COUNCIL OF THE CITY OF PHILADELPHIA

COMMITTEE OF THE WHOLE

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, November 14, 2013
1:40 p.m.

PRESENT:
COUNCIL PRESIDENT DARRELL L. CLARKE
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
COUNCILMAN MARK SQUILLA

BILLS 130684, 130685, 130688, 130691, and 130698

RESOLUTIONS 130709, 130710, 130711, 130712, and 130713

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COUNCIL PRESIDENT CLARKE: We're going to start now. Thank you.

Good afternoon. Today we'll be reconvening the Committee of the Whole of the City of Philadelphia to discuss the demolition bills. We will consider the following bills and resolutions relating to the demolition practices: Bills No. 130684, 130685, 130688, 130691, 130698 and Resolutions 130709, 130710, 130711, 130712, and 130713.

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

THE CLERK: Bill No. 130684, amending Title 4 "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 further amending construction and demolition practices, including but not limited to the

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following: adding new enforcement and inspection powers for the Fire Department at construction and demolition sites, requiring sharing of information amongst the City's departments to ensure compliance with all aspects of the code, establishing worksite public safety requirements, requiring evidence of training compliance by construction and demolition workers and new signage requirements; all under certain terms and conditions; and

Bill 130685, amending Title 4 of The Philadelphia Code, entitled "The Philadelphia Building Construction and Occupancy Code," amending Subcode A, entitled "The Philadelphia Administrative Code," by adding a new Chapter on site safety; amending Title 6 "Health Code," by increasing penalties and requiring notices for asbestos projects; and amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," by adding

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conditions for site safety monitor licensing; all under certain terms and conditions; and

Bill 130688, amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," by adding new rules and obligations pertaining to construction licenses and renewals of those licenses; creating demolition licenses and increasing fines for expediters that falsify information, all under certain terms and conditions; and

Bill 130691, amending Title 4 of "The Philadelphia Building Construction and Occupancy Code," by amending Subcode "A," (The Philadelphia Administrative Code), and Subcode "B" (The Philadelphia Building Code), and Title 20 entitled "Officers and Employees," of The Philadelphia Code, by adding certain provisions related to construction and demolition, special inspections, contractors, stop work

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orders, fees, fines, ethical violations and penalties; all under certain terms and conditions; and

Bill 130698, amending Title 4 of "The Philadelphia Building Construction and Occupancy Code," of The Philadelphia Code by amending Subcode "A," (The Philadelphia Administrative Code) by adding new definitions, enforcement powers, a separate permit for demolitions, and training requirements for Licenses and Inspection code officials; all under certain terms and conditions; and

Resolution 130709, calling on the School District of Philadelphia, the Community College of Philadelphia and all regional school districts to provide Occupational Safety and Health Administration training and certification to students enrolled in Career and Technical Education programs and to further offer such training to Philadelphia residents; and

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Resolution 130710, urging the Commonwealth Review and Advisory Committee, the State Legislature and the Governor to support, review and alter the codes adoption process to ensure the well-being, health and safety of all Pennsylvania residents; and

Resolution 130711, authorizing the formation of a Hazardous Material Policy Group, to consider and make recommendations on the abatement of additional hazardous substances at demolition sites prior to demolition and to report its findings to the Special Investigating Committee on Demolition Practices; and

Resolution 130712, calling on the Philadelphia Department of Licenses and Inspections to strengthen oversight and enforcement of the construction and demolition industry through effective use of technology by reporting on technology improvement opportunities and further reporting annually on the status of 71

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recommendations proposed by the Special Investigating Committee on Demolition Practices in Philadelphia; and

Finally, Resolution 130713, calling on Mayor Michael A. Nutter to immediately issue an executive order to require enforcement functions at the Department of Licenses and Inspections to report to the Department of Public Safety, as recommended by the Special Investigating Committee on Demolition Practices in Philadelphia.

COUNCIL PRESIDENT CLARKE: Thank you, Mr. Christmas.

With that, we would like to call our first panel representing the Administration, Mr. Carlton Williams, the Commissioner of Department of License and Inspection, and anyone else that he so chooses to have with him at the table.

(Witnesses approached witness table.)

COMMISSIONER WILLIAMS: Thank you, Council President. Good afternoon.

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COUNCIL PRESIDENT CLARKE: Good afternoon.

COMMISSIONER WILLIAMS: Good afternoon, Council President and members of the Committee of the Whole. My name is Carlton Williams, Commissioner of the Department of License and Inspections. I am pleased to have the opportunity to testify before you on this very important set of legislation. With me to my right is Deputy Commissioner Michael Fink.

The proposals before Council were crafted by the Special Investigating Committee on Demolition Practices following public hearings held this summer. Following the tragedy which occurred on June 5th, 2013 at 22nd and Market Street, both Mayor Nutter and Council President Clarke took action. On June 12th, the Mayor issued an Executive Order for the new Philadelphia Demolition Standards and Activity Controls developed by the Department. The new standards imposed stricter requirements on the

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demolition permit and application process. Demolition contractors are now required to submit worksite safety plans and work schedules and demonstrate that they have the level of experience to perform the project specifications. The permit review and approval process has been tightened for issuing a demolition permit.

Council President Clarke formed the Special Investigating Committee on Demolition Practices to look into the Department of L&I's practices and procedures regarding demolitions. Throughout the summer, the Department participated and cooperated with the Committee in reviewing demolition in the City of Philadelphia. The culmination of the Committee's work came in this report thoroughly analyzing demolition practices and procedures in the City, as well as the Committee's proposed legislation in Bill No. 130684 introduced by Councilman Kenney, Bill No. 130685 introduced by

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Councilwoman Blackwell, Bill No. 130688 introduced by Councilman Henon, Bill No. 130691 introduced by Councilwoman Sanchez, and Bill No. 130698 introduced by Councilman Jones.

The Mayor also issued an Executive Order 6-13 on October 31st creating a Special Independent Advisory Commission on L&I. The Commission will broadly review all of L&I's functions, processes, procedures in detail, with the view towards enhancing the agency globally. The Committee's report will be issued by July 1st, 2014, and we look forward to presenting it to Council.

With respect to the bills proposed by the Special Investigating Committee, the Department has been and remains fully committed to working with City Council to adopt legislation that will improve the current practices and bring a new level of safety to demolition projects here in the City. I would like to thank Chairman Curtis Jones and the

members of the Committee for their hard work on the Special Investigating Committee.

I am here today to offer testimony for L&I on the Special Committee's bills just mentioned. L&I believes these legislative proposals are a positive step in reforming demolition practices and procedures in the City and making the public safer overall. As the agency charged with on-the-ground day-to-day enforcement, L&I does have a number of amendments that we propose that will enhance the underlying policies that reinforces legislative intent and ease administration, all in the support of public safety. We are committed to working with the sponsors and the members of the Special Investigating Committee and all members of Council on arriving at optimal formulation of the Committee's recommendations for reforming demolition in Philadelphia.

Bill No. 130684 would amend

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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 further amending construction and demolition practices, including but not limited to the following: adding new enforcement and inspection powers for the Fire Department at construction and demolition sites, requiring sharing of information amongst City departments to ensure compliance with all aspects of the code, establishing worksite safety requirements, requiring evidence of training compliance by construction and demolition workers and new signage requirements. As introduced, the bill also requires OSHA training and credentialing of all workers at construction and demolition sites, as

well as imposing signage requirements.

The Department is committed to work with Council on this bill. The bill seeks to legislate improvements in communication amongst City operating departments; specifically, the Fire Department, 3-1-1, and L&I. While strong communication is already established, we do not oppose the steps proposed by this bill in that regard. We believe that there have been some issues around the separation of powers, but we do not object to the provision as public policy.

The provision that deals with OSHA training and identification cards for all workers do pose some issues, as well as the definition of a major building. Even as amended, the requirement raises questions of federal preemption that require further legal analysis. As a practical matter, these provisions are outside the Department's core enforcement scope. L&I is, of course, prepared to respectfully suggest

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alternative methods to achieve a common goal, which is to make site safety the priority on every job site.

We are glad that a definition of "major building" has been adopted by amendment. We do, however, note that the definition calls for all buildings covering 10,000 square feet or more to be defined as a major building. In some cases, this can include small structures as well as a private residence. We would urge Council to consider increasing this measure to no less than 50,000 square feet.

Finally, regarding proposed signage requirements, L&I supports clear, functional signage at demolition sites. The proposal here is a move in the right direction and strong support basis for further collaboration on this policy.

Bill No. 130685 would amend Title 4 "The Philadelphia Building Construction and Occupancy Code," by amending Subcode "A," (The Philadelphia

Administrative Code), Title 6 of The Philadelphia Code, entitled "Health Code," and Title 9 of The Philadelphia Code, "Regulation of Businesses, Trades and Professions," to add certain provisions related to construction and demolition, special inspections, contractors, stop work orders, fees, fines, ethical violations and penalties.

The Department of License and Inspections supports Bill No. 130685 and its provisions for additional oversight for complete demolition of buildings three stories and larger with an adjacent occupied property in the City of Philadelphia.

This includes the bill's proposals concerning the registration and regulation of site safety monitors (referred to in the Building Code as "special inspectors"). The Department supports the use of special inspectors, which are third-party independent professionals hired by the property owner

to review, monitor, and inspect the demolition of major buildings. The registration and regulation of special inspectors would be governed by this bill, while the requirements for when a special inspector must be employed are contained in the Building Code provisions of Bill No. 130691.

Special inspectors complement the Department's existing inspections and oversight by requiring independent, qualified third parties to remain on site during the demolition of major buildings to ensure that contractors and property owners act in a manner consistent with all codes and regulations. Third-party inspections have proven effective in other areas of the industry and are currently used by the City for certifying electrical and fire alarm systems. We agree that these businesses must register with the Department according to detailed criteria.

The Department agrees that the

Special Inspection staff have certain qualifications, including OSHA-30 training. I note that IBC requirements adopted under state law mandate that special inspections must ultimately be supervised by a licensed engineer. However, our proposed amendments would provide as much flexibility as possible in meeting this requirement, allowing individuals who possess OSHA-30 training and appropriate job experience to actually perform the bulk of the inspections.

The Department fully supports the administration provisions in the bill that relate to methods of overseeing special agencies, including giving the Department authority to audit agencies and revoke an agency's registration found to violate the Building Code. The Department will work to further strengthen these controls with City Council approval.

A Special Inspection program

such as this fits within The Philadelphia Code's regulatory format and incorporates oversight similar to that required in New York City. It also codifies recent changes made by the Department to our Special Inspection program as a result of our recent accreditation by the International Accreditation Service. Going forward, the Department anticipates additional Special Inspection qualifications to be proposed and looks forward to working with Council to codify these additional requirements.

Bill No. 130688 proposes to amend Title 9 of The Philadelphia Code by adding new rules and obligations pertaining to construction and demolition licensing, and increasing fines for expediters that falsify information.

The Department supports this bill's intent to establish special licensing for demolition contractors. We agree with the concept in the bill to create specific standards for licensing

demolition contractors and would respectfully suggest including even more comprehensive requirements in this area. With specific roles for the demolition contractor, demolition supervisor, and the site safety manager, we believe that we can ensure that contractors performing demolition understand how to make site safety a top priority.

For the license, in addition to the commercial activity license and tax identification number, we are suggesting proof of insurance and bonding, a certification of City tax compliance, and compliance with all applicable state laws and acknowledgments regarding the site safety manager to ensure that qualified workers are on the job sites at all times. In addition, we are suggesting insurance and bonding requirements at the licensing level. This would work with the requirement that applications for demolition permits include proof of insurance and bonding. We have also

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proposed language to give the Department the power to revoke and suspend licenses when and where necessary. We feel that this bill provides organizational structure and defines the demolition contractor qualifications, and hope to work with the Councilman and his team to make these amendments to the code.

On the matter of fees for expediters, L&I has no objection to the fee and understands that this provision may be moved to Bill No. 130691 for technical reasons.

Bill No. 130691 would amend Title 4, Subcode "A," (The Philadelphia Administrative Code), and Subcode "B," (The Philadelphia Building Code), and Title 20 entitled "Officers and Employees," by adding certain provisions related to construction and demolition, special inspections, contractors, stop work orders, fees, fines, ethical violations and penalties; all under certain terms and conditions.

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Bill No. 130691 incorporates and expands the new Demolition Standards and Activity Controls in the Building and Administrative Codes and offers additional safeguards to help ensure public safety. We will update the appropriate codes and implement all aspects of this bill that are not already being addressed through the new Activity Controls. The Department supports this bill, as it provides improved demolition requirements, a greater level of oversight for demolition, and describes pedestrian and adjoining property protections. We believe that this bill site safety will -- we believe that with this bill, site safety will be the overriding priority on every job site.

These changes will be made effective upon amending the corresponding codes, a process that requires approval from the Pennsylvania Department of Labor and Industry. We believe that the amendments could be approved in the next

three to six months.

We have proposed several changes to the bill and would be happy to discuss them further.

Bill No. 130698 proposes to amend Title 4 by amending Subcode "A," (The Philadelphia Administrative Code) by adding certain provisions related to construction and demolition, special inspections, contractors, stop work orders, fees, fines, ethical violations and penalties; all under certain terms and conditions.

The Department supports Bill No. 130698 and its provision that the Department obtain or provide OSHA training for appropriate Department code officials. The Department will work to determine the best ways to navigate any budgeting and labor issues that may arise from this requirement. While L&I would likely be unable to provide OSHA training to the public, the Department is happy to arrange such training, whether it be

offered through the federal government or third-party agencies. In the vein of enforcement, the Department is committed to enhancing its relationship with OSHA to make appropriate referrals to the agency when the Department code officials observe worker safety violations at a job site.

The Department also supports the bill's provisions regarding site safety plans and detailed permit applications and suggests that there be a single provision that consolidates the various proposals for site safety plans. The Department also supports the bill's bonding requirement and would like to work with Council to do additional research within the industry and the building departments to ensure that the requirement is implemented properly and efficiently.

The Department supports the bill's permit application requirements, with some revisions for clarity and

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administration. We suggest that the requirement that L&I grant or deny permit applications for the demolition of an imminently dangerous building within seven days apply only to complete applications and not applications that are incomplete or missing required materials. The Department also agrees with the proposal that the demolition permit should be invalid if work is suspended or abandoned for more than 30 days after the work has commenced on the site and looks forward to working with Council to ensure the bill's provisions for permit suspension that are not invalidated by the state's Permit Extension Act.

Resolutions. Lastly, before I close, I will take this opportunity to comment on the related resolutions that have been proposed by the Special Investigating Committee. The Department of License and Inspections welcomes the discussions invited by the resolutions

and will give those exchanges serious consideration. It is also likely that many of the recommendations and perspectives set forth in the resolutions will benefit from the report of the Special Independent Advisory Commission on L&I.

As a final note, regarding use of technology, last year L&I issued a request for proposals to seek a new vendor to replace our current database system. Through this competitive bid process, we selected a new vendor and have been working with the Office of Innovation Technology and the Law Department to get the selected vendor under contract and to begin installing the new system. The implementation will be in five phases, and it will take 24 months to be fully integrated. The new system will, among other things, be compatible with other City departments' data systems, which will allow for a more solid communication system among us. It

is the belief of the Department that many of these issues raised throughout the legislation will be addressed with our new Hansen replacement system. We would be happy to keep Council informed of the progress of this project.

Thank you for this opportunity to provide testimony regarding this legislation. I look forward to working with Council on these bills, which are so significant in establishing safe processes and procedures for demolition in the City of Philadelphia. I would be happy to answer any questions that members may have at this time.

COUNCIL PRESIDENT CLARKE: Thank you, Commissioner. Thank you for your testimony.

Are there any questions for this witness?

The Chair recognizes Councilman Jones.

COUNCILMAN JONES: First of all, Commissioner, thank you for your

diligence over the past months to work with the Committee on Demolition here. You've been very interactive and concerned about making this better. So we thank you.

One of the things that -- very quickly, a couple of quick questions. Since the Executive Order of the Mayor, have you monitored the time permits are being processed? Has there been, with the added safeguards and added possible steps, has there been any change in the time of a completed application to a permit?

COMMISSIONER WILLIAMS: Thank you, Councilman. First of all, I certainly appreciate working with you and the Committee to get to the point where we are for a safer city.

To answer your question, yes, it has increased the time limit. We put -- the demolition process has completely changed from what it was prior to June 5th. Plan reviews are submitted,

site safety plans, and work schedules are submitted with permit applications, along with contractor qualifications, which has significantly increased the time, but we believe that the increase is for the benefit of public safety, and so we certainly understand the changes that have taken place is going to cause some delays.

COUNCILMAN JONES: If you could provide to the Chair periodic updates as to the impact of time and get that to Committee members, that would be helpful.

The second thing that I would -- has there been an uptick in requests for demolitions? And what we've been seeing is -- whether it was Councilwoman Blackwell, myself, and other members, we're getting these pictures now of folk that are trying to, before the changes can be truly implemented, get things torn down.

Are you seeing an uptick in activity related to demolition?

COMMISSIONER WILLIAMS: Yes, we are. Prior to, again, June 5th, we had planned to demolish 475 structures under our public demolition program. To date, we have over 625 imminently dangerous buildings that we need to address. And so we have seen an increase in the number of buildings specifically in our master demolition program that we have internally with our department and which inspectors are either called to a site to go out and identify an imminently dangerous structure.

COUNCILMAN JONES: One other item. We have submitted 71 recommendations to you, all in the spirit of increasing public safety. But also whenever you move the needle in that direction, it has a cost. How close are we to figuring out what those itemized costs will be, whether it's in the increase of inspectors or whether it is the field monitors, whether it is back office supports or technology? I think

that's very important as we approach budget season so that we can put literally our money where our mouth is to support the activities of Licenses and Inspections.

COMMISSIONER WILLIAMS: We've certainly had conversations within the Administration to discuss the financial impacts of the legislation and the recommendations that were submitted. Because we were still looking at numerous bills that we have before us and the impacts that it would have on our department, we don't have a complete and definitive number for you at this point in time. But I think we are closer to coming up to what these impacts will mean to the Department and the City of Philadelphia taxpayers.

COUNCILMAN JONES: I think that's important, because we have to get it from somewhere. It doesn't come from manna from heaven, and what we're going to be looking to do is try to make those

kind of adjustments for the sake of public safety.

And, finally, there's a lot of reference by us mostly to OSHA standards. It was a healthy conversation exchange that said that OSHA might even be a floor and not a ceiling. And for the record, what other comparable regulating authority standards might we look to to kind of not only encourage internal training but also external training by contractors that perform services in demolition to the City of Philadelphia?

COMMISSIONER WILLIAMS: Well, I think you put together an impressive group of witnesses at the testimony during the Special Investigative hearing, one being the National Demolition Association, who also met with our department to make recommendations on what should be required amongst training amongst workers and contractors performing this type of work, means and methods, and all of the other activities

associated with it. So I think that we should look to these type of organizations for additional assistance in our guidance in legislation or policies that affect the construction industry and trades.

I'll also turn it over to Deputy Commissioner Michael Fink, who has an in-depth knowledge of the industry and who may know of others at this time.

COUNCILMAN JONES: How are you, Commissioner?

DEPUTY COMMISSIONER FINK: How are you, Councilman? Michael Fink, Deputy Commissioner of License and Inspections. Good afternoon, members of Council.

There are a number of training programs out there. They specifically deal with codes. I think the Commissioner is correct in dealing with the operations of conducting demolition activities, the National Demolition Association is probably the premier

location for seeking out additional training opportunities for those that are involved in the demolition industry. Most of the other training programs that I'm aware of deal with specific code compliance related to certifications of construction inspectors, and I don't think that that's particularly appropriate for those that perform the construction as it is the National Demolition Association's training.

COUNCILMAN JONES: One of the things I was thankful for you pointing out, that OSHA concerns itself with worker safety, but what we also need to be concerned with is public safety and looking at how we marry the two in a meaningful training way but in a regulatory way on holding contractors accountable for that.

On that note, there's been much consideration as to the safety plans and then inspectors that would be monitoring those safety plans and whether they

should be employees of the contractors or third-party independent inspectors. For the record, where do you kind of stand on that?

COMMISSIONER WILLIAMS: In our testimony, we supported the use of a special inspection program by a third-party contractor to give an objective view of what the safety concerns or the safety needs of a site are. We use third-party inspections in the electrical industry. We also use it for fire alarm systems. And so we certainly can see the use of a third-party agency being effective in the demolition industry as well.

COUNCILMAN JONES: My final question and I'll turn it over to my colleagues is that with inclement weather approaching in the winter months, that signals usually an uptick in collapses and imminently dangerous structures. Are we geared up and ready for the season ahead?

COMMISSIONER WILLIAMS: You know, our guys are on 24/7 ready to address issues of imminently dangerous structures. We are working with the Administration to look at because of the uptick in a number of requests that we've received due to the weather, not only the alarms that were set off on June 5th but we had one of the rainiest seasons on record here this summer, and rain is good for trees and grass but not buildings, especially vacant and open ones. So our biggest concern right now is to make sure that we secure those areas by identifying them and getting them down and secured. So we are working, again, within the Administration to address those issues as well.

COUNCILMAN JONES: You made some organizational changes to address those kinds of things. Could you elaborate that for the Committee.

COMMISSIONER WILLIAMS: Sure. One of the things that we put in place,

number one, is, I now carry two sets of communication devices that's directly connected to 3-1-1 that would identify an imminently dangerous or an unsafe construction site where you will have additional oversight at my level on down from my deputies all the way to the manager who is responsible for overseeing and addressing the situation. So we thought that this was very important so that there will be more eyes and availability of people who are addressing situations that may not get forwarded directly to our offices but may, for one reason or another, get directly forwarded to the person in the field and so information may have been lost.

Dangerous situations alerts that pop up on the system is being seen by three different sets of supervisors or managers and that we're allowed to follow up, and oversight is increased, which would help improve public safety. So that's one of the enhancements.

We've also started a Construction Site Task Force that has been doing yeoman's work in terms of when they started. They've issued over 75 stop work orders. They've done more than 2,400 building inspections, suspended about seven contractors' licenses for unsafe work conditions, and prevented numerous tragedies that you don't hear about in the media.

COUNCILMAN JONES: I've seen some of the e-mails from Councilwoman Blackwell coming right from the street.

Thank you, Mr. President.

COUNCIL PRESIDENT CLARKE: Thank you, Councilman.

The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you, Mr. President.

Just going back for a moment to the issue of L&I employee training, whether it be safety training or improvements in trends and practices in

the construction field. It was said clearly during the course of the hearings that all of the building trade organizations in the City all have high-level training programs, educational programs. All of them said that they'd be willing to accommodate our City employees for little or no cost. Is that something you'd be willing to do? I mean, I've been to these apprentice programs and to these training facilities, and they are state-of-the-art, top-notch facilities that they're willing to allow the City to avail themselves of to continually keep your folks up to speed on new innovations and on new safety procedures and the like. Isn't that kind of a collaboration we'd like to establish?

COMMISSIONER WILLIAMS: Absolutely, Councilman. That's something that we certainly would be open to discuss.

COUNCILMAN KENNEY: So you are

open to that?

COMMISSIONER WILLIAMS: Yes. Absolutely.

COUNCILMAN KENNEY: Okay. Good.

And could you clarify your position on the Fire Department involvement? I heard your testimony, but I'd like you to flesh it out a little bit.

COMMISSIONER WILLIAMS: Yeah. Right now when it comes down to emergencies or dangerous conditions or structures, the Fire Department currently does possess certain levels of authority to be able to address matters of emergency. Stop work orders and cease operations are certainly within their purview. We certainly meet and we're contacted immediately when there's an issue involving a dangerous structure.

The planning part of it I think that we certainly want to enhance and improve within the Department so that we

are always aware of what those issues are and where they exist. I think that's what the intent of the bill and the legislation that we certainly support and willing to work towards. And also we're looking at technology, that systems will be able to be easily accessible between both departments so that they would have the information prior to addressing a dangerous situation.

COUNCILMAN KENNEY: I think we had a conversation in a previous hearing relative to a specific case on South Broad Street. I think it was the demolition of the Armory. And one of the things that was kind of stunning to me is, the owner of the building next door, which is an active clothing store, denied access to their roof to our inspectors in order to get a better look at a bearing wall that was supposed to come down, and we had to go into court, and let that situation exist without being able to eyeball it immediately, go into court,

and receive relief from a Common Pleas Court judge. Why can't the Fire Department be used to invoke its emergency powers to tell the guy at the clothing store, We're putting a ladder up, we're going on the roof, we suggest you get out for a few minutes until we figure out what's going on?

What circumstances determine the Fire Department's ability to inject themselves into a situation to get your people in a position to view something sooner than later?

COMMISSIONER WILLIAMS: Well, I think -- let me clarify.

COUNCILMAN KENNEY: And in that particular case, the ladder company is like two blocks away.

COMMISSIONER WILLIAMS: Let me also clarify that the Fire Department does, as well as our department, does have the authority to evacuate the buildings for safe situations and structures. If we believe something is

imminently dangerous, we do have that authority.

COUNCILMAN KENNEY: But in this case -- not to interrupt you. I'm sorry. In this case, you couldn't see if it was imminently dangerous or not, because you couldn't get on the roof to view it. So wouldn't the Fire Department be a better direct way of getting your good, competent people on the roof to look at the bearing wall to determine if it is imminently dangerous or not?

COMMISSIONER WILLIAMS: One of the issues -- and, again, I'll let Deputy Commissioner Fink or Maenner also weigh in, who is with me today -- is that we're dealing with private property rights situations here.

COUNCILMAN KENNEY: But the private property rights of an individual does not include putting the public in danger.

COMMISSIONER WILLIAMS: Again, but if the public was in danger, the Fire

Department as well as our department has the ability to evacuate those buildings.

COUNCILMAN KENNEY:

Commissioner, the problem is, in that particular case, you didn't know if it was imminently dangerous or not, because you couldn't eyeball it the appropriate way because he wouldn't let you on the roof.

I mean, I think when it comes to an issue of public safety and common sense, that I think your guys should be empowered to be creative and to get on the phone with 9-1-1 and get connected to the Fire board and ask them to come out and help. There's a lot of things you can tell an L&I inspector you won't do, but there's very few things you can't tell a firefighter, a battalion chief or police captain what they can't do.

COMMISSIONER WILLIAMS: And we certainly support that. We will fully cooperate with any action the Fire Department asked us to do, as we've done.

COUNCILMAN KENNEY: No. That's not my point.

COMMISSIONER WILLIAMS: With the situation, I think the difference between when we can visually observe whether something is imminently dangerous or whether there's a dispute between two property owners whether to allow someone on the roof or not, that becomes -- that's the issue -- we can't make that determination at L&I.

COUNCILMAN KENNEY: If that private property was on fire, they wouldn't need permission to go on the roof.

COMMISSIONER WILLIAMS: And that's very visible. We can see that that's imminently dangerous.

COUNCILMAN KENNEY: Again, not to beat the horse, the dead horse, but let me go back again. You guys show up. There's some concern about a bearing wall that's very high and could come down either way and cause a lot of damage.

The owner of the property says, I'm not letting you on. You can't come on the roof.

We have to go to court? Why couldn't we just call the Fire Department and let them get on the roof and you guys can climb up the ladder with them?

COMMISSIONER WILLIAMS: Once again, if it's visible and it's something that we believe that it's imminently dangerous, then we have the authority to take action.

COUNCILMAN KENNEY: I admire that.

COMMISSIONER WILLIAMS: That's the best answer I can give you.

COUNCILMAN KENNEY: I understand, but you couldn't see it was visible. You had to get there to view it, and if you can't view it, you don't know one way or the other whether it's dangerous or not. And I think that the best case scenario for the public and for all involved is to be able to get some

entity, some agency that has direct authority to tell the guy at the clothing store, Move over, we're going on the roof. I mean, that's just my commonsense opinion. And I can't imagine we're going to get sued -- well, the City gets sued all the time anyway -- because we went on somebody's roof to view a wall that may have come tumbling down.

COMMISSIONER WILLIAMS: We certainly can review it and look at our current structure to see what we could do better to improve it.

COUNCILMAN KENNEY: I appreciate it, Commissioner. Thank you.

COUNCIL PRESIDENT CLARKE: Thank you, Councilman.

The Chair again recognizes Councilman Jones.

COUNCILMAN JONES: Thank you, Mr. President.

We had this conversation about looking at the liability issues related to what we consider and where the

threshold line is for imminently dangerous. I think that's critically important when you have individuals holding people hostage literally, and we in some of the hearings heard comments about people looking for a payday out of it. I'll give you access to my property if you sign over this or that. And I mean private individuals. Let me be real clear about that.

COMMISSIONER WILLIAMS: Thank you.

COUNCILMAN JONES: But I agree with Councilman Kenney. When it comes to public safety, the property rights are superseded by the interest of the public. We have to have clarity on that issue to make sure that we're at least on solid ground about how we should proceed. And I think the analogy of the firefighter trying to put out the fire is very apropos so that we can get this at least understood as where the lines begin and end.

COMMISSIONER WILLIAMS: Agreed.

COUNCILMAN JONES: One other thing. How are we doing with the technological advancements to improve efficiencies, particularly as it relates to cross-checking files so that simultaneously we can find out if someone is paying their taxes, if they're current on other issues that might be red flags, as it was called, to deal with contractors that are applying for demolition permits?

COMMISSIONER WILLIAMS: We're happy to report that the contract is in the vendor's possession as we speak. We are waiting for them to execute it, and then we will personally walk it to each individual agency or department responsible for executing that contract, and we look to start in a kickoff in December, next month. So we're happy to say we're finally at a position where we're ready to implement the changes for Project eCLIPSE, which stands for

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Electronic Commercial Licensing Permit and Enterprise System.

COUNCILMAN JONES: And let's cross our fingers that we are not ObamaCare online, but what reasonable expectation for implementation do you give it? I mean, rough guess.

COMMISSIONER WILLIAMS: Well, we're looking at a two-year process. We have to change the system that's pretty much been in place for over a decade, and so we have to look at the entire process and procedure system. It's going to be implemented in a five-phase development project with certain services being available in year one, and then the entire complete implementation of a five-phase project in a 24-month period. So by next year, you should start seeing the fruits of the labor of what's been put into this project.

COUNCILMAN JONES: Okay. Thank you, Commissioner.

Thank you, Mr. President.

COUNCIL PRESIDENT CLARKE: Thank you.

The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Just two quick follow-ups.

Commissioner Williams, you're relatively new as Commissioner at the L&I department. The issue I was talking about with using the Fire Department as an expediter, so to speak, to get through resisting property owners, was that ever done in the past as a practice in this department prior to your being there?

COMMISSIONER WILLIAMS: I'll refer this question to my two Deputies who was there a little bit longer than I was.

DEPUTY COMMISSIONER FINK: Good afternoon. Michael Fink, Deputy Commissioner of L&I.

Councilman, we have in exigent circumstances used the Police Department. I do not recall if we've actually used

the Fire Department. I think for a point of clarity, it might be helpful that the condition I think you're describing was an issue where the contractor needed to get onto an adjacent property to provide protections. I don't believe it was an issue of us making an inspection. And the issue of providing protections to adjacent property during their proposed work is one that we have struggled with.

If you go to Bill No. 130691, you will see that there are provisions in there which will address that when there's a condition of an imminent dangerous and the owner refuses to allow the contractor access to their property to install those protections, that the responsibility for providing that protection would then fall to that owner who is refusing to allow access. So I believe we've tried to address your concern through that bill.

COUNCILMAN KENNEY: I would be hopeful that -- and I hear your

testimony -- that we would try to -- and I apologize, because I can't see you -- would use the opportunity to collaborate with as many departments as possible and use all of the resources of those departments to continue to make people safe. And I think that's -- hopefully that's the direction you're going in as I hear from your testimony.

DEPUTY COMMISSIONER FINK: I believe that's correct, Councilman. If we feel that there's an imminent danger, we'll use whatever tools we have available to us to confirm that before ordering a property to be vacated or further work to be done.

COUNCILMAN KENNEY: Because a police officer and ladder truck is a lot quicker than a court.

DEPUTY COMMISSIONER FINK: Excuse me?

COUNCILMAN KENNEY: A police officer or a ladder truck is much faster than a judge.

DEPUTY COMMISSIONER FINK: Yes. Agreed.

COUNCILMAN KENNEY: I have a question for the Law Department just really quickly. The preemption issue that's raised relative to the requirement of OSHA training was an issue that's been discussed in a bill that I, along with the members of the Committee, has authored. There's an amendment, I believe, that's being recommended by the Administration that -- and I think it's being placed in Councilman Henon's bill -- that OSHA training be required of demolition contractors. So if one issue is preemption, how is it not preempted in this particular case? If you're requiring OSHA training for demolition contractors, what's the difference in requiring OSHA training for workers? Isn't preemption preemption?

I don't actually agree with the preemption issue at all, because the opinion of the Law Department I don't

think is accurate in the preemption debate, but I don't understand how an amendment comes from the Administration talking about requiring OSHA training when they said before it was preempted.

COMMISSIONER WILLIAMS: Councilman, that's certainly a question for the Law Department. They're not here today. I'll certainly make sure that we get a response to you as to why the situation is different for private contractors and for City employees. So I will make sure --

COUNCILMAN KENNEY: No, no, no, not City employees. This is people who are on a worksite doing demolition work or doing construction work. We're trying to require them to have some level of OSHA training. The Law Department has consistently said that we are preempted from requiring OSHA training for anything, and now there's an amendment to another bill that says requiring OSHA training for demolition contractors. I

mean, which is it? Is it whose name is on the bill or is it -- is there two separate opinions about what's going on?

COMMISSIONER WILLIAMS: I'll get you a response, Councilman.

COUNCILMAN KENNEY: I love your testimony, Commissioner. I appreciate it. Thank you.

COMMISSIONER WILLIAMS: You're welcome.

COUNCIL PRESIDENT CLARKE: I'd like to do something real quickly, because we have a couple of members that have other issues that they have to attend to, Council-related business, so what I'd like to do while we still have established a quorum, I'd like to go into a public meeting to address the couple of amendments that there is a consensus on, three of the bills. So if that's okay with the colleagues and the members, and then we'll come back, go back into the public hearing and conclude the testimony relating to those individuals.

Councilwoman, I see your light is up. Is that okay?

COUNCILWOMAN SANCHEZ: That's fine.

COUNCIL PRESIDENT CLARKE: Okay. We will briefly go into a public meeting where we will ask members to offer amendments on Bills No. 130698, 130685, and 130688.

So at this time, I would like to call on Councilman Henon to offer an amendment -- and ask the Administration to hang around, guys. We're coming back.

Councilman Henon, on 130688. I recognize Councilman Henon.

COUNCILMAN HENON: Thank you, Council President and Chairman. I offer an amendment that has been duly circulated to the members of this body for Bill No. 130688 to be voted out with a favorable recommendation.

COUNCIL PRESIDENT CLARKE: Adopt the amendment first.

COUNCILMAN HENON: I ask for

the amendment to be adopted.

(Duly seconded.)

COUNCIL PRESIDENT CLARKE: It's been moved and properly seconded that the amendment to 130688 be adopted.

All those in favor?

(Aye.)

COUNCIL PRESIDENT CLARKE: All those opposed?

(No response.)

COUNCIL PRESIDENT CLARKE: The ayes have it.

Councilman, now can I ask you for a motion on the amended Bill 130688.

COUNCILMAN HENON: Thank you, Mr. Chairman. I make a motion that Bill No. 130688, as amended, be voted out of Committee with a favorable recommendation.

COUNCIL PRESIDENT CLARKE: Do you want a suspension of the rules?

COUNCILMAN HENON: And a suspension of the rules as to be permitted to be read at the next Council

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session.

(Duly seconded.)

COUNCIL PRESIDENT CLARKE: It's been moved and properly seconded that the amended Bill 130688 be voted out of committee with a favorable recommendation with rules suspension to allow reading at the next session of Council.

All those in favor?

(Aye.)

COUNCIL PRESIDENT CLARKE: Those opposed?

(No response.)

COUNCIL PRESIDENT CLARKE: The ayes have it. Bill 130688 is voted out of committee with a favorable recommendation and suspension of the rules to allow reading at the next session of Council.

At this point, the Chair recognizes Councilwoman Blackwell for a motion on the amendment to 130685.

COUNCILWOMAN BLACKWELL: Thank you, Mr. President. I move that the

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amendment to Bill 130685 that has been circulated be adopted.

(Duly seconded.)

COUNCIL PRESIDENT CLARKE: It's been moved and properly seconded.

All those in favor on the motion for the amendment say aye.

(Aye.)

COUNCIL PRESIDENT CLARKE: Those opposed?

(No response.)

COUNCIL PRESIDENT CLARKE: The ayes have it.

Councilwoman Blackwell, I now ask for a motion on the amended version of 130685.

COUNCILWOMAN BLACKWELL: Thank you, Mr. President. I move that the amended version of Bill 130685, as amended, be reported out of committee with a favorable recommendation and also a recommendation for suspension of the rules so as to permit first reading at our next session.

(Duly seconded.)

COUNCIL PRESIDENT CLARKE: Thank you, Councilwoman.

All in favor?

(Aye.)

COUNCIL PRESIDENT CLARKE: Those opposed?

(No response.)

COUNCIL PRESIDENT CLARKE: The ayes have it. 130685, as amended, is reported out of committee with a favorable recommendation with rules suspension to allow reading at the next session of Council.

The Chair now recognizes Councilman Jones for a motion on the amendment to 130698.

COUNCILMAN JONES: Thank you, Mr. President. I move that the amendments that have been duly circulated to Bill No. 130698 be adopted.

(Duly seconded.)

COUNCIL PRESIDENT CLARKE: It's been moved and properly seconded.

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All those in favor of the adoption of those amendments.

(Aye.)

COUNCIL PRESIDENT CLARKE: Those opposed?

(No response.)

COUNCIL PRESIDENT CLARKE: The ayes have it.

Councilman Jones, I ask for a motion on the amended version of 130698.

COUNCILMAN JONES: I offer a motion that amended Bill 130698 be adopted with a rules -- with a favorable recommendation and a rules suspension, thus allowing -- be reported out of committee with a favorable recommendation and a suspension of rules to allow its reading at our next scheduled meeting of Council.

(Duly seconded.)

COUNCIL PRESIDENT CLARKE: It's been moved and properly seconded.

All those in favor?

(Aye.)

COUNCIL PRESIDENT CLARKE: Those opposed?

(No response.)

COUNCIL PRESIDENT CLARKE: The ayes have it. Bill No. 130698, as amended, is reported out of committee with a favorable recommendation with rules suspension to allow reading at the next session of Council.

Thank you all very much. That concludes the public meeting. We will now go back into our public hearing.

The Chair recognizes Councilwoman Sanchez.

COUNCILWOMAN SANCHEZ: Thank you, Mr. Chair, Mr. President.

I want to also go on the record and thank the Administration and the Commissioner and his team for working with us so diligently. And I know while there's still some areas where we have to work on operationalizing this, I think the Committee as a whole with the cooperation is going to put forward some

key safety measures.

One of the issues that continues to arise is our ability for training, training, training. Does the Department currently have some sort of chart of training that is currently offered to staff?

COMMISSIONER WILLIAMS: A chart, Councilwoman?

COUNCILWOMAN SANCHEZ: Yes. And what would be helpful to all of us would be most of these bills require some enhanced training for all key stakeholders. I'd be interested if the Department can do a comparable analysis of what we currently have and what we will have, assuming all these bills go forward.

COMMISSIONER WILLIAMS: We do have a chart that we could forward to your attention, and Deputy Commissioner Mike Fink also wants to elaborate on our training for our inspectors.

DEPUTY COMMISSIONER FINK:

Councilwoman, Michael Fink, Deputy Commissioner of L&I.

I wanted to explain to you that the state code requires all of our construction inspectors and plans examiners to maintain 45 hours of continuing education credits every three years. The Department over as long as I can remember has consistently exceeded that requirement, that state requirement, and each individual employee, there is a record of the training and the continuing education hours assigned for each one of those training classes for each employee, that we track that to make sure that they can be recertified every three years by the Department of Labor and Industry.

COUNCILWOMAN SANCHEZ: Okay. So one of the things as we look at the requirements for OSHA training, they will help us exceed, as you said, exceed, but then I'd like to be able for us to quantify what is state code and what is city code as a result of some of the work

that we're doing in terms of enhanced skills and training for all personnel. I think that's an important public statement and kind of confirmation of where we started and where we think we have to go in light of all of what we've learned over the last few months. So that would be important.

And I just want to reiterate Chairman Jones's point around the dollars in terms of making all of these things work. I know that's one of the areas the Special Commission is going to be looking at, but to the extent that we can put a dollar figure -- and Councilman Jones has said this often, it's priceless about what we want to do around public safety. I think the earlier we can put some numbers around this, the better we can get our hands around it to discuss next year's budget.

So I just want to kind of reiterate that. That's a key component. What we don't want to do is set up false

expectations and not be able to have the resources for the Department to carry this out.

COMMISSIONER WILLIAMS: Yes, ma'am.

COUNCILWOMAN SANCHEZ: Thank you.

Thank you, Mr. Chair.

COUNCILMAN JONES: Thank you, Councilwoman.

Are there any other questions for this panel?

Councilman Greenlee.

COUNCILMAN GREENLEE: Thank you, Mr. Chairman.

Just quickly. I'm sorry. You may have addressed this. As things were going on, we were getting distracted.

Commissioner, on the issues that Councilman Jones raised about the demolition and the increased requests, permits for demolition, I assume that's put some more strain on your department which already is strained as far as

inspections and that kind of thing. Where are you with that? What kind of problems has that caused?

COMMISSIONER WILLIAMS: Well, there has been an increased time to approve a demolition permit due to the stricter requirements, and we certainly understand the need for it and we'll work to deliver the process as efficiently, effective as possible, but there is going to be a time delay, because we actually have our examiners reviewing all those documents that's required. The additional documents with the site safety plan, the work schedule all are critical to public safety, and so that's led to an increase in time and resources from our staff. So that's one of the biggest challenges that we face.

COUNCILMAN GREENLEE: And I guess what I was also referring to -- and I know you got a call from my office at the beginning of the week about an issue up in Tioga where there was an inspection

needed out there, and I wanted to talk to you offline about that when this is over.

COMMISSIONER WILLIAMS: Sure.

COUNCILMAN GREENLEE: But I guess I'm also talking about inspections as the demolitions are happening where there might be complaints about improper activities or something.

COMMISSIONER WILLIAMS: Yeah. Our Construction Site Task Force has been out diligently following up on those complaints. They were created specifically for unsafe worksites and dangerous demolition sites. So there has been an uptick in the number of inspections done specifically by that division. We specifically added in the budget with the approved Council budget that you guys approved this year for that purpose, and so we're happy to say that they're doing a great job with following up on those type of inspections.

COUNCILMAN GREENLEE: Okay. Thank you.

Thank you, Mr. Chairman.

COUNCILMAN JONES: Thank you.

One quick question. Licenses, fees, we're trying to get that a little in order. There's been a number of back and forth about what things -- as you know, we are only able to charge what it is to cost to implement by way of a fee or a license. So, again, understanding what things cost will aid us in kind of steering that. We had some debate about whether things should be the maximum, the minimum or the middle, but some of those decisions will obviously be made clearer by what it takes by way of resources for you to implement it. So, again, we're looking for that.

Are there any other questions?

(No response.)

COUNCILMAN JONES: Seeing none, thank you. Please stick around. We may call you back at any time.

Will you read the next panel to testify.

THE CLERK: Yes. The next panel, Mr. Bennett Levin, former L&I Commissioner; Mr. Roy Myers, Toll Brothers Construction; and Mr. Anthony Fullard, Millennium 3 Management. Please come forward.

(Witnesses approached witness table.)

COUNCILMAN JONES: Thank you all very much. Good afternoon. Please be seated at the table. We'd like you to state your name for the record and please begin your testimony. Good seeing you again.

MR. LEVIN: Good afternoon. I'm Bennett Levin. I regret that I do not have prepared written testimony for you because I was given very short notice, but I would like to start by referring to the letter that I addressed to the members of the Special Investigating Committee dated August 6th. I'd like to read for the record certain excerpts from that, and I think that will

take me where you want to go.

COUNCILMAN JONES: Thank you, sir.

MR. LEVIN: In my testimony I stated I thought the solution to the dilemma facing the City on issues of demolition and the permitting process was not difficult or remote. To that end, I also cautioned that the rush to regulate usually results in overregulation that is neither a benefit to public safety nor the economic dynamic of the City. I believe a practical, tempered approach is in order that addresses the public safety dynamic, is not overly burdensome, is easy to enforce, and at the same time removes liability from the City and places it squarely where it belongs, on the owner, the contractor, and the professional in responsible charge of the demolition.

To that end, I would suggest that you consider incorporating some of the following processes into whatever is

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decided as the regimen that the City will adopt moving forward.

One, the actual demolition permit should be obtained solely upon the application of a registered professional engineer licensed by the Commonwealth of Pennsylvania. That professional engineer will be the person who, by his or her being the signatory to the permit application, undertakes that they will be, quote, in responsible charge of the methods and materials used in the demolition. This process is no different than the current process that requires an architect's or engineer's seal on drawings and reports submitted to the Department, except that it places the ultimate responsibility and liability on a licensed professional licensed by the Commonwealth of Pennsylvania.

Two, the engineer obtaining the permit can do so as the agent of the actual contractor hired to do the work.

Three, the application for a

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demolition permit should include the business privilege license of the engineer, the contractor and, if applicable, the owner of the property.

Four, the responsible party, the professional engineer, as well as the actual contractor must each apply with the submission of the application a certificate of insurance in the amount of not less than $3 million for both professional liability and general liability with the City of Philadelphia being added to the policy as a named insured and an additional insured. This policy must contain provisions that notice must be given the City if the policy is terminated or lapses, and if such event occurs, then the demolition permit is immediately rescinded and the City has the obligation to post a stop work order at the site.

The process is simple, mimics current or past practice, imposes no undue burden on any party, and insulates

and removes the City of Philadelphia from the circle of risk.

State law regulating the engineering profession is very clear in defining the professional skills and responsibilities of those it licenses. To a great extent, those skills are far in excess of most of the skills required by City inspectors whose ranks have really been decimated by recent budget cuts. City inspectors can audit the work of the person who is in responsible charge.

COUNCILMAN KENNEY: Yes, Commissioner. Are you through?

MR. LEVIN: I'm through the first part, if you want to question me. Then we can go further.

COUNCILMAN KENNEY: Are there any questions for the Commissioner?

MR. LEVIN: What I would say is, I read the entire report by the select committee, and I think it was a master work in bringing all of this

together, but as I testified to, you don't want to throw the baby out with the bath water, and there's certain competitive needs that we have to face in the City so that you could have work here, and one of those things is not to be overly restrictive. So that's my caution then. It's my caution now. And from reading the proposed ordinances and the amendments and the spreadsheet that was given to me with the comments, I think there's plenty of room for compromise to get a good working bill out of this.

COUNCILMAN KENNEY: Thank you. Thank you very much. Do you have another phase of your testimony?

MR. LEVIN: It's not germane to this point. I don't think we should go there unless you have some other questions.

COUNCILMAN KENNEY: You can just stay here for a second and we can listen --

MR. LEVIN: All day.

COUNCILMAN KENNEY: Great.

Please identify yourself for the record. Please pull that microphone very close to you. Thank you.

MR. MYERS: My name is Roy Myers with Toll Brothers, a member of the BIA. I'm here on behalf of the construction process for Toll Brothers in the City Living Division. Our main concerns is just that we consider the process, the costs, the timeline, and possibly the streamlining of it with one ownership within the department, is some of the issues that we have.

COUNCILMAN KENNEY: You're a well-known, reputable firm that does high-quality work. Wouldn't you do a lot of these things anyway? I mean, a lot of the things that we're suggesting being employed or being tightened up are things that companies like yourself and the contractors you hire do all the time. All these kind of unlicensed,

fly-by-night contractors and developers, you're not even close to that category. So what specifically in the pieces of legislation concern you that you don't already accomplish now as a high-performing company?

MR. MYERS: Any additional costs that may come about from these new bills.

COUNCILMAN KENNEY: Is this a general caution or is there specific issues that you're concerned about as far as costs?

MR. MYERS: Well, right now for our permitting process for our construction costs within the City, they're already very high, and this would be an additional fee, an additional cost, and it would also slow down our building process. So that's why we're asking for consideration in that and streamlining that one department ownership, maybe some area to help that.

COUNCILMAN KENNEY: Okay.

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Any questions for the witness?

(No response.)

COUNCILMAN KENNEY: Seeing none, thank you. And if there's anything else you'd like to add before you leave or add now.

MR. LEVIN: I heard the line of questioning that you started about the right to enter. And the period of time that I was Commissioner, the City Charter under Section 5-1004 gave the Department very broad powers to enter. Let me read that for you, and then I'll have a comment.

In the City Charter, it says, Subject to the limitations of the Constitution of the United States and of the Commonwealth of Pennsylvania, any officer or employee of the Department of Licenses and Inspections in the performance of his and her duties may at any reasonable hour, without hindrance, enter, examine, and inspect all vessels, vehicles, premises, grounds, structures,

buildings, underground passages of every sort, including their contents and occupancies, and may likewise examine, inspect, and test any substance, article, equipment or other property.

In the time that I was Commissioner, we used that quite frequently, but very judiciously, even expanding the definition of imminently dangerous to include buildings in which there were drug activity. And we worked very closely with the Police Department. I had one inspector in South Philadelphia basically assigned to the Police Department where we used our right to enter in drug cases. We defined imminently dangerous buildings that had drug activity.

Now, regrettably, in the Maffucci case, Judge Kelly wrote an opinion about how the Department abused that right to enter, but I think in what you had described, there's no reasonable question that if that were in fact the

case and there was a problem, I think the Department would have enjoyed the cooperation of the Fire Department or the Police Department in carrying out its functions, and surely the Charter gave the Department the right to do that subject to the provisions of the Constitution of both the nation and the Commonwealth.

COUNCILMAN KENNEY: I agree. Thank you. Thank you for your testimony.

Thank you, sir.

Mr. Fullard, please. Please identify yourself for the record.

MR. FULLARD: Yes. Anthony Fullard from Millennium 3 Management.

COUNCILMAN KENNEY: Please proceed with your testimony.

MR. FULLARD: We were called to testify. I don't have any prepared statements. However, I just wanted to lend our support to each one of the bills that our City Council committees have been working on, and that would be Bill

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130685 and 130684. And I believe that Councilman Jones wanted me to come to speak here because of our involvement with the NTI program when we was under that program for the demolition of 7,500 homes throughout the City to be demolished at that time. At the end of the day, it did not come close to that number, but from the program I was in charge of.

But from reading these bills, I would be in support of some of the language there, and specifically third-party involvement, because when we ran our program, we actually acted as a third party to help the City with their demolition training program. And as it relates to ID of individuals working on those projects, I'm in support of that as well, because this way, it helps you to ensure that you have trained individuals on the project. That was, again, similar to some of the training that we did when we had our program for the City.

But I'm here to answer any more questions that you may have, Councilman, on our program.

COUNCILMAN KENNEY: We appreciate your testimony and your opinion in this important issue.

And I was wondering if there's any questions for this witness?

(No response.)

COUNCILMAN KENNEY: Seeing none, we thank you for coming in. Appreciate it.

Kassim Ali and Jerry Vallery, please.

(Witnesses approached witness table.)

COUNCILMAN KENNEY: Good afternoon. Please identify yourself for the record and proceed.

MR. ALI: Yes. Kassim Ali, OSHA instructor/trainer.

COUNCILMAN KENNEY: Yes, sir.

MR. VALLERY: I'm Jerry Vallery.

COUNCILMAN KENNEY: Whoever would like to begin their testimony, please proceed.

MR. VALLERY: I want to speak to the --

COUNCILMAN KENNEY: Sir, could you do me a favor, just pull your microphone a little bit closer. Thank you very much. Thank you.

MR. VALLERY: I want to speak to a couple of issues. The previous speaker spoke of the need for training of the workers. They're the people that really create the problems, and they have the most eyes on the job site, and if we don't do something about them, we've lost an awful lot of eyes who will see the problem and can do something about them.

I strongly support that notion, and that, more importantly, in addition to the techniques of demolition and work, perform the work properly to reduce injury. But the safety aspect of it, the 8-hour, the 10-hour safety program should

be mandatory, as well as the training and the techniques of working. That's one.

Second one here I heard spoken to, we've had an awful lot of things to be done. Demolition today is being, for the most part, formed by small contractors, and the unit costs of demolition although goes up, to these people it goes down, and we're adding some feature that I just heard. A speaker spoke to $3 million coverage on a worksite. Currently it's 2 million, and the incidence of damages as a result of the abutting wall, insurance costs is almost prohibitive. So I would draw -- I would watch the increase in costs of insurance. It's being borne by small contractors today, and we're going to eliminate them and, as a result, you're going to get an increase in costs. So I caution you on that. We're insurance brokers aside from other work that we do, but the insurance costs today, particularly with the most recent

addition to the contracts, have made it extremely costly. So I caution you really go through this process and be aware of who is affected mostly. And the people who are affected mostly are people from the neighborhood where the work is being performed. We need more of them working. You wouldn't want to drive the cost out of the reach of contractors that they won't be able to hire people that's most affected by the work being performed in their communities.

I have long been concerned with the demolition specification that's engaged in the demolition in the neighborhoods. When you remove one wall, you expose the remaining building to the habits of the weather, and what we put back in place is not as half of what is required to maintain the same coverage and thickness of the wall; that is, to -- and you know as well as I do, those involved in construction, that you have all kind of insulation material being put

in new buildings today, and to restore the thickness of that wall and provide adequate coverage, a sheet of -- a coat of stucco and a sheet of wire mesh is certainly not enough. If you go out there, much of the work that we performed about five or six years ago, the stucco is beginning to break, and it's a disgrace to have that appearance of those buildings in the neighborhood. It detracts from the beauty of the neighborhood, and I think we should be charged with doing a better job for the people who are living in these neighborhoods.

COUNCILMAN KENNEY: Sir, I honestly believe that stucco should be outlawed on the outside walls of any buildings. I see projects now even in neighborhoods that are more affluent where bays are being constructed and being stuccoed with wood framing. It is atrocious. It changes color. It cracks. It peels. It falls off. And you talk

about folks living in poor neighborhoods who experience a lot of demolition, we do often leave those houses that are remaining less sturdy and less insulated and less livable than before the house was torn down beside it. And I think it's disgraceful that -- and, again, that is a cost-driven issue. Stucco and wire lath is much cheaper than doing some type of siding that's insulated siding or things of that nature. And I'm still looking at a way to try to get rid of stucco, period, when it comes to outside walls in neighborhoods.

MR. VALLERY: Well, it doesn't work very well, at least the spec we're using today, and the City has to live with that. And from an appearance standpoint as well as the quality of work, I think we should treat the neighborhood more kindly.

COUNCILMAN KENNEY: I agree. I like brick.

MR. VALLERY: Very good. Thank

you.

COUNCILMAN KENNEY: Listen, one question on the insurance issue. Since you're an insurance broker, I assume the companies that you write insurance for, you have variable ratings for them as to their capacity to do the work, their employees training, their track record in doing demolitions. So I assume the better, more trained and more efficient the company is, the lower their insurance rates are. Is that fair to say or --

MR. VALLERY: I think it's fair to say. I'll tell you, we also are bond brokers. I've turned down contractors who come in our office for bonds to do demolition work, simply because they're not well trained and their workers are not trained, and it's unfair to the communities that are being exposed to this that we are not doing a better job. And, you know, the claims has greatly increased, and the primary reason for it is the abutting wall damages. And it's a

matter of demolition techniques to avoid that. And that's one of the reasons I encourage training of these people. You just can't pick people by the streets and turn them loose in a house to remove it and do it with care and safety.

The claim rate is extremely high. We only have one carrier that will ensure demolition projects in the residential areas today, and it's very expensive.

That's all I have. Thank you.

COUNCILMAN KENNEY: Thank you.

COUNCILMAN JONES: Thank you very much for your testimony.

Are there any other questions for this panel?

(No response.)

COUNCILMAN JONES: Seeing none, will you please call the next panel to testify.

THE CLERK: Our remaining witness is Ms. Arianna Freeman.

COUNCILMAN JONES: Thank you

all very much for your testimony, and thank you, Administration, for your patience.

(Witness approached witness table.)

COUNCILMAN JONES: And our final person to testify, welcome. Good afternoon. Please be seated.

MS. FREEMAN: Thank you. Good afternoon.

COUNCILMAN JONES: Do you have written testimony?

MS. FREEMAN: I have oral testimony.

COUNCILMAN JONES: That's fine. That's fine. So state your name for the record and please begin.

MS. FREEMAN: Okay. My name is Arianna Freeman. I am a resident of South Philadelphia. I purchased my row home in South Philly in 2008. I am in the middle of the row, so there is a row home on either side of mine, and one of my -- one of the neighboring homes had

fallen into disrepair. It was not occupied. And in 2011, the City undertook a demolition of that property. So in June 2011, that row home came down, and the state of my home changed dramatically. The demolition contractor the City employed to do this demolition did not seal the basement properly, so my basement, which had been semi-finished, had drywall and tiles and stuff, took in water with every rain. It caused a tremendous mold problem. There was visible black mold on the drywall up to about knee height. I ultimately ended up pulling down much of the visible mold. It was over two feet of dark black mold in my basement.

COUNCILMAN JONES: Do you know the property address that collapsed? Do you mind sharing that?

MS. FREEMAN: Yes, sir. It's 1213 South 8th Street. That adjoins my property at 1215 South 8th Street.

Also, the contractor did not

seal the roof line where my house met the house that came -- that was taken down, and water, rainwater, was just entering my house from open seams in the roof, which I ultimately went up to see. This caused a large amount of damage to my house, as you can imagine, much of which has not been repaired yet because I couldn't afford to do all of the repairs.

I made an administrative claim against the City, and that claim was denied with a brief note that I needed to try to collect from the contractor for damages and --

COUNCILMAN JONES: Do you happen to know if this was a private demolition job or a City?

MS. FREEMAN: It was a City demolition job. The City actually in response to the administrative complaint, the Claims Department said that the City had an indemnification clause in its contract with the demolition company. So they would be -- in the City's view, they

were liable for the damages, "they" meaning the contractor.

So I engaged a lawyer, who filed a complaint for damages against both the contractor and the City. That's pending right now. But in the course of this litigation, we discovered -- well, the contractor's insurance company informed us, informed my lawyer, that the contractor was in fact not insured for that demolition. And that brings me to what I understand the Council is debating now regarding your Bill No. 130688.

I do understand that in this proposed bill and in the current state of the law, contractors are required to have insurance. However, this contractor apparently does have insurance for some things, but the insurance company says he does not have insurance for that job. In their view, he needed to tell them the addresses of the demolitions he was going to do and then he would be covered for those jobs, and in their view, he did not

do that. So that obviously leaves me in quite a predicament where I am unable to fix my house.

The lawsuit is still going on. We're just, I think, finishing up discovery right now. You know, all of these problems could have been averted, in my opinion, if there had been proper demolition and proper inspections of the demolition work. However, given that didn't happen, since my only recourse now is to try to get money to pay for the repairs so I can ultimately sell my house -- the real concern is with so much water damage and mold, extensive mold remediation needs to be done, and I just don't know who would buy a house with known mold and some of which was found to be toxic. And now, you know, even if I get a judgment against the contractor, I most likely will not have an ability to collect from this LLC with few assets and with no insurance.

COUNCILMAN JONES: I would like

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Commissioner Williams to come back up to the witness table.

MS. FREEMAN: Should I stay here?

COUNCILMAN JONES: Yes.

(Witness approached witness table.)

COUNCILMAN JONES: Considering that is a matter under litigation, Commissioner, I don't want you to speak to the specific case, but I'd like you to, in an overview, talk about cases like this, because it's not the first time I've heard this. Two disturbing components of what she talked about was the lapse of insurance and the specific request that the insurance company be notified of the particular property that was to be demolished. And not dealing with the case specifically -- do you have a timeframe when this happened?

MS. FREEMAN: The demolition was -- it began in June 2011.

COUNCILMAN JONES: 2011.

So that is before you, which is, you know, comforting, but how many cases are there like this and what are we going to do -- whether it's our legislation, whether it's the Executive Order, how do we avoid situations like this in the future?

COMMISSIONER WILLIAMS: First let me apologize for what you're experiencing and your situation, and as the Councilman said, because it's a legal matter, I certainly can't comment on what happened at that extent. If there's something that we can take a look at as what occurred, I'm sure that my office is more than happy to sit down and meet with you to discuss.

In regards to the general policy, Councilman, those who are carrying insurance, the insurance company, if it lapses for any reason, is required to notify the City, and the City then can audit and address the contractor once notified. Many times the insurance

carrier or company does not notify the City of Philadelphia, so we have no way of knowing if and when an insurance policy has lapsed. The problem with that is the same in the auto industry when someone, if they're trying to attempt to buy a car, must show proof of insurance, buys insurance for a day, the next day they let their policy lapse, and if there is no connection between the carrier and the insured or the City, therefore, we have no knowledge if that person is still valid for insurance purposes. In this case, this sounds like a definite situation that may have occurred.

What we're doing right now effective January 1st is that all permit applications, especially with private contractors, must show proof of insurance and also have a valid tax clearance. The insurance policy will be reviewed to make sure that they have the proper coverages to ensure that situations like this will not happen in the future, and we would

also provide auditing for contractors who are problematic and that we find that don't have insurance. We automatically suspend or stop their job, and we actually go after them and ensure that they have proper insurance before they're allowed to continue pulling permits for the City of Philadelphia.

I know that's going forward. It certainly doesn't help what happened in your situation, and I certainly hope that we -- there is some resolve to that, but we need to follow up and ensure we tighten those controls, Councilman.

COUNCILMAN JONES: There's your individual case, but then there's the overarching policy matter that we need to figure a way around. One of the suggestions, as I recall now, is that we ask that the entire insurance policy be attached to the application, and in the case of specific properties, naming the very property that is to be insured for whatever time period. Does that in some

way address that?

So if Property A is to be demolished within a reasonable amount of time, which is 90 days from the time of the app, that there's a policy that covers at least 120 days that says, you know, for this period of time, you are covered on this property on this demolition job. Is there a way that those kinds of attachments can be attached to the actual demolition permit application?

COMMISSIONER WILLIAMS: Sure. The policy period reflects the time of coverage. So it will say on the policy the specific date it was initiated and the period in which that insurance policy is good for, along with endorsements and exclusions, because one of the things that we found is that some people may not have the proper insurance to perform the work specification. And so with our new policy, we certainly are looking and reviewing, which is why it takes a little

longer than it did prior to demolitions, because those are some of the things that we're looking at to ensure that properties are protected when it comes down to demolitions and these type of matters. But those are the things that we are certainly looking at right now.

COUNCILMAN JONES: We're trying to identify a differential between an overarching policy and a house-specific as well. So it may say, yes, I'm a demolition contractor and I'm insured for X hundred thousands of dollars, but if it doesn't cite the property to be demolished, is there a catch 22 that we can avoid by specifically listing that insurance policy to cover that policy? Is that -- how close can we get to that?

COMMISSIONER WILLIAMS: I think we need to bring Risk Management in on that conversation to determine what insurance covers specific work duties and responsibilities when someone is performing this type of work. And so we

have reached out to Risk Management to, first of all, train our permit reviewers to determine if someone has acceptable coverages.

COUNCILMAN JONES: So is this a training question as well?

COMMISSIONER WILLIAMS: It's a training question, but it's also, again, a Risk question to determine what the requirements are from insurance so that we can make sure that coverage is provided when they're starting to initiate this type of work.

COUNCILMAN JONES: So I'd like the Clerk to request Risk Management to be in here to see what things we can do to get that kind of exposure covered within the policy. And I'd be interested also in finding out specific training that you're going to give from the insurance industry or from Risk Management to train your particular application reviewers on this is bogus or this is a real policy that covers the

concern of -- and I really also apologize on behalf of the City of Philadelphia for you having to go through this. I mean, what we hope this will be is a teaching moment that becomes a policy of the City of Philadelphia so that this doesn't happen to other people. All right? Thank you very much.

Are there any other questions for this panelist?

(No response.)

COUNCILMAN JONES: Seeing none, thank you.

Are there any others to testify before this committee today?

(No response.)

COUNCILMAN JONES: Seeing none, then the Committee will stand at recess until Monday, November 18th, 1:00 p.m.

Thank you.

(Committee of the Whole adjourned at 3:15 p.m.)

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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