 Buildings. We did a review and revised the Site
7 Safety Manager's Test. And I just finished that
8 up, I want to say, about two months ago. I was
9 also part of that with the Department of
10 Buildings. Not much more I can say after that.

11 MR. ALBUNIO: What we've done, and we've
12 concentrated a lot on training, and I started that
13 before. We knew and in the City of Philadelphia
14 you have people that need work. You need jobs.
15 The safety industry has created a lot of jobs,
16 maybe not in safety but it's taken a lot of people
17 and given them the opportunity.

18 What's happened, they have put everyone on
19 an even keel, union/nonunion, there is no
20 distinction. First of all, as a site safety
21 manager, it is a mandated position by law so we
22 work on union jobs. We work on nonunion jobs. We
23 work on them all, all right. We can't observe the
24 picket lines. It's part of our licensing. We

1 have to go to the job. They can't work.

2 When you get to the job in the morning, if
3 we're not there, you don't work until we're there.
4 We don't leave until the gate's locked. You can't
5 do it. If the Building Department the BEST Squad
6 shows up and you're not there, the job is shut
7 down. You're fined, the contractor is fined. The
8 owner is fined. Anybody they can find is fined.
9 But it is the truth.

10 You must be on the job. It gives the
11 oversight -- see, we are licensed by the Building
12 Department. So if we are licensed by the Building
13 Department, they can take your license. You have
14 to answer to them. There is no ifs ands or buts.
15 If you lie to them, you're fired. This is basic
16 what happens.

17 The training part, we saw that for people
18 to have an equal opportunity, they all have to be
19 trained. I took it upon myself with the training
20 programs to start training many different people
21 in Brooklyn, Queens, everybody. And I did it pro
22 bono for about six years. Not everybody has got
23 pro bono, but I took certain organizations. And
24 prior to this becoming law, we were training

1 people. We told them, if you don't have these,
2 you're not going to be able to go to a site. It
3 worked so well that they were getting jobs because
4 they knew more than the people that were in
5 charge. They were going to the jobs and they
6 would actually impress people so much.

7 One of the reasons Noel is here, he was in
8 my first class 8 years ago. He took what he was
9 trained in. He took it to where he has his own
10 business. He was part of Goldman Sach's program.
11 He's going to explain this to you. He's in the
12 fire safety business, all right. We're in the
13 fire safety business. He's coming into The Safety
14 Group to head part of our departments, one of our
15 departments.

16 There are so many positions. Right now --
17 about two years ago, the New York City Fire
18 Department instituted a policy where the site
19 safety manager has to know about fire safety
20 management. This came from the Deutsche Bank
21 Building. They created a position that right now
22 the site safety manager can fill dual roles as the
23 site safety manager and the fire safety manager.
24 Very shortly it will become a standalone position.

1 That means someone else is on the job.

2 It's a very, very difficult job. You are
3 the guy that has to issue the hot work permits.
4 If anybody is welding, you are in charge to make
5 sure there is no fires. You have to oversee all
6 operations that if the Fire Department comes
7 there, they want to know the fire safety manager
8 is there. They don't want their men dying on the
9 job because someone didn't do theirs.

10 So, I'm going to let Noel tell you a little
11 bit about what he does and some of the training
12 programs that we have gone through. Go ahead.

13 MR. CAMPBELL: Okay. Thank you,
14 Councilmember.

15 COUNCILMAN JONES: Go to push the button.

16 MR. CAMPBELL: Okay. Thank you
17 Councilmember -- Councilman.

18 Just to speak to what you spoke about
19 earlier, my name is Carlton Noel Campbell. I'm
20 the President and Owner of Gansevoort Management
21 Group. We are a fire safety company in New York
22 City.

23 A few things happened. After the Deutsche
24 Bank went down in, I believe, around 2009, Mayor

1 Blumberg of New York City passed a law saying that
2 any building that now has sprinklers system down
3 or their fire command systems down, you must have
4 a specialized person in that building to look over
5 these situations and make sure that these
6 regulations now on the Fire Codes are being
7 upheld.

8 When I started training with Joseph
9 Albunio, you know, The Safety Group formerly known
10 as Homeland Safety, I didn't have much experience
11 in construction. Didn't have much experience in
12 the fire safety business. These guys came to the
13 community and pro bono, like he said, developed
14 and trained a lot of the members of that
15 community. So much so, that the City became
16 dependent on them to train and develop the
17 surrounding communities around major developments.

18 One being Coney Island. You have downtown
19 Brooklyn where about \$15 billion was pumped into
20 to develop that community. They took it solely
21 upon themselves to train the community so they can
22 be what you would call ready for this kind of
23 changes in the community as far as jobs are
24 concerned and employable.

1 You know, our clients have ranged from the
2 Port Authority of New York and New Jersey. We
3 have dealt with also the Empire State Building.
4 They took down their systems not too long ago,
5 their fire command center. And they did a bunch
6 of rewiring to their building in which it's
7 mandated law, like he said before, Mr. Alburnio,
8 that you have a safety -- fire safety personnel in
9 that building every hour, every second that those
10 systems are down including sprinkler system.

11 Again, I can't stress the importance of the
12 training program and curriculum inside of these
13 developing communities. Not to overstress it, but
14 it also speaks to the fact that when I went to the
15 class that he initially gave scaffolding, OSHA
16 training and fire safety training, not having that
17 experience and then being able to open up my own
18 business around this field, I hired about 191
19 employees in my first year -- in my first year of
20 business inside of that corporation.

21 Again, you know, just want to shed some
22 light on that and shed some light on the training
23 program.

24 COUNCILMAN KENNEY: Thank you. Just

1 operationally, for example, a building like the
2 Empire State, when the fires, I guess, alarm
3 system or detection system has to be put out of
4 service for a period of time for repairs or
5 upgrades and you are on the site -- it's obviously
6 one of the biggest buildings in the world, how do
7 you -- what is the process?

8 How do you maintain communication? You
9 have multiple people in your -- on your team that
10 are in various parts of the building? How does it
11 work?

12 MR. CAMPBELL: Precisely. You have one
13 designated manager per floor. It depends.
14 Usually, one per every ten floors. So, you would
15 have three managers for that, you know, particular
16 location. You would also have for each location
17 about two to four guards on every floor. And
18 they're patrolling these floors periodically so
19 every hour. And they are also logging us in.

20 That log becomes a part of the records for
21 the City of New York. And just to make note of
22 it, all our guards are certified. They are
23 trained by us, but they are certified by the Fire
24 Department of New York City. There is no, you

1 know, playing around with that regulation, as
2 well. We will train them and develop them, but to
3 get the certification with the Fire Department
4 name embroidered on it, you have to go to the Fire
5 Department.

6 COUNCILMAN KENNEY: What type of jobs would
7 you work on demolition wise or large construction
8 projects? Are you also on site for that or just
9 in buildings?

10 MR. ALBUNIO: Absolutely.

11 COUNCILMAN KENNEY: Okay. How big of a job
12 are you required -- how big does a job have to be
13 to require your presence?

14 MR. ALBUNIO: For our required presence, if
15 it's deemed by the Commissioner as a major site --

16 COUNCILMAN KENNEY: Which commissioner?

17 MR. ALBUNIO: It's Building Commissioner.
18 It's five borough commissioners that can deem it
19 also. And the plan examiner has to --

20 MR. WEIDEMEYER: Upon review of the
21 drawings, location.

22 MR. ALBUNIO: Yes. A lot deals with it
23 because in a lot of areas, you might have low
24 water pressure or the firehouse might have been

1 closed. You have to take that all into
2 consideration. What we have to do for demolition,
3 all right, we still do a safety plan for that
4 demo. It's very intricate. It's absolutely
5 required.

6 You have to have -- first thing you have to
7 do is have from an engineer and the contractor how
8 were you taking the building down. A written
9 narrative. Then you have to have plans. Now if
10 your demo on a building in the City of New York
11 and the sprinkler system isn't working, you have
12 to fix it before you demo it.

13 They have taken down abandoned buildings
14 that they had to fix the sprinkler systems because
15 you can only have one floor below that the
16 sprinkler isn't working.

17 MR. WEIDEMEYER: And the standpipe.

18 MR. ALBUNIO: And the standpipe has to be
19 hooked up. They will come in and the Fire
20 Department inspects that. The local firehouse
21 will go out to that job. You will know the people
22 from the local firehouse. They will walk the job.

23 COUNCILMAN KENNEY: It seems to me unlike
24 here, the Fire Department is intimately involved

1 if not directing a lot of the operation.

2 MR. ALBUNIO: The Fire Department for many,
3 many years has been looking to take over the
4 Building Department. I mean, we know that.
5 Everybody knows it. But it's not happening. The
6 Building Department, but -- they had to get
7 certain things in place and they are more much
8 proficient at that.

9 When they send the truck, they will send --
10 the house will come out and they will walk the
11 building. They will check everything. And they
12 know if they have to respond to a fire in that
13 building, they want everything working. So,
14 you're there on a first name basis with the
15 Captain and Lieutenant. You know the people in
16 your area.

17 And one of our jobs is that when we send a
18 guy to a new job, we tell them go to the Police
19 Station, go to the firehouse. Let them know
20 what's going on. Contact people around you. You
21 have to have this all down. Knowledge is a very
22 powerful, powerful weapon. And if you don't know
23 who to call when there is a problem -- I mean, it
24 gets to a point where we talk to people

1 constantly.

2 We do that safety plan. That's the
3 logistics plan. If you are doing it, it's on that
4 plan. And you have to know it. You can't -- when
5 we sit down to do a plan, it's not like we just do
6 it and hand it to the contractor. We sit and talk
7 to the contractor.

8 COUNCILMAN KENNEY: Now, if you were at a
9 demolition site or a construction site with a
10 safety plan, are you authorized to examine the
11 credentials of the people operating cranes?

12 MR. ALBUNIO: Absolutely.

13 COUNCILMAN KENNEY: What level do you go
14 down -- what level of workforce do you go down to
15 certify credentials?

16 MR. ALBUNIO: Everybody down to the
17 laborer.

18 COUNCILMAN KENNEY: What's a laborer need?

19 MR. ALBUNIO: He has to have a 10-hour OSHA
20 and a 4-hour scaffold. He also, depending on the
21 site might need a hazwoper, might need confined
22 space. That's what the site safety manager
23 determines. If you have a couple of plumbers that
24 have to work in a tank, let's see your confined

1 space cards.

2 MR. GALLO: Even the security guards who
3 work on those sites has to at least have a 10-hour
4 OSHA.

5 COUNCILMAN KENNEY: What's your -- are
6 those documents kept on the individual workers, or
7 they're kept in the trailer?

8 MR. ALBUNIO: The worker must have that
9 document on him. I was explaining to the
10 gentleman before that the City of New York when we
11 issue a -- the training centers, the people that
12 can actually do these classes are approved. They
13 are put onto the Building Department website and
14 they are there. That is who you go to.

15 Now, not everybody wants to go take a
16 40-hour class, a 10-hour class, whatever. They
17 try to create phony ID cards. It became a real
18 problem. The Department of Investigation, we had
19 the Deputy Commissioner come into my office. Now
20 our cards are pretty good because we use a high
21 tech system to issue the card. We laminate them,
22 pictures, everything. But there is a lot of good
23 counterfeiters out there.

24 The Department of Investigation took it

1 upon themselves to start finding out where all
2 these cards came from. When you come into my
3 class to take a refresher class, I want to see
4 your card. Now when I see the card and it's got
5 my name on it and I didn't teach you, I know that
6 this is a phony card. We take it. We ask them
7 where they got it.

8 We tell them they have to take -- see, a
9 refresher class might be 8 hours. The original
10 class might be 20 hours. They have to take the
11 whole class again. We will work something out
12 with them because we want them to keep working.
13 But that card gets turned into the Department of
14 Investigation. They will do -- we have retired
15 Police Detectives on our staff that actually do
16 the initial investigation. They will find out
17 where they got these cards. They know where they
18 are getting the cards.

19 The FBI is involved. Homeland Security is
20 now involved because ID cards are just one facet.
21 Then there is Passports. And in this day and age,
22 we know what's going on.

23 MR. GALLO: What with the ID cards, too,
24 you are allowed -- say you have an ID card, you

1 can get on the Freedom Tower construction site
2 where you have full unfettered access to a
3 superstructure, plans, whatever is there. So for
4 an act of terrorism, it's really simple to be
5 right there and do it. They are very, very strict
6 on these things.

7 We're actually working with the DOB and the
8 Department of Investigations in creating the most
9 standardized card where it will be a smart card
10 and will have all your certifications embedded on
11 it. We can just swipe it and see if it's expired,
12 if it's real. Just like a driver's license.

13 COUNCILMAN KENNEY: You will eventually get
14 to the retina and the thumbprint.

15 MR. ALBUNIO: You never know. Some of the
16 sites, you never know.

17 MR. GALLO: Actually, on the Freedom Site,
18 they have fingerprint scanner. They do have a
19 fingerprint at the Freedom Tower.

20 MR. WEIDEMEYER: Just to reiterate a little
21 bit on in response to the question. Typically,
22 your site safety manager and/or your fire safety
23 director will collectively take photostatic copies
24 of all the cards. So in the event that an

1 inspector comes from New York City, relevant would
2 be most of the time a BEST Squad who will look at
3 that and he will pick certain ones and then ask to
4 walk the job and look for that particular person
5 for that particular picture. So, that's the point
6 that they have taken it to.

7 COUNCILMAN KENNEY: Everybody on the job
8 site is known to the management?

9 MR. WEIDEMEYER: Yes. It's the site safety
10 manager who typically would work for the
11 construction manager or independent, sometimes the
12 developer. And then right down to the contractor
13 and subcontractor and subcontractor employees to
14 produce everything.

15 COUNCILMAN KENNEY: Besides your
16 responsibilities and potential to be fined or
17 debarred, how far back does the responsibility go
18 to the GC, past the GC to the developer? Is there
19 a chain of responsibility back from the financial
20 perspective?

21 MR. WEIDEMEYER: Yes. Unfortunately, if
22 there's a bad situation or a bad incident, the
23 City is now pursuing issues along with OSHA,
24 Department of Buildings and OSHA to pursue

1 criminal -- not criminal, I will say civil, I'm
2 sorry, civil charges against the developer and/or
3 the construction manager and/or the GC right down
4 to the subcontractor. So, they look to bring in
5 all parties. It's not really an insurance
6 program. It's just the event that you didn't
7 comply with the Code or standards or law.

8 COUNCILMAN KENNEY: Okay. Councilman
9 Henon. Doesn't sound like here, does it?

10 COUNCILMAN HENON: Certainly doesn't sound
11 like here.

12 MR. WEIDEMEYER: And that, once again, goes
13 also back to stop work orders. So, when you do a
14 stop work order of course the impact --

15 COUNCILMAN KENNEY: Just before you start,
16 do you have the capacity as your responsibility on
17 site, can you shut a job down?

18 MR. ALBUNIO: Let me answer that one.

19 I work for you.

20 COUNCILMAN KENNEY: Right.

21 MR. ALBUNIO: You hired me. If I shut your
22 job down, you're not going to be happy.

23 COUNCILMAN KENNEY: Right.

24 MR. ALBUNIO: My job is to keep you open.

1 But if I see an IDLH, Imminent Danger to Life and
2 Health, stop. You stop. A lot of it has to do
3 with the contractor giving you the authority to do
4 that, all right.

5 The contractors are starting to go along
6 with that a lot more. It used to be all money
7 driven. But when you get a stop work order for
8 two weeks, I mean, fines were changed. When you
9 had a \$200 fine on a \$90 million job, wasn't too
10 tough.

11 COUNCILMAN KENNEY: Right.

12 MR. ALBUNIO: But when they changed that to
13 5,000 or 10,000 along with a stop work order, you
14 get to know about it. You know, you don't want to
15 put that much pressure on people. I know you have
16 to look at everything from an economic development
17 point. And we do, too. No one wants that
18 problem.

19 Safety was always a side item on a -- on a
20 spreadsheet, all right. Now it's a line item and
21 it's at the top because everything goes through
22 safety. They took it and took the oweness of
23 these problems away from the City. It was the
24 City's problem because no one had the

1 responsibility, and it was never delineated. They
2 have delineated it with the licenses. You have to
3 have a super's license to be a super. Sign a
4 permit. If you don't have a license, you can't
5 sign the permit.

6 They track you. There are safety tracking
7 numbers for contractors. You own the company.
8 You will go in with your staff and you will
9 interview with the Building Department, and they
10 will fill out the sheet and you will go in. You
11 have to submit very personalized information
12 because they want to know who the owners of the
13 companies are, who is doing this business.

14 You can't say it's his responsibility
15 anymore. There is always the competent person
16 rule. I know I was hearing that yesterday. There
17 is a competent person rule. But when you have a
18 delineated job title and this is what you have to
19 do, you don't have to worry about who is the
20 competent person. You are the guy on the permit.
21 You're the one who is in charge.

22 COUNCILMAN KENNEY: Councilman.

23 COUNCILMAN HENON: Thank you, Councilman.

24 Councilman Kenney, you know, just asked a

1 question about responsibility. Who ultimately --

2 MR. ALBUNIO: Yes.

3 COUNCILMAN HENON: -- is responsible for
4 your findings and, you know, how deep does it go
5 back. Is the owner responsible?

6 MR. ALBUNIO: Yes.

7 COUNCILMAN HENON: Is the GC? Is it the
8 developer? Who is responsible?

9 So everybody shares responsibility?

10 MR. ALBUNIO: Yes, sir. If you have a
11 super who has the license and he knows he's not
12 going to do this, but he needs his person there to
13 make sure the job stays safe. And the project
14 manager tells him I don't have the money to do it,
15 they are going to go after the project manager,
16 too.

17 COUNCILMAN HENON: So, do you monitor just
18 demolition, or is it demolition and construction?

19 MR. ALBUNIO: We monitor everything. We
20 are into fire safety.

21 COUNCILMAN HENON: How did you get the
22 authority for these kinds of -- the building for
23 sanctions or at least -- I mean, do you sanction
24 or do you just turn the information over to -- how

1 does that happen?

2 MR. ALBUNIO: I lost you.

3 COUNCILMAN HENON: Do you fine or does the
4 City fine?

5 MR. ALBUNIO: Yeah. We turn -- we have a
6 safety log that you fill out every day. If an
7 accident happens or an incident happens, any
8 incident, first thing they are going to look is in
9 the log. They are going to go back week, two
10 weeks to see if there was any prior knowledge of
11 that problem that was there, should have been
12 corrected. This can go back -- they will go as
13 deep as they have to go.

14 COUNCILMAN HENON: How often do you report
15 findings?

16 MR. ALBUNIO: Every day.

17 MR. WEIDEMEYER: It's a daily log.

18 MR. ALBUNIO: It's a daily log that must be
19 maintained. You fill it in when you get on the
20 job site. If you come to work at 7:00 in the
21 morning and you don't sign your log and at 7:30
22 the Building Department shows up, you can have a
23 \$5,000 fine.

24 COUNCILMAN HENON: You keep a daily log.

1 Do you report your daily log to the Building
2 Department?

3 MR. ALBUNIO: We send our copies to -- no,
4 we don't send it to the Building Department. They
5 don't want that. They just want you to keep it
6 for eight years.

7 MR. WEIDEMEYER: For they review.

8 MR. ALBUNIO: For their review you have to
9 keep all the logs. We have everything
10 electronically. We can send it. But we have to
11 keep.

12 The contractor and the owner if he
13 requests, depends on who we're working for, will
14 get a copy of that every day that will be emailed
15 or faxed to them every day. So they know that the
16 problems are happening on their job. If you have
17 someone in the chain of command that's not
18 listening to what's going on, their boss will know
19 about it at the end of the day.

20 COUNCILMAN HENON: So, what happens if your
21 manager, you know, somebody or supervisor, you
22 know, when you log in and then you find out, okay,
23 you have a licensed contractor. Obviously,
24 someone -- everybody needs to be licensed or your

1 an employee of a licensed contractor. If you are
2 not -- if you don't fit one of those two
3 categories, what happens?

4 MR. ALBUNIO: Mean a consultant or --

5 COUNCILMAN HENON: Like somebody --

6 MR. ALBUNIO: On the job site?

7 COUNCILMAN HENON: Somebody on the job site
8 that is performing work that's not an employee of
9 a contractor but they are doing work for a
10 contractor.

11 MR. ALBUNIO: Okay.

12 COUNCILMAN HENON: So, it would not be a
13 direct employee, you know. Something like they
14 call a 1099. We just call it people were getting
15 paid cash, not being reported.

16 MR. WEIDEMEYER: He still has to comply
17 with the OSHA regulations. Under New York City,
18 it's not really OSHA. But OSHA 10-hour cost of
19 the DOB that's required relevant to the type of
20 work he's doing. If it's welding, burning, hot
21 work permits, it's relevant to complying with
22 that.

23 So, it's just whoever steps on the project
24 has to be in compliance whether they are on a 1099

1 or whether it's a union or nonunion project. The
2 responsibility that goes back to an individual
3 that he's working for.

4 COUNCILMAN HENON: How do you deal with
5 1099?

6 MR. ALBUNIO: It doesn't really come into
7 us. It doesn't have anything to do really with
8 the safety people on the job. Everybody is
9 treated the same.

10 MR. CAMPBELL: But to that degree --

11 COUNCILMAN HENON: I mean, I beg to differ
12 a little bit. A lot of 1099s that we come across
13 here in the City are paid cash and have no
14 training whatsoever.

15 MR. ALBUNIO: They can't work.

16 MR. GALLO: They can't get on the job.
17 They need certifications and cards.

18 MR. WEIDEMEYER: They are required.

19 MR. CAMPBELL: To that degree, New York
20 still views 1099 guys as subcontractors under the
21 prime contractor. So if you are a 1099 guy, it
22 doesn't matter if you are cash or whatever you
23 would call it. They still view them as
24 subcontractors. They are held to the same

1 stipulations that everyone is.

2 COUNCILMAN HENON: If they are actually
3 reported as 1099. I mean, I think the issue we
4 have here is that they're not reported anywhere.

5 MR. ALBUNIO: You know what it is, when it
6 comes to safety on a job, there is no
7 discrimination. You're purple. You're green.
8 You are a 1099. Whatever you are getting. You
9 are not walking on the site unless you have the
10 training.

11 We have had independent welders come to a
12 job. Now, they can be welding for 50 years. If
13 they don't have a New York City license to be the
14 welder and if they don't have a licensed New York
15 City Fire Watch with them, not working. Go home.
16 You can't work. That's our job.

17 COUNCILMAN KENNEY: But you don't deal with
18 revenue issues? I think where Councilman is
19 going is on the --

20 MR. ALBUNIO: No.

21 COUNCILMAN KENNEY: -- 1099 side, our issue
22 here is the lack of capture of revenue.

23 For example, in one of the -- in the
24 demolition project that caused all this, there was

1 a contractor who had no open wage tax accounts
2 with the Department of Revenue. So, but you
3 don't --

4 MR. ALBUNIO: No. That happens in the
5 permitting process.

6 COUNCILMAN KENNEY: Okay.

7 MR. ALBUNIO: If you are going to get a
8 permit and you are not on -- if you are not -- see
9 in the City, if you work in the City, you have to
10 have a VENDEX. You have to go through the City's
11 vendor process. Most general contractors and
12 anybody who is paying for insurance is going to
13 make sure that they're covered 110 percent.

14 COUNCILMAN KENNEY: They are prequalified?

15 MR. ALBUNIO: Yeah. Prequalified. The
16 Building Department in the City, and we don't get
17 into the money part. You pay for your permit
18 according to the permit schedule of what that fee
19 is for the permit. It's not done on what the cost
20 of the job is. They are not going to sit there
21 and try to figure out if your demo project should
22 have been 10,000 or a 100,000.

23 MR. GALLO: I understand what you're trying
24 to say. One thing that is changing is that we're

1 working very actively with the insurance
2 companies. They are the catalyst behind all of
3 this accountability.

4 So if we basically have our site safety
5 program that we are working with Willis Group,
6 which is one of our large partners, the GC, the --
7 the -- the owner, we are all working together to
8 make it happen on a timely basis without any
9 incident. They don't want any problems because
10 they got a Subguard.

11 We are running an OCIP Program, which is an
12 Owner Controlled Insurance Program where the
13 profitability at the end -- if you have a
14 \$130 million job, you can probably retain maybe a
15 little bit more than one percent. So, that is 1.3
16 million at the end of the year or whenever when
17 the job is completed. And if you spend 200,000 on
18 safety and implementing proper er protocols, you
19 are still ahead 1.1 which you wouldn't have had in
20 the beginning if you didn't work collectively
21 together.

22 So, I understand what you're trying to say.
23 Partnering up with the insurance companies and
24 working collectively together in a specific

1 program, eventually you'll weed out that process
2 of the guy with the 1099s and the cash. Because
3 nobody wants that problem with the Subguard
4 Insurances no matter how you look at it. They
5 want to just weed that out.

6 COUNCILMAN HENON: The bottom line is if
7 you are paying -- if somebody you come across is
8 being paid cash and they are using -- they are
9 hiding under the 1099 out, you know, scapegoat
10 there, they are not being trained.

11 MR. CAMPBELL: Correct.

12 COUNCILMAN HENON: You're not -- you're
13 not -- you're not --

14 MR. WEIDEMEYER: It's a liability.

15 COUNCILMAN HENON: You are not getting the
16 benefits of the insurance breaks or any of these
17 kind of rate of returns.

18 MR. WEIDEMEYER: Losing all benefits.
19 You're losing all benefits, yes, sir. I agree.
20 Just to elaborate a little bit on your earlier
21 question just to go a little bit further than
22 Larry.

23 I just finished up recently a Bank of
24 America project that was \$800 million down in

1 Charlotte. The return value or loss of control
2 value was 1.9 million that they got back on their
3 program. That goes to OCIP. The developers, when
4 they do an OCIP owner controlled program or the
5 construction manager or general contractors does a
6 contractor controlled program, they are looking to
7 make money and not to lose money. And the fact is
8 that their typical insurance on construction
9 value, they can't keep up the cost of it.

10 So, by bringing on a wrap-up program,
11 whether be an OCIP or a CCIP, it's a positive
12 entity for both entities, both owner-developer and
13 construction manager to be 150 percent involved,
14 not just 100.

15 COUNCILMAN KENNEY: How old is the
16 legislation that created your industry, your
17 responsibilities?

18 MR. WEIDEMEYER: I've been to hearings, I
19 want to say, going back about six years ago.

20 MR. ALBUNIO: For site safety.

21 MR. WEIDEMEYER: Site safety manager was
22 ten of '86.

23 COUNCILMAN KENNEY: Oh, '86?

24 MR. WEIDEMEYER: Yeah. Their numbers are

1 in the thousands. My name is 028. So, I've been
2 a couple years.

3 MR. ALBUNIO: There is only probably about
4 an active thousand site safety managers. People
5 retired, passed away and whatever.

6 COUNCILMAN KENNEY: The passage of the
7 legislation was opposed by, if you recall, what
8 types of groups? Was the Building Industry
9 against it?

10 MR. ALBUNIO: Everybody.

11 MR. WEIDEMEYER: No. Against it?

12 MR. ALBUNIO: Not against it. You know
13 what I mean.

14 MR. WEIDEMEYER: Owners, developers,
15 Realty, yes. They weren't all for it because it's
16 a cost value at the end of the day.

17 COUNCILMAN KENNEY: If there were unions
18 involved, were they for or against?

19 MR. WEIDEMEYER: The unions are all for
20 safety.

21 COUNCILMAN KENNEY: Right.

22 MR. WEIDEMEYER: So, we really didn't have
23 any situations with them. And that was part of
24 the Building Trades Employee Association.

1 Majority of construction manager, general
2 contractors are union.

3 COUNCILMAN KENNEY: All right. Anything
4 else?

5 Thank you very much. Very enlightening.

6 MR. GALLO: Thank you.

7 MR. ALBUNIO: Thanks.

8 MR. WEIDEMEYER: Appreciate it.

9 MR. CAMPBELL: Thank you.

10 COUNCILMAN KENNEY: Mihran Nalbandian,
11 Julian Toneatto, Mitchell Swann.

12 Good afternoon. Thank you for waiting.
13 And whoever would like to start, please, begin.
14 Just give your name for the record. And please
15 pull the microphone a little closer to you and
16 down.

17 MR. NALBANDIAN: My name is Mihran Richard
18 Nalbandian.

19 COUNCILMAN KENNEY: You can pull -- that
20 microphone can come down a little bit towards your
21 mouth. There you go. Thanks.

22 MR. NALBANDIAN: First, I have to say that
23 I am not a professor at the University of
24 Pennsylvania.

1 COUNCILMAN KENNEY: Okay.

2 MR. NALBANDIAN: I have taught there
3 recently as an adjunct professor.

4 COUNCILMAN KENNEY: That is what I do for
5 FELS. Don't call me a professor either, so.

6 MR. NALBANDIAN: But I am not representing
7 the university in any way. I'm here as a
8 concerned citizen and resident of the City. I was
9 instructed to state my professional credentials
10 for the record.

11 I have degrees in Earth Sciences and
12 Geology and Geophysics from the Massachusetts
13 Institute of Technology and a Master of Regional
14 Planning Degree from University of Pennsylvania.
15 I am a licensed professional geologist in
16 Pennsylvania and in Alaska, and a Charter Member
17 of the American Institute of Certified Planners.
18 I am also a fellow of the Geological Society of
19 London.

20 My professional career has included stints
21 in the Federal Government, the private sector and
22 university teaching and research. However, there
23 are two periods that I believe are the most
24 relevant to these proceedings. For a time in

1 1966, I was engaged in research at the Harvard
2 School of Public Health, the Department of
3 Industrial Hygiene, now the Department of
4 Environmental Health on the Detection and
5 Identification of Asbestos, Dust in Industrial
6 Environments. Harvard was then doing some of the
7 very early work on the health effects of asbestos
8 such as asbestosis, lung and intestinal cancers
9 and mesothelioma.

10 In the course of that work, I had occasion
11 to study the clinical aspects of exposure to
12 asbestos and visit such industrial sites as the
13 Bath Iron Works in Maine where guided missile
14 frigates were being built with a lot of asbestos
15 in them for the US Navy. But even more pertinent
16 here is that for a little more than a decade, I
17 was employed by large engineering consulting firms
18 performing and directing hazardous materials,
19 investigation and remediation projects for a
20 variety of corporate clients, among them the Ford
21 Motor Company, General Motors, Chrysler, Mellon
22 Bank. For Ford Motor Company, its factory, its
23 dealership, banking and land development
24 subsidiaries for which I developed more than 200

1 projects worldwide.

2 The event that is obviously the immediate
3 impetus for these hearings was indeed tragic, but
4 it also raises questions about demolition
5 practices of longstanding in Philadelphia that
6 have broad and ongoing potential impacts on the
7 health in our City. Any building, industrial,
8 commercial or residential constructed before 1970s
9 must be presumed to contain asbestos containing
10 materials or ACMs unless and until proper sampling
11 and analysis proves otherwise.

12 Indeed, one of the very few exceptions for
13 provision of an asbestos inspection report in the
14 City's demolition permit requirements is for
15 buildings built after 1980. As a matter of fact,
16 in my consulting practice, I routinely instructed
17 my staff who were conducting environmental site
18 assessments to sample any and all suspected ACMs
19 in any structures that were being investigated
20 regardless of their age.

21 In some buildings that have been renovated
22 or remodeled since 1980, we often found asbestos
23 containing materials because contractors either
24 knowingly or, I am sad to say, unknowingly -- or

1 the other way around. Unknowingly or knowingly
2 used materials that they had in stock to kind of
3 use them up. So, we always sampled.

4 Some of the materials that can contain
5 asbestos include roofing and siding shingles,
6 walls, ceiling and floor tiles and their
7 adhesives, boiler, furnace, pipe and duct
8 insulation and sprayed coatings on ceilings and
9 walls. I must say that I was incredulous when I
10 read in the Philadelphia Inquirer article of
11 Saturday, July 20 on the release of documents
12 related to the Market Street collapses that,
13 "pre-demolition inspection reports stated
14 incorrectly that there was no asbestos in the
15 building being torn down."

16 The most charitable interpretation in that
17 is that the prior inspector was incompetent. The
18 article went on to state, "the newly released
19 documents includes reports to the Health
20 Department's Division of Air Management Services
21 from a different asbestos inspector that described
22 widespread asbestos in the debris from sources
23 including pipe insulation, floor tiles, roofing,
24 plaster and wall coverings."

1 Now, many of the building materials
2 mentioned above can not be determined to obtain
3 asbestos by visual inspection alone. But
4 potential ACMs are virtually impossible to
5 overlook in even the most casual inspection, and
6 must be sampled and analyzed in a competent
7 laboratory to confirm their composition.

8 The City's Asbestos Control Regulation
9 comprises 80 pages and was last amended in July
10 20 -- on July 20, 2009. The regulation deals with
11 licensing of remediators, permitting
12 notifications, certification and training of
13 inspectors and the definitions and practices of
14 major, minor and incidental asbestos remediation
15 projects. It also deals with proper sampling
16 procedures. On page 74, the very first sentence
17 of Section X: Asbestos Inspections and Reports
18 states, "An asbestos inspection report shall be
19 required prior to issuance of a permit for
20 demolition or alteration which requires the filing
21 of plans."

22 However, the regulation does not itself
23 explicitly go on to require asbestos remediation
24 in a building slated for demolition. It tells how

1 to sample, how to proceed with an asbestos
2 abatement, how to clean up. But if one Googles
3 Philadelphia Demolition Requirements, one is
4 directed to a four-page document on the website of
5 the Department of Public Health entitled
6 Demolition Requirements.

7 At the bottom of page four is a small box
8 with these two sentences. "This document provides
9 an overview of demolition project requirements of
10 the Department of Public Health. Federal, State
11 and City regulations may also apply."

12 And by the way, asbestos inspection reports
13 are required by the EPA and before any demolition
14 can begin. And such inspection reports are also
15 required by the Department of Health of the City.
16 I wonder if any such report was filed for the
17 building that collapsed.

18 On page two of the document under the
19 heading Asbestos Abatement and Notification is the
20 sentence: "All asbestos containing building
21 material friable or nonfriable that could be
22 rendered friable by demolition must be removed
23 prior to demolition."

24 But this statement is neither in the

1 regulation itself nor in the list of demolition
2 permit requirements available on the City Business
3 Services Center website. It may exist elsewhere
4 in the City's Code, but I was unable to find it.
5 I am not qualified to judge whether this sentence
6 on the website has the force of law or regulation.

7 I have spoken thus far only with respect to
8 the problem of asbestos abatement or the lack
9 thereof in demolition projects in the City.

10 However, I also have concerns about potential and
11 actual releases of other hazardous materials into
12 the City's environments. I have personally
13 investigated old row houses in North Philadelphia
14 that were slated for demolition which were
15 subsequently demolished. They contained both
16 readily identifiable and potential ACMs, probable
17 lead paints and abandoned fuel oil tanks.

18 In my considerable experience, such oil
19 tanks were rarely, if ever, emptied and properly
20 cleaned before abandonment. The most popular
21 method of demolition in these cases, and this is
22 what was done in these sites that I visited in
23 North Philadelphia, is to simply collapse the
24 building in upon itself, filling the basement and

1 foundation with the debris, carting away the
2 excess debris, hopefully to a properly constructed
3 and licensed landfill. Perhaps putting a clay
4 layer over the debris, a layer of soil and finally
5 sodding or simply seeding with grass.

6 In such a demolition, clouds of asbestos
7 and lead paint dust will almost invariably be
8 generated. Any tanks will be crushed and their
9 residual contents. And any other hazardous
10 materials, leftover paints, cleaners, solvents, et
11 cetera -- as an aside, I have to say that I could
12 go into anybody's house in this chamber and find
13 at least a dozen hazardous materials left over. I
14 know there are in my house.

15 Also, transformers and other electrical
16 equipment that could contain oil, transform more
17 oils that contain dioxins, for instance. Any
18 other hazardous materials not previously removed
19 can be released into the subsurface potentially
20 impacting groundwater quality and eventually the
21 water and receiving streams fed by those
22 groundwaters.

23 Now, Section X of the Asbestos Regulation
24 exempts residences with three dwelling units or

1 less from the requirement for an asbestos
2 inspection report; and therefore, for asbestos
3 abatement. This exception is noted on the list of
4 demolition permit requirements mentioned above. I
5 would argue that this is insufficient to protect
6 the health of the public, especially that of the
7 nearby residents for the cumulative effect of
8 multiple small demolitions is just as much of a
9 hazard to public health as a single large
10 demolition failure, if not worse. Because they go
11 largely unnoticed except by the people nearby who
12 are most impacted. In the case of North
13 Philadelphia and those areas which are largely low
14 income and minority residents, they are the most
15 impacted.

16 Every building should be inspected not only
17 for ACMs but for any hazardous materials that may
18 be present -- present. They should be removed
19 and the site properly remediated before
20 demolition. Anything less will present a
21 continuing threat to public health and safety and
22 to the health of the environment.

23 In addition to the steps already being
24 taken by the City to ensure proper demolition

1 practices to prevent catastrophic failures like
2 the recent event, there must be consistent and
3 stringent enforcement of existing health and
4 environmental regulations and closure of any gaps
5 or loopholes in such regulations.

6 COUNCILMAN KENNEY: Thank you. I think we
7 will take everyone's testimony and then we will go
8 back to questions.

9 Please identify yourself for the record.

10 MR. TONEATTO: My name is Julian Toneatto.
11 As far as my credentials are concerned, I have a
12 Bachelor's, Master's and Doctorate in Engineering.
13 The Master's and Doctorate are in Structural
14 Engineering. I have about 44 years as an
15 engineer. I spent 30 years with the Corps of
16 engineers, 15 on active duty and 15 on reserves.
17 Served in many capacities. I served seven years
18 with the Exxon Corporation.

19 I am a demolition's expert all the way up
20 to atomic demolitions when necessary. I have
21 blown stuff up. I have cleaned up small
22 demolition jobs. I, in fact, was a professor for
23 a while and presently an adjunct professor at the
24 University -- sorry, Philadelphia University.

1 There are more, but I will stop there.

2 First, I want to note that I am very aware
3 of the June 7 Council proposal where a PE Report
4 on adjacent properties of commercial buildings
5 greater than three stories was suggested and
6 passed, I assume. Some of the things I'm going to
7 talk about are going to be related to that passing
8 of that Resolution on June 7.

9 I am also aware that in Harrisburg with
10 their legislation, the National Demolition
11 Association came up very strongly against having
12 professional engineers anywhere near demolition
13 sites, and that is what I am here to talk about.

14 In this tragic case, for example, no
15 professional engineer would have allowed the
16 adjacent structure to be occupied while the
17 building was coming down for any reason. It would
18 have been emptied. It's simply that zone of
19 influence when you are doing demolition was too
20 large and would have encompassed that building.

21 Secondly, I am looking at the fact that
22 perhaps this Committee is trying to find solutions
23 that are practical, reasonable, expedient and
24 economical. Some of the things I heard here today

1 are neither speedy nor economical. I am going to
2 address a method that I think will help the City
3 in that direction.

4 The role of professional engineers in the
5 State and in the City is very important. First of
6 all, you understand that the professional
7 engineering is licensed by the Commonwealth of
8 Pennsylvania. We're bound by a strict code of
9 ethics. All of us who practicing engineering have
10 liability insurance. Public safety is in our Code
11 of Ethics and is primary concern. We really can't
12 work outside of our area of licensure or
13 expertise.

14 For example, if somebody asked me to do an
15 electrical engineering job, I would decline
16 because I am not supposed to. I am a professional
17 engineer but not one of those.

18 We are not driven by exigent situations or
19 any kind of exigency whatsoever. What I am going
20 to propose today is a reporter directive that I
21 will explain in a few minutes, and I will try to
22 be short, that will stay on site and ready for
23 City inspectors. I have a lot of respect for the
24 City inspectors. They work hard. They do a good

1 job. And I think that what I am going to propose
2 today will supplement that good work that they
3 actually do.

4 So, I am looking at onsite reports and
5 directives by a professional engineer which will
6 help eliminate three of the cardinal sins which
7 cause mishaps. This was not an accident, this was
8 a mishap on this kind of project and on other
9 demolition projects. The point is made often that
10 there are so many demolition jobs. You do about
11 500 a year in the City of Philadelphia, that the
12 insurance rates are very low because very few
13 things happen wrong. We heard about OSHA, but no
14 workers were actually hurt on this site, were
15 they. So let's move on.

16 First of all, the three cardinal sins. The
17 first of the three is "false speed." Cutting
18 corners which are believed to save time, that is
19 always dangerous. Using machinery when hand work
20 is required as in this case or using a piece of
21 equipment that is not the right piece of
22 equipment. All those situations are always
23 dangerous.

24 Rushing to get a project back on schedule

1 because it took forever to get permits or whatever
2 excuse they have is, again you look back, it was
3 unrealistic schedule. And that situation is
4 always dangerous.

5 The second cardinal sin is one of "false
6 economy." What I mean by that is saving money.
7 Saving money by not using the proper equipment.
8 You know, rent something cheaper or use something
9 that you have in the yard. Saving money by using
10 unqualified workers. That needs a little asterisk
11 which says in all honesty, you don't need a lot of
12 skill to do this. If you operate a machinery, you
13 need to know how to do that.

14 But the kind of skills that are necessary
15 for demolition work are very straightforward.
16 Training should be very short, should be on the
17 job. Nothing spectacular. And what you have to
18 teach is something like conscientiousness. And
19 you can't even legislate that.

20 So, the workers have to be somewhat skilled
21 in what they are doing, somewhat tested in what
22 they are doing by on-the-job training, which I
23 highly recommend. But they have to be
24 conscientious, which has to be driven into them by

1 the local inspectors, by their bosses and by the
2 owners.

3 Saving protective -- saving money. By
4 saving on protective gear is another thing you
5 heard today by OSHA. Again, the people that got
6 killed and were damaged here were not under the
7 OSHA rules because they weren't workmen.

8 The last false economy I have listed on my
9 short list is saving money by working extended
10 hours and tired workers who become dangerous. We
11 have to watch that out sometimes on these very
12 small projects.

13 Cardinal sin number three is what I listed
14 here as "unskilled owner participation." Any
15 owner onsite -- and we talked about liability a
16 little bit with the other panels -- is usually a
17 very bad idea. This has been proven in case after
18 case where an owner is onsite. He puts undue
19 pressure on the contractors to hurry up. He puts
20 undue pressure sometimes directly on the workers.
21 And they're usually blinded by the false speed and
22 the false economy that I've already spoken about.

23 So, one of the things that they do that's
24 really the huge third cardinal sin is they try to

1 direct the work. Some of them think they know
2 enough to do that.

3 So, those are the three cardinal sins: The
4 false speed, the false economy and having the
5 owner anywhere near there directing the work.
6 Therefore, I suggest that we have a report or a
7 directive done by a professional engineer on every
8 demolition site here. Some asbestos issues can be
9 covered on that. And my colleague here,
10 Mr. Swann, will talk about all the other
11 mechanical issues that are involved.

12 But this piece of paper should be onsite.
13 It should be readily available for City inspectors
14 when they come by. What it will be is a recipe
15 for taking down this building, for doing the
16 demolition. A recipe that will force, if you
17 will, the contractor or at least compel them to
18 submit realistic proposals and estimates for the
19 work to the owner because he will have a recipe,
20 an outline for what has to be done.

21 He also has to submit proper and correct
22 work estimates for the permit process, another sin
23 on this tragic project. Our guy came in with some
24 small number; whereas, if there was a PE

1 checklist, a report or directive, those numbers
2 would have been proper and the proper permit
3 amount would have been paid at that time.

4 Also, such a directive onsite would dismiss
5 excuses or owner direction, if you will, for not
6 doing the demolition properly. The contractor
7 then has something to lean on to fight back on the
8 owner to say I have to do this right. The workers
9 have something to lean on.

10 And then the final questions, and I will
11 try to hurry up with this, is how much will these
12 things cost? Well, I think it will take very
13 little for a firm such as ours to put together a
14 sheet, a checklist a lot like your permit
15 application that says professional engineer, fill
16 this out. There is some jobs that don't need
17 this. He would just say, no, this has to be done,
18 this has to be done and this has to be done. Jobs
19 like this one would said it has to be done by hand
20 and the adjacent building has to be empty.

21 So, this formula can be put on a short
22 sheet. 500 jobs a site. There are plenty of
23 engineers in the area. It's not an issue. And
24 this form could be made up and revised, obviously,

1 just like any other permit. Yes, I think a site
2 visit is required. Because if a professional
3 engineer is just told, oh, it's just a one-story
4 thing, there is nothing anywhere near it, that
5 would be the end of that.

6 In closing, I want to also note that a lot
7 of the buildings here in Philadelphia, in Camden,
8 for example, in the older parts of the City in
9 this area, a lot of these townhomes that are side
10 by side are supposed to be -- supposed to
11 standalone. But we're finding more and more that
12 a lot of these walls are leaning on the other one
13 when one was built and so on and so forth.

14 So, a professional engineer would be able
15 to note that, make sure the proper precautions are
16 taken and write this recipe for taking down
17 demolitions.

18 Thank you.

19 COUNCILMAN KENNEY: Thank you. Yes, sir.

20 MR. SWANN: Well, I got a little bit of an
21 intro. My name is Mitchell Swann. I'm a
22 principal with the engineering firm of MDC
23 Systems. We do forensic engineering, forensic
24 project management. So when people have projects

1 that have problems, we figure out why, how, who
2 and often how much. So, that is what we are
3 involved in.

4 My background is design and construction.
5 I'm a licensed engineer in the State of
6 Pennsylvania, New Jersey, Delaware, Connecticut,
7 New York, bunch of other states. I've been
8 licensed in PA for about 30 years now. My
9 background is mechanical engineering, so I am
10 going to kind of focus on systems. People don't
11 generally think about for demolition. People
12 generally think about the structure, the bricks
13 and stones and beams.

14 Buildings are -- this was alluded to a
15 little bit in previous panels. Buildings are a
16 complex assembly of multiple systems. These
17 systems -- mechanical, electrical, piping -- they
18 are often buried in walls, under floors or
19 concealed above ceilings and in chaises.

20 While it certainly is expected that no
21 demolition is going to take place without first
22 turning off necessary utility services. That does
23 not necessarily mean that the equipment or
24 distribution networks -- the duct work, the

1 piping, things like that -- inside the building
2 that might be left over have been completely
3 drained, evacuated, de-energized or otherwise made
4 safe for disassembly or demolition.

5 Richard talked a bit about before oil tanks
6 that have just a little bit in them. You crush
7 them down and next thing you got oil in the
8 ground. I have done some excavation work in some
9 City sites. And the system that he described very
10 eloquently which we used to just refer to as "doze
11 in the hole," that's what they do. They just push
12 everything into the basement and tap it down until
13 they can put some dirt on it.

14 I found kitchen utensils, old appliances.
15 I often joke that one day we are going to see
16 somebody who was reading the paper in the
17 basement. They are going to be sitting there with
18 a cup of coffee. And we'll find him in the
19 basement there.

20 But I think you have to be very good --
21 very good consideration to how the systems and
22 equipment serving the building, Building A, let's
23 say, which is to be demolished might be connected
24 or interfaced with systems in Building B next door

1 that are supposed to stay upright, which is why
2 you have to have a massive evacuation on Market
3 Street because they don't know what else in gas
4 mains might be affecting other things around there
5 including the Mutter Museum.

6 When you -- as I mentioned, when you sever
7 a gas line for Building A, how it's connected to
8 the main and how that system is configured might
9 affect Building B. In South Philadelphia, that
10 can be a problem. The value of an engineering
11 analysis or survey as Julian pointed forth of a
12 building intended for demolition is added in such
13 a proprietary step that hidden hazards can be
14 uncovered and properly considered before a
15 dangerous situation is created.

16 As was pointed out earlier, just thinking
17 about your own garages and your own basements.
18 Are there items in there? Turpentine in a can, an
19 old propane bottle, lighter fluid, something else
20 that if crushed or hammered without precautions
21 could create a hazard that you had not really
22 thought or expected.

23 I am sure that Mr. Henon's time in 98 will
24 recognize the importance of figuring out what is

1 in a wall before you drill a four-inch drywall
2 screw in before you discover there's a conduit
3 with a live line in there. That's a bad way to
4 find that out.

5 Now, I think it's very important if you
6 think about that stuff that's in your house, what
7 may be happening in an old commercial office
8 building or a garage, a dry cleaner, a warehouse.
9 Far more hazardous materials. Far more dangerous
10 situation.

11 Now, someone with a jaundice-- it takes
12 someone with a -- it will take a jaundiced eye for
13 the need for this thorough survey. They will say
14 it is going to cost too much. They will say we
15 walked through the building and looked at things.
16 But as we just discussed, there are lots of things
17 that could be hidden.

18 We also need to look at the history of the
19 building. What a building was doing just before
20 you demolished it might not have been the only
21 thing it ever did. Okay. There is evidence in
22 Camden where they have a school, a daycare built
23 on an old dry cleaner site. Uh-oh, that's a
24 problem. Not looking at the history becomes a

1 major issue.

2 I think -- in short, I think it's very
3 important that we look at -- and I think an
4 engineered survey is a way to do this. An
5 engineered survey or report demolition, and I
6 would say, you know, it's very difficult to decide
7 which, you know -- you couldn't say, oh, if it's
8 under 5,000 square feet, don't worry. One
9 building could be extremely dangerous under 5,000
10 square feet. If it's, you know, a big box
11 warehouse, maybe that's easy. If it's a gas
12 station, different problem.

13 So, I think it's very important to get that
14 work done. As Julian put forth, having that
15 survey and report sort of a recipe for
16 disassembly, what we are planning on doing, having
17 that file onsite, documentation.

18 I know I been involved in some demolition
19 in the City. We developed a full plan. In part
20 of that, it was a demolition in part created by
21 work being done in the adjacent structure. And
22 they blew out the underpinning for a column. And
23 so the building, our building, the adjacent
24 building had nothing to do with this, had a

1 partial collapse. We had to figure out how to saw
2 cut our way around and jack our section up without
3 dropping any more of the building.

4 The issue of asbestos, very well taken.
5 Anything before 1975, I would assume has some
6 asbestos in it. When you go through and do an air
7 sample to that building before demolition, you may
8 not find it because it's probably going to be
9 encapsulated. But as pointed out, once you start
10 ripping that thing apart, you are going to destroy
11 that encapsulation. You really do need to make a
12 plan for that. You have to think about PCBs and
13 other types of materials that are in buildings
14 today.

15 I really feel that, you know, the value of
16 an engineering study or survey is akin to making
17 sure your spare tire is in good shape before you
18 set out on a long road trip. Trust but verify. I
19 think -- you know, I know that people talk about
20 the expense of these things. But think about the
21 expense of what has to happen on Market Street,
22 the expense to the family of lost work, time, the
23 expense of medical bills, the expense of, you
24 know, loss of life.

1 COUNCILMAN KENNEY: Lawsuits.

2 MR. SWANN: Generally, engineers are a lot
3 less expensive per hour than attorneys.

4 COUNCILMAN KENNEY: Thank you for your
5 testimony. The thing that frightens me from your
6 testimony, sir, is the massive amount of
7 residential demolition that we did during the NTI
8 years. They were all -- what did you call them?

9 MR. SWANN: Dozed in the hole.

10 COUNCILMAN KENNEY: Dozed in the hole. I
11 mean, you can't take that back now. I mean, it's
12 kind of stark that we had that kind of process.

13 What would you have employed if you could
14 have directed that process as opposed to what we
15 did?

16 MR. SWANN: Expensive problem.

17 MR. NALBANDIAN: As my colleagues have
18 said, I would require a complete site inspection
19 not just for asbestos but for any hazardous
20 materials or conditions that might exist. Yes, it
21 will add expense. But what about the expense of
22 the public health?

23 You know, it costs a lot to treat lung
24 cancer, for instance. What we are doing is

1 exposing people to hazardous materials not only
2 asbestos but solvents, oils, and other potentially
3 carcinogenic materials if they are.

4 The difference between hazardous and toxic
5 by the way, there is a difference in the law.
6 Toxic will kill you right away. Hazardous will
7 take a little bit longer. That's basically the
8 way to look at it.

9 With respect to history of sites, that's a
10 very good point. Once in my practice, one of my
11 junior engineers came back after visiting a site
12 occupied by a very benign, at the time, a very
13 benign use. A site assessment was required by the
14 potential lender for the mortgage on the property
15 going forward.

16 I said -- I looked at the -- part of the
17 site assessment was looking at the old fire
18 insurance maps, the Sanborn maps, of the site.
19 This was in the '90s. The site had been occupied
20 by a custom smelter in the 1920s. New Jersey back
21 at the time had quite a few of the custom smelters
22 that took ores, specialty ores, from around the
23 country.

24 I told my junior engineer, oh, you'll want

1 to include a paragraph in here recommending
2 sampling for mercury and cyanide. And she looked
3 at me as if I was crazy. I looked at the Sanborn
4 map. There was a very good detailed map of the
5 building that existed there. And it had a gold
6 and silver room. Because the copper and lead and
7 zinc ores that they took in from around the
8 country had small but recoverable amounts of gold
9 and silver. And the methods of extracting those
10 from those sulfide ores either involved mercury
11 amalgamation or cyanide treatment.

12 So, we did sample the soils on the site for
13 those substances and we found them. So, not just
14 an asbestos inspector but an engineer or, I'm
15 sorry, a professional geologist or somebody who
16 knows about these things who has experience in the
17 hazardous waste investigation business should be
18 detailed to look at these sites.

19 It will add expense, but it will protect
20 the public health.

21 COUNCILMAN KENNEY: In the particular case
22 of Market Street, the permit was obtained by a
23 licensed architect which would give, I guess, some
24 people some level of comfort that, in fact, a

1 professional in that field was in some way
2 involved. And I think we've been able to accept
3 those kind of credentials without actual report
4 being filed.

5 So, we're recommending on all demolitions
6 an engineering report be accompanying the permit
7 application. That's pretty much your consensus?

8 MR. NALBANDIAN: Pretty much, yes.

9 COUNCILMAN KENNEY: Yes.

10 MR. TONEATTO: Another point that needs to
11 be made in the asbestos in case City Council folks
12 didn't know, construction rubble is sent to a
13 Class II landfill, so do the bags of asbestos even
14 if they are removed properly. And those bags
15 break very easily. And then they are out in the
16 landfill and the stuff gets put all together.
17 Just so you know, the stuff ends up in the same
18 place.

19 COUNCILMAN KENNEY: Councilman Henon.

20 COUNCILMAN HENON: Geez. That's a --
21 that's not a good picture there. So, couple
22 interesting things in all your testimony here.

23 One, I found very true, you know, from
24 experience. And two, you know, concerning when

1 you mentioned the three deadly sins or, you know,
2 no-nos in the industry. One of them being the
3 owner on the site, you know.

4 And I think that -- I think that's all --
5 everybody is trying to cut corners these days
6 whether it's the economics or they are trying to
7 skirt the laws or the rules. They are trying to
8 cut corners to get it done quicker to get a bonus,
9 et cetera, et cetera. Sometimes it's just to get
10 the job from the owner who awarded them, you know,
11 because they were the lowest bid or not
12 necessarily the lowest responsible bidder. I find
13 that very interesting.

14 OSHA, if I am not correct, OSHA requires a
15 site engineering survey; is that correct? For any
16 kind of demolition? Federal law?

17 MR. TONEATTO: I think you would be looking
18 at dollar value of installed. And OSHA would be
19 looking at --

20 COUNCILMAN KENNEY: Sorry, could you use
21 the microphone.

22 MR. SWANN: I apologize. OSHA's
23 predominant focus is on the safety of the workers
24 involved. They are not really -- I mean, not to

1 say that OSHA doesn't care, but their purview
2 doesn't extend to people in buildings next door.
3 They just aren't -- it's just not their -- they
4 don't have any teeth outside the job site.

5 They want to look at a safety plan for the
6 operation as it relates to the people that are
7 going to be doing the work inside the site but not
8 otherwise why. And they are going to come out
9 looking at the inspection.

10 COUNCILMAN HENON: It was my
11 understanding -- and I'm not saying that they
12 would come out and inspect the engineering plan.
13 But I think going through this process, it was
14 brought to my attention it was federal law to have
15 an engineering survey for every demolition in the
16 country.

17 MR. SWANN: I have not seen it as a federal
18 law, but you know -- I have never seen anybody
19 cite it as a federal law. We have done it here.

20 COUNCILMAN HENON: Here I think we are
21 moving to complying to the law, which I don't know
22 if we have been completely or not.

23 MR. SWANN: We have done it here in
24 Philadelphia in the past.

1 COUNCILMAN HENON: From some of the experts
2 that I've seen, I think it's on OSHA's website. I
3 think we can -- if you can take a look at that.

4 MR. SWANN: Sure.

5 COUNCILMAN HENON: It's my understanding in
6 speaking with professionals.

7 MR. TONEATTO: You know, I --

8 COUNCILMAN HENON: Other professionals,
9 excuse me.

10 MR. TONEATTO: I did a used demolition job
11 in New Jersey a few years back, and no
12 professional engineering stamp or license or
13 report was required. Although, I would have
14 provided one. I am sure none was required. And
15 we took down six apartment buildings. I mean,
16 serious demolition.

17 COUNCILMAN HENON: Okay. I think we will
18 be able to talk that. And you may hear a little
19 more on that in the upcoming panels.

20 So, we talk about -- we're talk about
21 engineering surveys. There has been, I'm not
22 going to say controversies but different theories
23 on whether you should have one for above -- three
24 floors and above or under three floors.

1 What would you recommend? Would it be on
2 all demolition or certain demolitions?

3 MR. TONEATTO: Even a small demolition can
4 have huge problems. I think with the forum that a
5 professional engineer could fill out, you know,
6 how much does an engineer make an hour? 150
7 bucks? 200 bucks? It wouldn't take an hour to
8 look at a small job, fill out the form and leave
9 it with the owner. And, of course, then when a
10 City inspector came by, it would be onsite.

11 I don't know where to draw the line
12 especially when you are looking at asbestos or
13 hazardous material of other kinds or mechanical
14 systems. No. I don't think you should draw the
15 line. Because to tailor a rule of law to say
16 something under X-hundred square feet or
17 something, I think you'd miss the one that could
18 get you in trouble.

19 COUNCILMAN HENON: I agree. And you were
20 talking about demolition of some of our housing
21 stocks here where you have one of the oldest
22 stocks in the country where homes are -- row homes
23 are built in the 1800s and 1914, you know,
24 consistently which probably are leaning on a

1 neighboring homes.

2 MR. SWANN: If you try to make the break
3 point the number of stories, which is more
4 hazardous? To demo a three-story carriage house,
5 or to demo a one-story former welding shop?

6 COUNCILMAN HENON: Right.

7 MR. SWANN: I wouldn't be worried about the
8 height of the welding shop. I would be worried
9 about what might be buried at that welding shop.

10 COUNCILMAN HENON: 'Ive driven through
11 every part of this City and have seen out of the
12 blue a block. And all the sudden you have a empty
13 space. And you see the two exposed walls, you
14 know, next -- from the house that was demoed. And
15 huge to me -- I don't know if they are structural
16 or not -- but a giant gap of a crack, you know,
17 that could be 60 feet in length, you know, across
18 the side of a building.

19 Now, I don't know if that has anything to
20 do with structural. To me, it brings this to my
21 attention. Next thing you know, I drive through
22 that same neighborhood on that same block and
23 everything is covered up.

24 MR. TONEATTO: There was a duplex or a twin

1 not too far from here that they decided to fix
2 half of it and new owners. And the floor was a
3 little bit crooked so they decided to jack it up
4 and force it in place. About a month later, the
5 beam went the whole direction of two. It acted
6 like a big spring and almost demolished the house
7 next door.

8 You can't. You have to look at -- that was
9 a small home -- two small homes attached. It
10 turned out that the beams, most of the major beams
11 ran across both of them. And when they tried to
12 fix one, it became a huge spring. And a little
13 old man was shaving and it broke his mirror.

14 COUNCILMAN HENON: Right. It's like how
15 many times can you layer a roof before it can't
16 handle the capacity of the weight with all these
17 storms that we've been having, you know, coupled
18 with the, you know, snow? Eventually, it's going
19 to cave.

20 Thank you, I appreciate your time.

21 COUNCILMAN KENNEY: Just have one final.
22 Just one final for me.

23 Do you -- do you think it should be
24 required to have sidewalk sheds at every

1 demolition project? Sidewalk sheds. Pedestrian
2 sidewalk sheds.

3 MR. SWANN: You mean walkways?

4 COUNCILMAN KENNEY: Walkways that have the
5 capacity to hold -- for example, this is how I got
6 started with sidewalk sheds.

7 I went to New York a number of years ago
8 around Christmas time. And realized that in the
9 whole Manhattan area I walked, I never walked in
10 the street without -- if I had to go into the
11 street, I walked into a walkway with a railing.
12 Other than that, I was always on the pavement
13 under sidewalk shed that were lit and seemed
14 sturdy enough to hold the pressure necessary if
15 something were to fall off the worksite or the
16 demolition site.

17 We do it here in Philadelphia now. I see
18 more than I've ever seen as a result of the
19 legislation that we passed, but there is certain
20 places where I go, they should have a shed instead
21 of the yellow tape that blocks off the sidewalk
22 which seems to have just been put up that morning.

23 MR. SWANN: I guess in the sense to say
24 "every," you know, "always and never, always never

1 happens."

2 So, but -- I mean, if I were doing a gut of
3 a building, it's, you know, residential and I'm
4 not playing with the facade and I'm pretty sure
5 the facade is secure, I am pretty sure I could gut
6 that out and load out by truck or trolley out of
7 the building, you know, wheelbarrow without
8 needing that sort of protection. But if I am
9 doing things which potentially could dislodge
10 facade or something like that, masonry or
11 something, you know, falling a couple floors,
12 yeah.

13 COUNCILMAN KENNEY: I notice a lot of
14 interior demos in Old City, for example, and
15 buildings on 3rd and 4th Street that look as if
16 the buildings are circa, you know, late 1800s with
17 the large masonry facades. And I see guys in
18 basements digging out and digging out and digging
19 out. And I'm like -- guys bringing out
20 wheelbarrows and -- those are spackling buckets
21 full of dirt. I am wondering what it is they are
22 digging and how far they are going and whether
23 they know what they are doing.

24 MR. SWANN: That is a very big concern. As

1 a matter of fact, an issue that we worked on that
2 was a forensic matter in the collapse came about
3 because it was -- this was south of South Street.
4 They were excavating on a site next to it that had
5 been a row home. And in the process of doing so,
6 removing all that dirt, removed part of the
7 lateral bracing of the footing for the building
8 next door.

9 So bang that with a backhoe, next thing you
10 know that falls. The column in our building
11 collapses. We lose a half of floor.

12 COUNCILMAN KENNEY: But sidewalk sheds in
13 areas where there is a high concentration of
14 pedestrian traffic.

15 MR. SWANN: I would say that, yes, yes.
16 Especially, you can't -- you can't really have --
17 you don't want people kind of venturing out sort
18 of randomly onto Broad Street or Market Street,
19 you know, hoping not to get bopped by a taxi or
20 something.

21 COUNCILMAN KENNEY: We have had problems in
22 that whole discussion sidewalk sheds with people
23 who are site impaired and who come down a street
24 that they are used to walking down and all the

1 sudden there is a cyclone fence that --

2 MR. SWANN: What do I do now?

3 COUNCILMAN KENNEY: Right. Thank you very
4 much.

5 COUNCILMAN JONES: And thank you,
6 Councilman, for covering me while I was gone.

7 Are there any other questions for this
8 panel? Seeing none, thank you again for your
9 expertise and bringing that to this Committee.

10 Will the Clerk please read the names of the
11 next people to testify.

12 THE CLERK: Stephen Pouppirt, Donald
13 Ashton, William Graham, Mark Troxell.

14 COUNCILMAN JONES: Who else is left to
15 testify? I want to just make sure they are here.

16 THE CLERK: Mr. Mongeluzzi. He is here.

17 COUNCILMAN JONES: Are you here,
18 Mr. Mongeluzzi?

19 THE CLERK: Yes. He's here.

20 COUNCILMAN JONES: Okay. Y'all might as
21 well start -- there are plenty of seats up there.
22 You might as well call them.

23 THE CLERK: Jerry Vallery.

24 COUNCILMAN JONES: Is not here.

1 THE CLERK: And Kaseen Ali. Said they will
2 be right back.

3 COUNCILMAN JONES: Okay. Thank you and
4 thank you for your patience, most of all. We
5 would like you to state your name for the record.
6 You guys look real comfortable in those Council
7 chairs.

8 State your name for the record and begin
9 your testimony. You're okay. You can stay there.

10 MR. GRAHAM: My name is Bill Graham. And I
11 work for the Graham Company and CEO there. And we
12 insure a lot of construction companies and a
13 number of demolition contractors. And we have
14 looked at -- I been in the business 51 years. And
15 I've looked at a lot of demolition jobs over the
16 years.

17 I just want to make a statement that
18 demolition can be done safely. It can be done if
19 it's done the right way. Mark Troxell heads up
20 our safety department. We have seven full-time
21 safety people that do nothing but plan the safety
22 on a job and then monitor it and then check it for
23 the life of the job with particular attention to
24 areas that are more hazardous than other areas.

1 So, that would be a statement I would make.

2 Do you have any questions?

3 COUNCILMAN JONES: We will hear the
4 testimony of the panel, and then I will ask some
5 questions.

6 MR. TROXELL: Okay. My name is Mark
7 Troxell. I am Vice President of Safety at the
8 Graham Company. I've been in construction
9 industry for 25 years doing safety on construction
10 sites primarily. I've worked in Baltimore, DC,
11 Northern Virginia for several years. In 1995, I
12 moved up here to Philadelphia. For the last 18
13 years, I've been working in the Philadelphia
14 region servicing clients from a loss control or
15 safety standpoint.

16 I am responsible at the Graham Company for
17 the direction of the Safety Services Team and the
18 services that we provide.

19 COUNCILMAN JONES: You need a mic. Grab a
20 mic. Thank you so much.

21 MR. ASHTON: I am going to read from a
22 prepared statement. My name is Don Ashton. I am
23 with the General Building Contractors Association,
24 Director of Safety Services. I was going to say

1 good morning, Chairman Jones, but let's go with
2 good afternoon.

3 Good afternoon, Chairman Jones and the
4 Members of this Committee. My name is Donald
5 Ashton. I am the Director of Safety Services for
6 the General Building Contractors Association.
7 Thank you for allowing me the opportunity to
8 provide testimony to this panel in their quest to
9 provide guidance towards improved demolition
10 practices to safeguard the lives and health of
11 workers in the general public.

12 On June 5, 2013, a building being
13 demolished at a 22nd and Market Street location
14 collapsed onto an adjacent thrift store killing
15 six persons and injuring an additional 14.
16 Amidst the many and varied investigations by
17 Federal and State regulatory entities, City
18 Council formed this Committee to look into
19 existing demolition practices to assess where they
20 may be altered and/or improved.

21 In this testimony I will solely address
22 safety loss control issues and avoid such areas as
23 tax revenues, licensing, permitting and City
24 inspection procedures currently being addressed

1 before the Committee by experts in those
2 respective fields.

3 At the June 27, 2013 meeting of the
4 Committee, Councilman James Kenney addressed what
5 I believed to be the most important factor as it
6 relates to demolition safety. And I'm going to go
7 off script for one moment and say, as it applies
8 to safety in any field. Councilman Kenney stated
9 that the issue relates to reputable versus
10 non-reputable demolition contractors.

11 My over 30 years in the safety loss control
12 and risk management fields, this has always been
13 the leading cause of accidents and incidents. A
14 reputable firm recognizes and adhere to
15 established rules regulations and industry best
16 practices. A point of fact, it is these reputable
17 firms that work with regulatory agencies and
18 industry professionals to develop the best
19 practices being utilized today.

20 A non-reputable firm disregards the rules,
21 does not adhere to industry best practices and
22 looks past the health and safety of workers in the
23 general public towards their percentage of
24 financial profitability at job's end.

1 The rules, regulations and best practices
2 for safe demolition already exist and are in use.
3 Such Federal and National organizations which
4 include but are not limited to OSHA, the
5 Association General Contractors, the National
6 Demolition Society, and the National Association
7 of Demolition Contractors are available for
8 assistance and guidance to reputable firms seeking
9 guidance or seeking assistance with their
10 projects.

11 Local organizations which include but are
12 not limited to the General Building Contractors
13 Association and the MidAtlantic Construction
14 Safety Council are also available to provide such
15 support. The answer is not the development of
16 additional procedures and regulations, but the
17 requirement of rule compliance and the enforcement
18 of such adherence to the existing standards.

19 This would be a minimally invasive and
20 proactive approach to the many reputable
21 organizations in and around the Philadelphia area.
22 It would force compliance of non-reputable
23 companies to the required standards or provide an
24 efficient way to eliminate these entities from the

1 Philadelphia demolition landscape.

2 Concludes my testimony.

3 COUNCILMAN JONES: I am going to take these
4 three first. And then we'll go to --

5 MR. MONGELUZZI: Okay. Thank you.

6 COUNCILMAN JONES: I think Bob Warner's
7 been around long enough to remember my days at
8 Imbec[phonetic] when I used to deal with your
9 association a lot on other issues. It's good to
10 have you guys here because you add a different
11 perspective that I want to deal with. You do the
12 safety thing from a risk management perspective,
13 if I understand --

14 MR. GRAHAM: That's exactly right.

15 COUNCILMAN JONES: You are safeguarding the
16 insurance companies interests to make sure that
17 there is never -- not that you don't care about
18 life. I know you do. But you also care about
19 mitigating loss to the degree that there is an
20 exposure that could cause a liability that you
21 want to prevent, correct?

22 MR. GRAHAM: I was going to say that we are
23 trying to --

24 COUNCILMAN JONES: Pull the mic to you.

1 MR. GRAHAM: I would say that we are trying
2 to really protect the assets of the businesses
3 with whom we do business, contractors.

4 COUNCILMAN JONES: There's nothing wrong
5 with that.

6 MR. GRAHAM: If you have a million dollars
7 in losses, you are not going to pay a hundred
8 thousand in premiums.

9 COUNCILMAN JONES: That motivation, you are
10 going to go to the highest degree of safety first
11 to mitigate that kind of loss.

12 MR. GRAHAM: We try to make sure that there
13 are no claims on any job.

14 COUNCILMAN JONES: Both for the workers and
15 for other pedestrians.

16 MR. GRAHAM: The public is as important as
17 the workers, but the workers are very important.

18 COUNCILMAN HENON: Finally.

19 COUNCILMAN JONES: All right. So that
20 gives us -- finally, right.

21 MR. TROXELL: From a safety standpoint,
22 every loss no matter if it's a worker on the job
23 or the general public is a loss. What we are
24 trying to do is mitigate any loss on a job site.

1 COUNCILMAN JONES: To a degree, the owners
2 to the AC, you're trying to protect the owners of
3 the properties in construction companies as well
4 to mitigate their loss.

5 MR. ASHTON: That's correct.

6 COUNCILMAN JONES: And I think what is
7 missing is that the reputable firms because of
8 insurance, because of reputation, already have a
9 standard. That they -- you are motivated by
10 minimizing loss, yours by saving the companies but
11 to have that standard. Is the folk that are not
12 here that want to cut corners that want to, you
13 know, underbid people to the degree of
14 compromising safety that we need to bring up to
15 the level you guys are.

16 Is that a safe statement?

17 MR. GRAHAM: That's very correct.

18 MR. TROXELL: Most of our clients since
19 they are larger clients have their own safety
20 programs which in many instances exceed OSHA.
21 OSHA is a minimum requirement. Being in
22 compliance with OSHA means one thing, you are not
23 a criminal. Okay. Basically, what that means is
24 to prevent losses, we need to go beyond OSHA in

1 many instances. Many of our clients, due to the
2 fact, number one, they care about their workers;
3 number two, they care about the general public,
4 they want to do everything they can to prevent
5 losses.

6 Graham Company's been fortunate enough to
7 be involved in numerous high profile demolition
8 jobs in this region not only the NTI, which you
9 already heard about, but also many other jobs, you
10 know, from Boston down into Virginia that our
11 clients have performed work on.

12 COUNCILMAN JONES: So if you were insuring
13 us, the City of Philadelphia, as an entity that
14 was the GC of demolition, would you require us to
15 have a safety plan at every demo site?

16 MR. TROXELL: Absolutely.

17 COUNCILMAN JONES: Would you require us to
18 have minimal training of OSHA 10, let's say, for
19 the workforce?

20 MR. TROXELL: Well, OSHA 10 is a general
21 class.

22 COUNCILMAN JONES: Is that minimum?

23 MR. TROXELL: It depends. All right. I'm
24 not saying it's not, but here is the thing.

1 When you take an OSHA 10, OSHA now mandates
2 that the instructor spend two hours on an intro to
3 OSHA. All right. The rest of it you are mandated
4 certain classes you have to take or certain
5 sections we have to teach as an instructor. I am
6 an outreach instructor. What I say to my clients
7 is look, OSHA 10 will get you basically, you know,
8 several owners require that now. A lot of owners
9 now require an OSHA 30-hour class.

10 What we are trying to teach our clients and
11 talk to our clients about is look, we can do this
12 training for you, but let's go beyond the OSHA 10,
13 the OSHA 30. Let's do task-specific training and
14 make sure your workers fully understand the
15 exposures which are going to be present on your
16 job site. And A lot of our better performing
17 clients actually buy into that theory and go
18 beyond what OSHA -- the OSHA 10, the OSHA 30-hour
19 classes that are common now. Very common.

20 COUNCILMAN JONES: Do you think the City of
21 Philadelphia should through a client, maybe a
22 consultant or through their own departments offer
23 the same type of training or equivalent or higher
24 for the general public? And that could be a fee

1 assist. I know -- I don't want to put any more
2 fees or taxation on the private sector. But could
3 be recouped in licensing and things like that to
4 offer that kind of certification.

5 Does that make sense?

6 MR. TROXELL: Several other municipalities,
7 you know, state agencies or states, I should say,
8 in New Jersey, Massachusetts, Connecticut have
9 requirements for 10-hour courses on publicly
10 funded projects.

11 On private projects, we are involved with
12 large projects -- group of projects up in
13 Massachusetts right now. We have taken that and
14 actually took that standard, a 10-hour OSHA
15 course, every worker on the site must now have
16 that. You know, when we check that when we come
17 onto the site. They got to have a 10-hour OSHA
18 card that's given to us. We make a photocopy, put
19 it in file in case we ever need it. But
20 basically, we took the public requirement and took
21 that over to the private world.

22 COUNCILMAN JONES: If you were to, in your
23 years of experience, say, this municipality is --
24 whatever that municipality is, fill in the

1 blank -- has it right by way of safety, who is the
2 gold standard that we should be looking to as the
3 City of who gets it right?

4 Hold your opinion because it will probably
5 be different than the risk managers. But who --
6 if you were issuing a policy that you would
7 discount it down because they have safety
8 protocols in place that are reasonable and that
9 mitigate some of the exposures that we could
10 possibly have, what municipality should we look
11 to?

12 Then I will ask you because I know you will
13 probably have a slightly different rendition.

14 MR. TROXELL: I really can't answer that.
15 I mean, I could not answer that.

16 COUNCILMAN JONES: That was smart. See
17 that was political because he does business with
18 all of them. I know a political answer when I see
19 it. Is there -- I will rephrase the question.

20 As risk managers, do you look at folk and
21 what are the factors that say, well, you know, we
22 can reduce the premium on this because they have
23 increased the safety where we want it? Is there a
24 formula that we can look to?

1 MR. GRAHAM: Basically, I would say that
2 when we come onto a project, we tell the people we
3 will do the training and we will enforce -- we
4 look very carefully at every aspect of the job.
5 If there is specialized training required in
6 certain areas, we provide that training. And we
7 have had phenomenal success.

8 We handled the Delaware Port Authority for
9 12 years. They are OCIP, which is an owner
10 controlled insurance program. We ran a \$3.40 rate
11 for 12 years on hundreds of millions of dollars of
12 construction and repairs. The year before we took
13 that over, I don't want to mention a bad name, but
14 Tom Ridge, there was a couple of fatalities. And
15 Tom Ridge told Manny Stamatakis, get somebody good
16 to do the safety on this.

17 Manny called us because he knew we were
18 good and we started it in the first four years
19 with 600 million of work. We had 750,000 of
20 losses, which is almost like change it's so low.
21 There was 38 million in losses the year 1999
22 before we started that program.

23 COUNCILMAN JONES: I want to switch to the
24 general contractor. As a municipality, I don't

1 want to -- I understand the balance between why
2 L&I is in economic development versus why L&I is
3 in public safety.

4 Do you view at points what a municipality
5 can be or put in place as onerous and counter
6 productive to development? Is there a break -- is
7 there a point where you say, look, this doesn't --
8 can you handle the mic, please? Pass the mic,
9 sir.

10 MR. ASHTON: One of the advantages I've
11 always had in 30 years of safety is that I stay
12 out of operations. I stay out of economics. And
13 I look solely at safety.

14 COUNCILMAN JONES: Maybe that's a lesson we
15 need to learn. Okay.

16 MR. ASHTON: I look at any organization
17 that I'm dealing with solely on that issue. I
18 started with the Laborers Local 1199 in
19 Wilmington, Delaware. I was a structural steel
20 fire proofer by trade. Transferred my book up to
21 Local 30 in New York. So, I dealt with the labor
22 side for a long time before I moved over into the
23 management side.

24 My management side, the reason I got into

1 safety was I crushed my right leg in a forklift
2 accident. And I learned the value very quickly of
3 safety. Learned it the hard way, but I take that
4 very, very seriously. So when I got out to look
5 at an organization, I am going to go out to their
6 job site. I am going to see how they are running
7 that job site from the moment I walk onsite.

8 Are you meeting with your people? Are you
9 training them? Do you have the proper
10 documentation? Are you out -- are you sitting in
11 your trailer, or do you have people that are up
12 walking around the floor to see what's happening
13 with the guys? Are you talking to them? Is it
14 just a disciplinary program, or are you working on
15 corrective actions?

16 As a company, your job is not to knock
17 workers out of a job. They are the ones that are
18 bringing money in. How can you train them to make
19 them even better? That's solely what I look at.

20 COUNCILMAN JONES: I want to turn it over
21 to Councilman Henon for his question.

22 COUNCILMAN HENON: Thank you, Chair.
23 Gentleman, appreciate you coming in. Mr. Graham,
24 it's good to see you.

1 I have a question first for Mr. Ashton, and
2 it goes towards your testimony. And what I can
3 appreciate about you staying in your lane and
4 keeping it to safety, you know, is commendable.
5 But at the same time, you know, my question is in
6 one of your paragraphs here in your testimony
7 saying that you solely are going to address the
8 safety and loss control issues and avoid such
9 things as taxes and licensing and permitting and
10 things like that.

11 My question to you with your expert career
12 in safety is especially now that you are on the
13 management side, how -- I mean, do you see a
14 direct correlation or a tie with properly trained
15 employees who abide by the rules and the law such
16 as getting, you know, safety training, pulling
17 permits, being -- having the license to do the
18 work and having trained workforce on the job site
19 to anybody's safety program and public safety?

20 So if somebody, you know -- I -- I'm a firm
21 believer if somebody is not paying their taxes,
22 they don't get their license, they are not pulling
23 the permits, chances are they are not really
24 trained.

1 MR. ASHTON: This comes back to, as we say,
2 reputable versus non-reputable.

3 COUNCILMAN HENON: Absolutely.

4 MR. ASHTON: I think what you are going to
5 find is that non-reputable company, and let's
6 expand it out beyond safety.

7 COUNCILMAN HENON: Cheaters.

8 MR. ASHTON: They are cheating in
9 everything. A reputable company --

10 COUNCILMAN HENON: There is a direct tie?

11 MR. ASHTON: You are going to see that they
12 have done their permits. They have done their
13 safety plans. They have done -- planned for
14 emergencies. They have a great safety program.
15 All of that just comes together. That has been an
16 advantage to me.

17 Because I've also dealt with the Graham
18 Company in the past. And I know Mark Troxell very
19 well. I sit back and say, wow, from an insurance
20 standpoint, from a broker standpoint, it's way
21 beyond what I see in the norm of a non-reputable
22 company that will just go for as cheap as they can
23 get in insurance.

24 COUNCILMAN HENON: Absolutely. I am glad.

1 Thank you for that response.

2 To Bill and mark, you know, one, I am --
3 it's, you know, I absolutely have to commend you
4 on the kind of work that you have done when it
5 comes to safety. I did not know that you offered
6 that kind of specialty training, you know.
7 Obviously, I know a lot about your company and who
8 you represent in some cases. But to offer
9 specialty training such as, you know -- specialty
10 training that I am aware of besides HazMat and
11 OSHA. You know, some of the dock and commerce
12 training specialties such as TWIC, beginning of
13 TWIC card and having a PSM card, you know, when
14 you are down at the refineries and such.

15 You offer them to your clients at some sort
16 of reduction in their -- you offer that to your
17 clients for whatever business, however you conduct
18 your business?

19 It's to their benefit, I would imagine,
20 that you offer them those types of training; is
21 that correct?

22 MR. GRAHAM: Yes. We offer that as a
23 result of them taking advantage of doing business
24 with us with the safety training that we have.

1 They enjoy significantly reduced costs in
2 insurance.

3 COUNCILMAN HENON: Right. I didn't want to
4 speak for it because I didn't know anything about
5 the insurance company. Just that I pay my
6 insurance, for obvious reasons, you know, for one
7 reason or another.

8 Engineering surveys when it comes to
9 demolition, it's OSHA required. It's federal law.
10 You know, it's been said, it hasn't been said
11 throughout these hearings, but it's a law. And I
12 think we are moving towards having survey
13 engineering for all demolition in the City of
14 Philadelphia. And, you know, Mr. Mongeluzzi will
15 speak a little more on that next.

16 So if you have a client that you are
17 representing and you don't -- they are not taking
18 advantage of the offer of getting the specialty
19 training and they kind of need a safety hazard,
20 TWIC, OSHA training, would they submit to you if
21 they survey -- an engineering survey if they say
22 that they have a safety program? Do they submit
23 documents or a safety plan as a requirement for
24 doing business, you know, with them and having a

1 reduced premiums?

2 MR. TROXELL: To go back to something that
3 was mentioned earlier.

4 COUNCILMAN HENON: Accountability is what
5 I'm --

6 MR. TROXELL: Right. To go back to
7 something mentioned early by Bill, our department
8 places a large emphasis on safety training. A
9 better trained worker will perform better on a job
10 from a safety standpoint than a non-trained
11 worker.

12 COUNCILMAN HENON: Amen.

13 MR. TROXELL: We are trying to prevent
14 losses here. And all the time we go out there and
15 we see it every day. We see workers out there who
16 don't have harnesses fitted properly, who don't
17 have their harness anchored properly. We look at
18 them and we go, the guy is not trained properly.
19 Retraining is one of the things that is a big
20 recommendation in our standpoint.

21 We administer -- and Graham has different
22 services. We administer a lot of owner controlled
23 insurance programs. The level we take on an owner
24 controlled insurance program is much different,

1 all right, than a lot of other brokers in this
2 region. You know, we believe that, you know,
3 training is the key. If we can train them, we
4 have accountability on the site. We have adequate
5 supervision on the site. We can prevent a lot of
6 losses on job sites.

7 COUNCILMAN HENON: You said in your
8 testimony -- and I will end with these two
9 questions, Mr. Chairman -- that selecting
10 qualified contractors right out of the gate and
11 accountability.

12 So ultimately, is the owner accountable for
13 producing qualified, not the lowest responsible --
14 not the lowest bidder but responsible bidder? Is
15 the owner required or responsible for making sure
16 that a safety plan is submitted?

17 MR. TROXELL: It depends on the situation.
18 You know, we have -- we have some contractors,
19 some owners with contractors working directly for
20 them. We have other situations where they have a
21 construction manager or general contractor work in
22 between them.

23 Typically, the way it works is if one of
24 our subcontractor clients is working for, let's

1 say, they are the demolition contractor on the
2 site. We have GC overseeing the work. Our
3 subcontractor would submit their safety program to
4 the general contractor. General contractor would
5 then be responsible for review.

6 Now what we would do on that standpoint, we
7 would help our subcontractor, our client, with
8 their safety program to make sure, number one, it
9 addresses the exposures they have present on the
10 job site, all right, from a safety standpoint in
11 their plan. Now, the engineering survey, the
12 engineering survey would be completed by our
13 client and given to the general contractor in that
14 type of scenario.

15 Now, if we have a client or contractor
16 working directly for an owner, obviously they
17 would submit it directly to the owner and the
18 owner would have their representative, usually
19 they have a superintendent or they might have an
20 engineering firm that is working with them, review
21 the documents.

22 COUNCILMAN HENON: Do they submit a plan or
23 surveys to you guys, or is that only if something
24 would happen?

1 MR. TROXELL: I could tell you --

2 COUNCILMAN HENON: Put in a claim and then
3 you would ask to see it I would imagine?

4 MR. TROXELL: I could tell you if we are
5 monitoring a safety on a job on behalf of the
6 insurance carrier like we did on the NTI, like we
7 did on the DRPA, like we did on numerous other
8 OCIP projects, we would look at the safety related
9 aspects of the engineering survey. When it comes
10 into any bracing, shoring, anything like that, we
11 are not engineers. We would turn that over to the
12 owner to have their engineers look at or the
13 general contractor to have their engineers look at
14 it. We are looking at safety.

15 COUNCILMAN HENON: That's fine. I am just
16 happy to hear that you see it, you review it and
17 turn it over to the experts and then you focus in
18 on the safety.

19 MR. TROXELL: Safety. You look at the NTI
20 program, we wrote two things into that program
21 realizing what we were dealing with, okay. Number
22 one, an engineering survey not by a competent
23 person but by a qualified person, all right. OSHA
24 says "competent person." Competent person, they

1 are able to recognize the exposures for the work
2 they are doing and they have the ability to take
3 corrective action. A qualified person is somebody
4 who through education, certification, experience
5 or degrees such as a professional engineer, all
6 right, would be responsible for reviewing that
7 plan and signing off on that plan.

8 When a PE signs off on that plan,
9 basically, they are taking responsibility for it.
10 So when we say professional engineer signed off on
11 a plan, whether it's a shoring plan, whether it's
12 a bracing on a wall -- we have a job right now up
13 in Boston where we basically took the whole back
14 of the building off. We had the facade. Now we
15 built it out since then. It's going rather nice.
16 We have a 41 cent loss rate on that job, which is
17 outstanding.

18 But, you know, when a PE signs off on that
19 shoring, as long as it's done the way that PE says
20 it by the contractor -- and again, we have
21 engineers looking at that who are basically
22 verifying quality control on a job -- that is a
23 big deal. When we wrote the NTI program, getting
24 back to that, we use the ANSI standard. ANSI

1 standard on demolition which is basically A10.6.
2 Basically, requires a qualified person to do the
3 survey, the engineering survey.

4 Now, on the NTI program we did two things.
5 Number one, we had an engineering survey that must
6 be completed. That was submitted to the
7 construction manager or program manager was the
8 correct term on the NTI for them to review. We
9 also required a safety plan that basically
10 addressed the specific exposures for which their
11 employees, you know, were going to be exposed to
12 on a job such as how services were coming into the
13 structures.

14 A lot of buildings had dilapidated floors.
15 Floors openings. We had, you know -- well, we had
16 asbestos, lead paint, various other things that
17 had to be taken care of before that. Again, the
18 safety plan was part of the demolition plan, all
19 right. The demo plan had two components;
20 engineering survey and safety plan.

21 If you read that manual.

22 COUNCILMAN HENON: Far above the
23 standards --

24 MR. TROXELL: Yes.

1 COUNCILMAN HENON: -- nationally. So you
2 know, with a four-page -- I think, Mr. Chairman,
3 what do we have here? A four-page demolition plan
4 with the City and New York is 90, so good job.

5 Thank you. I have no further questions.

6 COUNCILMAN JONES: Thank you.

7 MR. MONGELUZZI: Thank you. My name is
8 Robert Mongeluzzi. I'm a trial attorney. I just
9 want to give you some background.

10 I have personally handled hundreds of
11 construction and demolition accidents on behalf of
12 injured workers and others. And have spent
13 literally tens of thousands of hours in deposition
14 rooms asking questions of architects, engineers,
15 construction superintendents, construction
16 managers, construction workers, demolition
17 contractors and others. Have seen hundreds of
18 contracts. And I'm familiar with the standards
19 codes, OSHA because that's pretty much what I've
20 been doing every day for the last 25 years.

21 So, I've probably handled in that sense as
22 many investigations of why construction accidents
23 happen, why collapses occur then almost anybody
24 else. I was lead council in the Tropicana

1 collapse that killed four construction workers,
2 injured 36; the Pier 34 collapse, which killed
3 three beautiful young women; and the Kimmel Center
4 collapse that injured eight construction workers.

5 My testimony today is going to be about
6 some common sense -- for me, common sense
7 suggestions that I am making to City Council
8 regarding things that the City can do to make
9 demolition site safer.

10 There is a construction adage that older
11 construction workers have taught to younger
12 construction workers. Used to be father to son
13 for a century. And that is, "plan your work and
14 work your plan." Demolition safety requires
15 professional planning, a qualified and experienced
16 contractor and meaningful oversight from a
17 professionally led city agency. And I'm going to
18 start at the top.

19 Construction, demolition and maintenance
20 which is within the purview of Licensing and
21 Inspections affects the safety and health of
22 Philadelphians. And we learned that to a tragic
23 and devastating effect on June 5. Those are
24 highly technical areas.

1 I've been asked to comment on best
2 practices. This is not a comment or a suggestion
3 regarding anybody who has previously or even
4 currently employed by Licensing and Inspections.
5 However, it is a technical agency. And that
6 agency should be led by someone with professional
7 experience, with wide experience in construction,
8 demolition and maintenance.

9 The Department of Health is led by an
10 expert in health. The City Solicitor is a lawyer.
11 The Surgeon General of the United States is a
12 doctor. We make those choices because those are
13 technical areas. And my suggestion to City
14 Council is that they advocate that Licensing and
15 Inspection be run by someone who is and always be
16 run forever for the benefit of the citizens of
17 Pennsylvania of Philadelphia by someone who has
18 extensive technical experience in those three
19 areas.

20 It's interesting that this Council has
21 called expert after expert after expert and
22 engineer after engineer and engineer to give us
23 the advice regarding best practices. Those best
24 practices should be formulated by the Head of

1 Licensing and Inspections and bringing these
2 organizations to bare.

3 I find it ironic that the General Building
4 Contractors of America headquarters are located on
5 18th Street halfway between City Hall and the
6 deadly Market Street collapse. I find it ironic
7 that the Demolition Contractors Association is
8 located in Doylestown, Pennsylvania. So, we live
9 at the epicenter of knowledge regarding
10 construction and demolition, two of the three
11 items that Licensing and Inspection concerns
12 itself with.

13 We just talked about engineering surveys,
14 and I want to go to that next because that's a
15 really important part of this whole process. And
16 I want to -- there has been a lot of discussion
17 about engineering survey. I think the prior
18 speaker Mark cleared it up. I am going to try to
19 say it in -- I grew up in a blue color
20 neighborhood. I am going to try to say it my way.

21 OSHA has a requirement. It's 1926.850. It
22 addresses demolitions. The first thing that OSHA
23 says in the demolition standard, the first
24 commandment is thou shalt have an engineering

1 survey. That is not exactly what it says, but it
2 says: "Prior to permitting employees to start
3 demolition operations, an engineering survey shall
4 be made by a competent person."

5 Now, that doesn't mean it has to be an
6 engineer under OSHA. And there has been testimony
7 by some including Former Commissioner Burns today
8 who said it was her understanding that the
9 engineering plan is to be submitted to OSHA.
10 That's not correct. It doesn't have to be
11 required to submit it to OSHA. In fact, one of
12 the major defects in the entire industry is
13 because the engineering survey doesn't have to be
14 done by an engineer and doesn't have to be
15 submitted to OSHA. That contractors, demolition
16 contractors cut corners. That is exactly what
17 happened in this case.

18 Okay. In the building collapse there was
19 no engineering survey. I could tell you this with
20 assurance. Had there been a demolition survey, an
21 engineering survey prepared by a professional
22 engineer that was followed by the demolition
23 contractor, this accident never would have
24 occurred and those six people would never have

1 died. The simple solution is that if OSHA
2 requires an engineering survey, whether we get
3 into the debate about whether it should be done by
4 a competent person and there is a big, big risk
5 there. Because any demolition contractor is going
6 to say I am competent. I will do the plan myself.

7 But the permitting process from the City of
8 Philadelphia should require, and I believe has now
9 been changed to require, the submission of a
10 engineering survey. Construction and demolition.
11 If I am going to build a house in Philadelphia,
12 before I get my permit, I am going to submit my
13 plans. But up till the time of this accident, if
14 I am going to demolish a house which is twice as
15 dangerous, I don't have to submit my plans.

16 So, the single best thing that can prevent
17 these types of accident is plan your work. If
18 demolition projects in Philadelphia are planned by
19 a professional engineer, they will not collapse.
20 In my experience in the demolition cases that I
21 have handled throughout my career, those
22 demolition catastrophes occurred because there was
23 no engineering survey and no plan.

24 And so regarding that, I have a couple of

1 other suggestions. Let me talk about inspection.
2 We have, as I said, an incredible resources here
3 from the General Building Contractors of America
4 and the Demolition Contractors Association when it
5 comes to inspectors in the City of Philadelphia.
6 This City needs to come up with specific and
7 detailed inspection, certifications and testing.
8 This is something that could be designed by
9 outside resources that are world class and should
10 work with L&I so that we have a world class
11 inspection system.

12 I was struck today by the testimony of the
13 prior commissioner that three plumbing inspectors
14 were laid off as if plumbing inspectors aren't
15 important. Plumbing inspectors inspect gas
16 hookups. I find it sort of amazing that after a
17 building collapsed in South Philly, that we don't
18 understand the value of a plumbing inspector.

19 I have two other items that I will be brief
20 about. It is time for Philadelphia to eliminate
21 the expediter system. And I want to discuss this.
22 Are we saying that bureaucracy of our City is so
23 immense that it makes it incapable of a contractor
24 to be able to get a permit because our system is

1 so byzantine, is so complex that a general person
2 who works in the City as a contractor can't
3 navigate it? Or are we saying that the
4 contractors that have to navigate that system are
5 so incompetent that they can't get themselves a
6 permit?

7 I don't care which argument you make. It
8 does not justify the expediter system. That
9 system allows contractors to hide behind the
10 expediter, not have to disclose their experience.
11 It creates two systems. Those who hire connected
12 expediters and those who can afford to do so or
13 don't do so. It is, in my opinion, it is a slap
14 at the equality that every single person, every
15 single contractor should be treated the same. No
16 permit should be put to the top of the line
17 because I was able to hire an expediter who has
18 the ability in whatever he finds to see fit to get
19 met to the top of the line.

20 I would ask that City Council examine and
21 abolish the expediter system. Everybody who
22 stands in line should have an equal opportunity.
23 That's been the bedrock of our society
24 particularly in Philadelphia where our

1 Constitution was penned.

2 Lastly, and I want to thank this Council
3 for giving me the opportunity to address you.
4 Council President Clarke said, "While our City
5 mourns this terrible loss, it is on our leaders to
6 examine the events leading up to the 22nd and
7 Market demolition collapse and come up with ways
8 to ensure something like this never happens again.
9 The time for truly proactive government is now."

10 I would ask that City Council take this
11 opportunity not just to look at best practices,
12 but to determine what happened in this collapse.
13 The people of Philadelphia deserve that. The
14 families of those who were killed deserve that.

15 I can tell you from personal experience in
16 investigating hundreds of construction accidents,
17 learning from past accidents is the best way.
18 That is why these gentleman here in their safety
19 programs have accident investigations, robust,
20 sound and mull it over to make sure that it never
21 happens again. And I ask that we take that
22 opportunity because there is a lot of facts going
23 around that may not be true about what you've
24 heard about this collapse.

1 I ask City Council to take a look at this
2 so that we can look at the root cause of why this
3 occurred. So that you as Councilmembers can
4 exercise your judgment in doing what's best for
5 the citizens of Philadelphia.

6 Thank you. I am welcome to answer any
7 questions.

8 COUNCILMAN JONES: Thank you. Chair
9 recognizes Councilman Henon.

10 COUNCILMAN HENON: I am the only other
11 Councilman, right? That would be me.

12 Chairman, thank you.

13 COUNCILMAN JONES: It's getting late.

14 COUNCILMAN HENON: As always a trooper,
15 glad to be here with you.

16 Mr. Mongeluzzi, so I had a several
17 questions to ask you.

18 MR. MONGELUZZI: Sure.

19 COUNCILMAN HENON: You answered a lot of
20 them during your testimony. One was you're a
21 trial attorney, a very prominent trial attorney at
22 that.

23 What experience makes you an expert to come
24 here in front of Council to talk about demolition?

1 And I think you've answered that.

2 MR. MONGELUZZI: I tried to anticipate that
3 because I would have asked the same thing. What
4 the heck is an attorney telling us what are best
5 practices in this. And I tried to give that
6 background of tens of thousands of hours of
7 looking at it.

8 COUNCILMAN HENON: And I know -- I have
9 known you for a long time for full disclosure, but
10 I also read the papers. And I know you represent
11 some folks who were unfortunate to be a part of
12 that tragic collapse.

13 What capacity are you here?

14 MR. MONGELUZZI: I am here as a private
15 citizen. What happens in that litigation as it
16 goes down the road -- by the way, I've already
17 filed claims which does not -- did not include the
18 City of Philadelphia, by the way. Has nothing to
19 do with my testimony today.

20 My testimony is purely about best
21 practices. It doesn't have any effect on any
22 potential litigation.

23 COUNCILMAN HENON: You know, I just wanted
24 to make that clear up front.

1 MR. MONGELUZZI: Can I say something else,
2 Councilman?

3 COUNCILMAN HENON: Sure.

4 MR. MONGELUZZI: I have taught construction
5 safety, crane safety. I have lectured to
6 contractors. I probably handled more fall
7 accidents than any attorneys in the United States.
8 It's the number one killer on construction sites.
9 It's the number one cause of catastrophic injuries
10 on construction sites. And it has been for the
11 last hundred years.

12 And what do I know about preventing fall
13 accidents? Well, I have handled 50 to 100 of
14 them. I know why they occur. So, I have gone out
15 there. This is not just the first time that I
16 have testified in front of an agency, a body
17 regarding safety. That is something that I have
18 done throughout my career. And I think it is an
19 important part of what I do as a concerned citizen
20 of Philadelphia and as an attorney.

21 COUNCILMAN HENON: The only question I'm
22 going to ask about the collapse is -- because we
23 are not getting any answers from the
24 Administration whatsoever regarding it. And I

1 understand litigation and grand juries, but it's
2 also easy to hide behind a little bit.

3 My question to you since we are here for
4 best practices on the 22nd and Market collapse is,
5 you know, how important it is to create a plan
6 moving forward, you know, for preventive measures?
7 And in using this for a multitude of reasons why,
8 you know, we come up with something solid.

9 MR. MONGELUZZI: I agree with you. It has
10 been portrayed in the press that this accident
11 occurred solely as the result of a drug-crazed
12 operator smashing into the west wall with a
13 battering ram causing this collapse. That is
14 based upon all the evidence I have seen. And I
15 have seen the photographs pre-accident in the days
16 leading up to the accident, the collapse video.

17 When you look at that, that excavator is
18 pointed away from the wall that collapsed. You
19 can not see it behind the walls collapse. There's
20 a photograph ten seconds after its collapse that
21 is pointed away.

22 The photographs that were taken on the days
23 before the accident indicate that that wall which
24 is four stories high, so we're here in this

1 chamber. This is maybe two and a half. That wall
2 essentially was above the Salvation Army standing
3 alone, two bricks wide, no steel in it. That wall
4 used to be supported -- by the way, just so you
5 know, the building which has walls on either side,
6 the only thing that holds those walls up is the
7 floor. When the floor is connected to both walls.

8 COUNCILMAN HENON: Like an H.

9 MR. MONGELUZZI: Yes. Think about two
10 pieces of wood and you want them not to fall over,
11 you take another piece of wood like this, screw it
12 into either side, do it at the bottom. Then you
13 have a pretty secure box. You take off those
14 pieces of wood holding it together, you have no
15 lateral stability.

16 What that tells us, okay, from this
17 accident is that this was a failure in planning.
18 It didn't occur because of something that
19 happened, okay, momentarily there. This was a
20 failure of planning and that went on for days
21 before the accident.

22 COUNCILMAN HENON: Listen, I am going to
23 ask a question. Does anybody know did they have a
24 plan?

1 MR. MONGELUZZI: I have been told by
2 sources, multiple sources, that there was no
3 engineering survey as was required by OSHA.

4 COUNCILMAN JONES: Here's what we're going
5 to do. We committed that we weren't going to talk
6 about Market Street. We're going to talk about
7 how to prevent future Market Streets. So if you
8 could phrase it in a way --

9 MR. MONGELUZZI: Sure. I will. I will.

10 COUNCILMAN HENON: The absence of a plan
11 anywhere with demolition, a plan would be helpful?

12 MR. MONGELUZZI: Yeah.

13 COUNCILMAN HENON: To help keep the public
14 safe and the workers and the equipment and
15 material and the housing stock and commercial, all
16 nine yards?

17 MR. MONGELUZZI: Absolutely. One of the
18 things that strikes me most about this is the
19 common sense construction adage that has been
20 passed down from generations to generations.
21 "Plan your work." And in demolition, that is the
22 engineering survey. That's the first commandment
23 of the demolition.

24 COUNCILMAN HENON: By the way,

1 Mr. Mongeluzzi, I run my office that way, just for
2 the record.

3 I have two further questions.

4 MR. MONGELUZZI: Sure.

5 COUNCILMAN HENON: And I will end with
6 this, Mr. Chairman. A lot of talks about a plan,
7 engineering survey, that's required by OSHA. So,
8 it's a law in place. Would that increase at the
9 cost of demolition, one? And do other cities
10 require it?

11 MR. MONGELUZZI: Yeah. The -- if the City
12 requires that an engineering survey be submitted
13 as part of the permit process, which it did change
14 on June 12. They require that. That would not
15 increase costs because it was already federally
16 required. And other cities do require submission
17 of plans.

18 New York City has a very robust, as we have
19 heard about New York City today, a very robust
20 construction safety and demolition plan. I can
21 send you the link to that so you can examine it on
22 your own.

23 COUNCILMAN HENON: I appreciate that. I
24 have no further questions, Mr. Chairman. Thank

1 you all for coming.

2 COUNCILMAN JONES: This was well worth
3 listening to. I am so glad you all waited. We
4 will take these gems. I think the quote of the
5 day was --

6 MR. MONGELUZZI: "Plan your work and work
7 your plan."

8 COUNCILMAN JONES: I think that's my quote
9 for the day.

10 Are there any other questions for this
11 panel? Seeing none, thank you very much.

12 MR. MONGELUZZI: Thank you for the
13 invitation.

14 COUNCILMAN JONES: Are there any other
15 folks to testify?

16 THE CLERK: No, Chairman.

17 COUNCILMAN JONES: Seeing none, are there
18 any closing remarks by Members of the Committee.

19 COUNCILWOMAN BLACKWELL: Let me just say I
20 thoroughly appreciate your testimony. Thank you
21 all very much.

22 COUNCILMAN JONES: So if there are no other
23 questions, I want to again echo the Councilwoman's
24 sentiments and thank you for your testimony here

1 today. Also, the School District and the National
2 Demolition Association who did not testify have
3 submitted their testimony in writing. And we will
4 submit it in the public record and will review it.
5 And if there are any questions, we will send it to
6 them.

7 This Special Committee on Demolition
8 Practices stands adjourned. We will recess until
9 August 15, 2013 at 10:00 a.m. in these chambers.
10 And at our next hearing we will hear from the
11 general public. We invite the public to submit
12 questions concerning the demolition practices and
13 suggestions, recommendations to this Committee.
14 We look forward to hearing from our constituents
15 and citizens regarding their ideas and how local
16 government can collaborate and enhance public
17 safety and to protect and properly balance the
18 need to perform construction and demolition with
19 the inherent dangers associated with that work to
20 create that balance and good public policy.

21 So to register, you can contact my Chief
22 Counsel Stacy Graham at (215)686-3417. And you
23 may also submit the comments in writing to Stacy
24 in advance of the August 15 hearing for those

1 comments to become a part of the public record.

2 So again, on behalf of all of the citizens
3 of the City of Philadelphia, thank you very much.

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5 (Special Demolition Committee Meeting
6 adjourned at 5:20 p.m.)

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C E R T I F I C A T I O N

I, hereby certify that the proceedings and evidence noted are contained fully and accurately in the stenographic notes taken by me in the foregoing matter, and that this is a correct transcript of the same.

Court Reporter - Notary Public

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

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