

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LICENSES AND INSPECTIONS

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, February 23, 2011
1:45 p.m.

PRESENT:

COUNCILWOMAN MARIA D. QUINONES-SANCHEZ, CHAIR
COUNCILMAN DARRELL CLARKE
COUNCILMAN BILL GREEN
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN JACK KELLY
COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILL 100615 - An Ordinance amending Title 21
of The Philadelphia Code, entitled
"Miscellaneous," by adding a new Chapter,
entitled "Neighborhood Blight Reclamation and
Revitalization," providing remedies for the
remediation of neighborhood blight...
BILL 110084 - An Ordinance amending Chapter 1,
Subcode "PM" (The Philadelphia Property
Maintenance Code) and Chapter 4-200.0, Subcode
"A" (The Philadelphia Administrative Code) of
Title 4 of The Philadelphia Code, by amending
Section PH-102.0, entitled "Licensing," to
provide for exemptions for certain vacant
property uses...

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2 COUNCILWOMAN SANCHEZ: My
3 apologies. The Committee on Licenses and
4 Inspections will have a hearing.

5 For those who are unaware, Bill
6 100615 is being held. So today's public
7 hearing will be on Bill 110084 only, a
8 quorum being established with Councilman
9 Kelly, Councilman Bill Green, Councilman
10 Bill Greenlee and Councilwoman Blondell
11 Reynolds Brown.

12 Will the Clerk read the title
13 of the bill.

14 THE CLERK: Bill No. 110084, an
15 Ordinance amending Chapter 1, Subcode
16 "PM" (The Philadelphia Property
17 Maintenance Code) and Chapter 4-200.0,
18 Subcode "A" (The Philadelphia
19 Administrative Code) of Title 4 of The
20 Philadelphia Code, by amending Section
21 PM-102.0, entitled "Licensing," to
22 provide for exemptions for certain vacant
23 property uses; and by amending Section
24 A-906 of Subcode "A," entitled "Property
25 Maintenance Code Fees," to reduce the

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2 license fees charged to own a vacant lot,
3 vacant building or vacant wharf; all
4 under certain terms and conditions.

5 COUNCILWOMAN SANCHEZ: Thank
6 you.

7 The bill sponsor -- I'm going
8 to recognize Councilman Darrell Clarke,
9 the bill sponsor, for comments before we
10 take testimony.

11 COUNCILMAN CLARKE: Thank you,
12 Madam Chair.

13 Good morning. Madam Chair, I
14 would just like to briefly state the
15 purpose of the bill.

16 As some people know, there was
17 a bill introduced during the last year's
18 budget season that escalated the license
19 fee on vacant lots. That particular
20 implementation of that license fee was
21 also used to forward license fee increase
22 notifications to individuals that had
23 side yards.

24 This particular bill clarifies
25 the language as it relates to side yards.

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2 Apparently, those individuals who had
3 licensed side yards with -- being deeded
4 to that particular individual were issued
5 a license fee in error. The Code already
6 prohibits a fee imposed on individuals
7 who have side yards; i.e., contiguous to
8 their particular properties. So this
9 particular bill clarifies that.

10 The other issue was the
11 imposition of, as most people -- I think
12 most would concur, is a relatively
13 aggressive fee, that during the course of
14 the fiscal year went from \$50 to \$750.
15 There was an error as it related to the
16 increase from 300 to 750,
17 administratively an oversight. The
18 original proposal called for an increase
19 from 50 to 300. License and Inspection I
20 assume is here today to testify as to the
21 basis for the 300. This bill will delete
22 the 750 number and bring it back to the
23 original bill, which was 300.

24 The general purpose of the
25 imposition of a fee is twofold. One,

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2 unfortunately, vacant lots throughout the
3 City of Philadelphia, particularly those
4 that are unkept, have created significant
5 burdens on residential communities as it
6 relates to being unkept, as it relates to
7 the property values associated with those
8 particular neighborhoods.

9 The other issue is, whereas
10 traditionally there is a request to have
11 the City come out and issue a code
12 violation, in the real world sometimes
13 people simply can't wait for that owner
14 to abate the nuisance, so the City has to
15 incur a cost as it relates to abating the
16 nuisance created by some of those vacant
17 lots.

18 And, thirdly, we would like to
19 create an incentive for that individual
20 to either sell or develop that lot to
21 become a productive parcel within the
22 City of Philadelphia.

23 So I just wanted to briefly put
24 that on the record, and I'd like to thank
25 you for your indulgence on this

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2 particular bill.

3 Thank you, Madam Chair.

4 COUNCILWOMAN SANCHEZ: Thank
5 you, Councilman Clarke.

6 We are going to start with Otis
7 Haigler from the Administration, and then
8 we have someone from HAPCO. If anybody
9 else is here to testify on this bill,
10 please report in, since we do not have
11 you registered to testify for the bill.

12 I also want to note that I will
13 be presenting an amendment to this after
14 the testimony.

15 (Witness approached witness
16 table.)

17 COUNCILWOMAN SANCHEZ:
18 Mr. Haigler.

19 MR. HAIGLER: Good afternoon,
20 Councilwoman Sanchez and members of the
21 Committee. I am Otis Haigler, Jr.,
22 Director of Legislative Affairs for the
23 Department of Licenses and Inspections.
24 Today, I'm here to provide testimony on
25 Bill 110084, which, if enacted, will

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2 amend The Administrative and Property
3 Maintenance Codes related to vacant
4 properties by lowering the fees charged
5 for licensing from \$750 to \$300 and by
6 amending the definition for such
7 properties. In addition, the proposed
8 bill further clarifies that side yards
9 with common ownership to adjacent
10 buildings are exempted from the
11 requirements for licensing, and also the
12 same applies to community gardens that
13 are operated by a community group or
14 association.

15 Thank you for the opportunity
16 to provide the Department's testimony,
17 and I'll be happy to answer any
18 questions.

19 COUNCILWOMAN SANCHEZ: Does
20 anyone have questions for Mr. Haigler?

21 (No response.)

22 COUNCILWOMAN SANCHEZ: Okay.
23 If you want to remain with us while we
24 take Mr. Zaslow's testimony, and then I
25 have a Mr. David Johnson. So if you want

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2 to get ready.

3 For the record, as Mr. Zaslow
4 comes forward, we have a letter from the
5 Building Industry Association that has
6 been distributed to my colleagues.

7 (Witnesses approached witness
8 table.)

9 MR. ZASLOW: Good morning,
10 Madam Chairwoman. My name is Darrell
11 Zaslow. I am legal counsel to HAPCO, the
12 Homeowners Association of Philadelphia.
13 Sitting with me today is Victor Pinckney,
14 Sr. Mr. Pinckney is the President of
15 HAPCO. I would also like to acknowledge
16 sitting with us Mr. Willllie Seward,
17 Ms. Wanda Staples, Mr. Albert Smith and
18 Mr. Robert Jackson, who are all here
19 today and are all serving on the Board of
20 Directors of the Homeowners Association
21 of Philadelphia.

22 Madam Chairwoman, one matter of
23 procedure, if I may, and it's not
24 contained in my testimony because it's
25 just occurring here in this Chamber, and,

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2 that is, I am constrained to suggest to
3 the honored committee of Council that
4 this Committee of Council is an agency of
5 government for purposes of the Sunshine
6 Law, and when the meeting starts a half
7 an hour late because of your reasons,
8 that is not a problem, but from the
9 perspective of the public and those of us
10 who are very much interested in this
11 bill, to sit behind the sign that says we
12 are not permitted to come forward beyond
13 the bar and a member of the
14 Administration who has testified on the
15 bill is invited to speak with you with a
16 quorum of this Committee present -- there
17 was a quorum of your Committee present
18 during the entirety of your
19 off-the-record, private discussion about
20 something. Not having been privy to it,
21 I don't know what it was. I know that
22 Mr. Haigler was there. If it's about
23 personal matters having nothing to do
24 with the government of our city, then
25 please excuse my comments. If the

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2 discussion being had by a quorum of this
3 Committee in private, without the public
4 being privy to it and without the
5 reporter, who is sitting in the back
6 taking down this testimony but not taking
7 down your discussions, that is a
8 violation of the Sunshine Law and is not
9 permissible.

10 I don't think I have to say
11 anything more about that. I'm not
12 looking to overburden your honored
13 committee with nuances of procedural
14 requirements, and yet that is a
15 procedural requirement which I suggest to
16 the Committee needs to be adhered to.

17 COUNCILWOMAN SANCHEZ: Duly
18 noted. Proceed with your testimony.

19 MR. ZASLOW: Thank you, Madam
20 Chairwoman.

21 Madam Chairwoman, we have
22 appeared before this Committee on several
23 occasions regarding our opposition to the
24 extraordinary increase of the license
25 application fee for vacant lots and for

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2 vacant structures.

3 In 2008, when Council raised
4 the license fee for a vacant lot or a
5 vacant property from \$30 to \$50, you
6 heard no complaint from the property
7 owners.

8 In 2010, when in rapid
9 succession you proceeded to increase the
10 fee from \$50 to \$300 to \$750, we had
11 suggested most strongly that the City
12 Council does not have the legal authority
13 to charge exorbitant fees far exceeding
14 the cost of issuance of the license.

15 We reminded the Committee at
16 that time of the strict application of
17 law, that license fees cannot be used as
18 a revenue-generating measure. Our
19 request that the City not increase the
20 license fee to an impermissible sum was
21 ignored and Council proceeded to raise
22 the fee from what within the last 24
23 months was \$30 to \$750, an increase, if
24 my math is correct, of 2,500 percent.

25 We draw your attention to the

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2 property tax increase of ten percent,
3 which Council implemented. That's an
4 enormous sum. Frankly, the ten percent
5 property tax increase to my members, who
6 are property owners, far exceeds the
7 impact of this license fee here in
8 question, and yet, Madam Chairwoman,
9 members of the Committee, when you raise
10 taxes on property 9.9 percent, we were
11 not here protesting. We did not come to
12 you and suggest to you that you don't
13 have the power, because you do. You have
14 the legal right to levy taxes as you see
15 fit. And, further, we recognized the
16 dire straits of the City and, frankly, we
17 gave credit to the good offices of the
18 Council and the Mayor's Office in
19 attempting to resolve the fiscal dilemma.
20 So though painful to members of our
21 organization being property owners, more
22 than anyone else in the City, we didn't
23 come and complain about the property tax
24 increase.

25 This bill before you today is a

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2 different matter. With the license fee
3 that you are considering, you do not have
4 the power under law to simply plug a
5 number into a fee schedule.

6 Now, we note that you're
7 proposing now to set the fee at \$300.
8 This, in our opinion, is likewise an
9 indefensible fee, bearing no relationship
10 to the actual cost for the issuance of
11 the license, and you have an opportunity
12 today to rectify the matter by
13 instituting a proper fee.

14 Now, you are probably aware
15 that faced with Council's rejection of
16 our insistence that you not have the
17 power to increase the fee, the Homeowners
18 Association of Philadelphia, HAPCO,
19 together with approximately 20 other
20 property owners, was left with no choice
21 but to sue the City, and that's what we
22 did. And you may be aware that the court
23 has entered an injunction against your
24 imposition of the \$750 fee. Frankly,
25 this court order is as much benefit to

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2 you as a Council as it is to us, because
3 the suggestion that perhaps the Mayor
4 simply not collect the fee was probably
5 legally untenable. I think the Mayor
6 said he couldn't do that, and the court
7 order, which we have procured, enables
8 you to think this matter through a little
9 more carefully.

10 The fee, our suggestion to you
11 is, needs to be set to where the fee was
12 before the frantic rush to raise license
13 fees was instituted. The fee at \$300 is
14 exorbitant, unjustified. You have no
15 testimony even today explaining to this
16 Committee where the number of \$300 should
17 come from, whereas facts and figures
18 showing what the license fee should be.

19 We suggest that the bill be
20 amended to set the fee back to where it
21 was and where it should be. A license
22 fee of \$50 is charged to obtain a housing
23 license. The same piece of paper, the
24 same application, it's the same document,
25 should carry the same fee. It's one

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2 piece of paper if a house is occupied or
3 vacant. It's one piece of paper if a lot
4 is occupied with a structure or vacant.
5 The same piece of paper, which for \$50 is
6 processed by L&I, can be processed for
7 \$50 as to the vacant lot as well.

8 We, therefore, request of you
9 that you amend this bill to provide that
10 the fee will be set at \$50, which we'll
11 be happy to pay our fair share of the
12 cost of L&I's operations.

13 Madam Chairwoman, thank you as
14 always for the opportunity to address the
15 Committee.

16 COUNCILWOMAN SANCHEZ: Thank
17 you.

18 I don't know if the gentleman
19 to your right has any testimony.

20 MR. PINCKNEY: No, I don't.

21 COUNCILWOMAN SANCHEZ: Thank
22 you.

23 Will Mr. Dave Johnson please
24 come forward.

25 (Witness approached witness

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2 table.)

3 COUNCILWOMAN SANCHEZ:

4 Mr. Johnson, proceed with your testimony.

5 Please state your name for the record.

6 MR. JOHNSON: Yes. Good

7 afternoon, Madam Chair. My name is Dave

8 Johnson and I'm here to represent my

9 mother, Collee C. Johnson-McCloud,

10 because she was the one that received the

11 bill for the \$750 for the license fee,

12 and my argument parallels the gentleman

13 that just spoke about the exorbitance of

14 the inflation on that bill.

15 I submitted a letter to Jannie

16 Blackwell as well as the Chief Clerk

17 stating that to me that was an act of

18 extortion to go that high above --

19 COUNCILWOMAN SANCHEZ: Is it a

20 side lot?

21 MR. JOHNSON: It's not a side

22 lot. My mother owns the side lot. There

23 is one vacant lot, then the next property

24 my mother owns. So she cannot sneak in

25 under the adjacent clause that was stated

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2 here. So it's just if that bill is going
3 to go in as it's stated, my mother would
4 still be responsible for paying \$750.

5 Whereas, if it was amended to eliminate
6 the exclusivity of only these people will
7 have to pay, you know, that's basically
8 what we're seeking, so that the bill, the
9 fee itself, would be diminished at some
10 level.

11 COUNCILWOMAN SANCHEZ: I need a
12 clarification from Otis.

13 He has a lot next to his side
14 lot. Would they be exempt under this
15 amendment?

16 MR. JOHNSON: At this point, my
17 mother lives at 4243 Girard Avenue. 4245
18 Girard Avenue is the gift property that
19 she owns as well. So that would be in
20 the clause of the exemption because of
21 dual ownership. However, there's a
22 vacant property, 4247 Girard Avenue,
23 that --

24 COUNCILWOMAN SANCHEZ: Does she
25 own it?

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2 MR. JOHNSON: We're seeking to
3 acquire that. However, adjacent to that
4 is 4249, and she owns that. So that's
5 out in the wind, no adjoining property
6 next to it. So that's why this would be
7 enforced upon us, and we're trying to
8 just state an argument.

9 COUNCILWOMAN SANCHEZ: For
10 clarification, Otis, this falls in a lot
11 that's not necessarily adjacent but is
12 being taken care of.

13 Does she have a garden in
14 there? What does she have in there?

15 MR. JOHNSON: That area is
16 maintained and we actually park there.

17 COUNCILWOMAN SANCHEZ: Is it
18 zoned for parking?

19 MR. JOHNSON: That I don't
20 believe so. That would require research
21 on my part. But maintained, definitely.

22 COUNCILWOMAN SANCHEZ: So it
23 wouldn't fall under this?

24 MR. HAIGLER: No.

25 COUNCILWOMAN SANCHEZ: We are

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2 going to reduce the fee to \$300. What I
3 would suggest to you is that if your
4 mother is acquiring the one in the
5 middle -- is that privately owned or is
6 it through the City?

7 MR. JOHNSON: I think it's
8 owned through the City. Years ago it was
9 owned by a Dan West, and we've pursued
10 him to no avail. So we believe this --

11 COUNCILWOMAN SANCHEZ: Because
12 at some point, she has to add those lots
13 to the deed so that she could be exempt.
14 That's what's going to need to be done.
15 But we're going to reduce the fee to 300.
16 Unfortunately, it will not address the
17 other issue, particularly if you're using
18 it for parking without appropriate
19 zoning.

20 MR. JOHNSON: Okay. Duly
21 noted.

22 COUNCILWOMAN SANCHEZ: Okay.

23 MR. JOHNSON: Thank you much.

24 COUNCILWOMAN SANCHEZ: Thank
25 you.

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2 We are going to recess the
3 public meeting and go into the public --
4 the public hearing and go into the public
5 meeting.

6 Councilman Greenlee, can I get
7 a motion on the amendment to Bill 110084?

8 COUNCILMAN GREENLEE: Thank
9 you, Madam Chair. I move the adoption of
10 the amendment to Bill No. 110084.

11 COUNCILWOMAN SANCHEZ: Can I
12 hear a second?

13 (Duly seconded.)

14 COUNCILWOMAN SANCHEZ: All in
15 favor?

16 (Aye.)

17 COUNCILWOMAN SANCHEZ: Any
18 oppositions?

19 (No response.)

20 COUNCILWOMAN SANCHEZ: Duly
21 amended.

22 Can I get a motion on the bill
23 as amended with a suspension of the
24 rules.

25 COUNCILMAN GREENLEE: Thank

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2 you, Madam Chair. I move that Bill No.
3 110084, as amended, be reported out of
4 this Committee with a favorable
5 recommendation and move further that the
6 rules of Council be suspended to allow
7 for first reading at our next session of
8 Council.

9 (Duly seconded.)

10 COUNCILWOMAN SANCHEZ: All in
11 favor?

12 (Aye.)

13 COUNCILWOMAN SANCHEZ: Any
14 oppositions?

15 (No response.)

16 COUNCILWOMAN SANCHEZ: Bill No.
17 110084 will be moved out of Licenses and
18 Inspection with a favorable
19 recommendation and rules suspension for
20 our next public session.

21 Thank you very much. The
22 Transportation Committee will be -- I
23 mean the Public Safety Committee will be
24 starting shortly.

25 Thank you all.

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2 (Committee on Licenses and

3 Inspections concluded at 2:05 p.m.)

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2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on February 23, 2011, and
8 that this is a true and correct transcript of
9 same.

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14 -----
15 MICHELE L. MURPHY
16 RPR-Notary Public
17
18
19

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