

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE OF THE WHOLE

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, November 21, 2013
1:25 p.m.

PRESENT:

COUNCIL PRESIDENT DARRELL L. CLARKE
COUNCILWOMAN CINDY BASS
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BILL GREEN
COUNCILMAN BOBBY HENON
COUNCILMAN KENYATTA JOHNSON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN
COUNCILMAN DAVID OH
COUNCILMAN BRIAN J. O'NEILL
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILWOMAN MARIAN B. TASCO

BILL 130684 - An ordinance amending Title 4
"The Philadelphia Building Construction and
Occupancy Code," by amending Subcode A, "The
Philadelphia Administrative Code," Subcode "F"
(The Philadelphia Fire Code)...

BILL 130847 - An ordinance amending Title 4
"The Philadelphia Building Construction and
Occupancy Code," by amending Subcode "A" (The
Philadelphia Administrative Code), Subcode "F"
(The Philadelphia Fire Code)...

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COUNCIL PRESIDENT CLARKE:

We're going to start now. We have established a quorum. This is the Committee of the whole for the purpose of hearing testimony on Bill No. 130684 and 130847.

Mr. Christmas, please read the title of those bills.

THE CLERK: Bill 130684, amending Title 4 of "The Philadelphia Building Construction and Occupancy Code," by amending construction and demolition practices, adding new enforcement and inspection powers for the Fire Department and sharing of information among City departments, establishing worksite public safety requirements, and requiring evidence of training and compliance; and

Bill 130847, amending Title 4 "The Philadelphia Building Construction and Occupancy Code," by amending construction and demolition practices, adding new enforcement and inspection

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2 powers, requiring sharing of information,
3 and establishing worksite public safety
4 requirements and requiring evidence of
5 training compliance.

6 COUNCIL PRESIDENT CLARKE:

7 Thank you very much.

8 I believe we have one witness,
9 Mr. Dollard. Please come forward.

10 MR. DOLLARD: Thank you.

11 COUNCIL PRESIDENT CLARKE: Good
12 afternoon.

13 MR. DOLLARD: My name is Jim
14 Dollard. I'm the Safety Coordinator for
15 IBEW Local 98. I have submitted written
16 testimony, but I will not read that
17 testimony. I will speak to some of the
18 highlights of the testimony that I have
19 provided for Council, and it's an
20 opportunity to offer testimony in support
21 of Bill 130847. And I commend Council on
22 their continued efforts to improve safety
23 of construction and demolition practices
24 in Philadelphia.

25 There are many aspects of this

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2 bill, and there's a lot of things that
3 need to get fixed, and this bill is going
4 to fix many of them. One of them is that
5 under federal, state, and city law, there
6 are only two types of contractors that
7 you can have doing construction -- two
8 types of individuals doing construction
9 and demolition, and that's contractors
10 and employees. And there is existing
11 federal law that clearly illustrates what
12 is an independent contractor.

13 Independent contractors are the
14 status quo of unscrupulous contractors in
15 the City of Philadelphia, and there's a
16 number of reasons for that. They get to
17 hide the money, and they hide lots of it.
18 Unscrupulous individuals that take those
19 checks as 1099 contractors don't pay
20 payroll taxes. They don't pay City wage
21 taxes, unemployment, and they don't pay
22 workers' compensation insurance. They're
23 undermining the fabric of this city.

24 Everybody that goes to work in
25 the City of Philadelphia that pays City

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2 wage taxes should be up in arms about all
3 of these 1099's out there, and this bill,
4 with the worker identification piece,
5 will help to eliminate that practice.

6 It exploits the workforce. It
7 cheats taxpayers. It undercuts
8 legitimate contractors that are doing
9 things right. It literally makes a fool
10 of the legitimate Philadelphia resident
11 that pays City wage taxes, because what
12 it does is, it recognizes and it endorses
13 ghosts. They're just ghosts. Nobody
14 knows when they come. Nobody knows when
15 they go. Nobody knows how much money
16 they got paid or how much money they
17 literally stole from the City and from
18 the federal government in taxes.

19 This bill will close a lot of
20 loopholes. One of them is
21 intergovernmental cooperation. So L&I
22 will talk to Revenue and will know if a
23 contractor that took a job is paying
24 taxes. We'll know if a contractor that
25 took a job for a million dollars is

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2 paying any City wage taxes at all.

3 Because if there's no City wage taxes
4 coming in, he's 1099'ing people, and the
5 City is literally getting robbed.

6 The most important piece of
7 this legislation is safety. In light of
8 what happened at 22nd and Market, we need
9 to get this right, because when it comes
10 to safety, there's no second chance.

11 I've been in the electrical
12 industry for 33 years. I'm the Safety
13 Coordinator for IBEW Local 98, Master 500
14 OSHA Instructor. Safety is what I do.
15 Codes and standards is what I do. And
16 there's no room for guesswork. You can't
17 play games with safety. It has to be job
18 one. And we all know that skilled
19 workers are safe workers, and the reason
20 they are is, they've had training in
21 safety. Proper safety training is
22 critical. It's not optional. It's
23 critical.

24 OSHA 10-hour training is the
25 minimum standard. All OSHA standards are

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2 minimum. If you go on to a job site and
3 somebody looks you in the eye and says,
4 Hey, we're OSHA compliant, you can look
5 them in the eye and say, That's the least
6 you could do. Because OSHA requirements
7 are just that, they're a minimum.

8 In construction, we've got a
9 six foot standard rule for fall
10 protection. If you were to stand on your
11 desk and fall off backwards, would you
12 get injured? You sure would. There are
13 minimum requirements. OSHA 10-hour is
14 minimum training.

15 The next piece is worker
16 identification, and the bottom line is,
17 City Council can enact all of the
18 regulations, all of the laws that you
19 want. If you can't enforce them, then
20 they're not worth the paper that they're
21 written on. You literally wasted your
22 time. You can't have rules that you
23 can't enforce.

24 Fraud-resistant proof of safety
25 training is practical, because we'll be

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2 able to -- L&I or any other party will be
3 able to say, Hey, do you have your safety
4 training, have a picture. All it says is
5 Jim Dollard. Yes, there was a recognized
6 provider that gave me 10-hour training.
7 Without it, there can be no enforcement
8 whatsoever.

9 It does not discriminate
10 against anybody. Any individual can go
11 to a registered -- whoever they recognize
12 to do the training, can get the training,
13 go down to L&I, and it's just their name,
14 and they're going to get a card. They're
15 going to get fraud-resistant worker
16 identification. And when I say no one is
17 discriminated against, it protects
18 everybody.

19 I urge you to go on, when you
20 get a chance later, go on to Philly.com.
21 There was a story that was run yesterday,
22 and it was titled "Day Laborers
23 Deliberately Exposed to Asbestos in
24 Philadelphia." The guy that exposed them
25 to it was sentenced Tuesday to 42 months

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2 in prison. It's that serious. I'll just
3 read the first sentence of the article.

4 Imagine being someone
5 unemployed or maybe an illegal immigrant
6 or maybe simply someone desperate for
7 work and getting the opportunity to make
8 some extra money by cleaning out a
9 warehouse in Philadelphia's Logan
10 section.

11 Those individuals, if they had
12 the basic safety training and OSHA
13 10-hour, which is an awareness course,
14 they would have recognized that they were
15 being posed to very serious hazards.
16 That's why we need to do that. This is
17 for everybody. We need to make sure that
18 they have a baseline. Who will take care
19 of those workers when in 10 to 15 years
20 they have asbestosis, mesothelioma, lung
21 cancer? It takes years for that to
22 happen. Who is going to take care of
23 them? Who is going to make sure that
24 their children have a roof over their
25 head?

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2 This is about good code. All
3 regulations, it's like code. It's good
4 code. And I would like you to think of a
5 good code as a three-legged stool in your
6 kitchen. You can sit on that
7 three-legged stool. Frames can sit on
8 it. And it supports you. But you take
9 away one leg of that stool and what
10 happens? It's gone.

11 Good code is three things.
12 It's easy to read and apply, and this is.
13 It's practical, and this is. And it's
14 enforceable. If you take away the worker
15 identification, this is not enforceable
16 and the three-legged stool falls down.
17 Bottom line is, you're wasting your time.

18 I've got with me because -- I
19 mean, I've got all sorts of IDs. I've
20 got my driver's license, but I've got one
21 picture ID that says that I'm NCCCO
22 certified rigger and signal person. And
23 I'll tell you why I went and got
24 certified and got the picture ID.
25 Because that's what City Council said I

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2 had to do. City Council enacted a law
3 that said that anyone working signaling a
4 tower crane or rigging a load for a tower
5 crane had to be certified.

6 So if you do away with worker
7 identification here, you got to go back
8 and say it's okay to do the same with
9 tower cranes. We'll let ghosts signal
10 those loads. We'll let ghosts rig the
11 loads, and nobody will know the wiser.

12 I also have a TWIC. That's a
13 Transport Worker Identification Card. If
14 I'm going to work in the ports, if I'm
15 just going to access the ports or
16 refineries, I have to have it.

17 If Council decides that no
18 identification is required, we need to
19 hang signs that says, 1099 workers are
20 welcome, and we would literally have a
21 new slogan that would say, Philadelphia,
22 we make laws and then we make sure that
23 you can't enforce them.

24 Any effort that is taken to
25 weaken these training requirements,

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2 they're minimum, or an effort to do away
3 with worker identification is literally
4 an endorsement of the work practices that
5 led to the collapse at 22nd and Market.

6 There's worksite signage that
7 is here. That's fantastic. You can go
8 to a job site today. It doesn't matter
9 how big it is. You're going to be
10 hard-pressed to find little eight and a
11 half by 11 sheets to figure out who is on
12 that job, and I guarantee you, you won't
13 be able to figure it out.

14 We cannot lose sight of what
15 this is about. This is about safety. We
16 can't afford another 22nd and Market. We
17 can't take a law that has the
18 three-legged stool. It's easy to read,
19 it's practical, and it's enforceable. If
20 we undermine it, then we're literally
21 telling the world that in Philadelphia,
22 we make rules, but then we make sure that
23 nobody can enforce them. It almost
24 sounds like a South Park episode where
25 they would make a rule and I say ha, ha,

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2 let's fix it now by making sure that
3 nobody can enforce it.

4 I urge you to pass this bill as
5 written on behalf of the 4,500 members of
6 the IBEW. These are commonsense measures
7 that will go a long way. And, again,
8 this is about saving lives. It's about
9 never having to see the Mayor on the news
10 saying, There's four dead, now there's
11 five dead, there's six.

12 I've done fatality
13 investigations. I've had to explain to
14 family members how their loved one died,
15 and I don't ever want to have to do it
16 again, and I don't want anybody in the
17 City of Philadelphia to have to do that.

18 Thank you, Councilman Clarke.

19 COUNCIL PRESIDENT CLARKE:

20 Thank you so much. Thank you for your
21 testimony.

22 The Chair recognizes Councilman
23 Kenney.

24 COUNCILMAN KENNEY: Thank you,
25 Mr. President. I'd like for the record

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2 to introduce a letter that was circulated
3 to Councilmembers basically saying the
4 exact same things that Mr. Dollard just
5 testified to from Ryan Boyer, the
6 Business Manager of Laborers' District
7 Council. So I'd like that to be entered
8 into the record.

9 Thank you.

10 COUNCIL PRESIDENT CLARKE: It
11 will be in the record. Thank you,
12 Councilman.

13 It's my understanding that that
14 is the only witness.

15 Councilman Henon.

16 COUNCILMAN HENON: Thank you,
17 Mr. President.

18 Mr. Dollard, for full
19 disclosure, I'm a family member of Local
20 98, but, again, your testimony is --
21 you're an expert witness when it comes to
22 codes with not just the City of
23 Philadelphia, but I want everybody to --
24 I want you to inform everybody, aside
25 from the specialty cards that you have in

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2 your pocket, explain quickly and briefly
3 your relationship with the other
4 construction crafts within the City of
5 Philadelphia and some of your credentials
6 on the national level as a part of the
7 code-making panel that determined life
8 and safety code measures to take moving
9 forward.

10 MR. DOLLARD: Yes. I'm heavily
11 involved in codes and standards, and
12 primarily electrical. Safety, you know,
13 I do a lot with OSHA, teach the OSHA 500,
14 the 10, and the 30. The National
15 Electrical Code is the law of the land in
16 Pennsylvania. I'm on the Correlating
17 Committee of the National Electrical
18 Code, which is the mother committee. I'm
19 on two code-making panels. That's 10 and
20 13. I'm on NFPA 70E, which is a standard
21 for electrical safety in the workplace.
22 I'm on the UL Electrical Council, which
23 addresses product standards, and I'm on
24 so many smaller standards technical
25 panels and other committees that it's

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2 just too much to lay out there.

3 But I would like to just make
4 one more comment about the worker
5 identification. I've got right here,
6 this is eight OSHA 10-hour cards. This
7 is what you would get if you take an OSHA
8 10-hour course. And you can take this
9 anywhere and have these duplicated and
10 then do what? Sell them for \$10. If you
11 don't have some type of
12 fraud-resistant -- you're never going to
13 have fraud-proof, but if you don't have
14 some type of fraud-resistant worker
15 identification, unfortunately I think
16 that Council will have wasted their time.

17 COUNCIL PRESIDENT CLARKE:

18 Thank you. Thank you, sir.

19 Any other questions or comments
20 for this witness?

21 (No response.)

22 COUNCIL PRESIDENT CLARKE:

23 There being none, I believe that is the
24 only witness today. That being the case,
25 that completes our witness list.

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2 We'll now go from the public
3 hearing to the public meeting.

4 The Chair recognizes Councilman
5 Kenney for a motion on the amendment to
6 Bill No. 130847.

7 COUNCILMAN KENNEY: Thank you,
8 Mr. Chairman. I move that Bill No.
9 130847 be amended based on the amendments
10 that have been circulated to the members
11 of the Committee.

12 (Duly seconded.)

13 COUNCIL PRESIDENT CLARKE: It's
14 been moved and properly seconded that the
15 amendment to Bill No. 130847 be approved.

16 All those in favor say aye.

17 (Aye.)

18 COUNCIL PRESIDENT CLARKE:
19 Those opposed?

20 (No response.)

21 COUNCIL PRESIDENT CLARKE: The
22 ayes have it and the motion carries, and
23 the amendment to Bill 130847 has been
24 approved.

25 The Chair now again recognizes

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2 Councilman Kenney for a motion on the
3 amended Bill 130847.

4 COUNCILMAN KENNEY: Thank you,
5 Mr. President. I move that Bill No.
6 130847, as amended, be reported out of
7 this committee with a favorable
8 recommendation and a request made for
9 rules suspension to allow for first
10 reading at our next Council session.

11 (Duly seconded.)

12 COUNCIL PRESIDENT CLARKE:
13 Thank you. It has been moved and
14 properly seconded that Bill No. 130847,
15 as amended, be reported from this
16 committee with a favorable recommendation
17 and rules suspension to allow reading at
18 our next session of Council.

19 All in favor say aye.

20 (Aye.)

21 COUNCIL PRESIDENT CLARKE:

22 Those opposed say no.

23 (No response.)

24 COUNCIL PRESIDENT CLARKE: The
25 ayes have it and the motion carries.

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2 Bill No. 130847, as amended, is reported
3 from this committee with a favorable
4 recommendation with a request that rules
5 of Council be suspended to permit first
6 reading at the next Council session.

7 Bill No. 130684 is being held
8 at the request of the sponsor.

9 This concludes the business of
10 the Committee today. Thank you all very
11 much.

12 (Committee of the Whole
13 concluded at 1:45 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter, and that this is a true and
correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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