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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING AND PUBLIC MEETING
BEFORE COUNCIL COMMITTEE ON RULES

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, October 26, 1999
1:25 p.m.

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BILL 970590 - Amending Section 12-2405 of The
Philadelphia Code entitled "Removal or
Immobilization of Parked Vehicles Notice". . .

9

BILL 980048 - Amending Chapter 9-1600 of The
Philadelphia Code relating to the prohibition
against unlawful eviction practices. . .

10

BILL 980274, 980275 - Held at request of sponsor.

11

BILL 980550 - Amending the Philadelphia Zoning
Maps by changing the zoning designations of
certain areas of land. . .

12

BILL 980684 - Amending Title 14 of The
Philadelphia Code relating to zoning and
planning. . .

13

BILL 990425 - Amending Title 14 of The
Philadelphia Code relating to zoning and
planning. . .

14

BILL 990601 - Amending the Philadelphia Zoning
Maps by changing the zoning designations of
certain areas of land. . .

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(Full text of all bills appear in body of
transcript.)

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PRESENT: COUNCILMAN JAMES F. KENNEY, Vice Chair
COUNCILMAN DAVID COHEN
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN ANGEL L. ORTIZ
COUNCILMAN FRANK DICICCO

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1 10/26/99 COMMITTEE ON RULES

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1 10/26/99 RULES COMM. - BILL 990601

2 P R O C E E D I N G S

3 COUNCILMAN KENNEY: Good afternoon,
4 ladies and gentlemen. This is the Council
5 Committee on Rules. First, we have A quorum
6 present, with Councilmembers Nutter, Cohen, Ortiz,
7 DiCicco, and myself as chairperson, Councilman
8 Kenney.

9 There is one announcement. Bills No.
10 980274 and 980275 will be held at the request of
11 the sponsor, and they will not be heard today.

12 The first bill we will hear is Bill No.
13 990601, which is an ordinance to amend the
14 Philadelphia Zoning Maps by changing the zoning
15 designations of certain areas of land located
16 within an area generally bounded by the Schuylkill
17 Expressway, Arch Street, 30th Street, John F.
18 Kennedy Boulevard, certain Amtrak and SEPTA
19 property lines and a line parallel to the center
20 line of a certain Conrail High Line and a line
21 parallel to and located approximately 800 feet
22 north of Arch Street.

23 Please identify yourself for the record
24 and proceed.

25 MR. LOMBARDO: Good afternoon, Mr.

1 10/26/99 RULES COMM. - BILL 990601

2 Chairman and members of the committee. My name is
3 Richard Lombardo Chief of the Planning Commission,
4 here to speak on behalf of this bill. I'll try to
5 be brief and just give you an overview of it.
6 There are representatives of Amtrak who are here,
7 who may want to address you in terms of their
8 plans and then answer any questions that you may
9 have.

10 As it was stated, in the short time
11 that this bill was -- it was proposed to rezone
12 land basically north and west of 30th Street
13 Station, approximately 20 acres of land, from
14 Class G2 General Industrial to Class C5
15 Commercial. C5 Commercial is the zoning
16 classification of the business core of Center
17 City.

18 When the Planning Commission did the
19 plan for Center City, now about ten years ago, one
20 of the elements of that plan was the
21 recommendation that as a natural extension of the
22 business core, the zoning should be changed in the
23 vicinity of -- changed west of the Schuylkill
24 River to a compatible zoning classification to
25 permit the eventual redevelopment of this area

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2 with high-density, mixed-use development, similar
3 to that found in Center City.

4 When one considers the excellent
5 highway and mass transit access to this area, it
6 seems to be a natural -- it would be a natural
7 extension of the business core, and especially,
8 which we foresaw back when we did the plan for
9 Center City, with the growth of business along the
10 Amtrak corridor, the need to have zoning in place
11 to permit more intense development of this area of
12 the city.

13 Under this proposal, this is sort of a
14 Phase I zoning, only zoning a portion of the
15 larger general industrial area. It would allow
16 for initial development to take place. That
17 development would include a parking garage,
18 eventual commercial uses within the existing 30th
19 Street Station that would connect back across Arch
20 Street to the parking garage, development of
21 surface parking, and future development of an
22 approximately 300-room hotel.

23 For the record, the Planning
24 Commission, at its meeting of September 16, 1999,
25 recommended to the Mayor and to this Council the

1 10/26/99 RULES COMM. - BILL 990601

2 adoption of Bill 990601.

3 COUNCILMAN KENNEY: Thank you very
4 much.

5 Are there any questions for these
6 witnesses?

7 Councilmember Cohen?

8 COUNCILMAN COHEN: Mr. Lombardo, could
9 you tell us how close any residential areas are to
10 this area.

11 MR. LOMBARDO: Well, if you're familiar
12 with this area, it would --

13 COUNCILMAN COHEN: Well, let's assume
14 we're not.

15 MR. LOMBARDO: Pardon?

16 COUNCILMAN COHEN: Let's assume we're
17 not familiar with this area.

18 MR. LOMBARDO: Okay. Well, it's --
19 basically, what you have is -- to the west of this
20 area, you have additional property as part of the
21 Amtrak rail operation -- that's approximately
22 another block of rail usage -- before you come to
23 the high line, on the other side of a high line.
24 You basically run into the campus of Drexel
25 University. And to the south of that, the campus

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2 of the University of Pennsylvania. So there are
3 residential units, but they're residential units
4 in terms of dormitories associated with those two
5 universities.

6 There is a residential community up
7 around 32nd and Powelton, the summer-winter
8 community. Mr. Kramer's pointing to it on the
9 map. I would say that that is the nearest
10 residential community, and that's probably two
11 blocks away, but it's separated by -- there's not
12 like immediate street access. Again, if look at
13 the map, you'll see there's no cross-street access
14 across the rail yards over to that neighborhood.

15 COUNCILMAN COHEN: Based on your
16 experience at the Planning Commission, would, as
17 you described it, the intense development, to make
18 it possible for intense development, would there
19 likely be any residential impact?

20 MR. LOMBARDO: I would think that in
21 this stage of development, I would answer that no.
22 Most of the traffic and access would be using the
23 very same streets that -- basically they're using
24 Market Street and Kennedy Boulevard, the very same
25 streets that all of Center City traffic uses.

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2 That map there shows the access is being built
3 right up against the Schuylkill Expressway, so
4 traffic access would really be either onto the
5 expressway or east and west along Kennedy
6 Boulevard, north and south on the Schuylkill
7 Expressway, or down through the University City.

8 I think at the later phase, which would
9 have to come to this Council for later discussion
10 of rezoning, if there was later phases, that issue
11 could come up as you got further up towards Spring
12 Garden Street. But this proposal does not
13 envision any access into the residential community
14 at this time.

15 So to answer your question -- it's a
16 long answer to say no.

17 COUNCILMAN COHEN: Thank you.

18 COUNCILMAN KENNEY: Are there any other
19 questions for these witnesses?

20 (No further questions.)

21 COUNCILMAN KENNEY: Is there someone
22 else here to testify on this bill?

23 (Michael Sklaroff comes forward.)

24 MR. SKLAROFF: Lest there are any
25 questions, Mr. Chairman.

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2 COUNCILMAN KENNEY: I have no other
3 questions. Identify yourself for the record,
4 please.

5 MR. SKLAROFF: I am Michael Sklaroff,
6 attorney for Amtrak in the matter. If there any
7 other questions, there are people here from Amtrak
8 and the architecture firm.

9 COUNCILMAN COHEN: May I raise with
10 you, Mr. Sklaroff, the same question that I raised
11 with Mr. Lombardo 'cause you've had a great deal
12 of experience in these matters. Based upon your
13 experience, is it likely that as a result of the
14 zoning, we would later at sometime get residential
15 complaints?

16 MR. SKLAROFF: I would say that the
17 short answer is no. The impact on the city and
18 any residents would only be good.

19 COUNCILMAN COHEN: Can you amplify that
20 a little bit?

21 MR. SKLAROFF: Well, because of the
22 jobs and the activity and the resources that that
23 development would provide.

24 COUNCILMAN COHEN: You don't think it
25 would interfere with the normal residential

1 10/26/99 RULES COMM. - BILL 990601

2 development that might occur in that location?

3 MR. SKLAROFF: Normal residential
4 development could not occur in that location
5 because essentially we're talking about the
6 construction of railroad tracks.

7 COUNCILMAN COHEN: And the development
8 that would occur on the location you're talking
9 about that's subject to the zoning change, you
10 don't think that would impact on existing
11 residential, particularly in the area around 32nd
12 -- that's around 32nd Street, which was mentioned
13 by Mr. Lombardo?

14 MR. SKLAROFF: For the very reasons Mr.
15 Lombardo stated, there would be no detrimental
16 impact whatsoever.

17 COUNCILMAN COHEN: So you concur with
18 his conclusion?

19 MR. SKLAROFF: Yes, I would.

20 COUNCILMAN COHEN: Thank you.

21 MR. SKLAROFF: One procedural thing:
22 we would ask for a suspension of the rules.

23 COUNCILMAN KENNEY: Thank you. So
24 noted.

25 Is there anyone else here to testify on

1 10/26/99 RULES COMM. - BILL 980550

2 this bill?

3 (No response.)

4 COUNCILMAN KENNEY: Since there are no
5 further questions on this bill, we will now move
6 on to the next bill, which is Bill No. 980550,
7 which is an ordinance to amend the Philadelphia
8 Zoning Maps by changing the zoning designations of
9 certain areas of land located within an area
10 bounded by Washington Avenue, Seventh Street,
11 Tasker Street, and Front Street.

12 Please identify yourself for the
13 record.

14 MR. LOMBARD0: Good afternoon, Mr.
15 Chairman and members of the committee.

16 COUNCILMAN KENNEY: Good afternoon.

17 MR. LOMBARD0: My name is Richard
18 Lombardo, from the Planning Commission. And I'm
19 here today to speak on behalf of 980550.

20 This is one of a series of bills that
21 we have been working with Councilman DiCicco on
22 over the past couple of years to basically look at
23 the zoning within the area of -- the South
24 Philadelphia area of his district, a portion of
25 his district, west of -- east of Broad Street,

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2 south of Washington Avenue. This particular area,
3 which is about 175 acres, has been the subject of
4 several previous zoning bills. We're coming back
5 again to this particular area.

6 The long and the short of this bill is,
7 what this bill does is, it takes out all of the
8 residential zoning classifications that allow for
9 as-of-right conversion of rowhouses to multifamily
10 units. As I said, there's been previous bills in
11 this area that have done similar rezonings, but in
12 both previous instances, there was multifamily
13 zoning left in place.

14 The problem of conversion without any
15 community input has gotten to the point where the
16 neighborhood and the Councilman feel that they
17 would rather have all conversion to have to stand
18 the test of the Zoning Board hearing.

19 COUNCILMAN KENNEY: So for the record,
20 there's no prohibition of multifamily conversion;
21 it's simply a requirement to pass a test.

22 MR. LOMBARD: That's right.

23 COUNCILMAN KENNEY: And to show
24 hardship and to get community approval and Zoning
25 Board approval.

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2 MR. LOMBARDO: That's right.

3 And I do want to point out that there
4 was a typo made in the map, and we will be giving
5 an amendment to the Clerk's Office and to the
6 committee.

7 COUNCILMAN KENNEY: Do you want to
8 describe the amendment.

9 MR. LOMBARDO: Yeah. The block is
10 basically what would be the northeast corner of
11 Second and Reed, through to Hancock Street. And
12 what happened was, when we did that particular
13 block, the A was left off. The difference is --
14 what the zoning is doing is changing it from R10
15 to R10-A. We have an amendment here to correct
16 the map and make that an R10-A also, which is a
17 single-family rowhouse district.

18 With that amendment, for the record,
19 the Planning Commission, at its meeting of October
20 21, 1999, recommended, through the Mayor and
21 through this Council, the adoption of Bill No.
22 980550.

23 COUNCILMAN KENNEY: Thank you very much
24 for your testimony.

25 Councilman DiCicco?

1 10/26/99 RULES COMM. - BILL 980550

2 COUNCILMAN DICICCO: Thank you, Mr.

3 Chairman.

4 Just for the record, Mr. Lombardo, this
5 is consistent with what we have done in the past,
6 basically from a much larger area, from Washington
7 Avenue to Oregon, from Broad Street to Columbus
8 Boulevard, and this was just one small area that
9 was left undone.

10 MR. LOMBARDO: That's right, this is
11 one portion.

12 COUNCILMAN DICICCO: Right.

13 MR. LOMBARDO: It was such a large
14 area, we had to break it into a series of bills.

15 COUNCILMAN DICICCO: Right.

16 MR. LOMBARDO: And this is just one of
17 them. As I say, it was a series of bills that we
18 got, and I think this is the last one of the
19 series of bills that we have done.

20 COUNCILMAN DICICCO: Yeah, I believe
21 so. All right, thank you.

22 MR. LOMBARDO: Thank you.

23 COUNCILMAN DICICCO: No further
24 questions.

25 COUNCILMAN KENNEY: Thank you very

1 10/26/99 RULES COMM. - BILL 980550

2 much.

3 Are there any more questions of these
4 witnesses??

5 (No response.)

6 COUNCILMAN KENNEY: Is there anyone
7 else here to testify on this bill?

8 Please come forward.

9 (Gina Caruso comes forward.)

10 COUNCILMAN KENNEY: I'm sorry, is there
11 another witness for this bill too? Do you want to
12 come forward too? Thank you.

13 Please identify yourself for the
14 record.

15 MS. CARUSO: Yes. My name is Gina
16 Caruso. I am the co-chair of the St. John's
17 Leadership Team, and I would like to go on the
18 record that the St. John's Leadership Team
19 supports this bill.

20 COUNCILMAN KENNEY: Terrific.

21 MS. CARUSO: Thank you.

22 COUNCILMAN KENNEY: It's different from
23 the last time we were here.

24 (Laughter.)

25 (Suzanne Haney comes forward.)

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2 COUNCILMAN KENNEY: Please identify
3 yourself for the record.

4 MS. HANEY; my name is Suzanne Haney,
5 and I represent the Southwark Civil War Historic
6 District Committee, and we are also in favor of
7 this zoning change that would promote
8 single-family homes and not subdivision of
9 existing properties because of the historic nature
10 of many of the properties in the area.

11 COUNCILMAN KENNEY: Terrific, great.
12 Thank you very much.

13 MS. HANEY; thank you.

14 COUNCILMAN KENNEY: Anyone else to
15 testify on this bill?

16 (No response.)

17 COUNCILMAN KENNEY: Hearing none, we
18 will now move to Bill No. 980684, which is an
19 ordinance amending Title 14 of The Philadelphia
20 Code relating to zoning and planning by amending
21 Chapter 14-1600, entitled "Miscellaneous," by
22 amending Section 14-1607, entitled "Special
23 Controls for the Center City Commercial Area," by
24 amending Section 14-1803, entitled "Criteria for
25 Granting a Special-Use Permit," by requiring a

1 10/26/99 RULES COMM. - BILL 980684

2 Zoning Board of Adjustment special use permit for
3 certain users for properties fronting the north
4 side of Market Street between Front Street and
5 Fifth Street, under certain terms and conditions.

6 Please identify yourself for the
7 record.

8 MR. LOMBARDO: Good afternoon, Mr.
9 Chairman and members of the committee. My name is
10 Richard Lombardo from the Planning Commission.
11 I'm here to speak on Bill 980684.

12 COUNCILMAN KENNEY: Good afternoon.

13 MR. LOMBARDO: As you stated, this bill
14 proposes to amend the special controls area for
15 Center City, though the larger special controls
16 area is, as you described, on Market Street
17 between Front and Fifth.

18 Currently, what we're really talking
19 about is -- I'm sorry. What we're talking about
20 really is just not the larger area but basically
21 the north side of Front Street, between Front
22 Street and Fifth Street.

23 COUNCILMAN DICICCO: Excuse me?

24 MR. LOMBARDO: Market Street, I'm
25 sorry.

1 10/26/99 RULES COMM. - BILL 980684

2 COUNCILMAN DICICCO: Okay. You don't
3 mean the north side of Front, all right.

4 MR. LOMBARDO: Yeah. On the north side
5 of Market, between Front and Fifth, it's only the
6 properties that front on Market Street.

7 Basically what we have here is, we did
8 a special controls for Old City a number of years
9 ago. That bill basically came down to the rear
10 property line of the properties on the north side
11 of Market Street. In that particular area, the
12 restaurants, any kind of entertainment of guests
13 and patrons, public-assembly type uses are
14 prohibited. South of that line, to Market Street,
15 which is actually the properties fronting on
16 Market Street, those uses could continue to be
17 permitted.

18 What this bill attempts to do is
19 continue to allow them to be permitted to put some
20 quality-of-life controls on the operation.
21 Basically, it requires the issuance, after a
22 public hearing by the Zoning Board, of a
23 special-use permit for restaurants and other types
24 of restaurant-like facilities at the public
25 hearing. A special permit is not a variance; a

1 10/26/99 RULES COMM. - BILL 980684

2 special permit is a situation where evidence to a
3 particular issue is taken by the Board, and the
4 Board evaluates whether you've met the threshold
5 to provide that evidence.

6 In this particular case, the evidence
7 would deal with adequate trash and garbage
8 storage, that the restaurant will have adequate
9 trash and garbage storage, that there would be
10 proper ventilation of all cooking fumes through
11 the roof of the building rather than coming
12 directly out onto the sidewalk and that those
13 fumes will negatively impact neighbors. And
14 lastly, that there will be -- where live
15 entertainment is a part of the venue of the
16 facility, there will be adequate noise -- with
17 either live or electronic entertainment, that
18 there will be adequate noise abatement to ensure
19 that there it won't be heard outside of the
20 premise.

21 With that evidence being offered, the
22 Board -- I mean, as I say, there's no variance
23 threshold; it would just be evidence offered at
24 that time. The Board, I would assume, would grant
25 that the special-permit use would be allowed.

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2 This bill actually is a compromise
3 over, I think, an initial request from the civic
4 association to extend the ban of restaurants and
5 clubs and what have you all the way down to Market
6 Street. After a series of meetings, it was
7 decided to compromise with the special-use special
8 permit process. And I know that Tom and I
9 attended a meeting, I guess now, almost a year ago
10 that the Councilman held out in the community.
11 And after the issue was aired, I think there was
12 pretty much agreement by all people there that
13 they would support this bill.

14 COUNCILMAN KENNEY: Okay. Thank you
15 very much.

16 Are there any questions for this
17 witness?

18 (No questions.)

19 MR. LOMBARDO: I'm sorry. For the
20 record, the Planning Commission, at its meeting of
21 October 21, 1999, recommended the adoption of Bill
22 980684.

23 COUNCILMAN KENNEY: Thank you.

24 Is there anyone else here to testify on
25 this bill?

1 10/26/99 RULES COMM. - BILL 990425

2 (No response.)

3 COUNCILMAN KENNEY: Seeing none, we
4 will move to Bill No. 990425, which is an
5 ordinance amending Title 14 of The Philadelphia
6 Code relating to zoning and planning by amending
7 Chapter 14-1600 entitled "Miscellaneous" by
8 amending Section 14-1697 entitled "Special
9 Controls for Center City Commercial Area," under
10 circumstances.

11 Please identify yourself for the
12 record.

13 MR. LOMBARDO: Yeah. Good afternoon,
14 Mr. Chairman and members of the committee. My
15 name is Richard Lombardo, and I'm here today to
16 speak on behalf of Bill No. 990425.

17 This bill again amends a portion of the
18 Center City Special Controls area, which, again,
19 is a much larger area, but these particular
20 amendments are dealing with the Avenue of the
21 Arts, which are basically properties along Broad
22 Street, south of Penn Square, down to Washington
23 Avenue.

24 What this bill does is a series of
25 things in refining the overlay and defining the

1 10/26/99 RULES COMM. - BILL 990425

2 use controls. It would now allow sidewalk cafes,
3 which would be permitted as a matter of right.
4 Restaurants that exist along Broad Street now
5 could come out onto the sidewalk as sidewalk
6 cafes. Full-service restaurants, which currently
7 require a Zoning Board hearing, now would be
8 permitted as a matter of right.

9 Uses currently requiring a Zoning Board
10 certificate are drugstores, delicatessens, pet
11 stores. Other public utility uses would no longer
12 be permitted, and other -- two of the uses, food
13 markets and sale of general merchandise, which is
14 like a five-and-dime or a dollar store or a
15 variety store, would no longer be permitted.

16 So this bill was done in conjunction
17 with the Avenue of the Arts and the property
18 owners along Broad Street as a part of a concerted
19 effort to upgrade the type of activity, the type
20 of commercial uses on Broad Street in this area.
21 As I said, this would be effective from Washington
22 Avenue to City Hall to properties running on Broad
23 Street.

24 For the record, the Planning
25 Commission, at its meeting of June 17, 1999,

1 10/26/99 RULES COMM. - BILL 990425
2 recommended the adoption of Bill 990425. This
3 bill was -- this bill was prepared in conjunction
4 with the Avenue of the Arts organization as well
5 as individual building owners along Broad Street.

6 COUNCILMAN KENNEY: The existing
7 businesses, of course, would not be --

8 MR. LOMBARD0: That's right. It would
9 only go from a point forward. If they're already
10 there with many of these uses that I mentioned,
11 like food markets, you would be grandfathered
12 in. You could stay there, you could sell your
13 property, someone else could buy it and continue
14 the use, but that wouldn't take away that right.

15 COUNCILMAN KENNEY: Councilman
16 DiCicco?

17 COUNCILMAN DICICCO: Thank you, Mr.
18 Chairman.

19 I'd just like to read into the record a
20 letter that was sent over by Ellen Solms,
21 S-O-L-M-S. Ellen is the Executive Director of the
22 Avenue of the Arts, Inc.

23 "Avenue of the Arts, Inc. a nonprofit
24 agency charged with overseeing the ongoing
25 development of the Avenue of the Arts is in full

1 10/26/99 RULES COMM. - BILL 990425

2 support of the proposed revision of the special
3 controls for the Center City commercial area.

4 "Since 1993, Broad Street, from City
5 Hall to Washington Avenue, has been transformed
6 into the Avenue of the Arts, the city's premiere
7 performing arts district. Linked by gleaming new
8 streetscape, the district is home to a eleven
9 cultural and educational institutions and seven
10 individual performance venues. The development of
11 the new or rehabilitated cultural facilities has
12 stimulated significant commercial development --
13 new restaurants, new hotels, new retail and office
14 and residential conversion.

15 "With the opening of the Ritz Carlton
16 Hotel next year and the Regional Performing Arts
17 Center in 2001, the Avenue of the Arts will be
18 well-positioned to continue as the engine for the
19 city's ongoing economic development into the next
20 century. The proposed controls will strengthen
21 our ability to attract the kinds of businesses
22 that will add to the Avenue's success by enabling
23 us to protect on the over \$600 million that has
24 been invested by both the public and private
25 sectors in the Avenue of the Arts."

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2 COUNCILMAN KENNEY: Thank you very
3 much. That will be entered into the record.

4 Are there any other questions for these
5 witnesses?

6 (No further questions.)

7 COUNCILMAN KENNEY: Anyone else to
8 testify on the this bill?

9 (No response.)

10 COUNCILMAN KENNEY: Thank you very
11 much.

12 Now we will move to Bill No. 980048,
13 which is an ordinance amending Chapter 9-1600 of
14 The Philadelphia Code relating to the prohibition
15 against unlawful eviction practices by excepting
16 from the definition of "landlord" a nonprofit
17 landlord operating a boardinghouse or a lodging
18 house.

19 Is there anyone from the Administration
20 to -- I'm sorry, we'll get the Administration
21 first. You could sit right there.

22 Mr. Nardone?

23 (Michael Nardone comes forward.)

24 COUNCILMAN KENNEY: Good afternoon.

25 MR. NARDONE: Good afternoon.

1 10/26/99 RULES COMM. - BILL 980048

2 COUNCILMAN KENNEY: Please identify
3 yourself for the record.

4 MR. NARDONE: My name is Michael
5 Nardone, and I'm the Deputy Managing Director for
6 Special Needs Housing. Thank you for this
7 opportunity to testify today on Bill No. 980048.

8 The bill before you today would exempt
9 nonprofit lessors operating boardinghouses from
10 the prohibitions against self-help eviction
11 procedures. The bill defines the term
12 "boardinghouse" as any house containing furnished
13 rooms or apartments kept principally for the
14 residents or permanent guests, which are let out
15 by the week or month, with full or limited meal
16 service.

17 When this legislation was originally
18 proposed, the Administration had concerns about
19 whether or not this legislation would impact
20 programs currently run by City agencies, or that
21 contract with City agencies to provide residential
22 services, such as the Office of Emergency Shelter
23 and Services that I oversee. After further
24 analysis, it would appear that the legislation
25 before you today with respect to its impact on our

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2 programs would appear to be quite small.

3 OESS contracts with over 40 emergency
4 shelters that provide temporary housing, food, and
5 other support services to more than 2200 homeless
6 individuals. Many of these agencies may classify
7 as nonprofit boarding homes as part of the
8 language contained in this legislation.

9 Clients seeking emergency housing from
10 an OESS provider voluntarily enter into an
11 agreement in which they agree to follow a
12 prescribed service plan as well as abide by OESS
13 rules and regulations, including a process for
14 termination of service. This OESS client service
15 agreement is critical to enforcement of an
16 individual service plan and the individual's
17 progress towards self-sufficiency, as well as the
18 smooth and effective operation of the emergency
19 shelter program. Thus, it appears that the OESS
20 processes, as well as other programs that are
21 within the City agency umbrellas such as the
22 Department of Public Health, that their provisions
23 are consistent with the provisions contained in
24 this ordinance.

25 Beyond the type of nonprofit

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2 residential provider mentioned above, it would
3 appear that the number of entities falling in the
4 category of "nonprofit boarding home" would be
5 narrow. Coles House, the main proponent of this
6 legislation, is one of the few nonprofit boarding
7 homes that I am aware of that falls outside of
8 existing City and/or State provider systems, such
9 as the OESS system.

10 Although it is seeking an exemption
11 from the prohibition against self-help, I
12 understand that Coles House does provide its
13 residents with certain procedural protections
14 during the eviction process, and I believe you're
15 going to hear more about that in testimony in a
16 few minutes.

17 The legislation before you today could
18 be strengthened by adding language specifying that
19 nonprofit boarding homes exempted from the
20 self-help prohibition likewise must have in place
21 an eviction process with procedural protections
22 for the residents to ensure against any unintended
23 consequences of this ordinance.

24 With that, I'm going to conclude my
25 remarks and would be happy to answer any questions

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2 that you may have. And in following that concern
3 that there be certain protections put into the
4 legislation, I have drafted a proposed amendment
5 that I could provide to the committee.

6 COUNCILMAN KENNEY: Thank you very
7 much. We'll just need a copy of the amendment.

8 MR. NARDONE: Yes.

9 COUNCILMAN KENNEY: Councilmember
10 Ortiz?

11 COUNCILMAN ORTIZ: Is it your testimony
12 that this legislation is instigated by only one
13 boarding home?

14 MR. NARDONE: It is one.

15 COUNCILMAN ORTIZ: So we're doing this
16 legislation for just one boarding home? Is that
17 it?

18 MR. NARDONE: That is the --

19 COUNCILMAN KENNEY: Yeah, we're talking
20 about doing it but we haven't done it yet; we're
21 just talking about doing it.

22 COUNCILMAN ORTIZ: Yeah. It's just
23 that I find it unusual that we're doing an
24 individualized legislation like this.

25 COUNCILMAN DICICCO: Well, maybe I can

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2 comment on that, Councilman Ortiz.

3 COUNCILMAN ORTIZ: Okay.

4 COUNCILMAN DICICCO: Back around 1996
5 or '97, I had the occasion to visit the Coles
6 House, which is in my district, and I met Susan
7 Lewis, who will be up shortly to testify.

8 And as a result of that meeting, which
9 I was brought down to look at the facility to see
10 if we can get some funds to do some interior
11 renovations and electrical work for the facility.
12 As a result of that, a dialogue was created
13 between my office and Susan Lewis.

14 Subsequent to that Lieutenant McCarthy,
15 who was then the lieutenant in charge of the South
16 Street detail, had on occasion performed -- in the
17 performance of his police duties, was summoned to
18 the Coles House for the purposes of some
19 disturbances between the tenant, or tenants, that
20 were in that facility. As a result of those
21 incidents, we began to explore the possibilities
22 of maybe some legislation that may give the
23 nonprofit agency and then the manager or the
24 person in charge of the facility some input into
25 the process of eviction. And I think when Susan

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2 gets up to testify, she can explain to you what
3 some of her problems and difficulties had been in
4 the past.

5 So when we speak to an individual piece
6 of legislation, I guess this may apply to other
7 boardinghouses that fall within the category of
8 the Coles House, but this was a legislation that I
9 put forward based on my experience with the Coles
10 House.

11 COUNCILMAN KENNEY: Thank you very
12 much.

13 Are there any other questions for
14 Mr. Nardone?

15 (No response.)

16 COUNCILMAN KENNEY: Mr. Nardone, could
17 you please do me a favor and read into the record
18 at least your proposed amendment on what it would
19 accomplish.

20 MR. NARDONE: The proposal that I have
21 put forward would insert at the end of the
22 definition of "landlord," where it says the
23 following: "Except for nonprofit lessors engaged
24 in the operation of one or more boardinghouses,"
25 and then insert: ", which lessor shall provide to

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2 residents both notice of the impending eviction
3 and an opportunity to cure the reason for the
4 eviction in advance of utilizing any self-help
5 eviction practice."

6 COUNCILMAN KENNEY: Okay. Are there
7 any questions on the amendment?

8 (No questions.)

9 COUNCILMAN KENNEY: Okay. Any
10 questions for Mr. Nardone?

11 COUNCILMAN NUTTER: Mr. Nardone, this
12 may or may not be up your alley, but what, in your
13 words, does the amendment accomplish or help to do
14 or help to prevent?

15 And, secondly, what is your
16 understanding of the impact of the bill overall or
17 -- I mean, what problems have you experienced
18 that are either not covered by present law or are
19 helped by the implementation of this particular
20 bill?

21 MR. NARDONE: I guess what -- this is
22 not a bill that I was putting forward --

23 COUNCILMAN NUTTER: I understand that.

24 MR. NARDONE: -- in terms of the
25 Administration.

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2 COUNCILMAN NUTTER: I understand.

3 MR. NARDONE: What I was trying to do
4 in drafting the amendment, or crafting the
5 amendment, was, to the best of my knowledge, the
6 number of nonprofit boarding homes that would come
7 under this definition are limited. In other
8 words, nonprofit boarding homes that are not a
9 part of, say, the OESS system or the mental health
10 system were under some of the other City agencies
11 that fund services. And under those
12 circumstances, they would not, according to our
13 analysis, be impacted by this legislation.
14 However, there may be --

15 COUNCILMAN NUTTER: Well, just so I can
16 understand. So in the reverse, are you saying
17 that only systems that are associated with OESS or
18 other City departments or agencies are subject to
19 the bill?

20 MR. NARDONE: No. What I'm saying is,
21 is that there is a process in place which is
22 somewhat consistent with the language that's
23 concerned in this legislation that would allow
24 those entities to terminate client services
25 without going through the landlord-tenant

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2 process. And so that they're relatively
3 unaffected by the language contained in this
4 bill. And as best as I can determine, the only
5 nonprofits that would be impacted by this
6 legislation are those nonprofits that would not be
7 a part of the OESS mental health system.

8 Coles House, apparently, is definitely
9 one that isn't affiliated or involved in
10 contracting with City agencies. There may be -- I
11 am not familiar with other -- I am not personally
12 familiar with other entities, except I -- other
13 entities that would fall under this category.
14 However, I can't be totally confident that that's
15 the case.

16 And the reason for -- and the reason
17 for putting forward -- the reason why I, in
18 testifying today and being asked to testify today,
19 put forward this language was to try to ensure
20 that the type of protections that Coles House has
21 in place, with respect to -- which you'll hear a
22 little bit more about today, with respect to
23 notice, as well as procedural programs, due
24 process, would also extend to people who might be
25 impacted by this, that we're just not aware of at

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2 this time.

3 COUNCILMAN NUTTER: Let me ask it this
4 way because I am obviously missing something here.
5 Maybe you can answer it this way.

6 Can you tell me -- I mean, either
7 before the bill or after the bill, there seem to
8 be categories of these boardinghouses, even in the
9 nonprofit world, that seem to be subject to
10 different rules and regulations or different
11 eviction procedures, depending on whether you are
12 associated with OESS or a City agency or if you're
13 standing independent; is that correct? I mean, is
14 that the way the system is set up?

15 MR. NARDONE: I think the answer --
16 yes, I believe so.

17 COUNCILMAN NUTTER: Okay.

18 MR. NARDONE: I think that what I was
19 trying to say is, there's a different
20 relationship.

21 COUNCILMAN NUTTER: Tell me what it is
22 today. What happens today?

23 MR. NARDONE: What I was trying to
24 refer to is that many of the boarding homes that
25 are nonprofit boarding homes basically are

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2 providing services under contract to either OESS
3 or the Department of Health.

4 COUNCILMAN NUTTER: All right. Now
5 that group --

6 MR. NARDONE: And those basically, I
7 think you could make the argument, which we would,
8 that those would not come under the
9 landlord-tenant provisions contained in the
10 existing law.

11 COUNCILMAN NUTTER: Because. . .?

12 MR. NARDONE: Because, A, there's a
13 different relationship between the clients who are
14 in the programs and the people that are providing
15 the service. For instance, it's the City that's
16 paying for the services that are provided under
17 the mental health system, and the client doesn't
18 pay anything in terms of services. So it's not
19 the typical landlord-tenant relationship.

20 COUNCILMAN NUTTER: So in that
21 circumstance, you're taking the position that the
22 City has a right to stop service and put someone
23 out --

24 MR. NARDONE: Put in place -- there is
25 a process, and each one of those --

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2 COUNCILMAN NUTTER: An internal system.

3 MR. NARDONE: There's an internal
4 process in place that has -- you know, which
5 involves meeting with the case managers.

6 COUNCILMAN NUTTER: Okay.

7 MR. NARDONE: There is a grievance
8 process.

9 COUNCILMAN NUTTER: All right.

10 MR. NARDONE: There is an appeal
11 process.

12 COUNCILMAN NUTTER: So that's what goes
13 on with people who have a contract with OESS or
14 some other agency or department of the
15 government?

16 MR. NARDONE: Right. And what I was
17 trying to state is -- and maybe I didn't do it as
18 eloquently as I could have -- is that, as best as
19 I can determine, that many, if not most -- that
20 most of the nonprofit boarding homes are somehow
21 affiliated with that -- those systems.

22 It was -- because I'm sitting here and
23 I'm not -- I can't a hundred percent testify to
24 you today that the only entity that's impacted by
25 this legislation is Coles House, I felt that it

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2 was important at a minimum, if this legislation
3 was moving forward, that there be put in place
4 some process that would at least ensure that there
5 are protection s in place similar to the people at
6 Coles House.

7 COUNCILMAN ORTIZ: But who's going to
8 put the process in place?

9 MR. NARDONE: Well, that would be up to
10 the --

11 COUNCILMAN ORTIZ: The landlord?

12 MR. NARDONE: That would be up to the
13 landlord.

14 COUNCILMAN ORTIZ: The landlord is
15 going to put the process in place in order to
16 evict the person? I don't think that's a level
17 playing field.

18 MR. NARDONE: That would be -- I mean,
19 I would have to defer to the Law Department, but I
20 think that the process would be subject to
21 challenge.

22 COUNCILMAN ORTIZ: I think we need to
23 have the Law Department to look at how the
24 procedure of due process is affected by this. I
25 authored an eviction law in late-'87 in order to

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2 avoid this type of self-help by the landlord, you
3 know, which was rampant in Philadelphia. And I
4 think this is opening up a Pandora's box right
5 here.

6 COUNCILMAN KENNEY: Councilmember
7 Nutter hasn't finished his question.

8 COUNCILMAN NUTTER: Yeah, I'm still --

9 COUNCILMAN ORTIZ: I leave my vote no
10 as currently on this.

11 COUNCILMAN KENNEY: What about on the
12 other ones?

13 COUNCILMAN ORTIZ: On the others, it is
14 yes.

15 COUNCILMAN NUTTER: So, Mr. Nardone,
16 you have the City system and the City has its own
17 process in place. The City takes the position
18 that it, as a government, is not subject to the
19 landlord-tenant provisions, I assume, of probably
20 either the Philadelphia Code --

21 MR. NARDONE: The Philadelphia Code.

22 COUNCILMAN NUTTER: -- or the state
23 statute.

24 MR. NARDONE: Right.

25 COUNCILMAN NUTTER: All right. Now,

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2 the rest of the universe, the nonprofit people who
3 don't have contracts with the City, they are?

4 MR. NARDONE: Right.

5 COUNCILMAN NUTTER: Okay. And the bill
6 is trying to exempt the rest of them?

7 MR. NARDONE: Yes.

8 COUNCILMAN NUTTER: And that they would
9 then put in place their own system somewhat
10 similar to the way the City deals with the people
11 we have contracted.

12 MR. NARDONE: Right, or is similar to
13 the way the Coles House system is in place -- that
14 you'll hear more about after I testify.

15 I was saying that as a minimum
16 protection, that that would be something that we
17 should look at, and I took the initiative to write
18 the language.

19 COUNCILMAN NUTTER: Okay. Well, maybe
20 I should wait until we hear from Coles House.

21 MR. NARDONE: With the Law Department,
22 yeah.

23 COUNCILMAN NUTTER: With the Law
24 Department.

25 MR. NARDONE: It wasn't just me.

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2 COUNCILMAN NUTTER: I understand.

3 Okay, thanks.

4 COUNCILMAN KENNEY: Your position
5 relative to the City's contracted or
6 State-contract operations is that the contractual
7 relationship is what makes it unique.

8 MR. NARDONE: Right.

9 COUNCILMAN KENNEY: And that there are
10 protocols that, by virtue of that contract, were
11 put into place or are in place, in the City's
12 opinion, is a safeguard for capricious evictions
13 without cause.

14 MR. NARDONE: Right, right.

15 COUNCILMAN KENNEY: Is that basically
16 what you're saying?

17 MR. NARDONE: Yes.

18 COUNCILMAN KENNEY: Okay, I' sorry. Do
19 you want to --

20 MR. NARDONE: I've been joined by
21 Marcia -- this is Marcia Berman from the Law
22 Department.

23 COUNCILMAN KENNEY: Okay.

24 MS. BERMAN: Yeah, I just wanted to
25 clarify --

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2 COUNCILMAN KENNEY: Would you please
3 pull your microphone closer to you and just
4 formally identify yourself for the record, please.

5 MS. BERMAN: Yes. Marcia Berman,
6 Deputy City Solicitor.

7 I just wanted to clarify for the record
8 that the case law -- that the requirement that
9 landlords not engage in self-help and go through
10 the legal process is actually not in the
11 Landlord-Tenant Act; it's been created by cases by
12 courts. And it is unclear whether or not a
13 boardinghouse is subject to that prohibition
14 against self-help in State law.

15 My research revealed a case back in
16 1914, which was the only case I was able to find,
17 that suggested that a landlord-tenant relationship
18 does not exist when a person contracts with a
19 boardinghouse operator for room and board for any
20 amount of time. And that case is Davis versus
21 Hartel (ph.). And it's a 1914 Pennsylvania
22 Superior Court decision.

23 So it is somewhat unclear whether or
24 not the boardinghouses are subject to that
25 prohibition against self-help under State law.

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2 COUNCILMAN KENNEY: Can I ask you a
3 hypothetical so I can try to understand what the
4 boardinghouse operator and tenant relation or
5 boarder -- I guess "boarder" is the appropriate
6 word -- boarder relationship is.

7 If I allow a person to enter my home,
8 my private residence, to take a bedroom that's a
9 spare room, and that person lives there with the
10 promise that they're going to contribute to the
11 utilities or to the food or to whatever domestic
12 circumstance there is. And over a period of two,
13 three months, the individual exhibits disorderly
14 behavior -- he gets drunk and he busts up my house
15 and does other kinds of things, and I want him out
16 -- what is the relationship between me as the
17 homeowner and now this boarder, which I allowed in
18 the property? I mean, I did so voluntarily but
19 now have changed my mind because of whatever
20 behavior and want that person out.

21 Does that person have landlord-tenant
22 rights in my home? I mean, is --

23 MS. BERMAN: Is the boarder paying
24 rent?

25 COUNCILMAN KENNEY: We'll say the

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2 boarder hypothetically was contributing to the
3 food or to the utilities.

4 MS. BERMAN: Again, there's not a lot
5 of case law out there, but I would argue that
6 under this case, Davis versus Hartel, which is
7 still good law, that there would not be a
8 landlord-tenant relationship.

9 COUNCILMAN KENNEY: Okay. Are
10 boardinghouses viewed by the law or viewed by the
11 courts -- I guess there's not that much -- there's
12 not that many cases that give us that indication,
13 that boardinghouses are more considered a private
14 home as opposed to a commercial apartment building
15 or a commercial operation?

16 MS. BERMAN: I think that is the
17 distinction that the courts are making.

18 COUNCILMAN KENNEY: Okay.

19 COUNCILMAN NUTTER: I'm sorry. I
20 didn't understand the answer. What is the
21 distinction?

22 MS. BERMAN: That with a boardinghouse,
23 there is no landlord-tenant relationship because
24 it's not the typical commercial type of enterprise
25 that a landlord-tenant relationship means.

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2 COUNCILMAN NUTTER: Is the primary
3 definition of the "landlord-tenant relationship"
4 that there is a lease or a contract for a certain
5 amount of time and a certain amount of rent, and
6 maybe utilities included, maybe utilities not?

7 I mean, taking the alternative of
8 Councilman Kenney's example, if his example was
9 not, I think you said, a boardinghouse
10 relationship, then either, one, what was it? And,
11 two, what created -- I mean, what is "a
12 boardinghouse"?

13 MS. BERMAN: Well --

14 COUNCILMAN NUTTER: Either by our
15 definition here or by law.

16 MS. BERMAN: The Philadelphia Code
17 doesn't have any other definition for
18 "boardinghouse." The Code, in this provision
19 that this bill would amend, has a definition of
20 "landlord." And it defines "landlord" as "the
21 lessor of any residential dwelling unit."

22 So I think, at least under this
23 definition -- and I haven't researched this
24 extensively. But I think that there is a
25 requirement that there be some type of lease

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2 arrangement.

3 COUNCILMAN NUTTER: Do the people in
4 this particular situation for the bill that we're
5 talking about, do they have a lease, or have they
6 signed some sort of an agreement to come and live
7 at a particular place for the week or the month
8 and get some certain services that go with that?

9 MS. BERMAN: Well, the definition in
10 the bill says, "which are let out by the week or
11 month." So I think that would imply some sort of
12 arrangement where they're paying money to live
13 there.

14 I don't know if a technical lease, you
15 know, as we think of it, is required.

16 COUNCILMAN NUTTER: Well, does that
17 definition then imply that there is a
18 landlord-tenant relationship?

19 MS. BERMAN: (No verbal response.)

20 COUNCILMAN KENNEY: If you don't know,
21 then you can say you don't know.

22 MS. BERMAN: I don't know. I can tell
23 you that under the case law, there are no cases
24 that say a boarding you house is a landlord and is
25 subject to the self-help prohibition.

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2 COUNCILMAN NUTTER: Based on the
3 definition on Page 2 and Item number 5, what is
4 the nature of the relationship between the people
5 who run the boardinghouse and the people who are
6 being let out? I mean, that the room is being let
7 out to for the week or the month, with full or
8 limited meal service? What is this relationship?

9 MS. BERMAN: In what sense?

10 COUNCILMAN KENNEY: Well, if it's not
11 landlord-tenant, then --

12 COUNCILMAN NUTTER: Didn't you say
13 earlier that it was not landlord-tenant?

14 MS. BERMAN: I said, according to the
15 case law, it's not landlord-tenant.

16 COUNCILMAN NUTTER: Right.

17 MS. BERMAN: And there is very little
18 case law.

19 I can't tell you that there's any
20 reasoning in that case law that makes this
21 distinction. It doesn't; it just says it's not
22 considered a landlord-tenant relationship.

23 I -- I wish I could be more helpful but
24 there's just not a lot of case law on this.

25 COUNCILMAN NUTTER: And, therefore, not

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2 subject to landlord-tenant statutes?

3 MS. BERMAN: Well, it's -- the
4 prohibition against self-help is not in the
5 statute; it's developed under the case law. It's
6 not in the Landlord-Tenant Act.

7 COUNCILMAN NUTTER: So -- fine. Let's
8 I want to go into the boardinghouse business. Are
9 you saying because of either case law or State
10 statutes, I can't determine for myself what the
11 nature of the terms and conditions of your staying
12 in my boardinghouse are? And if you're violating
13 them, I can't put you out?

14 MS. BERMAN: I don't understand your
15 question.

16 COUNCILMAN NUTTER: If I go into the
17 boardinghouse business --

18 MS. BERMAN: Right.

19 COUNCILMAN NUTTER: -- and I say that
20 you can stay here on the week or for the month,
21 and I'm going to provide certain services --
22 either meals or social services and the like --
23 and it seems like there's some kind of either
24 contract or lease between me and you, and I
25 thought you said earlier that that relationship is

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2 not a landlord-tenant relationship, according to
3 the case law.

4 MS. BERMAN: Under the case law, right.

5 COUNCILMAN NUTTER: Under the case law.

6 Am I able to then draw up a list of rules and
7 regulations of conduct and behavior and
8 expectations for you to be in my boardinghouse,
9 the violation of which will automatically allow me
10 to do certain things, including termination.

11 MS. BERMAN: My answer to that question
12 would be yes, and that would be a question that
13 would be litigated if and when any of those
14 conditions were violated, and the legality of that
15 would be determined by the court.

16 COUNCILMAN NUTTER: Then, lastly, what
17 did you say earlier about there were certain
18 prohibitions about self-help? What did that mean,
19 what does that mean? Where?

20 MS. BERMAN: You mean, where does it
21 come from?

22 COUNCILMAN NUTTER: Not where does it
23 come from. What does it apply to? Where are
24 self-help provisions not allowed?

25 MS. BERMAN: There are cases, and I can

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2 -- you know, one of them is a -- there's actually
3 not a lot of even appellate-level decisions on
4 this.

5 There's a Court of Common Pleas
6 decision called Welford versus Vavrick (ph.),
7 where the court enjoined a landlord who had
8 padlocked the tenant's door and terminated water
9 and electricity supplies from the victim-tenants
10 through self-help measures. So it's through an
11 injunction by a court saying you can't do this.

12 And another source, I guess, would be
13 in the Philadelphia Code, in this section. There
14 is a rather extensive list of what self-help
15 eviction practices are, what constitutes self-help
16 eviction.

17 COUNCILMAN NUTTER: Okay, all right.
18 Thank you.

19 COUNCILMAN KENNEY: Councilman
20 DiCicco?

21 COUNCILMAN DICICCO: Thank you, Mr.
22 Chairman.

23 Does the term "nonprofit" change any of
24 the issues that are being discussed here? When we
25 speak of boardinghouses, I think we're speaking of

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2 it in the context as a nonprofit.

3 Does a nonprofit have less rights, more
4 rights? Does it change the circumstances? Or
5 what is the distinction between the two, profit
6 versus nonprofit? Because I'm certain there are
7 for-profit boardinghouses out there.

8 MS. BERMAN: I'm sure it does have some
9 impact; I can't really say what it is. Again,
10 we're operating not with a lot of guidance from
11 the courts.

12 In this case that's the 1914 case,
13 there probably wasn't such a clear distinction
14 back then between profit and nonprofit, or such a
15 legal distinction. And so I can't really answer
16 that. I think there would be a distinction, but I
17 can't tell you what it is.

18 COUNCILMAN DICICCO: I mean, for me
19 having gone through the Coles House, I compare
20 that kind of to a bed-and-breakfast, where there's
21 a common place and there are many common areas
22 that distinguish those kinds of buildings or
23 facilities from an apartment house where you
24 generally have a private entrance, private
25 facilities, your own bathroom, and your own

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2 kitchen facilities, for the most part. I mean,
3 that's generally what apartments are all about.
4 And there is a separation of the tenants.

5 In the Coles House, with the exception
6 of bedrooms. And maybe in some cases, some of the
7 units may have their own private bathrooms,
8 everything else is a common area.

9 Does that give, or should that give the
10 landlord of these boardinghouses more flexibility
11 in how they treat problems or problem tenants?

12 MS. BERMAN: I think you can certainly
13 argue that it should, yes.

14 COUNCILMAN KENNEY: I guess the
15 question is, are these individuals residing in
16 this property a tenant or a boarder? And I think
17 there may be a distinction between a tenant under
18 the law, both statutory law and case law, and the
19 term or the issue of a border, which I think is
20 distinctly different from a contracted tenant.

21 Councilmember Cohen?

22 COUNCILMAN COHEN: I think the
23 discussion that's taking place is indicative of
24 the concerns that I would have about the bill. I
25 think there's confusion between boarders, between

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2 boardinghouses. A boardinghouse may be a
3 nonprofit or it may be for-profit, depending on --
4 nature of the ownership determines whether it's
5 for-profit or nonprofit. It has nothing to do
6 with the spatial arrangements, whether there are
7 separate apartments or not. There can be such
8 things as nonprofit companies that run apartment
9 houses.

10 So I don't know what the relevancy
11 might or might not be about nonprofits. All I
12 know is that I participated very strongly in the
13 '80s. I was about to claim ownership of the
14 bill, but Ortiz claimed it before.

15 (Laughter.)

16 COUNCILMAN COHEN: But I think the real
17 author, as far as I've been able to determine very
18 quickly, is that -- I think former President
19 Street was, in fact, the introducer of the bill.
20 I haven't been able to pin that down, but I think
21 it was sometime in the '80s.

22 There were many complaints about
23 behavior by landlords, and a real study was made
24 over time. We had a number of hearings, we tried
25 to develop a relationship between landlords and

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2 tenants that seemed fair, that seemed to provide
3 recourse to a tenant who complained about improper
4 practices by a landlord and that sought to provide
5 recourse to landlords if there were improper
6 procedures by tenant.

7 As a matter of fact, I understand that
8 today, the housing courts of the City operate very
9 quickly, that you can get a hearing within a short
10 a period as a two-week period, and that you can
11 get redress, if necessary. Now, of course, each
12 party has their rights. And, of course, to a
13 landlord, it's never quick enough; and to many
14 tenants, it's never slow enough, you know, to
15 protect their rights.

16 But I think this kind of a subject
17 needs all kinds of study. There's very little
18 case law, as the City Solicitor's representative
19 indicates. And I think, to base legislation upon
20 a single instance of concern, to me doesn't add up
21 to a sound basis for a legislation which may
22 impact upon many others that we don't know. Once
23 you draft legislation and put it into effect, it
24 can be applied by courts in circumstances that are
25 totally unknown.

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2 That's why Mr. Nardone who is not here
3 basically -- you're not here in support of the
4 bill; you're in here expressing concern that maybe
5 this bill would hurt the rights of tenants in the
6 kinds of situations you described, which is not
7 the normal landlord-tenant relationship, and you
8 wanted to make sure that it could not hurt them.
9 Am I right in my --

10 MR. NARDONE: Well, I think that my
11 general conclusion, based on the information I
12 have, is that it doesn't affect the City programs,
13 and that at least the --

14 COUNCILMAN COHEN: It does or does
15 not?

16 MR. NARDONE: It does not. And that my
17 initial read is that because it is limited to
18 nonprofit boarding homes, that -- at least in my
19 knowledge and the people that I have talked to --
20 that it is not a broad definition of "providers."

21 I guess what I wanted to -- the reason
22 for proposing the language was because I was aware
23 that Coles House did have in place a -- some
24 procedural protections that I thought beared (sic)
25 consideration in terms of applying to if you were

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2 going to extend this nonprofits, that at least
3 these protections should be in place.

4 COUNCILMAN COHEN: Well, I think any
5 lawyer representing any tenant would not believe
6 that any protections that are set by a landlord
7 who seeks to evict him provide him any protection
8 at all.

9 There are all kind of questions like
10 that, and I think this legislation threatens the
11 whole structure. Just this little piece of
12 legislation threatens the whole structure of
13 tenant-landlord relationships. And I think
14 legislation is the wrong way to go in this
15 direction.

16 If there were failures in the court
17 system, let's deal with those.

18 MS. BERMAN: If I could just make one
19 additional comment.

20 For all of our discussion here today
21 about whether or not a boardinghouse is a landlord
22 and whether or not the prohibition against
23 self-help applies, if a State court were to find
24 in the future, after this bill is enacted, were to
25 find that either way, if a boardinghouse is

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2 subject to the prohibition against self-help or
3 isn't, that would take precedence over this
4 ordinance.

5 So if there is -- if this ordinance
6 says that boardinghouses can use self-help, and a
7 court later finds that they cannot, that that
8 would -- you know, the State law would be supreme
9 there.

10 COUNCILMAN COHEN: Well, we have a City
11 law, don't we? Isn't it the City law that
12 controls in the eviction process, not the State
13 law?

14 MS. BERMAN: No. It would -- the State
15 law would control.

16 COUNCILMAN COHEN: But you say
17 currently, it's the State law. Well, let's hear
18 from -- we're going to hear from legal analysis,
19 the Community Legal Services is here, and I would
20 like to hear their investigation.

21 'Cause it's my understanding that City
22 Council enacted an ordinance related to eviction
23 procedures, and it's the ordinance that this
24 ordinance seeks to change, and it's that ordinance
25 which controls eviction in the City of

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2 Philadelphia, not the State law.

3 MS. BERMAN: To the -- it's my
4 understanding that to the extent that there's any
5 inconsistency between the State law and the
6 ordinance, that the State law would control.

7 COUNCILMAN COHEN: But there's no
8 inconsistency we're talking about. The reason for
9 the introduction of this amendment is that the
10 Councilmember representing the constituent's
11 interest, the constituent believes that the City
12 ordinance, as presently constituted, prevents the
13 landlord -- let's call her a landlord currently
14 because we don't know to the contrary -- prevents
15 her from carrying out an eviction in which she
16 believes is a timely manner. So she's seeking a
17 change in the City ordinance; she's not seeking
18 any change in any State law, and of course, we
19 couldn't do anything about a State law.

20 It's the City ordinance that creates
21 the problem in the mind of the Councilmember
22 introducing this ordinance. So I'm not certain
23 why you're referring to State law. We're dealing
24 with the ordinance.

25 COUNCILMAN KENNEY: I think her

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2 example, Councilman, was that if we were to pass
3 this law -- whether we do or whether we don't --
4 in a State court, the State law precedent would
5 supercede any action that we take on this bill.

6 COUNCILMAN COHEN: Well, of course,
7 we're not dealing with that.

8 COUNCILMAN KENNEY: Well, that's all
9 her point was; her point was that. And that, I
10 think, was enough. I mean, I understood it, and
11 I'm not a lawyer, thanks.

12 COUNCILMAN COHEN: That's why you
13 understood it.

14 (Laughter.)

15 COUNCILMAN COHEN: Because you didn't
16 understand all the complexities that revolve
17 around it.

18 COUNCILMAN KENNEY: Is that what it
19 is? You guys do complex things, don't you.

20 Any questions for these witnesses?

21 (No questions.)

22 COUNCILMAN KENNEY: Thank you very
23 much.

24 The Chair calls to the table Brad Moss
25 and Susan Lewis.

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2 (Mr. Moss and Ms. Lewis come forward.)

3 COUNCILMAN KENNEY: Good afternoon.

4 Please identify yourself for the record.

5 MR. MOSS: Good afternoon, members of
6 the Rules Committee. My name is Bradley K. Moss,
7 and with me is -- do you want to introduce
8 yourself?

9 MS. LEWIS: Susan Lewis.

10 MR. MOSS: Susan Lewis, who is the
11 Executive Director of the Coles House. I am
12 counsel to the Coles House.

13 We've handed up some testimony, and let
14 me go through that, and also amplify on that in
15 light of the enlightening discussion that we just
16 had about the law. I promise that, although I am
17 a lawyer, Councilman Kenney, I won't digress into
18 legalese.

19 COUNCILMAN KENNEY: Thanks a lot.

20 For the record, how many weeks does it
21 take to get a hearing in landlord-tenant court?

22 MR. MOSS: I wish that Councilman Cohen
23 was correct. You know, from his lips to the
24 court's ears.

25 COUNCILMAN KENNEY: So it's a little

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2 more than two weeks, I guess?

3 MR. MOSS: I think that's a fair
4 statement.

5 COUNCILMAN KENNEY: All right, thank
6 you. Please proceed.

7 MR. MOSS: We are here today to provide
8 testimony in support of Bill No. 980048. The
9 proposed legislation is needed to ensure the
10 long-term survival of facilities like the Coles
11 House. It will not detrimentally impact
12 low-income persons, and it will not exacerbate the
13 incidents of homelessness among the City's
14 low-income persons.

15 Bill No. 980048 proposes to amend
16 Chapter 9-1600 of the Philadelphia Code, which is
17 the City ordinance which Councilman Ortiz as well
18 as Councilman Cohen have taken the credit of
19 having introduced a while ago. It would except
20 from the prohibition against self-help eviction
21 practices any nonprofit landlord which operates a
22 house containing furnished rooms or apartments,
23 kept principally for the residents or permanent
24 guests which are let out by the week or month,
25 with full or limited meal service.

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2 Chapter 9-1600 prohibits landlords --
3 that's the law that we currently have that
4 Councilman Cohen and Ortiz have been referring to.
5 It currently prohibits landlords from engaging in
6 self-help eviction practices, and those practices
7 or defined in the ordinance.

8 It was enacted -- and this is important
9 -- in 1987 to help protect low-income persons who
10 are perceived to be unable to avail themselves of
11 the judicial process to protect them from unlawful
12 eviction. Without Chapter 9-1600, it was believed
13 at the time that there would be an exacerbation in
14 the incidence of homelessness among the City's
15 low-income population. So that's the context in
16 which the legislation was originally enacted.

17 The Coles House is a nonprofit
18 institution which has the mission of preventing
19 homelessness among low-income women in
20 transaction, by providing a safe, comfortable, and
21 affordable room and board. Miss Mary Coles
22 established the house in 1865. Since 1872, it's
23 been located on the 900 block of Clinton Street.

24 Today the Coles House consists of four
25 adjoining townhouses that were altered to form one

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2 residence, in which 61 single women live in 61
3 rental units. The average stay for the residents
4 is between three and six months. Most of the
5 women come from the Philadelphia area.
6 Approximately 75 percent at the Cole House are
7 African- or Asian-Americans. There are about 400
8 women who are residents in the Coles House each
9 year.

10 The Coles House helps to prevent
11 homelessness by providing room and board at
12 below-market rates. The rental rates are between
13 \$78 and \$125 per week, or between \$336 and \$560
14 per month. In addition to a room, the Coles House
15 offers its residents breakfast and supper each
16 day, weekly room-cleaning, living, dining, and TV
17 rooms, a snack kitchen for personal use, a
18 coin-operated laundry, a study, a soundproof
19 recreation room, and a secluded outdoor patio.

20 What's the Coles house experience with
21 eviction? The Coles House evicts four or five
22 residents a year as a result of the long-term
23 failure of a resident to pay rent significantly.
24 And, by the way, we would agree with the amendment
25 which has been suggested, which -- there is a need

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2 for procedural due process.

3 The Coles House, with its own
4 experience, as I'll explain does, not use
5 self-help in the instance that there's a problem.
6 Rather, there is an elaborate procedural due
7 process procedure which protects against the types
8 of issues that Councilman Cohen and some of the
9 other people here to testify are concerned about.

10 The Coles House has a procedure that
11 affords its residents with many opportunities to
12 cure a failure to pay rent before the locks on the
13 resident's room will be changed. A resident who
14 fails to pay rent will receive notices after
15 payments are two, three, and four weeks late.
16 That's three notices that are given.

17 In most cases, payment is made or a
18 satisfactory arrangement is agreed upon, and that
19 arrangement is either moving the person to a less
20 expensive room or even asking that person to
21 contribute to the house by working in the kitchen
22 or in some other fashion. And that is the process
23 that's used. And those people, for the last seven
24 years, Susan Lewis has been the Executive
25 Director, and she's the person that those people

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2 talk with.

3 A notice is delivered giving the
4 resident the choice of moving out or having the
5 locks changed, only if there is no resolution
6 after six weeks.

7 The Coles House relies heavily on the
8 rental income that is paid by its residents. Now,
9 the Coles House has an average operating budget of
10 approximately \$350,000. It does not receive funds
11 from the City and is not, as was explained before,
12 the type of institution that has contracts with
13 the City.

14 Of that budget of \$350,000,
15 approximately \$200,000 to \$225,000 comes from
16 rental income. \$60,000 comes from the income of a
17 trust, approximately. And there is a guest room
18 that provides about 7 or \$8,000 a year. For the
19 past several years, there be an operating deficit,
20 which is only covered as a result of income as
21 well as principle from a small endowment.

22 So the long-term survival of the Coles
23 House is jeopardized unless it is exempted from
24 the current law, which is Chapter 9-1600.
25 Requiring the Coles House to obtain a judgment of

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2 possession, which is what would be required right
3 now under that law, before it can evict a resident
4 will result in the Coles House not realizing any
5 income from the room at issue while seeking to
6 obtain the requisite judgment. Additionally, the
7 Coles House will be forced to spend scarce
8 financial resources on attorneys' fees and costs
9 to obtain the judgment.

10 In light of the fair procedure used by
11 the Coles House and its mission, the balance
12 between the long-term survival of the Coles House
13 and protecting its residents from unlawful
14 eviction practices tips in favor of exempting the
15 Coles House from Chapter 9-1600.

16 Now, there's been a question raised as
17 to, is this just legislation for the Coles House?
18 And as far as we know, there are at least two
19 other institutions in the city that would also be
20 beneficially affected by this legislation.
21 There's the Lucy Eden Smith House, which is
22 located on the 1900 block, if you're familiar with
23 it, the 1900 block of Sansom Street. And there is
24 St. Mary's, which is located at Fifth and Locust.
25 St. Mary's only has 15 or so rooms. The Lucy Eden

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2 Smith house has I don't know how many rooms, but
3 it is larger than the Coles House.

4 All three of those institutions, I
5 believe -- certainly the Coles House -- would come
6 under the definition of "a boardinghouse," as it
7 is proposed in this amendment to the legislation.

8 It is ironic that the long-term
9 survival of the Coles House and those institutions
10 like it whose mission is to help to prevent single
11 low-income women from being homeless is
12 jeopardized by Chapter 9-1600, which is an
13 ordinance enacted to prevent homelessness.

14 As you've heard from Mr. Nardone,
15 enacting the proposed amendment will not have a
16 detrimental impact on homelessness in Philadelphia
17 or the services which the City oversees to take
18 care of that.

19 I would say, with respect to what
20 Councilman Cohen had mentioned at one point, that
21 I think it's a little unfair, Councilman, that --
22 to say that, and I believe you said it in good
23 faith, obviously. But you don't know the Coles
24 House. And to make a blanket statement that
25 landlords cannot be trusted to come up with

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2 procedures that will protect the people that live
3 in their spaces is somewhat unfair, certainly as
4 it applies to the Coles House.

5 COUNCILMAN COHEN: I said no tenant's
6 lawyer would accept the notion that a landlord's
7 process would be fair.

8 MR. MOSS: Well, then I misunderstood
9 you, Councilman.

10 COUNCILMAN COHEN: That the tenant
11 would feel that he or she is entitled to a court
12 to make that distinction.

13 MR. MOSS: Then I misunderstood you,
14 Councilman. And what I would like to point out --
15 and perhaps you would agree -- is that the
16 procedure that has been set up and has been set up
17 by the Coles House is a fair procedure. And the
18 amendment that has been suggested by Mr. Nardone
19 will ensure that fair procedures will have to be
20 set up if --

21 COUNCILMAN COHEN: How would that be
22 enforced?

23 COUNCILMAN KENNEY: Well, let me just
24 -- let me just --

25 COUNCILMAN COHEN: How would that be

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2 enforced?

3 COUNCILMAN KENNEY: Let me just -- can

4 I --

5 (Unintelligible, parties speaking over
6 each other.)

7 COUNCILMAN KENNEY: Excuse me.

8 MR. MOSS: I'm sorry.

9 COUNCILMAN KENNEY: I hope no one minds
10 if I chair the hearing.

11 MR. MOSS: Okay.

12 COUNCILMAN KENNEY: Okay, thank you.

13 What I'd like to do, if possible, is to
14 have you finish your testimony, not engage in a
15 colloquy --

16 MR. MOSS: No, no, I didn't mean to --

17 COUNCILMAN KENNEY: Well, you began to
18 do that.

19 MR. MOSS: I apologize.

20 COUNCILMAN KENNEY: And then maybe we
21 could hear from Ms. Lewis and then we'll have our
22 question-go-round.

23 MR. MOSS: I'd just like to thank
24 everyone for the opportunity to present
25 testimony. Miss Lewis and I are here and are

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2 pleased to answer any questions that anyone has
3 about the Coles House or about this legislation in
4 particular.

5 COUNCILMAN KENNEY: Ms. Lewis, would
6 you like to give some testimony as to what some of
7 your experiences have been or anything you would
8 like to offer? And, please, you have to identify
9 yourself for the record and pull the microphone
10 closer to you.

11 MS. LEWIS: Okay. Susan Lewis. The
12 reason this all happened is we --

13 COUNCILMAN KENNEY: Please -- I'm
14 sorry, you got to pull the microphone down right
15 towards you. Thank you.

16 MS. LEWIS: Okay. Now can you hear
17 me?

18 COUNCILMAN KENNEY: Yes, thank you.

19 MS. LEWIS: Okay. Back in '96, when
20 Councilman DiCicco came to Coles House, we had an
21 incident where we did do self-help, and I was
22 arrested, and it cost us \$18,000 in legal fees to
23 get to go to court.

24 COUNCILMAN KENNEY: Could you kind of
25 describe the circumstances of the arrest and what

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2 happened and why the action was taken. Why the
3 action -- you said -- you described it as
4 "self-help." Could you explain what the
5 circumstances were and --

6 MS. LEWIS: We went through our
7 procedures where we give 'em notice and remind 'em
8 that they're late, sit down to speak with 'em.
9 And we sent her a letter stating that if she
10 didn't come -- she ignored everything. And if she
11 didn't come forward, we were going to change the
12 locks on her door.

13 COUNCILMAN KENNEY: What period of time
14 was it that she was delinquent in her pay?

15 MS. LEWIS: She was delinquent about
16 two and a half months.

17 COUNCILMAN KENNEY: Right. And I'm
18 sorry, just please proceed with your -- with the
19 circumstances.

20 MS. LEWIS: So she went to the 6th
21 District and said that we had did a self-help
22 eviction, and then they came over and --

23 COUNCILMAN COHEN: I couldn't get that.
24 Could you repeat that? And speak, please, into
25 the microphone, get a little closer.

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2 MS. LEWIS: Okay, all right.

3 COUNCILMAN COHEN: That's much better.

4 MS. LEWIS: Um. . .

5 COUNCILMAN KENNEY: What was the action
6 taken that was considered to be self-help?

7 MS. LEWIS: We changed the locks on her
8 door.

9 COUNCILMAN KENNEY: Okay. And she left
10 went to the 6th District to complain?

11 MS. LEWIS: Yes, mm-hmm.

12 COUNCILMAN KENNEY: And police
13 personnel --

14 MS. LEWIS: They called me over at
15 Coles House and told me they were going to come
16 and arrest me.

17 COUNCILMAN KENNEY: Unless. . . ?

18 MS. LEWIS: Unless I would change the
19 locks back.

20 COUNCILMAN KENNEY: And then what
21 happened?

22 MS. LEWIS: They came and arrested me.

23 COUNCILMAN KENNEY: 'Cause the locks
24 remained on the door?

25 MS. LEWIS: Yeah, mm-hmm.

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2 COUNCILMAN KENNEY: All right. Do you
3 have any other testimony that you want to offer as
4 far as what -- in addition to what Mr. Moss has
5 given?

6 MS. LEWIS: No.

7 COUNCILMAN KENNEY: Okay. The question
8 I have is that during the course -- Mr. Moss
9 testified that during the course of a given year,
10 there are maybe four or five evictions from Coles
11 House. Can you give me an idea as to the average
12 length of time a person is in arrears and what
13 action Coles House takes in order to effect the
14 eviction?

15 MS. LEWIS: Typically, they're in
16 arrears for about six weeks before we take any
17 kind of action, but we do work with them. We
18 offer them more credits in the kitchen, they can
19 waitress. Sometimes I'll just ask 'em to draw up
20 a plan of how they want to pay me back. It might
21 be, you know, \$30 a week versus \$75 a week. And
22 it just -- they do it long term like that.

23 COUNCILMAN KENNEY: Mm-hmm. And how
24 are these evictions accomplished, the four or five
25 a year? Is it a normal eviction process that you

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2 go through?

3 MS. LEWIS: Now?

4 COUNCILMAN KENNEY: Yes.

5 MS. LEWIS: No.

6 COUNCILMAN KENNEY: Okay. So you
7 basically change the locks?

8 MS. LEWIS: Mm-hmm.

9 COUNCILMAN KENNEY: Okay. And has
10 anyone taken Coles House or yourself to court as a
11 result of these actions?

12 MS. LEWIS: No.

13 COUNCILMAN KENNEY: Okay. And during
14 the course of a year, do you have any idea as to
15 what it costs Coles House to basically pay for
16 those tenants' rents during the course of the six
17 weeks to two or three months before they are
18 actually evicted and what the loss of revenue is
19 and the loss of space is for people who are
20 low-income and would like to play by the rules?

21 MS. LEWIS: The loss of revenue runs
22 around 12,000 a year -- just from nonpayment of
23 rent.

24 COUNCILMAN KENNEY: And do you have any
25 kind of a waiting list where people are waiting to

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2 get in to your --

3 MS. LEWIS: At various points in time,
4 yes.

5 COUNCILMAN KENNEY: So there are
6 periods of time where people who refuse to pay
7 their rent are keeping other individuals who want
8 shelter, that are willing to pay this moderate
9 price, from getting into the property?

10 MS. LEWIS: Yes.

11 COUNCILMAN KENNEY: Now, often these
12 landlord-tenant ordinances and bills are passed as
13 a result of landlords who are unscrupulous and
14 non-responsive and don't fix the water pipes or
15 the heater or other things, and then there becomes
16 a dispute between the landlord and tenant about
17 the payment of rent based on things that the
18 landlord hasn't done or that the landlord has
19 taken advantage of people in an apartment building
20 or in some other rental facility.

21 How would you characterize the
22 conditions of Coles House, the experience of the
23 tenants? What kind of living conditions are they
24 in? I mean, is it something that is a bad place
25 to live? Do you have leaky water pipes and a bad

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2 heater?

3 MS. LEWIS: No.

4 COUNCILMAN KENNEY: Are the windows
5 broken on the house?

6 MS. LEWIS: No.

7 COUNCILMAN KENNEY: Or are there any
8 infestation of vermin, mice, roaches? Any of that
9 stuff?

10 MS. LEWIS: No.

11 COUNCILMAN KENNEY: None of that stuff.

12 MS. LEWIS: Mm-mm.

13 COUNCILMAN KENNEY: Okay. So people
14 are basically just refusing to pay -- well,
15 they're not refusing to pay but refusing to even
16 cooperate in a payment plan or in a work-payment
17 plan.

18 MS. LEWIS: That's right.

19 COUNCILMAN KENNEY: Okay, thank you.

20 Councilman Cohen?

21 COUNCILMAN COHEN: Miss Lewis, first,
22 in the process that you follow, have you taken
23 these people to court or not?

24 MS. LEWIS: No.

25 COUNCILMAN COHEN: And the loss of rent

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2 comes from your following the process; is that
3 right?

4 MS. LEWIS: Mm-hmm.

5 COUNCILMAN COHEN: And you say you've
6 lost what sum of money did you say? Was it
7 \$12,000 in the course of the year?

8 MS. LEWIS: Mm-hmm.

9 COUNCILMAN COHEN: You lost that
10 following your process?

11 MS. LEWIS: Yes.

12 COUNCILMAN COHEN: So you didn't lose
13 it because of court action or anything else; you
14 lost it because you went through a process. What
15 happened at the end of the process?

16 MS. LEWIS: They -- they moved out.

17 COUNCILMAN COHEN: They moved out.

18 Now, I didn't know whether Councilman
19 Kenney was suggesting that the way to save the
20 money is to eliminate the process. The loss of
21 the money is as a result of their carrying out
22 whatever process they chose to carry out, which
23 they proclaim is a fair process.

24 COUNCILMAN KENNEY: Well, let me
25 recharacterize my question 'cause I think you

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2 characterized it incorrectly.

3 It's my understanding that the loss of
4 a revenue is based on the fact that the people
5 refused to pay it. I mean, I think the basic
6 premise here is not their process, but the fact
7 that someone that's living in this particular
8 facility has decided for one reason or another
9 that they're not only going to not pay what it is
10 they owe, but they're going to refuse to enter
11 into an agreement to either work off the rent or to
12 pay at a lower rate.

13 COUNCILMAN COHEN: But the only way you
14 could effectuate a savings on that is to cut down
15 on their process. But as soon as they complete
16 their process, they have taken the steps to evict
17 the tenant.

18 MR. MOSS: No one is -- I'm sorry. No
19 one is suggesting that the Coles House is going to
20 change its process so that it cannot lose as much
21 money. What we're suggesting, Councilman, is that
22 without this relief, to follow the law and to use
23 -- and not to permit us to use self-help would
24 provide even greater losses, and you would not
25 have the Coles House.

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2 COUNCILMAN COHEN: Well, I haven't
3 heard a word of testimony, not a single word of
4 testimony, to indicate what you've just said.

5 MR. MOSS: Let me ask you to --

6 COUNCILMAN COHEN: Well, please, sir, I
7 have the floor.

8 COUNCILMAN KENNEY: She just testified
9 to that.

10 COUNCILMAN COHEN: She has testified,
11 and she has stated that at the end of the process
12 when the people did not pay the rent, steps were
13 taken to evict them. Those steps, whatever they
14 were, occurred, and the tenant left.

15 COUNCILMAN KENNEY: Right.

16 COUNCILMAN COHEN: So that all that
17 happened was that any loss -- and everybody
18 regrets the loss, but the loss occurred as a
19 result of a process. It did not occur because of
20 the --

21 COUNCILMAN KENNEY: That is the most
22 twisted logic I've ever heard. The reason -- the
23 loss occurred as a result of --

24 COUNCILMAN COHEN: Councilman Kenney, I
25 can't help you in your analysis.

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2 COUNCILMAN KENNEY: The loss of revenue
3 resulted from nonpayment of rent.

4 COUNCILMAN COHEN: But the only way she
5 could have avoided that, Councilman Kenney, which
6 you don't understand, apparently, is by
7 immediately throwing the person out of the place
8 without having a process.

9 COUNCILMAN KENNEY: Correct.

10 COUNCILMAN COHEN: And this amendment
11 from the City would require the process.

12 COUNCILMAN KENNEY: A process.

13 COUNCILMAN COHEN: A process, yes. And
14 they're satisfied with their process, which
15 they're proclaiming as fair.

16 COUNCILMAN KENNEY: Well, if you go by
17 what you're saying, you put them under the process
18 of the landlord-tenant court, and those people
19 could be living there rent-free for another year.

20 COUNCILMAN COHEN: You are, Councilman
21 Kenney, trying to assert that somehow, the loss of
22 money is a terrible thing, we're going to stop
23 that loss of money.

24 COUNCILMAN KENNEY: No, we're going to
25 keep the Coles House from closing.

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2 COUNCILMAN COHEN: I'm trying to get
3 you to understand that the only way, in these
4 particular cases, you would save that money would
5 be by short-cutting that process. And that's one
6 of the reasons why we're very concerned about
7 processes set by the landlords and giving the
8 landlords the right to shortcut processes.

9 MR. MOSS: Sitting on this side of the
10 room, Councilman Cohen, that's not what I
11 understood -- at least what I understood
12 Councilman Kenney to say at all.

13 COUNCILMAN COHEN: Well, it's what I
14 understood Councilman Kenney to say very clearly.

15 MR. MOSS: So that I hope you
16 understand what we're saying on behalf of the
17 Coles House. We're not --

18 COUNCILMAN COHEN: And you would not --
19 you're not suggesting that we --

20 (Unintelligible, parties talking over
21 each other.)

22 COUNCILMAN KENNEY: Don't worry about
23 being interrupted; it happens all the time. Go
24 ahead.

25 MR. MOSS: I'm not. But, yes, I

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2 believe you just said -- we're not suggesting that
3 the process --

4 (Unintelligible, parties talking over
5 each other.)

6 MR. MOSS: I don't believe anybody's
7 suggesting that the process isn't important,
8 shouldn't be followed. And, in fact, I think, to
9 Mr. Nardone's credit, he came prepared with an
10 amendment which clarifies and makes sure that
11 there is a process. Because, as I think -- and I
12 don't know, I don't think anybody in this room's
13 going to tell you that having a process is not
14 important.

15 COUNCILMAN COHEN: Well, Councilman
16 Kenney seems to be very disturbed by that loss of
17 money, and the only way I know that money could be
18 saved would be by short-cutting the process.

19 COUNCILMAN KENNEY: First of all, it's
20 not my money so I'm not disturbed. The problem
21 basically is, is that this place -- and remember
22 this quote, because it really applies to you --
23 that no good deed goes unpunished.

24 So what you have established and what
25 you're working for is a nonprofit operation which

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2 gives people the opportunity to avoid
3 homelessness. And because of the fact that the
4 four or five individuals a year decide to take
5 advantage of that charitable attitude, that you
6 wind up losing money and losing space that could
7 go to people in need and money that could be used
8 to further your program.

9 And that's my only point. I'm upset
10 about the loss of money because people feel that
11 they can take advantage of people with good
12 intentions. And those four or five people who do
13 that every year jeopardize the program and the
14 whole process for the entire group of people who
15 live there. And that's all it is. It's not the
16 vast majority of people who live there; it's four
17 or five deadbeats who decide they want to take
18 advantage of the system.

19 And I understand your concern and I
20 understand your problem, and what I would like to
21 see is Coles House continue to be serving the
22 community as it has, with the ability to remove
23 those people who simply refuse to pay their fair
24 share. And that's it.

25 MR. MOSS: And that's the reason,

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2 Councilman Kenney, that --

3 COUNCILMAN COHEN: Eviction for
4 nonpayment of rent. My understanding of the
5 situation was just the opposite, actually, when I
6 sought to get information. I understood it was
7 never a case of money; I understood it was a case
8 of bad habits. That's what I was told was the
9 problem that was involved.

10 But in any event, I'm also interested
11 in finding out why did it cost you \$18,000 in that
12 arrest case? It sounds to me like a simple case:
13 they came and arrested you, got out on bail. What
14 happened as a result of the arrest?

15 MS. LEWIS: We had to appear in court
16 three times. And we had, you know, one of the
17 bigger law firms in the city. So it just -- the
18 numbers ran up and the case went on for six
19 months. And that girl was able to live there for
20 six months.

21 COUNCILMAN DICICCO: That was my
22 question I was going to ask. She remained living
23 in the Coles House during the litigation period of
24 six months.

25 MS. LEWIS: Yes.

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2 COUNCILMAN DICICCO: While she was not
3 paying rent.

4 MS. LEWIS: Yes.

5 COUNCILMAN KENNEY: And while everybody
6 else paid their rent.

7 MS. LEWIS: Yes.

8 COUNCILMAN COHEN: Well, had you filed
9 the procedure in court --

10 COUNCILMAN DICICCO: She's still be
11 waiting for a hearing.

12 COUNCILMAN COHEN: Oh, no, no. That's
13 absolutely false, as you will hear from testimony
14 about to be given by Community Legal Services.
15 That's just landlord propaganda.

16 COUNCILMAN KENNEY: Oh, propaganda,
17 geez.

18 COUNCILMAN DICICCO: So she remained in
19 the Coles House for the six months during the time
20 you were appearing in court for trying to evict
21 someone who had not been paying rent.

22 MS. LEWIS: Yes, that's right.

23 COUNCILMAN COHEN: And that was because
24 of a court prohibition upon your evicting her,
25 right? You didn't have a right during that six

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2 month period to evict her.

3 MR. MOSS: And that was because of the
4 legislation, that the court's trying to grapple
5 with the legislation that you and Councilman Ortiz
6 enacted.

7 COUNCILMAN COHEN: And that's what
8 you'll hear from landlords all the time. Every
9 time they can't evict a tenant at their own will,
10 they say that.

11 MR. MOSS: Councilman, I'm just saying
12 that the charges, the summary offense -- I mean,
13 it's a fact. The summary offense that was
14 brought, and I was -- neither I nor my firm were
15 involved in defending Ms. Lewis in that matter.
16 But the summary offense that was brought was
17 brought as an alleged violation of the ordinance.
18 And that's all I'm saying.

19 COUNCILMAN DICICCO: And I don't view
20 Miss Lewis and the Coles House folks as landlords
21 under the definition of "a landlord" because it is
22 a nonprofit entity.

23 And you and I, Miss Lewis, got to know
24 each other because you were seeking some help to
25 do improvements to the facility so that you can

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2 upgrade the building to accommodate the people
3 that you care about. There were some electrical
4 problems, if I'm not mistaken, where you tried to
5 get Local 98 to come down and see if we could get
6 some reduction in the price to do the work and do
7 the carpentry work also.

8 MS. LEWIS: Mm-hmm.

9 COUNCILMAN DICICCO: Things like that.

10 And you, as Councilman Cohen would
11 suggest, as a landlord, would just do what any
12 landlord or anyone would do if someone doesn't pay
13 you for services provided to you -- tell you to
14 leave. And in that process, you wound up in
15 court.

16 MS. LEWIS: Mm-hmm.

17 COUNCILMAN DICICCO: And having
18 incurred over \$18,000 in legal fees while the girl
19 lived there for the next six months free. And the
20 other tenants were paying their rent.

21 MS. LEWIS: That's correct.

22 COUNCILMAN DICICCO: And which
23 basically were subsidizing the legal fees that the
24 Coles House had incurred to remove someone who
25 wasn't paying her fair share.

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2 MS. LEWIS: That's correct.

3 COUNCILMAN COHEN: Apparently, the
4 police thought there was a criminal offense
5 involved in whatever was done by --

6 COUNCILMAN DICICCO: Well, that's what
7 we're here to do, to see if we can remove that so
8 it doesn't happen in the future and so that Ms.
9 Lewis doesn't go to jail for putting a lock on the
10 door for someone who hasn't paid their rent from
11 six weeks to eight weeks or beyond that.

12 MR. MOSS: That's exactly it,
13 Councilman.

14 COUNCILMAN COHEN: And that's the
15 reason you want to jeopardize all the tenants in
16 the city.

17 COUNCILMAN KENNEY: No.

18 COUNCILMAN DICICCO: No.

19 COUNCILMAN KENNEY: It's nonprofit
20 boarding homes that we're talking about here.

21 COUNCILMAN COHEN: That's the whole
22 purpose of this hearing.

23 MR. MOSS: Actually --

24 COUNCILMAN KENNEY: It's nonprofit
25 boarding homes.

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2 MR. MOSS: It's actually even more
3 restrictive than that, Councilman Kenney. It's
4 nonprofit boarding homes who provide meals, which
5 is another restriction.

6 As I say, there are three
7 institutions. Certainly, I believe we would fall
8 under that definition. There are two other
9 institutions that probably would fall under that.
10 I don't think anyone's going to come up and
11 suggest that any of those three institutions are
12 the type of vicious landlord that's out there
13 preying on people.

14 COUNCILMAN KENNEY: No snidely
15 whiplashes in this.

16 MR. MOSS: And they all provide an
17 important service. And that's the irony, that
18 when the legislation -- in the preamble of the
19 legislation when it was written, the purpose for
20 passing it was to help with the issue of
21 homelessness. And here were three institutions
22 that do exactly that, and then they are being
23 potentially put out of business as a result of
24 this legislation.

25 COUNCILMAN KENNEY: And more

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2 importantly, the City --

3 COUNCILMAN COHEN: That's an overblown
4 statement, with no basis whatever.

5 COUNCILMAN KENNEY: More importantly,
6 the City itself --

7 COUNCILMAN COHEN: It has no basis
8 whatsoever.

9 COUNCILMAN KENNEY: The City itself
10 exempts itself from these rules. I mean, in the
11 testimony from Mr. Nardone, the City, because of
12 their contractual relationships with OESS and
13 these boarding facilities and the State and their
14 contractual relationship, have taken it upon
15 themselves to exempt themselves from self-help.
16 And basically what now people are saying is that
17 these three nonprofits who are doing actually
18 public service should be held to a different
19 standard. To me, it's just bizarre.

20 MR. MOSS: And, Councilman Cohen, it's
21 not an overblown statement because that's why I
22 came here today prepared with figures to let you
23 know that the Coles House -- and I went over them
24 in my testimony. The Coles House is living on the
25 edge here, and that having to pay legal fees,

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2 whether they are \$18,000 or \$5,000, for evictions
3 and whatever else, and having to lose that income
4 is --

5 COUNCILMAN COHEN: But that can be no
6 justification for adopting procedures that are
7 undemocratic or that denies due process.

8 MR. MOSS: And I agree with you,
9 Councilman Cohen, and that's the reason for the
10 amendment, and that's the reason for --

11 COUNCILMAN COHEN: Well, the expense
12 she paid on the law case would have been avoided
13 if she had done what most people would do. They
14 would follow the order of the police and then they
15 would call their attorney and say, What do I do?
16 I think this order of the police was improper, but
17 they don't fight the police. They forced an
18 arrest to get an attorney to discuss the matter.
19 And the police, if they were wrong, I think would
20 admit so.

21 MR. MOSS: With 5 evictions a year,
22 that's \$5,000 an eviction, and that's \$25,000 that
23 Coles House has to pay for. Then there's the loss
24 of income. And let's say, for example,
25 Councilman, that it doesn't take two or three

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2 weeks, and maybe it takes six months. Now,
3 there's five tenants, six months. Now you've put
4 the Coles House out of business. And the figures
5 support that.

6 COUNCILMAN COHEN: The Coles House will
7 not go out of business. You know, we're told that
8 -- we're told anytime anything is done on behalf
9 of ordinary people or poor people, we're told of
10 all the dangers to everybody else. Every time you
11 want to raise the wage, you're told businesses are
12 going to be thrown out of business; therefore,
13 workers will lose, and the very people you want
14 the wage increase for will be hurt. That's sheer
15 nonsense and it's been proved over all the years.

16 I believe your statement makes no sense
17 whatever with respect to the loss.

18 COUNCILMAN KENNEY: Well, let me just
19 say, from my perspective as a Councilmember here,
20 that ordinary people are people who pay what they
21 owe, who go into a contractual relationship, who
22 lives in a place that's a lower rent than they
23 would normally pay, who eat the meals, who live in
24 that property, who are good residents and pay
25 their bills.

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2 COUNCILMAN COHEN: And who comply with
3 instructions from --

4 COUNCILMAN KENNEY: And who pay their
5 bills like everybody else. This is not a
6 free-lunch country.

7 MR. MOSS: And as you suggested --

8 COUNCILMAN KENNEY: And that's why
9 they'll be out of business.

10 MR. MOSS: I'm sorry. And as you're
11 suggesting, Councilman Kenney, another sadness in
12 this situation is that we have about 400 people
13 that come through our doors every year. And what
14 we are saying, if you believe us, which I hope you
15 do, is that four or five rotten apples are --
16 essentially may pull down the whole system and
17 jeopardize the good work done for the other 396
18 tenants.

19 COUNCILMAN COHEN: How many years has
20 Coles House been in service?

21 MR. MOSS: Coles has been in service
22 since 1870 --

23 MS. LEWIS: 1865.

24 MR. MOSS: 1865.

25 COUNCILMAN COHEN: So that in the last

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2 134 years, it has not been pulled down. This law
3 has been in effect for 12 years and Coles is
4 surviving because Coles is probably a decent
5 institution.

6 MR. MOSS: Well, I appreciate your --

7 COUNCILMAN COHEN: And provides fine
8 service for a portion of the population that needs
9 it, but that doesn't justify Coles then going
10 around and denying basic rights. They're trying
11 to avoid the same rules that everybody else goes
12 by.

13 MR. MOSS: And that's where I assume,
14 Councilman, that your analysis -- and you get to
15 vote and I don't -- and my analysis differ.

16 COUNCILMAN KENNEY: Are there any other
17 questions for these witnesses?

18 (No further questions.)

19 COUNCILMAN KENNEY: Thank you very
20 much.

21 The Chair calls Mr. Carroll, Mr.
22 Pollard, and Mr. Meek.

23 (Above witnesses come forward.)

24 COUNCILMAN KENNEY: Identify yourself
25 for the record and proceed.

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2 MR. CARROLL: Thank you. My name is
3 Michael Carroll, and I'm with Community Legal
4 Services.

5 I guess I'd like to start off by
6 applauding Ms. Lewis's courage. I think if I were
7 in her situation and a police officer called me up
8 and told me I was going to be locked up if I
9 didn't take the lock off the door, I'd be sorely
10 tempted to take the lock off the door, especially
11 if I had to remedy it by going into Philadelphia
12 Municipal Court.

13 Now, fortunately, or unfortunately,
14 I've spent a lot of the last twelve years of my
15 life in the Philadelphia Municipal Court --
16 whether that's something to brag about or not, I
17 don't know. But I can tell you that I know a
18 little bit about the eviction process. And I can
19 tell you that in that six weeks' time that you're
20 waiting, you could have had the person out by
21 then, and you could have done it safely by
22 following the law. A hearing is assigned within
23 two weeks. After the hearing in Municipal Court,
24 within 21 days later, the person can be evicted.

25 Now, the appeal process exists, but as

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2 anybody who follows the appeal process knows, it
3 has been severely tightened up in the last few
4 years. The amount of money a tenant has put up
5 has increased dramatically, the number of appeals
6 have gone down by 50 percent after the change in
7 the law, and most cases are not appealed, and most
8 cases are ended by the Municipal Court. I state
9 with confidence that someone can be evicted within
10 that time frame.

11 COUNCILMAN KENNEY: Can be evicted.

12 MR. CARROLL: Yes, yes.

13 COUNCILMAN KENNEY: Not are evicted --
14 can be.

15 MR. CARROLL: Well, can be evicted,
16 absolutely. So if you choose to follow it versus
17 a course of continuing to change the locks and
18 essentially acting in civil disobedience to make
19 your point, well, that -- she's probably got more
20 courage than I do.

21 But let me say how I see this.

22 COUNCILMAN DICICCO: You're on trial
23 again, Miss Lewis. You're looking at another six
24 months.

25 MR. CARROLL: Now let me say how I see

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2 this process. I believe we're carving out an
3 exception that applies to the whole city. Now we
4 hear that maybe it's just Coles House, counsel
5 here is representing only Cole House, I think, but
6 he says there might be one or two other people out
7 there who he does not represent? But he says they
8 will be affected by it. I don't know, but we're
9 changing the whole landlord-tenant framework here
10 to benefit this small number of people.

11 And let's look at who we're focussing
12 on here. To Coles' credit, they admit that their
13 clientele is low-income, more vulnerable people.
14 I think we can all generally agree that people in
15 boarding homes tend to be a little bit closer to
16 the edge, a little bit worse off than people in
17 the Rittenhouse Apartments or in the middle-class
18 apartments of the city. So what we're doing is,
19 we're carving out from the normal protections that
20 apply to every other tenant, we're carving out the
21 poorest, the most vulnerable tenants, and we're
22 saying that the protections that apply to
23 everybody else don't apply to you.

24 Now, when we -- when I heard about
25 this, and I was only catching up to speed as of

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2 yesterday and trying to find out where the
3 testimony was being given, etc. And I pulled out
4 the actual ordinance that we're here amending and
5 took a look at it. And in the legislative
6 findings at the beginning of it, it talks about
7 people who are threatened with self-help eviction,
8 and many tenants who are victimized by self-help
9 are very low-income persons. These are the folks
10 who are targeted for protection under the
11 ordinance. It says that self-help evictions
12 exacerbate the incidence of homelessness.
13 Existing remedies do not afford adequate
14 protection. Self-help eviction practices include
15 the use of violence, the infliction of physical
16 harm.

17 And I suspect and I represent that when
18 you do try to self-help, you increase the
19 likelihood that there's going to be some violence
20 if the police are going to be called, and I don't
21 think it's fair to put the officers on the spot to
22 make a determination that a judge usually makes
23 about what we have out here. It's not the role
24 for police officers, and I would venture to say --
25 almost guarantee -- that 90 percent of the

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2 officers would say -- maybe closer to 100 -- would
3 say, We don't want to be judge of landlord-tenant
4 cases, we don't want to listen to both sides of
5 the story and determine who should be thrown out
6 and who should be locked up. And I say to you
7 that the ordinance was designed to eliminate that
8 by forcing this back into the court system.

9 Now, the ordinance also talks about it
10 penalizes the ability of a person to complain
11 about defective conditions, and then it talks
12 about self-help practices. And it says that the
13 following activity -- plugging, changing, adding
14 or removing any lock or latching device to a
15 dwelling. So that would be illegal for every
16 tenant in the city except boarding home tenants,
17 except for the poorest and most vulnerable of
18 tenants. It bars removing windows and doors from
19 dwelling units.

20 If this amendment passes, such conduct
21 would be illegal for everyone, except for the
22 poorest, most vulnerable boarding home tenants in
23 the city. It bars interfering with utility
24 service, cutting off electricity, hot water, cold
25 water, gas, or phone service. That would be

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2 illegal to do that, except for the poorest, most
3 vulnerable people in the City of Philadelphia. If
4 the amendment passes, that's exactly what you're
5 saying. You're saying these things are illegal
6 for every other tenant in the city, except for the
7 poorest and most vulnerable.

8 Forcing a tenant to vacate by use of
9 threat or violence, that's illegal for every other
10 tenant in the city, except for the boarding home
11 tenants, so that the poorest, most vulnerable are
12 most likely to become homeless if they are
13 evicted.

14 I respectfully suggest that people
15 should do it by the book. Councilman Kenney talks
16 about people following the rules; I agree with
17 that, and I say the rules are to go to Municipal
18 Court. I can say with confidence that most tenant
19 lose in Municipal Court. There were periods when
20 close to 100 percent of the tenants lost in
21 Municipal Court. The eviction can take place --

22 COUNCILMAN DICICCO: What is your
23 interpretation of "lost" or "lose in Municipal
24 Court"?

25 MR. CARROLL: Judgment for possession

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2 entered against the person, and 21 days later,
3 that person can be evicted.

4 COUNCILMAN DICICCO: That would be
5 evicted. What is your experience in Municipal
6 Court of people who are evicted within that 21
7 days or right after that 21-day period?

8 MR. CARROLL: Overwhelmingly, they
9 leave on their own. That's my experience.
10 Overwhelmingly, they --

11 COUNCILMAN DICICCO: If they basically
12 decide not to leave, what is the normal extension
13 period that is granted by the courts?

14 MR. CARROLL: After the 21 days, most
15 evictions that the landlord does the paperwork can
16 be scheduled within 5 days, 7 days at the most, by
17 Robert Messerman's (ph.) office. And I would
18 suggest that --

19 COUNCILMAN DICICCO: Paperwork is then
20 scheduled. And when does that tenant --

21 (Unintelligible, parties talking over
22 each other.)

23 MR. CARROLL: In my experience,
24 Mr. Messerman -- I'm talking about scheduling the
25 eviction. And going into Messerman's office today

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2 with your papers that you paid your money over at
3 City Hall and Mr. Messerman scheduling the actual
4 physical eviction for early next week -- and I
5 encourage anybody to talk to Bob Messerman's
6 office and confirm or deny --

7 COUNCILMAN DICICCO: In my experience
8 being in the business of politics and doing
9 constituent services, in most cases, the landlord,
10 who has taken a tenant to court for a whole
11 variety of reasons, whether it was nonpayment of
12 rent, whether it was destroying the property or
13 they were just bad tenants, in every case that I
14 can remember, the judge at least has given the
15 tenant at least, at the very least, a 90-day
16 period in which to vacate the property.

17 MR. CARROLL: Councilman --

18 COUNCILMAN DICICCO: That's my
19 experience.

20 MR. CARROLL: Councilman --

21 COUNCILMAN DICICCO: And by the way, I
22 was listening to all of your testimony and I
23 appreciate what you're saying, but you keep
24 referring to the most vulnerable people. These
25 are people who do have other choices, do they

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2 not? They have a choice: either to go into one
3 of the City facilities or opt for places like the
4 Coles House.

5 So they enter into a contractual, as
6 Councilman Kenney eloquently described earlier,
7 and they have a contractual agreement, which they
8 do not, in some cases, live up to. Why should the
9 burden be placed on the Coles House and not on the
10 tenant?

11 MR. CARROLL: Councilman, I'm sorry,
12 you seem to be --

13 COUNCILMAN DICICCO: And I'm not a
14 lawyer and I don't want to deal with all this
15 stuff about going into Municipal Court and filing
16 papers and all of that stuff.

17 MR. CARROLL: Councilman, if I could
18 answer --

19 COUNCILMAN DICICCO: I choose to go to
20 the Coles House --

21 MR. CARROLL: If I could --

22 COUNCILMAN DICICCO: -- because I'd
23 rather be there than in a shelter.

24 MR. CARROLL: If I could answer. I'm
25 sorry you've been most unlucky in your Municipal

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2 Court experience. I rarely -- I can count on my
3 one hand the people who have 90 days' extension in
4 the last 12 years. I don't remember any, frankly,
5 but I say you've been most unlucky in that
6 experience.

7 But if anybody else -- you talk about
8 contracts. If there's somebody who has a contract
9 with Donald Trump and Donald Trump violates it,
10 he's got a right to go to court, or the poorest
11 guy in the street or a working stiff, he goes to
12 court.

13 COUNCILMAN DICICCO: You're talking
14 about Donald Trump?

15 MR. CARROLL: That's what --

16 COUNCILMAN DICICCO: Donald Trump, what
17 he makes in five minutes, the Coles House doesn't
18 bring in in a year.

19 MR. CARROLL: Okay, well --

20 COUNCILMAN DICICCO: And you're going
21 to compare the two?

22 COUNCILMAN COHEN: Due process seems --

23 MR. CARROLL: Everybody --

24 (Unintelligible, parties speaking over
25 each other.)

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2 COUNCILMAN DICICCO: Okay, we can talk,
3 and now the lawyers are at it again, okay.

4 COUNCILMAN KENNEY: Excuse me, I just
5 have a question about the poorest and most
6 vulnerable of our population. The neighbors and
7 other tenants who live in Coles House who have
8 made an effort to either pay what they owe or to
9 make other arrangements for payment at a lower
10 amount or to work in some type of work-barter
11 system where they wait tables or work in the
12 property, does not the poorest and most vulnerable
13 of our population who do their best to follow the
14 rules, should they be held in some way responsible
15 for the actions of the people who refuse to either
16 pay or --

17 COUNCILMAN COHEN: They're not being
18 held responsible.

19 COUNCILMAN KENNEY: Can I finish my
20 question one time?

21 COUNCILMAN COHEN: They --
22 (Unintelligible, parties talking over
23 each other.)

24 COUNCILMAN KENNEY: If I'm in this
25 Council for 20 years, I would love to be able to

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2 finish a question one time, one time. Do you
3 mind? Can I finish my statement once? Can I --

4 COUNCILMAN COHEN: You always finish
5 your statement and you go on and --

6 COUNCILMAN KENNEY: Am I permitted to
7 finish my statement?

8 COUNCILMAN COHEN: You restate things
9 that make no sense whatever.

10 COUNCILMAN KENNEY: You can correct it
11 when it's over, but you will let me finish.

12 The people who are living in that
13 property who are following the rules, who are
14 paying their rent, or who are making some other
15 arrangements to work that rent off are in
16 jeopardy, according to the testimony of the
17 witnesses, in the past, because of the people who
18 refuse to do it.

19 COUNCILMAN COHEN: That's what's so --

20 COUNCILMAN KENNEY: Can I finish my
21 statement, please? I mean, what do I got to do to
22 be able --

23 COUNCILMAN COHEN: How can you say it's
24 in jeopardy when it's --

25 COUNCILMAN KENNEY: Because in the

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2 event that --

3 COUNCILMAN COHEN: -- for 134 years?

4 COUNCILMAN KENNEY: Because I'm basing
5 what they're saying on their testimony. Their
6 testimony is that the money they lose, that the
7 circumstances they have to pay for in order to
8 effect an eviction, whether it's in Municipal
9 Court or whether it's through this process that
10 they've imposed, that they have put in place puts
11 in jeopardy the other tenants in that property
12 because if that institution goes down, there's
13 going to be a lot more people on the street than
14 just those five who refuse to follow the rules.

15 MR. CARROLL: Well --

16 COUNCILMAN KENNEY: Well, does that
17 matter to you at all?

18 MR. CARROLL: It matters to me plenty.

19 COUNCILMAN KENNEY: Good.

20 MR. CARROLL: And if I were on the
21 board of directors at Coles or if I were a
22 neighbor, I'd say, Ms. Lewis, I admire your guts,
23 I admire your courage, I admire you telling that
24 officer, Come and get me 'cause I'm not changing
25 that lock.

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2 But I would say go to Municipal Court
3 -- it's easier and it's faster. Throw 'em out if
4 they're a bad apple, but do it by the book.

5 COUNCILMAN KENNEY: We would argue
6 whether it's easier or faster, number one; and
7 number two, whether it's fairer is totally in
8 argument here, I think, 'cause it's not fair.
9 It's not fair to those people who are struggling,
10 who are the poorest and most vulnerable also in
11 our society and who are doing what they have to do
12 to follow the rules, with the exception of four or
13 five a year who take advantage of everything in
14 that house and jeopardize the continued existence
15 of that house.

16 MR. CARROLL: Well, we have a
17 legitimate difference, you and I, as to what is
18 easier and faster and in the way she should be
19 proceeding.

20 COUNCILMAN KENNEY: All right. Please
21 proceed if you have anything else.

22 MR. CARROLL: I thank you for the
23 opportunity to speak.

24 COUNCILMAN KENNEY: You're welcome.
25 Please identify yourself for the

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2 record.

3 MR. POLLARD: Sure. I'm Dennis
4 Pollard, Director of Development for the Tenant
5 Action Group. Prior to proceeding, I'd like at
6 this point to move that the testimony which I
7 previously submitted be made a permanent part of
8 the record.

9 COUNCILMAN KENNEY: Agreed to. Thank
10 you.

11 MR. POLLARD: Thank you, Your Honor.

12 I'm not going to recap everything in my
13 seven pages of written commentary, but I do want
14 to testify upon a couple of thing, the first of
15 which is the Tenants Action Group does not have a
16 personal dispute with the previous witnesses that
17 appeared before the committee. The pure sense of
18 contention is with the proposed bill itself.

19 All of you know that TAG's mission is
20 to equalize relationship between landlords and
21 tenants throughout the County of Philadelphia.
22 And one thing that this bill purports to do is to
23 throw that relationship into a very skewed
24 position.

25 With respect to the requested exception

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2 in the bill, legislatures grant exceptions to
3 statutes, and courts grant exceptions to its rules
4 from there is a burden or when the rule is
5 contrary to good, sound public policy. There's
6 nothing in the commentary of the bill that
7 suggests that there is an undue burden for
8 nonprofits throughout the county; or two, that
9 this rule is contrary to good, sound policy. This
10 two-pronged task has not been met.

11 Next is the exception that's asked for
12 within this bill. Whether or not some wish to
13 agree with it, isn't it not written exclusively
14 for the Coles House? And the exception
15 disproportionately impacts poor tenants.

16 First of all, nonprofit landlords do
17 not need an exception to a law that has been used,
18 and has been used well in the past couple of
19 years. Nonprofit landlords can avail themselves
20 of the opportunity to appear before a court of
21 competent jurisdiction -- that court sitting as a
22 third party neutral who will hear and a way both
23 sides of any disputed landlord-tenant
24 relationship.

25 The problem presented by this bill,

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2 which has not been addressed, is this particular
3 scenario. Under the proposed bill before this
4 committee, a for-profit landlord could restructure
5 and create nonprofit subsidiaries which, in
6 effect, could turn around and utilize this law in
7 an extent not reasonably forecast by those before
8 us. What does that mean? Simply put, those
9 individuals who are for profit, those individuals
10 who are not, like the witnesses that appeared
11 before us, could use this bill for a purpose
12 probably not intended by the Councilman who
13 drafted the bill.

14 Next, the bill takes quite an expansive
15 view of boardinghouses. Look at the plain
16 language of the rule and remember, those of you
17 who are lawyers like myself and those of you who
18 are not, that when a court does interpret a bill,
19 a court must first look to the plain, simple
20 meaning of the bill-- taking the language as a
21 reasonable ordinary person would so do.

22 Well, the bill seems to include
23 apartments. Well, gee, one thing that counsel for
24 the Law Department of the City of Philadelphia did
25 not mention, and perhaps just overlooked, is

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2 historically, when one looks at a boarder
3 relationship, it does not touch upon apartments.
4 This bill touches upon apartments.

5 The other thing not mentioned by
6 counsel for the City of Philadelphia -- and
7 perhaps counsel overlooked this -- is that
8 historically in the landlord-tenant relationship,
9 we do not get into month-to-month tenancies. If
10 one looks at the plain reading of the bill, at
11 Page 2, at the last full line, it touches upon,
12 and I quote -- it touches upon the possibility of
13 month-to-month relationships. This is
14 problematic.

15 Next is, the implication for all of
16 this is that it might impact senior citizens and
17 poor families who do not come within the arguments
18 presented by the previous witnesses, but who might
19 be severely impacted by this bill. I give you the
20 scenario, which is included in my written
21 statement.

22 Pick a senior citizen who is living in
23 an apartment that is a part of a freestanding
24 house, a freestanding dwelling, and picture that
25 senior citizen as living on a month-to-month

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2 tenancy. It does not matter if the agreement is
3 oral, it does not matter if the agreement is
4 written, picture that scenario. A landlord then
5 could use this law to evict a senior citizen
6 without first having gone to court and having an
7 independent fact-finder weigh both sides of the
8 issue.

9 Another short scenario. Picture a
10 family, a couple of kids living in a house
11 operated by a for-profit, which is uses a
12 nonprofit as its sub, and evicting that family
13 without first going to court.

14 In my prepared statement, I mentioned
15 that all tenants have a property interest in their
16 dwelling, however small that property interest
17 might be. And what you may think about my analogy
18 to the British quartering of soldiers during the
19 Revolutionary War, there's a historical basis in
20 English law, in American law, in European-American
21 common law that gives the property interest to
22 those who are occupying a dwelling. Due process
23 safeguards need to be upheld.

24 And for this point, just look at
25 procedural due process. Let's just for now not

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2 get into substantive due process. Historically,
3 since times immemorial, we need notice and an
4 opportunity to be heard so that we may know as a
5 society that all sides, all parties have in fact
6 been presented an opportunity to present their
7 grievances before an independent tribunal. We've
8 created this. Every county of every state within
9 the United States and in our sister countries have
10 municipal courts or something analogous where a
11 person can go in quickly, in a summary proceeding,
12 and have the case be heard.

13 The witnesses mentioned -- and I'm
14 almost done. The witnesses mentioned previously
15 that there might arise, there are situations that
16 (unintelligible) where someone needs to take
17 action quickly, and let's give it a very extreme
18 example. A person is threatening the health,
19 life, or safety of another. In those situations,
20 the person can be restrained. In such situations,
21 a person, like Coles House, can go into court
22 under an even more quickly proceeding called "an
23 equity proceeding," our courts sitting in law and
24 equity, and ask the tribunal to issue an
25 injunction. And during the pendency of the

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2 injunction, the proceeding can go forward.

3 So the problem is not with Coles House
4 per se; the problem is with the possibility -- a
5 very real possibility -- that this bill can be
6 misused totally contrary to the intent of
7 Councilman who drafted it, and that it will
8 needlessly impact poor people, particularly senior
9 citizens and poor families.

10 COUNCILMAN DICICCO: And their redress
11 would be to go to court, should it be misused, as
12 you suggested.

13 MR. POLLARD: I didn't hear you,
14 Councilman.

15 COUNCILMAN DICICCO: Should it be
16 misused, as you suggest, the recourse is for the
17 person who has been aggrieved to go to court.

18 MR. POLLARD: Actually, Your Honor --.

19 COUNCILMAN DICICCO: I'm not "Your
20 Honor," but thank you anyway.

21 (Laughter.)

22 MR. POLLARD: Well, you're a
23 Councilman, so you're a "Your Honor."

24 COUNCILMAN DICICCO: Thank you.

25 MR. POLLARD: Actually, if the item is

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2 misused, there might not be redress because the
3 law would give the person misusing the law in the
4 improper form a basis for doing so. You cannot --
5 you know, the only thing would be to challenge the
6 law. And to challenge the law -- if a person were
7 to challenge a law that a person believed is being
8 misused, that person would not necessarily remain
9 in the dwelling while the law's being challenged,
10 unlike under the status quo.

11 COUNCILMAN KENNEY: Thank you.

12 Are there any questions?

13 (No questions.)

14 COUNCILMAN KENNEY: Thank you very
15 much.

16 (Mr. Meek comes forward.)

17 COUNCILMAN KENNEY: Please identify
18 yourself for the record.

19 MR. MEEK: Certainly. My name is
20 Robert Meek. I'm an attorney with the
21 Disabilities Law Project here in the city.

22 COUNCILMAN COHEN: I didn't hear that.

23 MR. MEEK: Sorry. I'm an attorney with
24 the Disabilities Law Project here in the city.

25 COUNCILMAN COHEN: What is your name,

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2 sir?

3 MR. MEEK: Robert Meek, M-E-E-K.

4 And I apologize. I don't have any
5 written testimony to present to Council, as I only
6 heard of this hearing yesterday late.

7 I just wanted to touch on a couple of
8 things, and I promise not to be long. The first
9 is that I think that Mr. Moss's description of the
10 breadth of impact of this change of the ordinance
11 was minimized. He mentioned two other facilities
12 that might have an interest in this kind of
13 process of being eliminated -- in other words, the
14 prohibition being eliminated.

15 My understanding is that there are a
16 large number of nonprofit personal-care homes who
17 are not tied to the city in any way, who would be
18 able to take advantage of self-help eviction
19 should this ordinance be passed. And I think
20 that's a lot of trouble for the tenants that live
21 in those places, because if there's anyone who's
22 vulnerable and unable to represent themselves, it
23 would be the elderly and persons with disabilities
24 that reside in such places. The reason they
25 reside in them in the first place is because they

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2 have determined by themselves or by other means
3 that they're not capable of living independently.

4 So when we talk about a class of
5 persons that are distinctly vulnerable to abuse,
6 by eliminating the protections of the law in its
7 current state, those individuals that I just
8 mentioned are particularly vulnerable. And a lot
9 of those individuals also have inability to --
10 cognitive deficits as well, which makes their
11 understanding of even the simplest procedures very
12 difficult. And without any protection in the law
13 and deterrence in the law to prevent landlords
14 from taking advantage of them by simply taking
15 changing the locks when they no longer like them
16 there or because they didn't pay rent, or for
17 whatever reason, because if they don't have a
18 reason, it doesn't matter under the proposed
19 ordinance; they can basically lock someone out for
20 any reason or no reason at all.

21 And also, I must relate back to
22 Mr. Carroll's testimony that the landlord-tenants'
23 courts are a model of efficiency from the
24 landlord's perspective. I used to represent
25 tenants twenty years ago in landlord-tenant court,

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2 and perhaps, Councilman Kenney and Councilman
3 DiCicco, you are right. Back then, it was easier
4 to get an extension of time, but the law has
5 changed, and changed drastically in the wrong
6 direction, as far as I'm concerned, with regard to
7 the protection of the rights of tenant. It is so
8 easy and so fast to evict a tenant in
9 landlord-tenant court now, it would make your head
10 spin.

11 That's all I have to say. Thank you.
12 Appreciate the time.

13 COUNCILMAN KENNEY: Are there any other
14 witnesses for this bill?

15 (No response.)

16 COUNCILMAN KENNEY: Thank you, thank
17 you.

18 Seeing none, we will now move to Bill
19 No. 970590, which is an ordinance amending Section
20 12-2405 of The Philadelphia Code entitled "Removal
21 or Immobilization of Parked Vehicles Notice," by
22 authorizing the towing or immobilization of any
23 vehicle parked in violation of Section 12-901
24 (1)(a) of the Code, which prohibits the parking of
25 a vehicle upon any roadway for the purpose of

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2 displaying of such vehicle for sale.

3 Is there someone from the
4 Administration to testify on behalf of this bill?
5 Please come forward.

6 (Jeremiah Connors comes forward.)

7 COUNCILMAN KENNEY: Please identify
8 yourself for the record.

9 MR. CONNORS: Good afternoon, Mr.
10 Chairman and members of Council. My name is
11 Jeremiah J. Connors, Deputy Executive Director,
12 Philadelphia Parking Authority.

13 COUNCILMAN KENNEY: Please proceed.

14 MR. CONNORS: Thank you. I believe
15 there is written testimony that's been sent up. I
16 will try to be brief, and then I think it would be
17 my preference to answer questions, if there are
18 any.

19 It is with great reluctance that I
20 testify in opposition of this amendment. It is a
21 position that there is already provision of law
22 that is adequate to deal with the offense, and
23 that the proposed amendment to the ordinance would
24 not only fail to accomplish what I believe is the
25 intent, but it would also be highly problematic

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2 and of a very tenuous constitutionality at the end
3 of the day.

4 It is my suggestion, as I've indicated,
5 that most of the vehicles -- or certainly a large
6 percentage of the vehicles -- that are causing
7 problems of this nature are unregistered and can
8 be dealt with under that ordinance right now to
9 today.

10 COUNCILMAN KENNEY: Councilman
11 DiCicco?

12 COUNCILMAN DICICCO: Thank you,
13 Mr. Chairman.

14 What about those vehicles that are
15 properly registered that are sitting on the
16 streets of Philadelphia, either by individuals or
17 by people who have -- I guess the best way to
18 describe it, have decided to set up a used-car lot
19 business on the streets of Philadelphia?

20 I can point to Frankford Avenue just
21 above Shackamaxon Street where there's a used-car
22 lot. But gentleman who operates that business has
23 also decided to use the streets of Philadelphia,
24 where he has at least on any given day 10 to 20
25 cars that are being sold on the street of the

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2 city.

3 What's the difference there? You're
4 saying that there may be some constitutionality
5 issues here and that there are already some laws
6 on the books that would allow for the removal of
7 those cars?

8 MR. CONNORS: Let me start with the
9 Frankford Avenue, for instance. If this
10 individual has 10, 15, 20, whatever number of
11 vehicles out on display for sale, and I believe
12 your preface was that those were legally
13 registered.

14 COUNCILMAN DICICCO: I'm assuming that
15 they're legally registered because they're being
16 sold by an individual who has a used-car lot, so
17 I'm just under the assumption that he's properly
18 licensed to sell cars.

19 MR. CONNORS: He would be licensed to
20 sell the cars, he may even be in possession of the
21 title to those vehicles.

22 COUNCILMAN DICICCO: The title,
23 correct.

24 MR. CONNORS: But he does not have them
25 registered, they're not eligible to be on the

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2 public roadway -- either moving or not.

3 COUNCILMAN DICICCO: He has title. I
4 apologize.

5 MR. CONNORS: So what I would suggest
6 is that if he has a dealer plate or perhaps two,
7 he can put those one or two vehicles on which that
8 dealer plate is displayed on the roadway. The
9 rest of them are illegal right now and could be
10 impounded this afternoon, under existing code,
11 number one.

12 Number two is -- and I am not an
13 attorney, and we've had some delightful
14 presentations by attorneys, and I regret that I
15 can't give you one of those this afternoon. There
16 are two basic principles. I've been on the team
17 that has defended a number of constitutional
18 challenges to the seizure of motor vehicles in
19 both this city and elsewhere. And the premise
20 that has always carried the day in favor of or in
21 support of the notion of immobilization has been
22 notice and due process on the front end. There's
23 been sufficient notice to the person whose
24 property is about to be seized that they were
25 acting in a way that was causing that jeopardy,

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2 and that could likely be an outcome.

3 In most cases, in the case of overdue
4 parking tickets or overdue traffic tickets or
5 things of that nature, it's because we've sent a
6 notice that specifically says that these matters
7 remain open and your failure to cure these matters
8 will result in the seizure of the motor vehicle.

9 You will probably -- I should have
10 brought one, but there is a funny little sign that
11 refers to the other section of the bill that's
12 being amended that is posted around the city, and
13 it's a violation of 1533 parked while vehicle
14 license suspended. And through a series of
15 negotiations with Council when that bill was
16 enacted, those signs were erected to provide that
17 notice.

18 It is not illegal in a great number of
19 cities in towns and Pennsylvania. It is also not
20 illegal in a number of other jurisdictions for you
21 to park a vehicle if the operator, the owner of
22 the vehicle has had a suspended license. Because
23 that was a unique provision of law to
24 Philadelphia, that was the notice provision. That
25 was how the notice provision was accomplished --

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2 by posting those little signs.

3 If I -- and forgive me if I've got this
4 wrong, but in the last 24 hours just in
5 anticipation of my testimony here, I've asked sort
6 of a men-on-the-street type of thing. If your
7 vehicle is perfectly legally registered, insured,
8 inspected and parked legally on the curbside and
9 you have a for-sale sign on the window, is it
10 legal or illegal? And I got mixed responses.
11 Most people said it was legal, no problem.

12 COUNCILMAN KENNEY: Go ahead,
13 Councilman Cohen.

14 COUNCILMAN COHEN: What is your
15 position, sir? Who are you testifying in support
16 of? I mean, who do you represent?

17 MR. CONNORS: I'm representing the
18 Administration, and I work for the Philadelphia
19 Parking Authority. We would be the agency that
20 would have to enforce this law were it to pass.

21 COUNCILMAN COHEN: The Parking
22 Authority?

23 MR. CONNORS: Correct.

24 COUNCILMAN COHEN: And when you say you
25 represent the Administration, you mean the City of

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2 Philadelphia or the Parking Authority or both?

3 MR. CONNORS: The City of Philadelphia
4 in that this particular aspect of enforcement has
5 been charged by the City for the Parking Authority
6 to perform on behalf of the City.

7 COUNCILMAN COHEN: 'Cause you're
8 raising legal arguments, and I would really like
9 to hear the City Solicitor's Office make the legal
10 arguments. They're interesting. This bill does
11 aim at what is a very serious problem in the minds
12 of many people, and I think that if there are
13 legal arguments against it, I think the City
14 Solicitor's Office ought to be here to make those
15 arguments so that we know, you know, that they
16 bear the approval of the City's Law Department.
17 'Cause if the City's Law Department says it's
18 illegal, they will veto the bill and we're going
19 through a lot of unnecessary waste of time.

20 Why aren't they -- were they asked to
21 come and they didn't come or --

22 MR. CONNORS: I didn't ask them to come
23 and didn't think it was necessarily my place to do
24 so. I apologize for not having done so, and I
25 apologize for characterizing things in a way that

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2 would lead you to believe that I think this is not
3 a problem. That is not my commentary at all, that
4 parking a vehicle with a for-sale sign is not a
5 problem. It's illegal. And I understand it's an
6 issue, and my only point, very simply, is that
7 there are provisions of existing law that allow
8 proper enforcement of that to take place. That's
9 not to say that it's necessarily taking place.

10 COUNCILMAN DICICCO: What is your
11 interpretation of the laws that allow for that to
12 happen? You said "to take place." I don't
13 understand. Is it illegal to sell a car on the
14 street?

15 MR. CONNORS: That is correct.

16 COUNCILMAN DICICCO: In the City of
17 Philadelphia?

18 MR. CONNORS: Subject to a \$20 parking
19 ticket.

20 COUNCILMAN DICICCO: A \$20 parking
21 ticket. I thought we did a legislation about a
22 year ago that increased that to \$300, if I'm not
23 mistaken.

24 MR. CONNORS: I'm unaware if that's the
25 case.

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2 COUNCILMAN DICICCO: Well, we can check
3 on that. I believe I may --

4 COUNCILMAN COHEN: I think we passed a
5 bill on --

6 COUNCILMAN DICICCO: Well, it doesn't
7 mean it's happening but I think I did a
8 legislation. Regardless of whether it's \$20 or
9 \$300. But that's the extent of what we can do, is
10 issue a parking violation. And in many cases --
11 not using the example on Frankford Avenue -- where
12 you have an individual who either decides to sell
13 a car that they did have a title for at one time
14 and may have bought a new car and let the
15 registration expire, or for someone who decided to
16 buy a car at an auction house and then put it back
17 on the streets of Philadelphia and decide to sell
18 it. I mean that's what I think Councilman Cohen
19 said. We want to remove that blight from the
20 streets.

21 MR. CONNORS: And I fully support that,
22 but every scenario that you have thus described
23 could be removed right now, because none of those
24 have a current registration certificate on display
25 on the vehicle.

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2 COUNCILMAN DICICCO: But if it does?

3 And if it does and a car sits on the street for 24
4 hours, 2 weeks, 1 week, I see cars when we send
5 the police out to either ticket the car, and in
6 many cases, I think the police notify the owner
7 and say, Look, you're not allowed to sell your car
8 on the street. They'll take it off for a week or
9 so, and then it gets back on.

10 Now, we want to be able to remove that.
11 I mean, that's the intent of this bill is to
12 remove that car and to put some teeth into this to
13 let people understand that you're just not going
14 to be able to move cars from one place to another
15 to get around the system. It is illegal, and
16 we're going to remove that car if you continue to
17 decide to sell that car.

18 There's a process. I mean --

19 MR. CONNORS: I agree with you, if the
20 person, the individual that is the owner of that
21 vehicle has the vehicle legally, registered
22 inspected and insured.

23 COUNCILMAN DICICCO: And you would
24 support the immobilization and/or towing of that?

25 MR. CONNORS: At the end of the day,

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2 the Philadelphia Parking Authority will support
3 whatever legislation gets passed. That's our
4 job.

5 I'm advocating against it because I
6 think it's dangerous. I think it's not going to
7 accomplish what you'd like it to accomplish. For
8 instance, we do not boot in every geographical
9 area of the city, we do not immobilize everywhere.
10 We mobilize in Center City and in University City
11 and in the business district.

12 COUNCILMAN DICICCO: The commercial
13 areas, right.

14 MR. CONNORS: That's it. We're not
15 going to go into -- as far as I know, this is not
16 a matter of law but a matter of a vehicle being --

17 COUNCILMAN COHEN: Not according to my
18 experience 'cause I've seen cars immobilized in my
19 area where I happen to live, in the residential
20 area where there are no businesses.

21 COUNCILMAN DICICCO: But that's just --

22 COUNCILMAN COHEN: Yeah, let's take
23 that as a . . .

24 COUNCILMAN DICICCO: Continue.

25 MR. CONNORS: I don't know quite how to

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2 respond to that because it's my understanding that
3 you have called, Councilman, to object to that in
4 the event that someone has done it.

5 COUNCILMAN COHEN: Yes. I do generally
6 object to that.

7 MR. CONNORS: And we have responded by
8 taking action against the boot crew member who has
9 done -- wandered off the registration in that
10 regard.

11 So all I'm trying to establish is that
12 there is a geographical area where we're allowed
13 to do it and where we're not. And the area where
14 we're allowed to do it in is probably no more a
15 Fifth of the City on a geographic basis. So to
16 allow the booting of vehicles for the displaying
17 of a for-sale sign is going to accomplish it, as
18 such, in a Fifth of the City, rough numbers. That
19 was the only point of that.

20 COUNCILMAN COHEN: Mm-hmm, you have
21 clarified it. Thank you.

22 MR. CONNORS: The only other aspect
23 that I would ask you to consider is that there are
24 -- I've run a -- and I apologize 'cause I haven't
25 had the time to do a full analysis of it. I

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2 picked it up literally on my way over here at
3 noontime.

4 The analysis that I have looked at of
5 the 604 citations that were issued in the period
6 ending 9/30/99, 233 of them are in the 2nd Police
7 District. The rest of the City comprises the rest
8 of them. The numbers in the 3rd District and the
9 4th District, which would be -- theoretically
10 would certainly have a good number, you would
11 think of these instances are at least as many as
12 the 2nd Police District, had respectively numbers
13 in the teens.

14 COUNCILMAN DICICCO: So that could be
15 because of -- the police may not be issuing the
16 tickets.

17 MR. CONNORS: Precisely my point, sir.
18 What I am suggesting is that with a more -- we
19 could increase the profile of the enforcement
20 activity in the areas where this is a problem, and
21 we could conduct coordinated enforcement efforts
22 to get this done within the existing law. And I
23 think those might bear fruit beyond what is
24 intended by this legislation.

25 COUNCILMAN KENNEY: Councilman Cohen?

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2 COUNCILMAN COHEN: Are you working also
3 with the group working on the abandoned-car
4 issue?

5 MR. CONNORS: Yes, sir.

6 COUNCILMAN COHEN: Does that group have
7 any conclusion about this bill? Are you speaking
8 for them? Would this interfere, would this
9 assist?

10 This is a companion problem with the
11 abandoned cars. It creates -- we get complaints
12 all over about people -- they resent the fact that
13 somebody is using, you know, the street space for
14 the purpose of selling a car.

15 COUNCILMAN DICICCO: And my concern is,
16 in following Councilman Cohen, if someone has an
17 abandoned car and someone decides maybe to put a
18 for-sale sign on it now, are they getting around
19 this by saying, Oh, it's no longer abandoned, but
20 it's for sale?

21 COUNCILMAN COHEN: Well, I don't know.
22 That's impossible to --

23 MR. CONNORS: I think the only thing I
24 would say in response to that is that the same
25 resources are available for all of these things.

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2 And whether they're out dealing with cars with
3 for-sale signs on them or they're dealing with
4 abandoned vehicles, potentially, they're all the
5 same resources so. . .

6 COUNCILMAN COHEN: Mr. Chairman, I
7 would just like to suggest that I think we ought
8 to consider this bill a little bit further in view
9 of the statements by the witness. And I'd like to
10 hear the view of the City's attorneys. We don't
11 want to get into legal complexities if we don't
12 have to.

13 COUNCILMAN KENNEY: Councilman DiCicco,
14 do you have a response?

15 COUNCILMAN DICICCO: Again, picking up
16 on what you said earlier, Councilman Cohen, this
17 is a serious problem in the City of Philadelphia.

18 COUNCILMAN COHEN: That is true.

19 COUNCILMAN DICICCO: As it relates to
20 abandoned vehicle. In my opinion, people who
21 leave cars out on the street, and there are many
22 people who do this basically as a business, and
23 you will see a phone number on the windshield of
24 the back window, and in 90 percent of the cases,
25 when I've called that number, it's a pager

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2 number. You can't get someone's house or place of
3 business.

4 So these are people who have decided to
5 literally take the streets of Philadelphia and
6 create a used-car lot.

7 COUNCILMAN KENNEY: One of the things I
8 suggest is perhaps, if the committee so desires,
9 is to report it out of committee without a
10 suspension of the rules, with the agreement that
11 we would hold in on the calendar until the Law
12 Department responds one way or another.

13 COUNCILMAN COHEN: That sounds
14 agreeable.

15 COUNCILMAN DICICCO: Yeah, 'cause I
16 just think the seriousness is something we should
17 be addressing now as opposed to later.

18 COUNCILMAN KENNEY: Okay.

19 COUNCILMAN DICICCO: So I would agree
20 to that, Mr. Chair.

21 COUNCILMAN KENNEY: Councilman Nutter?

22 COUNCILMAN NUTTER: Thank you. It's
23 Mr. Connor, right?

24 MR. CONNORS: Connors, yes, sir.

25 COUNCILMAN NUTTER: Connors. In the

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2 example that you gave earlier, you said you had
3 done, I think, a kind of person-on-the-street
4 survey about vehicles registered properly and kind
5 of all the stuff in order, sale sign in the
6 window, and you said that somebody people were of
7 the opinion that it was legal and some people were
8 not. Was that your testimony earlier?

9 MR. CONNORS: Yes, it was, sir.

10 COUNCILMAN NUTTER: Okay. Now, I
11 thought it was my understanding and recollection
12 from reading the Philadelphia Code on a couple of
13 occasions that it was illegal in Philadelphia to
14 sell cars on the street; isn't that right?

15 MR. CONNORS: You are correct, sir.

16 COUNCILMAN NUTTER: So how could anyone
17 say that that's legal?

18 MR. CONNORS: Well, what I was trying
19 to impart, and apparently didn't do it very well,
20 is that most people, or a significant number of
21 people, who are average motorists in this city and
22 average motorists from surrounding suburbs of New
23 Jersey, would not necessarily be aware of the fact
24 that the for-sale sign in their window, the minute
25 the vehicle that was otherwise legally registered

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2 and otherwise legally parked, would be in jeopardy
3 of violating the law when they parked it there.

4 COUNCILMAN NUTTER: And so then does
5 that go to your notion that the way you do the
6 rest of the booting operation is that you provide
7 some notice or some due process. What about
8 slapping a notice on the vehicle that provides
9 some amount of time to cure that problem, but it
10 is a notice directly and it gives them -- I don't
11 know -- 24 or 48 hours to get you either the sign
12 out of the car or the vehicle off the street. And
13 if you don't, we're going to boot it.

14 MR. CONNORS: I agree. I --

15 COUNCILMAN NUTTER: And so, I mean, I
16 guess what I would ask, at least on behalf of the
17 sponsors, because this is clearly a problem. And
18 whether people know it or not, and I'm not sure
19 that folks don't know it. I think there are a lot
20 of things that people do in Philadelphia that they
21 acknowledge may possibly be wrong but since no
22 one's every really done anything about it -- I
23 don't know how many people have ever been fined
24 for it. And so --

25 MR. CONNORS: It was 604 last year.

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2 COUNCILMAN NUTTER: Okay. How many
3 cars were out on the street with for-sale signs on
4 them?

5 MR. CONNORS: 604 -- that were cited.
6 There were more than that but --

7 COUNCILMAN NUTTER: That wasn't my
8 question. How many cars were out on the street
9 with for-sale signs on them.

10 MR. CONNORS: I would suggest more than
11 that.

12 COUNCILMAN NUTTER: Okay. So I think
13 what happens a lot in Philadelphia is, with sparse
14 enforcement, people assume that it's either worth
15 the risk - which is, in many instances, how you
16 guys generate the revenues you do because people
17 are willing to take the risk on a parking meter or
18 do a whole host of things. I mean, should I put a
19 dollar's worth of quarters in or am I hoping that
20 a PEO doesn't come by. So it's a dollar versus 15
21 or 20 or 25. I mean, it happens every day, people
22 take the chance. They get the ticket and they
23 bought the space for the day. That's okay. The
24 lack of any serious enforcement effort tells
25 people that basically it is okay.

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2 So what I would at least ask is, rather
3 than a kind of an immediate we don't think this is
4 a good thing to do or we're opposed to it, give us
5 some of your suggestions and ideas based on your
6 experience and what your protocols are for how you
7 might make something like this work.

8 MR. CONNORS: Sure.

9 COUNCILMAN NUTTER: I mean, if we had
10 our druthers, I'm sure we'd just rather have the
11 sign out of the car or the vehicle moved, as
12 opposed to immobilization. Some people are hard-
13 headed and they only learn when they get the big
14 enforcement. So, I mean, that's what I would ask
15 for.

16 Aren't we going to some new -- slapping
17 some new notice on cars with the proposed changes
18 to the abandoned car provisions, the big story
19 that was in the paper the other day? I think
20 they're talking about cutting down the notice time
21 period by actually putting the notice on the
22 vehicle.

23 COUNCILMAN DICICCO: Yes, yes.

24 COUNCILMAN NUTTER: You know, with
25 certified mail and chasing around people who have

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2 no interest in coming after this piece of crap
3 they left on the street. You put a notice on it,
4 it explains what the law is, Section whatever of
5 the Philadelphia Code says that you can't sell
6 cars on the street. From the time of this notice
7 going on the car, which, hopefully, the person
8 puts the time down that they slapped the notice
9 on, and you have 48 hours from this moment to
10 either get that sign out of that car or move this
11 vehicle, or it will be immobilized.

12 COUNCILMAN DICICCO: But it could also
13 be, the ticket that is issued for the sale is
14 sufficient notice in itself. And if you had to
15 put a sticker on it, okay, but the ticket would
16 indicate the time that the ticket was issued so
17 it's 24 hours after the issuance of the ticket.

18 COUNCILMAN NUTTER: Yeah. I mean,
19 there are a lot of -- I mean, you know, you guys
20 are in this business. All we're suggesting is
21 that there could be some ways to actually make it
22 work.

23 MR. CONNORS: I absolutely agree, and I
24 please don't want you to think that I'm coming
25 here to say, No, this can't work.

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2 But what I'm suggesting, for instance,
3 is an excellent way to provide the very kind of
4 notification that you're talking about is to issue
5 some of the tickets under the present regulations
6 that we could be issuing and are not, and would
7 very much like to do that as a way of both public
8 education and as acting as a deterrent to the
9 problem.

10 COUNCILMAN NUTTER: Okay.

11 COUNCILMAN KENNEY: Councilman?

12 COUNCILMAN COHEN: Well, I'm not sure
13 what you're now saying. How does it help us to
14 get rid of these cars with better enforcement?
15 Say a ticket is issued, then what under current
16 law?

17 MR. CONNORS: There are two aspects.
18 Some people will actually change their behavior
19 based on the first citation, some will change it
20 on the second or the third, some will not, and
21 they will eventually become seizure-eligible by
22 failure to respond to those citations.

23 COUNCILMAN KENNEY: Three.

24 COUNCILMAN COHEN: But that would take
25 care of --

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2 MR. CONNORS: Three, and then another
3 notice and so on. And then we're in a position
4 where we impound that vehicle. And I just think
5 that's a much safer way to proceed.

6 COUNCILMAN COHEN: Well, I would like
7 to hear -- I think the Chairman expressed the
8 notion of our reporting the bill out but having it
9 -- but not waiving the Council rules so that
10 there's a period of time.

11 I think we would all like to get a
12 proposal from the Administration of a quick way to
13 effectuate notice that would prepare the car for
14 immediate immobilization and removal. That's what
15 we're aiming at. We'd like to get rid of the cars
16 more than the immobilization, 'cause the
17 immobilization is further blight. You know, you
18 now have that yellow boot. We'd like to get rid
19 of the car. We'd like to have everybody
20 comfortable about the notice requirements --
21 certainly the group that's working on this
22 problem.

23 MR. CONNORS: Okay.

24 COUNCILMAN COHEN: Would that be
25 agreeable? Do you think that could be done? Will

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2 you take the message back to the Parking
3 Authority?

4 MR. CONNORS: Absolutely, absolutely.

5 COUNCILMAN COHEN: That we would like
6 to have a specific proposal so that we could amend
7 the bill when it comes up on second reading, two
8 weeks from, I guess, from the 4th.

9 COUNCILMAN DICICCO: From the 11th.

10 COUNCILMAN COHEN: But by the 11th.

11 COUNCILMAN DICICCO: I'm sorry, two
12 weeks from the 4th.

13 COUNCILMAN COHEN: The 4th, yeah.

14 MR. CONNORS: I'll be happy to see that
15 that happens.

16 COUNCILMAN KENNEY: Are there any other
17 questions for Mr. Connors?

18 (No further questions.)

19 COUNCILMAN KENNEY: Hearing none, is
20 there anyone else to testify on this bill?

21 (No response.)

22 COUNCILMAN KENNEY: Hearing none, that
23 will conclude the hearing of the Rules Committee.

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1 10/26/99 RULES COMM. - PUBLIC MEETING

2 COUNCILMAN KENNEY: We will now convene
3 the public hearing of the Rules Committee.

4 The Chair recognizes Councilman Nutter
5 for a motion on Bill No. 990601.

6 COUNCILMAN NUTTER: Mr. Chairman, I
7 move that Bill 990601 be reported out of this
8 committee with a favorable recommendation, and a
9 further recommendation that the rules of Council
10 be suspended so as to permit first reading at our
11 next session of Council.

12 (Duly seconded.)

13 COUNCILMAN KENNEY: It's been moved and
14 seconded.

15 All in favor, aye?

16 There are none opposed.

17 Bill No. 990601 will be reported out of
18 this committee favorably, and a request will be
19 made for suspension of the rules to allow for
20 first reading at our next session of Council. Let
21 the record indicate that Councilmember Ortiz, who
22 was assigned to the committee for purposes of a
23 quorum, was voting yes on Bill No. 990601.

24 The Chair recognizes Councilmember
25 DiCicco to approve the amendment to Bill No.

1 10/26/99 RULES COMM. - PUBLIC MEETING

2 980550.

3 COUNCILMAN DICICCO: Thank you,
4 Mr. Chairman. I make a motion that Bill No.
5 980550, as amended, be --

6 COUNCILMAN KENNEY: No, to approve the
7 amendment first.

8 COUNCILMAN NUTTER: To adopt the
9 amendment.

10 COUNCILMAN DICICCO: To adopt the
11 amendment for Bill No. 980550.

12 (Duly seconded.)

13 COUNCILMAN KENNEY: Moved and
14 seconded.

15 All in favor, aye?

16 There are none opposed.

17 The amendment is adopted.

18 The Chair recognizes Councilman DiCicco
19 for a motion on the amended bill.

20 COUNCILMAN DICICCO: I move that Bill
21 No. 980550, as amended, be reported out of this
22 committee with a favorable recommendation, and a
23 further recommendation that the rules of Council
24 be suspended so as to permit first reading at our
25 next session of City Council.

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2 (Duly seconded.)

3 COUNCILMAN KENNEY: It's been moved and
4 seconded.

5 All in favor, aye?

6 There are none opposed. Bill No.
7 990550, as amended, will be reported out of this
8 committee favorably, and a request will be made
9 for a suspension of the rules to allow for first
10 reading at our next session. For the record,
11 Councilmember Ortiz is voting aye.

12 The Chair recognizes Councilman DiCicco
13 for a motion on Bill No. 980684.

14 COUNCILMAN DICICCO: I move that Bill
15 No. 980864 be reported out of this committee with
16 a favorable recommendation, and that the rules of
17 Council be suspended so as to permit first reading
18 at our next session of City Council.

19 (Duly seconded.)

20 COUNCILMAN KENNEY: It's been moved and
21 seconded.

22 All in favor, aye?

23 There are none opposed. Bill No.
24 980684 will be reported out of this committee
25 favorably, and a request will be made for a

1 10/26/99 RULES COMM. - PUBLIC MEETING

2 suspension of the rules to allow for first reading
3 at our next session of Council. And Council
4 Councilmember Ortiz is voting aye.

5 The Chair recognizes Councilman DiCicco
6 again for a motion on Bill No. 990425.

7 COUNCILMAN DICICCO: Thank you. I move
8 that Bill No. 990425 be reported out of this
9 committee with a favorable recommendation, and
10 that the rules of Council be suspended so as to
11 permit first reading at our next session of City
12 Council.

13 (Duly seconded.)

14 COUNCILMAN KENNEY: It's been moved and
15 seconded.

16 All in favor, aye?

17 There are none opposed. Bill No.
18 990425 will be reported out of this Committee
19 favorably and a request will be made for a rules
20 suspension to allow for first reading at our next
21 Council session.

22 The Chair recognizes Councilmember
23 DiCicco to for a motion approve the amendment
24 offered by Mr. Nardone to Bill No. 980048.

25 COUNCILMAN DICICCO: Thank you, Mr.

1 10/26/99 RULES COMM. - PUBLIC MEETING

2 Chairman. I move for the adoption of the
3 amendment to Bill No. 980048.

4 (Duly seconded.)

5 COUNCILMAN KENNEY: It's been moved and
6 seconded.

7 All in favor, aye?

8 Are there any opposed to the
9 amendment? There are none opposed. The amendment
10 is approved to Bill No. 980048.

11 The Chair recognizes Councilman DiCicco
12 for a motion on the amended bill.

13 COUNCILMAN DICICCO: I move that Bill
14 No. 980048, as amended, be reported out of this
15 committee with a favorable recommendation.

16 (Duly seconded.)

17 COUNCILMAN KENNEY: It's been moved and
18 seconded.

19 All in favor, aye?

20 Those opposed? Councilmember Cohen is
21 opposed and Councilmember Ortiz has left his vote
22 as being a opposed. Bill 980048, as amended, will
23 be reported out of this committee favorably, and
24 there is no request for a rules suspension.

25 You didn't make a request, did you?

1 10/26/99 RULES COMM. - PUBLIC MEETING

2 COUNCILMAN DICICCO: No, no.

3 COUNCILMAN KENNEY: Okay. The Chair
4 recognizes Councilman DiCicco for a motion on Bill
5 No. 970590.

6 COUNCILMAN DICICCO: I move that Bill
7 No. 970590 be reported out of this committee with
8 a favorable recommendation.

9 (Duly seconded.)

10 COUNCILMAN KENNEY: It's been moved and
11 seconded.

12 COUNCILMAN NUTTER: I have a question
13 on the motion.

14 COUNCILMAN KENNEY: There's a question
15 on the motion. Mr. Chairman.

16 COUNCILMAN NUTTER: In the hearing, Mr.
17 Chairman, I know that Councilman Cohen and
18 possibly other members raised issues with regard
19 to the Law Department about this particular bill.
20 I may have missed some of the colloquy back and
21 forth. What exactly are we asking the Law
22 Department for? What are we awaiting before --

23 COUNCILMAN KENNEY: My expectation is
24 that the request -- that the primary sponsor of
25 the bill will be making a request to the Law

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2 Department for guidance on procedural and
3 constitutional issues relative to the final
4 passage of the bill.

5 COUNCILMAN DICICCO: And for that
6 purpose, I didn't ask for the suspension.

7 COUNCILMAN NUTTER: Okay.

8 COUNCILMAN KENNEY: It's been moved and
9 seconded.

10 All in favor, aye?

11 There are none opposed. Bill No.
12 970590 will be reported out of this committee
13 favorably.

14 That concludes the business of the
15 Rules Committee. Thank you for your attendance.

16 By the way, I'm sorry. Just so the
17 record's clear, Bills No. 980274 and 980275 will
18 be held to the call of the sponsor. Thank you.

19 (Adjourned at 3:35 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Tuesday, October 26, 1999, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COUNCIL COMMITTEE ON RULES

BILL NO.'S 970590, 980048, 980724, 980725,
980550, 980684, 990425, 990601

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter