

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC HEALTH AND HUMAN SERVICES

Remote location using Microsoft® Teams
Monday, February 14, 2022
1:00 p.m.

PRESENT:

COUNCILWOMAN CINDY BASS, CHAIR
COUNCILWOMAN KENDRA BROOKS
COUNCILMAN DEREK S. GREEN
COUNCILWOMAN HELEN GYM
COUNCILMAN DAVID OH
COUNCILMAN ISAIAH THOMAS

ALSO PRESENT:

COUNCILMAN MARK SQUILLA

BILLS: 210902, 220051
RESOLUTION: 210046

1 - - -

2 COUNCILWOMAN BASS: I

3 understand that state law currently
4 requires that the following announcement
5 be made at the beginning of every remote
6 public hearing as follows: Due to the
7 current public health emergency, City
8 Council Committees are currently meeting
9 remotely. We are using Microsoft Teams
10 to make these remote hearings possible.

11 Instructions for how the public
12 may view and offer public testimony at
13 public hearings of City Council
14 Committees are included in the public
15 hearing notices that are published in
16 the Daily News, Inquirer and Legal
17 Intelligencer prior to the hearings and
18 can also be found on PHLCouncil.com. I
19 now note that the hour has come.

20 Will the Clerk please call the
21 roll to take attendance. Members that
22 are in attendance, will you please
23 indicate that you are present when your
24 name is called. And also, please say a
25 few brief words when responding so that

1 your image will be displayed on screen
2 when you speak.

3 Madam Clerk.

4 THE CLERK: Good afternoon.

5 COUNCILWOMAN BASS: Good
6 afternoon.

7 THE CLERK: Councilmember Oh.

8 COUNCILMAN OH: Good afternoon,
9 Chair and colleagues. I'm present.

10 COUNCILWOMAN BASS: Good
11 afternoon.

12 THE CLERK: Councilmember Gym.

13 COUNCILWOMAN GYM: Good
14 afternoon, Madam Chair. Good afternoon,
15 colleagues. I am present.

16 COUNCILWOMAN BASS: Good
17 afternoon.

18 THE CLERK: Councilmember
19 Green.

20 COUNCILMAN GREEN: Good
21 afternoon, Madam Chair. Good afternoon,
22 members of Council. And Happy
23 Valentine's Day or Galentine's Day as
24 I've learned earlier today.

25 COUNCILWOMAN BASS: Good

1 afternoon.

2 THE CLERK: Councilmember
3 Thomas.

4 COUNCILMAN THOMAS: Good
5 afternoon, Madam Chair. Good afternoon,
6 colleagues. I'm present.

7 THE CLERK: Great.

8 THE CLERK: Councilmember
9 Brooks.

10 COUNCILWOMAN BROOKS: Good
11 afternoon, Madam Chair and colleagues.
12 I'm present.

13 THE CLERK: And, Madam Chair
14 Councilmember Bass.

15 COUNCILWOMAN BASS: Good
16 afternoon. I am present. Thank you. A
17 quorum of the Committee is present and
18 the hearing is now called to order and
19 this is the public hearing of the
20 Committee on Public Health and Human
21 Services regarding Bill Nos. 210902 and
22 220051 and Resolution No. 210046.

23 And, Madam Clerk, will you
24 please read the titles of the bills.

25 THE CLERK: Bill No. 210902, an

1 ordinance amending Title 4 of The
2 Philadelphia Code, entitled "The
3 Philadelphia Building Construction and
4 Occupancy Code," by amending Subcode A,
5 The Philadelphia Administrative Code,
6 and Subcode PM, The Philadelphia
7 Property Maintenance Code, and other
8 related sections of The Philadelphia
9 Code to add provisions related to the
10 abatement of rats and other vermin in
11 the City of Philadelphia, all under
12 certain terms and conditions.

13 And Bill No. 220051, an
14 ordinance amending Section 9-4116 of The
15 Philadelphia Code, entitled "2021 Public
16 Health Emergency Leave," to establish
17 additional leave time under certain
18 circumstance, modify existing provisions
19 concerning the paid sick leave and make
20 technical changes, all under certain
21 terms and conditions.

22 And Resolution No. 210046,
23 resolution calling for a public hearing
24 to examine the City of Philadelphia's
25 compliance with the Pennsylvania

1 Firefighter Cancer Presumption Act.

2 COUNCILWOMAN BASS: Thank you.

3 Before we begin to hear testimony from

4 the witnesses we have for today,

5 everyone who has been invited to the

6 meeting to testify should be aware that

7 this public hearing is being recorded.

8 Because the hearing is public,

9 participants and viewers have no

10 reasonable expectation of privacy. By

11 continuing to be in the meeting, you are

12 consenting to being recorded.

13 Additionally, prior to

14 recognizing Members for the questions or

15 comments they have for witnesses, I will

16 note for the record at this time that we

17 will use the chat feature available in

18 Microsoft Teams to allow Members to

19 signify that they wish to be recognized.

20 In order to comply with the Sunshine

21 Act, the chat feature must only be used

22 for that purpose.

23 Before I call on the Clerk to

24 call for the first panel, will any of my

25 colleagues like to make any opening

1 comments on Bill No. 210902?

2 (No response.)

3 COUNCILWOMAN BASS: Okay.

4 Seeing none, Madam Clerk, please call
5 for the first panel of witnesses.

6 THE CLERK: Sarah Adamo, Dr.
7 Palak Raval-Nelson, Dawn Kieseewetter and
8 Amelia Price.

9 COUNCILWOMAN BASS: Okay. Good
10 afternoon. Is everyone ready to
11 proceed? Okay. If you could start in
12 the order in which you were called.

13 MS. ADAMO: Good afternoon,
14 Chairperson Bass and members of the
15 Committee on Public Health and Human
16 Services. My name is Sarah Adamo and
17 I'm the Legislative Affairs Manager for
18 the Department of Licenses &
19 Inspections. Today I am here to provide
20 testimony on Bill No. 210902, which if
21 enacted will amend Title 4 of The
22 Philadelphia Code, entitled The
23 Philadelphia Building Construction and
24 Occupancy Code, by amending The
25 Philadelphia Administrative Code, and

1 Subcode PM, The Philadelphia Property
2 Maintenance Code, and other related
3 sections of The Philadelphia Code to add
4 provisions related to the abatement of
5 rats and other vermin in the City of
6 Philadelphia, all under certain terms
7 and conditions.

8 I am joined today by Dr. Raval-
9 Nelson, Director of Environmental Health
10 Services for the Department of Public
11 Health. This bill will require
12 applicants of certain types of building
13 permits to provide verification that
14 they have prepared a rodent control plan
15 for the detection, inspection and
16 treatment of rodents at their site.

17 At a minimum, the plan shall
18 include provisions for abatement of the
19 site by a licensed pest control company.
20 This bill will also require vacant lot
21 licensees to perform yearly inspections
22 and rat remediation by a licensed pest
23 control company. The Department of
24 Licenses & Inspections along with the
25 Department of Public Health are

1 supportive of this legislation and are
2 prepared should it become law to
3 promulgate regulations to implement and
4 enforce these new regulations. Thank
5 you for the opportunity to provide
6 testimony on behalf of the
7 Administration. We are happy to answer
8 questions at this time.

9 COUNCILWOMAN BASS: Excellent.
10 Thank you very much. We're going to
11 hold all of our questions until the end.

12 If we can have our next
13 panelist testify in the order in which
14 you were called.

15 MR. KIESEWETTER: Hello,
16 everyone. Dr. Raval-Nelson will not be
17 able to be on this call today. My name
18 is Dawn Kieseletter and I'm from the
19 Environmental Health Services,
20 Department of Public Health.

21 COUNCILWOMAN BASS: Okay.
22 Thank you, Dawn, for being here with us
23 today. Please proceed.

24 MS. KIESEWETTER: We are in
25 agreement with the statement made by

1 Sarah Adimo -- Adamo. And I don't have
2 anything further to say unless there are
3 questions.

4 COUNCILWOMAN BASS: Okay. No
5 questions at this time from the panel.
6 We're going to hold questions until the
7 end. So thank you for joining us.

8 Next testifier.

9 (No response.)

10 COUNCILWOMAN BASS: Is there
11 someone else?

12 (No response.)

13 MS. PRICE: I believe I was No.
14 4. I think it was somebody third who
15 was supposed to go before me.

16 COUNCILWOMAN BASS: Okay. If
17 you want to go ahead, Ms. Price.

18 MS. PRICE: Good afternoon,
19 Councilwoman Bass and Councilman Clarke
20 and all your colleagues. I applaud you
21 and I thank you for seeing the need to
22 mandate legislation for public safety
23 and for health.

24 The week of October 4th we had
25 a rodent problem with rats, over 100

1 rats were in a empty lot. And I'm
2 asking City Council in reference to the
3 absentee property owners who have vacant
4 lots and vacant buildings, that's where
5 people do a lot of the illegal short
6 dumping and that's what is attracting
7 the rodents. My take and stand is that
8 it's not a privilege to live
9 rodent-free. It's a right to live free.
10 So I thank you all for putting this into
11 legislation, both bills.

12 COUNCILWOMAN BASS: Thank you.
13 Thank you for your testimony.

14 Do we have any questions for
15 this panel from members of Council?

16 (No response.)

17 COUNCILWOMAN BASS: Any
18 questions at all?

19 (No response.)

20 COUNCILWOMAN BASS: Okay. I
21 don't see any. Let me just -- we'll
22 just keep going then.

23 Madam Clerk, are there
24 additional panelists to testify on this
25 bill?

1 THE CLERK: There are no
2 additional panelists on this bill, Madam
3 Chair.

4 COUNCILWOMAN BASS: Okay. In
5 that case since there are no questions,
6 I want to thank everyone for being here
7 today on this very important piece of
8 legislation, particularly as the City of
9 Philadelphia as we all know is in the
10 midst of a boom, a building boom -- I
11 want to say that right -- a building
12 boom, we want to make sure that we're
13 not causing unnecessary problems or
14 unnecessary issues as a result of the
15 buildings that's coming from or
16 disturbing ground that lay dormant for a
17 very long time.

18 So I want to thank you all for
19 being here, for bringing forth this
20 public health situation which is really
21 going to be affecting communities
22 throughout the entire City of
23 Philadelphia. So I thank you so much
24 for being here.

25 And with that being said, Madam

1 Clerk, can you call forward the panel on
2 the next bill that we have for today.

3 THE CLERK: Rich Lazer, Reyna
4 Guzman Casarez, Carly Pourzand, Melissa
5 Walter, Jennifer Zavala, Iyana Bocha --

6 COUNCILWOMAN BASS: Let's start
7 with just the first three. So why don't
8 we start with the first three, and if we
9 could have those folks come. And just
10 to be clear, we're now calling panelists
11 and witnesses on Bill No. 220051; is
12 that correct, Madam Clerk?

13 THE CLERK: Yes, that's
14 correct, Madam Chair.

15 COUNCILWOMAN BROOKS: Madam
16 Chair, can I be recognized before the
17 panel starts?

18 COUNCILWOMAN BASS: Absolutely.
19 Why don't we go ahead and start with the
20 sponsor of the bill. Councilwoman
21 Kendra Brooks, you are now recognized.

22 COUNCILWOMAN BROOKS: Thank you
23 so much, Councilmember Bass.

24 I would like to make a few
25 comments before we hear from our

1 panelists about the COVID-19 paid sick
2 leave bill. Council passed Public
3 Health Emergency Leave twice over the
4 pandemic to protect our City's workers
5 during the global pandemic, but that
6 leave ended last year. And as we all
7 know, the pandemic has not ended and our
8 workers are still in need of protection.

9 For the last two months,
10 workers have been left out of mandatory
11 paid sick leave protection. My office
12 has heard firsthand that this has made
13 the recent spike in cases high due to
14 the highly contagious Omicron variant,
15 especially low-wage workers. These
16 workers are disproportionately
17 immigrants, Black and Brown people and
18 women.

19 The communities have been most
20 impacted throughout the pandemic and
21 many of them are once again being asked
22 to choose between coming to work sick or
23 missing a paycheck that they can't
24 afford to miss. As the cases decline
25 and vaccines become more widely

1 available, there is much to be hopeful
2 about. But with schools, stadiums and
3 restaurants open, we must continue to be
4 vigilant.

5 A successful reopening is one
6 where workers know that they can come to
7 work again and they can be safe and
8 they'll be able to keep their families
9 safe. And it's one where members with
10 the public feel confident interacting
11 with employees. And protecting workers
12 is not just the right thing to do, it's
13 good public health policy and also good
14 business strategy.

15 The previous two emergency sick
16 leave bills that were signed into law
17 protected thousands of workers and kept
18 businesses open safely. And in fact,
19 many businesses are already doing the
20 right thing and providing adequate paid
21 sick leave to their workers during the
22 pandemic, showing that protecting
23 workers also protects businesses.

24 I would like to thank my
25 co-sponsors on this bill for their

1 support, Councilmembers Bass, Gauthier,
2 Gilmore Richardson, Gym, Parker and
3 Thomas. Thank you so much.

4 COUNCILWOMAN BASS: Thank
5 you --

6 COUNCILWOMAN BROOKS: Oh, one
7 other thing I want to add about the
8 amendments. I forgot about that. We
9 have a few amendments that we created
10 after feedback from stakeholders. The
11 first amendment was that we changed the
12 sunset provision so that the bill
13 expires December 31, 2023 rather than
14 365 days after its effective date, and
15 we made this decision after feedback,
16 that the end of the year is more
17 workable for employers than the midyear
18 end date.

19 We made adjustments so that
20 businesses with generous paid leave
21 benefits are not required to provide
22 additional leave under this bill. And
23 we clarified provisions around certain
24 labor negotiations and collective
25 bargaining agreements, and we also

1 included heightened enforcement language
2 that authorizes periodic publishing of
3 employers with current unresolved
4 violations as permitted by law.

5 So we know that the time to
6 pass this bill is now. We cannot have
7 another surge and another outbreak where
8 workers are being forced to come into
9 work with COVID, passing it around to
10 their peers and bringing it home to
11 their workers. So workers who go in
12 every day during the pandemic to provide
13 services to the public deserve to be
14 able to voice their concerns and stay
15 home knowing they can still pay their
16 bills.

17 Thank you so much, Madam Chair.

18 COUNCILWOMAN BASS: Thank you,
19 Madam Chair -- thank you, Councilwoman.

20 I know we're going to get into
21 it a little bit further along, but I did
22 have a couple of questions. But I'd
23 like to probably hear directly from the
24 panelists and those testifying because
25 it actually may address some of the

1 questions that I have ahead of time, so
2 thank you very much.

3 If we could now have the first
4 witness to testify.

5 DEPUTY MAYOR LAZER: Good
6 afternoon, Chair Bass and members of the
7 Committee. My name is Rich Lazer. I'm
8 Deputy Mayor for Labor and I appear
9 before you today to testify on Bill No.
10 220051. This bill is a further
11 extension of the Public Health Emergency
12 Leave ordinance that was passed in June
13 2020 in response to the COVID-19
14 pandemic.

15 While the original bill sunset
16 at the end of 2020, the pandemic is
17 still impacting the lives of
18 Philadelphians in countless ways. This
19 is the second renewal of the public
20 health emergency leave ordinance and if
21 passed, will extend and in some cases
22 expand upon these emergency protections.

23 I'd like to highlight the
24 inclusion of the bad actor language in
25 the ordinance. The pandemic has been

1 the main cause in sick leave complaints
2 increasingly being filed with the
3 Department of Labor, tripling in numbers
4 since prepandemic. Most of this
5 increase was from essential workers
6 employed in food service, supermarkets,
7 department stores and health care.

8 These workers have been the
9 backbone of our neighborhood and
10 community and authorizing the Department
11 to publish a bad actor list, the bill
12 gives us another tool that can be used
13 to ensure equity and justice for
14 hard-working Philadelphians.

15 I would also like to note that
16 the different iterations of this
17 emergency benefit have applied to
18 different sized businesses during the
19 pandemic. While the first iteration
20 applied to all employees, the second
21 iteration applied to only businesses
22 with 50 or more employees. This current
23 iteration as proposed would mirror our
24 existing paid sick leave ordinance and
25 apply to businesses with 10 or more

1 employees. This in large scope could
2 prove burdensome for some employers and
3 if unchanged, the Department of Labor
4 will work closely with the Department of
5 Commerce to ensure proper education and
6 enforcement of the new ordinance go hand
7 in hand.

8 I would like to thank
9 Councilperson Brooks, the sponsor of
10 this bill, and all the co-sponsors for
11 their leadership on this issue. As we
12 will enter our third year of the
13 pandemic, this bill will ensure critical
14 workplace protections stay in place for
15 employees in the City of Philadelphia as
16 we continue our recovery of COVID-19
17 over the next year. At this time, I'm
18 happy to take any questions by the
19 Committee today.

20 COUNCILWOMAN BASS: Thank you,
21 Mr. Lazer. We're going to hold the
22 questions until the end. Thank you.
23 Next panelist.

24 (No response.)

25 COUNCILWOMAN BASS: Madam

1 Clerk, can you call the next panelist
2 who was after Mr. Lazer.

3 THE CLERK: Reyna Guzman
4 Casarez.

5 COUNCILWOMAN BASS: Reyna, are
6 you here -- oh, here she is. Okay.
7 Please state your name for the record
8 and begin your testimony.

9 MS. GUZMAN CASAREZ: Okay. My
10 name is Reyna Guzman Casarez. I'm
11 speaking in Spanish. Okay.

12 COUNCILWOMAN BASS: Okay. Do
13 you have -- is someone available to do
14 interpretation services? Do you have
15 someone on the call who can --

16 MS. POURZAND: I will be
17 reading the same letter in English after
18 Reyna.

19 COUNCILWOMAN BASS: Okay.
20 Excellent. Thank you.

21 MS. GUZMAN CASAREZ: (Statement
22 read in Spanish).

23 MS. POURZAND: Should I go?

24 COUNCILWOMAN BASS: Please
25 proceed.

1 MS. POURZAND: Hi. My name is
2 Carly Pourzand. I'm an Organizer with
3 215 People's Alliance and a supporter of
4 El Comite de Trabajadores. I am going
5 to read this letter in support of Bill
6 220051 from El Comite in English. This
7 letter has the full support of 215
8 People's Alliance and the Coalition for
9 Restaurant Safety and Health.

10 Dear City Council and Mayor
11 Kenney, we are El Comite de
12 Trabajadores. We are a group of
13 immigrant workers who want a healthier
14 and safer restaurant industry for all.
15 We live in a wonderful and
16 multi-cultural city with thousands of
17 diverse restaurants. But when we are
18 forced to work when we are sick, the
19 entire industry and City suffers.

20 If we want to reduce the spread
21 of COVID-19 and keep Philadelphians
22 healthy and thriving, we need paid sick
23 leave. We are writing to you to demand
24 that you pass Councilmember Kendra
25 Brooks bill for emergency paid sick

1 leave. We need this for all businesses,
2 small and large, because all workers
3 should have access to paid sick leave.
4 But for now, we're asking that you pass
5 this bill for workers at businesses with
6 10 or more employees.

7 We are writing instead of
8 speaking to protect our own safety, but
9 feel strongly that our message should be
10 heard. Here are a few quotes from our
11 base that explain why we need emergency
12 paid sick leave: One worker said, For
13 me it's very important to have this
14 approved because I have children and if
15 I get sick or they get sick, I will be
16 able to stay home with them. This law
17 also shows me that I am valued as a
18 person because when I am sick I can stay
19 home and get better. This will make me
20 feel seen as a human being.

21 Another worker said, If you ask
22 me, emergency paid sick leave is
23 important not just for me, but for
24 everyone. It will help me and protect
25 the people around me. Otherwise, it's a

1 never-ending story. The cycle of COVID
2 will just continue. Our bosses force us
3 to work while we are sick and if we have
4 COVID, we're going to work anyway
5 because our fear of losing our job. I
6 have had this abuse in the past and I
7 don't want to be fired again unjustly.
8 This law will make me feel protected and
9 safe.

10 Another worker shared their
11 story saying, I've been having a lot of
12 bad luck lately. My husband got sick
13 with COVID-19 in December and then I
14 also was infected. I did not go to work
15 for a week so that I could get better
16 and not affect others. I told my boss
17 that I was sick and needed to miss work
18 for this reason. However, when I went
19 back to work the next week, my boss said
20 I didn't work there anymore because I
21 was gone for that week. He already
22 hired someone else. Then I couldn't
23 find another job. We need to be able to
24 take off when we have COVID and return
25 to work healthy.

1 One worker was unsure about the
2 vaccine but then said, Although I had my
3 concerns about it, I got my vaccine.
4 Then they didn't want to pay for my day
5 off. Another worker is being told to
6 work when sick saying, My employer is
7 not offering me any sick days and tells
8 me that I have to go to work when I'm
9 sick. He told me he won't pay me to be
10 at home doing nothing. That's why I
11 support this bill and want these
12 emergency paid sick days to support that
13 I should be able to take off.

14 Another worker shares, My
15 restaurant closed for a week because of
16 COVID. My job offers paid sick leave
17 because of the law, but we only have a
18 few hours of the existing law. We could
19 have really used 40 more hours for
20 COVID-19.

21 There are many more workers
22 with many more stories. We now need to
23 learn to live with COVID-19, and that
24 includes being able to take time off
25 when we're sick to prevent the spread.

1 Please pass Councilmember Kendra Brooks
2 bill for emergency paid sick leave
3 today. Sincerely, El Comite de
4 Trabajadores. Thank you.

5 COUNCILWOMAN BASS: And thank
6 you. And I believe do we have one other
7 panelist, Madam Clerk?

8 THE CLERK: Yes, we have a few
9 more panelists, Madam Chair.

10 COUNCILWOMAN BASS: Why don't
11 we do one more so that we can have
12 three, and then we'll open it up for
13 questions for the panel.

14 THE CLERK: You want three
15 panelists? We have five.

16 COUNCILWOMAN BASS: Three
17 total. So we had Rich, we had
18 Ms. Guzman --

19 THE CLERK: We have a total of
20 five more panelists, Madam Chair.

21 COUNCILWOMAN BASS: Okay.
22 Let's have one more testify.

23 THE CLERK: Melissa Walter.

24 MS. WALTER: Hello, everyone.

25 COUNCILWOMAN BASS: Hello. If

1 you could state your name for the record
2 and proceed with your testimony.

3 MS. WALTER: Yes. My name is
4 Melissa Walter. I am the co-founder of
5 Love City Brewing Company. We're a
6 craft brewery and tap room that opened
7 in 2018. We're located in the 1st
8 Councilmanic District. And I want to
9 thank Councilperson Brooks for
10 introducing this bill and Councilman
11 Squilla for co-sponsoring it as well.

12 So we currently employ 20
13 people, 8 of which are full-time and 12
14 are part-time. So these regulations
15 absolutely would apply to my company,
16 but our internal policies actually go
17 above and beyond what's required by this
18 bill.

19 But I'm supporting this bill
20 because I believe it's beneficial for
21 the City and manageable for small
22 businesses. In general, sick leave is
23 incredibly important for service sector
24 employees. Nobody wants someone ill
25 handling their food and beverages, and

1 co-workers don't want to get ill
2 themselves from their co-workers.

3 The simple truth is that
4 workers who can't afford to stay home
5 won't. You know, if the decision is
6 between coming to work with an illness
7 and missing out on a portion of your
8 income, many people will choose to work,
9 especially if that income is the
10 difference of being able to pay your
11 bills.

12 So I believe this bill is good
13 public health policy, but I also believe
14 that it's a good business decision. So
15 a quick example, obviously one of our
16 bartenders unfortunately came down with
17 COVID-19. She was scheduled to work on
18 a Saturday and was experiencing
19 symptoms, so we asked her to take a
20 COVID test before coming to work which
21 we actually provided, and it came up
22 positive so she stayed home for five
23 days. Her symptoms resolved and she
24 came back to work later that week.

25 So in the end, our company paid

1 \$15 for the COVID test and about \$360 in
2 sick leave benefits. This bartender
3 supports her family and I don't know
4 what decision she would have made if she
5 didn't receive sick pay, but I can guess
6 what would have happened to our business
7 if she came to work and infected other
8 people.

9 Nearly all of our workers are
10 on shift on Saturday and even if 50
11 percent of them became ill, we would
12 have likely had to close our doors due
13 to the inability to staff the tap room.
14 So paying under \$400 in benefits likely
15 saved us thousands of dollars in
16 possible lost revenue.

17 There has been many servers who
18 left their positions during the past 18
19 months. Lack of sick benefits is one of
20 the reasons, but I believe our company
21 is a testament to how providing those
22 benefits can actually minimize turnover.
23 So from March 2020 to March 2021, we
24 retained over 80 percent of our staff.

25 And hiring and training new

1 employees is always a possibility, so
2 any policy that helps employee retention
3 I believe is good for bottom line. So
4 as a City resident and a business owner,
5 I fully support this bill because it
6 helps workers stay healthy and follow
7 the CDC guidelines, and I believe it's a
8 great thing for public health and for
9 small business. Thank you.

10 COUNCILWOMAN BASS: Thank you.
11 Thank you for your testimony. Very
12 informative and good perspective.

13 We will now open it up for
14 questions from members of Council. I'm
15 going to start with Councilwoman Brooks
16 and then Councilman Green.

17 Councilwoman Brooks.

18 COUNCILWOMAN BROOKS: Thank you
19 so much, Madam Chair.

20 My first question is for Deputy
21 Commissioner Rich Lazer. Has the
22 Department recorded any complaints of
23 fraud or abuse related to this benefit?

24 (No response.)

25 COUNCILWOMAN BROOKS: Is he

1 still on? Did we lose him?

2 COUNCILWOMAN BASS: It looks
3 like he's still here.

4 (No response.)

5 COUNCILWOMAN BASS: Mr. Lazer.

6 (No response.)

7 COUNCILWOMAN BASS: Maybe he's
8 having some difficulty coming off of
9 mute -- oh, there he is.

10 COUNCILWOMAN BROOKS: There he
11 is.

12 DEPUTY MAYOR LAZER: I'm having
13 difficulty. Can everybody hear me?

14 COUNCILWOMAN BROOKS: Yes, we
15 can hear you.

16 DEPUTY MAYOR LAZER: All right.
17 I'm having a hard time with my mute
18 button. Yeah, I mean we've gotten --
19 like I said, we've gotten an increase in
20 complaints. I know Candice Chewing
21 from my office is on here to speak to
22 specifics on any of the specifics you
23 asked. But I know we've gotten a lot of
24 complaints since it was in effect.

25 COUNCILWOMAN BROOKS: Was it

1 specifically about fraud or abuse?

2 DEPUTY MAYOR LAZER: Not to my
3 knowledge, but I will defer to Candace
4 because she oversees the enforcement.

5 MS. CHEWNING: Hi. This is
6 Candace Chewning. We have not received
7 any -- we don't track fraud, paid sick
8 leave fraud or abuse from employees, if
9 that's the question. We only receive
10 violations from employees against
11 employers on not providing paid sick
12 leave.

13 COUNCILWOMAN BROOKS: Thank you
14 so much for that.

15 My next is a thank you. I want
16 to thank Reyna for sharing her concerns
17 of other immigrant workers. And for the
18 stories like yours, that's exactly why
19 we're trying to produce this bill and
20 what we're trying to prevent. So I want
21 to thank you so much for sharing.

22 And can the interpreter share
23 that with Reyna as well, please.

24 MS. POURZAND: (Interpreted in
25 Spanish).

1 MS. GUZMAN CASAREZ: Thank you
2 for the statement. Thank you for
3 listening not just to me, but as a
4 representative of a whole community of
5 workers who will need to be represented
6 and heard and protected during such a
7 difficult time, and we love the United
8 States but we feel that we also need a
9 voice and to be protected here.

10 COUNCILWOMAN BROOKS: Thank
11 you.

12 And my last question is for
13 Melissa. What do you say to those who
14 might call this bill bad for small
15 businesses like yours?

16 MS. WALTER: I mean, I
17 understand that we are all still
18 probably in a financial situation, you
19 know, coming out of COVID-19, but I
20 don't believe that not providing sick
21 benefits is going to improve our
22 financial situation at all. If workers
23 feel protected and feel like they can
24 stay home when they're ill, then they
25 likely will and prevent the spread of

1 COVID-19 and I think will come out
2 better with better bottom lines as well.

3 COUNCILWOMAN BROOKS: Thank you
4 so much, Melissa.

5 Madam Chair, that concludes my
6 questions.

7 COUNCILWOMAN BASS: Thank you
8 very much, Councilwoman.

9 And now, we'll move to
10 Councilman Derek Green.

11 COUNCILMAN GREEN: Thank you,
12 Madam Chair.

13 I want to thank the sponsor for
14 this legislation. It's important to
15 keep workers safe in our City as well as
16 making sure that we have a vibrant
17 community of businesses of all sizes in
18 the City of Philadelphia.

19 I was struck though by the
20 testimony by Mr. Lazer. In your
21 testimony, you used the phrase some
22 burden, and I wanted to get some
23 perspective by what you meant by that.
24 Was that in reference to certain types
25 of businesses?

1 You said there was -- I want to
2 make sure I have the full context of
3 your question. And I think you used the
4 phrase some burden, and I just want to
5 get some more perspective on that.

6 DEPUTY MAYOR LAZER: The
7 Department of Commerce had some concerns
8 about this bill being enforced on
9 businesses with less than 50 employees.

10 COUNCILMAN GREEN: And can you
11 give some more context when you said
12 some concerns?

13 DEPUTY MAYOR LAZER: I believe
14 there might be somebody from Commerce on
15 here to answer the question, but I
16 believe it was more on the financial
17 burden that it would put on a small
18 business under 50 employees.

19 COUNCILWOMAN BASS: I see
20 NazAarah Sabree is here from Commerce.
21 NazAarah, do you want to respond to that
22 question?

23 MS. SABREE: Good morning,
24 Councilwoman Bass and all of Council --

25 COUNCILWOMAN BASS: Good

1 morning -- good afternoon.

2 MS. SABREE: -- on this
3 Committee. We did initially have some
4 concerns, but once we found out or
5 learned that this bill mirrors the paid
6 sick leave that is already on the books,
7 we vacated that. But as Rich Lazer
8 stated, initially we did have some
9 concerns about operating cost and lack
10 of talent and the financial burden that
11 it would bring on small businesses. But
12 again, we are not there anymore, so we
13 are just committed to further --
14 committed to talking to you all about
15 the benefits of this bill and how we can
16 move it forward.

17 COUNCILWOMAN BASS: Very good.

18 COUNCILMAN GREEN: I was just
19 curious trying to get some context,
20 because the paid sick leave bill was
21 passed a different time when the City
22 and actually the world was in a much
23 more different financial state. I know
24 from testimony that Commerce has
25 provided other entities, that a number

1 of businesses were significantly
2 impacted by the pandemic, especially the
3 Black and Brown businesses on our
4 commercial corridors.

5 Many of those businesses that
6 were already struggling maybe due to a
7 lack of resources and lack of support
8 actually had to close. A
9 disproportionate amount of African
10 American- and Brown-owned businesses had
11 closed based on information from both
12 the United States Census and Washington
13 Journal coming out of the pandemic as
14 opposed to the majority-owned businesses
15 that have traditionally had higher
16 capitalization.

17 So my understanding from you,
18 Ms. Sabree, is that the Commerce
19 Department no longer has those concerns
20 in reference to small businesses,
21 especially on our commercial corridors?

22 MS. SABREE: We are further
23 discussing what our concerns are. So we
24 have noticed that there have been --
25 initially with the first paid sick leave

1 prepandemic, we had some concerns. And
2 we do understand there are a lot of
3 issues that our small businesses are
4 experiencing.

5 However, we want to -- I'm
6 sorry. I'm going in and out. But we
7 want to just make sure that, you know,
8 what is on the books is representing all
9 businesses and it's not further
10 affecting what they're going through
11 prepandemic as well as during the
12 pandemic. So we are in discussions
13 about some of the other benefits that
14 could come of this bill.

15 COUNCILMAN GREEN: If I could
16 have Mr. Lazer come back.

17 DEPUTY MAYOR LAZER: Yes, I'm
18 here, Councilman.

19 COUNCILMAN GREEN: So if I
20 remember correctly -- and I apologize, I
21 just got back in town from a funeral --
22 this bill is an amendment to the
23 original public health emergency leave
24 or is this the third iteration of that?

25 DEPUTY MAYOR LAZER: This will

1 be (inaudible) --

2 COUNCILMAN GREEN: I think
3 Mr. Lazer got disconnected.

4 COUNCILWOMAN BASS: Mr. Lazer,
5 can you repeat that? You blocked out on
6 us. You went out on us.

7 DEPUTY MAYOR LAZER: (Muted).

8 COUNCILWOMAN BASS: Can't hear
9 you.

10 COUNCILMAN GREEN: We're still
11 not hearing you.

12 MS. CHEWNING: I can jump in
13 since his audio is not working. It's
14 the third.

15 COUNCILMAN GREEN: Who was that
16 speaking?

17 MS. CHEWNING: This is Candace
18 Chewning from --

19 COUNCILMAN GREEN: You just
20 have to state your name for the record
21 for the stenographer.

22 MS. CHEWNING: This is Candace
23 Chewning from the Office of Worker
24 Protection.

25 COUNCILMAN GREEN: You said

1 this is the third?

2 MS. CHEWNING: Yes, it's the
3 third.

4 COUNCILMAN GREEN: So in the
5 first and second iteration of this bill,
6 this applies to employers of how many
7 employees?

8 MS. SABREE: This is NazAarah
9 Sabree. I believe it was 50-plus.

10 MS. CHEWNING: So one of the
11 iterations was 50 -- can you hear me? I
12 can't tell if I'm --

13 COUNCILWOMAN BASS: Can you
14 just state your name again for the
15 record.

16 MS. CHEWNING: Sorry. This is
17 Candace Chewning. One of the PHEls was
18 50 or more employees. And the other one
19 was everyone who was not included within
20 the FFCRA.

21 COUNCILMAN GREEN: So for the
22 second iteration, was that also 50
23 employees?

24 MS. CHEWNING: Yes, the second
25 one was 50.

1 COUNCILMAN GREEN: So I just
2 want to make sure I understand the
3 record, because like I said I'm trying
4 to catch up because I've been out of
5 town. So all of the public health
6 emergency leave bills had a base of 50
7 employees threshold?

8 MS. CHEWNING: No, the initial
9 PHEL was for all employees who are not
10 covered under the FFCRA. The FFCRA
11 covered from employers with 499 or less
12 employees with a --

13 COUNCILMAN GREEN: Okay.

14 MS. CHEWNING: -- requirement.
15 And so, this would have been 500 or more
16 was the initial public health emergency
17 leave.

18 COUNCILMAN GREEN: Okay.

19 MS. CHEWNING: The second
20 one -- and it is a bit confusing, I
21 know. But the second one was 50 or more
22 employees.

23 COUNCILMAN GREEN: Okay. So
24 500 was the first one. The second bill
25 was 50. And now this as proposed is at

1 10?

2 MS. CHEWNING: This is at 10,
3 yes. And that, as Rich had said, echoes
4 the original 2015 bill.

5 COUNCILMAN GREEN: Right, but
6 the 2015 bill was not during the
7 pandemic like the other two pieces of
8 legislation were.

9 MS. CHEWNING: That's right,
10 yeah.

11 COUNCILMAN GREEN: All right.
12 I just want to make sure I have an
13 understanding.

14 Thank you, Madam Chair.

15 COUNCILWOMAN BASS: Thank you,
16 Councilman.

17 Do we have any other questions
18 from the panel? Any other questions
19 from members of Council?

20 (No response.)

21 COUNCILWOMAN BASS: And if not,
22 we'll have the Clerk please read the
23 next panelist for this bill.

24 THE CLERK: Jennifer Zavala,
25 Iyana Bocha, NazAarah Sabree and Will

1 Carter, Esquire.

2 COUNCILWOMAN BASS: Okay. And
3 if we can have folks proceed in that
4 order. Jennifer, are you here?

5 MS. ZAVALA: Yes, I am here.

6 COUNCILWOMAN BASS: Okay.
7 Jennifer, if you could state your name
8 for the record and proceed with your
9 testimony.

10 MS. ZAVALA: Yes. My name is
11 Jennifer Zavala. I am chef, co-owner of
12 Jauna Tamale at 1941 East Passyunk
13 Avenue. I'm trying to figure out my
14 camera here, so please allow me a minute
15 to turn that on. I think it's not
16 working so I'm just going to go ahead
17 and --

18 COUNCILWOMAN BASS: Okay.

19 MS. ZAVALA: My name is
20 Jennifer Zavala and I support this bill
21 and Councilwoman Brooks moving forward.
22 And this is what I have to say as far as
23 my experience in the restaurant industry
24 and especially dealing with COVID for
25 the last couple of years: So I am 27

1 years into the food service business. I
2 have been here in the City of
3 Philadelphia the last 15 years in my
4 career (inaudible).

5 Some of you may know me from
6 various things around the City. I have
7 been on Top Chef Season 6. I am part of
8 La Domis (inaudible) which is a national
9 womens organization in food service. I
10 am also an ambassador with is CORE,
11 which is Children of Restaurant
12 Employees who support and provide
13 financial aid to the children of
14 restaurant employees throughout the
15 country.

16 In my 27 years of working in
17 food service, I can say there has been
18 one time that I have been ever offered
19 benefits or even considered taking time
20 off when I've been sick, but here I am
21 as an employer in Philadelphia.
22 Opening -- my business is fairly new.
23 It's been open for three and a half
24 months. And to say it has been
25 challenging is an understatement. COVID

1 has wreaked havoc on every aspect of
2 life for everyone.

3 One of the things that has
4 affected me the most, especially with
5 opening a business, is to have children
6 and I'm a two-person working household
7 as well as opening a new business. It
8 has been extremely difficult to manage
9 that and to know that there are
10 employees who live the same life as me,
11 which is have children. And having a
12 day off or taking a day off because
13 they're sick can wreak havoc on your
14 everyday life as well it being a public
15 health issue.

16 Having an employee come to work
17 sick means that I put my child
18 potentially at risk for getting sick and
19 my child has medical issues and heart
20 concerns since he's been born. And
21 knowing that I would be passing on to
22 him just having an employee to come in
23 so that I can provide food and a bottom
24 line just doesn't seem morally correct
25 for me.

1 Recently Philadelphia Magazine
2 has dropped the 75 most influential
3 people and I have ranked No. 45. And
4 the reason for that is after my 27 years
5 of experience and over the last two
6 years, I can open a restaurant and I can
7 provide food, but for me what has been
8 most important is to be a gamechanger in
9 food service and that is (inaudible).

10 When someone comes to me and
11 says they can't work because they are
12 sick, it is my responsibility to
13 accommodate that by allowing them to
14 have the time off, paying them because
15 if they don't come to work, that can
16 wreak havoc on their everyday life. I'm
17 a micro business. I only have seven
18 employees. I believe it was 10 and now
19 it's up to 50. Even still, I provide a
20 living wage. I provide resources for
21 insurance. I also provide catastrophic
22 insurance just in case one of our
23 employees who's not actually working
24 that day or with COVID or what have you
25 has to go to the hospital, we cover

1 that. Knowing that I respect the people
2 that work with me has been more
3 productive for my business (inaudible).

4 I feel this bill is really
5 important because you can't put a price
6 on human experience. I don't think
7 there has been 1 person that hasn't been
8 affected by this greatly, parents,
9 single parents, grandparents, whether
10 you've had COVID or you've indirectly
11 had someone in your life that's had
12 COVID.

13 I have seven employees. In one
14 day in January, we had one of our
15 employee's aunts pass with COVID. We
16 had another one of our employees whose
17 father got rushed to the hospital of
18 complications with COVID, and they found
19 out he had colon cancer.

20 We had another employee who due
21 to the rent issue that couldn't pay rent
22 was having some moving issues all of a
23 sudden. I shut my business down for a
24 week to allow everyone to regroup. The
25 responsibility of being open and trying

1 to make people come into work or putting
2 pressure on them so I'm able to meet my
3 bottom line was just not something that
4 I was willing to do.

5 There also are parents that
6 work in my business and child care has
7 been extremely difficult and I know that
8 firsthand because I've experienced it
9 myself, but to also see employees have
10 to deal with that issue as well has been
11 something that is far from concerning.

12 I think it's kind of a major
13 public health issue allowing people who
14 are handling your food who are not well.
15 If you are getting the COVID vaccine,
16 you need the time to heal with your body
17 or if you're dealing with some previous
18 health issue, and I think it's important
19 to allow people since you're asking them
20 to do that for you, the grace to be able
21 to take care of themselves if they're
22 not feeling well after the shot.

23 This is very important to me as
24 a small business because I believe it's
25 time for us as business people to be

1 better business operators and respect
2 the people that come in every day and
3 work for you. It allows you to make
4 money and to live your life and to have
5 the dream you wish for yourself, the
6 autonomy and time for your family. If
7 you're (inaudible) --

8 COUNCILWOMAN BASS: Jennifer?
9 Jennifer? Jennifer? Hello? Jennifer?
10 Hello, Jennifer, can you hear us?

11 (No response.)

12 COUNCILWOMAN BASS: I think we
13 may have lost her. Jennifer -- oh, no
14 she's here. I see her.

15 (No response.)

16 COUNCILWOMAN BASS: Okay.
17 We'll come back to Jennifer. If you can
18 hear me, we really couldn't hear you,
19 especially towards the end. It was
20 going in and out and in the end it was
21 mostly out. So we'll come back if you
22 want to summarize your remarks. In a
23 few minutes we'll swing back before we
24 end this panel.

25 The next speaker I believe was

1 NazAarah, but I know, NazAarah, you
2 already spoke. Did you have additional
3 comments or testimony that you wanted to
4 give on behalf of Commerce?

5 MS. SABREE: No, just that
6 we're available for questions.

7 COUNCILWOMAN BASS: Very good.
8 Thank you so much.

9 And I believe next we have
10 Mr. Will Carter from the Philadelphia
11 Chamber of Commerce.

12 MR. CARTER: Yes, Councilwoman.
13 Can you hear me?

14 COUNCILWOMAN BASS: We can hear
15 you well.

16 MR. CARTER: All right. All
17 right. Thank you, Committee, for
18 allowing me to testify at this time.
19 The business community certainly has a
20 stake in ensuring public safety and is
21 working with the government to have our
22 City return to its normal status to be
23 expected. However, across the City the
24 impact of COVID-19 virus is evident with
25 too many vacant storefronts, and the

1 viability of many of our commercial
2 corridors has been saffed. For those
3 reasons alone, proposals that would
4 increase cost on already struggling
5 businesses should be approached with the
6 utmost sensitivity and consideration of
7 each's very real circumstances.

8 I can say many of you all know
9 I worked in City Council 16 years prior
10 to joining the Chambers as Vice-
11 president. I actually co-wrote the
12 legislation regarding sick leave back in
13 2011. And I think the point was made
14 earlier by Councilman Green that that
15 was during the time when there was no
16 pandemic or no economic emergency in
17 addition to a health emergency
18 happening. It actually took us a year
19 and a half to get that written and
20 passed.

21 This bill was introduced three
22 weeks ago and has been on the fast
23 track, at least in my opinion put on the
24 fast track to get passed today out of
25 Committee. And I don't think the

1 appropriate amount of consideration has
2 been given in talks with businesses and
3 those affected by this legislation has
4 been had. So the due diligence that I
5 know it requires on a bill that affects
6 this many businesses throughout our City
7 that are struggling has in my opinion
8 not taken place.

9 We did have a conversation with
10 the Councilwoman on Friday. It was
11 about a 15-minute call. They said they
12 would consider our amendments. We had
13 amendments that were introduced. Those
14 amendments when I woke up this morning
15 were not included in the amendments that
16 the Councilwoman has proffered during
17 this call -- I mean, during this
18 meeting.

19 And so, it's really frustrating
20 when you represent working people, and
21 business people are just as much working
22 people as individuals are. As a matter
23 of fact, business owners are working 365
24 days a year 24/7. They're working so
25 hard that they're creating work for

1 other people. They are no less working
2 people than individual workers out here.

3 And I think a lot of the
4 business community feels as though City
5 Council and some members of City Council
6 don't respect that or don't appreciate
7 the work that they're putting in to try
8 to even survive out here. I hear it on
9 a regular basis. In the very least,
10 when you're about to double the cost on
11 their businesses in this particular way,
12 it shouldn't be a rushed process. You
13 should have sit down, a couple of
14 stakeholder meetings, not phone calls
15 where it's just Zoom with people like
16 myself that you guys are used to hearing
17 from, but real business owners that say,
18 I'm about to leave the City of
19 Philadelphia because I can't take it
20 anymore. And we need those jobs here.
21 The bottom line is we need those jobs
22 here.

23 And if you look at every
24 industry that I've seen from very a
25 reputable source, the Pew Charitable

1 Trust, we rank as a city at the bottom
2 in terms of a business-friendly
3 environment. For some reason, it seems
4 as though we don't treat our businesses
5 with a sense of kinship. They're our
6 businesses.

7 I go to other cities, they
8 promote their businesses. Hey, Atlanta,
9 we got Coca-Cola, we love them. Why,
10 because they're providing jobs and
11 economic development and activity. Hey,
12 if you go to Nashville, Nashville is
13 booming right now. My mother used to
14 live there. They embrace their
15 businesses and want them to stay there
16 because that's where the jobs are coming
17 from.

18 So when you have a city that's
19 known unfortunately with the largest
20 poor population, you have to really look
21 at your private sector and say, I need
22 to support you guys because that's where
23 the jobs come from so we can get people
24 out of poverty, train people for the
25 jobs today and increase our stand

1 economically. It's just unfortunate
2 that -- all I can say is we can do more
3 to embrace our business community. And
4 I wish they had time to get on these
5 calls, but they're working 24/7, 365.

6 So we appreciate if you all
7 consider the amendments, particularly
8 the one that raises it back up to 50.

9 As was indicated earlier, the past
10 legislation was passed during an
11 emergency. It's my understanding that
12 the government has dropped the emergency
13 declaration so this is just simply
14 adding sick time. It's not even an
15 emergency. It's in the title, but it's
16 not an emergency. It's understandable,
17 we don't want anybody going to work
18 sick. Nobody wants that to happen.

19 But on the federal level when
20 they passed it, they had tax credit to
21 help businesses to afford it. This is
22 not offered at all in this legislation.
23 There's nothing that says, we're going
24 to figure out how to help these
25 businesses do this. It's just assumed

1 that they have the money. And my mother
2 told me a long time ago, don't count
3 money in other people's pocketbooks.
4 And I think that that's what's happening
5 in this particular case right now.

6 The young lady who spoke
7 earlier who owns a business was very
8 anecdotal. I think, yeah, everybody
9 should be able to do this. She's
10 counting money in other people's
11 pocketbooks. You don't know what's
12 going on with these individual
13 businesses until you sit down and talk
14 to them and they explain to you with
15 exasperation on their face how they're
16 struggling to stay afloat.

17 So with that testimony, we
18 would really appreciate more time to
19 talk with the Councilmember about this.
20 You will see by and large when you speak
21 to real people, and we're talking about
22 Black, White, Asian, what have you
23 across the board, they are struggling to
24 stay afloat and keep anybody on the job,
25 let alone having to add more time on.

1 So people understand, the
2 business community understand we don't
3 want people working sick. But at the
4 same time, it should be more
5 consideration given to how something
6 like this can come together over a
7 little bit more time to talk about it
8 and understand the people you affected.
9 And it seems to me if you're going to
10 pass a bill from the beginning, those
11 are the people you should be talking to
12 right off the bat before you introduce
13 it, but sometimes that just doesn't
14 happen. And that's my testimony. Thank
15 you, Councilwoman.

16 COUNCILWOMAN BASS: Okay.
17 Thank you, Mr. Carter, for your
18 testimony. And we will have some
19 conversations as members of Council
20 around making sure that there's due
21 process and that we hear your voice and
22 your concerns. We don't want anyone to
23 feel that they don't have a voice in the
24 conversation.

25 Madam Clerk, additional

1 panelists?

2 THE CLERK: Yes, Madam Chair.

3 Zak Pyzik, Amber Smith and Walter
4 Thomas.

5 COUNCILWOMAN BASS: Okay. Zak,
6 if you could please state your name for
7 the record and proceed.

8 MR. PYZIK: Good afternoon,
9 Chair Bass. My name is Zak Pyzik, and I
10 am the Director of Government Affairs at
11 the Pennsylvania Restaurant and Lodging
12 Association, the PRLA. And again, good
13 afternoon, Chair Bass and members of the
14 Committee on Public Health and Human
15 Services.

16 We appreciate this opportunity
17 to submit feedback regarding Bill No.
18 220051. PRLA represents restaurants,
19 hotels and the entirety of the travel
20 tourism industries in Pennsylvania.
21 There are more than 26,000, 1500 hotels
22 and 100 traveling and tourism partners
23 that we do represent.

24 More than 350 PRLA members
25 operate in Philadelphia and about 75

1 percent of those restaurants are
2 considered smaller operations with
3 nearly 25 percent that are minority- or
4 women-owned businesses. The last 20
5 months have been extremely challenging
6 for operators in the tourism and
7 hospitality industries. The only thing
8 that's been predictable for so many
9 small businesses in Pennsylvania is
10 unpredictability.

11 The data shows concerning
12 trends. Sales are down 30 percent
13 compared to the same time of year in
14 2019. 93 percent of restaurant
15 operators report staffing shortages and
16 65 percent report higher food cost now
17 than before the pandemic. Our national
18 partner just released Pennsylvania's
19 specific results from its latest COVID-
20 19 restaurant impact survey. And as you
21 can imagine, the Omicron variant has
22 negatively impacted business conditions
23 of Pennsylvania.

24 For example, 93 percent of
25 restaurants have experienced a decline

1 in customer demand for indoor dining.
2 56 percent of operators have reduced
3 hours of operation and 59 percent have
4 closed on days they would normally be
5 open. It's clear that Philadelphia
6 businesses have been hit much harder
7 than other regions of the state,
8 primarily due to winter and lack of
9 outdoor dining, the increase in COVID-19
10 cases that we saw at the start of the
11 year and additional mitigation.

12 84 percent of operators say
13 business conditions for their
14 restaurants are worse now than they were
15 just three months ago. PRLA and some
16 other stakeholders from the business
17 community met with Councilmember Brooks
18 last week. We spent an hour with the
19 Councilmember and her team discussing
20 many of the concerns I mentioned
21 earlier.

22 PRLA Philly Chapter President
23 Qamara Edwards from Jet Wine Bar shared
24 at that meeting details on steps
25 operators from all over the City have

1 taken to assure that staff and guests
2 are safe and create processes that
3 provide for time and flexibility for
4 employees that may need to deal with
5 personal or family health concerns.

6 Together with the City, our
7 members and many on this Council, PRLA
8 and operators from all over the City
9 help facilitate vaccine clinics for
10 employees in the hospitality industry,
11 and just recently we distributed
12 thousands of free at-home COVID tests.
13 Safety is and always has been front of
14 mind for the industry.

15 We are appreciative of
16 Councilmember Brooks listening to our
17 concerns and our opinions regarding this
18 bill and on what we see as a reasonable
19 path forward. Nevertheless, since that
20 meeting some of the smallest businesses
21 that we represent are still concerned
22 that they have an insurmountable path
23 forward.

24 We understand the significance
25 of good workplace culture and

1 flexibility for employees, and that's
2 why many of our members choose to go
3 above and beyond at great costs of their
4 own, and many have told us that they
5 already provide employees with generous
6 time off. Even when closed due to the
7 pandemic, restaurants were still paying
8 their employees since those employees
9 are like family.

10 PRLA and City Council have
11 always had a good working relationship.
12 We appreciate many of you that have
13 stood up for the industry during these
14 tough times, like Councilmember Parker
15 with third-party legislation that was
16 recently passed and Councilmember Domb
17 on outdoor dining, and many others as
18 well. In fact, PRLA has engaged on this
19 subject before in the past as well.
20 This legislation, however, goes a lot
21 further than similar legislation that
22 we've seen on the subject in the past.

23 This version of the COVID-19
24 sick leave bill lumps large and small
25 businesses into the same category. The

1 initial intent of this legislation was
2 to provide flexibility to employees as
3 we all navigate the pandemic, which is
4 why prior versions of the bills had
5 sunset dates that were connected to the
6 pandemic in some form or another,
7 specifically to Governor Wolf's
8 emergency declaration. This legislation
9 was always and should continue to be
10 linked to the COVID-19 health emergency.
11 However, the most recent version is now
12 set to expire at the end of 2023.

13 We believe strongly that the
14 bill should be tied into the pandemic
15 like originally intended instead of a
16 date set at the end of next year.
17 Previous forms of this legislation also
18 had significantly higher employee
19 thresholds when defining covered
20 employers. Under the newly written
21 legislation this time around, small
22 businesses with just 11 or 12 employees
23 are expected to meet many of the same
24 administrative and financial obligations
25 as larger corporations with thousands of

1 employees.

2 There are thousands of
3 businesses in Philadelphia with just 10
4 to 49 employees that would be impacted
5 by this legislation, that many do not
6 even know we're discussing today. We've
7 heard from dozens of owners and
8 operators from all over the state
9 recently that have struggled so
10 immensely at hiring retaining staff,
11 that they've been forced to shut down
12 operations after only one employee tests
13 positive for COVID-19.

14 Of course, restaurants have and
15 will continue to do all that they can to
16 accommodate their employees and will
17 always prioritize keeping their staff
18 and their guests safe. This mandate
19 goes beyond that though. As it puts
20 additional burden on restaurants and
21 other smaller operators in the City at a
22 time when they are already being pressed
23 and squeezed in every way imaginable.

24 Lastly, we feel this
25 legislation misses the mark on some

1 other goals related to the pandemic,
2 specifically as it relates to the
3 vaccines. This City has emphasized the
4 importance of increasing vaccinations,
5 which PRLA has supported. As noted
6 earlier, we've worked hard to work with
7 vaccine efforts in Philadelphia. That's
8 why we were disappointed that the
9 legislation didn't do anything to
10 encourage vaccines and/or to address
11 distinctions between those employees
12 that have gotten vaccinated and those
13 out there that have not.

14 We have discussed our concerns
15 both privately with Council and
16 publicly. We're thankful to be part of
17 this conversation with this Committee
18 today. And we hope that the Committee
19 will consider these concerns as the bill
20 moves forward throughout the legislation
21 process.

22 PRLA looks forward to continue
23 dialogue on the subject and we stand
24 ready to assist in any way we can.

25 Thank you, Chair Bass and the rest of

1 the Committee, for allowing me the
2 opportunity to speak with you today.

3 COUNCILWOMAN BASS: Thank you
4 very much for your testimony.

5 And I see we have a question
6 from Councilmember Oh.

7 COUNCILMAN OH: Thank you very
8 much, Chairperson.

9 My question is to PRLA. In
10 particular, who did you reach out to, to
11 have a conversation about this with on
12 Council?

13 MR. PYZIK: PRLA recently met
14 with Councilmember Brooks about the
15 bill. We've also had conversations I
16 believe with Councilmember Parker and
17 her staff. And recently, we also work
18 with contract lobbyists in Philadelphia
19 who's had conversations with
20 Councilmember Green and I believe some
21 others, but most recently and most
22 primarily, Councilmember Brooks. We had
23 a meeting last week.

24 And, Councilmember Brooks, you
25 were very generous with your time and we

1 appreciate that and we appreciate that
2 conversation and we hope to have more
3 moving forward.

4 COUNCILMAN OH: Okay. Well,
5 please don't hesitate to let me know.
6 I'm on this Committee as are other
7 Councilpeople. I think we have five
8 members of Council listening today. And
9 while I'm very sympathetic to some of
10 the things that you've said, it's the
11 first time I'm hearing about it.

12 I've never seen your
13 amendments. I know nothing about it.
14 The issues that can be raised could have
15 been raised before today. I hear it for
16 the first time. And so, I think what's
17 going to happen is we're going to
18 continue on without any discussion as
19 far as I can tell and whatever
20 discussion will happen after today. And
21 I think that's unfortunate.

22 And I've raised this before
23 with your organization and others. If
24 you want to say something, say it before
25 the day of the vote. It's very unfair

1 to us to hear things for the first time.
2 We know nothing about it. We want to be
3 fair as the Chairwoman said, but I'm
4 hearing it this for the first time. I
5 have nothing in writing. I know nothing
6 about it. But please don't hesitate in
7 the future to contact all the members of
8 this Committee.

9 Thank you, Chairwoman.

10 COUNCILWOMAN BASS: Thank you.

11 Thank you, Councilman. And I do --

12 MR. PYZIK: We --

13 COUNCILWOMAN BASS: -- oh, I'm
14 sorry. Zak, did you want to respond to
15 that?

16 MR. PYZIK: We appreciate that
17 perspective, Councilman Oh, and I'm
18 happy to do that. I just started with
19 PRLA about 9 or 10 months ago and I'd be
20 happy to connect with you, not only on
21 this subject but with many of the
22 challenges and pieces of legislation
23 that we're working on.

24 We did share amendments and
25 suggestions with the prime sponsor of

1 the legislation. And unfortunately, we
2 did not share it with the entire
3 Committee. But nonetheless, we're happy
4 to do that moving forward. And,
5 Councilmember Oh, I will certainly
6 connect with you in the near future
7 about all of this.

8 COUNCILMAN OH: Yes. Thank you
9 very much.

10 COUNCILWOMAN BASS: So I was --

11 MR. CARTER: Councilwoman.

12 COUNCILWOMAN BASS: One moment,
13 Mr. Carter. I was just going to say
14 that I think what we probably want to do
15 is gather members of the Committee and
16 have some additional conversations
17 around your perspective, your thoughts
18 and previous conversations.

19 I think it's been a little
20 scattershot so everybody doesn't have
21 all of the information and all of the
22 knowledge that you may have around this
23 particular issue, so we'll be working
24 with the bill's sponsor and trying to
25 bring everybody together and make some

1 additional conversations happen, so
2 we'll be working on that.

3 Okay. I'm sorry. Mr. Carter,
4 you had a question?

5 MR. CARTER: I appreciate it,
6 Councilwoman. The Restaurant and
7 Lodging Association's amendments were
8 included what we sent around to Council
9 previously. I don't think Zak knew
10 that. But having spoken with Andrew
11 Zalenski who represents you guys, we've
12 included those amendments and the
13 amendments that we sent around to the
14 Committee over the weekend. Still would
15 love to have more time to talk about
16 this as the Councilwoman just indicated
17 she was willing to do, and we appreciate
18 that, Councilwoman Bass.

19 COUNCILWOMAN BASS: Absolutely.
20 Absolutely. Okay. I have some
21 technical difficulties going on here.
22 And so, we have two other speakers.

23 I think, Amber, are you here?

24 MS. SMITH: Yes, I'm here.

25 COUNCILWOMAN BASS: Okay.

1 Please state your name for the record
2 and proceed with your testimony.

3 MS. SMITH: My name is Amber
4 Smith, and I'm speaking in support of
5 Bill 220051. Hello, esteemed members of
6 City Council and the constituents of
7 Philadelphia. I am here today
8 representing restaurant and other hourly
9 workers in our fine city, and speaking
10 as a former restaurant worker for the
11 deeply-matched network of friends and
12 comrades still working in the industry.
13 I'm currently a hourly employee of
14 Philadelphia, and this law is going to
15 affect myself as well as my co-workers.

16 During the last wave of Omicron
17 that spread across the City, many
18 workers and their families were put at
19 risk. A shocking number of restaurants
20 across the City were not only not
21 informing their own employees of their
22 contact with a recently positive
23 co-worker, but they were not ensuring
24 their staff with paid sick leave or
25 quarantine time.

1 Many places decided to close
2 last minute for the safety of their
3 staff and patrons, but leaving their
4 staff without much-needed income. I run
5 a small Instagram, and I asked employees
6 at restaurants at some of the top
7 cities -- I'm sorry. I heard from
8 employees at some of the City's top
9 restaurants run by celebrity chefs and
10 restaurateurs, that when they asked for
11 sick pay, they are either outright
12 denied or they were told that since the
13 emergency sick paid leave has expired
14 they were not entitled to any
15 compensation.

16 I had a similar experience. I
17 was exposed to COVID-19 and I was not
18 entitled to coverage at my workplace as
19 I had exhausted my accrued paid sick
20 time. As I work with people who are
21 high risk, it is imperative to be able
22 to quarantine when necessary. My
23 experience is that of many in the
24 workforce today.

25 As the current economic climate

1 asks workers to subject themselves to
2 this virus daily with little to no
3 financial safety net, implementing
4 emergency paid sick leave is critical to
5 the workers of this City. I would also
6 like to note the importance of the
7 change making it applicable to
8 businesses with 10 or more employees as
9 many of Philadelphia workers and
10 specifically restaurant workers who are
11 employed by small businesses.

12 I personally left the
13 restaurant industry because of the lack
14 of resources and financial safety nets
15 in place, coupled with the outright
16 dehumanization of the job and the
17 employer asks of the restaurant worker.
18 Implementing important worker-focused
19 laws like emergency sick paid leave will
20 ensure a better and healthier future not
21 only for the worker, but for the
22 industry itself. Thank you so much for
23 your time and consideration.

24 COUNCILWOMAN BASS: Thank you
25 so much for your testimony. We

1 appreciate your perspective. And we
2 have another speaker on this panel.

3 Walter, are you here?

4 MR. THOMAS: Yes. Good
5 afternoon, everyone.

6 COUNCILWOMAN BASS: Good
7 afternoon. Please state your name for
8 the record and proceed.

9 MR. THOMAS: Hi. My name is
10 Walter Thomas and I work at the
11 Philadelphia International Airport, and
12 I'm speaking on behalf of hundreds of
13 workers at the airport. And the reason
14 that the paid sick leave is important to
15 us is because if any one of us gets sick
16 and have to be out of work, it can bring
17 stress and strain on us not being able
18 to provide for our families or pay bills
19 or rent due to being sick and not being
20 paid for it.

21 As of right now, we have at
22 least six employees that's at my company
23 that are out sick due to COVID. And
24 depending on how long that they're going
25 to be out, they're not going to get paid

1 for being out. So I don't know how it's
2 going to really damper their personal
3 situation as parents and as workers in
4 the workforce.

5 It's very important that the
6 bill be passed on behalf of working
7 families and anybody that's in a
8 situation where they have to take off
9 and they can't provide due to not being
10 paid for being sick. I would like to
11 thank everyone for listening to my
12 testimony. I appreciate your time and
13 thank you.

14 COUNCILWOMAN BASS: Thank you.
15 Thank you so much for your testimony.

16 Councilwoman Brooks, I
17 apologize if I skipped over you. I
18 didn't notice you until just now. Did I
19 skip over you?

20 COUNCILWOMAN BROOKS: I was
21 just wondering did we have an
22 opportunity to get Jennifer Zavala back
23 on the line to finish her testimony and
24 summarize --

25 COUNCILWOMAN BASS: Jennifer,

1 are you here?

2 COUNCILWOMAN BROOKS: She
3 represents the small business owner, and
4 I want to make sure we get her on the
5 record.

6 COUNCILWOMAN BASS: To get the
7 rest of her testimony.

8 COUNCILWOMAN BROOKS: Yes.

9 COUNCIL TECH SUPPORT:
10 Councilwoman Brooks, I just got off the
11 phone with Jennifer. I'm going to
12 connect her via Teams audio in a couple
13 of seconds, if that's okay.

14 COUNCILWOMAN BASS: Okay. And
15 while we're waiting for her, if we can
16 have the Clerk call the last two
17 speakers.

18 THE CLERK: Zelda Walker and
19 Daisy Cruz.

20 COUNCILWOMAN BASS: Zelda,
21 please state your name for the record
22 and proceed with your testimony.

23 (No response.)

24 COUNCILWOMAN BASS: Is Zelda
25 here?

1 (No response.)

2 COUNCILWOMAN BASS: No, okay.

3 Daisy, please state your name for the
4 record and proceed.

5 MS. CRUZ: Sure. Daisy Cruz.

6 Good afternoon, Chair Bass and members
7 of Council.

8 COUNCILWOMAN BASS: Good
9 afternoon.

10 MS. CRUZ: Like I said, I'm the
11 Mid-Atlantic District Director for
12 SEIU 32BJ representing over 10,000
13 members here in the City of
14 Philadelphia. Since the beginning of
15 the pandemic, well over unfortunately
16 100 of our SEIU 32BJ members passed due
17 to COVID implications.

18 Additionally, thousands of our
19 members have contracted COVID and even
20 more have come into contact with people
21 who are infected. Each time they miss
22 out on work, at least a week's worth of
23 pay, they're missing out and sometimes
24 going out not only once or twice on
25 multiple occasions being sick or

1 whatever reason being affected with some
2 type of COVID, they're missing out on
3 thousands of dollars just as Walter had
4 talked about with his co-workers there.

5 While many of us still have the
6 comfort working from home, SEIU 32BJ
7 members have been cleaning and securing
8 our airplanes, airports, schools,
9 hospitals and office buildings,
10 providing services to passengers
11 throughout our airports with a minimal
12 option of social distance. Our members
13 have been on the front line during this
14 whole entire pandemic.

15 Frontline workers are more
16 vulnerable to contracting COVID-19 and
17 owed the basic protections that they
18 need to keep themselves safe. During
19 the beginning of the pandemic, frontline
20 workers contracted COVID-19 at a rate of
21 55 percent higher than those who were
22 able to work from home. This resulted
23 in higher rates of death and in some
24 cases long-term illnesses. These
25 workers have kept our City running even

1 during the most difficult periods of the
2 pandemic and deserve basic workers
3 rights.

4 Public health emergency leave
5 was passed twice before and has proved
6 to be effective at keeping businesses
7 open and workers safe. Despite some
8 pushback from our corporate lobbyists,
9 the previous two public health emergency
10 leave laws were extremely successful.

11 These protections help low-wage workers
12 with respect to the pandemic and is sure
13 that businesses weren't unknowingly
14 passing COVID-19 and to the public.
15 We're not in the clear as we all know,
16 as this pandemic has proven time and
17 time again to be unpredictable.

18 People are still dying from
19 COVID and still occupying hospital beds.
20 And we should not take any risk,
21 especially during this flu season. We
22 cannot afford to take away basic
23 protections like sick days from the
24 workers that have been protecting us
25 throughout this all. Philadelphia has

1 to be the forefront on this issue just
2 like so many other cities. We cannot
3 take away basic protections like paid
4 sick days and we should not put profit
5 before people. Thank you for giving me
6 the time to testify.

7 COUNCILWOMAN BASS: And thank
8 you so much for your testimony.

9 Modesto, did we have Jennifer
10 back on?

11 MS. ZAVALA: Yes. Hello. Can
12 you hear me?

13 COUNCIL TECH SUPPORT: Yes,
14 she's connected.

15 COUNCILWOMAN BASS: Yes, we can
16 hear you. If we can have you wrap up
17 your comments from earlier, that will be
18 great.

19 MS. ZAVALA: Yes. This is
20 Jennifer Zavala from Juanta Tamale here
21 in South Philadelphia. I wanted to
22 conclude that this bill is important for
23 workers in the food service industry,
24 frontline workers, but it's also for us
25 as employers for better business

1 practice to allow people who are sick
2 and affected by COVID to have paid time
3 off. You cannot put a price on the
4 human experience, and the bottom line
5 causes desperation by people when
6 they're not able to provide food or pay
7 their bills because they are sick at no
8 fault of their own. I wanted to
9 conclude with that and say thank you so
10 much.

11 COUNCILWOMAN BASS: Thank you
12 for your testimony. Thank you very much
13 for your testimony and for coming back.

14 Councilmember Brooks, do you
15 have questions?

16 COUNCILWOMAN BROOKS: Yes. My
17 first question is -- can you hear me?

18 COUNCILWOMAN BASS: Yes, we can
19 hear you.

20 COUNCILWOMAN BROOKS: Okay,
21 Madam Chair.

22 This is for Jennifer. What do
23 you say for those who might call this
24 bill bad for small businesses like
25 yours?

1 MS. ZAVALA: I would say that's
2 just simply not the case in the sense if
3 you have to pay to your business. There
4 are larger restaurant organizations --
5 larger restaurants that were able to get
6 restaurant relief. There was one
7 particular that was able to get \$16
8 million. To them, losing an employee is
9 not that big of a deal. That bottom
10 line is not as important as it is for
11 someone like myself.

12 Having taking care of my
13 employees can put me in a better
14 position because my employees want to
15 come to work knowing that I care and
16 respect their livelihood outside of
17 that. So I think saying that this is
18 bad for business, it's really saying
19 that you as a business is not able to
20 accommodate the everchanging landscape
21 that is happening for every business
22 now.

23 When you're not able to get the
24 things you're ordering, is that bad for
25 business? Do people know you for a

1 particular dish or a particular
2 experience? And if the supply chain has
3 affected you, how do you pivot through
4 that. Well, it's the same way if you
5 have an employee who got COVID or whose
6 family member or whose child is sick.
7 You have to pivot and move. So it
8 really says more about you as a business
9 operator than it does about an employee
10 who is sick and who can't come in.

11 That's what I would have to say to that.

12 COUNCILWOMAN BROOKS: Thank you
13 so much, Jennifer, for your time and
14 your comments.

15 My next question is for Amber.
16 Do you think more workers would be
17 willing to stay in the restaurant
18 industry if they were offered this type
19 of benefit?

20 MS. SMITH: I absolutely do. I
21 find it superimportant that we have paid
22 sick leave. I know that even before
23 COVID it was the mindset that you showed
24 up to work because there wasn't --
25 either people aren't following the law

1 and paying sick leave or letting their
2 staff know that sick leave is available,
3 or in COVID people -- at least I heard
4 from a lot of people that were extremely
5 worried that they were being put to
6 having to work with COVID or were
7 working alongside someone who came to
8 work because otherwise they couldn't
9 afford to.

10 I know that with newer
11 industries coming out, people are
12 switching careers and that the talent
13 pool is very shallow in the restaurant
14 industry. I do believe that this is
15 because there aren't worker protections
16 in place and that something like the
17 emergency sick paid leave would keep
18 people in the industry instead of
19 looking for other options.

20 COUNCILWOMAN BROOKS: Thank you
21 so much, Amber, for your comments.

22 Madam Chair, that concludes my
23 comments and questions.

24 COUNCILWOMAN BASS: Well, thank
25 you very much, Councilwoman.

1 Madam Clerk, are there any
2 additional panelists to speak today?

3 THE CLERK: That concludes the
4 panelists for Bill No. 220051.

5 COUNCILWOMAN BASS: Okay. Is
6 there anyone else here whose name hasn't
7 been called that wishes to speak on this
8 bill?

9 MS. RODRIGUEZ: Yes, Madam
10 Chair. I'm Jennifer Rodriguez
11 representing the Diverse Chambers of
12 Commerce.

13 COUNCILWOMAN BASS: Hello, how
14 are you? Please -- well, go ahead and
15 state your name for the record and
16 proceed with your testimony.

17 MS. RODRIGUEZ: Yes. Good
18 afternoon. My name is Jennifer
19 Rodriguez. I am the President and CEO
20 of the Greater Philadelphia Hispanic
21 Chamber of Commerce. Today I testify on
22 behalf of the Diverse Chambers Coalition
23 of Philadelphia, which was formed by the
24 African American Chamber of Commerce of
25 Pennsylvania, New Jersey and Delaware,

1 the Asian American of Greater
2 Philadelphia, the Greater Hispanic
3 Chamber of Commerce and Independence
4 Business Alliance, the LGBTQ Chamber in
5 order to work collectively as a
6 community to meet the unique challenges
7 minority business enterprises face when
8 they engage with our local economy.

9 Today we come together to
10 advocate for the diverse small business
11 owners in the City of Philadelphia,
12 urging members of Council to engage with
13 our coalition in the development and
14 implementation of policies and
15 regulations that may impact them. The
16 businesses we represent are the backbone
17 of our neighborhoods, providing
18 essential goods, services and employment
19 opportunities to their fellow
20 Philadelphians.

21 Lowering the threshold of
22 establishments required to provide
23 COVID-19 leave to businesses with 10 or
24 more employees will have major
25 implications because it brings a very

1 different business demographic within
2 the purview of the ordinance.

3 According to the Census,
4 there's 6,572 businesses with 10 to 49
5 employees in Philadelphia. These are
6 businesses that prior to this bill have
7 not had to comply with COVID-19 leave
8 requirements. The changing policy
9 proposed in Bill 220051 is of a
10 significant magnitude and requires the
11 engagement of affected parties.

12 From our perspective,
13 businesses of 10 to 49 employees have
14 not had a meaningful opportunity to
15 participate in a discussion about the
16 benefits and challenges of providing
17 COVID-19 leave. After all, they were
18 not subject to the robust debate that
19 took place to the prior enabling of the
20 current law.

21 Unfortunately, in crafting this
22 bill, City Council did not engage with
23 the members of our coalition, which
24 represent many of the businesses that
25 will be impacted, including grocers,

1 restaurants and small professional
2 services firms. Coming as it did
3 without warning only a few weeks ago, we
4 cannot say what the direct impact of
5 this bill will be on the many businesses
6 we represent, but we do know that paid
7 sick leave without the availability of
8 cost-mitigating resources will generally
9 result in the increase of operating
10 cost, which is a priority concern for
11 the entrepreneurs we represent.

12 As indicated in our recent 2022
13 to 2023 budget cycle Diverse Chamber
14 Small Business Survey respondents to
15 that survey, of which 91 percent were
16 businesses with less than \$1 million of
17 revenue, clearly indicated a pressing
18 need to lower the cost of doing business
19 in Philadelphia. Small businesses in
20 Philadelphia are at a very critical
21 juncture in the recovery from the
22 impacts of the pandemic, and there are
23 causes for concern for our leaders and
24 elected officials.

25 The majority of respondents to

1 our survey indicated that they would not
2 recommend Philadelphia as a place in
3 which to do business, with many
4 respondents citing high taxes, high cost
5 of doing business and crime and safety
6 concerns as primary detractors. In
7 addition, when asked what Philadelphia
8 government should prioritize in 2022 in
9 order to create a thriving environment
10 for small businesses, respondents ranked
11 the lowering of taxes and focusing on
12 the recovery of businesses most impacted
13 by the pandemic among their top three
14 priorities.

15 As Council debates the costs
16 and benefits of COVID-19 leave and other
17 measures that may impact businesses on
18 economic development, it should not lose
19 sight that 33 percent of jobs in
20 Philadelphia are possible due to the
21 26,000 small businesses with 1 to 50
22 employees that do business here in our
23 great city. This is the category of
24 businesses with the highest
25 concentration of diverse entrepreneurs

1 and one which has the greatest potential
2 for creating wealth and opportunity in
3 the communities that would benefit the
4 most.

5 As business leaders, as
6 community leaders and as residents of
7 this City, we must plan a safe,
8 equitable and robust economic recovery.
9 The leaders, the staff members and the
10 Boards of the Diverse Chambers Coalition
11 of Philadelphia are ready to work with
12 you to build a stronger and safer
13 Philadelphia for all. Thank you, and
14 I'm happy to answer any questions.

15 COUNCILWOMAN BASS: Thank you
16 very much for your testimony.

17 Any questions?

18 COUNCILWOMAN BROOKS: Madam
19 Chair, I have a clarifying question.

20 COUNCILWOMAN BASS: Certainly.

21 COUNCILWOMAN BROOKS: In your
22 testimony, you said 6,000 or 26,000
23 businesses that are less than 49? I
24 wasn't sure of that number.

25 MS. RODRIGUEZ: Philadelphia

1 has -- according to the study of the
2 Commerce Department and United Way and
3 PIDC, Philadelphia has 26,000 small
4 businesses with 1 to 50 employees. It
5 has over 100,000 solo entrepreneurs.

6 COUNCILWOMAN BROOKS: Okay.
7 Because I --

8 MS. RODRIGUEZ: So the new
9 category that has been added to this
10 bill which is employers with staff of 10
11 to 50 or 10 to 49, that is over 6,500.
12 So you're adding folks that were not
13 covered under the current jurisdiction
14 and you're adding now because you're
15 lowering the threshold, that's over
16 6,000 new businesses that are covered
17 under the modification of the bill.

18 COUNCILWOMAN BROOKS: I get it.
19 I understand your perspective, and I
20 thank you for sharing it. I would love
21 to engage deeper with folks from not
22 only just your Chamber, but the small
23 businesses that both you and Will Carter
24 mentioned. But I also want to remind
25 folks when I'm talking about 6,000

1 people that we're adding to this, 6,000
2 businesses, it's up to 60,000 people
3 that we could be preventing from
4 catching COVID. So I'm willing to have
5 a deeper conversation with you --

6 MS. RODRIGUEZ: Sure.

7 COUNCILWOMAN BROOKS: -- as
8 well as Will said we talk to the big
9 players. I want to talk to the business
10 owners that you actually represent.

11 MS. RODRIGUEZ: So --

12 COUNCILWOMAN BROOKS: The
13 head -- I'm okay with that. But if
14 you're going to call me out and say that
15 I'm not talking to the small business
16 owners, I need to make sure that I'm in
17 conversation with the small business
18 owners across the Chamber, whether it's
19 the African American, the Latino or
20 whatever. So if you can set time to set
21 that up, I'm willing to have this
22 conversation.

23 MS. RODRIGUEZ: Absolutely.
24 And I will be talking to my colleagues
25 from the Diverse Chambers Coalition and

1 we are happy to set that up. Thank you
2 so much.

3 COUNCILWOMAN BASS: Thank you.
4 And I think that concludes our hearing.
5 I'm going to ask one more time if there
6 is anyone else to speak on this
7 particular matter?

8 (No response.)

9 COUNCILWOMAN BASS: And if not,
10 what we're going to do now is come out
11 of our public meeting and go into -- our
12 public hearing and go into a public
13 meeting to hold the votes. And then we
14 will come back and reconvene for our
15 hearing on our Firefighter resolution.
16 So I'm going to ask --

17 COUNCILMAN GREEN: Madam Chair.

18 COUNCILWOMAN BASS: Yes.

19 COUNCILMAN GREEN: I know there
20 were some amendments circulated by the
21 sponsor, if those amendments could
22 provide some additional information
23 regarding the amendments.

24 COUNCILWOMAN BASS: Say it
25 again? Did you want her to explain the

1 amendments, Councilman --

2 COUNCILMAN GREEN: Correct. I
3 think there was a statement made
4 regarding amendments, but I just wanted
5 to get some further clarification on the
6 amendments.

7 COUNCILWOMAN BASS: Okay.
8 Councilwoman Brooks, can you provide us
9 with some clarity on the amendments that
10 were circulated?

11 COUNCILWOMAN BROOKS: (Muted).

12 COUNCILWOMAN BASS: You're on
13 mute.

14 COUNCILWOMAN BROOKS: I'm
15 sorry. First, we changed the sunset
16 provision so that the bill expires
17 December 31, 2023 rather than 365 days
18 after its effective date. We made this
19 decision after feedback, that the end of
20 the year date is more workable for
21 employers than a midyear end date.

22 We also made adjustments so
23 that businesses with generous paid leave
24 benefits are not required to provide
25 additional leave under this bill. And

1 we clarified provisions around certain
2 labor negotiations and collective
3 bargaining agreements. We also included
4 the heightened enforcement language that
5 authorized periodic publishing of
6 employers with unresolved violations as
7 permitted by law.

8 COUNCILMAN GREEN: And I guess
9 the question I have is based on the
10 testimony that Ms. Rodriguez provided
11 under the Diverse Chambers to the
12 sponsor. Do those amendments address
13 some of the concerns that she raised?
14 My understanding from her testimony, and
15 I know you had some businesses that
16 testified in support of the business,
17 but from my understanding from her
18 testimony there's a concern on the
19 impact of this legislation to small
20 businesses, in particular small
21 businesses represented by the Diverse
22 Chambers.

23 COUNCILWOMAN BROOKS: So I
24 think part of the testimony that I've
25 heard is saying that the pandemic is

1 over. It's not over. And I think
2 that's an indication I want to put on
3 record. The pandemic is not over or we
4 would not be under a mask mandate.

5 COUNCILMAN GREEN: Correct.

6 COUNCILWOMAN BROOKS: And I
7 think that when we think about the
8 current labor shortages we know that
9 when workers are safe and feel, they can
10 come to work every day. So I'm not --
11 we addressed many of the concerns that
12 we had in both the meeting with PRLA and
13 some also with the Chamber. But I do
14 believe that without this bill people
15 are being forced to choose whether to
16 come to work and stay home and sick or
17 lose their jobs as some folks testified.

18 And my fear is removing or
19 changing from 10 to 50 will put a large
20 number of folks at risk in saying that
21 first, I thought it was 60,000 people
22 based on the number that she gave me,
23 but up to 260,000 Philadelphians can be
24 at risk for not having paid sick leave.
25 And that's why we decided to keep the

1 threshold at 10.

2 I'm open for negotiation, but
3 this is the sticking point that we have
4 with the business community, and these
5 are the business conversations that
6 we've been in.

7 COUNCILMAN GREEN: I guess my
8 concern and I made this reference
9 earlier in the conversation that the
10 number of businesses that closed,
11 especially very small micro businesses
12 of the Black and Brown community had
13 closed due to COVID, and I definitely
14 understand the need of this legislation
15 as a whole to protect workers. But also
16 at the same point, I want to make sure
17 we protect workers by making sure they
18 have an employer.

19 And the concern that I've heard
20 being represented from a number of small
21 Black and Brown businesses is that this
22 type of legislation may impact their
23 ability to survive, especially during a
24 COVID period. Prior to COVID -- and I
25 supported and voted for the legislation

1 for earned sick pay at the 10 employee
2 threshold. This legislation has gone
3 through at least two iterations.

4 The first iteration was at 499
5 employees and it was 100 percent subsidy
6 for those employees coming from the
7 federal government. And then we have
8 the 50-employee threshold and now the
9 10-employee threshold. And so, the
10 perspective of supporting and making
11 sure that employees are safe is
12 something that is very important I think
13 from every member of City Council. But
14 at the same point, we want to make sure
15 that employees also have a business to
16 go to.

17 And if you look at the track
18 record, a number of African American and
19 Latin businesses that have closed,
20 especially small businesses due to the
21 pandemic, and that's very concerning.
22 And so, that's why I asked the questions
23 and wanted to get some additional
24 perspective from your end.

25 And so, it's my understanding

1 that you're going to meet with the
2 Diverse Chambers, and it's my
3 understanding that based on that
4 conversation there will be some
5 additional perspectives regarding this
6 legislation?

7 COUNCILWOMAN BROOKS: Yes,
8 Councilmember. I think that's why I
9 brought that up because they mentioned
10 that we have not spoken directly to a
11 diverse coalition of small business
12 owners, so I put that on the table. I'm
13 willing to have that conversation for us
14 to make those amendments based on the
15 conversation with them. But I just ask
16 that we vote it out the Committee and
17 work through those amendments towards
18 Council as a whole.

19 COUNCILMAN GREEN: Okay. Thank
20 you. I appreciate that.

21 Thank you, Madam Chair.

22 COUNCILWOMAN BASS: Thank you,
23 Councilman. And I think that as the
24 Councilwoman said, she's open to some
25 compromises and further amendments on

1 the bill. And so, we will be having
2 those conversations.

3 Unless anyone else from the
4 Committee has any additional questions,
5 there being no further questions from
6 members of the Committee and no other
7 witnesses to testify, I'm going to ask
8 if there is anyone else present in this
9 hearing whose name we have failed to
10 call and that wishes to offer testimony
11 of any of these two bills that were
12 offered today, and I know we already did
13 that.

14 So I'm going to say that
15 hearing none, I want to thank all the
16 panels and witnesses for their
17 participation today on Bill No. 210902
18 and 220051. We value your opinions.
19 And I now invite all panels of witnesses
20 from those two bills to please
21 disconnect from the public meeting
22 before we go into our -- from the public
23 hearing before we go into our public
24 meeting.

25 We will now pause the

1 proceedings briefly as multiple
2 participants leave the hearing. Thank
3 you very much for your attention today.
4 And this is only for Bill Nos. 210902
5 and 220051. We are going to reconvene
6 for the hearing on the third matter
7 today, which was our Firefighter hearing
8 on looking at the City's handling of
9 cancer diagnoses within firefighters.

10 Okay. I see that we have had
11 multiple participants disconnect from
12 the hearing. And I want to say for the
13 record that this concludes the public
14 hearing of the Committee. We will now
15 go into a public meeting to consider
16 action to be taken on the bills before
17 the Committee today.

18 Can we have Madam Clerk please
19 call the roll and establish a quorum for
20 this Committee.

21 THE CLERK: Yes, Madam Chair.
22 Councilmember Oh.

23 COUNCILMAN OH: Present.

24 THE CLERK: Councilmember Gym.

25 COUNCILWOMAN GYM: Present.

1 THE CLERK: Councilmember

2 Green.

3 COUNCILMAN GREEN: Present.

4 THE CLERK: Councilmember

5 Thomas.

6 COUNCILMAN THOMAS: Present.

7 THE CLERK: Councilmember

8 Brooks.

9 COUNCILWOMAN BROOKS: Present.

10 THE CLERK: And, Madam Chair

11 Councilmember Bass.

12 COUNCILWOMAN BASS: I am

13 present. So now that we have taken a

14 quorum of all of our Members, I want to

15 recognize Councilwoman Brooks for a

16 motion on the amendment to Bill No.

17 220051.

18 COUNCILWOMAN BROOKS: Thank

19 you, Madam Chair.

20 I offer an amendment to Bill

21 No. 220051. A copy of the amendment has

22 been circulated to all members of the

23 Committee and I move that this amendment

24 to Bill 220051 be approved.

25 COUNCILWOMAN BASS: Can we get

1 a second?

2 COUNCILWOMAN GYM: Second.

3 COUNCILMAN THOMAS: Second.

4 COUNCILWOMAN BASS: Okay. For

5 the record, we want to recognize

6 Councilwoman Gym and Councilman Isaiah

7 Thomas seconded the motion. It's been

8 moved and properly seconded that the

9 amendment to Bill No. 220051 be

10 approved.

11 All of those in favor of the

12 motion will signify by saying aye.

13 (Aye.)

14 COUNCILWOMAN BASS: Anyone

15 opposed?

16 (No response.)

17 COUNCILWOMAN BROOKS: The ayes

18 have it and the motion carries, and the

19 amendment to Bill No. 220051 has been

20 approved.

21 Now, I want to recognize

22 Councilmember Brooks for a motion on

23 Bill No. 220051 as amended.

24 COUNCILWOMAN BROOKS: Thank

25 you, Madam Chair.

1 I move that Bill No. 220051 as
2 amended be reported from this Committee
3 with a favorable recommendation and
4 further move that the rules of Council
5 be suspended to permit the first reading
6 of this bill at next week's Council
7 session.

8 COUNCILWOMAN BASS: Can we get
9 a second?

10 COUNCILMAN THOMAS: Second.

11 COUNCILWOMAN GYM: Second.

12 COUNCILWOMAN BASS: Okay.

13 Council recognize -- I want to recognize
14 that it was seconded I believe by
15 Councilman Thomas and Gym. But it has
16 been properly moved and seconded that
17 Bill No. 220051 as amended be reported
18 from this Committee with a favorable
19 recommendation and further move that the
20 rules of Council be suspended to permit
21 first reading of this bill at the next
22 session of Council.

23 All of those in favor of the
24 motion please signify by saying aye.

25 (Aye.)

1 COUNCILWOMAN BASS: Anyone
2 opposed?

3 (No response.)

4 COUNCILWOMAN BASS: Okay. The
5 ayes have it and the motion carries.

6 Also, I want to recognize
7 Councilmember Thomas for a motion on
8 Bill No. 210902.

9 COUNCILMAN THOMAS: Thank you,
10 Madam Chair.

11 I move for the adoption of the
12 resolution.

13 COUNCILWOMAN BASS: You move
14 that Bill No. 210902 be reported from
15 the Committee with a favorable
16 recommendation --

17 COUNCILMAN THOMAS: I'm sorry.
18 Yes, I move for --

19 COUNCILWOMAN BASS: That's
20 okay. I know. It's almost the same
21 one.

22 Can we get a second on that?

23 COUNCILWOMAN BROOKS: Second.

24 COUNCILWOMAN BASS: The Chair
25 recognizes -- was that Councilwoman

1 Brooks that seconded?

2 COUNCILWOMAN BROOKS: Yes.

3 COUNCILWOMAN BASS: Okay. Very
4 good. Chair recognizes for the record
5 that Councilmember Brooks seconds the
6 motion. It's been moved and properly
7 seconded that Bill No. 210902 be
8 approved.

9 All those in favor of that
10 motion will signify by saying aye.

11 (Aye.)

12 COUNCILWOMAN BASS: Anyone
13 opposed?

14 (No response.)

15 COUNCILWOMAN BASS: The ayes
16 have it and the motion carries, and Bill
17 No. 210902 has been approved.

18 Now, we will go back into our
19 public hearing around Bill No. -- or
20 excuse me, Resolution No. 210046. If we
21 can have the Clerk call the first panel
22 to testify.

23 And while she's doing that, is
24 there any opening statement from a
25 member of Council?

1 (No response.)

2 COUNCILWOMAN BASS: Any members
3 of Council?

4 COUNCILMAN OH: Yes, Chair, I
5 would like to make an opening statement.

6 COUNCILWOMAN BASS: Okay.
7 Councilman Oh, please begin with your
8 statement.

9 COUNCILMAN OH: All right.
10 Thank you. I just wanted to thank you,
11 Chair, for holding this hearing. It is
12 certainly an issue that has become
13 public.

14 And I want to thank Jenice
15 Armstrong for writing about this. I
16 have been contacted by several
17 firefighters regarding this issue, and
18 looked into it. It is about a
19 presumption. A presumption is something
20 that occurs by public policy or by law.
21 We are all presumed innocent, for
22 example, unless and until proven guilty
23 beyond a reasonable doubt.

24 In some legislation, for
25 example in the bill that we passed out

1 of this Committee, to protect health
2 care workers who are exposed to COVID-
3 19, if that health care worker is
4 working, for example, in the ICU full of
5 severe COVID patients, their employer
6 may say that you cannot prove that you
7 got the infection at the hospital.
8 Maybe you got it on the bus or maybe at
9 a picnic, but the presumption is that
10 because they are health care workers
11 exposed to COVID-19, that they have to
12 put forward a certain amount of evidence
13 and then it's presumed that they have a
14 work-related illness. So that is the
15 case with statement law.

16 There is a policy and the law
17 that provides a presumption that if the
18 firefighter is able to show the
19 threshold of a particular type of cancer
20 that this is something they do as part
21 of their job, either paid -- or that a
22 presumption that they contracted the
23 cancer on the job as part of a work-
24 related illness, that that is given to
25 them.

1 The question arises, what is
2 the response from the City and to what
3 extent is that presumption being
4 accepted. Because of the nature of the
5 hearing being that we never know exactly
6 what time these hearings occur, one of
7 my witnesses who is our expert witness
8 did move his hearing at 2:30 to 2:45,
9 but he told me in a text message that he
10 has to go to his 2:45 hearing and he
11 will try to rejoin us. So at the very
12 end of this testimony and hearing, I
13 hope to bring on Michael Dryden. If
14 not, we have his written testimony and
15 I'll read it into the record.

16 Thank you very much, Chair.

17 COUNCILWOMAN BASS: Thank you
18 very much, Councilman.

19 With that being said, Madam
20 Clerk, if we can call forward the first
21 panel.

22 THE CLERK: For Resolution No.
23 210046, we have John Narkin, Michael
24 Bresnan, Sharolyn Murphy and Barry
25 Scott.

1 COUNCILWOMAN BASS: Okay. If
2 we could proceed in that order. John
3 Narkin, are you available and ready to
4 proceed with your testimony?

5 MR. NARKIN: Yes. Good
6 afternoon, Councilperson Bass and all
7 the other members of City Council, and
8 thank you for holding this hearing. I
9 want to especially thank David Oh for
10 working hard to have this hearing
11 scheduled. It's been a long road for
12 myself and others, but I give all of you
13 my thanks for holding this hearing.

14 My name is John Narkin and I
15 have Stage IV cancer. My cancer started
16 as a soft tissue tumor in my lower back
17 where my self-contained breathing
18 apparatus harness where I wear it. The
19 cancer has since metastasized into other
20 parts of the soft tissue in my body as
21 well as both of my lungs and multiple
22 ribs.

23 For over half my life, the last
24 27 years, I served the City of
25 Philadelphia as a proud member of the

1 Philadelphia Fire Department. While my
2 cancer diagnosis was incredibly hard to
3 comprehend, what was equally hard to
4 understand was the way the City of
5 Philadelphia has thrown me, my family,
6 my fellow firefighter members aside in
7 their denial of right relief earned and
8 state law mandated benefits.

9 My fight and journey are not
10 that is uncommon with members of PFD.
11 Members before me have fought these
12 benefits throughout the years, with some
13 even fighting all the way up to the
14 State Supreme Court and winning, but the
15 City keeps denying these claims. My
16 fight with the City started on May 7,
17 2018 when I sent a letter to the Fire
18 Commissioner requesting coverage and
19 benefits under a Pennsylvania
20 Firefighter Presumption law.

21 Less than a week later, I
22 received a letter in the mail dated May
23 8, 2018, the day after the
24 Commissioner's office received my hand-
25 delivered letter denying my request. My

1 claim was automatically denied. I was
2 now in a battle against cancer and my
3 death, but also the City of Philadelphia
4 Administration.

5 The years that I have fought
6 can be described as exhausting, painful
7 as well as physically and mentally
8 draining. I've undergone surgeries,
9 immunotherapy procedures, infusions,
10 immunotherapy pills, radiation
11 treatments, cryogenic procedures which
12 have tried to freeze the cancer in my
13 ribs, chemotherapy pills and
14 chemotherapy infusions, none of which
15 has stopped the cancer. It slowed it
16 down, but each scan shows I'm closer to
17 the time in which nothing can even slow
18 the cancer down.

19 I've seen multiple doctors all
20 over the area, some even outside the
21 state who are top in their field. They
22 have not given me a timeline of what
23 will happen, but the message is all the
24 same, this condition will kill me sooner
25 than later. January 2022 is National

1 Firefighter Cancer month. Throughout
2 the month, the Philadelphia Fire
3 Department went through great lengths to
4 publish this and get the message out.
5 There was a weekly up-to-date that's
6 sent to the PFD members. There were
7 links to articles of firefighter cancer
8 awareness as well as safety bulletins
9 published and distributed to its
10 members.

11 To help get the message out to
12 the members of the PFD and the region, I
13 was previously asked to give a video
14 testimony of my battle with cancer that
15 we used when the City of Philadelphia
16 and the Fire Department hosted a cancer
17 awareness symposium in 2019 for our
18 regional partners. This video was also
19 shown at the beginning of the training
20 session that all PFD officers were
21 required to attend during our recent
22 officer development courses.

23 To quote, "Multiple cancer
24 studies, including those released
25 recently by NIOSH have shown credible

1 evidence and biologic credibility that
2 link to higher rates of different forms
3 of cancer and firefighters compared to
4 the general American population. NIOSH
5 recently undertook two large studies
6 focused on firefighter cancer and
7 concluded that firefighters face a 9
8 percent increase in cancer diagnosis and
9 a 14 percent increase of cancer-related
10 deaths compared to general population of
11 the United States." These are not my
12 words, but the words of the Philadelphia
13 Fire Department Health and Safety Office
14 bulletin distributed January 11, 2022.

15 There are posters distributed
16 and hung in all firehouses that tell us
17 that firefighters develop and die from
18 cancer at a much higher rate than the
19 general population. It's been proven by
20 a medical expert that my cancer is a
21 result of my exposure to the chemical
22 family called dioxin, which can be found
23 to be present in numerous fires and
24 hazmat incidents that I responded to
25 throughout my career as a Philadelphia

1 firefighter and hazardous material
2 technician for the City of Philadelphia.

3 The dioxins found that diesel
4 exhaust fumes were present in all
5 firehouses. The walls of the apparatus
6 floors of many firehouses were covered
7 with the soot from the apparatus. Our
8 firefighting gear stored next to the
9 apparatus was not cleaned on a regular
10 basis for years in my career. The
11 contaminants from fire to fire were
12 consistently present each time we donned
13 our gear.

14 While proven that the cleaning
15 of the gear and capturing of the diesel
16 exhaust have been implemented in recent
17 years, it doesn't eliminate the exposure
18 of cancer that we face every time we
19 step foot into the firehouse to protect
20 the City of Philadelphia.

21 We're all inundated these days
22 with the phrase, Follow the science. So
23 why not follow the science when it comes
24 to cancer and Philadelphia Fire
25 Department members. So why again the

1 mix messaging. Why has the City of
2 Philadelphia and the Fire Department
3 gone through great lengths to warn us
4 and eliminate some of the cancer risk we
5 all face, but at the same time denying
6 cancerous and occupational disease in
7 firefighters.

8 I don't know and it seems like
9 when it comes to do the right thing, the
10 members of the Philadelphia Fire
11 Department or families, the City of
12 Philadelphia turns their backs on us.
13 Firefighters die in the performance of
14 their duties every day. We know that.
15 From the day you step into the fire
16 academy and each day you show up, the
17 names of those in the line of duty
18 killed are read out at roll call to
19 alert us each day notifying that another
20 brother or sister has been killed in the
21 performance of their duties throughout
22 the country.

23 I knew that each day I put on
24 my uniform, kissed my wife, hugged my
25 sons and went to work that there was a

1 possibility that I would not come home
2 that day. It's something I lived with
3 every day I walked in the firehouse. I
4 know it's true. I did not die that day
5 thankfully. But I will die because I
6 went to work those days.

7 I've been very vocal and
8 fighting hard not just for me and my
9 family, but the fellow members of the
10 PFD. We all deserve better than the
11 treatment we receive from the City of
12 Philadelphia. I'm here to ask you not
13 just to do what's right morally, but to
14 follow the laws and the science to help
15 protect members of the PFD and their
16 families.

17 I thank you again for listening
18 to me and my fellow members and the
19 other people who you will hear from
20 today and hope that this is only the
21 first step of getting what our families
22 and members are not just entitled to
23 under state law, but what they
24 rightfully deserve.

25 Our families have done nothing

1 wrong other than be a family member of a
2 Philadelphia Fire Department member.
3 They should not have to suffer just to
4 lose a loved one because of their
5 occupation, but the hardship to fight a
6 second time to secure their well-being
7 after I'm gone. I live by the words
8 from a song that's close to me, Bring
9 the fight to this world while you can,
10 make the most of the rest of your life,
11 shine your light on this world while you
12 can.

13 I will continue to do that for
14 the rest of my time I have in this world
15 and hope that you can help those very
16 close to me and the many others who
17 fight for this City every time they put
18 on a uniform and serve the City of
19 Philadelphia. Thank you for taking the
20 time today and listening to my plea for
21 a resolution, and I look forward to any
22 questions you may have when the time is
23 appropriate. Thank you again.

24 COUNCILMAN OH: Thank you very
25 much.

1 I did receive a text message
2 from our Chair who must step away
3 temporarily, and she will return. But
4 at this time, let me ask are there any
5 questions from members of the Committee?

6 (No response.)

7 COUNCILMAN OH: If there are
8 none, I have a question. And that is,
9 can you explain to the members of the
10 Committee what difference does it make
11 whether the City acknowledges that the
12 state Cancer Presumption Act for
13 firefighters, what difference does it
14 make to you, to your family and to other
15 firefighters that that presumption be
16 acknowledged by the City?

17 MR. NARKIN: For me, it's all
18 about my family right now. I know when
19 I pass on the way things work is, yes,
20 my wife will receive a portion of my
21 pension when I pass. The thing for my
22 wife who does have a disability is the
23 medical benefits.

24 The way it is now is if my
25 cancer is presumed to be line-of-duty

1 death which it should be, my wife
2 receives lifetime medical benefits.
3 Other than that and one of the reasons
4 why I've gone through treatments, I've
5 gone through radiation treatments during
6 the day and showed up at work that night
7 and worked all night long. I did that
8 for weeks because I was trying to save
9 my sick time for my wife because she
10 would need the conversion that we could
11 do when we retire. She needs those
12 medical benefits. For me, that's what
13 it's about.

14 It's not necessarily for my
15 coverage or my treatment right now.
16 It's for who I leave behind in this
17 world. It's for my family. It's for
18 them to be taken care of. My wife's --
19 I'm 51 years old. I had a long life
20 ahead of me, okay. I may not be here on
21 my 52nd birthday. I may not be here on
22 my 53rd birthday, but there's no reason
23 why her and the rest of my family should
24 have to suffer financially and things
25 like that because I chose to go to work

1 like this.

2 The law is out there to protect
3 people like me. The law is out there to
4 protect other firefighters. That's why
5 the state in my opinion passed this law,
6 and that's why I think the City of
7 Philadelphia should abide by the law
8 and, you know, give myself and other
9 firefighters who have died of cancer and
10 are fighting cancer right now those
11 benefits that they deserve. They
12 shouldn't have to use all their time up
13 and rely on people for donations and the
14 sick bank and relief bank. They
15 shouldn't have to do that. This is a
16 work-related illness that needs to be
17 covered under the City of Philadelphia.

18 COUNCILMAN OH: When you signed
19 up for this job, you understood that you
20 were putting your life and health at
21 risk and you did so willingly. But your
22 family, and this is true of all first
23 responders who step up to take on these
24 hazardous-duty jobs, your family has
25 been there with you through this entire

1 time.

2 In your opinion and in your
3 experience, this presumption, does that
4 preclude the idea that neither you nor
5 your family should suffer unnecessarily?

6 MR. NARKIN: Absolutely. I
7 couldn't have said it better. When this
8 law was passed years ago, there was a
9 great sense of I want to say relief
10 throughout the members of the Fire
11 Department because now we knew -- I've
12 seen multiple people that I've worked
13 with and love dearly shortly after they
14 retire pass on from cancer.

15 I've seen people on the job
16 that I've worked with pass on from
17 cancer. And then knowing that when this
18 law passed and knowing that that
19 happened for me personally, I felt a
20 sense of I guess you can say relief to a
21 point, because I know if for some
22 reason -- I knew that if I died in a
23 fire the next day, and I've been to
24 those where our members were killed in
25 the line of duty, but if I died like

1 that, I knew my family was going to be
2 taken care of. I knew that that was a
3 line-of-duty death and was going to be
4 taken care of. They died from an
5 occupational injury.

6 When this law was passed and it
7 made cancer diagnosis an occupational
8 injury for firefighters, it gave myself
9 and other firefighters a sense of relief
10 that the City would take care of our
11 families because we put on that uniform
12 every day, and that's what it did for me
13 knowing that my family will be taken
14 care of afterwards. That's the main
15 point of all of this.

16 This is why we're fighting.
17 This is why I'm fighting. That's why
18 you're going to see other members
19 talking about that and fighting for
20 this. It's to give our family a sense
21 of security knowing that, yes, my wife
22 has been beside me this whole thing. My
23 friends have been beside me. My members
24 of the Fire Department have been beside
25 me the whole time through treatments and

1 things like that and being sick and not
2 being able to move.

3 Knowing that they're taken care
4 of after I pass on, if the City does the
5 right thing and approves these claims
6 like they should, it makes going to work
7 a little easier to be honest with you.

8 COUNCILMAN OH: Thank you very
9 much.

10 Are there any questions from
11 the other members of Council?

12 (No response.)

13 COUNCILMAN OH: There being
14 none, I'll ask the Clerk to call the
15 next witness.

16 THE CLERK: Thank you,
17 Councilman.

18 The next witness is Sharolyn
19 Murphy.

20 MS. MURPHY: Good afternoon,
21 Councilman Oh and the other members of
22 the Public Health and Human Services
23 Committee. My name is Sharolyn Murphy.
24 I'm the Risk Management counsel and
25 Employee Disability Manager for the City

1 of Philadelphia. And with me today is
2 Barry Scott. He is the Risk Manager for
3 the City of Philadelphia. We want to
4 thank you for the opportunity to provide
5 testimony on Resolution 210046, which
6 authorizes a hearing to examine the
7 City's compliance with the Pennsylvania
8 Firefighter Cancer Presumption law.

9 Mr. Scott is going to provide the
10 testimony and I'm available afterwards
11 for any questions that you might have.

12 Mr. Scott.

13 MR. SCOTT: (Muted).

14 MS. MURPHY: Mr. Scott, you're
15 muted.

16 MR. SCOTT: Thank you. Thank
17 you very much, Councilmember Oh and
18 Councilmembers and members of the
19 gallery. My name is Barry Scott and I'm
20 the Deputy Director of Finance for Risk
21 Management, and I'm here to provide
22 additional testimony today on Resolution
23 210046.

24 Cancer is a commonly occurring
25 group of diseases with various causes,

1 not all of which are occupational. Act
2 46 added a new occupational disease
3 category to Section 108 of the Workers'
4 Compensation Act and identified the
5 class of firefighters who were eligible
6 for the presumption in Section 301(f).

7 The term occupational disease
8 shall mean in that section, in Section
9 108(r) for cancer suffered by a
10 firefighter which is caused by exposure
11 to a known carcinogen which is
12 recognized as a Group 1 carcinogen by
13 the International Agency for Research on
14 Cancer.

15 Section 301(f) states,
16 compensation pursuant to cancer suffered
17 by a firefighter shall only be to those
18 firefighters who have served four or
19 more years and continuous firefighting
20 duty, who can establish direct exposure
21 to a carcinogen and have successfully
22 passed a physical examination prior to
23 asserting a claim or prior to engaging
24 in firefighter duties. And the
25 examination failed to reveal any

1 evidence of the condition of cancer.

2 The presumption of this
3 subsection may be rebutted by
4 substantial competent evidence that
5 shows that the firefighter's cancer was
6 not caused by the occupation of
7 firefighting. Here nonoccupational risk
8 factors are relevant such as family
9 history of cancer, cigarette smoking,
10 alcohol consumption and genetic markers.

11 To facilitate an investigation
12 and eliminate unnecessary litigation, in
13 2018, Local 22 and the City agreed upon
14 a process that would be followed when
15 investigating firefighter cancer claims.
16 According to this agreement,
17 firefighters who claim benefits for
18 cancer sign an authorization to release
19 medical records and fill out a
20 questionnaire that was developed with
21 the involvement of Local 22 of the
22 International Association of
23 Firefighters.

24 The questionnaire focuses on
25 the firefighter's fire service, risk

1 factors for cancer such as smoking
2 history or alcohol consumption, family
3 history of cancer, provides a list of
4 medical providers that the firefighter
5 has treated with in the past. Once all
6 of this information is gathered, the
7 City's third party administrator for
8 Workers' Compensation claims comes to a
9 decision about the compensability under
10 state law of the individual
11 firefighter's claim taking into
12 consideration the legal standards for
13 application and rebuttal of the
14 presumption described.

15 The City has unilaterally
16 accepted multiple cancer claims since
17 this process for investigation was
18 implemented. An example of an accepted
19 claim involved a firefighter with
20 esophageal cancer. He was a nonsmoker
21 with no other risk factors. Another
22 firefighter who has bladder cancer had
23 his claim accepted after an
24 investigation uncovered no personal risk
25 factors for bladder cancer. Several

1 skin cancer claims have also been
2 accepted since 2018.

3 In the event that the City does
4 deny a claim, the firefighter may place
5 the case into litigation. Once
6 litigation is instituted, the
7 opportunities for discovery is greater
8 than in the first year investigation
9 conducted by the third party
10 administrator. The City has the ability
11 to obtain testimony under oath from the
12 firefighter and other witnesses. The
13 City has the ability to subpoena medical
14 evidence and both parties have the
15 opportunity to obtain expert opinions
16 for or against the claim. It is often
17 at this stage that the first evidence of
18 medical causation is produced. Thank
19 you, panel, for the opportunity to
20 provide testimony, and we're happy to
21 answer questions that the Committee may
22 have.

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

25 Let's start by asking if any

1 member of the Committee has any
2 questions?

3 (No response.)

4 COUNCILMAN OH: There being
5 none, I do have a question for you. In
6 this process, it appears that there's a
7 low threshold for a firefighter with
8 cancer to overcome, and that is to show
9 that they have worked for four years or
10 more as a firefighter, that there is a
11 possibility, under the law a possibility
12 that the type of cancer in Group 1 is
13 something that they have contracted, and
14 then the burden shifts to the City which
15 needs to affirmatively prove that the
16 cancer could not have been contracted on
17 the job. Is that your understanding?

18 MS. MURPHY: Councilman Oh, I
19 will take that question. That is a good
20 summation of the law, but on causation
21 the employee does have a burden of
22 causation to prove. And you did state
23 correctly that that is a general
24 positive link between a Group 1
25 carcinogen and also the specific type of

1 cancer that the employee has.

2 There's also time constraints
3 that are imposed upon these cases. You
4 also indicated correctly that there has
5 to be continuous firefighting duties for
6 four years. There also has to be a
7 preinjury cancer-free diagnosis and
8 there has to be a direct link between
9 the Group 1 carcinogen and the cancer
10 that the person has.

11 So once these elements are met,
12 then the presumption takes place. But
13 we want to make it clear, Councilman Oh,
14 that there are conditions precedent to
15 the presumption coming into play, and it
16 is not just a matter of whether a person
17 is a firefighter and then they have
18 cancer and then their claim is
19 compensable. No, risk factors are very
20 important at this stage of the
21 investigation.

22 And the first stage of the
23 investigation is one that is conducted
24 by our third party administrator. And
25 often times at this initial stage,

1 there's not a lot of evidence that's
2 available and we have to rely heavily
3 upon the injured worker and upon the
4 union to get information to us.

5 And since 2018, we have worked
6 closely with the union to make sure we
7 get the information that we need so that
8 we can make an appropriate determination
9 as to causation. You're correct about
10 the presumption that the employer has to
11 establish under this area of the law,
12 but risk factors and genetic markers,
13 those are things that certainly come
14 into play when you're trying to make
15 this initial assessment as to causation
16 within the time period that you have
17 under the Workers' Compensation Act,
18 which is 21 days.

19 COUNCILMAN OH: Thank you for
20 that explanation. What does the
21 presumption, in other words, under the
22 Pennsylvania Firefighter Cancer
23 Presumption Act, what do you understand
24 the presumption to mean?

25 MS. MURPHY: I can give you my

1 personal understanding, but I do --

2 COUNCILMAN OH: Well, I'm going
3 to --

4 MS. MURPHY: -- want you to
5 understand --

6 COUNCILMAN OH: -- because your
7 personal understanding is what seems to
8 be important in terms of the City's
9 position.

10 MS. MURPHY: I was going to
11 give you the answer, because we have
12 experts that are outside of the City,
13 our third party administrator, and those
14 are the folks that have the expertise in
15 this area. They are the ones that do
16 the initial investigation for the City
17 with the oversight of risk management,
18 so those are the folks that do the
19 initial determination as to whether or
20 not the employee has evidence that they
21 provide that establishes their burden of
22 going forward with evidence of burden of
23 proof on the initial stage of whether or
24 not the presumption even comes into
25 play.

1 When we're making that initial
2 determination, we're not seeking to
3 rebut the presumption at any point.
4 We're looking for evidence or
5 information that the person has a
6 cancer, that the person was exposed
7 directly to a Group 1 carcinogen and
8 that the person has the requisite period
9 of service and that the person was
10 cancer-free. We look at risk factors
11 when we make that initial determination
12 before the burden moves to the City to
13 establish anything.

14 There has to be -- and I'm
15 going to speak in lawyer terms which I
16 know you are full aware of as you've
17 practiced -- that there's got to be some
18 type of prima facie case. There's got
19 to be some element established to meet
20 the initial burden of causation that the
21 employee has to meet before the
22 presumption ever comes into play. So I
23 can tell you what my understanding is of
24 presumption because I'm going to quote
25 from the Sladek case that the

1 Pennsylvania Supreme Court stated. And
2 they said that there has to be
3 substantial evidence -- and they're
4 quoting from the legislation -- that
5 there is a specific cause for the
6 individual's cancer that's other than
7 work relationship, so there has to be an
8 independent cause that's not work-
9 related. That's what the court says is
10 the presumption that can be rebutted by
11 the employer.

12 We're not talking about general
13 causation. We're talking about
14 something specific, and that was from
15 the Sladek case, and that comes directly
16 from the language of the statute.

17 COUNCILMAN OH: Thank you. I
18 do have as a witness a gentleman you're
19 very familiar with, Michael Dryden, who
20 in fact represents Chief Narkin and
21 others. However, he is unfortunately
22 scheduled for a conflicting hearing. I
23 hope he can get back to us before the
24 end of this hearing. However, I do have
25 his written testimony about the case and

1 the interpretation of the case.

2 And it seems to me where we are
3 is -- it seems to me that we are at a
4 place of disagreement between Michael
5 Dryden and perhaps your third party
6 administrators on what presumption means
7 under the law. And I suppose perhaps
8 that is an issue that we're trying to
9 understand at this point in time.

10 I know we cannot go into any
11 individual case, but collectively the
12 cases seem to be one where a presumption
13 is a purposeful decision about not
14 contesting very difficult proofs for
15 public policy reasons. And if the third
16 party administrator or the Risk
17 Management or the Law Department is
18 fighting in a very vigorous and
19 aggressive manner, that goes beyond the
20 presumption. And that's just an
21 exploration of where we are. I don't
22 want to belabor the point. If you have
23 something to add, please do. If not,
24 I'll leave it at that.

25 MS. MURPHY: Councilman Oh, the

1 only thing that I wanted to add is to
2 assure you and every other Councilmember
3 and everyone in the audience that the
4 City is definitely complying with the
5 firefighter cancer presumption. We take
6 these cases very seriously. We
7 investigate each case on a case-by-case
8 basis. We reach out to the employees to
9 get their side of the story as to what
10 happened. We try to get as much medical
11 information as we possibly can within a
12 condensed period within which we have to
13 do these investigations, and we are
14 working very hard alongside our TPA,
15 that's the third party administrator, to
16 make sure that all of our employees who
17 are entitled to benefits under Act 46
18 get those benefits. So we are working
19 hard to be fair and to do what's best
20 not only for them, but also for the
21 City.

22 And, Mr. Scott, I don't know if
23 you had anything to add to that.

24 MR. SCOTT: I did if I may,
25 because really -- and thanks very much.

1 I think everybody here knows and is
2 aware that cancer has a number of
3 diseases, and the path of causation is
4 not at all clear. Medical information
5 is complex and needs to be gathered in
6 order to make those kinds of
7 determinations about cancers. And
8 sadly, cancer is very common in this
9 country. And in fact, in the City. And
10 in fact, the Pennsylvania city has a
11 higher rate of cancer than the state.
12 And so, there are a number of people in
13 Philadelphia who will come down with
14 cancer that has absolutely nothing to do
15 with their jobs.

16 And so, part of what we're
17 charged with doing in risk management,
18 then we pass that responsibility on to
19 our professional third party
20 administrator who we charge with making
21 these determinations is evaluating the
22 law, making the appropriate
23 compensability determinations and
24 following the law in terms of making
25 those determinations. So we are looking

1 to do that in every case. And so,
2 that's what I just wanted to add to what
3 Ms. Murphy already said.

4 COUNCILMAN OH: Thank you very
5 much. I see our Chairperson has
6 returned. Thank you very much. I'll
7 just note that I appreciate your
8 testimony. It is in dispute. The City
9 of course hires the third party
10 administrator, and basically it's a
11 competitive bid where they will do what
12 they are hired to do. If they don't do
13 what they're hired to do, they won't
14 have a contract, but I appreciate your
15 testimony.

16 And I will return it to our
17 Chairperson. Thank you.

18 COUNCILWOMAN BASS: Thank you,
19 Councilman. I appreciate your covering
20 for me for a few minutes. I had to step
21 away unfortunately, but I am very much
22 obviously interested in this issue
23 because as the Chair of Health and Human
24 Services we want to do right by our City
25 employees who are putting their lives on

1 the line.

2 And when we have situations
3 like this where we have a number of
4 folks who have been diagnosed with
5 cancer who have not been in my opinion,
6 in my opinion, fairly compensated and
7 supported by the City of Philadelphia as
8 they have been doing their job, I think
9 we need to look into it and look into it
10 further and continue this conversation
11 well beyond this hearing today.

12 So thank you, Councilman.

13 COUNCILMAN OH: Chair, if I can
14 just update you. I did get a text
15 message from our expert witness, one of
16 our expert witnesses, that is, Michael
17 Dryden. He had to join another hearing.
18 He texted me to say he'll be available
19 in 10 minutes.

20 COUNCILWOMAN BASS: Very good.

21 COUNCILMAN OH: Thank you.

22 COUNCILWOMAN BASS: So do we
23 have additional folks lined up to
24 testify, witnesses to testify on this
25 hearing, Madam Clerk?

1 THE CLERK: Yes, Madam Chair.

2 We have Mike Bresnan.

3 COUNCILWOMAN BASS: I see Mike
4 is here. Mike, do you want to state
5 your name for the record and proceed
6 with your testimony.

7 MS. BRESNAN: Yes, Councilwoman
8 Bass. It's Mike Bresnan and I'm
9 President of IFF Local 22,
10 Philadelphia's Firefighters and
11 Paramedics Union.

12 COUNCILWOMAN BASS: Please
13 begin your testimony.

14 MR. BRESNAN: Okay. I don't
15 have any written prepared testimony.
16 However, I would just like to touch on a
17 couple of things. Mr. Scott's been
18 around a long time as well as I have and
19 Chief Narkin. And he can check that box
20 off right now as members like myself and
21 Chief Narkin have a smoking history.
22 Yeah, we do because for years in the
23 firehouses in this City the diesel
24 exhaust from those trucks filtered the
25 whole firehouse, the sleeping areas, the

1 kitchen areas, and the City fought us
2 tooth and nail to get a system to expel
3 those fumes to the firehouse.

4 And at one point, they actually
5 put these horse-crap recycler systems
6 that were hung from the ceiling that did
7 absolutely nothing. They spent millions
8 of dollars on it. It had to be taken
9 out. And finally, we got the system we
10 have now, which is called a source
11 capture system. And if you go by a
12 firehouse, you may see it. It's a large
13 yellow elephant trunk hose that hooks to
14 the apparatus exhaust. And as the truck
15 starts and leaves the station, it
16 follows it out and on its way back in.
17 So it does a very good job of keeping
18 the diesel fumes from the members.

19 And I'll tell you another thing
20 from having 21 years on the job. No
21 matter what the fire is, whether it's a
22 rubbish fire outside, an auto fire, a
23 house fire, a building fire, we are
24 saturated with carcinogens from that
25 smoke. There's particles in that smoke.

1 I know you've been around,
2 Ms. Bass. You've probably seen many
3 fires in the City. You can see it in
4 the smoke cleans. I want to go back
5 to -- I said this earlier. The Mayor
6 can fix this tomorrow with Chief Narkin.
7 And one thing I think people elected in
8 office forget sometimes, and I'm not
9 accusing anybody on this panel and most
10 of youse know this, your number one job
11 is public safety, to protect the public.

12 And when firefighters, police
13 officers, EMS providers, we're on the
14 front lines. We're looking for you to
15 protect us. In this case, John's not
16 being protected. In fact, I looked at
17 an article I remember seeing. I found
18 it today. It was back from December 23,
19 2015. It was a Philly Voice article.

20 I just want to read a quick
21 couple of sentences from it. It said on
22 January 4th, Kenney, 57 will be sworn in
23 as the 99th Mayor of Philadelphia, but
24 he wouldn't have arrived here without
25 the early influences he received from

1 Two Street neighborhood, where he
2 learned loyalty. And when I see
3 loyalty, there's no loyalty with Chief
4 Narkin.

5 And the next paragraph, it
6 talked about Mayor Kenney's father.
7 Kenney's early memories of his household
8 were knowing when his father was home.
9 The pungent smell of burnt wood and
10 rubber would waft through the small
11 house signaling dad was there for four
12 days in his four-on, four-off rotation.
13 So even he knows you come home with
14 this. It's in your hair. You go to a
15 fire, you wash your hair and you smell
16 it. So this is completely outrageous.

17 The third party administrators
18 should look back to the diesel exhaust
19 that was expelled through the stations
20 when the top of the walls and the
21 ceilings were black with diesel fuels.
22 So a little of history needs to be put
23 in place with the third party
24 administrators, especially in Chief
25 Narkin's case.

1 COUNCILWOMAN BASS: Well, I
2 could not agree with you more. I've
3 been to every fire station in my
4 District. And I know the conditions,
5 the environmental conditions, in those
6 buildings is just really outrageous and
7 have been more decades.

8 These facilities, and we ask
9 people to essentially live there as you
10 mentioned before for four days on, four
11 days off, these conditions are totally
12 unacceptable. And if I know it, then I
13 know doggone well that he knows it,
14 everyone knows it. And the fact that we
15 haven't been able to get a stronger
16 commitment to address some of these
17 environmental concerns and conditions is
18 really just unacceptable.

19 Like I said, I've been in every
20 fire station in my District. I know
21 some of the things that I've seen which
22 really shouldn't fly. I'm talking about
23 raw sewage in the basement. I'm talking
24 about mold and mildew. I'm talking
25 about exhaust fumes without the proper

1 ventilation, and these are things that
2 have existed for many, many years. So
3 it's no wonder that people would get
4 sick. It's a miracle, and I knock on
5 wood, thank God we don't have even more
6 people sick, but we don't want that.
7 But we do want for the City to recognize
8 that this has been an ongoing problem
9 for a very long time and it needs to be
10 addressed, and it needs to be addressed
11 with workers first and buildings very
12 closely second. It has to be addressed
13 as soon as possible. So thank you,
14 Mr. Bresnan, for your testimony.

15 I see my colleague Councilman
16 Mark Squilla has his hand raised for a
17 question.

18 COUNCILMAN SQUILLA: Thank you,
19 Madam Chair.

20 And how long does the
21 Administration take to review a claim
22 when a claim is first initiated?

23 MR. SCOTT: So under state law,
24 the City has 21 days to make a decision
25 whether or not to accept or deny a

1 claim. And as I mentioned earlier in my
2 testimony, after discussions with Local
3 22 in 2018 we set up a process to
4 address this kind of claim specifically
5 because of the volume of information
6 that was necessary in order to make even
7 the very basic determination with regard
8 to compensability on a claim. And so,
9 that process we have used and I think we
10 have used it effectively to get the
11 exchange of information that we needed
12 in a timely fashion in order to make
13 determinations with regard to claims.

14 It is not just what
15 information. Frankly, just information
16 gathering is a huge challenge. It's
17 very common in these kinds of cases that
18 there are a number of medical providers
19 which are involved, and those providers
20 have been providing information and
21 providing data. That information must
22 be collected from those providers to be
23 evaluated to make a determination with
24 regard to the claim. And so, it is that
25 collecting of that information, the

1 review of that information in order to
2 make the determination that takes the
3 time.

4 COUNCILMAN SQUILLA: So why is
5 it then that if it takes all this time,
6 that these claims seem to be denied
7 automatically within a 24-hour period?

8 MR. SCOTT: So Chief Narkin's
9 claim was I think the only claim that I
10 am aware of that was denied in that kind
11 of time frame, and it was an anomaly.
12 That is not typically what happens with
13 regard to those claims.

14 COUNCILMAN SQUILLA: So are we
15 saying it was a mistake?

16 MR. SCOTT: No, we're saying
17 that 24 hours is not what typically
18 happens, that we are still within the
19 21-day window that we have in order to
20 evaluate it. But what happens -- that
21 21-day window was not used to its best
22 effect in the case of Chief Narkin's
23 claim.

24 COUNCILMAN SQUILLA: So have we
25 corrected this in the future or does

1 anybody else ever receive a notice in 24
2 hours?

3 MR. SCOTT: So we have. Again,
4 after we met with Local 22 and worked
5 with them to institute a process for
6 these cancer claims, that process has
7 changed and we have not had anyone else
8 who has had their claim denied in its
9 initial 24 hours after submission.

10 COUNCILMAN SQUILLA: All right.
11 Because in this case it was just denied,
12 and you said it's an anomaly. So we
13 didn't take any of that information into
14 account on this particular case, but
15 every case since then you have?

16 MR. SCOTT: So we have -- so as
17 in Workers' Compensation cases, a worker
18 files a Workers' Compensation claim and
19 the employer has that 21 days under
20 state law in order to accept or to deny
21 that claim. Even if the employer denies
22 the claim, the employee has the right to
23 continue to pursue that claim and
24 provide evidence that the claim is valid
25 and to be successful in getting the

1 employer to compensate that claim based
2 on information that the employee
3 provides.

4 And so, while the -- and that
5 information then also goes before a
6 finder of fact in order to make the
7 determination as to whether or not the
8 claim is valid. And so, even in cases
9 where claims are denied as Chief
10 Narkin's claim was denied in this case,
11 that is frankly a place where this
12 process still has an opportunity to have
13 a worker's claim accepted and
14 compensated.

15 COUNCILMAN SQUILLA: So then
16 are we saying at this point now it will
17 be compensated?

18 MR. SCOTT: No. What we're
19 saying is that -- and so, with regard to
20 Chief Narkin's claim which is currently
21 in litigation, we're not going to be
22 sort of providing any specific
23 information with regard to this claim.
24 That process is ongoing with regard to
25 this specific claim.

1 COUNCILMAN SQUILLA: And just
2 for the record, I know Mr. Narkin
3 personally and remembered when this was
4 happening and what the family was going
5 through and the challenges that we as a
6 City have, and it just seemed to be very
7 unfair at that time and not because I
8 knew him personally, but just unfair to
9 the Fire Department.

10 And when we first broached the
11 subject, it seemed to be, all right, we
12 need more time to review it. It just
13 seemed like the City was uncaring or
14 unwilling to look into this. And then
15 it seemed like we were waiting out this
16 issue until maybe something happened in
17 the long run. It just felt bad. It
18 felt bad from the City's perspective.
19 It felt bad from a Councilperson
20 representing a constituent. And I'm
21 glad to hear that this will never happen
22 again. But my fear is that when we have
23 these issues come to us, if we're not
24 going to be transparent and then
25 actually review these in a way that

1 people believe that we're taking them
2 serious, it will be a real challenge for
3 us here on Council to be able to support
4 these decisions by the Administration.

5 So I think we as Council need
6 additional answers. I think the Fire
7 Departments need additional answers.
8 And I really do think that -- and
9 Mr. Narkin in his case, I know you say
10 it's in litigation now so it will be
11 decided through the courts, but it
12 should have never gotten to that point.
13 And I think that's part of the challenge
14 we feel in Council and we feel
15 responsible for this.

16 And as we represent the City
17 and all the departments in the City of
18 Philadelphia, I think we have to make
19 sure that we are fair as a City, and
20 we're making sure that we can say we
21 took every consideration in this case.
22 And I don't think we can say that right
23 now, and that's I think the difficult
24 part because we didn't take every
25 consideration since the anomaly was that

1 it was just a 24-hour turnaround
2 rejection. And so, I think we need to
3 do a better job. Thank you.

4 COUNCILWOMAN BASS: Thank you,
5 Councilman. I would agree. I would
6 absolutely agree.

7 Councilman Green has a
8 question, and then we're going to our
9 expert witness Mr. Michael Dryden,
10 Esquire, who is here and able to
11 testify.

12 Councilman.

13 COUNCILMAN GREEN: Thank you,
14 Madam Chair. Thank you, Mr. Narkin, for
15 your testimony. And thank you,
16 Councilmember Oh, for bringing this
17 issue to greater attention to the Public
18 Health and Human Services Committee.

19 Mr. Scott, I just wanted to get
20 some perspective. And I understand from
21 what I heard in your testimony in the
22 colloquy with Councilmember Squilla and
23 others that this anomaly as you referred
24 to has been corrected?

25 MR. SCOTT: That's correct.

1 COUNCILMAN GREEN: And so, in
2 receiving a claim, there are certain
3 steps that are done by the
4 Administration to evaluate that claim.
5 And so, what are generally those steps
6 that occur when that evaluation happens
7 of a claim in a brief perspective?

8 MR. SCOTT: Certainly. We
9 request some information from the
10 claimant about the claim. That's
11 especially critical in the cases of a
12 disease as opposed to an injury. It's
13 also important that an injury that we
14 get information from the claim, that's
15 usually done on an accident and injury
16 form that the City uses.

17 However, in cases where there's
18 an allegation of a disease, there's
19 information that we need to get in order
20 to say what the disease is specifically,
21 what the relationship that the disease
22 has to the employee's employment in
23 order to make the determination for
24 compensability. In general, that's the
25 information that we're looking for with

1 regard to a work-related illness that
2 someone is alleging.

3 COUNCILMAN GREEN: And
4 ultimately, who makes the decision on a
5 denial of your claim once that
6 information is received?

7 MR. SCOTT: So it is -- so we
8 hire professionals in the field whose
9 business it is to work on Workers'
10 Compensation programs either locally-,
11 regionally- and nationally-based third
12 party administrators who provide that
13 service to the City. As Councilman Oh
14 indicated, these are provided through
15 our typical City contracting process.
16 And so, it is a professional firm whose
17 job it is to evaluate claims of work-
18 related injury and illness and make
19 compensability determination and handle
20 the administration and management of
21 those claims as well as the medical care
22 related to those claims.

23 COUNCILMAN GREEN: And so, what
24 type of oversight does the City provide
25 to those providers that handle this type

1 of work?

2 MR. SCOTT: So the City's Risk
3 Management Division under the Employee
4 Disability Program provides oversight.
5 We have Sharolyn Murphy who is our
6 Employee Disability Manager and also is
7 Risk Management counsel. She is
8 employed through the Law Department in
9 Risk Management to oversee the Employee
10 Disability Program.

11 In addition, we have a Medical
12 Director, Dr. Marilyn Howarth, who
13 provides a medical oversight for the
14 program in its entirety. We also have
15 other risk management staff who work
16 addressing issues of various information
17 and processes who are involved in the
18 handling of claims. Those are some of
19 the folks who are involved in overseeing
20 the program to assure that it's running
21 correctly as well as myself. I'm also
22 there looking at it to oversee what is
23 going on.

24 COUNCILMAN GREEN: So once this
25 third party entity makes a

1 determination, do they provide that
2 determination to the City employee
3 directly or does that come through the
4 City of Philadelphia before that goes
5 through the employee?

6 MR. SCOTT: So I believe that
7 in most instances their determination is
8 going directly to the employee.

9 COUNCILMAN GREEN: So if it's
10 going directly to the employee, how are
11 we providing oversight of those entities
12 when those entities are making that
13 determination and the determination is
14 going directly to the employee, and you
15 have situations like this where within a
16 24-hour period from my understanding
17 this entity based on what you have
18 provided was supposed to receive certain
19 information from the employee, review
20 it, how can that occur on a 24-hour
21 perspective and how can the City provide
22 oversight if the entity is providing
23 information directly to the employee and
24 we're learning about this anomaly after
25 the fact?

1 MR. SCOTT: So as I said, after
2 this incident with this particular
3 claim, we have edited our process in
4 order to assure that there is, in fact,
5 a greater exchange of information and we
6 have increased our oversight and risk of
7 this process to assure that we are
8 considering all the aspects that need to
9 be considered before we make a
10 determination of compensability for a
11 claim.

12 COUNCILMAN GREEN: So my
13 understanding based on this situation is
14 going forward that that determination
15 will go from the City to the employee
16 after they receive the determination
17 from the third party administrator; is
18 that how we're providing oversight now?

19 MR. SCOTT: So I don't believe
20 that it's coming directly from Risk at
21 this point still. However, Risk is
22 involved in reviewing those
23 determinations prior to going out to the
24 employee.

25 COUNCILMAN GREEN: And that's

1 the change you articulated earlier that
2 will stop this situation from occurring
3 again?

4 MR. SCOTT: That's correct.

5 COUNCILMAN GREEN: Okay. Thank
6 you, Madam Chair.

7 COUNCILWOMAN BASS: Thank you,
8 Councilman, for your questions.

9 And now, we're going to turn to
10 Mr. Michael Dryden, Esquire, who is our
11 expert witness. Mr. Dryden, are you
12 prepared?

13 MR. DRYDEN: I am. Good
14 afternoon, Chairwoman Bass. How are
15 you?

16 COUNCILWOMAN BASS: I'm very
17 well. How are you?

18 MR. DRYDEN: I'm okay. Sorry I
19 had to step away because I had a hearing
20 that I had to attend to prior to getting
21 back. So my prepared remarks had
22 included sort of a history of where we
23 came from the law. And I know with some
24 of the witnesses you have, Dr. Scott and
25 I don't know if Ms. Murphy testified,

1 you may have already heard that. But in
2 some ways I'm going to give you a brief
3 history just because I think it's
4 important to add our version of how this
5 should run.

6 COUNCILWOMAN BASS: Okay.
7 Please state your name for the record
8 and then proceed with your testimony you
9 want to provide.

10 MR. DRYDEN: Yes, ma'am. My
11 name's Michael Dryden and I am the head
12 of the Workers' Compensation and
13 Occupational Disease Department at
14 Willig, Williams & Davidson, a law firm
15 in Philadelphia that is not actually as
16 we sit here counsel to Local 22, but I
17 represent several Local 22 firefighters
18 and cancer claims, and I've evaluated
19 probably about 250 firefighter cancer
20 claims since this law was passed.

21 I would like to begin briefly
22 with some history of the law. It became
23 law in July of 2011 when Act 46 was
24 signed by the Governor. What happened
25 was that the legislation amended Section

1 108 of the Pennsylvania Workers' Comp.
2 Act. Occupational disease in
3 Pennsylvania Workers' Comp. is actually
4 a term of art. It only refers to the
5 diseases listed in Section 108, and the
6 Act 46 amendments placed cancer that is
7 caused by an IARC Group 1 carcinogen
8 will be considered an occupational
9 disease for a firefighter, added that
10 definition to the list of a potential
11 occupational disease.

12 It also added Section 301(f) to
13 the Pennsylvania Workers' Comp. law,
14 which sets forth a criteria that a
15 firefighter has to meet in order to make
16 the claim. They have to have at a
17 minimum of four years of continuous fire
18 service, exposure to what are called
19 known human carcinogens really
20 specifically identifying the
21 International Agency for Research on
22 Cancer, which I will refer to as IARC,
23 which is an agency of the World Health
24 Organization that grades and rates
25 different occupations, agents, chemicals

1 for their carcinogenicity. And then the
2 firefighter has to be a career
3 firefighter. He has to have and had
4 physical exams prior to being diagnosed
5 with cancer, and those exams were benign
6 prior to the diagnosis.

7 Essentially, the law sort of
8 says you have to not have had cancer
9 before you had cancer. It's a little
10 bizarre and not something that really is
11 in any way an issue here because most
12 firefighters have some form of physical
13 before they begin their career. And in
14 their personnel records were obviously
15 able to establish that they did not have
16 cancer like Chief Narkin prior to his
17 cancer being diagnosed. That was the
18 law as provided by the General Assembly.
19 And that as I said happened July 2011.

20 From July 2011 until 2018, we
21 fought like cats and dogs over what that
22 language meant. And when I say we, I
23 mean myself and counsel for different
24 insurance companies, including the abled
25 counsel that the City of Philadelphia

1 has handling these claims. We fought
2 for different interpretations of the
3 law.

4 In 2018, the Supreme Court of
5 Pennsylvania decided the Sladek
6 decision, S-l-a-d-e-k. And Mr. Sladek
7 is a Chief in the City of Philadelphia
8 Fire Department. He's still active.
9 His case set the burdens of proof placed
10 on a firefighter making a cancer claim
11 in Pennsylvania.

12 Of note, when the Supreme Court
13 decided this case, they were very, very
14 clear with the burden of proof. They
15 laid out the firefighter's initial
16 burden as a two-step burden, which was
17 first to show that that firefighter was
18 diagnosed with a cancer that's a type of
19 cancer possibly, and that's a keyword in
20 this case, possibly caused by an IARC
21 Group 1 carcinogen.

22 So if the cancer is a type
23 that's possibly caused by an IARC Group
24 1 carcinogen, the firefighters met that
25 initial burden. The IARC publishes a

1 lot of literature that we've used in
2 these cases, which I think makes or
3 provides definitive proof of the
4 carcinogens that are related to specific
5 cancers, and they provided literature in
6 what's called Monograph 98, a specific
7 evaluation of firefighters, about the
8 carcinogens found in smoke and soot.

9 I can tell you Page 401 to Page
10 403 of Monograph 98 will provide a
11 laundry list of the carcinogens men like
12 John Narkin were exposed to in smoke and
13 soot. He's also been exposed for much
14 of his career to diesel emissions,
15 because while the City now does have
16 diesel captured systems in their
17 firehouses where those trucks are hooked
18 up so that the exhaust gets pulled
19 through scrubbers and put out into the
20 atmosphere and pulled out of the
21 firehouse, for years they didn't have
22 that, many times didn't have them
23 operationally. And even now I'm told
24 from some of my clients that there still
25 are some problems with that.

1 So that means that when the
2 firefighters in the firehouse with the
3 truck running if I shut my mouth for
4 three minutes and we just watched the
5 engine run, the room would fill up
6 pretty quickly with diesel emissions.
7 Monograph 105 from the IARC at Page 41
8 provides a laundry list of carcinogens
9 that you'll encounter when you breathe
10 in diesel emissions, so those documents,
11 that information from the IARC when
12 coupled with another document from the
13 IARC that lists carcinogens by cancer
14 site makes it pretty straightforward
15 these days to be able to say what
16 cancers are related or possibly related
17 to Group 1 carcinogens, kidney cancer,
18 liver cancer, leukemia, Non-Hodgkin's
19 lymphoma, multiple myeloma and malignant
20 melanoma, just to name a few, are
21 cancers that are clearly related to
22 Group 1 carcinogens.

23 Mr. Narkin's cancer is a soft
24 tissue sarcoma, which is related to
25 dioxin. Dioxin is an important chemical

1 in the world of carcinogenicity
2 especially for firefighters because it
3 is present in smoke just about at every
4 fire and it is present in diesel
5 emissions.

6 So every time a firefighter
7 like Chief Narkin was exposed to diesel
8 emissions without a mask on his face or
9 smoke or soot, he was exposed to the
10 carcinogen that's related to his type of
11 cancer. And that's where when I came in
12 as I heard Dr. Scott concluding his
13 remarks, I think what I struggle with is
14 this was now matured. And in maturing,
15 we do understand what cancers are
16 related to Group 1 carcinogens.

17 The second phase of this, the
18 Section 301(f) criteria, no one's ever
19 disputed that with Mr. Narkin. He's got
20 way more than four years of continuous
21 service and he's got exposure to
22 carcinogens and he had clean physicals.
23 What happened here and why it only took
24 PMA, not the City, not Dr. Scott, not
25 Ms. Murphy, but PMA why it only took

1 them 24 hours to decide to deny
2 Mr. Narkin was he has a very rare form
3 of soft tissue sarcoma.

4 So when they saw that, somebody
5 there said, aha, here we go, here's our
6 defense. This is how we're going to
7 defend this claim. We can say no to
8 this firefighter because he has this
9 rare form of soft tissue sarcoma so
10 let's throw him to his proof. Let's
11 make him go find a lawyer, make him go
12 find an expert to be able to establish
13 this case.

14 I think that's at the heart of
15 what I see as the problem really and not
16 just the City of Philadelphia, but
17 several municipalities now that this law
18 is more than a decade old, is that
19 they've outsourced the decision on
20 whether one of their public safety
21 employees is going to get a benefit for
22 cancer to basically an insurance
23 company.

24 And that insurance company does
25 what you hire an insurance company to do

1 or what they generally do in my
2 experience as someone representing
3 injured workers for 30 years, is they
4 snip out the defense. If there is a 2
5 percent chance of a defense, they are
6 going to take it. They're going to take
7 it and say, okay, we're going to say no
8 to this guy and put him to his proof
9 because there's no data on Mr. Narkin's
10 very rare form of soft tissue sarcoma.
11 But under the way I read our law is the
12 law specifically references the IARC.

13 When you go to the IARC, there
14 is no subtype for Mr. Narkin's very rare
15 type of soft tissue sarcoma, but they do
16 tell you that soft tissue tumors are
17 related to dioxin. So my belief, and I
18 don't want to speak for Chief Narkin and
19 I'm certainly not here for the union,
20 but my belief is that maybe if we had
21 some City employees who were making this
22 decision and we could go to them and
23 say, hey, look, this soft tissue sarcoma
24 is related to dioxin, he's covered
25 there, dioxin is a Group 1 carcinogen

1 that's related to his cancer, he made
2 the 108(r), you're never going to
3 contest any of the 301(f) criteria.

4 Now, the only way according to
5 the Supreme Court Sladek, once we get
6 that far, the only way they can defend
7 the case, the burden flips on the
8 municipality. They have to bring
9 evidence of the actual cause of the
10 firefighter's cancer. They have to
11 establish a nonfirefighting cause for
12 his cancer.

13 Many times that's not even
14 attempted. It's just putting the
15 firefighter to his proof to bring this
16 very, very specialized, very, very
17 technical evidence relating a carcinogen
18 to a cancer that I think is when you
19 understand what you're doing and you
20 know who to talk to, to go elicit that
21 opinion is pretty straightforward for me
22 to get. But for a firefighter to show
23 up with it in the beginning of the claim
24 or to provide that information at the
25 beginning of the claim, I think is

1 impossible. And I think the way the
2 system is set up they know it's
3 impossible, meaning PMA.

4 So because Chief Narkin didn't
5 come in and say, I have a very rare form
6 of soft tissue sarcoma and soft tissue
7 sarcoma is related to dioxin and that
8 means that I meet the initial burden of
9 Section 108(r) and here's my fire
10 service, and I was exposed to smoke,
11 soot and diesel emissions without the
12 protection of an SCBA when I fought
13 fires, when I participated in a portion
14 of firefighting called overhaul where
15 firefighters pull apart walls and
16 ceilings. Even to this day, they don't
17 wear the SCBA all the way through the
18 overhaul. So if you don't wear the SCBA
19 all the way through the overhaul, you're
20 going to breathe in smoke that every
21 study that's involved in these cases
22 says is the most damaging portion of
23 interior firefighting as far as cancer
24 risk goes. That's still happening.

25 And I think the fact that he

1 doesn't show up with that specific
2 information for PMA who's been
3 instructed on how this law can be
4 defended or how a claim can be defended
5 under this law has led to this problem
6 that we have, because Mr. Narkin is not
7 alone. He has a very rare cancer, but
8 the treatment of his claim was not very
9 different than many of them before.

10 I have known Dr. Scott for a
11 lot of years doing this work, and I
12 think he's a man of his word so I do
13 believe they are trying to change it.
14 And I'll even admit that in the last
15 year that I have seen some things change
16 in the way that the claims are handled
17 with my clients, and just my clients
18 that I'm speaking about.

19 But when Mr. Narkin, Chief
20 Narkin, had his claim denied in a day, I
21 have other people who it might not have
22 been a day, but it might have been three
23 days and that probably was only because
24 the adjuster at PMA was off for a couple
25 of days because they were denying these

1 cases right out of hand. They were
2 always forcing the firefighter to come
3 make their proof.

4 I think there's a better more
5 human way to do this. And I think that
6 there's a dichotomy or a split between
7 the Fire Department and the way the
8 Administration and Risk Management and
9 PMA handle them. The Sladek case is my
10 case. Scott Sladek and I were on T.V.
11 together where I learned to hopefully do
12 lighting a little better today than I
13 did during that interview anyway.

14 But when we were at that
15 interview, they cut a piece of that out
16 which I think was really, really
17 impactful. And that is, the Fire
18 Department has moved to do things
19 better. The union has pushed to do
20 things better. And the Department
21 leadership, they see that no one knows
22 more about the risk that they face than
23 those men and women, and they're doing
24 better. They're doing better with the
25 diesel capture systems, with cleaning

1 gear, with how long they wear the self-
2 contained breathing apparatus.

3 So the Department is
4 emphasizing, hey, we have to do better
5 to mitigate our cancer risk, and that's
6 only recently started. But while it's
7 admirable that you've started that now,
8 what about the men and women, men like
9 Mr. Narkin, Chief Narkin, who were
10 exposed for decades before all of that
11 stuff happened.

12 So at this point, we're
13 identifying the problem. We're trying
14 to fix the problem. But when someone
15 shows up with a cancer who've worked his
16 way through that other way that was
17 being done, the more risky way that was
18 being done for decades, now we're going
19 to tell him no in 24 hours over a
20 defensible point in litigation. And
21 this is not the spot -- and I've had
22 more than one of my firefighter clients
23 blame the lawyers as it would go.
24 Ms. Murphy can speak for herself. Her
25 job is to defend these cases.

1 When they roll in if she can
2 find a point to defend or the lawyers
3 that they hire, once you hire a lawyer
4 to do something, that lawyer is
5 ethically bound to go try to figure out
6 a way to represent you because you're
7 the client, right. Ms. Murphy is
8 ethically bound to do that for the City
9 of Philadelphia.

10 So I don't think the problem is
11 something where we can just point to her
12 and say that they're not doing what
13 they're supposed to do. I think it's
14 more of a policy thing. That's why I
15 was glad that Councilman Oh brought this
16 up and why I was interested to
17 participate, because I think it's more
18 of a decision for people like you,
19 Chairwoman Bass, and Councilman Oh, and
20 Councilman Green who I think asked some
21 very, very insightful questions that I
22 saw too when I came on, to decide how
23 you want this done for City employees.

24 Firefighters and cancer is a
25 good example, but it's part of a bigger

1 issue of who's deciding these cases.
2 Because if it's PMA, we're going to get
3 a denial on just about every cancer case
4 unless somebody from Risk intervenes.
5 And while they have been doing better,
6 they've been doing better mostly with
7 the least expensive cancers.

8 I think they might have had a
9 meeting with PMA to say basal cell
10 carcinoma, I got a little bit of that
11 being treated here with this cream
12 that's supposed to be taking care of my
13 own little basal cell carcinoma
14 situation is not a big deal, right.
15 This is about as bad as it's going to
16 get, what you see on my face, the
17 redness in my face from the cream I'm
18 taking, and I won't need to do anything
19 else for it. So accepting that is not
20 the biggest deal. And that would have
21 been where I would have left it until
22 recently.

23 They did accept an esophageal
24 cancer for a firefighter, which is a
25 different animal which to me is a

1 significant move, which again leads me
2 back to believe in Dr. Scott, that they
3 are trying to do things differently.
4 But some oversight from City Council and
5 understanding that once you turn it over
6 to the lawyers with something this
7 technical, you can find some defensible
8 point, something that you're going to
9 point to even if it's from my money as
10 ridiculous as it is in Chief Narkin's
11 case that you point to the fact that his
12 cancer is so rare that we're going to
13 ignore the fact that it's a category
14 that's clearly related to Group 1
15 carcinogens, and we're going to say that
16 you haven't been able to prove that your
17 specific subtype is related to Group 1
18 carcinogens because that information
19 just doesn't exist. It doesn't exist
20 for his rare subtype. But it also
21 doesn't exist for many rare subtypes of
22 leukemia and lymphoma, all of which were
23 getting found compensable in the
24 Pennsylvania Workers' Compensation
25 system for these firefighters.

1 And I didn't get to hear Chief
2 Narkin testify. But from talking to him
3 in the past, this is about his family at
4 this point for him. And we are
5 essentially debating the technical
6 aspects of whether the fact that he has
7 this rare subtype or are you going to
8 look at the category. Because if you
9 look at the category, you cannot lose.

10 COUNCILWOMAN BASS: Thank you
11 so much for that wealth of information.

12 Councilman David Oh has some
13 questions. Councilman.

14 COUNCILMAN OH: Thank you very
15 much, Chairwoman.

16 First of all, thank you for
17 scheduling this and working through your
18 hearings to join us again. In this
19 situation, what happens if unfortunately
20 Chief Narkin passes away before the
21 resolution of this litigation?

22 MR. DRYDEN: If the Chief
23 passes away, then we would file a fatal
24 claim petition to add it to what's
25 called, for lack of a better term, a

1 lifetime claim petition that's pending
2 and wait for the judge's result. Again,
3 in my experience when we've had a
4 situation where we started a case while
5 a firefighter was alive and then that
6 firefighter passed away, the City
7 through its lawyers and Dr. Scott have
8 been reasonable with us.

9 My anticipation is and
10 Dr. Scott can certainly testify for
11 himself, but if we win this lifetime
12 claim petition three days after John
13 Narkin passes away and I send Dr. Scott
14 his death certificate and it says that
15 it was related to the cancer, they will
16 award fatal benefits. They won't make
17 us fight again is generally my
18 experience with them, although it would
19 be within their right to do it.

20 And, Councilman, if I may,
21 that's why I like dealing with Philly
22 people over my Philly clients. Because
23 at that stage of it the man I'm dealing
24 with is Dr. Scott. I'm not dealing with
25 PMA. I think when you outsource

1 something like this, you invite that
2 insurance company subculture into what
3 we do. And in this area, I think it
4 just leads to denial and litigation.

5 COUNCILMAN OH: So you
6 mentioned policy and practice. And
7 ultimately, this policy and practice is
8 the responsibility of the
9 Administration. I will just state that
10 Council as a legislative body we cannot
11 do certain things. We can have this
12 hearing. We can certainly do
13 resolutions, but policy and practice is
14 up to the Administration.

15 When the Administration
16 outsources to a third party
17 administrator, the direct handling of
18 this matter, where does policy and
19 practice come in, in terms of who we
20 elected and who that elected person
21 charges with the responsibility of
22 handling cases like this involving Chief
23 Narkin, who is a City employee who's
24 contracted cancer?

25 MR. DRYDEN: At the end of the

1 day for me, it makes PMA like the Wizard
2 of Oz. It's the person behind the
3 curtain that you get to blame when
4 nobody wants to stand there and say, I
5 am the City official who's denying John
6 Narkin and his family the benefit.
7 Because as much as we sit here, no one
8 is going to stand up and raise their
9 hand to be that person in the
10 Administration. They're going to point
11 to PMA and say our third party
12 contractor has decided to deny this and
13 here's why they denied it. So I think
14 it gives deniability.

15 COUNCILMAN OH: To kind of give
16 a different analogy for people listening
17 to this hearing, I mean we're dealing
18 with COVID-19. And we did pass a bill
19 and the Mayor signed it providing
20 protection of the health care workers
21 who are exposed to treating people with
22 COVID-19.

23 And obviously, an example is a
24 nurse who is in the ICU dealing
25 constantly with the most severe cases of

1 COVID-19. And then when he or she puts
2 in a claim that they have COVID-19,
3 their employee says, well, you could
4 have gotten that on a bus, you could
5 have gotten that at a family reunion.
6 The idea that we now have a presumption
7 that you got it at work could possibly
8 be challenged by a third party
9 administrator to say, listen, we want to
10 go through the entire possibility that
11 your sister, your brother, your father,
12 your mother, your husband, your wife,
13 that they did not have COVID-19. We
14 want to go through every -- and that
15 could take a very long time, but that
16 does not appear to be what the state law
17 says.

18 The state law says that there
19 is a presumption, meaning when we don't
20 know, we accept that because you are a
21 firefighter and we want you to serve the
22 public and we want you and your family
23 to be safe and we want people not to
24 consider avoiding the public safety role
25 of being a firefighter, that you have

1 this presumption. You shall not be
2 burdened. You shall not be called to
3 task. We shall accept at a very low
4 threshold the fact that we owe you and
5 your family these benefits.

6 MR. DRYDEN: I agree. And I
7 think COVID is the next thing we're
8 going to see. I'm representing several
9 Philadelphia police officers who have
10 recently received denials that COVID is
11 work-related from PMA. Even a couple of
12 them who were among 75 officers at a
13 demonstration that turned up with COVID
14 and had no COVID outside of work in
15 their family.

16 I think the deniability that
17 we're talking about with cancer for
18 firefighters, I think we're going to see
19 that and come into the realm of how
20 COVID's handled for long-haul COVID
21 people with those symptoms or even
22 someone who's back to work but they're
23 still coughing. To your point, there is
24 a difference between acknowledging that
25 someone is out of work for COVID and

1 acknowledging as a employer we are
2 responsible for COVID as a work injury.

3 And in that space, PMA like
4 they're doing with these firefighter
5 cancer cases, they're going to enter as
6 an insurance company denying everything
7 and having people put to their proof.
8 And for City employees when you're put
9 to your proof -- really employees
10 anywhere, but in particular for City
11 employees once it's no longer considered
12 to be work-related once you're telling
13 them that this is not a work-related
14 problem, then they start on a path of
15 exhausting their accrued time, sick time
16 and vacation time. Then they're not
17 City employees anymore. Then they don't
18 have health insurance for them and their
19 families.

20 So there's going to be a lot of
21 weight placed on the City employees who
22 have thus far gotten us through this
23 COVID crisis in the same way there's
24 going to be a lot of weight put on
25 firefighters who are going to come

1 through the window of your house to save
2 your kids and he's not thinking about
3 what he's breathing in or the soot or
4 what his risk is. And the legislature
5 said he gets a presumption. But PMA in
6 their role in this is denying those
7 claims and making firefighters come
8 fight for that benefit at a way more
9 high percentage than I think the law
10 having matured the way it's matured now
11 than it should.

12 COUNCILMAN OH: Thank you very
13 much. I'll just make my comment,
14 Chairwoman. And that is, I find it
15 problematic to me that our City comes up
16 with many different ways that people are
17 being held responsible for sickness,
18 illness. And I'm not saying those are
19 bad things. I'm saying that is what the
20 public wants, but the City has a
21 responsibility towards its firefighters,
22 its public safety officers in compliance
23 with state law and a presumption that I
24 understand a presumption is a
25 presumption and that's where we are. I

1 guess the final analysis is that the
2 policy and practice will get a response
3 from the Administration. Thank you very
4 much.

5 COUNCILWOMAN BASS: Well, thank
6 very much, Councilman. And thank you
7 very much to our witness.

8 I want to move to our next -- I
9 know we have several folks who are
10 waiting to testify so I'm going to move
11 to them, and then we'll come back to
12 additional questions for our expert
13 witness if anyone has additional
14 questions.

15 If you can hang around,
16 Mr. Dryden, for a moment.

17 MR. DRYDEN: Will do, ma'am.

18 COUNCILWOMAN BASS: Very good.
19 Thank you.

20 Can we have the Clerk call the
21 next speakers on the witness list.

22 THE CLERK: Queen Judith
23 Robinson, Gerard Welsh, Gary Musisko and
24 Tony Patterson.

25 COUNCILWOMAN BASS: Okay. If

1 we can start with Queen Judith Robinson.

2 COUNCIL TECH SUPPORT: Excuse
3 me, Madam Chair.

4 COUNCILWOMAN BASS: Yes.

5 COUNCIL TECH SUPPORT: We
6 called out to the public comment
7 participants. Two denied testifying
8 today, they opted out. And the other
9 two we could not contact. So as of now,
10 we have no public comment.

11 COUNCILWOMAN BASS: Oh, so
12 they're not here. Okay. All right.
13 Well, is there anyone else who would
14 like to make comment who is here?
15 Anyone else who wants to make comment or
16 have questions for our expert witness or
17 for anyone else on the panel who has
18 spoken before?

19 (No response.)

20 COUNCILWOMAN BASS: Any members
21 of Council have questions?

22 (No response.)

23 COUNCILWOMAN BASS: No, okay.
24 Councilman Oh, did you have any
25 additional questions -- oh, Mr. Scott, I

1 see you have some questions.

2 MR. SCOTT: So I say thank you.

3 Thank you. Despite what (inaudible)
4 very nicely to me and something that my
5 mother always wished, I am not a doctor.
6 So lots of his points were interesting.
7 That one I can tell you for sure is not
8 accurate, but I appreciate the work
9 certainly that Mr. Dryden does.

10 Also, just to be clear with
11 regard to Mr. Dryden made a statement
12 with regard to COVID-19 and PMA, and
13 that's not something that PMA was
14 involved in. I mean, they're involved
15 because they're our third party
16 administrator. But I just wanted to
17 make that edit as well.

18 COUNCILWOMAN BASS: Okay. Very
19 good. Thank you very much, Mr. Scott.

20 MR. DRYDEN: And if I may just
21 briefly, first, sorry for giving an
22 extra credential there, Mr. Scott. He's
23 been around long enough that I guess I
24 can still treat him as a doctor. And
25 the second part, I am personally getting

1 PMA denials on COVID cases. Maybe we
2 need to have a dialogue with Risk
3 Management about that because we are
4 starting to see them come in. Even for
5 officers who have been out for months
6 with COVID are now getting denials that
7 are months after the officer stopped
8 working, and they're coming directly
9 from PMA to my client. So that's where
10 I get it from. Not that I'm in any way
11 involved in some discussion where
12 they're deciding PMA's doing it. I'm
13 seeing the hard copy of a denial from
14 PMA coming to clients.

15 COUNCILWOMAN BASS: Thank you.
16 I see we have Mr. John Narkin's hand is
17 raised. Mr. Narkin.

18 MR. NARKIN: Yes, ma'am. Thank
19 you. Since it was brought up in the
20 question, I just want to point out that
21 the -- and I feel I would be remiss not
22 to for the brothers and sisters that are
23 fighting the cancer claims, that during
24 the recent COVID and the current
25 pandemic that we're all in, there have

1 been firefighters that have died from
2 COVID and their deaths were within hours
3 approved as line-of-duty deaths because
4 of the presumption, so why aren't cancer
5 claims the same way. I just wanted to
6 bring that up.

7 COUNCILWOMAN BASS: Well, thank
8 you. And also, while you're here I do
9 want to thank you for sharing your story
10 I did read in today's paper from
11 Jenice -- I can't think of her last name
12 right now -- she did an excellent piece
13 on --

14 COUNCILMAN OH: Armstrong.

15 COUNCILWOMAN BASS: Say it
16 again.

17 MR. NARKIN: Armstrong, yes.

18 COUNCILWOMAN BASS: How could I
19 forget that. Jenice, if you're
20 listening, please forgive me. But she
21 really did an excellent piece today on
22 this issue. And I just really want to
23 let you know that it allowed the reader
24 to get a full view and understanding of
25 the issue. It really covered I think

1 all of the points that you made here
2 today.

3 And I think it gave a level of
4 heightened awareness to the average
5 citizen about what's happening from the
6 people who we expect to run in and save
7 our lives and take care of us and help
8 us. And then when it comes to helping
9 back, we're not being so helpful all the
10 time. So I think she did a great job on
11 that piece. And listen, God bless you
12 and your family.

13 MR. NARKIN: Thank you very
14 much. Thank you very much,
15 Councilwoman, for that. And my wife is
16 in the background. And at certain
17 points of this hearing, I had to kind of
18 keep her from running, jumping through
19 the screen. But she is the main reason
20 I'm doing this. Hopefully, this does
21 some good, and both my family and the
22 families of firefighters fighting cancer
23 will be able to get some conclusion
24 before our deaths. That's the whole
25 thing. I would love to die knowing that

1 my family would be taken care of after
2 I'm gone. And that's the whole reason
3 why we're doing this.

4 COUNCILWOMAN BASS: And that's
5 certainly understandable. It's
6 certainly understandable. God bless
7 you.

8 MR. NARKIN: And I appreciate
9 everybody for their testimony. Thank
10 you.

11 COUNCILWOMAN BASS: Absolutely.
12 Absolutely.

13 Are there any other questions
14 or comments?

15 (No response.)

16 COUNCILWOMAN BASS: Seeing that
17 there's none, we're going to go ahead
18 and conclude. You know what, I see a
19 hand up but I can't see whose it is.
20 Does someone have a hand up?

21 MR. NARKIN: That was me. I
22 haven't taken it down yet.

23 COUNCILWOMAN BASS: Okay, I
24 see. With that being said and with
25 there being no other speakers and no

1 other questions from members of Council,
2 this Committee is hereby adjourned.

3 Thank you so much everyone for attending
4 and for your patience throughout the
5 day. And this was a really good
6 informative and most necessary hearing.

7 So thank you, Councilman Oh,
8 for your resolution on this issue. We
9 will be following up and having
10 additional conversation. We will be
11 participating in that, all members of
12 the Committee. Thank you, everyone.

13 COUNCILMAN OH: Thank you,
14 Chair.

15 MR. SCOTT: Thank you, Chair.
16 Thank you, Committee members.

17 (Committee on Public Health and
18 Human Services concluded at 4:15 p.m.)
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C E R T I F I C A T I O N

I, hereby certify that the
proceedings and evidence noted are contained
fully and accurately in the stenographic notes
taken by me in the foregoing matter, and that
this is a correct transcript of the same.

TANEHA CARROLL
Court Reporter - Notary Public

(The foregoing certification of
this transcript does not apply to any
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supervision of the certifying reporter.)

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