

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE OF THE WHOLE

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, November 12, 2013
1:30 p.m.

PRESENT:

COUNCIL PRESIDENT DARRELL L. CLARKE
COUNCILWOMAN CINDY BASS
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN BOBBY HENON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN
COUNCILMAN DAVID OH
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ
COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILLS 130684, 130685, 130688, 130691, and
130698
RESOLUTIONS 130709, 130710, 130711, 130712,
and 130713

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COUNCIL PRESIDENT CLARKE: Good afternoon, everyone. We're going to start. Thank you all very much.

Today we will be having a hearing on the Committee of the Whole. The Committee will consider the following bills and resolutions related to demolition practices: Bills No. 130684, 130685, 130688, 130691, and 130698 and Resolutions No. 130709, 130710, 130711, 130712, and 130713.

Mr. Christmas, please read the titles of the bills and resolutions.

THE CLERK: Bill No. 130684, an ordinance amending Title 4 of "The Philadelphia Building Construction and Occupancy Code," by amending Subcode A, entitled "The Philadelphia Administrative Code," Subcode "F" (The Philadelphia Fire Code), and Subcode "PM" (The Philadelphia Property Maintenance Code) of The Philadelphia Code, by adding new enforcement and inspection powers for the Fire Department at construction and

1 11/12/13 - WHOLE - BILL 130684, etc.
2 demolition sites, requiring sharing of
3 information amongst the City's
4 departments to ensure compliance with all
5 aspects of the code, and imposing a time
6 limit on destruction of imminently
7 dangerous structures; all under certain
8 terms and conditions; and

9 Bill 130685, amending Title 4
10 of The Philadelphia Code, entitled "The
11 Philadelphia Building Construction and
12 Occupancy Code," amending Subcode A,
13 entitled "The Philadelphia Administrative
14 Code," by adding a new Chapter on site
15 safety; amending Title 6 "Health Code,"
16 by increasing penalties and requiring
17 notices for asbestos projects; and
18 amending Title 9 of The Philadelphia
19 Code, entitled "Regulation of Businesses,
20 Trades and Professions," by adding
21 conditions for site safety monitor
22 licensing; all under certain terms and
23 conditions; and

24 Bill 130688, amending Title 9
25 of The Philadelphia Code, entitled

1 11/12/13 - WHOLE - BILL 130684, etc.
2 "Regulation of Businesses, Trades and
3 Professions," by adding new rules and
4 regulations pertaining to construction
5 licenses and renewals of those licenses;
6 creating demolition licenses and
7 increasing fines for expeditors that
8 falsify information, all under certain
9 terms and conditions; and

10 Bill 130691, amending Title 4
11 of "The Philadelphia Building
12 Construction and Occupancy Code," by
13 amending Subcode "A," (The Philadelphia
14 Administrative Code), and Subcode "B"
15 (The Philadelphia Building Code), and
16 Title 20 entitled "Officers and
17 Employees," of The Philadelphia Code, by
18 adding certain provisions related to
19 construction and demolition, special
20 inspections, contractors, stop work
21 orders, fees, fines, ethical violations
22 and penalties; all under certain terms
23 and conditions; and

24 Bill 130698, amending Title 4
25 of "The Philadelphia Building

1 11/12/13 - WHOLE - BILL 130684, etc.
2 Construction and Occupancy Code," of The
3 Philadelphia Code by amending Subcode
4 "A," (The Philadelphia Administrative
5 Code) by adding new definitions,
6 enforcement powers, a separate permit for
7 demolitions, and training requirements
8 for Licenses and Inspections code
9 officials; all under certain terms and
10 conditions; and

11 Resolution 130709, calling on
12 the School District of Philadelphia, the
13 Community College of Philadelphia and all
14 regional school districts to provide
15 Occupational Safety and Health
16 Administration training and certification
17 to students enrolled in Career and
18 Technical Education programs and to
19 further offer such training to
20 Philadelphia residents; and

21 Resolution 130710, urging the
22 Commonwealth Review and Advisory
23 Committee, the State Legislature and the
24 Governor to support, review and alter the
25 codes adoption process to ensure the

1 11/12/13 - WHOLE - BILL 130684, etc.
2 well-being, health and safety of all
3 Pennsylvania residents; and

4 Resolution 130711, authorizing
5 the formation of a Hazardous Material
6 Policy Group, to consider and make
7 recommendations on the abatement of
8 additional hazardous substances at
9 demolition sites prior to demolition and
10 to report its findings to the Special
11 Investigating Committee on Demolition
12 Practices; and

13 Resolution 130712, calling on
14 the Philadelphia Department of Licenses
15 and Inspections to strengthen oversight
16 and enforcement of the construction and
17 demolition industry through effective use
18 of technology by reporting on technology
19 improvement opportunities and further
20 reporting annually on the status of 71
21 recommendations proposed by the Special
22 Investigating Committee on Demolition
23 Practices in Philadelphia; and

24 Finally, Resolution 130713,
25 calling on Mayor Michael A. Nutter to

1 11/12/13 - WHOLE - BILL 130684, etc.
2 immediately issue an Executive Order to
3 require enforcement functions at the
4 Department of Licenses and Inspections to
5 report to the Department of Public
6 Safety, as recommended by the Special
7 Investigating Committee on Demolition
8 Practices in Philadelphia.

9 COUNCIL PRESIDENT CLARKE:

10 Thank you, Mr. Christmas.

11 Before I call our first
12 witness, I'd like to acknowledge and
13 thank Councilmembers Jones, Sanchez,
14 Blackwell, Kenney, and Henon for their
15 service on behalf of the City Council
16 Special Investigative Committee. The
17 work has culminated into legislation we
18 will now consider and, once fully
19 implemented, will result in safer
20 construction and demolition work sites
21 and safety for all of our citizens for
22 years to come.

23 I really want to thank you
24 guys. You did a great job over the
25 summer. I reiterate, over the summer.

1 11/12/13 - WHOLE - BILL 130684, etc.

2 Very good work.

3 With that, I'd like to call
4 possibly our first and only witness
5 today, Steven Lakin, the Executive
6 Managing Director of the General Building
7 Contractors Association.

8 (Witness approached witness
9 table.)

10 COUNCIL PRESIDENT CLARKE: Good
11 afternoon.

12 MR. LAKIN: Good afternoon.
13 President Clarke, members of the Council,
14 I want to thank you for the opportunity
15 to appear here today. My name is Steven
16 Lakin. I'm the Executive Managing
17 Director of the General Building
18 Contractors Association, the Philadelphia
19 builders' chapter of the Associated
20 General Contractors of America. GBCA has
21 a membership of over 300 commercial,
22 industrial, and institutional general
23 contractors, subcontractors, material
24 suppliers, and construction service firms
25 throughout the Greater Philadelphia

1 11/12/13 - WHOLE - BILL 130684, etc.
2 region.

3 We want to thank Council
4 President Clarke and Committee Chairman
5 Jones for allowing us the opportunity to
6 testify today, and we want to also thank
7 the members of the Special Investigative
8 Committee for their hard work on this
9 difficult topic and their willingness to
10 engage in a very constructive dialogue
11 with GBCA.

12 In addition, we want to thank
13 Licensing and Inspections Commissioner
14 Carlton Williams, who has unceasingly
15 demonstrated a desire to conduct his
16 department in the most business-friendly
17 manner possible.

18 Since 2003, there has been \$12
19 billion in new construction and major
20 renovation expenditures representing 63
21 million square feet of non-residential
22 space taking place within the City, all
23 mostly done by GBCA members. That amount
24 of construction activity in turn
25 supported 18 billion of economic activity

1 11/12/13 - WHOLE - BILL 130684, etc.
2 within the City and 28 billion of
3 economic activity within the
4 Commonwealth, supporting 65,000 jobs and
5 167 million in direct tax revenues for
6 the City. GBCA members pay a fair wage
7 rate to our workforce, and our numbers
8 are growing as the economy rebounds.
9 Although our industry is characterized by
10 low margins, our workforce is local, and
11 they enjoy above-average disposable
12 income and spend it in the vicinity.

13 The incident this summer at the
14 Salvation Army site was both tragic and
15 avoidable. This legislative package is
16 an important step in cracking down on
17 unqualified contractors working on
18 demolition and construction projects in
19 the City, which not only create an unsafe
20 environment but also result in the City
21 missing out on lost tax revenues. GBCA's
22 members follow the rules and want a level
23 playing field where all other contractors
24 do so as well. So we support the
25 concepts behind this legislation, and we

1 11/12/13 - WHOLE - BILL 130684, etc.
2 feel most of all the recommendations are
3 common sense and practical efforts,
4 especially those that require further
5 intergovernmental cooperation.

6 However, we do have concerns
7 about some of the areas in the
8 legislation and we caution the Committee
9 to seek to avoid creating too high a
10 burden on our members who are already
11 licensed and well trained and paying
12 their taxes. Philadelphia ranks among
13 the top five most expensive cities in
14 which to build. The construction and
15 development industries already struggle
16 with covering Philadelphia's existing
17 immense tax burden and regulatory
18 hurdles, and right now our projects in
19 Philadelphia are just barely breaking
20 even.

21 So we're thankful for the
22 amendments that are being considered that
23 will ensure that a worker without the
24 required training is fined or penalized
25 without punishing the general prime

1 11/12/13 - WHOLE - BILL 130684, etc.
2 contractor. The individual must be held
3 responsible for their training, but there
4 is no system in place for the prime
5 contractor to ensure that every worker is
6 qualified as promised. So the GBCA urges
7 the members of Council to support those
8 proposed amendments to Bill No. 130688.

9 On a similar note, it's
10 important that these necessary safeguards
11 do not create bureaucratic difficulty
12 where demolition plans are constantly
13 being reviewed but not allowed to
14 proceed. Developers and contractors need
15 certainty in order to move forward with
16 investments. L&I's temporary regulations
17 are well intended, but the practical
18 impact has resulted in many large
19 projects being delayed for months. GBCA
20 supports proposed amendments to Bill No.
21 130698 that will ensure that the plan
22 reviews will be finalized in a short time
23 period.

24 GBCA's chief concern lies with
25 Bill No. 130685, which requires an

1 11/12/13 - WHOLE - BILL 130684, etc.
2 independent site safety monitor be
3 present at every demolition and
4 construction project with buildings of
5 three or more stories adjacent to an
6 occupied property. The intent of this
7 legislation is understandable, to ensure
8 that all contractors are complying with
9 codes and safety requirements.

10 However, requiring that this
11 safety monitor not be employed by any of
12 the contractors on the project raises
13 several significant red flags. For one,
14 the general contractor will incur
15 additional and substantive costs on large
16 projects. But of even greater concern is
17 the potential for an independent monitor
18 with little training who might look to
19 assert himself in a manner that results
20 in slowing down or even stopping a
21 project. Although we support the notion
22 of a trained, qualified, and properly
23 licensed on-site person to oversee
24 demolition work, we question the criteria
25 for determining the appropriate person.

1 11/12/13 - WHOLE - BILL 130684, etc.
2 Our large general contractors all have
3 safety inspectors that are present at
4 their work sites and all have OSHA-30
5 certifications, but that doesn't mean
6 that they're qualified to oversee a
7 demolition project.

8 The possibility arises that a
9 safety plan for a project could be
10 produced by a registered professional
11 engineer, approved by a trained L&I
12 inspector, overseen by a contractor's
13 qualified safety inspection on-site
14 representative, and reviewed by other
15 trained L&I inspectors, but they're still
16 ground to a halt, a project, by an
17 independent safety monitor who thinks
18 they know better than everyone else.
19 Such delays and redundancies cost
20 significant money and will drive good
21 contractors away from working in
22 Philadelphia.

23 GBCA recommends instead that
24 contractors be allowed a choice so that
25 in their safety plan submitted to L&I

1 11/12/13 - WHOLE - BILL 130684, etc.
2 they must either commit to using an
3 independent safety monitor or present the
4 credentials of a more highly trained but
5 similarly licensed in-house safety
6 inspector. We hope that Councilwoman
7 Blackwell and other members of the
8 Committee will look upon this reasonable
9 compromise amendment proposal favorably.

10 Finally, I'd like to suggest a
11 slight modification to Bill Nos. 130684,
12 130685, and 130698, all of which at
13 various points require demonstrated OSHA
14 training. OSHA does a very good job in
15 many ways, but there are certainly
16 opportunities to improve upon what they
17 offer. Instead, Council might consider
18 requiring comparable training certified
19 by Licensing and Inspections and provided
20 through an industry organization such as
21 the General Building Contractors
22 Association. GBCA currently provides
23 various training programs for
24 construction employees, and we would be
25 interested in working with L&I and

1 11/12/13 - WHOLE - BILL 130684, etc.
2 Council to construct a
3 Philadelphia-centric safety training
4 course that might better facilitate the
5 goals of this legislative package.

6 In conclusion, I want to
7 underscore GBCA supports the City
8 Council's desire to ensure that all
9 construction industry personnel are
10 properly trained, following the required
11 safety regulations and guidelines, and
12 adhering to best practices. GBCA is
13 committed to ensuring that member
14 companies comply with and uphold all that
15 is required, and we are eager to have a
16 level playing field so that the bad
17 actors are held to the same standards we
18 routinely adhere to. And we ask the
19 Committee to consider our testimony and
20 input on these bills.

21 Thank you very much.

22 COUNCIL PRESIDENT CLARKE:

23 Thank you very much for your testimony.

24 Any questions of this witness?

25 The Chair recognizes Councilman

1 11/12/13 - WHOLE - BILL 130684, etc.

2 Jones.

3 COUNCILMAN JONES: Thank you,
4 Mr. President.

5 And I wanted to publicly thank
6 you, Mr. Lakin, and the GBCA for taking
7 the time to come in and educate us on the
8 industry that you've spent multiple
9 decades becoming masters in. We learned
10 a lot from you, got a lot of insights as
11 to how the practical aspects of things
12 go, and one of the things that came out
13 of our dialogue and discussion was that
14 most of these laws you already do or
15 exceed. And we realized -- and I think
16 it might have been Councilman Kenney that
17 said it first -- was that we realized
18 that 98 percent of the folk who do this
19 are going to do this above and beyond
20 because of insurance, risk management,
21 and other things. It is for the 2
22 percent that want to fly below the radar,
23 come into communities at night off hours,
24 back up trucks and tear down buildings
25 with regard to that kind of safety that

1 11/12/13 - WHOLE - BILL 130684, etc.
2 this is more designed for.

3 But what we also appreciate was
4 in our efforts to make the public more
5 safe, that we don't create a boil on the
6 butt of development progress. But
7 clearly, for the record, if we had to err
8 one over the other, it is always going to
9 be on the side of public safety.

10 The other thing that we took to
11 heart was that OSHA is a floor, not
12 necessarily a ceiling, and that there are
13 many industry standards that exceed that
14 in a number of ways. We're not ruling
15 out trying to reach more professional
16 heights by looking at them. We really
17 appreciate you and your members coming
18 out and really giving us plain talk, if
19 you would, about what was going on, and
20 we will take that into consideration as
21 we deliberate over this legislation.

22 Thank you, Mr. President.

23 COUNCIL PRESIDENT CLARKE:

24 Thank you, Councilman.

25 With that, that concludes the

1 11/12/13 - WHOLE - BILL 130684, etc.
2 witness list for today's hearing. If
3 there are no other questions of this
4 witness, thank you very much for your
5 testimony.

6 MR. LAKIN: Thank you,
7 Mr. President.

8 COUNCIL PRESIDENT CLARKE: And
9 I understand that there is an amendment
10 to be offered, so we will briefly go into
11 the public meeting, and the Chair
12 recognizes Councilman Kenney.

13 COUNCILMAN KENNEY: Thank you,
14 Mr. President. I offer an amendment,
15 which has been circulated to the members
16 of the Committee of the Whole, to Bill
17 No. 130684, and I move the adoption of
18 that amendment.

19 (Duly seconded.)

20 COUNCIL PRESIDENT CLARKE: It
21 has been moved and properly seconded that
22 the amendment to Bill No. 130684 be
23 adopted.

24 All those in favor say aye.

25 (Aye.)

1 11/12/13 - WHOLE - BILL 130684, etc.

2 COUNCIL PRESIDENT CLARKE:

3 Those opposed?

4 (No response.)

5 COUNCIL PRESIDENT CLARKE: The
6 ayes have it and the motion carries, and
7 that amendment to Bill No. 130684 has
8 been adopted.

9 Thank you. We will now go back
10 into our public hearing, and the Chair
11 recognizes Councilman Jones.

12 COUNCILMAN JONES: Thank you,
13 Mr. President. We are -- you are about
14 to recess this hearing so that we can do
15 a couple of worthwhile things. One, just
16 to recap, that we've had since June 5th
17 six public hearings here in these
18 Chambers, which have resulted in dozens
19 of offline meetings that have resulted in
20 five resolutions, five ordinances that we
21 are considering now.

22 In our effort to cooperate with
23 the Administration, we've had a series of
24 meetings to talk about amendments, even
25 resulting in title changes, even

1 11/12/13 - WHOLE - BILL 130684, etc.
2 resulting in requests for budgets, so
3 that in order to do a law, you have to
4 know how you're going to actually
5 implement it.

6 So we've been going back and
7 forth over this period of time to gain
8 insight. I believe in Thursday's hearing
9 when the Administration is prepared to
10 testify, they will have considered some
11 of the amendments, counter-amendments,
12 issues related to the bill, which will
13 make it go a lot smoother and with a lot
14 more consensus, all erring on the side of
15 public safety.

16 So with that, I offer that as
17 some rationale as to why we are going to
18 conclude today and pick it up on
19 Thursday.

20 COUNCIL PRESIDENT CLARKE:

21 Thank you very much, Councilman.

22 And with that, we will recess
23 the Committee of the Whole until
24 Thursday, November 14th at 1:00 p.m. to
25 continue the conversation about

1 11/12/13 - WHOLE - BILL 130684, etc.
2 legislation with respect to the
3 demolition.

4 Thank you all very much.
5 (Committee of the Whole
6 adjourned at 1:50 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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