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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON LICENSES AND INSPECTIONS

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, October 27, 2009
9:30 a.m.

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PRESENT:

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COUNCILWOMAN MARIA QUINONES-SANCHEZ, CHAIR

10

COUNCILMAN FRANK DiCICCO

COUNCILMAN BILL GREEN

11

COUNCILMAN WILLIAM GREENLEE

COUNCILMAN CURTIS JONES, JR.

12

COUNCILMAN JACK KELLY

COUNCILMAN JAMES F. KENNEY

13

COUNCILWOMAN JOAN L. KRAJEWSKI

COUNCILWOMAN BLONDELL REYNOLDS BROWN

14

BILL 090568 - An ordinance amending Title 4 of
The Philadelphia Code, entitled "The
Philadelphia Building Construction and
Occupancy Code"...

17

BILL 090581 - An ordinance amending Chapter
9-400 of The Philadelphia Code, entitled
"Carriers"...

19

BILL 090590 - An ordinance amending Title 4 of
The Philadelphia Code, Subcode "PM" (The
Philadelphia Property Maintenance Code)...

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COUNCILWOMAN SANCHEZ: Good

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morning, everyone. The Committee on L&I

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will now be in session. I want to, for

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the record, note that Councilman Jim

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Kenney and Frank DiCicco have been

7

appointed to this committee for the

8

purposes of this hearing, and to my left

9

is Councilman Greenlee and Councilwoman

10

Blondell Reynolds Brown.

11

Bill 090590 will be held at the

12

call of the sponsor. So if the Clerk

13

will read Bill 090581.

14

THE CLERK: Bill 090581, an

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ordinance amending Chapter 9-400 of The

16

Philadelphia Code, entitled "Carriers,"

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by adding a new Section 9-410, entitled

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"Pedicabs," to provide for the licensing

19

and regulation of businesses operating

20

Pedicabs for hire, and setting forth

21

rules of operation; all under certain

22

terms and conditions.

23

COUNCILWOMAN SANCHEZ: And the

24

first presenters on the bill will be

25

Mr. Steve Buckley, Deputy Commissioner of

1 10/27/09 - L&I - BILL 090568, etc.

2 Streets.

3 (Witness approached witness
4 table.)

5 COUNCILWOMAN SANCHEZ: Good
6 morning. Before you start your
7 testimony, we'll allow opening remarks
8 from the sponsor, Councilwoman Blondell
9 Reynolds Brown.

10 COUNCILWOMAN BROWN: Good
11 morning, Madam Chairwoman, members of the
12 Committee and guests. Let me first thank
13 the members of the Committee today for
14 their attention to the creation of a
15 pedicab business or pedicab businesses
16 here in Philadelphia through the passage
17 of Bill No. 090581.

18 This matter raised my interest
19 and that of my co-sponsor, Councilman
20 Jones, through a number of different
21 channels. First, we recognize that with
22 the creation of a pedicab industry, we
23 will be creating new jobs and businesses
24 in Philadelphia, which is always a goal
25 and interest of this Council. Not only

1 10/27/09 - L&I - BILL 090568, etc.
2 will we be creating new jobs with a new
3 tax base, but they will be classified as
4 green jobs, thus not adding to the carbon
5 footprint of our city.

6 Given Philadelphia's rich
7 cluster of cultural locations, it is
8 likely that approved routes will be in
9 tourist areas that allow for a quick,
10 inexpensive and fun way for visitors to
11 view and see our city.

12 Pedicabs have been known to add
13 to the charm of cities where they are
14 currently operating. They have also been
15 known to complement -- I underscore the
16 word "complement" -- other modes of
17 transportation, and one of our testifiers
18 today will share their experiences in
19 working with and improving business for
20 taxicabs in a nearby town.

21 So I'm hopeful that
22 Philadelphia will join other United
23 States cities that have regulated
24 pedicabs, "regulated" being the most
25 important word here, cities like Boston,

1 10/27/09 - L&I - BILL 090568, etc.
2 Dallas, Los Angeles, San Francisco, San
3 Diego, Miami and Seattle, to name others,
4 and I'm hopeful that Philadelphia will
5 move from the column of those few cities
6 that do not have pedicabs at all.

7 In the end, the goal is for
8 Philadelphia to be more sustainable and a
9 tourist-friendly city with this structure
10 in place for pedicabs that the Streets
11 Department will create.

12 Please let me thank the Streets
13 Department, the Mayor's Office of
14 Transportation and the Law Department for
15 their tireless work with my office and
16 for your valuable input in creating this
17 comprehensive bill we will see and
18 consider today.

19 I thank you, Madam Chairwoman
20 and members of the Committee, for
21 consideration of this legislation and
22 hope for your needed support at the
23 conclusion of this hearing.

24 Thank you.

25 COUNCILWOMAN SANCHEZ: Thank

1 10/27/09 - L&I - BILL 090568, etc.

2 you, Councilwoman Blondell Reynolds

3 Brown.

4 So we'll begin with Steve

5 Buckley and then we'll have Ben and Tom

6 Dambman, and Ronn Ash will be our next

7 panel and then John Boyle and Russell

8 Meddin.

9 Anybody else who is here and

10 wants to testify on behalf of this bill,

11 please let us know. Otherwise, that is

12 the order we will follow.

13 So good morning.

14 DEPUTY COMMISSIONER BUCKLEY:

15 Good morning. My name is Steve Buckley.

16 I'm Deputy Commissioner for

17 Transportation in the Streets Department.

18 Good morning, Chairwoman

19 Quinones-Sanchez and members of the

20 Committee. Thank you for the opportunity

21 to appear before you today. My name is

22 Steve Buckley and I am Deputy

23 Commissioner for the Department of

24 Streets. I am here today to offer

25 testimony on Bill 090581. This bill

1 10/27/09 - L&I - BILL 090568, etc.
2 amends Chapter 9-400 of The Philadelphia
3 Code, entitled "Carriers," by adding a
4 new Section 9-410, entitled "Pedicabs,"
5 to provide for the licensing and
6 regulation of businesses operating
7 pedicabs for hire, and setting forth
8 rules of operations.

9 Under this bill, the Streets
10 Department is asking to manage the
11 licensing of pedicabs and oversee the
12 approval of where and when pedicabs can
13 operate. This bill also grants the
14 ability for the Police and any other
15 official who is authorized to issue code
16 violation notices.

17 The Streets Department supports
18 efforts to expand safe and efficient
19 transportation options for residents and
20 visitors. The Administration supports
21 the framework proposed in this bill to
22 license and regulate pedicabs. Based on
23 the experiences of other cities, the
24 crucial element of a regulatory framework
25 are licensing, safety, insurance and the

1 10/27/09 - L&I - BILL 090568, etc.

2 time and place of operation. This
3 legislation addresses those elements.

4 In implementing this
5 legislation, the Streets Department will
6 seek to ensure the safety of all users of
7 the transportation system. The
8 maintenance of efficient traffic flows
9 will be given the highest priority in
10 assessing approval of normal and special
11 routes, as well as times of operation.

12 We have been actively working
13 with Council on drafting mutually
14 acceptable legislation. Our primary goal
15 has been to assist in crafting
16 legislation that does not put the public
17 at safety risk or the City at legal risk.
18 Unfortunately, since this is an entirely
19 new issue for us, we continue to work
20 through several small issues.

21 By City Code, pedicabs will not
22 be permitted to operate on sidewalks.
23 Regarding the approval of routes on side
24 paths and/or trails, the Streets
25 Department will consult with the

1 10/27/09 - L&I - BILL 090568, etc.

2 Department of Parks and Recreation.

3 In light of our current budget
4 issues and due to the fact that we do not
5 have a good sense of the demand for
6 licensing, we are concerned that the \$100
7 application fee and the \$200 license fee
8 for the first pedicab and \$100 for each
9 additional pedicab will not generate
10 sufficient revenue to support the
11 Administration of this program.

12 Furthermore, we respectfully
13 request the opportunity to work with
14 Council staff to resolve the issues
15 below. We suggest that this legislation
16 includes mandating that helmets be
17 available for use by all pedicab
18 passengers, as state law requires helmets
19 for children on cycles; establishing
20 maximum widths for pedicabs to ensure
21 that they do not impact adjacent travel
22 lanes; requiring an annual safety report
23 by the licensee to ensure ongoing safety
24 of the industry; requiring licensees to
25 forward copies of police reports of all

1 10/27/09 - L&I - BILL 090568, etc.
2 traffic crashes to the Streets Department
3 within two weeks of a crash; and
4 permitting the Streets Department to
5 revoke an operator's license for repeated
6 violations of their permit.

7 Again, since this is a new type
8 of industry for Philadelphia, we would
9 like to work with Council staff to assess
10 these operations once a full season of
11 operations is completed.

12 Thank you for the opportunity
13 to appear before you today, and I will be
14 happy to answer any questions that you
15 may have at this time.

16 COUNCILWOMAN SANCHEZ: Thank
17 you.

18 I recognize Councilwoman
19 Blondell Reynolds Brown.

20 Oh, Councilman Greenlee.

21 COUNCILMAN GREENLEE: Thank
22 you, Madam Chair.

23 Good morning, Mr. Buckley.
24 Just a couple of quick questions. I know
25 you alluded in your testimony that you

1 10/27/09 - L&I - BILL 090568, etc.
2 don't know how many might apply. Has
3 there been any rough idea how many like
4 ideally that would work out there on the
5 streets?

6 DEPUTY COMMISSIONER BUCKLEY:
7 One of the main companies that have been
8 pursuing this foresees up to 20 pedicabs
9 out there.

10 COUNCILMAN GREENLEE: Twenty?

11 DEPUTY COMMISSIONER BUCKLEY:
12 And we don't know if there are more
13 businesses out there that may be
14 interested in operating at this time, but
15 we figure it will likely not rev up to 20
16 immediately, so there will be some time
17 to assess the impacts.

18 COUNCILMAN GREENLEE: And I
19 think Councilwoman Brown had said that
20 you're ideally looking at mostly in the
21 tourist areas?

22 DEPUTY COMMISSIONER BUCKLEY: I
23 guess our primary concern would be -- we
24 suspect that this will be primarily
25 attractive for tourists and visitors, but

1 10/27/09 - L&I - BILL 090568, etc.
2 that does not mean that residents won't
3 choose to use it as well.

4 COUNCILMAN GREENLEE: Right.
5 And, lastly, as far as the streets are
6 going to be on it, will there just be
7 designated streets that they can go on,
8 or maybe you haven't figured all that out
9 yet.

10 DEPUTY COMMISSIONER BUCKLEY:
11 Within the language of the bill, it
12 grants the right to the Streets
13 Department to regulate which streets each
14 operator can operate on. So it may be
15 that they come to us and ask for a
16 certain neighborhood or a certain area
17 and we would likely confine their permit
18 to that operation, but we would be
19 willing to work with them if there are
20 other locations that they would like to
21 build into their permits.

22 COUNCILMAN GREENLEE: So you're
23 still sort of working that out?

24 DEPUTY COMMISSIONER BUCKLEY:
25 Yes.

1 10/27/09 - L&I - BILL 090568, etc.

2 COUNCILMAN GREENLEE: That
3 makes sense.

4 Thank you.

5 Thank you, Madam Chair.

6 COUNCILWOMAN SANCHEZ:

7 Councilwoman Reynolds Brown.

8 COUNCILWOMAN BROWN: Thank you.
9 Good morning.

10 For clarity purposes for my
11 colleague, the language of the bill was
12 specifically written so that District
13 Councilmembers would have an opportunity
14 for input, because you may have business
15 corridors or cultural corridors that
16 would be quite appropriate for this type
17 of transportation. So I need to
18 stipulate that provision in the bill.

19 Additionally, of the matters
20 that you raise, again for clarity, after
21 a year of operation, it's understood that
22 you'll report back letting us know what
23 the experience has been so we can look to
24 see where we need to make changes in the
25 regulation of the bill, correct?

1 10/27/09 - L&I - BILL 090568, etc.

2 DEPUTY COMMISSIONER BUCKLEY:

3 Yes, ma'am.

4 COUNCILWOMAN BROWN: Thank you
5 very much.

6 Thank you, Madam Chairwoman.

7 COUNCILWOMAN SANCHEZ:

8 Councilman Jones.

9 COUNCILMAN JONES: Thank you,
10 Madam Chair.

11 I'd like to concur that this
12 bill specifically allows District people
13 to evaluate how those routes work out.
14 In the case of the 4th District, we're
15 looking at the Centennial District where
16 we are trying to kind of encourage a
17 non-vehicular, pedestrian-friendly kind
18 of environment, particularly in the area
19 between the Zoo to the Mann Music Center.
20 And so you have thoroughfares that are
21 really conducive for that in the Parkside
22 area, but we want to take a look at what
23 it does to traffic patterns over a period
24 of a year.

25 In the case of Main Street,

1 10/27/09 - L&I - BILL 090568, etc.
2 we're a little more cautious, because
3 we're not talking about major
4 thoroughfares that are wide enough and
5 that we want to really see how it impacts
6 on the traffic, but I think the way the
7 bill is designed, it allows us to monitor
8 that and make adjustments.

9 DEPUTY COMMISSIONER BUCKLEY:

10 Yes, sir.

11 COUNCILMAN JONES: Thank you,
12 Madam Chair.

13 COUNCILWOMAN SANCHEZ: Thank
14 you.

15 Any other questions?

16 COUNCILWOMAN BROWN: Again, I
17 want to say a huge thank-you to the
18 leadership and to you at the Streets
19 Department. Your input is valuable as we
20 attempt to roll this out and do it in a
21 way that's correct on the front end
22 versus rolling it out and having no input
23 from the departments that will ultimately
24 be responsible for the administration.
25 So thanks again.

1 10/27/09 - L&I - BILL 090568, etc.

2 DEPUTY COMMISSIONER BUCKLEY:

3 Thank you. We're happy to work with your
4 staff.

5 COUNCILWOMAN SANCHEZ: Thank
6 you. If you can hang in here with us
7 until we finish the two other panels, I
8 would appreciate that.

9 Ben and Tom Dambman.

10 DEPUTY COMMISSIONER BUCKLEY:

11 Thank you.

12 COUNCILWOMAN SANCHEZ: And Ronn
13 Ash, if you could come up to the witness
14 table. And then as I mentioned before,
15 John Boyle and Russell Meddin.

16 (Witnesses approached witness
17 table.)

18 COUNCILWOMAN SANCHEZ: Good
19 morning. Identify yourself for the
20 record and you may proceed.

21 MR. BEN DAMBMAN: Good morning.
22 My name is Ben Dambman.

23 MR. TOM DAMBMAN: And Thomas
24 Dambman.

25 MR. BEN DAMBMAN: My brother

1 10/27/09 - L&I - BILL 090568, etc.

2 Tom.

3 We wanted to thank you really
4 for everyone's work that's gone into
5 creating this ordinance, and we're just
6 thrilled that it's gotten the attention
7 of the City and City Council and everyone
8 here. So we really appreciate all the
9 work that's gone into it. And this is
10 something that we've been working on for
11 quite a few years and really happy to see
12 that we have a lot of support.

13 My brother Tom and I grew up in
14 the neighborhood of Roxborough. We both
15 still live in Philadelphia. To the best
16 of our knowledge, we were the first to
17 introduce pedicabs to the City when we
18 started Chariots of Philly in Manayunk in
19 2003. We're thrilled that the City
20 Council Members Blondell Reynolds Brown
21 and Curtis Jones, Jr. have introduced
22 this ordinance, which will provide for a
23 safely operated pedicab industry and are
24 here to give our support.

25 We operated in Manayunk for a

1 10/27/09 - L&I - BILL 090568, etc.
2 few years with the support of local
3 residents, business owners and visitors.
4 In the fall of 2006, after trying to
5 expand to new parts of the City, we
6 received a cease operations order from
7 the Department of Licenses and
8 Inspections, which we appealed in the
9 Court of Common Pleas. After a few
10 hearings, a decision to overturn the
11 cease operations order was put on hold
12 pending the adoption of an ordinance by
13 City Council that regulates the pedicab
14 industry.

15 Pedicabs are operated and
16 regulated in almost every major city in
17 the U.S., which Councilwoman Reynolds
18 Brown mentioned earlier. There are few
19 cities that remain without them,
20 including Philadelphia. This is despite
21 the fact that we, as well as at least
22 five other companies or individuals that
23 we are aware of, have tried to introduce
24 them to Philadelphia.

25 Pedicabs are an environmentally

1 10/27/09 - L&I - BILL 090568, etc.
2 friendly, affordable means of short
3 distance transportation that's fun and
4 memorable. They offer a green mode of
5 transportation that does not compete with
6 other means of transportation in the City
7 directly. Pedicabs don't compete
8 directly with motorized taxicabs, because
9 most rides with a pedicab would be a very
10 short distance, either to get somewhere
11 quickly, but probably more for the thrill
12 of it or just the memory that it creates
13 and a few blocks long. Taxis prefer to
14 take longer rides because of the low fare
15 with short rides a few blocks long.

16 Also, tour operators we do not
17 compete with. We're not looking to start
18 a tour business with pedicabs. It's just
19 simply, like we said, a means of short
20 distance transportation.

21 We believe the two major
22 reasons for City Council to adopt this
23 ordinance are, number one, pedicabs will
24 show the world that Philadelphia is
25 serious in its efforts to become the next

1 10/27/09 - L&I - BILL 090568, etc.
2 great city. And, number two, pedicab
3 businesses will provide not just jobs,
4 but green job opportunities to City
5 residents. Our business plan alone
6 provides 20 or more full-time pedicab
7 rider positions by this coming spring.

8 So we'd like to thank you for
9 your support of this ordinance that will
10 attract more visitors to Philadelphia and
11 make it a greater and greener city in
12 which to live and work.

13 COUNCILWOMAN SANCHEZ: Any
14 questions of this witness?

15 Councilwoman Brown.

16 COUNCILWOMAN BROWN: Let me
17 comment. We thank you for bringing your
18 experience to the table, business owners
19 who have a rich history already in what's
20 doable and possible with this new
21 industry.

22 Thank you very much.

23 MR. BEN DAMBMAN: Thank you.

24 COUNCILWOMAN SANCHEZ:

25 Councilman Curtis Jones.

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2 COUNCILMAN JONES: Just for the
3 record, you said you grew up in what
4 neighborhood?

5 MR. BEN DAMBMAN: Roxborough.

6 COUNCILMAN JONES: And where
7 would that be?

8 MR. BEN DAMBMAN: You're an
9 expert on that.

10 COUNCILMAN JONES: In the 4th
11 District.

12 MR. BEN DAMBMAN: Thank you.

13 COUNCILWOMAN SANCHEZ: Thank
14 you, gentlemen.

15 John Boyle and Russell Meddin,
16 if you're in.

17 Ronn Ash, I'm sorry. You can
18 come to the witness table together.

19 (Witnesses approached witness
20 table.)

21 COUNCILWOMAN SANCHEZ: We do
22 have a copy of Mr. Ash's testimony, so
23 that will be added to the record. I
24 don't know if you want to summarize that
25 presentation.

1 10/27/09 - L&I - BILL 090568, etc.

2 MR. ASH: Yeah. There's a
3 slight revision.

4 Good morning, everyone, Madam
5 Chair and members of the Committee. I am
6 Ronn Ash, founder and operator of
7 Velo-Park. I am here to introduce the
8 Committee to Velo-Park cabs and support
9 Bill No. 090581.

10 Before I begin my testimony, I
11 would like to thank the Streets
12 Department for working with me to secure
13 the required permits to demonstrate
14 Velo-Park cabs at special events and
15 festivals held in the City over the last
16 year. Councilwoman Blondell Reynolds
17 Brown and Councilman Curtis Jones and
18 their respective staff, thank you for
19 sponsoring this bill.

20 Growing up in Southwest
21 Philadelphia, I would often bike to two
22 historical treasures in our city, which
23 at the time were unrecognized and
24 underappreciated - Fort Mifflin and
25 Bartram's Garden. As a former General

1 10/27/09 - L&I - BILL 090568, etc.
2 Manager of Chamounix Mansion Hostel in
3 Fairmount Park, whose founding members
4 were promoting urban cycling and
5 environmental practices back in the
6 1960s, I became increasingly involved
7 with Fairmount Park and historic
8 preservation, the developments in tourism
9 and hospitality in our city and urban
10 cycling and the environment. While
11 Director of Visitor Services at the
12 Independence Seaport Museum during a
13 challenging time a few years ago, I
14 worked to redefine the Museum to the
15 local community, restructure operations
16 and increase attendance. For years now,
17 I have found meaningful work in assisting
18 non-profit organizations to reach their
19 potential, to connect our residents and
20 those visiting our great city to unique
21 places while raising awareness about
22 environmental concerns.

23 After spending significant time
24 in Copenhagen, one of the most
25 progressive bicycle cultures in the

1 10/27/09 - L&I - BILL 090568, etc.
2 world, I began research in 2007 regarding
3 the history of pedicabs in Philadelphia
4 and other cities, evaluating pedicab
5 manufacturers, reading numerous strategic
6 plans prepared by the City, by our
7 tourism and hospitality community and
8 neighborhood business associations. In
9 addition to all the well-documented
10 attributes of pedicabs and the safety
11 statistics, it was easily apparent that
12 pedicabs could also contribute to helping
13 these organizations and local businesses
14 to achieve their goals and objectives by
15 providing an enhancement to
16 transportation in our cultural and
17 historic districts and by promoting the
18 Philadelphia brand. More importantly, I
19 believe pedicabs help define a growing
20 Philadelphia for ourselves and those
21 visiting our Greene Country Towne through
22 providing its residents with an
23 alternative, emission-free transportation
24 option and by extending a service that
25 the rest of the world has come to expect

1 10/27/09 - L&I - BILL 090568, etc.

2 while visiting abroad.

3 With the election of Mayor
4 Michael Nutter, I was confident the
5 timing was appropriate to reach out to
6 City officials in an effort to revisit
7 the ordinance of 2006 prohibiting
8 pedalcycles. After meeting with and
9 touring the manufacturing facility of
10 Veloform in Berlin, the creator of the
11 City Cruiser pedicab, Velo-Park was
12 formed as a limited liability company in
13 August 2008. With the aim to establish a
14 triple-bottom-line business centered on
15 working to contribute to a more
16 sustainable and bike-friendly city
17 through promoting urban environmentalism
18 and encouraging foot traffic to assist in
19 creating pedestrian-friendly zones,
20 Velo-Park will provide an emissions-free
21 transportation alternative and a novel
22 option for touring Philadelphia.
23 Velo-Park seeks to promote both the
24 cultural integrity and the diversity of
25 the City while at the same time

1 10/27/09 - L&I - BILL 090568, etc.

2 supporting the Administration's green
3 agenda and creating green-collar
4 employment.

5 My outreach effort to City
6 officials, GPTMC, PCVB, the Parkway
7 Council Foundation, Center City District
8 and others has led me to introducing
9 Velo-Park cabs at the grand opening of
10 the Please Touch Museum. I had the
11 privilege of providing Mayor Nutter and
12 Nancy Kolb with their first pedicab
13 experience. Velo-Park also recently
14 provided a complimentary shuttle service
15 for the Live Arts Festival and Philly
16 Fringe this year. Based on everyone's
17 reactions, including the positive
18 response we received from taxi drivers,
19 there is a high expectation to see
20 Velo-Park cabs in full operation.

21 Veloform GbmH is the
22 manufacturer of City Cruiser I and II.
23 They are popular and successful, easy to
24 use and a fun human-powered tricycle.
25 They combine gear transmission with an

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electric assist, making it a comfortable driving experience. The rear seat of the cabin provides room for two to three passengers with small luggage. To ensure full safety, all vehicles have been registered by DEKRA, the German Automobile Monitoring Association, thereby providing its operational integrity. Both vehicles are DEKRA and TUV certified in Germany and the only vehicles of their category anywhere in the world to be awarded such certification for operation on all public roads. The City Cruiser is classified as a cycle in Germany and many other countries due to the motor assist, which falls under the category of an acceleration aid, as it does not function without pedaling.

21 The electric assist innovation
22 is integrated in the front wheel hub. A
23 twist grip works at full capacity to
24 operate the motor until the vehicle
25 reaches a speed of about nine miles per

1 10/27/09 - L&I - BILL 090568, etc.
2 hour. Propulsion is then increasingly
3 taken over by the rider. On average, the
4 assist adds 50 percent of the power
5 needed to move the vehicle forward from a
6 dead stop. The electric assist will
7 switch off when top speed is reached.
8 Therefore, the City Cruiser falls under
9 the category of an electric-assisted
10 bicycle.

11 The two 12-volt lead-gel
12 batteries are not classified as dangerous
13 goods and can be charged with a special
14 charger that is plugged into the usual
15 220-volt socket, much like a cell phone.
16 The capacity of the batteries largely
17 depends on how extensively they are used.
18 Experienced drivers can get through their
19 eight-hour shift without any battery
20 power at all.

21 Generally speaking, the
22 electric assist should be used
23 economically, perhaps only when driving
24 slightly uphill or to get support when
25 starting with passengers in their rear.

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2 The cabin is made of 100
3 percent recyclable polyethylene. The
4 cabin can be used as advertisement space
5 by covering the whole surface or parts of
6 it with standard high-quality graphic
7 wrap such as 3M Controltac or similar
8 product.

9 Veloform products have a
10 strategic advantage due to its striking
11 design and the safety and security it
12 provides the driver and passengers.
13 Known as a "velo," City Cruisers operate
14 successfully in 17 countries and 35
15 cities worldwide. In addition to
16 Montreal and Toronto, Veloform's
17 innovative pedicabs are only present in
18 New York, Chicago, Washington DC, San
19 Francisco, San Diego, Seattle, Detroit,
20 Denver, Miami, Boston and Boise.

21 Despite its electric assist,
22 the Federal Ministry of Transport
23 classifies the City Cruisers as a regular
24 bicycle in Germany. The Berlin operation
25 was given a permanent special license by

1 10/27/09 - L&I - BILL 090568, etc.
2 the Berlin Senate. The City Cruiser is
3 thus allowed to drive on the same routes
4 as regular bicycles, on bus lanes, on
5 cycling lanes and in the parks. City
6 Cruiser operators required an exemption
7 from an ordinance forbidding the offering
8 of goods of all kinds in the streets that
9 could distract motorists and cyclists in
10 a dangerous way. In some cities like
11 Milan where bicycles are not as common
12 and cars still have priority, the
13 authorities have been much more in favor
14 of allowing the City Cruiser in the
15 pedestrian zones.

16 Given its successful presence
17 worldwide and the enthusiastic response
18 Velo-Park cabs have received thus far, it
19 seems highly likely that Philadelphians
20 will embrace these pedicabs on the
21 streets of the City.

22 Regarding Bill 090581, I am
23 sure in the subsequent discussions and
24 meetings with the Streets Department and
25 the members of City Council, we will have

1 10/27/09 - L&I - BILL 090568, etc.
2 the opportunity to address specifics
3 regarding the bill, the application
4 process and operations. However, I would
5 like to make a few suggestions and
6 recommendations regarding certain
7 proposed amendments.

8 (1)(a) Pedicab - a pedalcycle
9 with three or more wheels, propelled
10 solely by human power, constructed and
11 operated to transport passengers for
12 hire. To accommodate pedicabs with an
13 electric assist, I respectfully suggest
14 that the language in the definition of
15 pedicabs be amended to delete the word
16 "solely." It is my understanding that
17 this was amended just recently.

18 COUNCILWOMAN BROWN: It will
19 be.

20 MR. ASH: It will be, okay.

21 (3)(a) - The licensee shall
22 maintain liability and workers'
23 compensation insurance in the amount
24 determined by the Risk Manager. I
25 suggest that the language be amended to

1 10/27/09 - L&I - BILL 090568, etc.
2 reflect that the operator is not required
3 to possess workers' compensation when
4 using independent contractors.

5 For pedicab routes and hours of
6 operation, I recommend that prohibiting
7 pedicabs from park drives, bridges and
8 other streets limits the movement of
9 pedicabs severely, thus compromising
10 their use. It also sets a precedent for
11 a future restriction on the movement of
12 human-powered vehicles. Therefore, I'd
13 like to strongly recommend that normal
14 and special routes or any limit to the
15 hours of operation be removed from the
16 bill or redefined. If they must remain,
17 that this requirement pertains only to
18 pedicabs operating in the historic
19 district as sightseeing vehicles.

20 Philadelphia is a desirable
21 location for pedicabs due to its
22 reasonably short distance between points
23 of interest, the terrain is relatively
24 gentle and there are multiple zones in
25 need of transport augmentation.

1 10/27/09 - L&I - BILL 090568, etc.
2 Human-powered transportation that reduces
3 gas consumption and problems related to
4 climate change must be included as part
5 of a set of transport options for
6 commuting, errands, outings, tours and
7 commercial use. We simply cannot be the
8 greenest city in America without
9 pedicabs.

10 By making pedicabs available to
11 people who make conscious choices
12 regarding how they purchase goods and
13 services, pedicabs fill a void and
14 enhance the City's transportation system
15 by providing an eco-friendly mode of
16 transport. As an intelligent
17 alternative, this model for urban
18 mobility encourages people to evaluate
19 the carbon footprint they leave behind,
20 thus contributing to the decrease of
21 negative impacts on our environment.

22 While there is certainly a need
23 to recognize pedicabs by legislating
24 enforceable and fair regulations, there
25 is no need to restrict where and when

1 10/27/09 - L&I - BILL 090568, etc.
2 they may operate. Pedicabs do not have a
3 negative effect on the City, traffic or
4 taxi service, public safety, the economy
5 and the environment or on public health.
6 In fact, pedicabs improve these things
7 and the lifestyles of our citizens. Any
8 laws, rules or regulations imposed on
9 pedicab businesses should encourage their
10 use and not limit it.

11 Velo-Park is committed to
12 contributing to building a social,
13 eco-friendly and financially sustainable
14 environment that enhances local alliances
15 and creates strategic partnerships. Be
16 assured, Velo-Park pledges to provide
17 safe, insured, skilled, accountable and
18 high-quality pedicab services. Our
19 pedicab drivers will be selected to fit
20 the model of a city ambassador -
21 personable, enthusiastic, environmentally
22 sensitive and knowledgeable about
23 Philadelphia, our history as well as our
24 future.

25 Policies and procedures,

1 10/27/09 - L&I - BILL 090568, etc.
2 training and best practices will be
3 implemented and monitored as we will
4 strive to improve our operation and the
5 services we provide to the residents of
6 Philadelphia and tourists alike.

7 I am looking forward to
8 continued discussions with the City
9 Council members and the Streets
10 Department to develop regulations that
11 are consistent with the everyday,
12 on-the-street working conditions of the
13 pedicab industry to ensure a high level
14 of public safety and service while not
15 overburdening pedicab owners and drivers
16 with restrictive rules. I am confident
17 we can learn from how other cities have
18 implemented pedicabs and that pedicabs in
19 Philadelphia will be a welcomed addition
20 to our city's offerings and will enhance
21 the urban landscape of our city.

22 Thank you for your time and the
23 opportunity to present my opportunity
24 today. I'm happy to answer any
25 questions.

1 10/27/09 - L&I - BILL 090568, etc.

2 COUNCILWOMAN SANCHEZ: Thank
3 you. We're going to hear the rest of the
4 testimony and then we'll ask questions of
5 all our panelists.

6 You may proceed.

7 MR. BOYLE: Thank you. Good
8 morning. My name is John Boyle. I am
9 the Advocacy Director for the Bicycle
10 Coalition of Greater Philadelphia, and I
11 would like to thank City Council for
12 introducing this legislation.

13 The Bicycle Coalition of
14 Greater Philadelphia supports the
15 legalization of pedicabs in Philadelphia,
16 as we have seen several bike cab
17 operators start up and fail due to lack
18 of clarity in the law regarding their
19 operation. Bike cabs are city-friendly,
20 pollution-free vehicles, and the trade is
21 in line with the goals of the City's
22 sustainability plan of reducing
23 greenhouse gas emissions by 20 percent by
24 the year 2015. In the same way that
25 SEPTA has added hybrid buses to its

1 10/27/09 - L&I - BILL 090568, etc.
2 fleet, we hope that other modes of
3 transportation in Philadelphia work
4 towards reducing emissions for the clean
5 air and to reduce the negative effect of
6 greenhouse gases. Allowing bike cab
7 companies to operate will create green
8 jobs in the City and will boost
9 Philadelphia's growing reputation as a
10 city with an environmentally sustainable
11 economy.

12 In May 2009, the City of
13 Philadelphia was awarded a bronze-level
14 bicycle-friendly community by the League
15 of American Bicyclists, the first award
16 in Pennsylvania. The acceptance of
17 bicycle cabs moves forward our goals to
18 make Philadelphia a platinum-level
19 bicycle-friendly community by 2012.

20 More human-powered vehicles
21 such as bike cabs will raise awareness of
22 bicyclists sharing the road. Studies
23 have shown as bicycle traffic doubles,
24 then the risk of individual bicyclists
25 decreases by a third. This "safety in

1 10/27/09 - L&I - BILL 090568, etc.

2 numbers" theory also applies to

3 pedestrians.

4 We support the regulation of

5 this industry that drivers are licensed

6 or certified by completing a road cycling

7 safety course conducted by trainers

8 certified by the League of American

9 Bicyclists. While we understand the

10 specification of a Pennsylvania driver's

11 license, we believe that out-of-state

12 licenses should be accepted to allow

13 non-residents or new residents to gain

14 employment.

15 The Bicycle Coalition does not

16 object to regulating bike cabs by route,

17 but we believe that they should have the

18 freedom to take people to their final

19 destination, as this will impact the

20 operator's ability to garner customers.

21 The process for applying to

22 operate for special events should be

23 simple and one that does not discourage

24 potential companies from applying.

25 Bike cabs are good for the

1 10/27/09 - L&I - BILL 090568, etc.
2 environment and the health and quality of
3 life of Philadelphians. They help
4 residents and tourists quickly get where
5 they need to go without increasing air
6 pollution or greenhouse gas emissions.
7 We hope that City Council and L&I will
8 continue to work with bike cab operators
9 and advocates to promulgate regulations
10 to help establish and legitimize this
11 growing trade.

12 Thank you.

13 COUNCILWOMAN SANCHEZ: We have
14 one more testimony. Mr. Meddin came in,
15 and then we'll ask questions.

16 I'm sorry. Before we proceed
17 with your testimony, Councilman Green has
18 a question for the Streets Department.

19 COUNCILMAN GREEN: Well, it's
20 not for the Streets Department. It's
21 based on the last testimony. And it's
22 not really even a question. It's just a
23 statement. I have to leave, and I
24 apologize. And that statement is: I
25 don't think we should be authorizing

1 10/27/09 - L&I - BILL 090568, etc.
2 pedicabs without requiring workers'
3 compensation. In other words, I do not
4 think that if you have -- whether you
5 call them independent contractors, if the
6 person does not own the pedicab, they are
7 basically a part-time employee or an
8 employee. They are not going to be
9 independent contractors under state law.
10 And you can try to characterize them that
11 way to avoid expense, but these people
12 will be doing a job that requires
13 physical activity and they should have
14 workers' compensation insurance in case
15 something happens to them, they pull a
16 hamstring, other things. You'd otherwise
17 be creating a situation where the
18 taxpayers potentially are picking up the
19 healthcare costs for these independent
20 contractors. I don't think that that's
21 appropriate, and I just want to put that
22 on the record.

23 Thank you.

24 COUNCILWOMAN SANCHEZ: Thank
25 you.

1 10/27/09 - L&I - BILL 090568, etc.

2 Mr. Meddin.

3 MR. MEDDIN: Good morning,
4 Councilmembers. Thank you for the
5 opportunity to speak with you. My name
6 is Russell Meddin. I'm the founder of
7 Bike Share Philadelphia. My organization
8 is trying to persuade the City of
9 Philadelphia to join the 120 other cities
10 and bring ecologically sound public-use
11 bicycling or bike sharing to its
12 citizens. These programs are considered
13 truly green forms of public
14 transportation. I'm sure Councilman
15 Green and Councilman Greenlee like to
16 hear the word "green" when we speak here.

17 Today, you're considering
18 another form of green transportation,
19 non-polluting bike cabs or pedicabs. I
20 ask that you favorably support this
21 ordinance and not limit the routes of
22 operation for these people-powered
23 vehicles. Let the residents of our city
24 have the opportunity to choose an
25 ecological, sound form of transportation

1 10/27/09 - L&I - BILL 090568, etc.
2 to go where they need to go. Let our
3 beloved tourists enjoy our historical
4 Philadelphia with the opportunity to
5 choose an ecological and sound form of
6 transportation.

7 This is a great opportunity for
8 the City of Philadelphia to bring
9 something new, and I think it would be
10 really wonderful if City Council were to
11 pass this ordinance.

12 Thank you very much.

13 COUNCILWOMAN SANCHEZ: Thank
14 you for your testimony.

15 The Chair recognizes
16 Councilwoman Blondell Reynolds Brown.

17 COUNCILWOMAN BROWN: Councilman
18 Bill Green raises an important question,
19 and we're commiserating up here to make
20 sure we address that.

21 Now, for the record, we should
22 indicate that on Page 2 of the bill, No.
23 3, small letter (a), it reads, "The
24 licensee shall maintain liability and
25 workmen's compensation insurance in an

1 10/27/09 - L&I - BILL 090568, etc.
2 amount determined by the Risk Manager."
3 So we need to stipulate that for the
4 record.

5 And, Mr. Ash, thank you for
6 your very comprehensive testimony. On
7 the page that stipulates other cities
8 that have this particular mode of
9 transportation.

10 MR. ASH: Yes.

11 COUNCILWOMAN BROWN: We're in
12 the business of making no assumptions.
13 Are these in these cities the Velo Cab --
14 is that the correct pronunciation? Are
15 they regulated? Are they regulated?

16 MR. ASH: Some of them are.
17 Some cities they are.

18 COUNCILWOMAN BROWN: Okay,
19 then. Because I know in Detroit, where I
20 was first captured by this mode of
21 transportation a year ago, I discovered
22 that though they have them in New York,
23 they are not regulated in New York.
24 That's actually pending. Is that your
25 understanding as well?

1 10/27/09 - L&I - BILL 090568, etc.

2 MR. ASH: Yes.

3 COUNCILWOMAN BROWN: Very well.

4 Thank you for your testimony.

5 COUNCILWOMAN SANCHEZ: Thank
6 you.

7 Councilman Jones.

8 COUNCILMAN JONES: Thank you,
9 Madam Chair.

10 By way of special permits for
11 special events, can we talk about that.
12 Is there -- I mean, I've been to enough
13 special events and, in fact, participate
14 in them with -- there's some density
15 issues. Is there a maximum/minimum kind
16 of special events where pedicabs make
17 sense or whether they don't, or are you
18 saying that catchall they can accommodate
19 anything?

20 When I went to Welcome America,
21 I mean, there wasn't much room to
22 navigate on foot more or less with a
23 pedicab.

24 Is there a threshold that we
25 should really consider this or should we

1 10/27/09 - L&I - BILL 090568, etc.

2 just go as is?

3 COUNCILWOMAN BROWN: Point of
4 information, Madam Chair. We may want to
5 invite up the Streets Department, and
6 that may be an item we need to look at,
7 evaluate over the next year and report
8 back. Could we please have the Streets
9 Department comment, if you would.

10 COUNCILWOMAN SANCHEZ: I just
11 want to recognize that Councilwoman Joan
12 Krajewski has joined us.

13 (Witness approached witness
14 table.)

15 DEPUTY COMMISSIONER BUCKLEY:
16 Once again, Steve Buckley, Deputy
17 Commissioner, Streets Department.

18 I think that there are times
19 and locations where we think that this
20 would definitely be problematic, both
21 from an operational and a safety
22 standpoint. Operating pedicabs on the
23 Parkway during Welcome America might not
24 be the best environment to do that.
25 However, I, who live in East Falls, know

1 10/27/09 - L&I - BILL 090568, etc.
2 that they also close down Kelly Drive as
3 part of that and I see lots of people
4 walking at three miles down there. So
5 when it's closed down or partially closed
6 down, that might be an opportunity during
7 a special event where we would grant a
8 special permit for operations that we
9 think would be both safe and --

10 COUNCILMAN JONES: So to speak
11 to my colleague's point, we will monitor
12 this over the next year to try to gauge
13 where it makes sense, when maybe a permit
14 that is printed out that says that it's
15 going to be a million people at the
16 Phillies parade, that maybe we might not
17 want to do that there, but we will look
18 to your guidance and feedback from the
19 respective companies to say how we can
20 manage this and at what thresholds on a
21 permit per se these kind of activities
22 make sense.

23 DEPUTY COMMISSIONER BUCKLEY:
24 For the time being, I agree. We'll have
25 to rely on our judgment and we will

1 10/27/09 - L&I - BILL 090568, etc.
2 evaluate whether or not things seem to be
3 working.

4 COUNCILMAN JONES: Thank you,
5 Madam Chair.

6 COUNCILWOMAN BROWN: Councilman
7 Jones, are you projecting a win?

8 COUNCILMAN JONES: Freudian.

9 COUNCILWOMAN BROWN: Streets
10 Department, for the record, there are
11 members of the Committee, including me,
12 where we want to have input every single
13 step of the way on the regulations and a
14 report back prior to the next public
15 hearing a year from now on this issue.

16 DEPUTY COMMISSIONER BUCKLEY:
17 Yes, ma'am.

18 COUNCILWOMAN BROWN: Thank you
19 very much.

20 COUNCILWOMAN SANCHEZ: Thank
21 you.

22 Anyone else here to testify on
23 this bill? Any other questions?

24 (No response.)

25 COUNCILWOMAN SANCHEZ: Thank

1 10/27/09 - L&I - BILL 090568, etc.

2 you, gentlemen.

3 So if the Clerk will read the
4 next bill, 090568.

5 THE CLERK: Bill 090568, an
6 ordinance amending Title 4 of The
7 Philadelphia Code, entitled "The
8 Philadelphia Building Construction and
9 Occupancy Code," by amending Subcode
10 "PM," by requiring the periodic
11 inspection of the exterior walls and
12 appurtenances of certain buildings, the
13 filing of reports of such inspections,
14 and the repair and maintenance of certain
15 conditions discovered during such
16 inspections, all under certain terms and
17 conditions.

18 COUNCILWOMAN SANCHEZ: Thank
19 you.

20 I want to recognize the sponsor
21 of this bill for some opening remarks as
22 we discuss this very important topic.

23 So Councilman Kenney.

24 COUNCILMAN KENNEY: Madam
25 Chair, thank you for the opportunity, but

1 10/27/09 - L&I - BILL 090568, etc.

2 I don't have any opening remarks. We can
3 just get started.

4 COUNCILWOMAN SANCHEZ: We want
5 to get started. Great.

6 For the record, we have Otis
7 Haigler from the Department of Licenses
8 and Inspections, then we will have Donald
9 Haas and Jonathan Memmel, in that order.

10 (Witness approached witness
11 table.)

12 COUNCILWOMAN SANCHEZ: Thank
13 you. Proceed with your testimony.

14 MR. HAIGLER: Good morning,
15 Chairwoman Sanchez and members of the
16 Committee. I am Otis Haigler, Jr.,
17 Director of Legislative Affairs for the
18 Department of Licenses and Inspections.
19 Today I am here to provide testimony on
20 Bill 090568, which, if enacted, will
21 amend the Philadelphia Property
22 Maintenance Code to create a new section
23 for the purposes of regulating the
24 inspection and maintenance of building
25 facades in the City.

1 10/27/09 - L&I - BILL 090568, etc.

2 As a department with a mission
3 dedicated to public safety, we support
4 the enactment of this bill and the
5 technical amendments that will be offered
6 by the co-sponsors, Councilmen DiCicco
7 and Kenney. L&I has worked cooperatively
8 with both offices with regard to the
9 proposed bill and will continue to do so
10 during the implementation phases of the
11 bill once it has been enacted.

12 Current provisions of the
13 Property Maintenance Code require that
14 all exterior parts of a structure must be
15 maintained by property owners in
16 accordance with minimum requirements for
17 building maintenance and safety.

18 The proposed bill will
19 specifically require that the exterior
20 facades of all buildings located within
21 designated areas of the City, other than
22 a one- or two-family dwelling up to two
23 stories in height, must be inspected at
24 prescribed intervals by either a
25 registered structural engineer or

1 10/27/09 - L&I - BILL 090568, etc.
2 architect of the Commonwealth of
3 Pennsylvania that is hired by the
4 property owner.

5 In addition, where deficiencies
6 are found in facades which result in a
7 declaration of unsafe, steps must be
8 taken within 24 hours by the property
9 owner to ensure the protection of the
10 public and notify the Department of the
11 unsafe condition for follow-up
12 enforcement and monitoring. The report
13 that is submitted by the engineer or
14 architect must also include
15 recommendations for how the facade can be
16 made safe and a timeframe for when work
17 to make the corrections will begin and be
18 completed. All work to correct an unsafe
19 condition must commence within ten days
20 of the filing of the report and continue
21 progressively until completed.

22 Finally, the building owner
23 will be required to retain copies of all
24 inspection reports on site and make such
25 reports available for future inspection

1 10/27/09 - L&I - BILL 090568, etc.
2 and review upon request of Department
3 personnel or other City agencies charged
4 with public safety.

5 Thank you for the opportunity
6 to provide the Department's testimony on
7 this bill. Now I'll be happy to answer
8 any questions.

9 COUNCILWOMAN SANCHEZ: Are
10 there any questions from the Committee?

11 (No response.)

12 COUNCILWOMAN SANCHEZ: Thank
13 you. I'll ask that you hang in there
14 with us until the rest of the testimony.

15 MR. HAIGLER: Sure.

16 COUNCILWOMAN SANCHEZ:
17 Mr. Donald Haas.

18 (Witness approached witness
19 table.)

20 COUNCILWOMAN SANCHEZ: Good
21 morning.

22 MR. HAAS: Good morning,
23 everyone. My name is Don Haas. I am the
24 Operations Manager for the Bell Atlantic
25 Tower, a 53-story high-rise building

1 10/27/09 - L&I - BILL 090568, etc.

2 located in Center City. I am also

3 presently the current Chair of the

4 Building Owners' and Managers'

5 Association of Philadelphia, commonly

6 referred to as BOMA Philadelphia.

7 I would like to thank

8 Councilmember Quinones-Sanchez and the

9 Committee on Licenses and Inspections for

10 this opportunity to testify on Ordinance

11 No. 090568. We also appreciate the

12 efforts of Sarah Sachdev from

13 Councilmember Kenney's office and Brian

14 Abernathy from Councilmember DiCicco's

15 office to meet with BOMA representatives

16 and listen to our concerns regarding this

17 ordinance. While BOMA heartily supports

18 the public safety concerns of the bill's

19 sponsors, there are nevertheless some

20 points that we would like to bring before

21 the Committee.

22 By means of background, BOMA is

23 a non-profit organization whose members

24 provide, within the City limits alone,

25 over 51 million square feet of office

1 10/27/09 - L&I - BILL 090568, etc.
2 space for over a half million office
3 workers. Member buildings include
4 virtually all the major high-rise towers
5 in the City, including One and Two
6 Liberty Place, Commerce Square, Comcast
7 Center, Bell Atlantic Tower and Mellon
8 Bank Center, just to name a few.

9 Our member buildings not only
10 define the City skyline and add character
11 to the City, but they are also a
12 tremendous economic driver for the
13 region. In Greater Philadelphia, the
14 assessed real estate value of
15 BOMA-represented office buildings exceeds
16 \$16.7 billion. This translates into real
17 estate tax revenues of approximately \$250
18 million per year. In addition,
19 BOMA-member buildings and occupants pay
20 revenues to the City for city wage,
21 business privilege and use and occupancy
22 tax, as well as Center City District
23 assessments totalling \$1.16 billion
24 annually. Total tax revenues received by
25 the City from BOMA-member buildings and

1 10/27/09 - L&I - BILL 090568, etc.
2 their tenants exceed 1.3 billion each
3 year. Our industry and tenants, as a
4 whole, represent 70 percent of the tax
5 base to the City of Philadelphia.

6 I would like to reiterate that
7 public safety is the utmost importance to
8 BOMA and its member buildings. As a
9 civic-minded organization, BOMA stands
10 ready to endorse and promote those
11 courses of action that will help create
12 and maintain a safe, positive and
13 forward-looking environment throughout
14 the City and the Greater Philadelphia
15 region.

16 Building owners and managers
17 are, by their nature, concerned with
18 maintaining the structural integrity of
19 their assets. The buildings are our
20 livelihood. It's to our advantage,
21 economic and otherwise, to keep the
22 buildings well maintained. Indeed, a
23 variety of means already exist for
24 ensuring the safety of high-rise
25 buildings and their facades, including

1 10/27/09 - L&I - BILL 090568, etc.
2 insurance inspections and routine
3 maintenance inspections by building
4 staff. By and large, our members
5 subscribe to the "front page theory,"
6 taking proactive and prudent measures to
7 avoid being on the front page of the
8 Philadelphia Inquirer or the Daily News.

9 Upon review of Bill 090568, it
10 is BOMA's conclusion that the bill, as
11 written, targets BOMA-member buildings,
12 which do not tend to present the safety
13 issues which the proposed bill attempts
14 to address, while permitting those
15 buildings throughout the City which pose
16 the greatest risks to escape detection
17 and remediation, and will have a
18 tremendous economic impact on businesses,
19 large and small. Thus, the proposed
20 ordinance, as written, fails to achieve
21 its safety goals while adversely
22 impacting all businesses in the heart of
23 the City's economic body.

24 Again, while BOMA does not
25 consider such an ordinance to be

1 10/27/09 - L&I - BILL 090568, etc.
2 necessary for owners of high-rise
3 buildings, we applaud the City's efforts
4 to protect the public. Our members take
5 life safety and public well-being to
6 heart. The track record of BOMA-member
7 buildings and a majority of the City's
8 commercial high-rise stock speaks volumes
9 in this regard.

10 Outside of some minor
11 structural issues with the bill as
12 drafted, BOMA has three major concerns
13 associated with the ordinance. First is
14 the lack of a uniform application
15 throughout the City. Second is the
16 aggressive timetable associated with
17 remedial action, and last, but not least,
18 is the lack of a corresponding appeal
19 process.

20 Let me first address the issue
21 of geographical boundaries. From BOMA's
22 perspective, safety knows no boundaries.
23 As currently written, the ordinance fails
24 to list the specific areas of the City
25 that will be governed by its provisions.

1 10/27/09 - L&I - BILL 090568, etc.
2 Gerrymandering should not be a method of
3 establishing affected buildings. No
4 political body should be in the business
5 of picking winners and losers when it
6 comes to public safety. To achieve the
7 ordinance's safety goal, the ordinance
8 should apply citywide and to all
9 buildings two stories or higher, not
10 including one- and two-story
11 single-family homes. No other major
12 American city which has an ordinance like
13 the one under consideration excludes any
14 areas from coverage.

15 This is not a central business
16 district issue. To select particular
17 areas for enforcement completely dilutes
18 the intent of this legislation; namely,
19 public safety. If safety is important in
20 Center City, then it is also important in
21 the neighborhoods throughout
22 Philadelphia. Citizens in the Northeast,
23 Germantown, Mayfair, up and down North
24 and South Broad, as well as University
25 City are entitled to the same public

1 10/27/09 - L&I - BILL 090568, etc.
2 safety concern as those in Center City.
3 Again, safety knows no boundaries.

4 The ordinance lists specific
5 criteria for inspection. These criteria
6 need to be enforced citywide. If not
7 citywide, on that basis, and that basis
8 alone, this bill is seriously flawed and
9 may be open to a constitutional
10 challenge. Again, to be clear, BOMA
11 agrees that the height qualification for
12 application should be all buildings
13 located in the City which are two stories
14 or more.

15 Additionally, with regards to
16 the defined areas governed by this bill,
17 it should be noted that the cost impact
18 of compliance is going to be tremendous.
19 While a value can't be placed on public
20 safety, this legislative body needs to be
21 mindful of keeping all areas and sections
22 of the City on a competitively even keel.
23 According to BOMA's estimates, the
24 compliance costs associated with this
25 bill, while already substantial, is

1 10/27/09 - L&I - BILL 090568, etc.

2 incalculable without a fully defined
3 affected building's scope.

4 It will impact building at both
5 building owners and their occupants, big
6 and small, alike, potentially placing
7 them at a competitive disadvantage with
8 other jurisdictions outside the purview
9 of this bill. This could be other
10 sections of the City or neighboring
11 townships, counties or states. In
12 today's challenging economic environment,
13 we can't afford to promote the proverbial
14 job drain and exodus of companies and
15 organizations from our great city.

16 The next major concern with
17 this ordinance is the timetable
18 associated with complying with an unsafe
19 designation. As drafted, the ordinance
20 states that an unsafe designation should
21 be reported to the City by a professional
22 within 12 hours of discovery and,
23 further, that within 24 hours of notice
24 of an unsafe designation from a
25 professional, an owner should take any

1 10/27/09 - L&I - BILL 090568, etc.
2 necessary action to protect the public
3 safety, such as erecting sidewalk sheds,
4 fences or other safety netting. This
5 does not take into calculation when the
6 notification is given nor the necessary
7 and prudent steps to comply with same,
8 such as out-of-town owner notification,
9 securing contractors, negotiating
10 agreements, securing permits, et cetera.
11 All of these take time and may not
12 necessarily be accomplished within 24
13 hours.

14 BOMA agrees that safely
15 securing the area and, thus, protecting
16 the public is of paramount importance,
17 but if a building owner or manager first
18 learns of the situation on a Friday
19 afternoon, meeting the timetable could be
20 problematic even under the best of
21 circumstances. Based on a recent BOMA
22 member's experience, the process of
23 bidding and arranging for the erection of
24 scaffolding took nearly a week to
25 complete.

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2 Further, depending on the
3 severity of the unsafe condition, there
4 could be a significant review and
5 additional investigation followed by a
6 construction documentation period. This
7 is then typically followed by a bid
8 process, securing of a funding source,
9 contract negotiations and awarding of
10 that contract. Attempting to do all this
11 within ten days may be unreasonable,
12 especially if the area beneath has been
13 secured.

14 This raises BOMA's third
15 concern, which is the inclusion of a
16 formal appeal process within the
17 ordinance by which an owner has the
18 ability to seek alternate professional
19 opinions as to the building's need for
20 repair, the method of repair and/or the
21 time period in which the repairs should
22 be made. Without a vehicle for
23 contesting unsafe findings and/or
24 remedial repairs noted by a professional
25 or a vehicle for seeking a second

1 10/27/09 - L&I - BILL 090568, etc.
2 professional opinion, building owners
3 will truly be at the mercy of the ones
4 who will derive the immediate economic
5 benefits from pressing an unsafe
6 condition or plan for extensive repairs.

7 Again, BOMA recognizes and
8 appreciates the need for protecting the
9 public. However, in its current form,
10 Ordinance No. 090568 should be held in
11 committee for further modifications.
12 Advancing the same in its current form
13 would be a disservice to the City and the
14 public it serves. BOMA stands ready to
15 assist in refining the ordinance.

16 Lastly, I would like to
17 reiterate a point I made earlier in my
18 testimony. Brian Abernathy and Sarah
19 Sachdev have been extremely professional
20 and wonderful to work with throughout
21 this entire process. Councilmen DiCicco
22 and Kenney are both fortunate to have
23 such professionals on their team. I
24 think we were getting close, and with the
25 benefit of additional time, this

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2 legislation could be perfect.

3 Any questions?

4 COUNCILWOMAN SANCHEZ: Thank
5 you.

6 The Chair will recognize
7 Councilman Kenney.

8 COUNCILMAN KENNEY: Thank you
9 very much, Madam Chair, and I do
10 appreciate the testimony, but I'd like to
11 kind of walk our way through some of the
12 issues that were raised by the witness
13 and some of the remedies that have
14 already been in place in the bill in the
15 form of changes or amendments.

16 There have been nine requests,
17 some large, some small, from BOMA itself
18 relative to changes in this bill. All
19 nine of those have been accommodated, at
20 BOMA's request, and let me go through
21 some of them.

22 First of all, there is
23 implication in the testimony that this is
24 not a citywide plan or citywide
25 requirement. It is in fact a citywide

1 10/27/09 - L&I - BILL 090568, etc.
2 requirement, because all buildings six
3 stories or higher, no matter where
4 they're located in the City, come under
5 this requirement. The issue that BOMA
6 raises I think is -- I don't want to say
7 disingenuous, but a bit misleading, in
8 that I think they know if we were to add
9 buildings over two stories citywide,
10 there will be a residential outcry that
11 would probably kill the bill, and I hope
12 that's not their intention in suggesting
13 that, but I think that would be the end
14 result of that action.

15 We reduced, at BOMA's request,
16 the height of the buildings that came
17 under the ordinance. New York City, for
18 example, is 70 feet, Boston 70 feet,
19 Chicago is 80 feet, and we reduced ours
20 to 60 feet to include a number of other
21 properties throughout the City, and that
22 was at BOMA's request.

23 Additionally, we had intention
24 to start this process sooner than later,
25 but at BOMA's request, we added an

1 10/27/09 - L&I - BILL 090568, etc.
2 additional two years to its requirement.
3 And then at BOMA's request -- I'll get to
4 that in a second.

5 If all facades of an affected
6 building have been substantially restored
7 during the five years immediately
8 preceding the date of any required
9 inspection, the owner may apply to the
10 Department for a waiver of the required
11 inspection, and that was at BOMA's
12 request, and that was accommodated. And
13 that, I think you could argue, is
14 somewhat of an appeal process in itself,
15 in addition to giving consideration for
16 work that had been done. Additionally,
17 buildings that are ten years or younger
18 would not trigger the inspection process
19 until they reached an older age, and that
20 was also at their request.

21 Originally the reporting
22 requirements were 12 hours, and at BOMA's
23 request, we accommodated them again and
24 extended it to 24 hours, but apparently
25 that's not acceptable at this point, but

1 10/27/09 - L&I - BILL 090568, etc.
2 it was an accommodation made as a result
3 of all of the conversations that were
4 going on.

5 There's some other smaller
6 technical amendments that we added, a
7 statement that needed to be signed by the
8 owner. We added -- or agent at their
9 request so that the agent for the owner
10 of the building can be the one conducting
11 the business of the inspection and
12 reports.

13 Per BOMA, again, with the
14 24-hour issue, we went from 12 to 24 at
15 their request. We also gave them an
16 opportunity to have an extended period of
17 time to do the inspection and the work if
18 there was any interruptions relative to
19 unsafe conditions or unforeseen delays,
20 like weather or labor strikes.

21 We accommodated them
22 additionally in the extension of the time
23 up to 90 days to -- we said complete
24 originally, and we changed the
25 legislation to "begin the repairs."

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2 And in Section 3 -- I'm sorry;
3 304.10.6.1, BOMA felt that the language
4 was absolute in their terms, and that was
5 changed to accommodate them also.

6 Additionally, there is an
7 appeal process, and that's the Board of
8 Building Standards, which anyone is able
9 to go and to file an appeal with, which
10 will give them due process. There's
11 waiver opportunities. There's an appeal
12 process.

13 I mean, I think we've done our
14 best and, again, with the witness's
15 testimony, in a cooperative and helpful
16 process to get us where we are today. So
17 I see no other reason for delay. We are
18 going to hear from some other people who
19 have a different opinion, but I wanted
20 the record to be clear that this is not
21 something that we were jamming to anyone.
22 I understand that they're opposed to it,
23 but I think there's been substantial
24 changes made to accommodate their needs.
25 No one wants to do this and no one wants

1 10/27/09 - L&I - BILL 090568, etc.
2 to have a piece of building fall on them
3 when they're walking on Chestnut Street
4 either. So, I mean, in balance, I think
5 we've gotten there.

6 I will just say, I can't take
7 credit for this for BOMA, but members of
8 this Council just sheltered you from a 19
9 percent tax increase. I would have --
10 real estate tax increase. I probably
11 would have gone with the Mayor, much to
12 everyone's chagrin, but I think that
13 Council should get credit for at least
14 looking out for the interest of property
15 owners in the City and shielding them
16 from a pretty substantial property tax
17 increase. So I think with those savings,
18 perhaps we can get our buildings
19 inspected.

20 So thank you, Madam Chair.

21 COUNCILWOMAN SANCHEZ: Thank
22 you.

23 Any other questions?

24 MR. HAAS: A comment on
25 Councilman Kenney. The staffs, Brian and

1 10/27/09 - L&I - BILL 090568, etc.

2 Sarah, have been absolutely terrific from
3 where this bill started out to where it
4 is today, but we still have three major
5 issues. And, again, many changes have
6 been incorporated, which we feel were
7 applicable. This bill as it targets
8 BOMA-member buildings -- and we have a
9 substantial stakeholdership in the City.
10 Our high-rise buildings, I don't think
11 we've had any -- and they're above 75
12 feet. I don't think we've had any
13 buildings that have an incident of
14 something falling off of it.

15 So as BOMA's perspective, we're
16 not opposed to this legislation even
17 though it will economically impact us.
18 We do see the merit for having these
19 inspections, but bear in mind, we're just
20 looking for some latitude within this
21 ordinance, so when we do an inspection,
22 we can get a second opinion, which is
23 extremely important to us from a
24 professional standpoint. Not all
25 professionals are going to agree with the

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2 magnitude of a defect or the repair
3 process. Those things can take -- you
4 can spend six months just documenting
5 what repairs are going to have to be
6 accomplished to put the building back to
7 safe, and once the protection is up, we
8 would prefer to do it right, because
9 we're talking substantial sums of money.
10 Most of the time if you had a major
11 failure, you're going to look at the
12 entire building, and you can be in the
13 three, four, five, six million dollar
14 expenditures. You don't want to rush and
15 do this in ten days. The 24 hours can be
16 problematic for safing it off, but I
17 think every one of our members would do
18 whatever they could to get it done under
19 24 hours. So I do take exception to
20 that.

21 This ordinance targeting all
22 buildings doesn't really affect us yet.
23 We still think it's a viable option to
24 do. But the second point is the affected
25 buildings. Without that in the bill

1 10/27/09 - L&I - BILL 090568, etc.
2 before it's voted on, we're really
3 concerned about where the carve-outs are
4 going to be, what districts aren't going
5 to be protected the way Center City will
6 be.

7 COUNCILWOMAN SANCHEZ: Thank
8 you.

9 Councilwoman Blondell Reynolds.

10 COUNCILWOMAN BROWN: Thank you,
11 Madam Chair.

12 I need to make sure I
13 understand. I have a few points here,
14 but your last point, you believe that
15 this bill is intended to protect Center
16 City?

17 MR. HAAS: No. It's tailored
18 from Center City outward; is it not?

19 COUNCILWOMAN BROWN: That would
20 be a question for the sponsor of the
21 bill.

22 MR. HAAS: When the affected
23 building isn't completely delineated, it
24 leaves a concern.

25 COUNCILWOMAN SANCHEZ: I think

1 10/27/09 - L&I - BILL 090568, etc.
2 just to reiterate, I think Councilman
3 Kenney mentioned that in some cities,
4 they do 75 feet. He took it to 80 to
5 accommodate BOMA.

6 MR. HAAS: But those other
7 cities have no reserved area.

8 COUNCILMAN KENNEY: But it's
9 important to understand that it's six
10 stories or more citywide. So this
11 contention that somehow the rest of the
12 City is being exempted from this is not
13 accurate. If the building is six stories
14 or taller in any part of the City, it's
15 required to go under this inspection.

16 MR. HAAS: But I think the
17 affected area is ambiguous at this point.

18 COUNCILMAN KENNEY: But that's
19 a regulatory issue, and we can deal with
20 that.

21 MR. HAAS: Again, we would
22 appreciate that, but I'm saying if this
23 bill was passed out of committee, that's
24 still a concern for what's going to
25 happen to it before it is finally

1 10/27/09 - L&I - BILL 090568, etc.

2 enacted.

3 COUNCILWOMAN SANCHEZ: We will
4 make a note of that as we develop the
5 regulations. That's a good point.

6 Another question, Councilwoman?

7 COUNCILWOMAN BROWN: Councilman
8 Kenney also clarified the appeal process.
9 So what are we to understand, that you
10 believe the appeal process should come to
11 City Council, many of whom are --

12 MR. HAAS: After we have the
13 safe -- the area safed off in 24 hours,
14 then we have ten days to start work on
15 the remedial repairs. It might take us
16 two months to figure out exactly what
17 those repairs are. That turnaround time
18 is extremely quick.

19 The other problem we have with
20 the professional is, if the
21 professional -- it's almost like a
22 doctor. If the doctor says you need a
23 heart transplant, you can go to another
24 doctor and he says, No, we can do
25 medication or valve replacement or

1 10/27/09 - L&I - BILL 090568, etc.
2 something else and not have to go to the
3 extent of a full heart replacement,
4 that's the analogy that I would draw
5 right here.

6 Professionals are still going
7 to come up with different opinions on how
8 to do it. Once we get locked in with a
9 professional who has done the inspection,
10 our concern is if we're not comfortable
11 with the recommendations and the
12 direction that that professional is
13 giving us, under this ordinance we have
14 no appeal process and we've got to keep
15 the timeline moving to meet the
16 ordinance.

17 We just want to have an appeal
18 process, whether we can go to L&I and
19 say, We need to file for an extension
20 because we're not comfortable with the
21 professional that we have on staff that
22 is detailing the work that needs to
23 occur, we want to get a second opinion.

24 COUNCILWOMAN BROWN: So you
25 believe the appeal process should happen

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2 with Licenses and Inspections?

3 MR. HAAS: As long as Licenses
4 and Inspections is aware of it. Whether
5 L&I is involved in it or allows us the
6 opportunity to go out and get the time
7 needed to get another opinion, that's
8 what we're asking for.

9 COUNCILMAN KENNEY: I don't
10 understand what in the bill stops you
11 from getting a second opinion. And
12 additionally, there's a year between the
13 enactment of the bill, between January of
14 2010 and 2011. You have a full year to
15 plan for this. It's not like it's coming
16 next week.

17 MR. HAAS: No. Getting that
18 professional once you're involved with
19 the professional, once you've engaged
20 them and they've done an inspection of
21 your facade, their report, if there is an
22 unsafe condition in their opinion, that
23 gets filed with L&I. The temporary
24 protection has to go up within 24 hours,
25 and then within ten days --

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2 COUNCILMAN KENNEY: You have to
3 begin.

4 MR. HAAS: -- we have to start
5 repair. We may not be comfortable with
6 the professional's recommendation and we
7 may look for --

8 COUNCILMAN KENNEY: But this is
9 remedial. This is not replacing the
10 facade of your building entirely.

11 MR. HAAS: Remedial could be a
12 piece.

13 COUNCILMAN KENNEY: Well, for
14 example, on Walnut Street when -- I don't
15 know the name of the building, but where
16 Brasserie Perrier was, there was a
17 masonry panel that fell off the building,
18 and, thank God, it fell sideways and not
19 on the street. This bill would not
20 require them to replace their entire
21 facade. It would require them to
22 remediate the problem on the ground so
23 that nothing else falls on anyone and
24 then to get up there and to see what's
25 going on. And I think as a building

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2 owner, I would think -- and maybe I'm
3 incorrect because I don't own property
4 like this. I would think that your
5 insurance companies would be thrilled
6 that this kind of prophylactic effort
7 would be taken so that they don't have to
8 pay some big claim down the road.

9 (Witness approached witness
10 table.)

11 MR. MASTERS: Councilman, if I
12 may, Fred Masters from Buchanan,
13 Ingersoll and Rooney representing BOMA.

14 The issue that we have and the
15 concern is that the way the ordinance is
16 currently drafted, it's the selected
17 professional, whether it's the registered
18 architect or registered engineer, who
19 makes these determinations and there's no
20 ability once they've made a determination
21 that something is unsafe and that then
22 that professional is required under the
23 ordinance to recommend the repairs, the
24 methodology of the repairs and the
25 timeframe within which those repairs have

1 10/27/09 - L&I - BILL 090568, etc.
2 to be made, we're locked in at that point
3 to that professional and there's no
4 ability to go seek a separate opinion.

5 Let me just address one thing.
6 We understand that the building has to be
7 made safe, and we acknowledge and agree
8 that at that point there's a process, we
9 step in, we make the building safe to
10 protect the public. What we don't want
11 to be in is in a situation that at that
12 point, we've now been locked into what
13 that original professional determined is
14 the repair needed and the timeframe in
15 which it needs to be done.

16 COUNCILMAN KENNEY: I would
17 agree with you if we were requiring you
18 to accept a specific professional,
19 whether L&I was telling you it had to be
20 done. This is the guy you hire or the
21 person you hire, and I would think that
22 most of the property owners, especially
23 in large buildings, have some ongoing
24 relationship with engineering and/or
25 architectural professionals that they're

1 10/27/09 - L&I - BILL 090568, etc.
2 involved in when the building was built
3 and when it was -- how it's been
4 maintained. I mean, I'm not telling you
5 you have to follow what my inspector from
6 L&I says. You have the freedom to hire
7 your own folks who you are comfortable
8 with, and I would think based on your
9 confidence in them, you should follow
10 their advice. I mean, if your doctor
11 you've been going to for 25 years tells
12 you you're sick, maybe you are.

13 MR. MASTERS: But usually you
14 would follow and try to get a second
15 opinion if he's calling for heart
16 surgery.

17 COUNCILMAN KENNEY: But there's
18 no prohibition on the second opinion.

19 MR. MASTERS: But the point is
20 that the second opinion doesn't help you
21 out. It doesn't -- there's no process,
22 and that's our whole point, is that
23 there's no process in the ordinance that
24 then says, Wait a minute, the original
25 inspector said we have to do this. We've

1 10/27/09 - L&I - BILL 090568, etc.
2 now gone and gotten -- and it has to be
3 done in X period of time.

4 COUNCILMAN KENNEY: Why would
5 not the Board of Building Standards be
6 able to issue additional --

7 MR. MASTERS: I'm not sure that
8 the timing in order to get that appeal in
9 the way the ordinance works would address
10 that. We would feel more comfortable if
11 the ordinance permitted us, once it's
12 been made safe, that the public is
13 secure, that nothing is going to fall
14 down immediately or into the public, that
15 before we're locked into implementing
16 what that original professional required,
17 that we have an ability to get another
18 opinion from another qualified inspector.

19 COUNCILMAN KENNEY: How much
20 time do you need to do that?

21 MR. MASTERS: We appreciate --
22 we don't know the answer right now, to be
23 honest with you. I don't know how much
24 time it would take to get that second
25 opinion. I don't know if it's ten

1 10/27/09 - L&I - BILL 090568, etc.
2 business days. I don't know. The issue
3 should be -- and we appreciate that
4 you've asked that. We will respond to
5 that, but we do want to stress that at
6 that point in time, the owner has stepped
7 in and made the condition safe.

8 COUNCILMAN KENNEY: Right.

9 MR. MASTERS: So we should be
10 able to then seek an alternative opinion
11 as to what is required in terms of
12 maintenance and repair and the time
13 period in which to get it done.

14 COUNCILMAN KENNEY: If you can
15 tell me how much time you need, I'll give
16 it to you.

17 MR. MASTERS: Can I get back to
18 you on that?

19 COUNCILMAN KENNEY: But not
20 like in three weeks.

21 MR. MASTERS: Not in three
22 weeks.

23 COUNCILMAN KENNEY: Well, like
24 maybe today.

25 MR. MASTERS: Yes, sir.

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2 COUNCILMAN KENNEY: Because the
3 ability to amend is here.

4 MR. MASTERS: We would like to
5 have 30 days in which to respond to the
6 original opinion of the professional.

7 COUNCILMAN KENNEY: Let us give
8 that some consideration while other
9 people have some questions.

10 MR. MASTERS: Thank you.

11 COUNCILMAN DiCICCO: I just
12 wanted to say that I think we understand
13 and I do respect and appreciate your
14 concerns. There may be some language we
15 can get in there that will accommodate.
16 I think it's a legitimate issue that you
17 raise there.

18 And the only other thing I just
19 want to for the record, we probably
20 wouldn't be here today had it not been
21 for the issue or the incident at the
22 Bellevue. The Bellevue is a BOMA member;
23 is that correct?

24 MR. HAAS: How many stories is
25 that?

1 10/27/09 - L&I - BILL 090568, etc.

2 COUNCILMAN DiCICCO: I don't
3 know.

4 MR. HAAS: Again, lowering --

5 COUNCILMAN DiCICCO: You said
6 no BOMA building --

7 MR. HAAS: There's always an
8 anomaly.

9 COUNCILMAN DiCICCO: I just
10 want to clear the record. And that's a
11 great building, and I know that the
12 people who own it really love that
13 building and want to take care of it and
14 maintain it. But it happened. So I just
15 wanted to be clear for the record. And,
16 again, as Councilman Kenney said, we'll
17 work on something. I'm sure we'll come
18 to an agreement on that.

19 MR. MASTERS: Thank you.

20 MR. HAAS: Thank you.

21 COUNCILWOMAN SANCHEZ: Thank
22 you.

23 I wanted to acknowledge that
24 Councilman Kelly has joined us.

25 I want to recognize

1 10/27/09 - L&I - BILL 090568, etc.

2 Councilwoman Blondell Reynolds.

3 COUNCILWOMAN BROWN: Yes.

4 Councilman Frank DiCicco actually stated
5 what I was thinking, the fact that it
6 happened, one incident is one incident
7 too many, and purposes of legislation
8 like this are to hopefully prevent cases
9 where it never happens. So the fact that
10 it has happened becomes an impetus for us
11 to do something.

12 Thank you for your testimony.

13 MR. HAAS: Thank you all for
14 your time.

15 COUNCILMAN KENNEY: If it's at
16 the Committee's pleasure and the Chair's
17 pleasure, what I would request from the
18 Committee is to vote the bill out of
19 committee today without a suspension,
20 have some time to have some more
21 additional discussion for potential floor
22 amendments, that would be helpful.

23 COUNCILWOMAN SANCHEZ: Thank
24 you.

25 MR. HAAS: Thank you.

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2 COUNCILWOMAN SANCHEZ: For the
3 record, gentlemen, so if we vote this out
4 of committee today, there will be ample
5 time for additional amendments, if
6 necessary. So we thank the sponsor of
7 the legislation for entertaining those
8 recommendations.

9 We'll move on to the last
10 person, Jonathan Memmel.

11 As that person approaches the
12 witness table, I wanted to acknowledge
13 that there was a letter submitted by the
14 General Building Contractors Association,
15 which has been circulated to the members,
16 outlining their support for this
17 legislation.

18 (Witness approached witness
19 table.)

20 COUNCILWOMAN SANCHEZ: Thank
21 you. You may proceed with your
22 testimony.

23 MR. MEMMEL: Good morning.
24 Thanks for having me here today. My name
25 is Jonathan Memmel. I'm the President of

1 10/27/09 - L&I - BILL 090568, etc.
2 the Delaware Valley Association of
3 Structural Engineers, referred to as
4 DVASE, and I'm here today to relay our
5 organization's stance on the proposed
6 City Council Bill No. 090568.

7 We have issued a number of
8 detailed comments to the City for
9 consideration when finalizing this bill,
10 and we believe the following items are
11 the most critical:

12 The inclusion of a national
13 standard, ASTM E2270-05, Standard
14 Practices for Periodic Inspection of
15 Building Facades for Unsafe Conditions,
16 as a reference to this bill is important
17 and will help establish a common criteria
18 for all parties involved in evaluating
19 facades included within the scope of the
20 proposed bill.

21 The definition of
22 "professional" shall be refined to
23 include language about professionals
24 licensed in the Commonwealth of
25 Pennsylvania. See our detailed comments

1 10/27/09 - L&I - BILL 090568, etc.

2 for specific language defining the
3 professional.

4 The definition of "complete"
5 should be revised to reflect the national
6 ASTM standard mentioned above, as well as
7 other standards on this topic in other
8 U.S. cities. Complete inspections cannot
9 be achieved within the scope of this
10 bill. Please refer to our comments
11 submitted to the City for further review.

12 One of the issues that our
13 organization is struggling with is the
14 definitions of "safe," "safe with a
15 repair and maintenance program" and
16 "unsafe." It's a liability issue for
17 structural engineers to, in a sense,
18 certify that a building facade is safe
19 when we may not know what's lurking
20 behind the wall without performing
21 extensive destructive and non-destructive
22 testing, as well as reviewing a hundred
23 percent of all wall surfaces.

24 A limitation statement on the
25 scope of the inspection needs to be

1 10/27/09 - L&I - BILL 090568, etc.
2 incorporated. We have noted this in our
3 comments to the amended bill. A similar
4 type of limitation statement has been
5 adopted in Chicago and is included in the
6 referenced ASTM standard.

7 I would like to thank you for
8 your time and allowing the structural
9 engineering community the opportunity to
10 participate in the process.

11 Thank you.

12 COUNCILWOMAN SANCHEZ: Thank
13 you.

14 Any questions for the witness?
15 (No response.)

16 COUNCILWOMAN SANCHEZ: Thank
17 you for your testimony.

18 Is there anyone else here who
19 would like to comment on Bill 090568?

20 You want to come forward.

21 MR. FATTORE: Hi. My name is
22 Joe Fattore. I have a PowerPoint
23 prepared. We're just having a -- make
24 sure it's on the zip drive here to load
25 it up.

1 10/27/09 - L&I - BILL 090568, etc.

2 (Pause.)

3 COUNCILWOMAN SANCHEZ: Thank
4 you. Just for the record, I want to
5 alert our witness that we do have another
6 hearing at 11 o'clock. So if you can
7 give us the cliff notes version, given
8 that we have the visuals.

9 (Pause.)

10 COUNCILWOMAN SANCHEZ: Can you
11 begin?

12 MR. FATTORE: Just real quick,
13 facade inspection stabilization. My name
14 is Joseph Fattore. I'm a member of the
15 AIA. I'm a lifelong resident of the
16 region, Temple graduate, 25 years of
17 experience, including preservation. I'm
18 an ACE Board of Directors, which is
19 Architectural, Construction and
20 Engineering, in the public school system.
21 Currently, I'm the IMI Director of Market
22 Development and Technical Services for
23 the IMI, meaning I'm the person that a
24 lot of people in the City call when they
25 have facade problems. I've been going

1 10/27/09 - L&I - BILL 090568, etc.
2 out to a lot of buildings of various
3 types, whether it's on behalf of building
4 owners, contractors, general contractors,
5 Philadelphia school improvement team,
6 Salvation Army. So I'm out there in the
7 field seeing these situations.

8 Real briefly, IMI, we support
9 all masonry products. We do it through
10 training, education, technical services,
11 research and development, and
12 certification programs for contractors
13 and professionals. We go out to firms,
14 offices, schools, PSIT, everywhere,
15 whoever wants to listen to making a
16 better environment. We have training
17 centers nationwide, and we do all kind of
18 technical programs.

19 So facade inspections: I
20 structured this in the real quick why,
21 what, when, where, how and who. Not
22 providing answers or saying how to do
23 things. I'm just pointing to the issues
24 that I find and things to be considered
25 when you evaluate all your things that

1 10/27/09 - L&I - BILL 090568, etc.

2 you need to evaluate.

3 So why facade inspections. And
4 for those people not in the audience who
5 may be more lay to the construction
6 industry, it's a little bit of background
7 for all the situations we have in the
8 City.

9 Well, the number one reason, as
10 we all know, is public safety. This is
11 not only for the citizens and residents
12 of the City, but also we must consider
13 the workers and people who commute to the
14 City, and also equally important are
15 various guests and tourists from around
16 the world.

17 Public safety I feel and
18 security is the primary roles of
19 government, and this is purely a public
20 safety issue. So we're looking at this,
21 how -- if we're really going to be
22 idealistic and make this public safety,
23 how do we best make things safe.

24 What adds to this is really the
25 complexity of our built environment

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2 nowadays in the modern world really. I
3 mean, we have buildings, here in
4 Philadelphia especially -- I go to Europe
5 a lot too, and Europe is a whole other
6 ball game, but here for America, we're an
7 older American city. We have multitude
8 of building types, ages, materials, means
9 and methods of construction throughout
10 the City's 300-plus years, and it's very
11 diverse, and that adds to the complexity
12 of the issue.

13 Our buildings are not getting
14 younger, and gravity is a constant and
15 persistent force.

16 Briefly about the numerous
17 building types, we have things from the
18 colonial, baroque, contemporary. We have
19 converted warehouses that were never
20 conditioned that are now being
21 conditioned, adding to the envelope's
22 requirements. We have second empire
23 buildings, art nouveau and skyscrapers.

24 None of the pictures you see
25 are from Philadelphia, just so you know.

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2 Some are made with traditional
3 building materials, triple-width
4 load-bearing masonry wall. The building
5 we're in is purely a pile of bricks. At
6 the base it's 16 foot thick of bricks.
7 Nothing but hand-laid bricks, this whole
8 building. It's one of the tallest
9 freestanding load-bearing masonry
10 buildings in the world. Just a pile of
11 bricks pretty much, with stones tacked
12 onto it.

13 We have brick veneer nowadays,
14 which is a new thinking of a wall. We
15 have terra-cotta all over the place.
16 Brownstone is a terra-cotta, which is
17 another building material that's been
18 used over our history. And then we have
19 stone and glass-clad buildings. There's
20 other more modern materials that are
21 being brought to the marketplace in
22 today's global economy, thin brick
23 panels, which bricks are cast into place
24 on panels and craned into a building and
25 bolted back, whether it's concrete or

1 10/27/09 - L&I - BILL 090568, etc.
2 metal stud structure to it. We have
3 metal panel buildings that can do all
4 kind of wonderful things, curve or
5 linear, stainless steel-clad buildings.
6 We have precast concrete panels that are
7 now being done. Ten Rittenhouse is a
8 prime example of that just being done.
9 And we also have the green environmental
10 issues coming to the forefront. We're
11 getting buildings that have solar panels
12 as a veneering system, and we have glass
13 nowadays that can support loads, and we
14 have load-bearing glass buildings and
15 facades. So it's really a magnitude of
16 not only building types, but materials
17 that are out there.

18 So the question is, what will
19 the buildings look like in not only the
20 near future, but the distant future.
21 Nowadays we're looking at -- architects
22 are envisioning buildings that rotate and
23 are dynamic, moving, intelligent, adjust
24 to the conditions. And these are
25 buildings envisioned for Dubai. On the

1 10/27/09 - L&I - BILL 090568, etc.
2 right is other buildings that are
3 vegetated and landscaped and green. And
4 so then you have water and soils on top
5 of these buildings and the conditions
6 they bring to an envelope.

7 We also have wind turbines
8 being mounted on parapets of buildings.
9 In the very, very new future you'll
10 probably see this to capitalize on the
11 wind tunnels in the City to create
12 energy.

13 We have intelligent hybrid
14 buildings and we also have double-skinned
15 buildings where there's actually two
16 exterior cavities to create a greenhouse
17 effect or enhanced cavity system.

18 All of these materials and all
19 these systems, all these styles are
20 anchored and tied with connections.
21 These are masonry connections for brick,
22 a whole bunch of manufacturers, all type
23 of metals. And here's some things how
24 terra-cotta is tied back to brick in the
25 traditional methods. Right here are some

1 10/27/09 - L&I - BILL 090568, etc.
2 other anchors. You can see how the metal
3 ties are where it's connected. And this
4 is where a lot of the problems occur.

5 Here's some other connectors
6 for curtain wall systems, and you can see
7 in the lower picture here how the anchor
8 bolts are -- now, these things are tied
9 back with just -- with some plates, and
10 these are some of the details for curtain
11 walls, whether that is glass, stone,
12 metal or some other hybrid fiberglass
13 products, but it's all anchored.

14 And here's, in the idea of
15 making things faster or quicker,
16 prefabrication and then being shipped and
17 then screwed or bolted back. Here's some
18 panels that they get attached back now to
19 aluminum tracks and rain screen systems
20 and all kind of things are being brought
21 to the marketplace. If you can think of
22 it, there's somebody making it and trying
23 to sell it to a building owner or
24 architect and install it.

25 So here's -- it's something in

1 10/27/09 - L&I - BILL 090568, etc.
2 Boston that's a brand new structure.
3 This is the tunnel, brand new
4 construction, and it was in the collapse
5 and some people died, and it came down to
6 a bolt.

7 So my point is that no matter
8 new, old, things get tied back and it's
9 in those connections. Ferrous materials,
10 non-ferrous materials, all kind of
11 metals, moisture.

12 So the point is, there's a lot
13 of issues out there.

14 Why facades fail? Lack of
15 maintenance, incorrect maintenance,
16 incorrect application or use of
17 materials, incompatible. Sometimes we'll
18 get a facelift, and that exacerbates a
19 facade problem or hides it. Temporary
20 repairs becoming permanent. Incorrect
21 repairs and restoration, this is
22 something that I do see.

23 So in terms of getting a waiver
24 because you've recently restored your
25 building, I have an issue with that. I'm

1 10/27/09 - L&I - BILL 090568, etc.
2 a little concerned about that. I go on a
3 lot of projects that were recently
4 restored, and sometimes if it's an
5 unskilled professional or contractor
6 doing that restoration, it actually can
7 exacerbate the situation and bring it to
8 its forefront and make it worse.
9 Incompatible materials, wrong details,
10 not understanding the complexity of the
11 building in its skin and how it's to
12 behave. So restoration is no excuse to
13 avoid an inspection. And if you're going
14 to try to allow that, a waiver for a
15 restoration, somebody is going to have to
16 go out there and inspect and verify that
17 the restoration is done right in the
18 first place and compatible. So you might
19 as well just have it follow the regular
20 inspection schedule. It's the same cost
21 probably indifference.

22 COUNCILWOMAN SANCHEZ: I'm
23 sorry. You're going to have to move
24 along quickly. I'm going to ask if you
25 could share that with us electronically,

1 10/27/09 - L&I - BILL 090568, etc.

2 I'd be happy to share it with all members
3 of Council.

4 MR. FATTORE: Okay. I'll just
5 get to the point today. We know why we
6 need inspections, then.

7 Really big economic impact, not
8 only the building's owners, citizens and
9 all that stuff.

10 So all buildings are more
11 strategic and selective approach to
12 targeting buildings.

13 This is real quick. We
14 mentioned about Chicago, New York and
15 Boston 70 feet above, but the cities
16 below also have facade inspection
17 agendas, and they're lower. In
18 Pittsburgh in particular has all
19 buildings except residential, is the way
20 they define it. So just some ideas to
21 think about. There are other options.

22 And the legislation currently
23 talks about inspection of walls. Just a
24 point is that the parapets are more, if
25 not equally -- equally, if not more

1 10/27/09 - L&I - BILL 090568, etc.
2 dangerous. That's where there's a lot of
3 problems. So you might want to specify
4 not only just walls, but parapets and
5 cornices, because it could be argued that
6 a parapet is not a wall, and the parapet
7 is where a lot of danger occurs.

8 All things have lifespans. We
9 say maintenance is important. It keeps
10 the -- it prolongs the lifespan. So we
11 say four, five years are right on target
12 there, we agree.

13 Facade inspections, where?
14 Everywhere or more strategic.

15 Loss of life versus collateral
16 damage. If you're going to do -- choice
17 is all buildings or more selective. If
18 you're going to do a more selective
19 approach, we suggest that you focus on
20 those places where people and vehicles
21 are most concentrated in the public realm
22 and are in proximity to buildings. So
23 you want to look at the specific areas in
24 districts, Center City, Old City,
25 Convention Center, Chinatown.

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2 Pedestrians and vehicular
3 corridors, Main, Broad Street, Market
4 Street, or things like adjacent seats to
5 parks and squares. Rittenhouse Square,
6 some outdoor cafes along there. If a
7 catastrophe happens there, it's a big
8 media event. Other places.

9 Flood inspections, how? They
10 must be done prima facie, which means
11 face first, in face and on site, period.
12 No distance, telecommuting to the City to
13 do facade inspections. You must be here
14 with your feet on the ground and your
15 nose to the wall. That's the only way
16 they should be done properly.

17 There's a whole bunch of other
18 methods that go along with that, once
19 you're on site and in the City.

20 Ordinances should have
21 penalties. I think we have some
22 penalties imposed.

23 Appeals process, we think
24 that's a very good, viable alternative.
25 Appeals process sounds valid, and I

1 10/27/09 - L&I - BILL 090568, etc.
2 concur with the issues of BOMA. There
3 are a lot of different professional
4 opinions, all valid. The only concern is
5 that if you're going to do that, we say
6 that you might want to consider a
7 pre-qualification program, because it's
8 easy to go out and buy a second opinion
9 that agrees with your opinion, but if
10 you're going to have numerous
11 pre-qualified contractors or engineers
12 providing an opinion, well, you could
13 choose any one of the certified engineers
14 in the program that you want, and that's
15 good, but there's a lot of -- what we
16 talk about here is who. We talk about a
17 lot of -- not a lot. The majority of
18 people in this room -- really everybody
19 in this room that I know and the majority
20 of people in the City are conscientious
21 citizens and building owners,
22 professionals and architects and
23 contractors alike, but it's that small
24 percentage of rogue owners, contractors
25 and professionals that we have to

1 10/27/09 - L&I - BILL 090568, etc.
2 legislate for, otherwise we wouldn't be
3 here. And they're the ones we need to
4 target and think about. So it is the
5 accidental collapse and the small
6 minority of rogue owners, professionals
7 and contractors that we must legislate
8 for.

9 We do not want to provide or
10 create a legislative environment in which
11 the rogue, transient, absentee and
12 unconscious owner, professional or
13 contractor can operate, gain a
14 competitive advantage and capitalize in.
15 So the fact of equalizing the table for
16 everybody, building owners, architects,
17 engineers and contractors, is fair.
18 There must be a level playing field.

19 When inspecting and stabilizing
20 facades, the professional and contractor
21 must know what they are doing. There's a
22 lot of specialization. Just because I'm
23 a doctor doesn't mean I can do brain
24 surgery or be a pediatrician. Likewise
25 with architects, just because I'm an

1 10/27/09 - L&I - BILL 090568, etc.
2 architect doesn't mean I can inspect a
3 terra-cotta facade from the 1890s. They
4 should have specific knowledge and
5 experience with the type of facade
6 they're inspecting. A
7 qualification/certification program gives
8 them more certainty of quality.

9 Also, a
10 qualification/certification program is an
11 investment of time on those that
12 participate in it and creates a financial
13 incentive to do good work. I experienced
14 this myself. The risk of being removed
15 from the program is greater than the
16 profit on any one particular project. I
17 recently had my heating and air
18 conditioning replaced, and in order to
19 qualify for the manufacturer's rebates, I
20 had to use their certified contractors
21 and installers. I could choose any one
22 of them I wanted to because they were all
23 qualified and they knew -- that
24 manufacturer knew they were going to do a
25 good job.

1 10/27/09 - L&I - BILL 090568, etc.

2 That's it.

3 COUNCILWOMAN SANCHEZ: Thank
4 you so much.

5 MR. FATTORE: Thank you,
6 everybody.

7 COUNCILWOMAN SANCHEZ: As I
8 said, if you share that electronically,
9 I'll share it with members of the
10 Committee. We thank you for your
11 thoughtfulness and preparation of your
12 presentation. We're sorry that we --

13 MR. FATTORE: That's okay. I
14 appreciate the time you gave me.

15 COUNCILWOMAN SANCHEZ: Thank
16 you so very much.

17 MR. FATTORE: I'm available for
18 any other consultations if you need them.

19 COUNCILWOMAN SANCHEZ: Thank
20 you.

21 This concludes our public
22 hearing. We will move into our public
23 meeting of the Committee of Licenses and
24 Inspections.

25 The Chair calls on Councilwoman

1 10/27/09 - L&I - BILL 090568, etc.
2 Blondell Reynolds Brown for an amendment
3 to Bill 090581.

4 COUNCILWOMAN BROWN: Madam
5 Chair, I move that Bill No. 090581 be
6 amended as presented.

7 (Duly seconded.)

8 COUNCILWOMAN SANCHEZ: All in
9 favor?

10 (Aye.)

11 COUNCILWOMAN SANCHEZ: Any
12 opposition?

13 (No response.)

14 COUNCILWOMAN SANCHEZ: Thank
15 you.

16 Councilwoman Blondell Reynolds,
17 can you move for the adoption of the
18 bill.

19 COUNCILWOMAN BROWN: Sure will.
20 Madam Chair, I move that Bill No. 090581
21 be reported out of Committee as amended
22 and move that the rules of Council be
23 suspended so as to permit first reading
24 at the next scheduled session of City
25 Council.

1 10/27/09 - L&I - BILL 090568, etc.

2 (Duly seconded.)

3 COUNCILWOMAN SANCHEZ: All in
4 favor?

5 (Aye.)

6 COUNCILWOMAN SANCHEZ: Any
7 opposed, abstentions?

8 (No response.)

9 COUNCILWOMAN SANCHEZ: Thank
10 you. Bill 090581 has been moved and
11 passed from Committee with a favorable
12 recommendation and with a rules
13 suspension for our next public session.

14 The Chair recognizes Councilman
15 Jim Kenney for an amendment to Bill
16 090568.

17 COUNCILMAN KENNEY: Thank you,
18 Madam Chair. I move that Bill No. 090568
19 be amended accordingly as was circulated
20 earlier in Council and discussed in
21 testimony.

22 (Duly seconded.)

23 COUNCILWOMAN SANCHEZ: All in
24 favor?

25 (Aye.)

1 10/27/09 - L&I - BILL 090568, etc.

2 COUNCILWOMAN SANCHEZ: Any
3 opposition, abstentions?

4 (No response.)

5 COUNCILWOMAN SANCHEZ: Thank
6 you. Bill 090568 is amended.

7 The Chair recognizes Councilman
8 Kenney for a motion.

9 COUNCILMAN KENNEY: Thank you,
10 Madam Chair. I move that Bill No.
11 090568, as amended, be reported out of
12 this committee with a favorable
13 recommendation.

14 (Duly seconded.)

15 COUNCILWOMAN SANCHEZ: All in
16 favor?

17 (Aye.)

18 COUNCILWOMAN SANCHEZ: Any
19 abstentions or oppositions?

20 (No response.)

21 COUNCILWOMAN SANCHEZ: Thank
22 you. Bill 090568 has been moved out of
23 Committee with a favorable
24 recommendation.

25 As noted previously, Bill

1 10/27/09 - L&I - BILL 090568, etc.
2 090590 is being held to the call of the
3 Chair.

4 This concludes our public
5 meeting. Thank you all for your time and
6 your patience.

7 (Committee on Licenses and
8 Inspections concluded at 11:05 a.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on October 27, 2009, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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